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Note: This summary has been prepared by the Board's Prosecution Team

ITEM: 18

SUBJECT: Donahue Schriber Asset Management Corporation, Rocklin Crossings, Placer County

BOARD ACTION: *Consideration of Administrative Civil Liability Order*

BACKGROUND: The Rocklin Crossings construction site is at the southeast corner of Interstate-80 and Sierra College Boulevard in Rocklin, Placer County. Secret Ravine creek is immediately south of the site.

Donahue Schriber Asset Management Corporation contracted with S.D. Deacon Corporation to build a 59 acre regional shopping center at Rocklin Crossings. In addition to smaller retail tenants and restaurants, the major tenants will include a Wal-Mart Supercenter and a Home Depot.

In July 2012, Donahue Schriber obtained coverage under the NPDES General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities, Order No. 2009-0009-DWQ (General Permit). As defined by the General Permit, Donahue Schriber is the "legally responsible party" and must ensure that its contractors comply with the General Permit. Donahue Schriber is referred to as the "Discharger" in this document and in the proposed ACL Order.

The General Permit requires development and implementation of a site-specific Storm Water Pollution Prevention Plan (SWPPP), which lists the best management practices (BMPs) that will be employed to reduce contaminants in storm water discharges from the site. The BMPs are to include both erosion control (to keep soils from being eroded) and sediment control (to keep soils on-site in the event that the erosion control BMPs are not effective). The SWPPP states that the entire 59 acre site will be disturbed by rough grading, and that straw mulch will be applied as an erosion control BMP to all disturbed soils prior to any rain event.

The General Permit also requires that a Rain Event Action Plan (REAP) be prepared each time the weather forecast calls for a 50% or greater chance of precipitation. The REAP is to identify the specific activities taking place on the construction site at that point in time, and describe the BMPs that will be implemented prior to the forecasted rain.

Construction began at the site in August 2012. On 22 October 2012, Water Board staff inspected the site following a light rain event. Staff found that erosion control BMPs were not installed on disturbed soils, in violation of the General Permit. On 31 October 2012, staff met with the Discharger to discuss the requirements of the General Permit, including the requirement to install erosion control BMPs on all active construction areas prior to rain events. In early November 2012, the construction contractor began emailing weekly construction and stabilization updates to staff.

From 28 November 2012 through 5 December 2012, rain fell throughout northern and central California. This storm was forecast by the National Weather Service

at least five days prior to the first rainfall and was well publicized by the media, as significant rainfall was predicted (3.4 to 5.75 inches). The Discharger completed its REAP two days prior to the first rain, and stated that erosion and sediment control BMPs would be in place.

On 30 November 2012, staff inspected the site during heavy rainfall, and observed discharges of turbid storm water from two different locations at the site. Staff also observed that the Discharger had not followed its SWPPP because it had not installed straw mulch as an erosion control BMP on all disturbed areas. Although sediment control BMPs were in place, the Discharger had also not followed its REAP because there were no erosion control BMPs installed on a portion of the site and because the sediment control BMPs were not appropriate for the forecasted event. On 18 December 2012, the Discharger began operating an active treatment system to remove suspended sediment in storm water.

The Prosecution Team, Discharger, and construction contractor met numerous times in “pre-ACL issuance settlement” meetings, but were unable to come to resolution on several issues. On 8 July 2013, the Executive Officer issued ACL Complaint R5-2013-0519 in the amount of \$211,038. The Complaint alleges that the Discharger violated the General Permit by (a) discharging 76,613 gallons of turbid storm water to Secret Ravine on 30 November 2012, (b) failing to implement appropriate erosion control BMPs for a period of 13 days.

#### ISSUES:

Both the Discharger (Donahue Schriber) and the construction contractor (S.D. Deacon Corporation) are designated parties in this matter. The designated parties are not contesting the volume of the spill, the events leading up to the spill, the culpability, or the ability to pay the penalty. However, the designated parties have two issues with regard to the calculation of the civil liability. These issues involve interpretation of the State Water Board’s Enforcement Policy and the values that the Prosecution Team used in the penalty calculation methodology.

1. The penalty calculation methodology includes a “harm or potential for harm to beneficial uses” factor. The Designated Parties believe that this factor should be “minor” instead of the “moderate” value used by the Prosecution Team.
2. The penalty calculation methodology includes a “per gallon assessment for discharge violations.” The Designated Parties believe that the factor should have been \$2/gallon instead of the \$10/gallon value used by the Prosecution Team.

#### Harm or Potential for Harm to Beneficial Uses

The Enforcement Policy states that this factor “... considers the harm that may result from exposure to the pollutants or contaminants in the illegal discharge...the score evaluates the direct or indirect harm or potential for harm from the violation.” A value between “negligible” and “major” is assigned.

The Discharger’s expert witness concludes that the potential for harm is “minor” because no acute lethality to fish or benthic macroinvertebrates would have occurred due to water column turbidity levels. In addition, the sand and silt load that was associated with the discharge was not of sufficient volume or duration to (a) cause notable harm to fish eggs that may have been incubating in the creek

substrate, (b) cause any notable population-level effects to adult or juvenile life stages of any fish species, or (c) cause any notable population-level effects to benthic macroinvertebrates.



In addition, both the site-specific EIR and the Discharger's expert witness acknowledge that this stretch of Secret Ravine contains "poor to moderate quality" substrate that is dominated by silt and sand instead of the gravel needed for egg incubation. The turbid storm water discharge added more silt and sand into Secret Ravine and therefore had the potential to increase the harm to beneficial uses.

#### Per Gallon Assessment

As part of the penalty calculation method, the gallons of discharge is multiplied by several factors, including a "per gallon assessment," to determine the base liability. The Enforcement Policy discusses use of both the statutory maximum of \$10/gallon and a reduced value of \$2/gallon for the per gallon assessment.

The Designated Parties state that the Enforcement Policy mandates that the value of \$2/gallon be used for all storm water discharges, regardless of the volume of discharge. The parties also assert that, on a state-wide basis, storm water ACLs have consistently used \$2/gallon as the starting point for calculating the base liability. And finally, the parties state that if Prosecution Team's interpretation of the "per gallon assessment" is followed, then there will be an incentive for dischargers to continue spilling in order to be allowed a high-volume discount of \$2/gallon.

The Prosecution Team points to the plain language of the Enforcement Policy which states that the default amount of \$10/gallon should be applied for all discharge violations, except if the discharge is determined to be a "high volume", which can include sewage spills and releases of storm water from construction sites. For a high volume discharge, a value of \$2/gallon may be used in the calculation. In this case, the Prosecution Team does not consider the spill of 76,613 gallons to be "high volume", and therefore \$10/gallon was used to calculate the initial base liability. The use of \$10/gallon is consistent with the manner in which the Central Valley Water Board, as well as other regional boards, have applied the Enforcement Policy to ACLs issued for discharges of storm water. The use of \$10/gallon in this case does not create an incentive for a discharger to continue to spill storm water so that it qualifies for a "high volume" reduction because the penalty calculation methodology evaluates multiple factors, including the culpability of the discharger, and allows for values greater than \$2/gallon to be used in the case of high volume discharges.

#### Penalty Calculation Methodology

The Designated Parties are not contesting any of the other factors used by the Prosecution Team in the penalty calculation methodology. If the "potential for harm" and the "per gallon assessment" changes are made as requested by the Designated Parties, then the calculated penalty amount would decrease from

\$211,038 to \$59,470.

Prosecution Team's  
Recommendation:

 Donahue Schriber is a major commercial developer with significant assets. Given the factors in this case, the Prosecution Team recommends that the Board adopt the Administrative Civil Liability Order as proposed, in the amount of \$211,038.

Mgmt. Review WSW  
Legal Review DB and MO

**3/4 October 2013 Meeting**

Central Valley Regional Water Quality Control Board meeting  
11020 Sun Center Dr. #200  
Rancho Cordova, CA 95670

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

ORDER R5-2013-XXXX

ADMINISTRATIVE CIVIL LIABILITY ORDER

IN THE MATTER OF

DONAHUE SCHRIBER ASSET MANAGEMENT CORPORATION  
ROCKLIN CROSSINGS  
PLACER COUNTY

This Order is issued to Donahue Schriber Asset Management Corporation (hereafter Discharger) pursuant to Water Code section 13385, which authorizes the imposition of Administrative Civil Liability. This Order is based on evidence that the Discharger violated provisions of the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities, Order No. 2009-0009-DWQ (NPDES No. CAS000002).

The California Regional Water Quality Control Board (Central Valley Water Board or Board) finds the following:

**Background**

1. Rocklin Crossings, LLC and Rocklin Holdings, LLC are the property owners of Rocklin Crossings and Rocklin Crossings Detention Basin construction sites, and Donahue Schriber Asset Management Corporation (Donahue Schriber) is the property owner of the Dominguez Loop Road and Center at Secret Ravine construction sites. Collectively, all four construction sites will be referred to as the Rocklin Crossings construction sites, or Site(s) in this Order.
2. All four Sites are contiguous and are located southeast of the intersection of Interstate 80 and Sierra College Boulevard in Placer County. The Sites cover 59.4 acres and are being developed for two anchor tenants (Walmart and Home Depot), multiple smaller retail stores and restaurants, parking lots, and a two-acre storm water detention basin.
3. S.D. Deacon Corporation of California (S.D. Deacon) is the general contractor and is responsible for all phases of construction under contract to Donahue Schriber.
4. On 2 September 2009, the State Water Resources Control Board adopted the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities, Order No. 2009-0009-DWQ (NPDES No. CAS000002) (General Permit). This Order became effective on 1 July 2010.
5. On 16 July 2012, Donahue Schriber, acting as the property owners' representative, applied for permit coverage under the General Permit for the Rocklin Crossings construction sites by filing four Notice of Intent applications on the Water Board's SMARTS (Storm Water Multiple Application and Tracking System) data management system. Donahue Schriber determined that all four projects are Risk Level 2 sites based on Project Sediment Risk and Receiving

Water Risk under the terms of the General Permit. Janet Petersen, Vice President of Development Services with Donahue Schriber, is listed as the legally responsible person (LRP) for the Rocklin Crossing construction sites, and Donahue Schriber is responsible for complying with all elements of the General Permit at all four Sites. This Order is being issued to Donahue Schriber, only, because of its status as the LRP for the Sites.

6. On 18 July 2012, the Notices of Intent for the four Rocklin Crossings construction sites were approved and the Sites were assigned the following Waste Discharge Identification Numbers (WDID #).

Site Name	WDID #
Rocklin Crossings	5S31C364098
Rocklin Crossings Detention Basin	5S31C364108
Dominguez Loop Road	5S31C364102
Center at Secret Ravine	5S31C364105

7. Among other items, the General Permit requires that:

- (a) Dischargers shall minimize or prevent pollutants in storm water discharges and authorized non-storm water discharges through the use of controls, structures, and management practices that achieve BAT (best available technology economically achievable) for toxic and non-conventional pollutants and BCT (best conventional control technology) for conventional pollutants. (General Permit, Section V.A.2);
- (b) Risk Level 2 dischargers shall implement appropriate erosion control BMPs (runoff and soil stabilization) in conjunction with sediment control BMPs for areas under active construction (General Permit, Attachment D, Section E);
- (c) A State-certified Qualified SWPPP Developer (QSD) shall prepare a site-specific Storm Water Pollution Prevention Plan (SWPPP) and dischargers identify the Risk Level prior to construction (General Permit, Sections XIV, A. and VIII); and
- (d) Risk Level 2 dischargers shall ensure a Qualified SWPPP Practitioner (QSP) develops a Rain Event Action Plan (REAP), a written document specific for each rain event, that when implemented is designed to protect all exposed portions of a site within 48 hours prior to any likely precipitation event. A REAP must be developed when there is a forecast of 50% or greater probability of precipitation in the project area (General Permit, Attachment D, Section H) and is to be implemented no later than 24 hours prior to the likely precipitation event

8. The Discharger completed site-specific SWPPPs for all four Rocklin Crossings sites and uploaded the SWPPPs to the SMARTS data management system between 12 July and 13 July 2012. As listed in SMARTS, construction activities for all four Sites were scheduled to begin on 25 July 2012 and are to be completed by 15 October 2013.

9. Section 3 of the site-specific SWPPP for the Rocklin Crossings construction sites states that the entire site will be disturbed during the rough grading phase, and that straw mulch will be applied to all disturbed soils prior to any forecast rain event. The SWPPP states that straw mulch will be applied as a temporary erosion control BMP and shall be applied in conformance with the CASQA (California Stormwater Quality Association) BMP Factsheet EC-6. However, as described below, the Discharger did not follow its SWPPP because it

failed to apply straw mulch to disturbed soils prior to a rain event and failed to implement appropriate erosion and sediment control BMPs.

### Chronology

10. On 22 October 2012, Water Board staff conducted an inspection at the Site following an approximate one inch rain event in the Rocklin area. No construction activity was observed from the construction entrance at Sierra College Boulevard. Ponding was observed on graded lots, and staff observed that no erosion controls were installed on active construction areas visible from the construction entrance. The lack of erosion control BMPs on a Risk Level 2 site prior to a rain event is a violation of the General Permit. Staff contacted Janet Petersen on 25 October 2012 and arranged a site meeting for 31 October 2012.
11. On 31 October 2012, Water Board staff met with Janet Petersen and S.D. Deacon staff and completed a thorough inspection of the four Sites. Staff observed that perimeter sediment controls were in place and appeared to be working; however, no erosion control best management practices (BMPs) were installed across the active construction sites. The Discharger was in the process of stabilizing completed building pads with tree mulch, and covering some perimeter slopes with tree mulch. Following the inspection, staff discussed stabilizing all active construction areas prior to rain events as required by the General Permit.
12. Starting on 2 November 2012 and continuing weekly to 18 February 2013, S.D. Deacon provided a weekly summary of construction activities and activities completed to stabilize the Sites. Active construction through November 2012 included drilling and blasting granite outcrops and using the rock and soil to fill portions of the Center at Secret Ravine and the Dominguez Loop Road sites. As of 26 November 2012, S.D. Deacon reported in its weekly summary that multiple areas were stabilized with rock, tree mulch, or hydro-mulch, and that future parking lot areas had not been graded and would contain all storm water in low spots. As documented in later weekly summary reports, between 26 and 28 November 2012, three earthen berms were added to the temporary haul roads in the parking lot areas, and an area at the southwest end of the Dominguez Loop Road site was excavated for temporary water storage during the forecasted rain events.
13. Temporary water storage was not addressed in the SWPPP, although updated SWPPP maps provided in weekly summaries showed the water storage features described above. However, Board staff did not find documentation in the record that the temporary storage basin or the earthen berms were designed with consideration of the size of the impending storm event or that they were equipped with overflow protection such as a rocked spillway to protect the structures from failure. The installation of temporary water storage areas, if engineered and designed correctly, is considered a BMP. However, the General Permit requires that *both* erosion control and sediment control BMPs be installed. The Discharger did not install the appropriate combination of BMPs.
14. From 28 November 2012 through 5 December 2012, multiple rainfall events occurred throughout northern and central California. In the Rocklin area, the heaviest rainfall occurred on 30 November (Friday) and 2 December (Sunday). This storm was forecast by NOAA (National Oceanic and Atmospheric Administration) National Weather Service a minimum of five days prior to the first rainfall on 28 November. As stated above, the General Permit requires that Risk Level 2 dischargers develop and implement a Rain Event Action Plan (REAP) to protect all exposed portions of a site within 48 hours prior to a precipitation event

when there is a forecast of 50% or greater probability of precipitation in the project area. The Discharger's REAPs completed for the four construction Sites on 26 November 2012 stated that site erosion and sediment control BMPs were deployed at each of the four construction Sites. However, as noted below, the Water Board staff inspection on 30 November 2012 found that BMPs were not adequately deployed across the southern portion of the Rocklin Crossing site, the Center at Secret Ravine site, and the Dominguez Loop Road site.

15. On 30 November 2012, Water Board staff completed a site inspection during a heavy rain event. The rain event started on 28 November 2012 and produced approximately 0.75 inches of rainfall within the first two days, and then 2.25 inches of rainfall within the first 11 hours on 30 November. Water Board staff subsequently determined that the 30 November to 2 December storm event was approximately equivalent to a 25 year recurrence interval as provided by NOAA Precipitation Frequency Data Server.<sup>1</sup>

During the inspection, staff observed turbid storm water discharging from two locations at the Site. First, from the Dominguez Loop Road site where an earthen berm, constructed for perimeter control, had breached allowing stored storm water to flow to Secret Ravine. Staff collected a grab sample of turbid storm water below the Dominguez Loop Road discharge point and a grab sample from Secret Ravine upstream of the discharge point. Both samples were analyzed for turbidity using a portable turbidimeter. The Dominguez Loop Road sample result was greater than 1,000 NTU, and the Secret Ravine sample result was 153 NTU.

Staff then met with the QSP for the site and reviewed the Rocklin Crossings Detention Basin site. Staff observed a second turbid storm water discharge from the Detention Basin site into a ditch that leads to Secret Ravine. It was later identified by the Discharger that a plug was placed in the detention basin outlet, but this plug failed, allowing turbid storm water to flow into Secret Ravine. The QSP collected a grab sample from within the ditch and identified the turbidity at 2,425 NTU. This sample represents the turbidity in storm water discharging from the Detention Basin Site into Secret Ravine. Due to the high flows in Secret Ravine, it was not safe for staff to collect an upstream or downstream sample directly from the creek. However, photographs taken at the time of the discharge show that the storm water flowing off the construction site was visibly turbid while the water upstream of the discharge point in Secret Ravine was much clearer.

16. Based on the 30 November 2012 inspection, Board staff determined that the Site did not have appropriate erosion or sediment control BMPs installed prior to the 28 November through 5 December 2012 rain events as required by the SWPPP and the General Permit. This lack of soil stabilization led to the discharge into Secret Ravine from two separate locations on the same day.

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<sup>1</sup> <http://hdsc.nws.noaa.gov/hdsc/pfds/>

17. During the 28 November to 5 December 2012 rain events, the Discharger pumped storm water collected across the Site to both of the existing on-site detention basins to minimize potential discharges to Secret Ravine. On 18 December 2012, the Discharger started operating an on-site active treatment system (ATS) to treat suspended sediment in storm water. Treated effluent was discharged to the storm drain system on Schriber Way, which flows to Secret Ravine.
18. On 21 December 2012, Board staff issued a Notice of Violation (NOV) and Water Code section 13267 Order for the General Permit violations observed during the inspection on 30 November 2012. The Notice of Violation required a response from the Discharger by 18 January 2013, which was later extended to 25 January 2013. The NOV and 13267 Order required the Discharger to install appropriate erosion and sediment control BMPs throughout the Sites and submit a complete Numeric Action Level (NAL) Exceedance Report for the 28 November 2012 through 5 December 2012 storm events.
19. On 24 December 2012, Board staff conducted an inspection following a storm event which started on 21 December (Friday) and continued through 25 December 2012 (Tuesday) and produced approximately 2.75 inches of precipitation as of 24 December. The Center at Secret Ravine site was still actively being graded and compacted prior to the start of the storm event on 21 December 2012, and S.D. Deacon staff stated that disturbed soils across the Center at Secret Ravine site were treated with an "Earthguard" product prior to the rain event. However, the Earthguard-treated areas were not covered with mulch, straw, or fibers to prevent soil particles from detaching and becoming transported in storm water runoff, and evidence of erosion was observed across portions of the Center at Secret Ravine site. Based on the lack of soil coverage and erosion observed across the active site, it appeared to Board staff that the Earthguard product was not effective in stabilizing soils during rainfall events, and staff concluded that this application was not an appropriate erosion control and therefore a violation of the General Permit. In addition, staff reviewed the SWPPP to determine if the QSD had evaluated whether the Earthguard product was appropriate for use as a soil stabilization BMP at the Rocklin Crossings construction sites. However, this evaluation was not conducted. As presented in Finding 9 above, the site-specific SWPPP for the Rocklin Crossings construction sites stated that straw mulch, not Earthguard, would be applied to all disturbed soils prior to any forecast rain event.

Staff also observed the active treatment system in operation and the system operator reported that approximately 523,000 gallons of turbid storm water had been treated and discharged since the system became operational on 18 December 2012.

20. On 25 January 2013, the Discharger submitted a NOV Response, and on 17 February 2013, the Discharger provided additional responses following staff's initial review. The Discharger's NOV Response with additions stated that the Site received seven inches of rainfall between 28 November and 2 December 2012, and estimated that approximately 76,613 gallons of turbid storm water discharged from the Site to Secret Ravine on 30 November 2012 between 8:00 AM and 12 noon. The Discharger states that BMP repairs were completed at the two discharge points by 12 noon and the remaining volume of storm water was contained on-site in low areas, road depressions, and detention basins. Board staff reviewed the Discharger's estimates and calculations and agrees that the estimated discharge volume from the Site is reasonable.

### **Violations at Rocklin Crossings Construction Sites**

21. General Permit Section V.A.2, Effluent Standards, Narrative Effluent Limitations, states, in part:  
*2. Dischargers shall minimize or prevent pollutants in storm water discharges and authorized non-storm water discharges through the use of controls, structures, and management practices that achieve BAT for toxic and non-conventional pollutants and BCT for conventional pollutants.*

Violation 1: The Board finds that the Discharger violated this requirement of the General Permit by discharging 76,613 gallons of turbid storm water to Secret Ravine on 30 November 2012.

22. General Permit Attachment D, Provision E.3. Sediment Controls, states in part:  
*Additional Risk Level 2 Requirement: Risk Level 2 dischargers shall implement appropriate erosion control BMPs (runoff control and soil stabilization) in conjunction with sediment control BMPs for areas under active construction.*

Violation 2: The Board finds that the Discharger violated this requirement of the General Permit for a period of eight days (28 November to 5 December 2012) for failure to implement appropriate erosion control BMPs for areas under active construction.

Violation 3: The Board finds that the Discharger violated this requirement of the General Permit for a period of five days (21 December to 25 December 2012) for failure to implement appropriate erosion control BMPs for areas under active construction.

23. On 8 July 2013, the Executive Officer issued ACL Complaint R5-2013-0519 in the amount of \$211,038 for the General Permit violations described above.

### **Surface Water Beneficial Uses**

24. Surface water drainage from the Rocklin Crossings construction sites flows to Secret Ravine, which is a tributary to Miners Ravine, which is tributary to Dry Creek, which is tributary to the Sacramento River between Colusa Drain and the I Street Bridge.
25. The *Water Quality Control Plan for the Sacramento River and San Joaquin River Basins, Fourth Edition* (hereafter Basin Plan) designates beneficial uses, establishes water quality objectives, contains implementation plans and policies for protecting waters of the basin, and incorporates by reference plans and policies adopted by the State Water Resources Control Board. The existing and potential beneficial uses for the Sacramento River from Colusa Basin Drain to the "I" Street Bridge, and tributary streams, are municipal and domestic supply, agricultural supply for irrigation, contact water recreation, other non-contact water recreation, warm and cold freshwater aquatic habitat, warm and cold fish migration habitat, warm and cold spawning habitat, wildlife habitat, and navigation..

### **Calculation of Penalties Under Water Code Section 13385**

26. Water Code section 13385 states, in relevant part:

(a) Any person who violates any of the following shall be liable civilly in accordance with this section:

(2) A waste discharge requirement ... issued pursuant to this chapter...(5) Any requirements of Section 301, 302, 306, 307, 308, 318, 401, or 405 of the Clean Water Act, as amended.

27. The General Permit was adopted by the State Water Board on 2 September 2009, pursuant to Clean Water Act sections 201, 208(b), 302, 303(b), 304, 306, 307, 402, and 403. Section IV(A)(1) of the General Permit, states in part:

*Any permit noncompliance constitutes a violation of the Clean Water Act (CWA) and the Porter-Cologne Water Quality Control Act and is grounds for enforcement action and/or removal from General Permit coverage.*

28. The Discharger's failure to implement the elements of the General Permit described above violated the General Permit and therefore, violated the Clean Water Act and the Porter-Cologne Water Quality Control Act. Water Code section 13385 authorizes the imposition of administrative civil liability for such violations.

29. Water Code section 13385 states, in relevant part:

(c) Civil liability may be imposed administratively by the state board or a regional board pursuant to Article 2.5 (commencing with Section 13323) of Chapter 5 in an amount not to exceed the sum of both of the following:

(1) Ten thousand dollars (\$10,000) for each day in which the violation occurs.

(2) Where there is a discharge, any portion of which is not susceptible to cleanup or is not cleaned up, and the volume discharged but not cleaned up exceeds 1,000 gallons, an additional liability not to exceed ten dollars (\$10) multiplied by the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons.

(e) ...At a minimum, liability shall be assessed at a level that recovers the economic benefits, if any, derived from the acts that constitute the violation.

30. **Maximum Administrative Civil Liability under Water Code Section 13385:** Pursuant to Water Code section 13385(c), each violation of the General Permit identified above is subject to penalties not to exceed \$10,000 per day and \$10 per gallon of discharge exceeding 1,000 gallons.

- The Discharger failed to comply with Sediment Control Provision E.3 from 28 November through 5 December 2012, a period of 8 days, and from 21 December through 25 December 2012, a period of 5 days. Therefore, the maximum penalty is \$10,000 X 13 days, or \$130,000.
- A total of 76,613 gallons of turbid storm water discharged from the Site to Secret Ravine on 30 November 2012. The maximum penalty for this discharge is (76,613–1,000) gallons X \$10 per gallon plus \$10,000 (for one day of violation), or \$766,130.

The maximum liability for these violations is **eight hundred ninety six thousand one hundred and thirty dollars (\$896,130)**.

31. **Minimum Administrative Civil Liability under Water Code Section 13385:** Pursuant to Water Code section 13385(e), at a minimum, civil liability must be assessed at a level that recovers the economic benefits, if any, derived from the acts that constitute the violation. The violations of the General Permit were due to failure to implement appropriate erosion and sediment control BMPs as listed in the site specific SWPPP. CASQA estimates installation and maintenance of straw mulch at \$1,823 to \$4,802 per acre (July 2007 data), and this range is generally dependent on slope and soil type. The economic benefit received by the Discharger by not installing and maintaining appropriate erosion control BMPs is estimated to be \$2,000 per acre, based on a generally flat site that can be easily accessed by wheeled vehicles. Based on information submitted by the Discharger, Board staff estimated that approximately 40 acres of disturbed area was not adequately protected with BMPs. Therefore, the cost to stabilize this construction site is estimated to be \$80,000. The economic benefit incurred by the Discharger is the failure to spend \$80,000 between 28 November and 25 December 2012; the value can be calculated as the interest on a loan to complete the work. Using the US EPA's BEN model, the economic benefit gained by non-compliance is calculated to be approximately one hundred seventeen dollars (\$117), which becomes the minimum civil liability which must be assessed pursuant to section 13385.

#### **Proposed Administrative Civil Liability**

32. Pursuant to Water Code section 13385(e), in determining the amount of any civil liability imposed under Water Code section 13385(c), the Board is required to take into account the nature, circumstances, extent, and gravity of the violations, whether the discharges are susceptible to cleanup or abatement, the degree of toxicity of the discharges, and, with respect to the violator, the ability to pay, the effect on its ability to continue its business, any voluntary cleanup efforts undertaken, any prior history of violations, the degree of culpability, economic benefit or savings, if any, resulting from the violations, and other matters that justice may require.
33. On 17 November 2010, the State Water Board adopted Resolution No. 2009-0083 amending the Water Quality Enforcement Policy (Enforcement Policy). The Enforcement Policy was approved by the Office of Administrative Law and became effective on 20 May 2010. The Enforcement Policy establishes a methodology for assessing administrative civil liability. The use of this methodology addresses the factors that are required to be considered when imposing a civil liability as outlined in Water Code section 13385(e).
34. This administrative civil liability was derived from the use of the penalty methodology in the Enforcement Policy, as explained in detail in Attachment A. The civil liability takes into account such factors as the Discharger's culpability, history of violations, ability to pay and continue in business, and other factors as justice may require.
35. As described above, the maximum penalty for the violations is \$896,130. The Enforcement Policy requires that the minimum liability imposed be at least 10% higher than the estimated economic benefit of \$117, so that liabilities are not construed as the cost of doing business and that the assessed liability provides a meaningful deterrent to future violations. In this case, the economic benefit amount, plus 10%, is \$129.

### Regulatory Considerations

36. Notwithstanding the issuance of this Order, the Central Valley Water Board retains the authority to assess additional penalties for violations of the requirements of the General Permit for which penalties have not yet been assessed or for violations that may subsequently occur.
37. Issuance of this Administrative Civil Liability Order to enforce Water Code Division 7, Chapter 5.5 is exempt from the provisions of the California Environmental Quality Act (Pub. Resources Code § 21000 et seq.), in accordance with California Code of Regulations, title 14, section 15321(a)(2).
38. Any person affected by this action of the Central Valley Water Board may petition the State Water Resources Control Board to review this action. The State Water Board must receive the petition within thirty (30) days of issuance of this Order. Copies of the law and regulations applicable to filing petitions will be provided upon request.

**IT IS HEREBY ORDERED** that Donahue Schriber Asset Management Corporation shall pay a civil liability of \$211,038 as follows:

**Within 30 days of adoption of this Order**, the Discharger shall pay two hundred eleven thousand thirty-eight dollars (\$211,038) by check made payable to the *Cleanup and Abatement Account*. The check shall have written upon it the number of this ACL Order and be mailed to the Central Valley Water Board.

I, Pamela C. Creedon, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Central Valley Region, on X October 2013.

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PAMELA C. CREEDON, Executive Officer

Attachment A: Specific Factors Considered for Civil Liability

**Attachment A to ACL Order R5-2013-XXXX:  
Specific Factors Considered for Civil Liability  
Rocklin Crossings, Placer County**

The State Water Board's *Water Quality Enforcement Policy* (Enforcement Policy) establishes a methodology for determining administrative civil liability by addressing the factors that are required to be considered under California Water Code (CWC) section 13385(e). Each factor of the nine-step approach is discussed below, as is the basis for assessing the corresponding score. The Enforcement Policy can be found at:

[http://www.waterboards.ca.gov/water\\_issues/programs/enforcement/docs/enf\\_policy\\_final111709.pdf](http://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/enf_policy_final111709.pdf).

**Violation 1: Two Separate Discharges of Turbid Water on 30 November 2012**

**Step 1 – Potential for Harm for Discharge Violations**

The “potential harm to beneficial uses” factor considers the harm to beneficial uses that may result from exposure to the pollutants in the discharge, while evaluating the nature, circumstances, extent, and gravity of the violation(s). A three-factor scoring system is used for each violation or group of violations: (1) the potential harm to beneficial uses; (2) the degree of toxicity of the discharge; and (3) whether the discharge is susceptible to cleanup or abatement.

**Factor 1: Harm or Potential Harm to Beneficial Uses**

A score between 0 and 5 is assigned based on a determination of whether the harm or potential for harm to beneficial uses is negligible (0) to major (5). In this case the potential harm to beneficial uses was determined to be **moderate** (i.e. a score of **3**), which is defined as a “moderate threat to beneficial uses (i.e., impacts are observed or reasonably expected and impacts to beneficial uses are moderate and likely to attenuate without appreciable acute or chronic effects).”

The Discharger failed to implement appropriate erosion control BMPs prior to the 28 November to 5 December 2012 (8 days) storm event(s) as required by the General Permit. This failure resulted in a sediment-laden discharge to Secret Ravine, a sensitive water body with cold, spawn, and migratory beneficial uses. Both erosion and sediment control BMPs are required to be implemented on active construction sites to prevent soil particles from detaching and to contain any soil particles that become entrained in storm water runoff. These BMPs need to be designed by the Qualified SWPPP Developer (QSD) to work in unison and prevent or reduce sediment discharging from the site. In lieu of erosion control BMPs, the Discharger implemented a strategy to contain storm water on site which was not designed for the predicted storm event and ultimately failed.

The failure to implement appropriate erosion control BMPs has the potential to impact beneficial uses in Secret Ravine. The beneficial uses of Secret Ravine, as a tributary to the Sacramento River between Colusa Drain and “I” Street Bridge via Miners Ravine and Dry Creek, include municipal and domestic supply, agricultural supply for irrigation, contact water recreation, other non-contact water recreation, warm and cold freshwater aquatic habitat, warm and cold fish migration habitat, warm and cold spawning habitat, wildlife habitat, and navigation. Discharges of sediment to surface waters can cloud the receiving water, thereby reducing the amount of sunlight reaching aquatic plants, clog fish gills, smother aquatic habitat and spawning areas, and impede navigation. Sediment can also transport other materials such as nutrients, metals, and oils and grease.

In April 2008, the consulting firm EDAW (now called AECOM – Design + Planning) completed a Final Environmental Impact Report (EIR) for the Rocklin Crossings Project<sup>2</sup>. EDAW identified that Secret Ravine Creek provides spawning and rearing habitat for the federally threatened Central Valley Steelhead and spawning habitat for the federal candidate species and state species of special concern Central Valley fall- and late fall-run Chinook Salmon. EDAW received a number of comments on the Draft EIR regarding the project's potential effect on Secret Ravine and the creek's salmon population. In response, the Final EIR states that uncontrolled soil erosion generated during project construction could indirectly affect fish habitat and benthic macro-invertebrates by degrading the water quality within Secret Ravine Creek. However, EDAW added that the project's runoff, erosion, and subsequent sedimentation issues would be minimized or eliminated through preparation and implementation of an erosion control plan and stormwater pollution prevention plan (SWPPP) and the installation of appropriate Best Management Practices (BMPs).

Section 2 of the Final EIR, Master Response on Water Quality, states the following: "The BMPs proposed to be implemented during construction include: the use of soil stabilizers, fiber rolls, inlet filters, and gravel bags to prevent pollutants from being carried off-site in stormwater generated on the project site. The erosion control plan would ensure that proper control of siltation, sedimentation, and other pollutants would be implemented per the National Pollution Discharge Elimination System (NPDES) permit requirements and City ordinance standards. Debris, soil, silt, sand, bark, slash, sawdust, cement, concrete, washings, petroleum products or other organic or earthen material would not be allowed to enter into or be placed where it may be washed by rainfall or runoff into Secret Ravine Creek."

Section 4 of the Final EIR states that construction techniques shall be identified that would reduce the potential runoff, the SWPPP shall identify the erosion and sedimentation control measures to be implemented, and BMPs identified in the SWPPP shall be used in subsequent site development activities. As discussed below, erosion and sediment control measures were identified in the SWPPP; however, erosion control measures were not implemented, and sediment controls were not effective in preventing sediment discharges from the site.

As discussed in the EIR, the discharge of sediment to surface waters can negatively impact aquatic organisms. However, the discharges took place over a four hour period during a time of high flow in Secret Ravine, and the impacts are expected to attenuate without appreciable acute or chronic effects. Therefore a moderate score of 3 was assigned to this factor.

Factor 2: The Physical, Chemical, Biological, or Thermal Characteristics of the Discharge

A score between 0 and 4 is assigned based on a determination of the risk or threat of the discharged material. In this case, a score of 2 was assigned, which means that the chemical and/or physical characteristics of the discharged material poses a moderate risk or threat to potential receptors (i.e. the chemical and/or physical characteristics of the discharged material have some level of toxicity or pose a moderate level of concern regarding receptor protection). Discharges of sediment can cloud the receiving water, which reduces the amount of sunlight reaching aquatic

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<sup>2</sup>[http://www.rocklin.ca.us/depts/develop/planning/publications\\_n\\_maps/rocklin\\_crossings\\_environmental\\_impact\\_report/default.asp](http://www.rocklin.ca.us/depts/develop/planning/publications_n_maps/rocklin_crossings_environmental_impact_report/default.asp)

plants, clog fish gills, smother aquatic habitat and spawning areas, and impede navigation. Sediment can also transport other materials such as nutrients, metals, and oils and grease.

Factor 3: Susceptibility to Cleanup or Abatement

A score of 0 is assigned for this factor if 50% or more of the discharge is susceptible to cleanup or abatement. A score of 1 is assigned if less than 50% of the discharge is susceptible to cleanup or abatement. This factor is evaluated regardless of whether the discharge was actually cleaned up or abated by the discharger. In this case, sediment laden storm water discharged into Secret Ravine and was carried downstream with the current. Cleanup or abatement is not possible and therefore, a factor of 1 is assigned.

Final Score – “Potential for Harm”

The scores of the three factors are added to provide a Potential for Harm score for each violation or group of violations. In this case, a final score of 6 was calculated. The total score is then used in Step 2 below.

Step 2 – Assessment for Discharge Violations

This step addresses penalties based on both a per-gallon and a per-day basis for the discharge violation.

Per Gallon Assessments for Discharge Violations

When there is a discharge, the Central Valley Water Board is to determine the initial liability amount on a per gallon basis using the Potential Harm score from Step 1 and the Extent of Deviation from Requirement of the violation. The Potential Harm score from Step 1 is 6 and the Extent of Deviation from Requirements is considered to be **Major** because the Discharger failed to implement appropriate erosion control BMPs and rendered the requirement ineffective. General Permit requires both erosion and sediment control BMPs on active construction sites to prevent soil particles from detaching and to contain any soil particles that become entrained in storm water runoff. The installation of temporary water storage areas as done by the Discharger, if engineered and designed correctly, is considered a BMP. However, the General Permit requires that both erosion control and sediment control BMPs be installed. The Discharger did not install an appropriate combination of BMPs.

Table 1 of the Enforcement Policy (p. 14) is used to determine a “per gallon” factor based on the total score from Step 1 and the level of Deviation from Requirement. For this particular case, the per gallon factor is 0.22. This value is multiplied by the volume of discharge and the per gallon civil liability, as described below.

An estimated volume of 76,613 gallons of turbid storm water was discharged from two locations on 30 November 2012. The maximum civil liability allowed under Water Code section 13385 is \$10 per gallon for discharges. While the Enforcement Policy states that a lower initial per-gallon value may be used for “high volume” discharges, for this case, Water Board staff do not recommend using less than \$10/gallon in the initial penalty calculation, given the relatively small volume of discharge on 30 November 2012 and the beneficial uses of the receiving water.

Water Code section 13385(c)(2) states that the civil liability amount is to be based on the number of gallons discharged but not cleaned up, over 1,000 gallons for each spill or discharge event. As shown in the table below, there was one discharge event on 30 November 2012 with an estimated

volume of 76,613 gallons. The Per Gallon Assessment is calculated as: (Factor from Table 1) x (discharge volume-1,000) x (\$10 per gallon).

Per Day Assessments for Discharge Violations

When there is a discharge, the Central Valley Water Board is to determine the initial liability amount on a per day basis using the same Potential Harm score from Step 1 and the same Extent of Deviation from Requirement used in the per-gallon analysis. The Potential Harm score from Step 1 is 6 and the Extent of Deviation from Requirements is considered to be **Major**. Therefore, the “per day” factor is **0.22** as determined from Table 2 in the Enforcement Policy. The Per Day Assessment is calculated as (factor from Table 2) x (number of days) x \$10,000 per day.

**Violation 1 – Per Gallon and Per Day Assessment for Discharge Violations**

The initial liability amount for the discharge violations of the General Permit, Section V., A.2.(Narrative Effluent Limitations) on 30 November 2012 is as follows:

Per Gallon Liability:

a)  $0.22 \times (76,613 \text{ gallons discharged} - 1000 \text{ gallons}) \times \$10 \text{ per gallon} = \$166,349$

Per Day Liability:

b)  $0.22 \times (1\text{day}) \times \$10,000 = \$2,200$

Total Initial Liability (a+b) = **\$168,549**

**Step 3 – Per Day Assessment for Non-Discharge Violations**

In this case, this factor does not apply because Violation 1 is related to a discharge to surface waters and the liability was determined in Step 2.

**Step 4 – Adjustment Factors**

There are three additional factors to be considered for modification of the amount of initial liability: the violator’s culpability, efforts to cleanup or cooperate with regulatory authority, and the violator’s compliance history.

Culpability

Higher liabilities should result from intentional or negligent violations as opposed to accidental violations. A multiplier between 0.5 and 1.5 is to be used, with a higher multiplier for negligent behavior. The Discharger was given a multiplier value of **1.1** because of the Discharger failed to implement erosion control BMPs as required by the Construction General Permit for a forecasted multi-day storm event. Although the Discharger utilized low areas to hold water, there is no documentation in the record that the temporary storage basins and earthen berms were designed with consideration of the size of the impending storm event or that they were equipped with overflow protection such as a rocked spillway to protect the structures from failure.

The General Permit requires that Risk Level 2 dischargers develop and implement a Rain Event Action Plan (REAP) to protect all exposed portions of a site within 48 hours prior to a precipitation event when there is a forecast of 50% or greater probability of precipitation in the project area. The Discharger’s REAPs completed for the four construction Sites on 26 November 2012 stated that site erosion and sediment control BMPs were deployed at each of the four construction Sites.

However, the Water Board staff inspection on 30 November 2012 found that straw and tack erosion control BMPs were not implemented across the southern portion of the Rocklin Crossing site, the Center at Secret Ravine site, and the Dominguez Loop Road site. This failure to implement appropriate BMPs led to the discharge of turbid water which should have been avoided based on the strength of the storm forecast. The Discharger did not anticipate what a reasonable person would have and did not implement appropriate measures to avoid the discharge.

Cleanup and Cooperation

This factor reflects the extent to which a discharger voluntarily cooperated in returning to compliance and correcting environmental damage. A multiplier between 0.75 and 1.5 is to be used, with a higher multiplier when there is a lack of cooperation. The Discharger was given a multiplier value of **0.75** because of the cooperation exhibited by the Discharger to return to compliance. Following discovery of discharges off the construction site, the Discharger deepened a failed temporary detention basin at the Center at Secret Ravine site and pumped accumulated storm water to larger on-site detention basins and stopped the discharges off the construction site within four hours.

History of Violations

This factor is to be used when there is a history of repeat violations. A minimum multiplier of 1.1 is to be used, and is to be increased as necessary. In this case, a multiplier of **1** was used because there have been no previous unauthorized discharge violations at this Site other than the alleged violations currently at issue in this Complaint.

**Step 5 - Determination of Total Base Liability Amount**

The Total Base Liability is determined by applying the adjustment factors from Step 4 to the Total Initial Liability Amount determined in Step 2.

**Violation 1 – Total Base Liability Amount**

Initial Liability x Culpability Multiplier x Cleanup and Cooperation Multiplier x History of Violations Multiplier = Total Base Liability

$$\$168,549 \times 1.1 \times 0.75 \times 1 = \$139,053$$

Total Base Liability = **\$139,053**

Steps 6 through 10 are applied to the combined Total Base Liability Amount for all violations and will be discussed after the Total Base Liability Amount has been determined for the remaining violations.

**Violation 2: Failure to Implement Appropriate BMPs on Active Construction Areas during a rain event prior to installation of the Active Treatment System.**

The General Permit requires Risk Level 2 dischargers to implement appropriate erosion and sediment control BMPs. The Rocklin Crossings site is Risk Level 2.

Board staff considered the Discharger to be in violation of the erosion control BMP requirements only on the days when rain occurred at the site because the General Permit distinguishes between active and inactive construction areas. Active construction areas are defined in the General Permit as: “*areas undergoing land surface disturbance. This includes construction activity during the preliminary stage, mass grading stage, streets and utilities stage and the vertical construction stage.*” Active areas must have appropriate erosion and sediment controls installed prior to and during rain events, but not between rain events. The General Permit defines inactive areas of construction as “*areas of construction activity that have been disturbed and are not scheduled to be re-disturbed for at least 14 days.*” Inactive areas must have effective soil cover during the entire period of inactivity, regardless of rainfall.

For the Rocklin Crossings site, Board staff understands that the Discharger was conducting drilling and blasting, grading, and compaction work at the south end of the Site, and utility installation activities, and returned to work as soon as possible following the rain events. Therefore, staff considered the requirements for installation of erosion control BMPs at active construction areas, rather than inactive areas, when determining the violations in this case.

Violation 2 is for the period of 28 November through 5 December 2012 (8 days) when the Discharger failed to have appropriate erosion control BMPs installed at the site during a rain event prior to installing an Active Treatment System (ATS). The ATS began operation on 18 December 2012.

#### **Step 1 – Potential for Harm for Discharge Violations**

This step is not applicable because the violation is a not a discharge violation.

#### **Step 2 – Assessment for Discharge Violations**

This step is not applicable because the violation is a not a discharge violation.

#### **Step 3 – Per Day Assessment for Non-Discharge Violations**

The “per day” factor is calculated for each non-discharge violation or group of violations considering the 1) potential for harm and 2) the extent of the deviation from the applicable requirements.

#### **Potential for Harm**

The characteristics of the violation present either a minor, moderate, or major potential for harm or threat to beneficial uses. The Potential for Harm is considered to be **Moderate**, which is defined in the Enforcement Policy as “The characteristics of the violation present a substantial threat to beneficial uses and/or the circumstances of the violation indicate a substantial potential for harm. Most incidents would be considered to present a moderate potential for harm.”

The Discharger failed to implement appropriate erosion control BMPs prior to the 28 November to 5 December 2012 (8 days) storm event(s) as required by the General Permit. Temporary erosion controls such as straw and tack cover disturbed soils and protect soil particles from detaching, which helps lock the soil particles in place and reduces turbidity in storm water runoff. Discharges of sediment to surface waters can cloud the receiving water, thereby reducing the amount of sunlight reaching aquatic plants, clog fish gills, smother aquatic habitat and spawning areas, and impede navigation. Sediment can also transport other materials such as nutrients, metals, and oils and grease. This failure to implement appropriate erosion control BMPs has the potential to impact beneficial uses of a sensitive habitat. As described in the EIR, “*The BMPs proposed to be*

*implemented during construction include: the use of soil stabilizers, fiber rolls, inlet filters, and gravel bags to prevent pollutants from being carried off-site in stormwater generated on the project site. The erosion control plan would ensure that proper control of siltation, sedimentation, and other pollutants would be implemented per the National Pollution Discharge Elimination System (NPDES) permit requirements and City ordinance standards. Debris, soil, silt, sand, bark, slash, sawdust, cement, concrete, washings, petroleum products or other organic or earthen material would not be allowed to enter into or be placed where it may be washed by rainfall or runoff into Secret Ravine Creek.”* However, the Discharger did not follow the mitigation measures identified in the EIR or the erosion control BMPs required by the General Permit.

Deviation from Requirement

The violation represents either a minor, moderate, or major deviation from the applicable requirements. The Deviation from Requirement is considered **Major**, which is defined in the Enforcement Policy as “The requirement has been rendered ineffective (e.g., discharger disregards the requirement, and/or the requirement is rendered ineffective in its essential functions).”

General Permit requires both erosion and sediment control BMPs on active construction sites to prevent soil particles from detaching and to contain any soil particles that become entrained in storm water runoff. The installation of temporary water storage areas as done by the Discharger, if engineered and designed correctly, is considered a BMP. However, the General Permit requires that both erosion control and sediment control BMPs be installed. The Discharger did not install an appropriate combination of BMPs.

The Discharger failed to implement appropriate erosion controls as required by the General Permit and rendered the permit requirements ineffective. There was a high potential for sediment laden storm water to discharge from the construction site to Secret Ravine, and it is appropriate to select a “Major” Deviation from Requirement.

Using Table 3 in the Enforcement Policy, the range of factors for a **Moderate** Potential for Harm and a **Major** Deviation from Requirement is 0.4 to 0.7, and the middle of the range (0.55) was used for the Per Day Factor. This value is multiplied by the days of violation and the maximum per day penalty, as shown below.

**Violation 2 –Per Day Assessment for Non-Discharge Violations**

The initial liability amounts for the violations of the General Permit, Att. D., Section E.3. (Sediment Controls) calculated on a per-day basis, are as follows:

- a) 28 November to 5 December 2012 (8 days): 8 days x \$10,000 per day x 0.55 = \$44,000

Total Initial Liability = **\$44,000**

#### **Step 4 – Adjustment Factors**

There are three additional factors to be considered for modification of the amount of initial liability: the violator's culpability, efforts to cleanup or cooperate with regulatory authority, and the violator's compliance history.

##### **Culpability**

Higher liabilities should result from intentional or negligent violations as opposed to accidental violations. A multiplier between 0.5 and 1.5 is to be used, with a higher multiplier for negligent behavior. The Discharger was given a multiplier value of **1.1** because of the Discharger's failure to implement appropriate BMPs prior to a forecasted multi-day storm event. This failure to implement BMPs led to the discharges of turbid water which could have been avoided had appropriate BMPs been in place prior to the forecasted storm event. Again, as presented above, the General Permit requires that Risk Level 2 dischargers develop and implement a Rain Event Action Plan (REAP) to protect all exposed portions of a site within 48 hours prior to a precipitation event when there is a forecast of 50% or greater probability of precipitation in the project area. The Discharger's REAPs completed for the four construction Sites on 26 November 2012 stated that site erosion and sediment control BMPs were deployed at each of the four construction Sites. However, the Water Board staff inspection on 30 November 2012 found that straw and tack erosion control BMPs were not implemented across the southern portion of the Rocklin Crossing site, the Center at Secret Ravine site, and the Dominguez Loop Road site. This failure to implement appropriate BMPs led to the discharge of turbid water which should have been avoided based on the strength of the storm forecast. The Discharger did not anticipate what a reasonable person would have and did not implement appropriate measures to avoid the violations.

##### **Cleanup and Cooperation**

This factor reflects the extent to which a discharger voluntarily cooperated in returning to compliance and correcting environmental damage. A multiplier between 0.75 and 1.5 is to be used, with a higher multiplier when there is a lack of cooperation. The Discharger was given a multiplier value of **0.9** because of the cooperation exhibited by the Discharger to implement structural BMPs that reduce the potential for future discharges. Following notification of turbid storm water discharging off the construction site, the Discharger deepened a failed temporary detention basin and pumped accumulated storm water to larger on-site detention basins, and discharges off the construction site were stopped within four hours. However, the Discharger did not implement appropriate erosion control BMPs on active construction areas for the eight days identified in this violation.

##### **History of Violations**

This factor is to be used when there is a history of repeat violations. A minimum multiplier of 1.1 is to be used, and is to be increased as necessary. In this case, a multiplier of **1.0** was used because there have been no previous violations at the Site other than the alleged violations currently at issue in this Complaint.

#### **Step 5 - Determination of Total Base Liability Amount**

The Total Base Liability is determined by applying the adjustment factors from Step 4 to the Total Initial Liability Amount determined in Step 3.

**Violation 2 - Total Base Liability Amount**

Total Initial Liability x Culpability Multiplier x Cleanup and Cooperation Multiplier x History of Violations Multiplier = Total Base Liability

$$\$44,000 \times 1.1 \times 0.9 \times 1.0 = \$43,560$$

Total Base Liability = **\$43,560**

Steps 6 through 10 are applied to the combined Total Base Liability Amount for all violations and will be discussed after the Total Base Liability Amount has been determined for the remaining violation.

**Violation 3: Failure to Implement Appropriate BMPs on Active Construction Areas following Installation of the Active Treatment System.**

Violation 3 is for the period of 21 December to 25 December 2012 (5 days) when the Discharger failed to have adequate erosion control BMPs installed at the site during a rain event after the Active Treatment System was installed. Again, Board staff considered the requirements for installation of erosion control BMPs on active construction areas in determining these violations.

**Step 1 – Potential for Harm for Discharge Violations**

This step is not applicable because the violation is a not a discharge violation.

**Step 2 – Assessment for Discharge Violations**

This step is not applicable because the violation is a not a discharge violation.

**Step 3 – Per Day Assessment for Non-Discharge Violations**

The “per day” factor is calculated for each non-discharge violation or group of violations considering the 1) potential for harm and 2) the extent of the deviation from the applicable requirements.

**Potential for Harm**

The characteristics of the violation present either a minor, moderate, or major potential for harm or threat to beneficial uses. The Potential for Harm is considered to be **Minor**, which is defined in the Enforcement Policy as “The characteristics of the violation present a minor threat to beneficial uses, and/or the circumstances of the violation indicate a minor potential for harm.”

The Discharger applied an Earthguard product to disturbed soils prior to the 21 December to 25 December 2012 storm event. During a 24 December 2012 site inspection, Board staff identified that the Earthguard-treated areas were not covered with mulch, straw, or fibers to prevent soil particles from detaching and becoming transported in storm water runoff, and evidence of erosion was observed across portions of the Center at Secret Ravine site. Based on the lack of soil coverage and erosion observed across the active site, it appeared to Board staff that the Earthguard product was not effective in stabilizing soils during rainfall events, and concluded that this application was not an appropriate erosion control and therefore a violation of the General

Permit.- This failure to implement appropriate erosion control BMPs has the potential to impact beneficial uses.

The Discharger substantially mitigated the potential for harm by implementing structural BMPs that reduce the potential for future discharges. Although these efforts do not negate the requirement to implement appropriate erosion control BMPs at the Sites during rain events, the effective combination of erosion and sediment control BMPs combined with a strategy to pump accumulated storm water from temporary detention basins to larger on-site basins significantly reduced the potential for discharges off the construction site. Therefore, the Potential for Harm is “minor”.

#### Deviation from Requirement

The violation represents either a minor, moderate, or major deviation from the applicable requirements. The Deviation from Requirement is considered **Minor**, which is defined in the Enforcement Policy as “The intended effectiveness of the requirement remains generally intact (e.g., while the requirement was not met, there is general intent by the discharger to follow the requirement).”

The Discharger implemented an Earthguard product to disturbed soils prior to the 21 December to 25 December 2012 storm event; however, as discussed above, Board staff determined that the Discharger failed to implement appropriate erosion control BMPs as required by the General Permit. The Discharger implemented structural BMPs that reduce the potential for future discharges, and these BMPs combined with a strategy to pump accumulated storm water from temporary detention basins to larger on-site basins significantly reduced the potential for discharges off the construction site.

Using Table 3 in the Enforcement Policy, the range of factors for a **Minor** Potential for Harm and a **Minor** Deviation from Requirement is 0.1 to 0.2, and the middle of the range (0.15) was used for the Per Day Factor. This value is multiplied by the days of violation and the maximum per day penalty, as shown below.

#### **Violation 3 –Per Day Assessment for Non-Discharge Violations**

The initial liability amounts for the violations of the General Permit, Att. D., Section E.3. (Sediment Controls) calculated on a per-day basis, are as follows:

a) 21 December to 25 December 2012 (5 days):  $5 \text{ days} \times \$10,000 \text{ per day} \times 0.15 = \$7,500$

Total Initial Liability = **\$7,500**

#### **Step 4 – Adjustment Factors**

There are three additional factors to be considered for modification of the amount of initial liability: the violator’s culpability, efforts to cleanup or cooperate with regulatory authority, and the violator’s compliance history.

#### Culpability

Higher liabilities should result from intentional or negligent violations as opposed to accidental violations. A multiplier between 0.5 and 1.5 is to be used, with a higher multiplier for negligent behavior. The Discharger was given a multiplier value of **1.1** because of the Discharger's failure to implement appropriate BMPs prior to a forecasted multi-day storm event.

The Center at Secret Ravine site was still actively being graded and compacted prior to the start of the storm event on 21 December 2012, and S.D. Deacon staff stated that disturbed soils across the Center at Secret Ravine site were treated with an "Earthguard" product prior to the rain event. However, the Earthguard-treated areas were not covered with mulch, straw, or fibers to prevent soil particles from detaching and becoming transported in storm water runoff, and evidence of erosion was observed across portions of the Center at Secret Ravine site. Based on the lack of soil coverage and erosion observed across the active site, it appeared to Board staff that the Earthguard product was not effective in stabilizing soils during rainfall events. Staff concluded that this application was not an appropriate erosion control and therefore a violation of the General Permit. In addition, staff reviewed the SWPPP to determine if the QSD had evaluated whether the Earthguard product was appropriate for use as a soil stabilization BMP at the Rocklin Crossings construction sites. Board staff found no evidence that this evaluation was conducted. Instead, the site-specific SWPPP for the Rocklin Crossings construction sites stated that straw mulch, not Earthguard, would be applied to all disturbed soils prior to any forecast rain event. The Discharger did not anticipate what a reasonable person would have and did not implement appropriate measures to avoid the violations.

#### Cleanup and Cooperation

This factor reflects the extent to which a discharger voluntarily cooperated in returning to compliance and correcting environmental damage. A multiplier between 0.75 and 1.5 is to be used, with a higher multiplier when there is a lack of cooperation. The Discharger was given a multiplier value of **0.9** because of the cooperation exhibited by the Discharger to implement additional BMPs and reduce the potential for sediment discharges to surface waters. However, the Discharger did not implement appropriate erosion control BMPs on active construction areas for the five days identified in this violation.

#### History of Violations

This factor is to be used when there is a history of repeat violations. A minimum multiplier of 1.1 is to be used, and is to be increased as necessary. In this case, a multiplier of **1.0** was used because there have been no previous violations at this Site other than the alleged violations currently at issue in this Complaint.

#### **Step 5 - Determination of Total Base Liability Amount**

The Total Base Liability is determined by applying the adjustment factors from Step 4 to the Total Initial Liability Amount determined in Step 3.

**Violation 3 - Total Base Liability Amount**

Total Initial Liability x Culpability Multiplier x Cleanup and Cooperation Multiplier x History of Violations Multiplier = Total Base Liability

$$\$7,500 \times 1.1 \times 0.9 \times 1.0 = \$7,425$$

Total Base Liability = **\$7,425**

**COMBINED TOTAL BASE LIABILITY AND FACTORS APPLIED TO ALL VIOLATIONS**

The combined Total Base Liability Amount for the two violations is **\$190,038** ( \$139,053 + \$43,560 + \$7,425).

The following factors apply to the combined Total Base Liability Amount for the violations discussed above.

**STEP 6 – Ability to Pay and Continue in Business**

The Order is only being issued to the Legally Responsible Party (LRP), Donahue Schriber, therefore Central Valley Water Board staff considered only Donahue Schriber's ability to pay and to continue in business when determining the administrative civil liability amount.

According to a March 2013 press release<sup>3</sup>, Donahue Schriber is a private Real Estate Investment Trust (REIT) operating on the West Coast. The company owns and manages 76 neighborhood, community, and power shopping centers representing over 11 million square feet of retail space. The shopping centers are located throughout California, Arizona, Nevada, Oregon, and Washington. When completed, the Crossings site will consist of approximately 544,000 square feet of new retail and restaurant space with Walmart and Home Depot as the anchor tenants.

In 2013, the company's major investors, the New York State Teacher's Retirement System and J.P. Morgan Strategic Property Fund approved an additional \$100 million in common equity for growth capital to allow the Company to "take advantage of new market opportunities". In 2012, Donahue Schriber disposed of \$250 million of non-strategic assets and acquired four shopping centers valued at over \$200 million.

Given the size of the Discharger's company and the scale of the Rocklin Crossings project, the Discharger has the ability to pay the combined Total Base Liability Amount.

Although the Order only names Donahue Schriber as the responsible party, Board staff are aware that some LRPs have contract provisions in which any civil liability is passed to the contractor. The record for this case does not include the contract between Donahue Schriber and the contractor, S.D. Deacon, but staff still completed a brief review of the contractor's ability to pay. According to its website<sup>4</sup>, S. D. Deacon is the largest retail contractor on the West Coast and fifth largest in the

<sup>3</sup> <http://www.donahueschriber.com/newsdetails.aspx?newsid=126>

<sup>4</sup> <http://www.sddeacon.com/>

U.S. The company projected \$400 million in business volume in 2012, and employs 400 people in five offices, including one in Sacramento. Given the size of the company, S.D. Deacon has the ability to pay the penalty, if it were to be passed on by Donahue Schriber by any indemnity provisions in the contract.

**STEP 7 – Other Factors as Justice May Require**

The costs of investigation and enforcement are “other factors as justice may require”, and should be added to the liability amount. The Central Valley Water Board has incurred \$21,000 in staff costs associated with the investigation and enforcement of the violations alleged herein. This represents approximately 140 hours of staff time devoted to investigating and drafting the complaint at \$150 an hour. In accordance with the Enforcement Policy, this amount is added to the Combined Total Base Liability Amount.

It should be recognized that the Discharger, Donahue Schriber, also violated the Storm Water General Permit at its Rocklin Commons construction site, which is across the freeway from Rocklin Crossings. In that matter, the Executive Officer issued an Administrative Civil Liability Complaint in the amount of \$51,550 for the failure to install appropriate erosion controls from 28 November to 5 December 2012, and for the failure to collect storm water samples. Donahue Schriber paid the liability and waived its right to a hearing before the Central Valley Water Board. Given the history of violations for this Discharger, it could be argued that a higher “history of violations” multiplier would be more appropriate than the neutral multiplier of 1 which the Prosecution Team is currently proposing.

**STEP 8 – Economic Benefit**

Pursuant to CWC section 13385(e), civil liability, at a minimum, must be assessed at a level that recovers the economic benefits, if any, derived from the acts that constitute the violation. The violations of the General Permit were due to a failure to implement appropriate erosion and sediment control BMPs as required by the General Permit and listed in the site specific SWPPP. The California Stormwater Quality Association (CASQA) estimates installation and maintenance of straw mulch at \$1,823 to \$4,802 per acre (July 2007 data), and this range is generally dependent on slope and soil type. The economic benefit received by the Discharger by not installing and maintaining appropriate erosion control BMPs is estimated to be \$2,000 per acre, based on a generally flat site that can be easily accessed by wheeled vehicles. Based on information submitted by the Discharger, Board staff calculated that approximately 40 acres of disturbed area were not adequately protected with BMPs. Therefore, the cost to stabilize this acreage is estimated to be \$80,000 (40 acres x \$2,000/acre). The Discharger realized some cost savings by not spending \$80,000 prior to the 28 November 2012 or 21 December 2012 storm events. However, the Discharger started using an active treatment system on 18 December 2012. Therefore, the economic benefit can be calculated as the interest saved by not spending \$80,000 for a period of 20 days from 28 November to 18 December 2012. Water Board Senior Economist staff used the US EPA’s BEN model to determine the economic benefit, as required by the Enforcement Policy. The estimated value is \$117.

The Enforcement Policy states (p. 21) that the total liability shall be at least 10% higher than the economic benefit, “so that liabilities are not construed as the cost of doing business and the assessed liability provides a meaningful deterrent to future violations.” The economic benefit plus \$10% is \$129.

**STEP 9 – Maximum and Minimum Liability Amounts**

- a) Minimum Liability Amount: Economic Benefit plus 10%: **\$129**

Discussion: The Enforcement Policy requires that the minimum liability amount imposed not be below the economic benefit plus ten percent. As discussed above, the Central Valley Water Board Prosecution Team's estimate of the Discharger's economic benefit obtained from the violations cited in this Complaint is \$117. Therefore, the minimum liability amount pursuant to the Enforcement Policy is \$129.

- b) Total Maximum Liability Amount: **\$896,130**

- i. Maximum liability amount Violation 1: \$766,130 (76,613 gallons discharged (-1,000 gallons) x \$10 per gallon, plus 1 day x \$10,000/day)
- ii. Maximum liability amount Violation 2: \$80,000 (8 days x \$10,000/day)
- iii. Maximum liability amount Violation 3: \$50,000 (5 days x \$10,000/day)

Discussion: The maximum administrative liability amount is the maximum amount allowed by CWC section 13385. Without the benefit of the alternative approach for calculating liability for multiday violations under the Enforcement Policy, the Discharger could be assessed up to \$896,130 in administrative civil liabilities for the alleged violations.

The proposed liability falls within these maximum and minimum liability amounts.

**STEP 10 – Final Liability Amount**

Based on the foregoing analysis, and consistent with the Enforcement Policy, the final liability amount proposed for the alleged violations is **\$211,038** (\$190,038 + \$21,000).

Central Valley Regional Water Quality Control Board

**2<sup>nd</sup> REVISED HEARING PROCEDURE**  
**FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT**  
R5-2013-0519

ISSUED TO  
DONAHUE SCHRIBER ASSET MANAGEMENT CORPORATION  
ROCKLIN CROSSINGS  
PLACER COUNTY

SCHEDULED FOR 3-4 OCTOBER 2013

PLEASE READ THIS HEARING PROCEDURE CAREFULLY. FAILURE TO COMPLY WITH THE DEADLINES AND OTHER REQUIREMENTS CONTAINED HEREIN MAY RESULT IN THE EXCLUSION OF YOUR DOCUMENTS AND/OR TESTIMONY.

**Overview**

Pursuant to Water Code section 13323, the Executive Officer has issued an Administrative Civil Liability (ACL) Complaint to Donahue Schriber Asset Management Corporation (hereafter Discharger), alleging violations of Water Code section 13385 for violations of the *NPDES General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities, Order 2009-0009-DWQ*. The ACL Complaint proposes that the Central Valley Water Board impose administrative civil liability in the amount of \$211,038. A hearing is currently scheduled to be conducted before the Board during its 3-4 October 2013 meeting.

The purpose of the hearing is to consider relevant evidence and testimony regarding the ACL Complaint. At the hearing, the Central Valley Water Board will consider whether to issue an administrative civil liability order assessing the proposed liability, or a higher or lower amount. The Board may also decline to assess any liability, or may continue the hearing to a later date. If less than a quorum of the Board is available, this matter may be conducted before a hearing panel. The public hearing will commence at 8:30 a.m. or as soon thereafter as practical, or as announced in the Board's meeting agenda. The meeting will be held at:

11020 Sun Center Drive, Suite 200, Rancho Cordova, California.

An agenda for the meeting will be issued at least ten days before the meeting and posted on the Board's web page at:

[http://www.waterboards.ca.gov/centralvalley/board\\_info/meetings](http://www.waterboards.ca.gov/centralvalley/board_info/meetings)

**Hearing Procedure**

The hearing will be conducted in accordance with this Hearing Procedure, which has been approved by the Board Chair for the adjudication of such matters. The procedures governing adjudicatory hearings before the Central Valley Water Board may be found at California Code of Regulations, title 23, section 648 et seq., and are available at

<http://www.waterboards.ca.gov>

Copies will be provided upon request. In accordance with section 648(d), any procedure not provided by this Hearing Procedure is deemed waived. Except as provided in section 648(b) and herein, Chapter 5 of the Administrative Procedures Act (Gov. Code, § 11500 et seq.) does not apply to this hearing.

The Discharger shall attempt to resolve objections to this Hearing Procedure with the Prosecution Team BEFORE submitting objections to the Advisory Team.

### **Separation of Prosecutorial and Advisory Functions**

To help ensure the fairness and impartiality of this proceeding, the functions of those who will act in a prosecutorial role by presenting evidence for consideration by the Board (the "Prosecution Team") have been separated from those who will provide legal and technical advice to the Board (the "Advisory Team"). Members of the Advisory Team are: Kenneth Landau, Assistant Executive Officer and Patrick Pulupa, Staff Counsel. Members of the Prosecution Team are: Pamela Creedon, Executive Officer; Andrew Altevogt, Assistant Executive Officer; Wendy Wyels, Environmental Program Manager; Steve Rosenbaum, Senior Engineering Geologist; Marty Hartzell, Engineering Geologist; Mike Fischer, Water Resources Control Engineer; Mayumi Okamoto, Staff Counsel, and David Boyers, Supervising Senior Staff Counsel.

Any members of the Advisory Team who normally supervise any members of the Prosecution Team are not acting as their supervisors in this proceeding, and vice versa. Pamela Creedon regularly advises the Central Valley Water Board in other, unrelated matters, but is not advising the Central Valley Water Board in this proceeding. Other members of the Prosecution Team act or have acted as advisors to the Central Valley Water Board in other, unrelated matters, but they are not advising the Central Valley Water Board in this proceeding. Members of the Prosecution Team have not had any ex parte communications with the members of the Central Valley Water Board or the Advisory Team regarding this proceeding.

### **Hearing Participants**

Participants in this proceeding are designated as either "Designated Parties" or "Interested Persons." Designated Parties may present evidence and cross-examine witnesses and are subject to cross-examination. Interested Persons may present non-evidentiary policy statements, but may not cross-examine witnesses and are not subject to cross-examination. Interested Persons generally may not present evidence (e.g., photographs, eye-witness testimony, monitoring data). At the hearing, both Designated Parties and Interested Persons may be asked to respond to clarifying questions from the Central Valley Water Board, staff, or others, at the discretion of the Board Chair.

The following participants are hereby designated as Designated Parties in this proceeding:

1. Central Valley Water Board Prosecution Team
2. Donahue Schriber Asset Management Corporation

### **Requesting Designated Party Status**

Persons who wish to participate in the hearing as a Designated Party must request designated party status by submitting a request in writing so that it is received no later than the deadline listed under "Important Deadlines" below. The request shall include an explanation of the basis for status as a Designated Party (i.e., how the issues to be addressed at the hearing affect the person, the need to present evidence or cross-examine witnesses), along with a statement explaining why the parties listed above do not adequately represent the person's interest. Any objections to these requests for designated party status must be submitted so that they are received no later than the deadline listed under "Important Deadlines" below.

**Primary Contacts****Advisory Team:**

Kenneth Landau  
11020 Sun Center Drive, Suite 200, Rancho Cordova, CA 95670  
Phone: (916) 464-4726  
klandau@waterboards.ca.gov

Patrick Pulupa, Staff Counsel  
State Water Resources Control Board, Office of Chief Counsel  
Physical Address: 1001 I Street, Sacramento, CA 95814  
Mailing Address: P.O. Box 100, Sacramento, CA 95812  
Phone: (916) 341-5189; fax: (916) 341-5896  
ppulupa@waterboards.ca.gov

**Prosecution Team:**

Wendy Wyels, Environmental Program Manager  
11020 Sun Center Drive, Suite 200, Rancho Cordova, CA 95670  
Phone: (916) 464-4835; fax: (916) 464-4645  
wwyels@waterboards.ca.gov

Mayumi Okamoto, Staff Counsel  
State Water Resources Control Board, Office of Enforcement  
Physical Address: 1001 I Street, Sacramento, CA 95814  
Mailing Address: P.O. Box 100, Sacramento, CA 95812  
Phone: (916) 341-5674; fax: (916) 341-5896  
mokamoto@waterboards.ca.gov

**Discharger**

Donahue Schriber Asset Management Corporation  
Janet Petersen, Vice President  
Donahue Schriber  
200 East Baker Street, Suite 100  
Costa Mesa, CA 92626  
Phone: (714) 966-6426  
[jpetersen@dsrq.com](mailto:jpetersen@dsrq.com)

**Ex Parte Communications**

Designated Parties and Interested Persons are forbidden from engaging in ex parte communications regarding this matter. An ex parte communication is a written or verbal communication related to the investigation, preparation, or prosecution of the ACL Complaint between a Designated Party or an Interested Person and a Board Member or a member of the Board's Advisory Team (see Gov. Code, § 11430.10 et seq.). However, if the communication is copied to all other persons (if written) or is made in a manner open to all other persons (if verbal), then the communication is not considered an ex parte communication. Communications regarding non-controversial procedural matters are also not considered ex parte communications and are not restricted.

### **Hearing Time Limits**

To ensure that all participants have an opportunity to participate in the hearing, the following time limits shall apply: each Designated Party shall have a **combined 30** minutes to present evidence (including evidence presented by witnesses called by the Designated Party), to cross-examine witnesses (if warranted), and to provide a closing statement. Each Interested Person shall have 3 minutes to present a non-evidentiary policy statement. Participants with similar interests or comments are requested to make joint presentations, and participants are requested to avoid redundant comments. Participants who would like additional time must submit their request to the Advisory Team so that it is received no later than the deadline listed under "Important Deadlines" below. Additional time may be provided at the discretion of the Advisory Team (prior to the hearing) or the Board Chair (at the hearing) upon a showing that additional time is necessary. Such showing shall explain what testimony, comments, or legal argument requires extra time, and why it could not have been provided in writing by the applicable deadline.

A timer will be used, but will not run during Board questions or the responses to such questions, or during discussions of procedural issues.

### **Submission of Evidence and Policy Statements**

The Prosecution Team and all other Designated Parties (including the Discharger) must submit the following information in advance of the hearing:

1. All evidence (other than witness testimony to be presented orally at the hearing) that the Designated Party would like the Central Valley Water Board to consider. Evidence and exhibits already in the public files of the Central Valley Board may be submitted by reference, as long as the exhibits and their location are clearly identified in accordance with California Code of Regulations, title 23, section 648.3. Board members will not generally receive copies of materials incorporated by reference unless copies are provided, and the referenced materials are generally not posted on the Board's website.
2. All legal and technical arguments or analysis.
3. The name of each witness, if any, whom the Designated Party intends to call at the hearing, the subject of each witness' proposed testimony, and the estimated time required by each witness to present direct testimony.
4. The qualifications of each expert witness, if any.

**Prosecution Team:** The Prosecution Team's information must include the legal and factual basis for its claims against each Discharger; a list of all evidence on which the Prosecution Team relies, which must include, at a minimum, all documents cited in the ACL Complaint, Staff Report, or other material submitted by the Prosecution Team; and the witness information required under items 3-4 for all witnesses, including Board staff.

**Designated Parties (including the Discharger):** All Designated Parties shall submit comments regarding the ACL Complaint along with any additional supporting evidence not cited by the Central Valley Water Board's Prosecution Team no later than the deadline listed under "Important Deadlines" below.

**Rebuttal:** Any Designated Party that would like to submit evidence, legal analysis, or policy statements to rebut information previously submitted by other Designated Parties shall submit this rebuttal information so that it is received no later than the deadline listed under "Important Deadlines" below. "Rebuttal" means evidence, analysis or comments offered to disprove or contradict other submissions. Rebuttal shall be limited to the scope of the materials previously submitted. Rebuttal information that is not responsive to information previously submitted may be excluded.

**Copies:** Board members will receive copies of all submitted materials. The Board Members' hard copies will be printed in black and white on 8.5"x11" paper from the Designated Parties' electronic copies. Designated Parties who are concerned about print quality or the size of all or part of their written materials should provide an extra nine paper copies for the Board Members. For voluminous submissions, Board Members may receive copies in electronic format only. Electronic copies will also be posted on the Board's website. Parties without access to computer equipment are strongly encouraged to have their materials scanned at a copy or mailing center. The Board will not reject materials solely for failure to provide electronic copies.

**Other Matters:** The Prosecution Team will prepare a summary agenda sheet (Summary Sheet) and will respond to all significant comments. The Summary Sheet and the responses shall clearly state that they were prepared by the Prosecution Team. The Summary Sheet and the responses will be posted online, as will revisions to the proposed Order.

**Interested Persons:** Interested Persons who would like to submit written non-evidentiary policy statements are encouraged to submit them to the Advisory Team as early as possible, but they must be received by the deadline listed under "Important Deadlines" to be included in the Board's agenda package. Interested Persons do not need to submit written comments in order to speak at the hearing.

**Prohibition on Surprise Evidence:** In accordance with California Code of Regulations, title 23, section 648.4, the Central Valley Water Board endeavors to avoid surprise testimony or evidence. Absent a showing of good cause and lack of prejudice to the parties, the Board Chair may exclude evidence and testimony that is not submitted in accordance with this Hearing Procedure. Excluded evidence and testimony will *not* be considered by the Central Valley Water Board and will not be included in the administrative record for this proceeding.

**Presentations:** Power Point and other visual presentations may be used at the hearing, but their content shall not exceed the scope of other submitted written material. These presentations must be provided to the Advisory Team at or before the hearing both in hard copy and in electronic format so that they may be included in the administrative record.

**Witnesses:** All witnesses who have submitted written testimony shall appear at the hearing to affirm that the testimony is true and correct, and shall be available for cross-examination.

### **Evidentiary Documents and File**

The ACL Complaint and related evidentiary documents are on file and may be inspected or copied at the Central Valley Water Board office at 11020 Sun Center Drive, Rancho Cordova, CA 95670. This file shall be considered part of the official administrative record for this hearing. Other submittals received for this proceeding will be added to this file and will become a part of the administrative record absent a contrary ruling by the Central Valley Water Board's Chair. Many of these documents are also posted on-line at:

[http://www.waterboards.ca.gov/centralvalley/board\\_decisions/tentative\\_orders/index.shtml](http://www.waterboards.ca.gov/centralvalley/board_decisions/tentative_orders/index.shtml)

Although the web page is updated regularly, to assure access to the latest information, you may contact Wendy Wyels (contact information above) for assistance obtaining copies.

### **Questions**

Questions concerning this proceeding may be addressed to the Advisory Team attorney (contact information above).

## IMPORTANT DEADLINES

*All required submissions must be received by 5:00 p.m. on the respective due date.*

8 July 2013	<ul style="list-style-type: none"> <li>▪ Prosecution Team issues ACL Complaint, Hearing Procedure, and other related materials.</li> </ul>
<del>15 July 2013</del> 19 July 2013	<ul style="list-style-type: none"> <li>▪ Objections due on Hearing Procedure.</li> <li>▪ Deadline to request “Designated Party” status.</li> </ul> <p><u>Electronic or Hard Copies to:</u> All other Designated Parties, All known Interested Persons, Prosecution Team Attorney, Advisory Team Attorney</p> <p><u>Electronic and Hard Copies to:</u> Prosecution Team Primary Contact, Advisory Team Primary Contact</p>
<del>19 July 2013</del> 24 July 2013*	<ul style="list-style-type: none"> <li>▪ Deadline to submit opposition to requests for Designated Party status.</li> </ul> <p><u>Electronic or Hard Copies to:</u> All other Designated Parties, All known Interested Persons, Prosecution Team Attorney, Advisory Team Attorney</p> <p><u>Electronic and Hard Copies to:</u> Prosecution Team Primary Contact, Advisory Team Primary Contact</p>
29 July 2013	<ul style="list-style-type: none"> <li>▪ Discharger’s deadline to submit payment and waiver or proceed to Hearing .</li> </ul> <p><u>Electronic or Hard Copy to:</u> Prosecution Team Primary Contact</p>
1 August 2013	<ul style="list-style-type: none"> <li>▪ Advisory Team issues decision on requests for designated party status.</li> <li>▪ Advisory Team issues decision on Hearing Procedure objections.</li> </ul>
9 August 2013	<ul style="list-style-type: none"> <li>▪ Prosecution Team’s deadline for submission of information required under “Submission of Evidence and Policy Statements,” above.</li> </ul> <p><u>Electronic or Hard Copies to:</u> All other Designated Parties, All known Interested Persons</p> <p><u>Electronic and Hard Copies to:</u> Advisory Team Primary Contact, Advisory Team Attorney</p>
<del>29 August 2013</del> 4 September 2013 (5pm)	<ul style="list-style-type: none"> <li>▪ Remaining Designated Parties’ (including the Discharger’s) deadline to submit all information required under “Submission of Evidence and Policy Statements” above. This includes all written comments regarding the ACL Complaint.</li> <li>▪ Interested Persons’ comments are due.</li> </ul> <p><u>Electronic or Hard Copies to:</u> All other Designated Parties, All known Interested Persons, Prosecution Team Attorney, Advisory Team Attorney</p> <p><u>Electronic and Hard Copies to:</u> Prosecution Team Primary Contact, Advisory Team Primary Contact</p>
<del>6 September 2013</del> 12 September 2013 (5pm)	<ul style="list-style-type: none"> <li>▪ All Designated Parties shall submit any rebuttal evidence, any rebuttal to legal arguments and/or policy statements, and all evidentiary objections.</li> <li>▪ Deadline to submit requests for additional time.</li> <li>▪ If rebuttal evidence is submitted, all requests for additional time (to respond to the rebuttal at the hearing) must be made within 3 working days of <i>this</i> deadline.</li> </ul> <p><u>Electronic or Hard Copies to:</u> All other Designated Parties, All known Interested Persons, Prosecution Team Attorney, Advisory Team Attorney</p> <p><u>Electronic and Hard Copies to:</u> Prosecution Team Primary Contact, Advisory Team Primary Contact</p>
<del>11 September 2013<sup>†</sup></del> 16 September 2013 (noon)	<ul style="list-style-type: none"> <li>▪ Prosecution Team submits Summary Sheet and responses to comments.</li> </ul> <p><u>Electronic or Hard Copies to:</u> All other Designated Parties, All known Interested Persons</p> <p><u>Electronic and Hard Copies to:</u> Advisory Team Primary Contact, Advisory Team Attorney</p>
3-4 October 2013	<ul style="list-style-type: none"> <li>▪ Hearing</li> </ul>

<sup>†</sup> This deadline is set based on the date that the Board compiles the Board Members’ agenda packages. Any material received after this deadline will not be included in the Board Members’ agenda packages.

\*This deadline is at **noon** on 24 July 2013.

2<sup>nd</sup> Revised Hearing Procedures revised 22 August 2013

Central Valley Regional Water Quality Control Board  
Administrative Civil Liability Complaint R5-2013-0519

Donahue Schriber Asset Management Corporation  
Rocklin Crossings Construction Site

Rocklin, Placer County

**Prosecution Team Witness List for 3-4 October 2013 Hearing**

a. Marty Hartzell (10 minutes)

*Engineering Geologist, Central Valley Water Board*

Testimony regarding Construction General Permit (CGP) compliance inspections, and CGP violations.

b. Steve Rosenbaum (10 minutes)

*Senior Engineering Geologist, Central Valley Water Board*

Testimony regarding CGP violations, enforcement options, and details for proposed ACL Complaint.

c. Wendy Wyels (10 minutes)

*Environmental Program Manager, Central Valley Water Board*

Testimony regarding CGP violations, enforcement options, and details for proposed ACL Complaint.

**PROSECUTION TEAM EVIDENCE LIST**

**DONAHUE SCHRIBER ASSET MANAGEMENT CORPORATION  
ROCKLIN CROSSINGS CONSTRUCTION SITE  
9 August 2013**

Pursuant to the Hearing Procedures governing this matter, California Code of Regulations, title 23, section 648.3, and the 1 August 2013 Ruling on Objections to the Hearing Procedures, the following Exhibits are hereby submitted by reference.

<b>Exhibit Number</b>	<b>DATE</b>	<b>DOCUMENT</b>
<b>Documents in Case File: Orders, Technical Reports, and Correspondence</b>		
1	10/22/2012	Storm Water Construction General Permit Inspection summary from SMARTS and 4 inspection photographs.
2	10/31/2012	Storm Water Construction General Permit Inspection Report and 24 inspection photographs.
3	11/30/2012	Storm Water Construction General Permit Inspection Report and 78 inspection photographs.
4	12/12/2012	Agenda and attendee list for Rocklin Crossings/ Rocklin Commons Storm Water Management Meeting.
5	12/12/2012	Meeting handouts from S.D. Deacon. Includes REAPs and inspection reports from 26 November to 7 December 2013.
6	12/18/2012	Report from SD Deacon: Summary of the Best Management Practices and other stormwater control efforts.
7	12/21/2012	Notice of Violation and Water Code Section 13267 Order for Technical and Monitoring Reports, Rocklin Crossings Construction Site.
8	12/24/2012	Storm Water Construction General Permit Inspection Report and 36 inspection photographs.
9	1/14/2013	Time Extension for Notice of Violation and Water Code Section 13267 Order for Technical and Monitoring Reports, Rocklin Crossings Construction Site.
10	1/25/2013	Report from S.D. Deacon: NAL Exceedance Report including Donahue Schriber's response to NOV and Water Code section 13267 Order
11	2/15/2013	Report from S.D. Deacon: Contains "Response to February 11, 2013 E-mail Requesting Follow-up Clarification Response to NOV & 13267 Order for Rocklin Crossings"
12	7/8/2013	Email from Marty Hartzell: Transmittal of ACL Complaint R5-2013-0519 to Bob Aroyan and Jan Peterson with Transmittal Letter, Complaint, Attachment A, and Hearing Procedures
13	7/8/2013	Staff Letter transmitting Administrative Civil Liability Complaint R5-2013-0519, Rocklin Crossings, with Complaint, Attachment A, and Hearing Procedures
14	<del>7/15/2013</del>	<del>Revised Hearing Procedures</del> <i>Removed per 13 September 2013 Board Chair Ruling</i>
15	3/5/2013	Press Release: Donahue Schriber secures \$100 million in additional growth capital from <a href="http://www.donahueschriber.com/newsdetails.aspx?newsid=126">http://www.donahueschriber.com/newsdetails.aspx?newsid=126</a>
16	8/8/2013	S.D. Deacon "Company History" from <a href="http://www.sddeacon.com/">http://www.sddeacon.com/</a>
17	6/27/2013	NOAA Point Precipitation Frequency Estimate for Rocklin Crossings Construction Site, Lat: 38.7979, Long: -121.2026, Elev: 305 feet.
18	11/26 and 11/27/2013	NOAA Forecast Weather Table Interface for 11/26/2012 and 11/27/2012
19	8/8/2013	Selected Examples of Properly Implemented Erosion and Sediment Controls

**PROSECUTION TEAM EVIDENCE LIST**

**DONAHUE SCHRIBER ASSET MANAGEMENT CORPORATION  
ROCKLIN CROSSINGS CONSTRUCTION SITE  
9 August 2013**

<b>Exhibit Number</b>	<b>DATE</b>	<b>DOCUMENT</b>
20	Nov. 2009	CASQA <i>Stormwater Best Management Practice Handbook Portal: Construction</i> (November 2009), Appendix F, Guidance on Selection of Temporary Slope Stabilization Techniques, and BMP Fact Sheets EC-1 (Scheduling), EC-2 (Preservation of Existing Vegetation), EC-5 (Soil Binders), EC-6 (Straw Mulch), and EC-9 (Earth Dikes and Drainage Swales).
21	9/5/2007	Technical Memorandum on Secret Ravine Creek and Special-Status Fish, Public Draft Environmental Impact Report for the Rocklin Crossings Project from <a href="http://www.rocklin.ca.us/civica/filebank/blobload.asp?BlobID=10011">http://www.rocklin.ca.us/civica/filebank/blobload.asp?BlobID=10011</a>

**Documents located on the internet and referenced by the following links:**

22	Undated	Rocklin Crossings EIR: [ <a href="https://www.rocklin.ca.gov/depts/develop/planning/publications_n_maps/rocklin_crossings_environmental_impact_report/draft.asp">https://www.rocklin.ca.gov/depts/develop/planning/publications_n_maps/rocklin_crossings_environmental_impact_report/draft.asp</a> ]
23	Undated	2009-0009-DWQ Construction General Permit: [ <a href="http://www.waterboards.ca.gov/water_issues/programs/stormwater/constpermits.shtml">http://www.waterboards.ca.gov/water_issues/programs/stormwater/constpermits.shtml</a> ]

**Documents located in SMARTS Database for Rocklin Crossings, WDID# 5S31C364098**

<b>Exhibit Number</b>	<b>SMARTS ID Number</b>	<b>Date</b>	<b>Document</b>
24	1120652	07/12/2012	LRP Certification
25	1120651	07/12/2012	QSD Certification
26	1120644	07/12/2012	Vicinity Map
27	1121057	07/16/2012	Submitted NOI pdf
28	1120646	07/12/2012	Pre-Developed Site Plan
29	1120647	07/12/2012	Post-Developed Site Plan
30	1120648	07/12/2012	Risk Determination
31	1120657	07/12/2012	Rocklin Crossings SWPPP
32	1121569	07/18/2012	Original NOI pdf
33	1152829	12/11/2012	Active Treatment System plan
34	1157771	01/14/2013	ATS December Data_Results reporting
35	1160972	02/05/2013	ATS January Data_Results Reporting
36	1160973	02/05/2013	ATS January Data_Results Reporting
37	1160974	02/05/2013	ATS January Data_Results Reporting
38	1164813	03/07/2013	ATS February Data_No Results
39	1165028	03/08/2013	SWPPP Amendment #1

**PROSECUTION TEAM EVIDENCE LIST**

**DONAHUE SCHRIBER ASSET MANAGEMENT CORPORATION  
ROCKLIN CROSSINGS CONSTRUCTION SITE  
9 August 2013**

40	1165029	03/08/2013	SWPPP Amendment #2
41	1165030	03/08/2013	SWPPP Amendment #3
42	1169075	04/09/2013	ATS March Data_No Results
43	1174828	05/16/2013	SWPPP Amendment #4
44	1187418	07/11/2013	ACL Complaint Enforcement Document
45	1187420	07/11/2013	ACL Complaint Supporting Documentation
46	1187421	07/11/2013	ACL Complaint Supporting Documentation
47	1187419	07/11/2013	ACL Complaint Cover/Explanation Letter
48	1189452	07/23/2013	ANNUAL REPORT Supporting Documentation Training Doc's

**Documents located in SMARTS Database for Rocklin Crossings Detention Basin, WDID# 5S31C364108**

49	1120945	07/13/2012	Rocklin Crossings-Detention Basin SWPPP
50	1121052	07/16/2012	Submitted NOI pdf
51	1120943	07/13/2012	QSD Certification
52	1120944	07/13/2012	LRP Certification
53	1120938	07/13/2012	Vicinity Map
54	1120939	07/13/2012	Pre-Developed Site Plan
55	1120940	07/13/2012	Post-Developed Site Plan
56	1120941	07/13/2012	Risk Determination
57	1121582	07/18/2012	Original NOI pdf
58	1152065	12/06/2012	Detention Basin Corrective Action

**Documents located in SMARTS Database for Dominguez Loop Road, WDID# 5S31C364102**

59	1121060	07/16/2012	Submitted NOI pdf
60	1120670	07/12/2012	Pre-Developed Site Plan
61	1120669	07/12/2012	Vicinity Map
62	1120671	07/12/2012	Post-Developed Site Plan
63	1120673	07/12/2012	Risk Determination
64	1120675	07/12/2012	QSD Certification
65	1120676	07/12/2012	LRP Certification
66	1121574	07/18/2012	Original NOI pdf
67	1120695	07/12/2012	Dominguez Loop SWPPP
68	1152024	12/06/2012	Corrective action recommendations
69	1188410	07/17/2013	Revised Risk Determination

**PROSECUTION TEAM EVIDENCE LIST**

**DONAHUE SCHRIBER ASSET MANAGEMENT CORPORATION  
ROCKLIN CROSSINGS CONSTRUCTION SITE  
9 August 2013**

70	1188411	07/17/2013	SWPPP Amendment #2
71	1188408	07/17/2013	Revised Post-Developed Site Plan
72	1191941	08/01/2013	ACL Complaint, Reports of NOV and other documentation
73	1191942	08/01/2013	ACL Complaint, Reports of NOV and other documentation
74	1191943	08/01/2013	ACL Complaint, Reports of NOV and other documentation
75	1191944	08/01/2013	ACL Complaint, Reports of NOV and other documentation
76	1191938	08/01/2013	BMP training paperwork Job Site Training

**Documents located in SMARTS Database for Center at Secret Ravine, WDID# 5S31C364105**

77	1120744	07/13/2012	QSD Certification
78	1120742	07/13/2012	Post-Developed Site Plan
79	1120743	07/13/2012	Risk Determination
80	1120740	07/13/2012	Vicinity Map
81	1120741	07/13/2012	Pre-Developed Site Plan
82	1120750	07/13/2012	SWPPP, The Center at Secret Ravine
83	1121054	07/16/2012	Submitted NOI pdf
84	1121577	07/18/2012	Original NOI pdf
85	1120745	07/13/2012	LRP Certification
86	1189511	07/23/2013	BMP Training Records SD Deacon Supt training
87 86b*	1189510	07/23/2013	BMP Training Records BMP installers training

\* The numbering for Exhibit 87 changed to 86b to avoid a duplicate Exhibit 87 on the Rebuttal Evidence List

# Exhibit 1

Prosecution Team Evidence List Exhibits for:  
Rocklin Crossings

## Storm Water Multiple Application & Report Tracking System 2

### Storm Water Inspection Details

#### General Details:

**WDID:** 5S31C364098

**Owner / Operator** Rocklin Crossings LLC and Rocklin Holdings LLC  
Address: 200 East Baker Street Suite 100  
Costa Mesa, CA 92626  
Contact: Janet Petersen  
Phone: 714-966-6426  
Email: jpetersen@dsrg.com

**Facility/Site:** Rocklin Crossings  
Address: South East Corner of I80 and Sierra  
College Boulevard  
Rocklin, CA 95650  
Contact: Janet Petersen  
Phone: 714-966-6426  
Email: jpetersen@dsrg.com

**Inspection ID:** 2016965

**Inspector Type:** Regional Board

**Inspection Type:** B Type compliance

**Inspector Name:** Marty Hartzell

**Inspection Date:** 10/22/2012

**Agency Name:**

**Violations Noted?:** No

**Agency Inspector Name:**

**Inspection Contact:** None

**Follow Up Action:** Follow-up Inspection Needed

**Notes:** 1135 hours. Light rain. Rainwater ponding on graded lots. No construction activity, heavy equipment is idle and an excavator was parked on the construction entrance. Construction trailer locked up. A few workers were pumping water from a roadside ditch into a water truck. No ECs installed on graded lots. Call to LRP Jan Petersen on 10/25 and schedule an inspection for Wednesday, 10/31.

**Violations:**

Violation Id	Violation Type	Occurance Date	Violation Source	Status
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**Attachments:**

Attachment Id	File Type	File Title	File Desc	Part#
---------------	-----------	------------	-----------	-------



Photo 1.



Photo 2.



Photo 3.



Photo 4.

# Exhibit 2

Prosecution Team Evidence List Exhibits for:

Rocklin Crossings

## Storm Water Construction General Permit Inspection Report Central Valley Regional Water Quality Control Board

Inspection Date & Time:	31 October 2012 0930 hours	Inspected By: M. Hartzell
-------------------------	----------------------------	---------------------------

Site Name	WDID #	Owner Name	Acres
Rocklin Crossings	5S31C364098	Rocklin Crossings LLC and Rocklin Holdings	50.4
Dominguez Loop Road	5S31C364102	Donahue Schriber Asset Management Corp	2.9
Center at Secret Ravine	5S31C364105	Donahue Schriber Asset Management Corp	3.7
Rocklin Crossings Detention Basin	5S31C364108	Rocklin Crossings LLC and Rocklin Holdings	2.4

Site Address: All four sites listed above are located at the intersection of Sierra College Boulevard and Schriber Way, which is southeast of Interstate 80 in Rocklin, Placer County.

Inspection Type: <input checked="" type="checkbox"/> Compliance <input type="checkbox"/> Follow-up <input type="checkbox"/> Termination <input type="checkbox"/> Other (describe)	
SWPPP on site? Yes. All four SWPPPs are available at the Rocklin Crossings trailer.	Evidence of Erosion? Yes. Rills and gullies in loose fill on the Center at Secret Ravine site. No discharge off the sites.
Photos Taken? Yes	Evidence of Tracking? No.
Weather: Overcast and cool. Rain predicted after 5PM.	Evidence of SW or Non-SW Discharge? No.

### Inspection Summary / Comments:

I met with Jan Petersen, VP for Donahue Schriber; Bob Aroyan, VP for SD Deacon; Andy Van Veldhuizen, PM for SD Deacon; Brian Hansen, Site Superintendent for SD Deacon; Dave Clayson, QSP with Total Site Maintenance; and James Vanderpost, QSD with RSC Engineering.

SD Deacon staff relayed that excavating and grading work started on 2 August 2012, and all four sites are actively under construction (see attached site maps for each site). All four sites are identified as Risk Level 2 under the CGP. I reviewed the inspection reports and the 10/30/12 REAP for the Rocklin Crossings site and all inspections are up to date.

During the site walk, I observed sediment control BMPs including a silt fence perimeter, drain inlet protection, and a construction entrance onto Sierra College Boulevard are installed at the site. Some asphalt staining from previous off-hauling was observed going out to Sierra College Blvd, but the rumble strip, rock entrance and manual tire wash is currently working to keep streets clean.

Sediment controls appear to be working; however, no erosion control BMPs were installed across the four sites under active construction. Andy and Dave pointed out that tree grinding mulch was actively being placed on completed building pads and will be placed onto slopes once final grading is complete, and that all storm water flows into the center of the Rocklin Crossings site and once storm drains are installed, storm water will be directed towards the detention basin. See attached photographs 1 through 6.

At the south end of the construction area within the Secret Ravine and Dominguez Loop Road sites, the

contractor is filling the site with rock and soil from the Rocklin Crossings area and finishing the headwall for a 72-inch diameter storm system outfall. The large diameter storm system was directed to outfall into a grassy field approximately 300 feet from Secret Ravine. I asked about anticipated storm flows and providing a rock lined ditch or energy dissipater at the outfall on the adjacent property and SD Deacon staff commented that this was something they need to address with the City of Rocklin planners and both property owners. See attached photographs 7 through 12.

Following the site walk, I discussed compliance with the CGP and stabilizing all active construction areas prior to rain events. SD Deacon staff indicated that they would continue to stabilize building pads with tree grinding mulch as they were completed. I asked SD Deacon to provide a construction schedule to document their stabilization activities, and starting on 11/2/12, Andy with SD Deacon has been sending me weekly updates with site maps via email. The site maps show areas that have been graded and stabilized, and areas that are still under active construction.

Signature: Marty Hartzell

Date: 14 November 2012

Date Entered: MMH  
Entered By: 12/14/12  
Senior Review: \_\_\_\_\_



Photo 1. View of the construction entrance/exit onto Sierra College Boulevard.



Photo 2. View of a graded and partially rocked building pad near the site entrance.



Photo 3. View of active construction in the vicinity of Building B on the Rocklin Crossing site.



Photo 4. View of active construction west of Building B on the Rocklin Crossing site.



Photo 5. View of sediment trap on the Rocklin Crossing site. The interior of the sediment trap has been sprayed.



Photo 6. View of active construction near the Rocklin Crossing Detention Basin site.



Photo 7. View of active construction across the Dominguez Loop Road and Center at Secret Ravine sites.



Photo 8. View of active construction across the Dominguez Loop Road and Center at Secret Ravine sites.



Photo 9. View of the outlet for the 72-inch diameter storm drain construction at the Center at Secret Ravine site.



Photo 10. Rills and gullies created in loose fill from the 10/22-24 rain event.



Photo 11. Storm drain construction at the Center at Secret Ravine site. Future discharge directed into grassy field.



Photo 12. Secret Ravine is approximately 300 feet from the construction site as indicated by the blue line.



Photo 1.



Photo 2.



Photo 3.



Photo 4.



Photo 5.



Photo 6.



Photo 7.



Photo 8.



Photo 9.



Photo 10.



Photo 11.



Photo 12.



Photo 13.



Photo 14.



Photo 15.



Photo 16.



Photo 17.



Photo 18.



Photo 19.



Photo 20.



Photo 21.



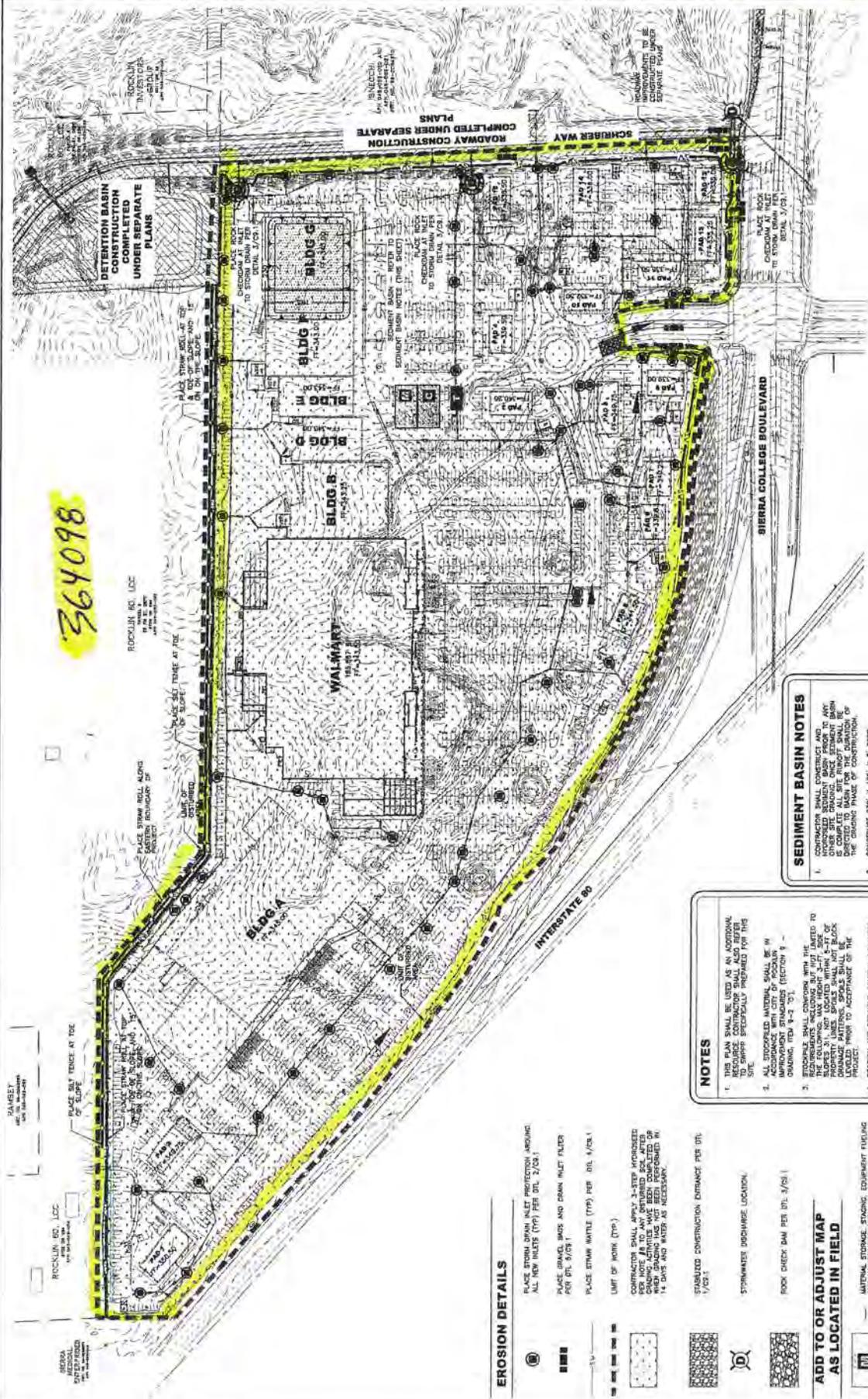
Photo 22.



Photo 23.



Photo 24.



364098

APPROVED FOR ROUGH  
 GRADE ONLY  
 DATE: 7/31/12

**RECORD DRAWING**  
 ALL INFORMATION SHOWN ON THESE PLANS HAS BEEN PREPARED BY OR UNDER THE DIRECT SUPERVISION OF THE ENGINEER AND HIS SEAL AND SIGNATURE IS HEREBY AFFIXED IN WITNESS WHEREOF. THE ENGINEER HAS REVIEWED THESE PLANS AND APPROVES THEM FOR THE CITY OF ROCKLIN.

- SEDIMENT BASIN NOTES**
1. CONTRACTOR SHALL CONSTRUCT AND MAINTAIN A SEDIMENT BASIN WITH A MINIMUM OF 100 CFS CAPACITY. THE BASIN SHALL BE CONSTRUCTED TO THE ORIGINAL GRADE OF THE SITE. THE BASIN SHALL BE CONSTRUCTED TO THE ORIGINAL GRADE OF THE SITE.
  2. CONTRACTOR SHALL CONSTRUCT AND MAINTAIN A SEDIMENT BASIN WITH A MINIMUM OF 100 CFS CAPACITY. THE BASIN SHALL BE CONSTRUCTED TO THE ORIGINAL GRADE OF THE SITE.
  3. THE CONTRACTOR SHALL REMOVE ALL DEBRIS AND OTHER MATERIALS FROM THE BASIN PRIOR TO THE COMMENCEMENT OF CONSTRUCTION.
  4. BEFORE DISCHARGING WATER FROM THE BASIN, THE CONTRACTOR SHALL ENSURE THAT THE WATER MEETS THE REQUIREMENTS OF THE SWPPP. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE WATER QUALITY PRIOR TO DISCHARGE FROM THE BASIN.

- NOTES**
1. THIS PLAN SHALL BE USED AS AN ADDITIONAL RECORD ONLY. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION SHOWN ON THIS PLAN.
  2. ALL STOPPED MATERIAL SHALL BE IN ACCORDANCE WITH SECTION 9-2.3 OF THE STANDARD SPECIFICATIONS FOR HIGHWAY CONSTRUCTION.
  3. EROSION CONTROL MEASURES SHALL BE INSTALLED WITHIN THE FOLLOWING MAXIMUM TIME FRAME: 14 DAYS AFTER THE START OF CONSTRUCTION. EROSION CONTROL MEASURES SHALL BE MAINTAINED THROUGHOUT THE CONSTRUCTION PERIOD.
  4. DESIGN AND EROSION CONTROL MEASURES SHALL BE APPLIED TO STOPPAGES FOR THE STORM WATER POLLUTION PREVENTION PLAN (SWPPP).
  5. PLACE STRAW BOLL AROUND ALL PILES IMPROVING THE STABILITY OF THE PILES AND MAINTAINANCE AREA.
  6. HYDRATED SPECIFICATION: 3000 LBS GALLON 50 LBS SEED (BRAND IRWIN, ROSE CLOVER AND RYE MIX) AND 100 LBS TURF PER ACRE.

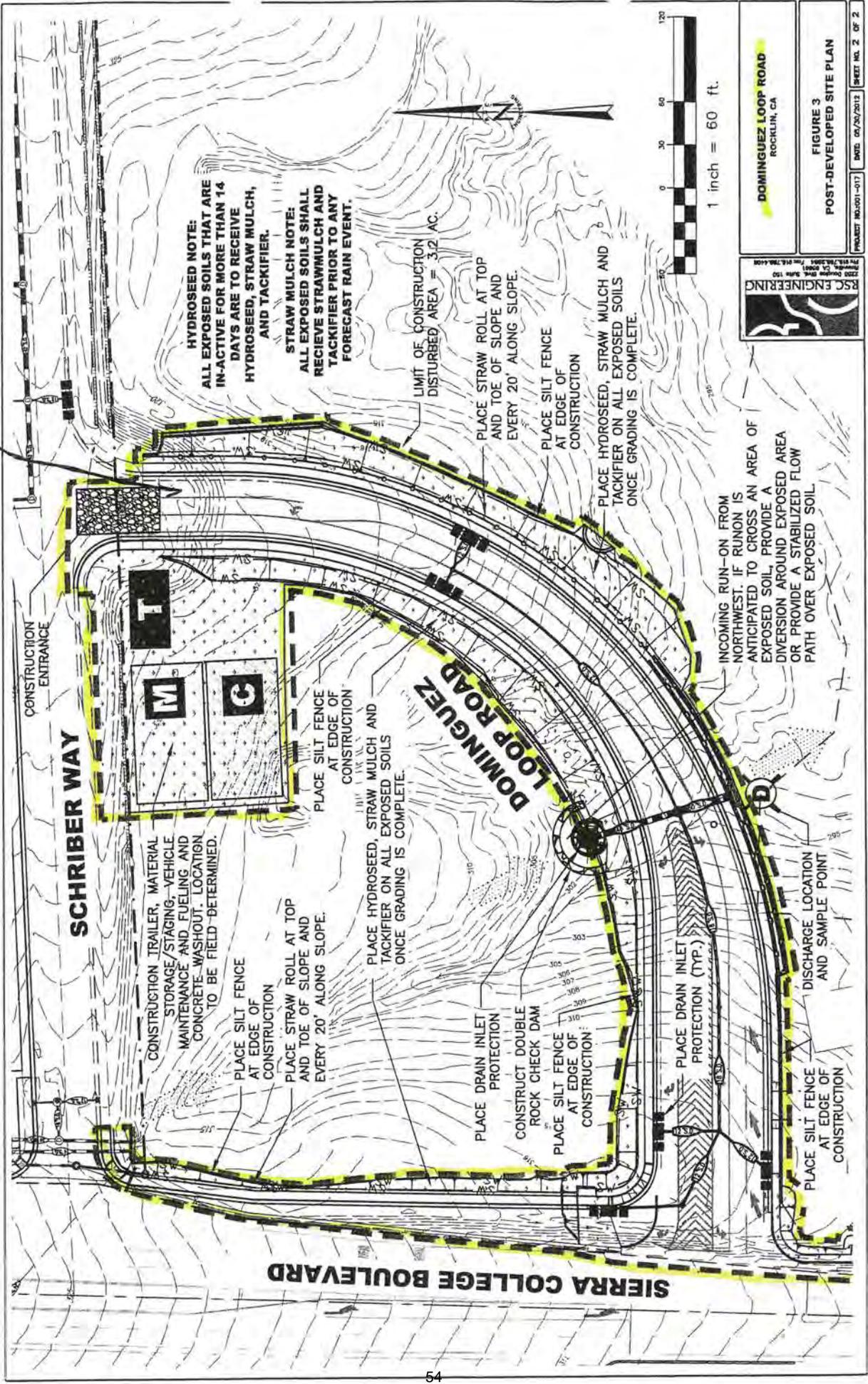
**EROSION DETAILS**

- PLACE STORM DRAIN INLET PROTECTION AROUND ALL NEW INLETS (TYP) PER DET. 2/03.1
- PLACE GRAVEL SANDS AND DRAIN INLET FILTER PER DET. 8/03.1
- PLACE STRAW MATS (TYP) PER DET. 4/03.1
- LIMIT OF WORK (TYP)
- CONTRACTOR SHALL APPLY 3-STEP APPROVED EROSION CONTROL MEASURES TO ALL EXPOSED SOILS AND SLOPES. EROSION CONTROL MEASURES SHALL BE MAINTAINED THROUGHOUT THE CONSTRUCTION PERIOD. EROSION CONTROL MEASURES SHALL NOT BE REMOVED UNTIL 14 DAYS AND MORE AS NECESSARY.

- STABILIZED CONSTRUCTION DISTANCE PER DET. 1/03.1
- STORMWATER DISCHARGE LOCATION
- ROCK CHECK DAM PER DET. 4/03.1
- ADD TO OR ADJUST MAP AS LOCATED IN FIELD
- INTERNAL STORAGE: STAGING EQUIPMENT TUCKING AND MAINTENANCE AREA
- CONCRETE W/OUTLET AREA (TYP) DET. 7/03.1
- WASTE STORAGE AREA (DUMPSTERS)
- CONSTRUCTION TRAILER/OFFICE

364102

2.9 ac.



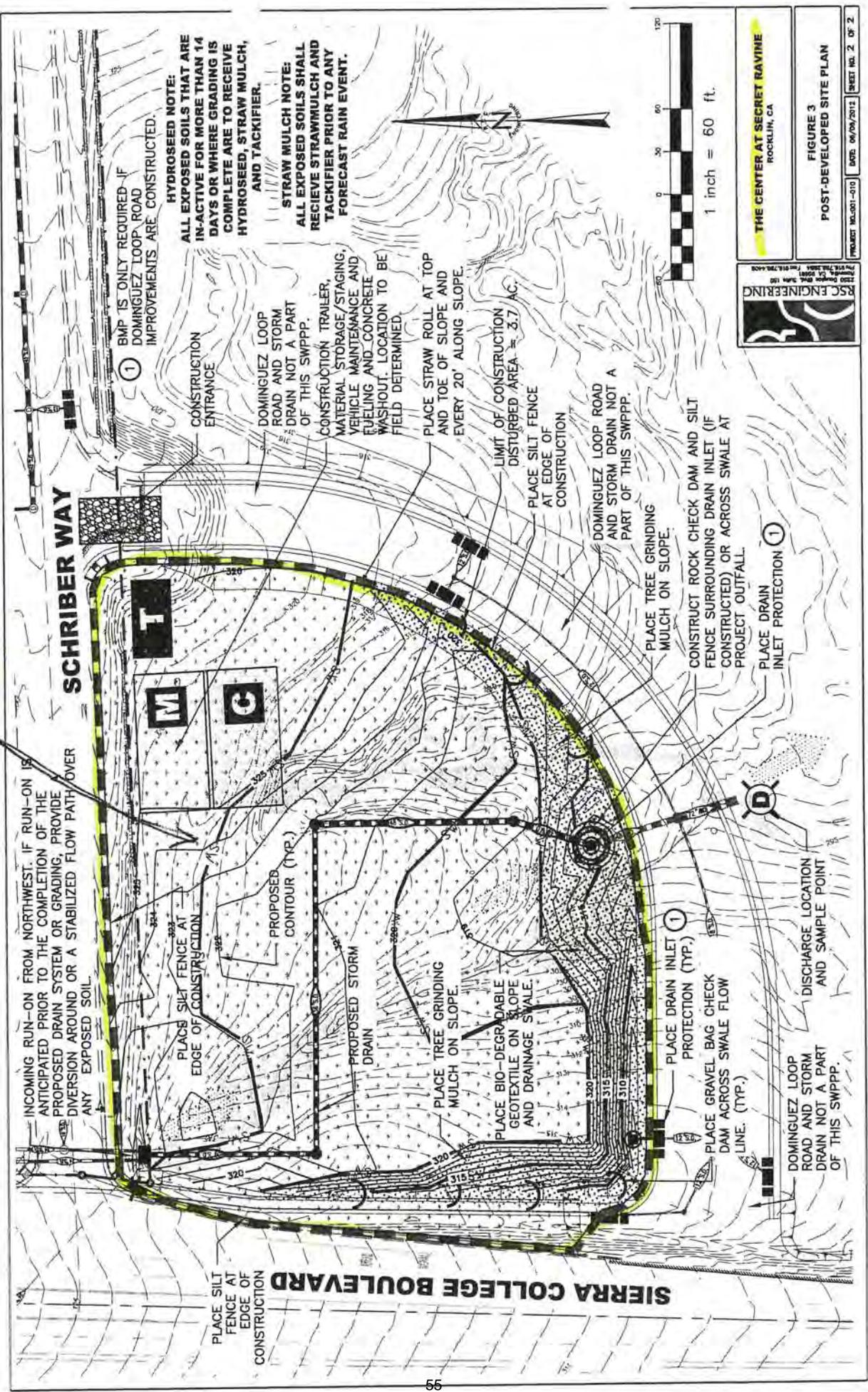
**DOMINGUEZ LOOP ROAD**  
 ROCKLIN, CA

**FIGURE 3**  
**POST-DEVELOPED SITE PLAN**

PROJECT: RD-001-071    DATE: 05/20/2012    SHEET NO. 2 OF 2

4405  
364105

3.7 acres



INCOMING RUN-ON FROM NORTHWEST. IF RUN-ON IS ANTICIPATED PRIOR TO THE COMPLETION OF THE PROPOSED DRAIN SYSTEM OR GRADING, PROVIDE DIVERSION AROUND OR A STABILIZED FLOW PATH OVER ANY EXPOSED SOIL.

① BMP IS ONLY REQUIRED IF DOMINGUEZ LOOP ROAD IMPROVEMENTS ARE CONSTRUCTED.

**HYDROSEED NOTE:**  
ALL EXPOSED SOILS THAT ARE IN-ACTIVE FOR MORE THAN 14 DAYS OR WHERE GRADING IS COMPLETE ARE TO RECEIVE HYDROSEED, STRAW MULCH, AND TACKIFIER.

**STRAW MULCH NOTE:**  
ALL EXPOSED SOILS SHALL RECEIVE STRAWMULCH AND TACKIFIER PRIOR TO ANY FORECAST RAIN EVENT.

CONSTRUCTION TRAILER, MATERIAL STORAGE/STAGING, VEHICLE MAINTENANCE AND FUELING AND CONCRETE WASHOUT. LOCATION TO BE FIELD DETERMINED.

PLACE STRAW ROLL AT TOP AND TOE OF SLOPE AND EVERY 20' ALONG SLOPE.

LIMIT OF CONSTRUCTION DISTURBED AREA = 3.7 AC.

PLACE SILT FENCE AT EDGE OF CONSTRUCTION

DOMINGUEZ LOOP ROAD AND STORM DRAIN NOT A PART OF THIS SWPPP.

PLACE TREE GRINDING MULCH ON SLOPE.

CONSTRUCT ROCK CHECK DAM AND SILT FENCE SURROUNDING DRAIN INLET (IF CONSTRUCTED) OR ACROSS SWALE AT PROJECT OUTFALL.

PLACE DRAIN INLET PROTECTION ①

PLACE SILT FENCE AT EDGE OF CONSTRUCTION

PROPOSED STORM DRAIN

PLACE TREE GRINDING MULCH ON SLOPE.

PLACE BIO-DEGRADABLE GEOTEXTILE ON SLOPE AND DRAINAGE SWALE.

PLACE DRAIN INLET PROTECTION ①

PLACE GRAVEL BAG CHECK DAM ACROSS SWALE FLOW LINE. (TYP.)

DOMINGUEZ LOOP ROAD AND STORM DRAIN NOT A PART OF THIS SWPPP.

DISCHARGE LOCATION AND SAMPLE POINT

PLACE SILT FENCE AT EDGE OF CONSTRUCTION

SIERRA COLLEGE BOULEVARD



RSC ENGINEERING  
1230 THE COMMONS, SUITE 100, ROCKLIN, CA 95765  
TEL: 916.782.8888 FAX: 916.782.8889  
WWW.RSCENGINEERING.COM

THE CENTER AT SECRET RAVINE  
ROCKLIN, CA

FIGURE 3  
POST-DEVELOPED SITE PLAN

PROJECT: ML-091-010 DATE: 04/04/2013 SHEET NO. 2 OF 2



# Exhibit 3

Prosecution Team Evidence List Exhibits for:  
Rocklin Crossings

## Storm Water Construction General Permit Inspection Report Central Valley Regional Water Quality Control Board

Inspection Date & Time:	30 November 2012 0940 hours	Inspected By: M. Hartzell
-------------------------	-----------------------------	---------------------------

Site Name	WDID #	Owner Name	Acres
Rocklin Crossings	5S31C364098	Rocklin Crossings LLC and Rocklin Holdings LLC	50.4
Rocklin Crossings Detention Basin	5S31C364108	Rocklin Crossings LLC and Rocklin Holdings LLC	2.4
Dominguez Loop Road	5S31C364102	Donahue Schriber Asset Management Corp	2.9
Center at Secret Ravine	5S31C364105	Donahue Schriber Asset Management Corp	3.7

Site Address: All four sites listed above are located at the intersection of Sierra College Boulevard and Schriber Way, which is southeast of Interstate 80 in Rocklin, Placer County. Total acreage under active construction is 59.4 acres.

Inspection Type: <input checked="" type="checkbox"/> Compliance <input type="checkbox"/> Follow-up <input type="checkbox"/> Termination <input type="checkbox"/> Other (describe)	
SWPPP on site? Yes. All four SWPPPs are available at the Rocklin Crossings trailer.	Evidence of Erosion? Yes. Rills and gullies across the construction site.
Photos Taken? Yes	Evidence of Tracking? No.
Weather: Rain. Overcast and cool. Rain event started on 11/28 with heavy rainfall forecast for 11/30 through 12/2	Evidence of SW or Non-SW Discharge? Yes – turbid storm water discharged from the site at two locations –see below.

### Inspection Summary / Comments:

At approximately 0940, I checked in at the SD Deacon construction trailer to meet with SD Deacon Site Superintendent Brian Hansen. I was notified that Brian was on-site dealing with storm water issues and I was directed to look for him on the site.

It had been raining hard for the last few hours, and ponded water was observed next to the construction trailer and within the temporary haul roads. Storm water accumulated at this location flowed in a south to southwest direction towards Secret Ravine. I followed the surface storm water flow from the construction trailer to Schriber Road then west to Sierra College Boulevard then south towards Secret Ravine. I met up with Brian at the south end of the Center at Secret Ravine site where Brian and two other workers were trying to reestablish a berm at this location using fabric and crushed rock. This berm was initially constructed to retain storm water on the Dominguez Loop Road property; however, accumulated rainfall overtopped the berm and a large volume of decomposed granite soils and sediment laden water discharged off the construction site towards Secret Ravine –see attached photographs 1 through 10.

I collected two grab samples to document turbidity discharging into Secret Ravine on this day. Grab Sample #1 was collected from the visibly turbid water flowing off the construction site approximately 25 feet downslope from the 72-inch storm drain outlet. Grab Sample #2 was collected from Secret Ravine approximately 100 feet upslope from the turbid storm water discharge point. Both samples were analyzed for turbidity using a Hach Model 2100 portable turbidimeter. Turbidity standards were checked prior to measurements: 100 NTU = 99.7 NTU; and 800 NTU = 809 NTU.

- Rocklin Crossings 113012 Grab Sample #1 (site discharge) = >1,000 NTU.
- Rocklin Crossings 113012 Grab Sample #2 (Secret Ravine) = 153 NTU.

After collecting GS #1, I walked from the discharge point towards Secret Ravine and observed that turbid storm water was ponding for approximately 200 feet along Secret Ravine and flowing through the grass and berry bushes into Secret Ravine. I photographed turbid water flowing into Secret Ravine from the south side of the creek –see attached photographs 11 and 12.

I met up with QSP Dave Clayson as I walked back up the north side of Secret Ravine. Together we walked to the Rocklin Crossings Detention Basin. The Rocklin Crossings Detention Basin had turbid storm water flowing into it and a few gullies were observed along the edge of the basin. The bottom of the basin has grass established, but storm water was flowing around the south edge of the basin towards the existing basin outlet. There was no riser pipe or blockage to prevent storm water from flowing out of the detention basin and turbid storm water flowed through the detention basin outlet and off the construction site. Dave and I followed this drainage swale through berry bushes and dense vegetation for approximately 200 feet to where it discharged into Secret Ravine –see attached Photographs 13 through 16. Dave collected a grab sample at the point where the turbid water entered Secret Ravine.

Dave and I returned to where Brian was working to reestablish a berm to contain storm water at the south end of the site. Turbid storm water was backed up behind the crush rock and fabric berm and turbid storm water was also flowing through the rock and off the site –see attached Photographs 17 and 18. Dave collected a grab sample from the discharge as it flowed off the construction site.

Upon returning to the construction trailer, Dave and I observed that the on-site rain gauge showed 2 ¼ inches of rainfall. Dave noted that this amount was rainfall from 0700 on 29 November to the current time of 1100 hours. SD Deacon later reported that the Rocklin Crossings construction site received 6 ¼ inches of rainfall from 0700 on 29 November to 0700 on 2 December 2012.

Signature: Marty Hartzell

Date: 20 December 2012

Date Entered: 12/14/12  
Entered By: MH  
Senior Review: SR



Photo 1. Standing water near the construction trailer.



Photo 2. View of an earth berm on one of the temporary haul roads.



Photo 3. Standing water north of Schriber Road on the temporary haul roads.



Photo 4. Turbid storm water flowing along the north side of Schriber Road.



Photo 5. Flowing storm water eroded soils and displaced BMPs.



Photo 6. Storm water flowed through area covered with coir blanket and tree mulch grindings.



Photo 7. Flowing storm water across an unstabilized area on the Dominquez Loop Road site.



Photo 8. Site of the earth berm constructed to retain storm water that breached earlier in the day.



Photo 9. Earth berm breach at edge of the construction site.



Photo 10. Sediment and turbid water discharge to adjacent property.



Photo 11. Sediment and turbid water discharge to riparian area along Secret Ravine.



Photo 12. Sediment laden water discharging into Secret Ravine.



Photo 13. Rocklin Crossing Detention Basin.



Photo 14. Turbid storm water flowing around the south end of the detention basin.



Photo 15. Detention basin outlet. There was no riser pipe or blockage to prevent SW from flowing out of the basin.



Photo 16. Turbid storm water flowed through the detention basin outlet and off the construction site.



Photo 17. Berm reestablished at south end of construction site. Turbid water flowed through the crush rock.



Photo 18. View of turbid storm water discharging off the construction site at the south end of the site.



Photo 1.



Photo 2.



Photo 3.



Photo 4.



Photo 5.



Photo 6.



Photo 7.



Photo 8.



Photo 9.



Photo 10.



Photo 11.



Photo 12.



Photo 13.



Photo 14.



Photo 15.



Photo 16.



Photo 17.



Photo 18.



Photo 19.



Photo 20.



Photo 21.



Photo 22.



Photo 23.



Photo 24.



Photo 25.



Photo 26.



Photo 27.



Photo 28.



Photo 29.



Photo 30.



Photo 31.



Photo 32.



Photo 33.



Photo 34.



Photo 35.



Photo 36.



Photo 37.



Photo 38.



Photo 39.



Photo 40.



Photo 41.



Photo 42.



Photo 43.



Photo 44.



Photo 45.



Photo 46.



Photo 47.



Photo 48.



Photo 49.



Photo 50.



Photo 51.



Photo 52.



Photo 53.



Photo 54.



Photo 55.



Photo 56.



Photo 57.



Photo 58.



Photo 59.



Photo 60.



Photo 61.



Photo 62.



Photo 63.



Photo 64.



Photo 65.



Photo 66.



Photo 67.



Photo 68.



Photo 69.



Photo 70.



Photo 71.



Photo 72.



Photo 73.



Photo 74.



Photo 75.



Photo 76.



Photo 77.



Photo 78.

# Exhibit 4

Prosecution Team Evidence List Exhibits for:  
Rocklin Crossings

## DRAFT AGENDA

Central Valley Regional Water Board  
12 December 2012, 11:30AM

### Rocklin Crossings / Rocklin Commons Agenda Topics

1.	Introductions	All
2.	<b>Rocklin Crossing</b> <ul style="list-style-type: none"> <li>• Report on 11/28 to 12/2 Storm Event</li> <li>• Current Construction Activity</li> <li>• Soil Stabilization Activities</li> <li>• Future Treatment System(s) proposed</li> </ul>	Jan Petersen S.D. Deacon
3.	<b>Rocklin Commons</b> <ul style="list-style-type: none"> <li>• Report on 11/28 to 12/2 Storm Event</li> <li>• Current Construction Activity</li> <li>• Soil Stabilization Activities</li> <li>• Future Treatment System(s) proposed</li> </ul>	Jan Petersen Brown Construction
4.	<b>Construction General Permit Compliance</b> <ul style="list-style-type: none"> <li>• Erosion and sediment controls on areas under active construction (Att. D, Section E.3.)</li> <li>• Effluent Standards, Numeric Action Level (NAL) for turbidity is 250 NTU (Section V. C.)</li> <li>• Receiving Water Limitations (Section VI. C.)</li> <li>• NAL Exceedance Reports -due 10 days after conclusion of storm event (i.e. 12 Dec 2012) (Att. D, Section I.15.)</li> </ul>	Water Board
5.	Other Items	
6.	Wrap Up (next steps, action items, etc.)	

CROSSINGS

Breach happened ~ 8AM on 11/30/12  
Deacon rebuilt dike, & set up 6" pump on Sat morning to pump SW to Basin A.  
As of Friday night, no more discharges. Det. Basin discharge stopped Friday





# Exhibit 5

Prosecution Team Evidence List Exhibits for:

Rocklin Crossings



November 26th, 2012



**DIGITAL SKY**  
A E R I A L I M A G I N G

2378 Maritime Dr., Suite 200, Elk Grove, CA 95758  
Phone (916) 691-6090 Email [todd@digitalsky.us](mailto:todd@digitalsky.us)



DIGITALSKY  
AERIAL IMAGING

\_D1W0103

12/3/12



DIGITALSKY  
AERIAL IMAGING

\_MG\_8535

12/3/12



\_MG\_1552

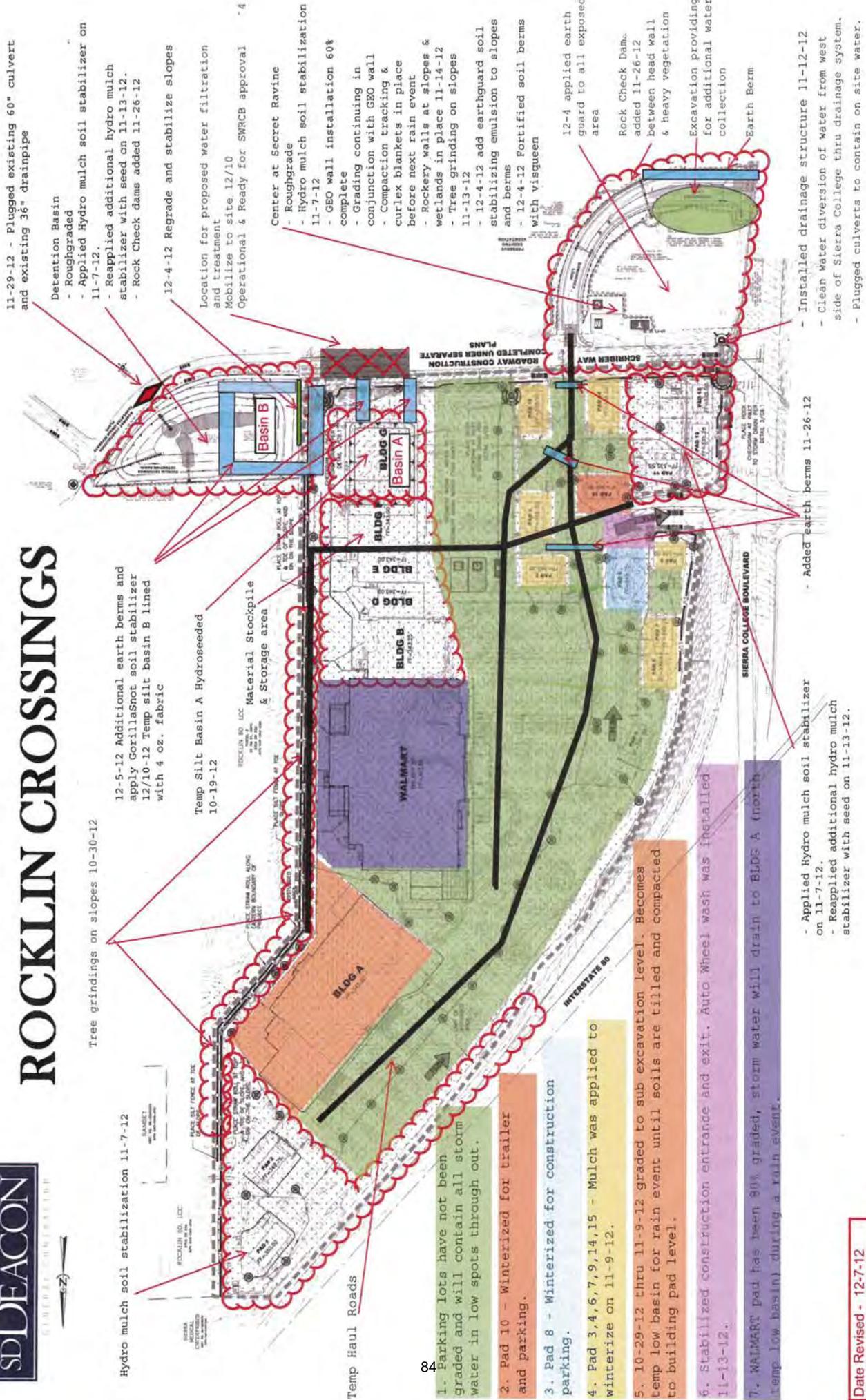
12/3/12



\_MG\_8856

12/3/12

# ROCKLIN CROSSINGS



11-29-12 - Plugged existing 60" culvert and existing 36" drainpipe

Detention Basin  
- Roughgraded  
- Applied Hydro mulch soil stabilizer on 11-7-12.  
- Reapplied additional hydro mulch stabilizer with seed on 11-13-12.  
- Rock Check dams added 11-26-12

12-5-12 Additional earth berms and apply GorillaSpot soil stabilizer 12/10-12 Temp silt basin B lined with 4 oz. fabric

Temp Silt Basin A Hydroseeded 10-19-12

Material Stockpile & Storage area

Center at Secret Ravine  
- Roughgrade  
- Hydro mulch soil stabilization 11-7-12  
- GEO wall installation 60% complete  
- Grading continuing in conjunction with GEO wall  
- Compaction tracking & curlex blankets in place before next rain event  
- Rockery walls at slopes & wetlands in place 11-14-12  
- Tree grinding on slopes 11-13-12  
- 12-4-12 add earthguard soil stabilizing emulsion to slopes and berms  
- 12-4-12 Fortified soil berms with visqueen

12-4 applied earth guard to all exposed area  
Rock Check Dams added 11-26-12 between head wall & heavy vegetation  
Excavation providing for additional water collection  
Earth Berm

Installed drainage structure 11-12-12  
- Clean Water diversion of water from west side of Sierra College thru drainage system.  
- Plugged culverts to contain on site water.

Tree grindings on slopes 10-30-12

Hydro mulch soil stabilization 11-7-12

Temp Haul Roads

# DRAFT

## Rocklin Crossings phased grading plan

1. Contract with water treatment company ATS Environmental Inc to treat, filter and discharge water with an approved ATS plan
2. Build out of additional emergency temporary silt basin (labeled Basin B) Dec 6-7
3. Line basin B with 4oz non-woven fabric, bottom sides and back slopes Dec 10
4. ATS equipment begins mobilization Dec 10 expected to be ready for operations by Dec 14 upon approval by SWRCB of ATS plan
5. Pump water from Center @ Secret Ravine (C@SR) into Basin B Dec 10-11
6. Pump water from various low lying areas throughout the site into Basin B Dec 11-14
7. Re-apply soil stabilizers to SW village area and to C@SR Dec 11 prior to forecasted rain event of Dec 12
8. Establish all weather access road into and across site to Wal-Mart (WM) staging area Dec 13-14
9. Install base rock to staging area at majors B-E pads Dec 14
10. Cut to subex grades at SW village area and fill to final grades in C@SR = 2 shifts
11. Apply soil stabilizers and plan BMP's to C@SR and fence off all access = 1 shift
12. Finish grade and certify building pads 3, 4, 5, 6, 7, 9, 14 and 15 = 1 shift
13. Apply final BMP's to building = pads 3, 4, 5, 6, 7, 9, 14 and 15 = 1 shift
14. Remove rock from WM sub ex to SW village deeper fill areas = 4 shifts
15. Top off SW village including pads 11, 12 and 13 = 3 shifts
16. Apply final BMP's to SW village and building pads = 1 shift
17. Complete WM pad backfill and final grading = 10 shifts
18. Apply final BMP's to WM pad = 1 shift
19. Install all weather access roads around WM pad = 3 shifts
20. Basin A and B will remain in place as water retention and settling basins for water treatment through March 2013

Rain Gauge Log Sheet

Construction Site Name:

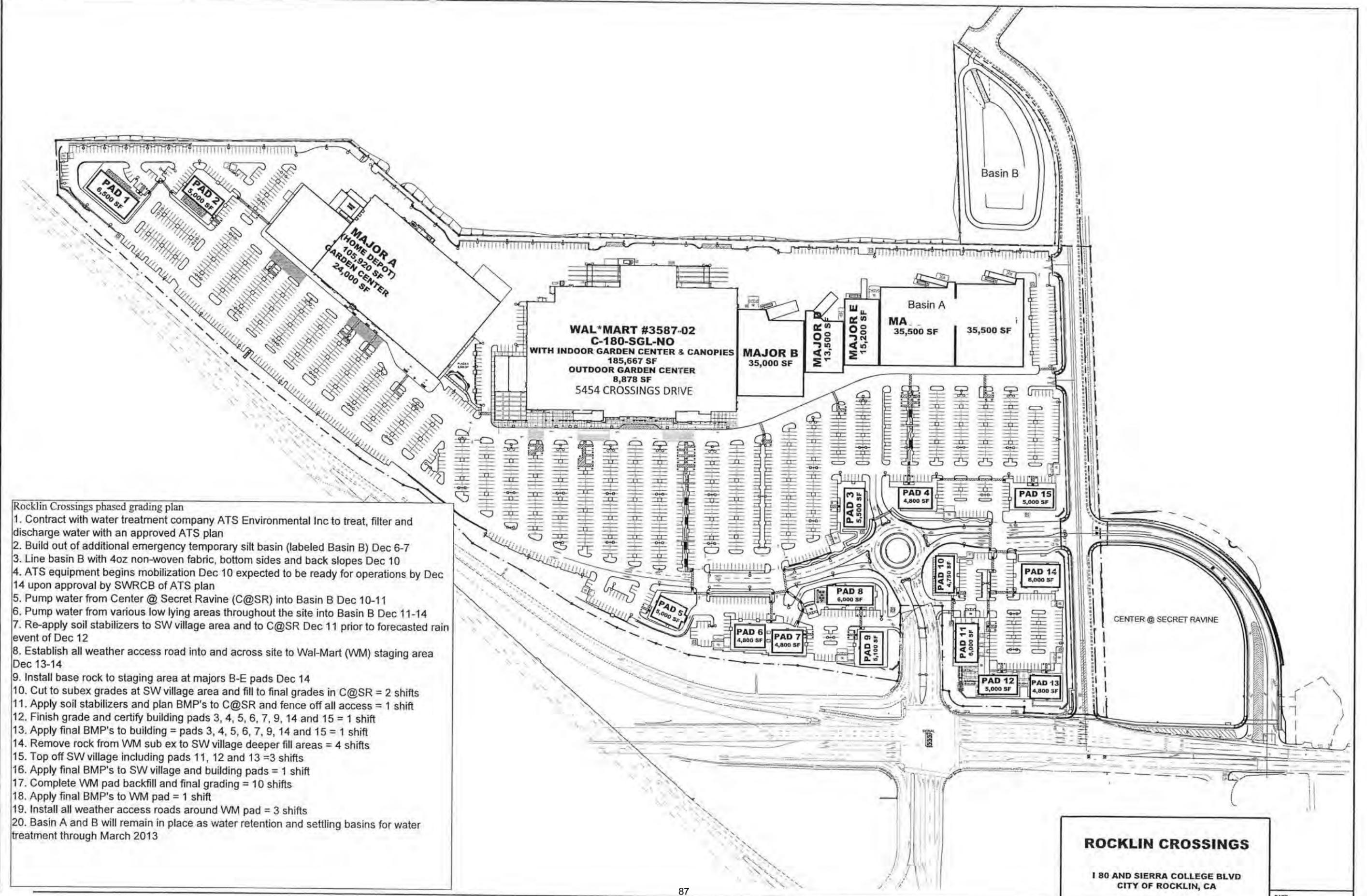
Rocklin Crossing

JOB # 992

WDID #:

Date (mm/dd/yy)	Time (24-hr)	Initials	Rainfall Depth (Inches)	Notes:
NOV 1.12	9AM	BA	1/2	RAIN FALL From 8:30 <sup>pm</sup> 9AM measured 10/31 - 11/1
11/8/12	5:30 <sup>AM</sup>	D	1/4	RAIN 1:30 <sup>pm</sup> - 5:30 <sup>AM</sup> 11/8 - 11/9
11/29/12	8:00 <sup>AM</sup> - 7:00 <sup>AM</sup>	D	3/4"	RAIN FALL From 8:00 <sup>AM</sup> - 7:AM 11/28 - 11/29
12/2/12		BA	6 1/4"	RAIN FALL From 5 <sup>pm</sup> - 7 <sup>AM</sup> 11/30 12/2
12/5/12		D	7/8"	RAIN FALL From 1:00 <sup>AM</sup> 4:00 <sup>P.M.</sup> 12/5 12/5

7" rainfall  
for 11/28 - 12/2/12  
storm event.



- Rocklin Crossings phased grading plan
1. Contract with water treatment company ATS Environmental Inc to treat, filter and discharge water with an approved ATS plan
  2. Build out of additional emergency temporary silt basin (labeled Basin B) Dec 6-7
  3. Line basin B with 4oz non-woven fabric, bottom sides and back slopes Dec 10
  4. ATS equipment begins mobilization Dec 10 expected to be ready for operations by Dec 14 upon approval by SWRCB of ATS plan
  5. Pump water from Center @ Secret Ravine (C@SR) into Basin B Dec 10-11
  6. Pump water from various low lying areas throughout the site into Basin B Dec 11-14
  7. Re-apply soil stabilizers to SW village area and to C@SR Dec 11 prior to forecasted rain event of Dec 12
  8. Establish all weather access road into and across site to Wal-Mart (WM) staging area Dec 13-14
  9. Install base rock to staging area at majors B-E pads Dec 14
  10. Cut to subex grades at SW village area and fill to final grades in C@SR = 2 shifts
  11. Apply soil stabilizers and plan BMP's to C@SR and fence off all access = 1 shift
  12. Finish grade and certify building pads 3, 4, 5, 6, 7, 9, 14 and 15 = 1 shift
  13. Apply final BMP's to building = pads 3, 4, 5, 6, 7, 9, 14 and 15 = 1 shift
  14. Remove rock from WM sub ex to SW village deeper fill areas = 4 shifts
  15. Top off SW village including pads 11, 12 and 13 = 3 shifts
  16. Apply final BMP's to SW village and building pads = 1 shift
  17. Complete WM pad backfill and final grading = 10 shifts
  18. Apply final BMP's to WM pad = 1 shift
  19. Install all weather access roads around WM pad = 3 shifts
  20. Basin A and B will remain in place as water retention and settling basins for water treatment through March 2013

**ROCKLIN CROSSINGS**

I 80 AND SIERRA COLLEGE BLVD  
CITY OF ROCKLIN, CA

DATE:

# Exhibit 6

Prosecution Team Evidence List Exhibits for:  
Rocklin Crossings



December 18, 2012

**VIA HAND DELIVERY**

Ms. Wendy Wyels  
Central Valley Regional Water Quality Control Board  
11020 Sun Center Drive, #200  
Rancho Cordova, CA 95670-6114

12/18/12 10:15 AM

Dear Ms. Wyels:

S.D. Deacon Corp.  
of California

Seattle  
Portland  
Sacramento  
Irvine

Pursuant to the request of the Regional Water Quality Control Board for the Central Valley Region's staff at the meeting held on December 12, 2012, we provide the following summary of the best management practices (BMPs) and other stormwater control efforts taken before and after the unexpected stormwater discharge experienced during the large November 28, 2012 through December 2, 2012 storm event. This summary focuses on work performed and erosion control measures put in place leading up to the storm event and SD Deacon's reaction and corrective actions taken to the brief period of discharge that occurred on November 30, 2012.

Included are emails sent to the Regional Board, along with colored maps, illustrations, and photos showing weekly construction and soil stabilization activities for the months of November and December as well as rain event information and inspection reports by the site's QSP and the City of Rocklin.

Please let us know if you need additional information.

Sincerely,

Andy Van Veldhuizen, Sr. Project Manager

cc: Marty Hartzell

700 Greenback Lane, Suite 250  
Citrus Heights, CA 95610

T: 916.969.0900  
F: 916.729.0900

CA#760475

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Tab A	10/31/12 Status Report
Tab B	11/5/12 Status Report
Tab C	11/9/12 Status Report
Tab D	11/15/12 Status Report
Tab E	11/26/12 Status Report
Tab F	11/30/12 Status Report
Tab G	12/4/12 Status Report
Tab H	12/7/12 Status Report
Tab I	12/10/12 Status Report
Tab J	12/14/12 Status Report
Tab K	TSM Weekly Maintenance Logs 8/8/12 - 12/11/12
Tab L	11/26/12 REAP and Inspection Reports 11/28/12 - 12/3/12
Tab M	City of Rocklin Inspection Reports - Dominguez Loop 8/24/12 – 12/13/12
Tab N	City of Rocklin Inspection Reports - Rocklin Crossings 8/24/12 – 12/13/12



10-31-12

TAB A

Meeting on site with Marty Hartzell with notes from meeting minutes taken and published below:

1. 10-31-12 Meeting adjourned to begin meeting with the Regional Water Board representative Marty Hartzell and joined by QSP Dave Clayson
  - a. General permit conditions call for stabilizing the site – all disturbed areas – prior to every rain event
  - b. As of right now with the rain event forecasted for tonight we may be deemed out of compliance
  - c. Discussed current schedule and access roads
  - d. Reviewed site maps and measures currently in place
  - e. Walked site and verified no run off from site has occurred
  - f. More BMPs need to be put in place at Dominguez Loop to control water and silt migration on slopes
  - g. C@SR needs to be finish graded and stabilized before next rain event
  - h. Determined monitor points for water exiting site is at lowest point of C@SR and possibly current discharge in new detention basin
  - i. Found a wash out of concrete by PP on the C@SR site, photographed and clean up performed by PP and proof of the clean up emailed to Marty by end of the day
  - j. Observed good washout practices by Mason
  - k. Provide Marty with a map and schedule to show low points on site as temp silt basins and schedule to show areas to be completed and stabilized
  - l. Marty intends to issue a Staff Enforcement Letter detailing the visit and discrepancies discovered

11-2-12

Emailed Marty Hartzell the attached sketch site map noting BMP measures placed and dates associated with application of measures.

## Andy Van Veldhuizen

---

**From:** Andy Van Veldhuizen  
**Sent:** Friday, November 02, 2012 4:47 PM  
**To:** MHartzell@waterboards.ca.gov  
**Cc:** Bob Aroyan; 'JPetersen@dsrg.com'; J.Vanderpost@rsc-engr.com; 'Dave'; Brian Hansen; Dan Leitheiser; Jeff Guerrero; Andy Van Veldhuizen  
**Subject:** Rocklin Crossings SWPPP compliance  
**Attachments:** Rocklin Crossings SWPPP compliance plan.pdf

Marty,

Thank you for meeting with us Wednesday morning.

We highly appreciate your willingness to work with us, your comments and suggestions as we walked the site and the discussions brought to the table.

We are talking actions on bringing this site back into compliance and to that end we have met with the major players on site, and game planned the next anticipated rain event of Nov 9<sup>th</sup>.

I have attached a sketched plan of attack for the next week and all team members have committed to working diligently to not only bring this site into compliance but also to maintain compliance level.

We have identified areas that can be hydro seeded with some preparatory work in rough grading to ensure water is diverted, captured and contained.

When the weather windows are right we will move back onto these areas to complete grading and permanently winterize.

As noted in our walk, the site topography is unique in that all water run on and capture is able to be contained with minimal effort and the potential locations for runoff has been identified and will be properly protected and monitored.

Should you have any questions please do not hesitate to call myself or our QSP Dave Clayson (916) 826-0154. We will

continue to work with our QSP and QSD to ensure we maintain compliance and provide you with updates as the plan changes, rain is forecasted and various areas are stabilized.

Once again thank you for meeting with us and working with us on this site.

---

### Andy Van Veldhuizen

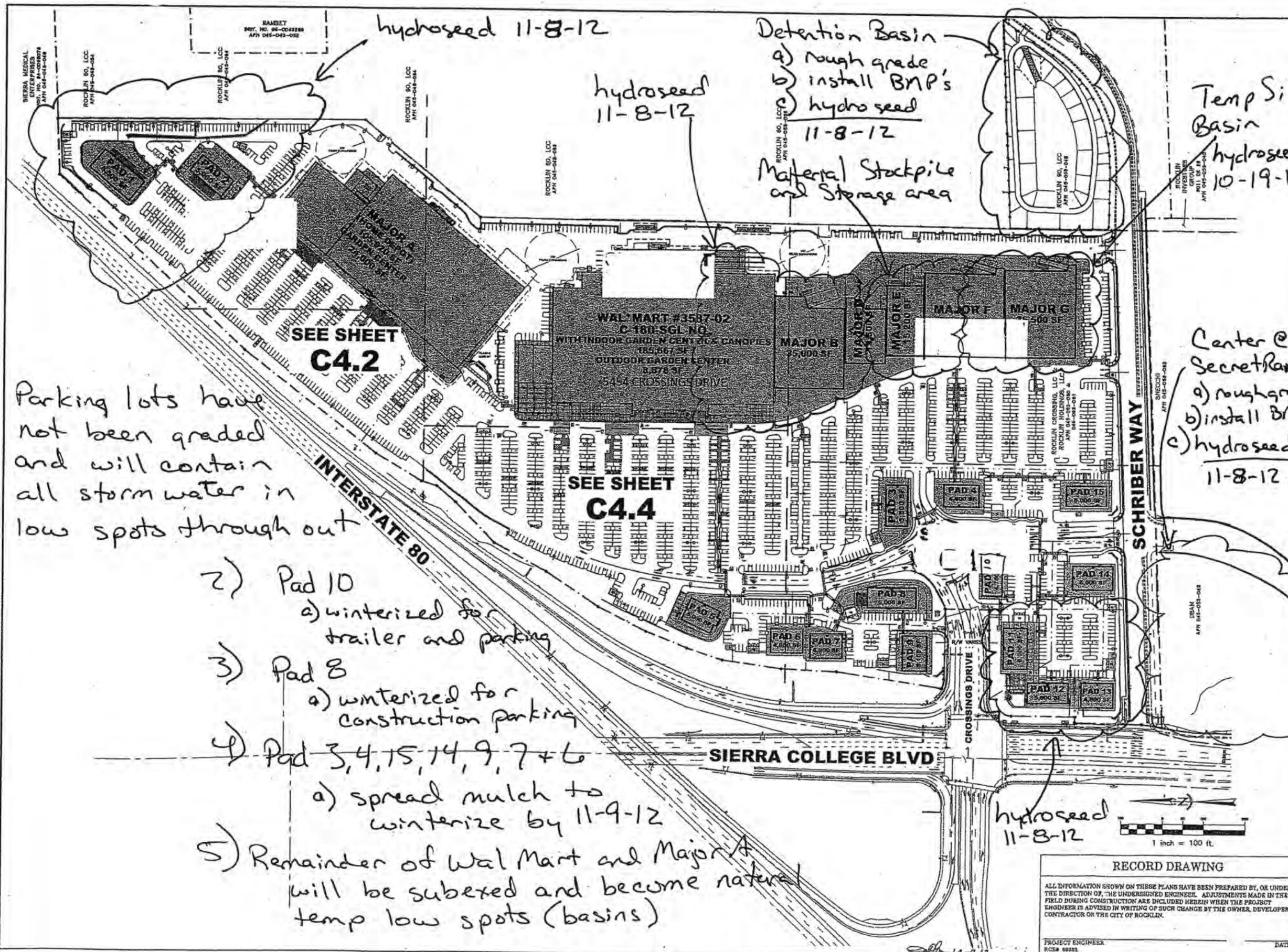
Senior Project Manager

T: 916.969.0900 | F: 916.960.1134

S.D. Deacon Corp. of California | J.R. Roberts/Deacon, Inc.



Please consider the environment before printing this email. Thank you



- 1) Parking lots have not been graded and will contain all storm water in low spots through out
- 2) Pad 10  
a) winterized for trailer and parking
- 3) Pad 8  
a) winterized for construction parking
- 4) Pad 3, 4, 15, 14, 9, 7 + 6  
a) spread mulch to winterize by 11-9-12
- 5) Remainder of Wal Mart and Major A will be subexed and become natural temp low spots (basins)

**DONAHUE SCHRIBER  
REALTY GROUP L.P.**  
200 E BAKER ST. SUITE 100  
COSTA MESA, CA 92626  
(714) 266-1416



**RSC ENGINEERING**  
2266 Douglas Blvd., Suite 150  
Rocklin, CA 95765  
Ph: 916.768.2854 Fax: 916.768.4408

PROJECT NO. 001-002  
DRAWN BY: RSC Eng  
CHECKED BY: J. VANDERPOST  
DESIGNED BY: RSC Eng

IMPROVEMENT PLANS FOR  
**ROCKLIN CROSSINGS**  
180 AND SIERRA COLLEGE BLVD  
CITY OF ROCKLIN, CA

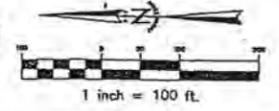
SHEET TITLE  
**HORIZONTAL CONTROL PLAN**  
SHEET NO.  
**C4.0**  
OF 134  
DATE: SEPTEMBER 25, 2012

**RECORD DRAWING**

ALL INFORMATION SHOWN ON THESE PLANS HAVE BEEN PREPARED BY, OR UNDER THE DIRECTION OF, THE UNDERSIGNED ENGINEER. ADJUSTMENTS MADE IN THE FIELD DURING CONSTRUCTION ARE INCLUDED HEREIN WHEN THE PROJECT ENGINEER IS ADVISED IN WRITING OF SUCH CHANGE BY THE OWNER, DEVELOPER, CONTRACTOR OR THE CITY OF ROCKLIN.

PROJECT ENGINEER  
RCS# 69282

DATE





11-5-12

TAB B

Emailed Marty Hartzell the attached colored site map noting BMP measures placed and dates associated with application of measures to supplement sketch sent on 11-2-12

Photo B-1 showing hydroseeding of detention basin

Photo B-2 showing grading and wall building at Dominguez Loop with bark mulch on slopes in the background

## Andy Van Veldhuizen

---

**From:** Andy Van Veldhuizen  
**Sent:** Monday, November 05, 2012 3:58 PM  
**To:** MHartzell@waterboards.ca.gov  
**Cc:** Bob Aroyan; 'JPetersen@dsrg.com'; J.Vanderpost@rsc-engr.com; 'Dave'; Brian Hansen; Dan Leitheiser; Jeff Guerrero; Andy Van Veldhuizen  
**Subject:** RE: Rocklin Crossings SWPPP compliance  
**Attachments:** Rocklin Crossings SWPPP Plan 11-5-12.pdf.pdf

Marty,

Attached is an updated plan that better delineates site conditions and the latest forecast.

Should you have any questions please do not hesitate to call myself or our QSP Dave Clayson (916) 826-0154

---

### Andy Van Veldhuizen

Senior Project Manager

T: 916.969.0900 | F: 916.960.1134

S.D. Deacon Corp. of California | J.R. Roberts/Deacon, Inc.



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We highly appreciate your willingness to work with us, your comments and suggestions as we walked the site and the discussions brought to the table.

We are talking actions on bringing this site back into compliance and to that end we have met with the major players on site, and game planned the next anticipated rain event of Nov 9<sup>th</sup>.

I have attached a sketched plan of attack for the next week and all team members have committed to working diligently to not only bring this site into compliance but also to maintain compliance level.

We have identified areas that can be stabilized with some preparatory work in rough grading to ensure water is diverted, captured and contained.

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Once again thank you for meeting with us and working with us on this site.

---

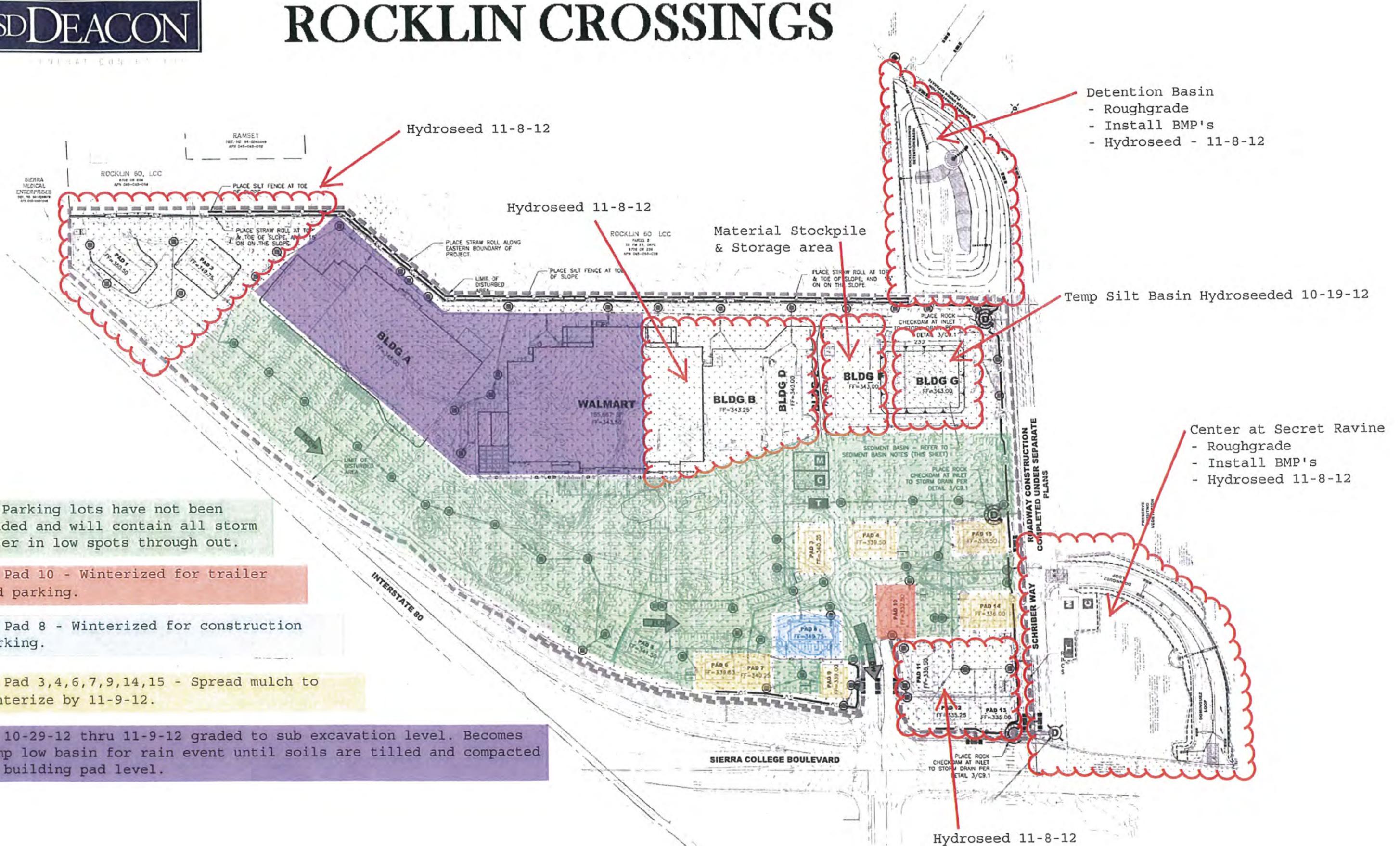
### Andy Van Veldhuizen

Senior Project Manager

T: 916.969.0900 | F: 916.960.1134

S.D. Deacon Corp. of California | J.R. Roberts/Deacon, Inc.

# ROCKLIN CROSSINGS



1. Parking lots have not been graded and will contain all storm water in low spots through out.

2. Pad 10 - Winterized for trailer and parking.

3. Pad 8 - Winterized for construction parking.

4. Pad 3,4,6,7,9,14,15 - Spread mulch to winterize by 11-9-12.

5. 10-29-12 thru 11-9-12 graded to sub excavation level. Becomes temp low basin for rain event until soils are tilled and compacted to building pad level.

Detention Basin  
 - Roughgrade  
 - Install BMP's  
 - Hydroseed - 11-8-12

Temp Silt Basin Hydroseeded 10-19-12

Center at Secret Ravine  
 - Roughgrade  
 - Install BMP's  
 - Hydroseed 11-8-12

Hydroseed 11-8-12

ublished 11-5-12

PHOTO B-1- HYDROSEEDING OF DETENTION BASIN



11/07/2012



11/09/2012

PHOTO 8-2 - DOMINGUEZ LOOP



11-9-12

TAB C

Emailed Marty Hartzell the attached colored site map noting BMP measures placed and dates associated with application of measures.

- Added hydromulch measures at property NW side along freeway
- Show tree grindings placed on slopes for mulch 10-30-12
- Show additional Stabilized Fiber Matrix and hydromulch at previously hydroseeded detention basin
- Reapplication of additional hydromulch as SW village area
- Noting work at Center @ Secret Ravine
  - Geo wall installation ongoing
  - Grading in conjunction with Geo Wall
  - Compaction tracking and adding curlex blankets
  - Scheduled Install of drainage structure
  - Plugging of culverts at NE corner drainage structure in Center @ Secret Ravine creating a diversion of clean water through storm system

Photo C-1 showing bark mulch spread on slopes at the eastern side of Rocklin Crossings

## Andy Van Veldhuizen

---

**From:** Andy Van Veldhuizen  
**Sent:** Friday, November 09, 2012 3:09 PM  
**To:** MHartzell@waterboards.ca.gov  
**Cc:** Bob Aroyan; 'JPetersen@dsrg.com'; J.Vanderpost@rsc-engr.com; 'Dave'; Brian Hansen; Dan Leitheiser; Jeff Guerrero; Andy Van Veldhuizen  
**Subject:** Rocklin Crossings SWPPP compliance  
**Attachments:** Rocklin Crossings SWPPP Plan 11-9-12.pdf.pdf

Hello Marty,

After this last rain event we met this morning with our QSP and site Superintendents' and have decided to implement some changes and reinforce some areas with stronger measures.

Changes to the previous plan include:

- Re-spraying the detention basin with SFM and seed
- Re-applying hydromulch at the SW corner
- Noting actual hydromulch application areas from this past week
- Noting the use of tree grindings on slopes
- Noting the progress of Geo Wall install and additional grading on Center @ Secret Ravine
- Install of the last upstream drainage structure will happen on Monday 11-12 at the NW corner of Center @

Secret Ravine.

- Two culverts that enter this drainage structure that contain water runoff of the site will be plugged
- The one culvert entering this drainage structure from across Sierra College Blvd will be left open as a clear water diversion of this water through the drainage system completed and in place once all protective measures downstream are in place

Should you have any questions please do not hesitate to call myself or our QSP Dave Clayson (916) 826-0154

---

### **Andy Van Veldhuizen**

Senior Project Manager

T: 916.969.0900 | F: 916.960.1134

S.D. Deacon Corp. of California | J.R. Roberts/Deacon, Inc.



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**Cc:** Bob Aroyan; 'JPetersen@dsrg.com'; J.Vanderpost@rsc-engr.com; 'Dave'; Brian Hansen; Dan Leitheiser; Jeff Guerrero; Andy Van Veldhuizen

**Subject:** RE: Rocklin Crossings SWPPP compliance

Marty,

Attached is an updated plan that better delineates site conditions and the latest forecast.

Should you have any questions please do not hesitate to call myself or our QSP Dave Clayson (916) 826-0154

---

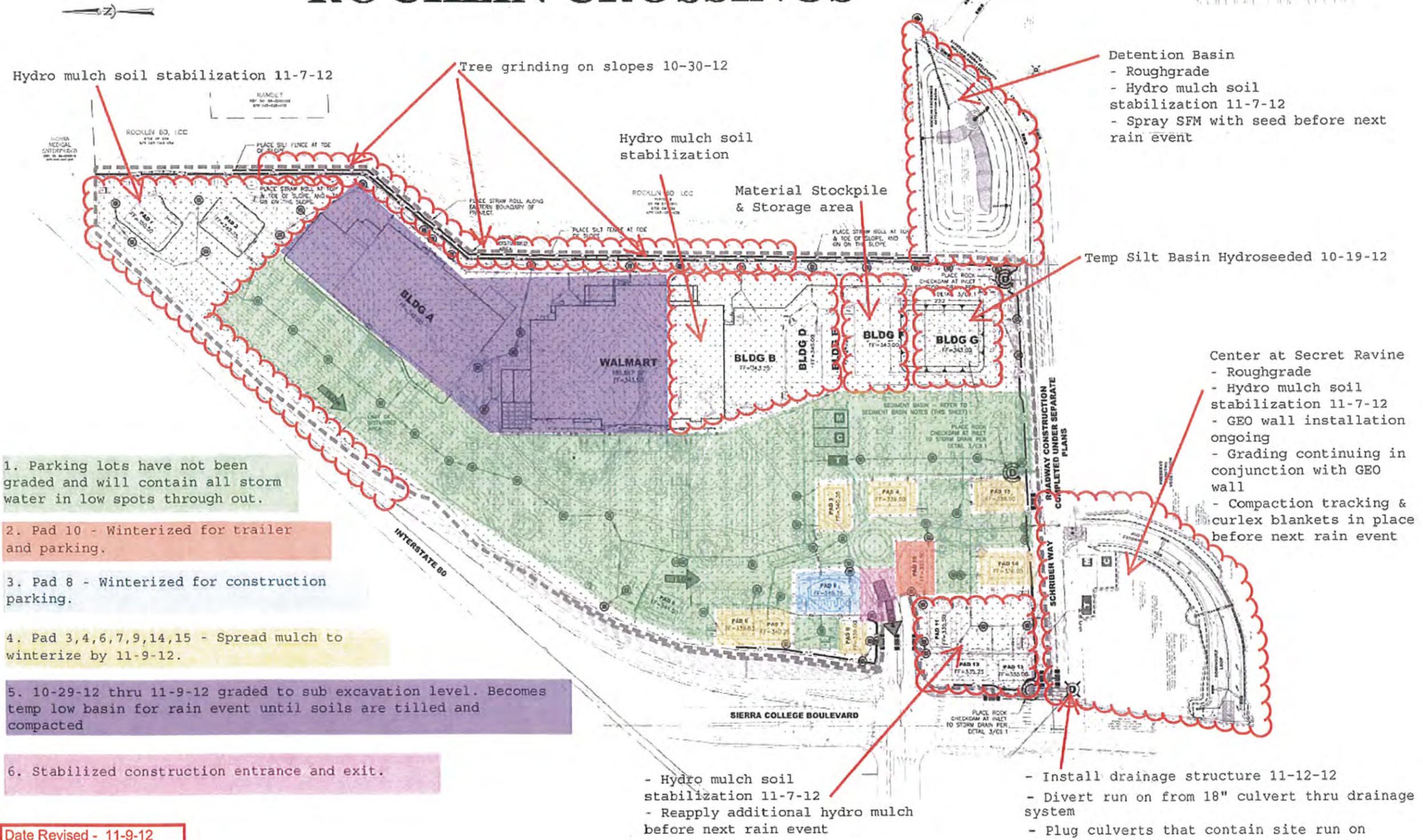
### **Andy Van Veldhuizen**

Senior Project Manager

T: 916.969.0900 | F: 916.960.1134

S.D. Deacon Corp. of California | J.R. Roberts/Deacon, Inc. 103

# ROCKLIN CROSSINGS



Hydro mulch soil stabilization 11-7-12

Tree grinding on slopes 10-30-12

Hydro mulch soil stabilization

Material Stockpile & Storage area

Detention Basin  
 - Roughgrade  
 - Hydro mulch soil stabilization 11-7-12  
 - Spray SFM with seed before next rain event

Temp Silt Basin Hydroseeded 10-19-12

Center at Secret Ravine  
 - Roughgrade  
 - Hydro mulch soil stabilization 11-7-12  
 - GEO wall installation ongoing  
 - Grading continuing in conjunction with GEO wall  
 - Compaction tracking & curlex blankets in place before next rain event

1. Parking lots have not been graded and will contain all storm water in low spots through out.

2. Pad 10 - Winterized for trailer and parking.

3. Pad 8 - Winterized for construction parking.

4. Pad 3,4,6,7,9,14,15 - Spread mulch to winterize by 11-9-12.

5. 10-29-12 thru 11-9-12 graded to sub excavation level. Becomes temp low basin for rain event until soils are tilled and compacted

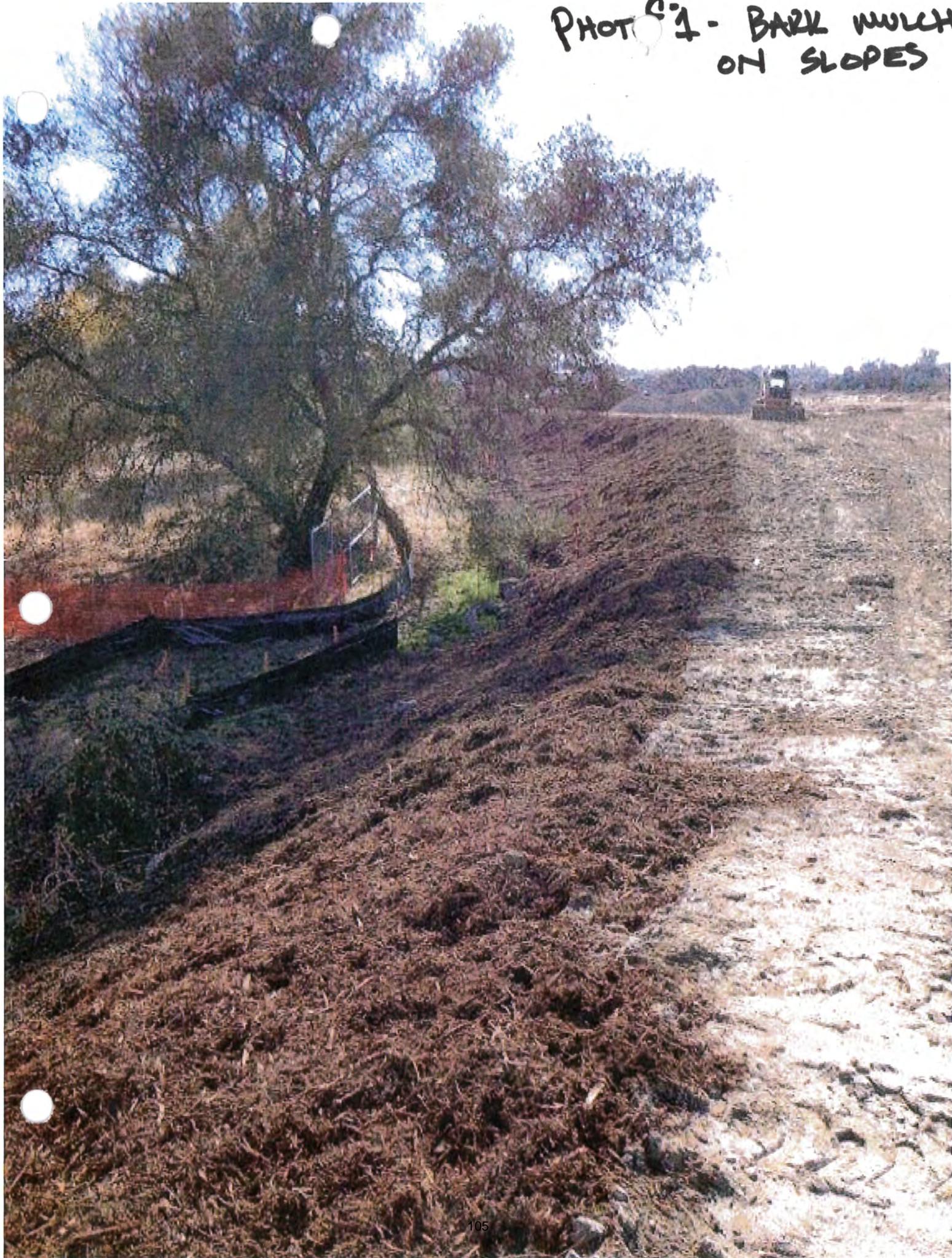
6. Stabilized construction entrance and exit.

- Hydro mulch soil stabilization 11-7-12  
 - Reapply additional hydro mulch before next rain event

- Install drainage structure 11-12-12  
 - Divert run on from 18" culvert thru drainage system  
 - Plug culverts that contain site run on

Date Revised - 11-9-12

PHOTO 1 - BARK MULCH  
ON SLOPES





11-15-12

TAB D

Emailed Marty Hartzell the attached colored site map noting BMP measures placed and dates associated with application of measures.

- Reapplied additional hydromulch with seed to detention basin
- Designated haul roads on site (informed subs that no vehicles are to wander beyond designated areas to protect areas stabilized with hydroseed and hydromulch efforts)
- Noted rockery walls in place and completed in Center @ Secret Ravine
- Added tree grindings on slopes in Center @ Secret Ravine
- Reapplication of additional hydromulch with seed at SW village (pads 11-13 area)
- Noting 80% of Wal-Mart pad at rough grade
- Noting Bldg A sub excavation creating a temp low basin to contain storm water

Photo D-1 build up of Dominguez Loop Geo Wall

Photo D-2 Dominguez Loop Headwall outfall – water is from clean water diversion of upstream runon

Photo D-3 Dominguez Loop Geo Wall looking east from head wall

Photo D-4 Dominguez Loop Geo Wall looking west from head wall

Photo D-5 Dominguez Loop Geo Wall

## Andy Van Veldhuizen

---

**From:** Andy Van Veldhuizen  
**Sent:** Thursday, November 15, 2012 10:38 AM  
**To:** MHartzell@waterboards.ca.gov  
**Cc:** Bob Aroyan; 'JPetersen@dsrg.com'; J.Vanderpost@rsc-engr.com; 'Dave'; Brian Hansen; Dan Leitheiser; Jeff Guerrero; Andy Van Veldhuizen; Alan Douglas  
**Subject:** Rocklin Crossings SWPPP compliance  
**Attachments:** Rocklin Crossings SWPPP Plan 11-15-12.pdf.pdf

Hello Marty,

Attached is this week's updated SWPPP Compliance plan

Changes noted are actual dates of compliance measures placed over the past week and progress of Center @ Secret Ravine grading and retaining walls.

As always should you have any questions please do not hesitate to call myself or our QSP Dave Clayson (916) 826-0154

Thanks

---

### Andy Van Veldhuizen

Senior Project Manager

T: 916.969.0900 | F: 916.960.1134

S.D. Deacon Corp. of California | J.R. Roberts/Deacon, Inc.



Please consider the environment before printing this email. Thank you

---

**From:** Andy Van Veldhuizen  
**Sent:** Friday, November 09, 2012 3:09 PM  
**To:** MHartzell@waterboards.ca.gov  
**Cc:** Bob Aroyan; 'JPetersen@dsrg.com'; J.Vanderpost@rsc-engr.com; 'Dave'; Brian Hansen; Dan Leitheiser; Jeff Guerrero; Andy Van Veldhuizen  
**Subject:** Rocklin Crossings SWPPP compliance

Hello Marty,

After this last rain event we met this morning with our QSP and site Superintendents' and have decided to implement some changes and reinforce some areas with stronger measures.

Changes to the previous plan include:

- Re-spraying the detention basin with SFM and seed

- Re-applying hydromulch at the SW corner

- Noting actual hydromulch application areas from this past week

- Noting the use of tree grindings on slopes

- Noting the progress of Geo Wall install and additional grading on Center @ Secret Ravine

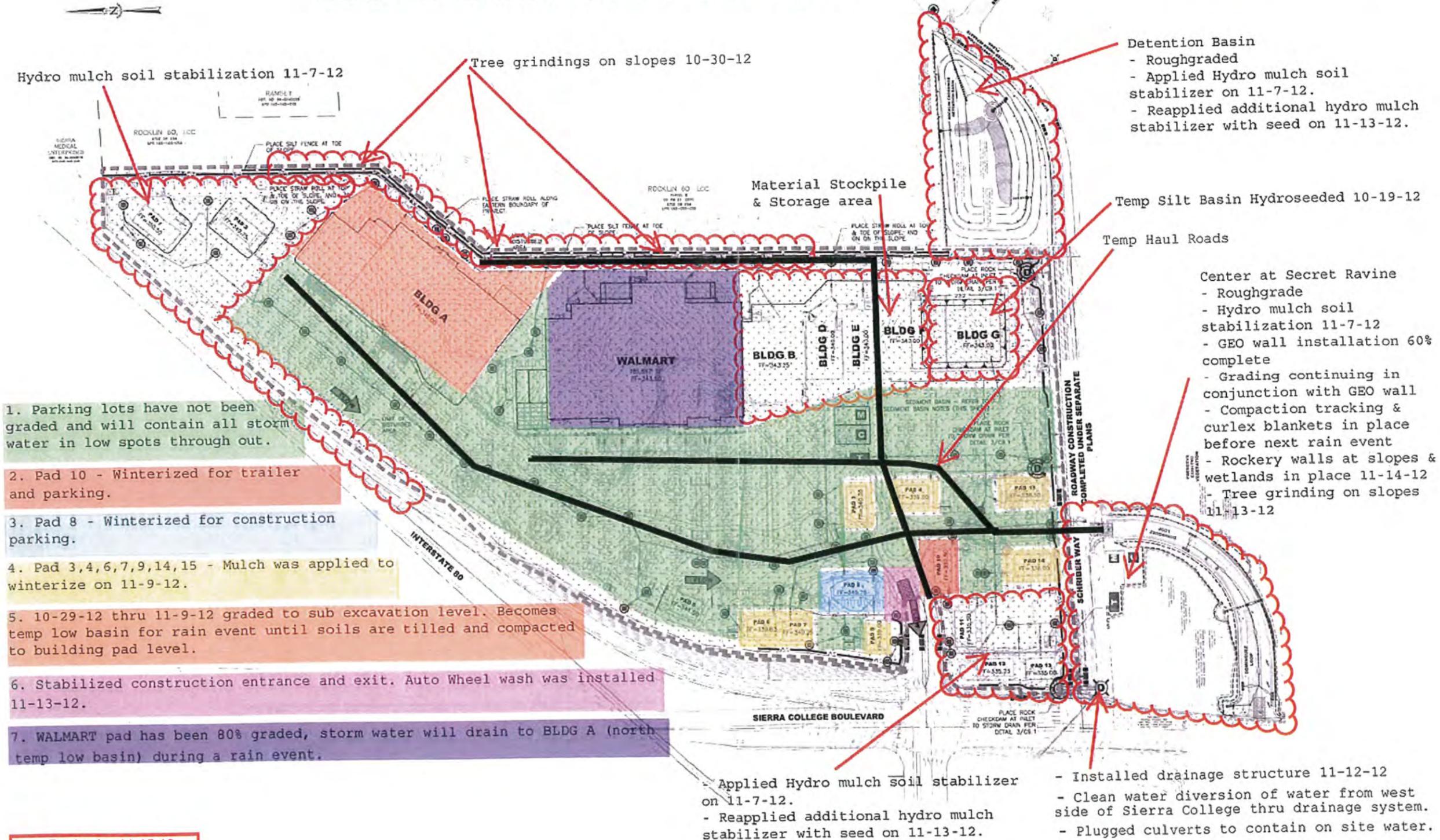
- Install of the last upstream drainage structure will happen on Monday 11-12 at the NW corner of Center @ Secret Ravine.

  - Two culverts that enter this drainage structure that contain water runoff of the site will be plugged

  - The one culvert entering this drainage structure from across Sierra College Blvd will be left open as a clear water diversion of this water through the drainage system completed and in place once all protective measures downstream are in place

Should you have any questions please do not hesitate to call myself or our QSP Dave Clayson (916) 826-0154

# ROCKLIN CROSSINGS



Date Revised - 11-15-12



PHOTO OF GEO WALL



PHOTO 2 - DOMINGUEZ LOOP OUTFALL

PHOTO 3 GEO WALL LOOKING EAST



PHOTO 4 - GEO WALL  
LOOKING WEST



PHOTO 5 - GEO WALL





11-26-12

TAB E

Emailed Marty Hartzell the attached colored site map noting BMP measures placed and dates associated with application of measures.

- Rock check dams added in detention basin
- Rock check dams added on neighboring property at outflow from Dominguez Loop headwall

Not noted in the colored plan map are:

Additional dikes built at various choke points in the low lying areas expected to contain storm water

A build up at the west end of the Dominguez loop Geo wall to provide for additional water storage in the excavated section to the west (see photo E-6)

Additional curlex blankets and Earthguard\* soil stabilizers applied to all slopes on Center @ Secret Ravine / Dominguez Loop (see photo E-3)

Photo E-1 Secret Ravine water flow upstream of site taken 11-21-12

Photo E-2 Secret Ravine water flow downstream of site taken 11-21-12

Photo E-3 additional curlex blankets and Earthguard\* soil stabilizers applied to all slopes on Center @ Secret Ravine / Dominguez Loop 11-28-12

Photo E-4 – aerial photo taken on November 26, 2012

## Andy Van Veldhuizen

---

**From:** Andy Van Veldhuizen  
**Sent:** Monday, November 26, 2012 4:06 PM  
**To:** MHartzell@waterboards.ca.gov  
**Cc:** Bob Aroyan; 'JPetersen@dsrg.com'; J.Vanderpost@rsc-engr.com; 'Dave'; Brian Hansen; Dan Leitheiser; Jeff Guerrero; Alan Douglas; Andy Van Veldhuizen  
**Subject:** RE: Rocklin Crossings SWPPP compliance  
**Attachments:** Rocklin Crossings SWPPP Plan 11-26-12.pdf.pdf

Hello Marty,  
I hope you had a great Thanksgiving holiday!

Due to the last few series of storms we have not made a whole lot of headway in furthering grading operations. What we have been doing is added more BMP's at our two most sensitive and vulnerable areas. Rock check dams are being added in the Detention Basin and beyond the outfall of the Center @ Secret Ravine. An updated map is attached. As always should you have any questions please do not hesitate to call myself or our QSP Dave Clayson (916) 826-0154

---

### Andy Van Veldhuizen

Senior Project Manager  
T: 916.969.0900 | F: 916.960.1134  
S.D. Deacon Corp. of California | J.R. Roberts/Deacon, Inc.

 Please consider the environment before printing this email. Thank you

---

**From:** Andy Van Veldhuizen  
**Sent:** Thursday, November 15, 2012 10:38 AM  
**To:** MHartzell@waterboards.ca.gov  
**Cc:** Bob Aroyan; 'JPetersen@dsrg.com'; J.Vanderpost@rsc-engr.com; 'Dave'; Brian Hansen; Dan Leitheiser; Jeff Guerrero; Andy Van Veldhuizen; Alan Douglas  
**Subject:** Rocklin Crossings SWPPP compliance

Hello Marty,  
Attached is this week's updated SWPPP Compliance plan  
Changes noted are actual dates of compliance measures placed over the past week and progress of Center @ Secret Ravine grading and retaining walls.  
As always should you have any questions please do not hesitate to call myself or our QSP Dave Clayson (916) 826-0154  
Thanks

---

### Andy Van Veldhuizen

Senior Project Manager  
T: 916.969.0900 | F: 916.960.1134  
S.D. Deacon Corp. of California | J.R. Roberts/Deacon, Inc.

 Please consider the environment before printing this email. Thank you

---

**From:** Andy Van Veldhuizen  
**Sent:** Friday, November 09, 2012 3:09 PM  
**To:** MHartzell@waterboards.ca.gov

# ROCKLIN CROSSINGS

Hydro mulch soil stabilization 11-7-12

Tree grindings on slopes 10-30-12

- Detention Basin
- Roughgraded
- Applied Hydro mulch soil stabilizer on 11-7-12.
- Reapplied additional hydro mulch stabilizer with seed on 11-13-12.
- Rock Check dams added 11-26-12

Temp Silt Basin Hydroseeded 10-19-12

Material Stockpile & Storage area

Temp Haul Roads

- Center at Secret Ravine
- Roughgrade
- Hydro mulch soil stabilization 11-7-12
- GEO wall installation 60% complete
- Grading continuing in conjunction with GEO wall
- Compaction tracking & curlex blankets in place before next rain event
- Rockery walls at slopes & wetlands in place 11-14-12
- Tree grinding on slopes 11-13-12

1. Parking lots have not been graded and will contain all storm water in low spots through out.

2. Pad 10 - Winterized for trailer and parking.

3. Pad 8 - Winterized for construction parking.

4. Pad 3,4,6,7,9,14,15 - Mulch was applied to winterize on 11-9-12.

5. 10-29-12 thru 11-9-12 graded to sub excavation level. Becomes temp low basin for rain event until soils are tilled and compacted to building pad level.

6. Stabilized construction entrance and exit. Auto Wheel wash was installed 11-13-12.

7. WALMART pad has been 80% graded, storm water will drain to BLDG A (north temp low basin) during a rain event.

- Applied Hydro mulch soil stabilizer on 11-7-12.
- Reapplied additional hydro mulch stabilizer with seed on 11-13-12.

- Installed drainage structure 11-12-12
- Clean water diversion of water from west side of Sierra College thru drainage system.
- Plugged culverts to contain on site water.

Date Revised - 11-26-12



Photo E-1  
SECRET RAVINE UP STREAM



PHOTO 2 - SECRET RAVINE DOWN STREAM



11/28/2012

PHOTO 3 - ADDITIONAL CURLEX<sup>TM</sup> BLANKETS



November 26th, 2012

**DIGITALSKY**  
AERIAL IMAGING

2378 Maritime Dr., Suite 200, Elk Grove, CA 95758  
Phone (916) 691-6090 Email [todd@digitalsky.us](mailto:todd@digitalsky.us)

PHOTO 6.9 - AERIAL SITE PICTURE



A series of events resulted in a temporary bermed dike breach and loss of collected storm water at the south end of the project called Dominguez Loop on Friday November 30, 2012 between approximately 8:30am and 11:30am.

Rain gauge measurements and storm rating for rain event November 28 through December 2 attached.

During a 24 hour period starting 0800 on November 28<sup>th</sup> and ending 7:00am November 29<sup>th</sup> the site rain gauge registered 0.75 inches. This period of rain would be considered well within a normal rain fall event and the site handled the water as designed. Pumping operations were begun to alleviate pressure on the earthen berms that collected the storm water which was transferred and pumped into the then empty temporary silt basin.

During the 96 hour period starting 5:00am on November 30<sup>th</sup> through 7:00am on December 2<sup>nd</sup> the site rain gauge registered 6.25 inches. This period of rain if quantified separately is categorized as between a 50yr and a 100yr storm.

Combined totals for the 5 day event is categorized as falling between a 25yr and 50yr storm.

Site Superintendent Dan Leitheiser visually inspected the full site including the area of Dominguez Loop at 5:30am. At the time of inspection all measures in place were secure and intact. At approximately 8:00am Marty Hartzell arrived on site to make an inspection and walked with QSP Dave Clayson to inspect the Detention Basin area at the SE end of the property. By the time Marty and Dave arrived at Dominguez Loop an hour later, SD Deacon crews were already working at plugging the breach that had just occurred at around 8:30am on the south side of Dominguez Loop.

The amount of water that fell and accumulated within a very short period of time on November 30, 2012 (approximately one hour) quickly filled up a primary holding basin at the west end of Dominguez Loop. This water spilled over a spillway lined with visqueen and entered a secondary holding basin. A water truck was

11/30/12  
Discharge  
Event.

Daily  
Shows 0945

working) to pump water out of the holding basin but the sheer volume of water overwhelmed a vulnerable section of the earthen dike built between the geo wall and the existing soil bank cut of the higher ground to the west. The water quickly eroded the earthen dike and resulted in a wash out of water and silt beyond the storm drain outfall. Immediate efforts were instituted to repair the breach by using a tractor to place rock and dry soils. Visqueen was used to cover the temporary repair until permanent repairs could be made. **Plugging of the breach, stopped the flow of water from the site within ONE AND ONE HALF HOUR of the discharge.** The grading subcontractor was contacted and they immediately dispatched a dozer operator to rebuild the dike higher and wider (see attached photo #8). Re -building of the temporarily repaired dike began at 11:00am, by the end of the day on November 30<sup>th</sup> the dike had been rebuilt and secured with visqueen. **Sediment from the breach was stopped by naturally heavy vegetation prior to reaching receiving waters (Secret Ravine).** A 6" diesel pump was ordered for delivery the next day to keep water levels down in the temporary Dominguez Loop holding basin by pumping water up and into the original temporary silt basin. The 6" diesel pump was delivered by 7:00am on December 1<sup>st</sup> and pumping began by 9:30am and continued through the weekend to ensure that all water was contained on site.

On November 30<sup>th</sup> SD Deacon contacted ATS Environmental to provide a 1500gpm system utilizing ChitoSan as the initial polymer to settle out the detention basins. Immediate efforts were made to expedite delivery and set up. An ATS Plan was submitted and operations will begin upon SWRCB approval before discharge.

ATS Plan uploaded to SMARTS on December 11, 2012 with SWRCB approval received on December 12, 2012. After testing, ATS operations are expected to begin on December 18, 2012. It is estimated that it will take one full week to process and discharge all of the collected storm water on site.

Attachments:

F-1 Dominguez Loop SWPPP plan 11-29-12

F-2 Job Site Rain Gauge Log

F-3 Placer County Rain Tables

F-4 Placer County Rain Table Map

F-5 SD Deacon Superintendent Daily Reports for 11-26 through 12-2

Photos F-6 through F-7 aerial views of site taken 12-3-12

Photo F-8 Dozer re-working Dominguez Loop berm on morning of 11-30-12

Photo F-9 retained water in detention basin 11-30-12

Photo F-10 temp silt basin filled to capacity for pumping operations throughout site 12-3-12

Concrete berm to divert run on from Sierra College Blvd.

Natural Vegetation area along Sierra College Blvd.

Earthguard soil stabilizer applied to entire site on 11-7-12

Curlex blankets installed on slopes 11/28/12

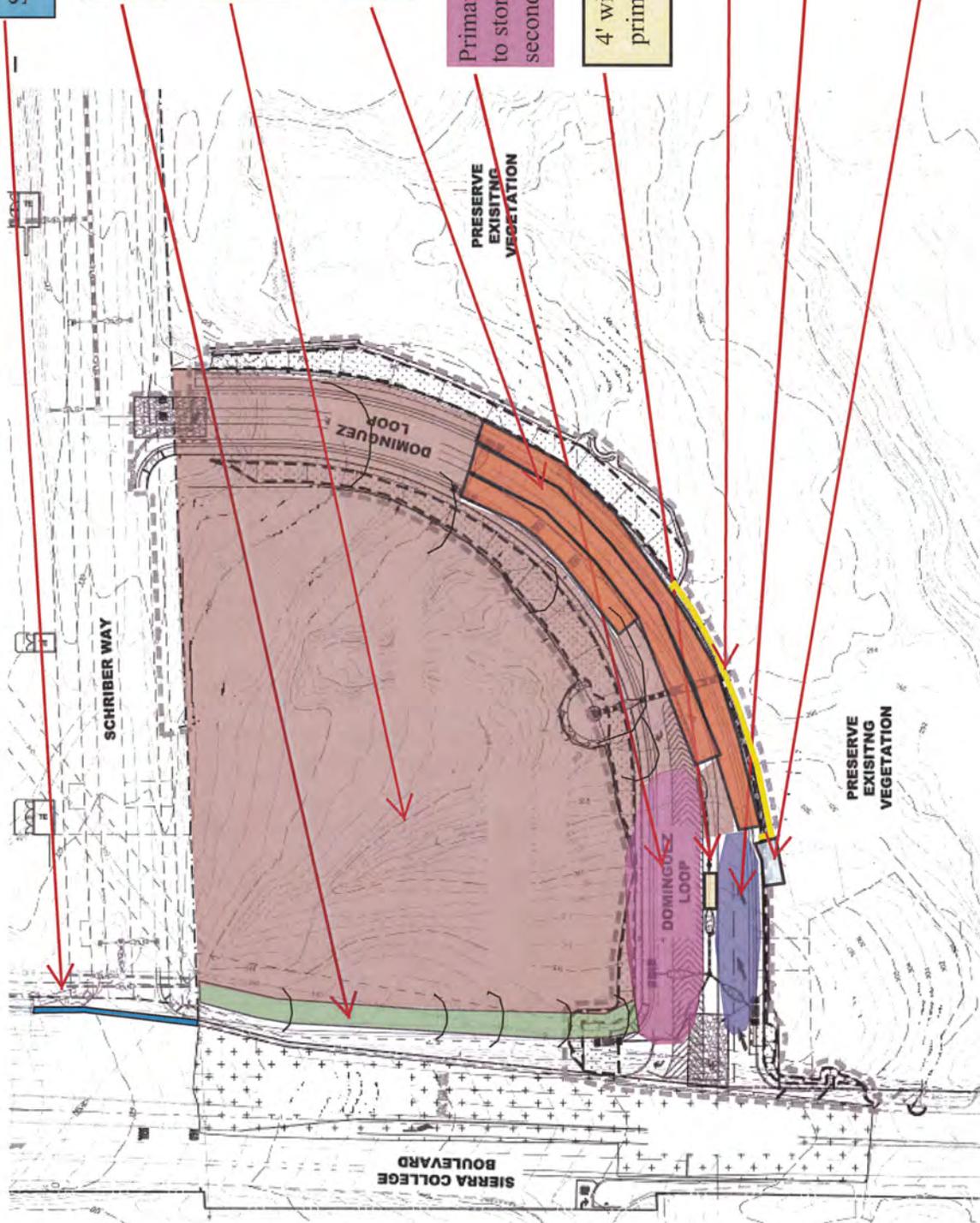
Primary retention basin built in preparation to storm with a visqueen spillway to the secondary retention basin

4' wide visqueen spillway between primary and secondary basins

Geo Wall

Secondary Retention Basin - Size 70'L, 15'W, 2'D

Location of 11/30/12 Failure - 4'H x 8"L Containment wall spanning from the Geo Wall to native soil bank



Center at Secret Ravine - Dominguez Loop

11/29/12

Rain Gauge Log Sheet

Construction Site Name:

Rocklin Crossing

JOB # 992

WDID #:

Date (mm/dd/yy)	Time (24-hr)	Initials	Rainfall Depth (Inches)	Notes:
NOV 1.12	9AM	BH	1/2	RAIN Fall From 8:30pm 9AM measured 10/31 - 11/1
11/8/12	5:30 AM	D	1/4	RAIN 11:30pm - 5:30AM 11/8 - 11/9
11/29/12	8:00AM - 7:00AM	D	3/4"	RAIN Fall From 8:00AM - 7:AM 11/28 - 11/29
12/2/12		BH	6 1/4"	RAIN FALL FROM 5am - 7am 11/30 12/2
12/5/12		D	1/8"	RAIN Fall From 11:00AM 4:00P.M. 12/5 12/5

Att: F-2

Table 5-A-1  
 Depth-Duration-Frequency Coefficients

150 - 3000 feet elevation  
 West of Sierra Nevada Crest

Depths in inches at 150 feet

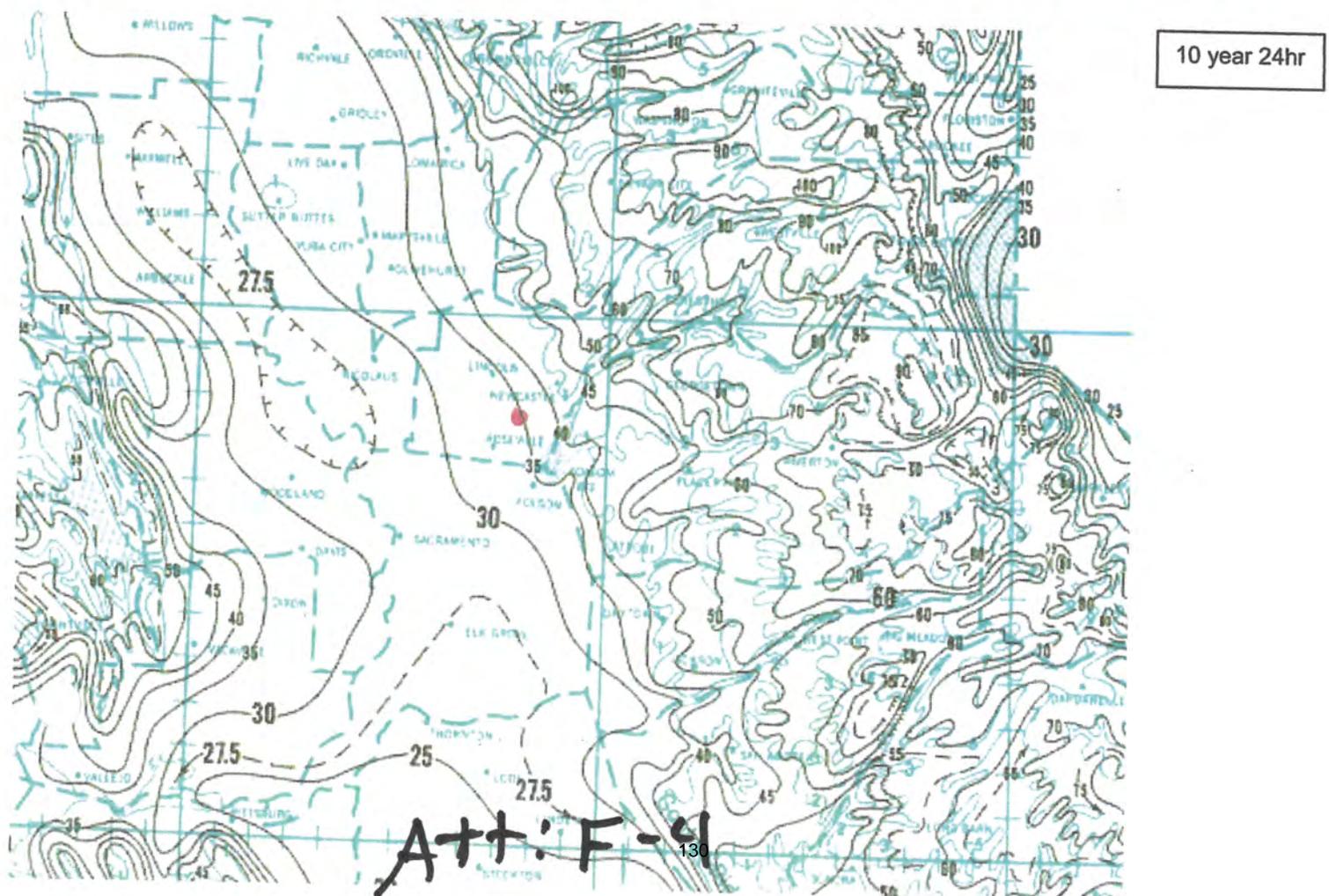
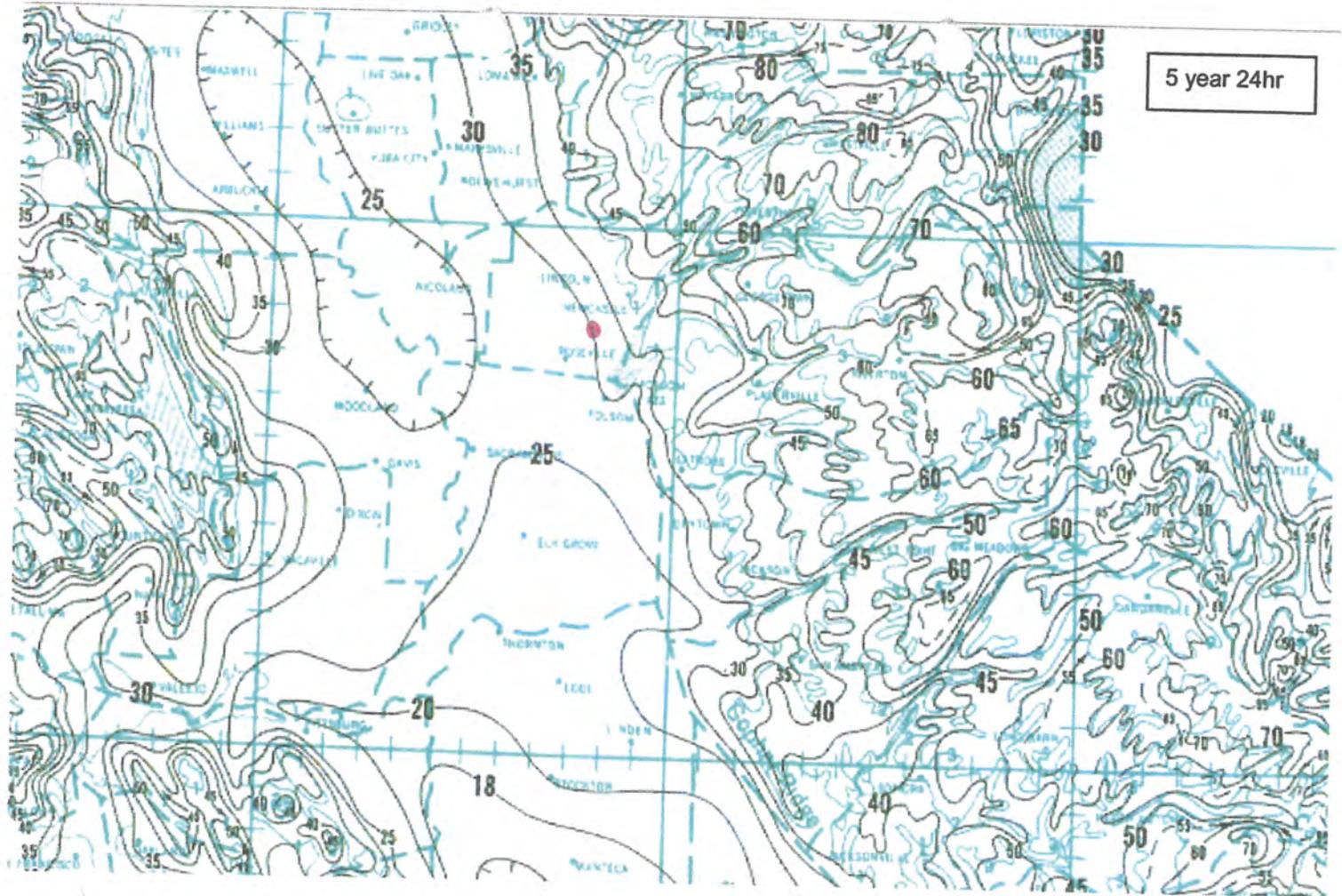
Duration	2yr	5yr	10yr	25yr	50yr	100yr	200yr	500yr
5m	0.13	0.20	0.25	0.32	0.38	0.44	0.49	0.58
10m	0.19	0.29	0.36	0.46	0.54	0.62	0.70	0.82
15m	0.23	0.35	0.43	0.55	0.64	0.73	0.82	0.96
30m	0.32	0.47	0.57	0.72	0.83	0.94	1.04	1.22
1h	0.45	0.64	0.77	0.94	1.07	1.21	1.33	1.53
2h	0.64	0.88	1.04	1.26	1.42	1.59	1.76	2.00
3h	0.77	1.04	1.23	1.47	1.66	1.85	2.03	2.31
6h	1.06	1.40	1.65	1.95	2.22	2.23	2.75	3.10
12h	1.43	1.91	2.24	2.67	3.00	3.30	3.60	4.00
1d	1.90	2.50	2.98	3.46	3.85	4.25	4.60	5.20
2d	2.51	3.40	3.95	4.65	5.15	5.70	6.20	7.00
3d	3.00	4.07	4.65	5.50	6.20	6.80	7.50	8.40
5d	3.61	4.91	5.76	6.85	7.63	8.42	9.20	10.29
10d	4.73	6.44	7.54	8.96	9.97	11.01	11.95	13.45

total for 3day period  
 per rain gauge measurement  
 beginning Nov 30 and  
 ending Dec 2nd

total for rain event  
 per rain gauge measurements  
 beginning Nov 28 and ending  
 Dec 2nd

Change in depth, inches per 1000 feet

Duration	2yr	5yr	10yr	25yr	50yr	100yr	200yr	500yr
5m	0.007	0.000	-0.003	-0.007	-0.017	-0.023	-0.027	-0.037
10m	0.007	0.003	0.000	-0.010	-0.020	-0.027	-0.037	-0.050
15m	0.017	0.013	0.013	0.003	0.000	-0.007	-0.013	-0.027
30m	0.030	0.040	0.040	0.040	0.040	0.040	0.040	0.030
1h	0.063	0.087	0.100	0.120	0.133	0.137	0.157	0.173
2h	0.107	0.157	0.193	0.230	0.260	0.287	0.313	0.350
3h	0.143	0.220	0.263	0.327	0.373	0.413	0.457	0.513
6h	0.230	0.357	0.433	0.540	0.593	0.733	0.757	0.850
12h	0.453	0.663	0.820	0.977	1.127	1.250	1.400	1.600
1d	0.700	1.037	1.240	1.547	1.783	1.983	2.200	2.500
2d	1.163	1.667	2.017	2.483	2.850	3.167	3.533	4.000
3d	1.647	2.343	2.850	3.500	3.933	4.383	4.833	5.533
5d	2.287	3.230	3.913	4.717	5.390	5.960	6.600	7.570
10d	3.490	4.920	5.987	7.180	8.177	8.997	10.350	11.683





# DAILY SUPERINTENDENT REPORT

Job Name: Rocklin Crossing

Job #: 992

General Info				Report # <u>94</u>	
Superintendents	Dan Leitheiser			Date	Monday, November 26, 2012
Project Manager	Andy Van Vedhuizen			Project Start Date	Monday, July 30, 2012
Operations Mgr.	Bob Aroyan	Highs	58	Total cal days onsite	119
Weather	Clear	Lows	41	Weather Delays	8

Signature \_\_\_\_\_

SDD Workforce Info

Management				Carpenters:			Laborers		Finishers:			Temps:		Others:	Total
Sup	Fore	Eng	PM	Fore	Jrny	App	Fore	Lab	Fore	Jrny	Lab	Jrny	Lab		
2				1								1			4

Crews worked	
From	7:00 AM
To	3:30 PM

Description of work
---------------------

Concrete Log Summary		
CY cont ftgs	CY today	0
CY pad ftgs	CY Previous	
Plaza		
CY Slabs		
CY Piers		
CY Sidewalk	CY To date	0

Subcontractor Workforce Info

Subcontractor	# men	Hours	Description of Work
DeSilva	2	8	1-grade setter, 1- water pull
RWC			
W e Kuhl			
F on	5	8	Sewer between pad G & 15
NCB	8	8	5-drills 8hrs WM parking
Moore Twining	1	8	WM masonry screen wall
Porter	5	8	Screen wall footing- install rebar, set up templets
Wilkie Masonry	5	8	Screen wall masonry , grout wall, install cap
Jeff Guerrero (City)			
Total	26	48	

**JOB DIARY: Includes Progress Delays, Disputes, SDD Work, Changes, Inspections, Conversations, Etc.**

--	--

Conversation log

Time	Description of Phone Conversations

PERFECT VISITORS _____
EQUIPMENT/MATERIALS RECEIVED _____
RENTAL EQUIPMENT ON/OFF RENT _____
DAILY SAFETY WALK NOTES <u>Hardhats / vest- OK, Wilkie Masonry rebar caps were removed to lay block and not reinstalled as needed</u>

A-H: F-5



# DAILY SUPERINTENDENT REPORT

Job Name: Rocklin Crossing

Job #: 992

General Info				Report # <b>95</b>	
Superintendents	Dan Leitheiser			Date	Tuesday, November 27, 2012
Project Manager	Andy Van Vedhuizen			Project Start Date	Monday, July 30, 2012
Operations Mgr.	Bob Aroyan	Highs	58	Total cal days onsite	<b>120</b>
Weather	Cloudy	Lows	46	Weather Delays	9

Signature \_\_\_\_\_

SDD Workforce Info

Management				Carpenters			Laborers		Finishers			Temps		Others	Total
Sup	Fore	Eng	PM	Fore	Jrny	App	Fore	Lab	Fore	Jrny	Lab	Jrny	Lab		
2				1								1			4

Crews worked	
From	7:00 AM
To	3:30pm

Description of work

Concrete Log Summary		
CY cont fgs	CY today	0
CY pad fgs	CY Previous	
Plaza		
CY Slabs		
CY Piers		
CY Sidewalk	CY To date	0

Subcontractor Workforce Info

Subcontractor	# men	Hours	Description of Work
Wilkie Masonry	5	8	Screen Wall masonry- install cap, lay block
DeSilva	3	8	Move equipment off WM pad, misc grading Secret Ravine, stock pile dirt for Geo wall - secure dikes a
R'	5	9.5	Complete Geo Wall Dominguez Loop - before rain coming
N	9	7	No drilling today due to rain forecast, Blast rock WM parking area by pad 3
Preston	4	8	Sewer line between G & 15
Walace Kuhl	1	8	Geo Wall Dominguez Loop, backfill sewer lines
Moore Twining	1	8	WM -masonry wall
Jeff Guerrero (City)			
Porter Concrete	5	8	Screen Wall Footing- pour concrete from sta 15+50 - 17+90
TSM	2	4	SWPPP's install for rain event - BMP's look good
<b>Total</b>	<b>35</b>	<b>68.5</b>	

**JOB DIARY: Includes Progress Delays, Disputes, SDD Work, Changes, Inspections, Conversations, Etc.**

Work on tire wash -replaced sensor, make misc adjustments, chem pump not working they will need to install by hand until pump can be fixed. Mike Whitney (Moby Dick). Shane (ATS)

Time	Description of Phone Conversations

PROJECT VISITORS <u>Andy V.</u>
EQUIPMENT/MATERIALS RECEIVED _____
RENTAL EQUIPMENT ON/OFF RENT _____
DAILY SAFETY WALK NOTES <u>Wilkie - installed missing rebar caps as needed</u>



# DAILY SUPERINTENDENT REPORT

Job Name: Rocklin Crossing

Job #: 992

General Info				Report # <u>96</u>	
Superintendents		Dan Leitheiser		Date	
Project Manager		Andy Van Vedhuizen		Wednesday, November 28, 2012	
Operations Mgr.		Bob Aroyan		Project Start Date	
Weather		Rain- started 8:00am Heavy Rain		Monday, July 30, 2012	
		Highs		Total cal days onsite	
		61		121	
		Lows		Weather Delays	
		45		10	

Signature \_\_\_\_\_

SDD Workforce Info

Management				Carpenters:			Laborers		Finishers:			Temps:		Others:	Total
Sup	Fore	Eng	PM	Fore	Jrny	App	Fore	Lab	Fore	Jrny	Lab	Jrny	Lab		
2				1								1			4

Crews worked	
From	7:00am
To	3:30pm

**Description of work**  
 Preston- misc pickup work, do not want to open anything up due to major rain coming

Concrete Log Summary		
CY cont fgs	CY today	0
CY pad fgs	CY Previous	
Plaza		
CY Slabs		
CY Piers		
CY Sidewalk	CY To date	0

Subcontractor Workforce Info

Subcontractor	# men	Hours	Description of Work
TSM			
DeSilva			
	4	8	Storm drain behind WM- misc pickup work
Wallace Kuhl			
NCB			
Jeff Guerrero (City)			
RWC			
Total	4	8	

**JOB DIARY: Includes Progress Delays, Disputes, SDD Work, Changes, Inspections, Conversations, Etc.**

Talked to Jason (preston) to check on availability of pipe plugs if needed to block off DI's 48 - 60" plugs      Owner onsite meeting -see minutes

Conversation log

Time	Description of Phone Conversations

ST VISITORS Andy V., BA  
 EQUIPMENT/MATERIALS RECEIVED \_\_\_\_\_  
 RENTAL EQUIPMENT ON/OFF RENT \_\_\_\_\_  
 DAILY SAFETY WALK NOTES \_\_\_\_\_



# DAILY SUPERINTENDENT REPORT

Job Name: Rocklin Crossing

Job #: 992

General Info				Report # <u>97</u>	
Superintendents		Dan Leitheiser		Date	
Project Manager		Andy Van Vedhuizen		Thursday, November 29, 2012	
Operations Mgr.		Bob Aroyan		Project Start Date	
Weather		Cloudy / Rain		Monday, July 30, 2012	
		Highs		58	
		Lows		42	
				Total cal days onsite	
				122	
				Weather Delays	
				11	

Signature \_\_\_\_\_

SDD Workforce Info

Management				Carpenters:			Laborers		Finishers:			Temps:		Others:	Total
Sup	Fore	Eng	PM	Fore	Jrny	App	Fore	Lab	Fore	Jrny	Lab	Jrny	Lab		
2				1											3

Crews worked	
From	7:00am
To	3:30pm

**Description of work**  
 Preston plugged off storm drain pipes that may cause possible discharge - 1-60", 2-36". SDD - Brian and Mark check and install SWPPP's as needed- BMP's OK

Concrete Log Summary		
CY cont fgs	CY today	0
CY pad fgs	CY Previous	
Plaza		
CY Slabs		
CY Piers		
CY Sidewalk	CY To date	0

Subcontractor Workforce Info

Subcontractor	# men	Hours	Description of Work
DeSilva			
Walace Kuhl			
Porter			
Walace Kuhl			
NCB			
Moore Twining			
RWC			
Jeff Guerrero (City)			
Wilkie Masonry	5	8	Relocate Scaffolding
<b>Total</b>	<b>7</b>	<b>14</b>	

**JOB DIARY: Includes Progress Delays, Disputes, SDD Work, Changes, Inspections, Conversations, Etc.**

Rain total from 8:00am yesterday to 7:00am this morning 3/4" No one working onsite due to possible heavy rains. SDD- 1. Pumped water to temp basin from Dominguez Loop to allow for more possible rain. 2. Mulch & rock added to slops as needed. 3. Spray Earth Guard on Secret ravine / Dominguez Loop.

Juan and I rolled up carpet

Time	Description of Phone Conversations

VISITORS \_\_\_\_\_  
 EQUIPMENT/MATERIALS RECEIVED \_\_\_\_\_  
 RENTAL EQUIPMENT ON/OFF RENT \_\_\_\_\_  
 DAILY SAFETY WALK NOTES \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_



# DAILY SUPERINTENDENT REPORT

Job Name: Rocklin Crossing

Job #: 992

General Info				Report # <b>98</b>	
Superintendents		Dan Leitheiser		Date	
Project Manager		Andy Van Vedhuizen		Friday, November 30, 2012	
Operations Mgr.		Bob Aroyan		Project Start Date	
Weather		Heavy Rain started last night		Monday, July 30, 2012	
		Highs 63		Total cal days onsite <b>123</b>	
		Lows 56		Weather Delays <b>12</b>	

Signature \_\_\_\_\_

SDD Workforce Info

Management		Carpenters:			Laborers		Finishers:			Temps:		Others:		Total		Crews worked	
Sup	Fore	Eng	PM	Fore	Jrny	App	Fore	Lab	Fore	Jrny	Lab	Jrny	Lab				From 7:00am
2					3										5		To 3:30pm

**Description of work**  
 No work onsite today. SWPPP,s & BMP's, BMP's maintance, De water to temp basin

Concrete Log Summary	
CY cont ftgs	CY today <b>0</b>
CY pad ftgs	CY Previous
Plaza	
CY Slabs	
CY Piers	
CY Sidewalk	CY To date <b>0</b>

Subcontractor Workforce Info

Subcontractor	# men	Hours	Description of Work
TSD			
DeSilva Gates			
W... Masonry			
Walace Kuhl			
Preston	1	1	Scott checked plugs in piping - (all are holding)
NCB			
Moore Twining			
Porter			
TSM			
Jeff Guerrero (City)			
Total	1		

11/30/12  
DAILY

**Dominguez Loop.**

SDD - maintain SWPPP's 5:30am walked site to review potential SWPPP's problems- At Detention Basin 36" plug was leaking causing some release of water at out flow. Repaired leak. Around 7:45am dike behind job trailer was overflowing causing dike to leak, water ran across Schriber way down to holding basin at Dominguez Loop. Approx 8:30am to much water flowing into Dominguez Loop hoding area started overflowing onto Sneccaci property, dike broke releasing water in holding area 8:35am. Water flowed along bottom of Geo Wall causing undermining of wall. I called Barney (DSG)to see if he could send someone to repair dike ASAP. Ernie (DSG)onsite around 11:00am, with D-8 dozer started building burms throughout site to help retain water, repaired dike at Dominguez Loop. Marty (Water Quality Board) onsite 9:45am Dave (TSM) onsite 10:00am Dave & Marty walked site. Dave took water samples at discharge areas.

Conversation log

Time	Description of Phone Conversations
9:30	called Barney need Ernie here to help rebuild burms at Secret Ravine.
9:40	Barney called back Ernie is on his way

PROJECT VISITORS BA  
 EQUIPMENT/MATERIALS RECEIVED \_\_\_\_\_  
 RENTAL EQUIPMENT ON/OFF RENT \_\_\_\_\_  
 DAILY SAFETY WALK NOTES \_\_\_\_\_







December 3, 2012 Rocklin Crossings\_MG\_1535

Att: F-6<sup>138</sup>



December 3, 2012 Center @ Secret Ravine  
\_MG\_1552



December 3, 2012  
Rocklin Crossings and Rocklin Commons  
\_MG\_1556

Att: F-7



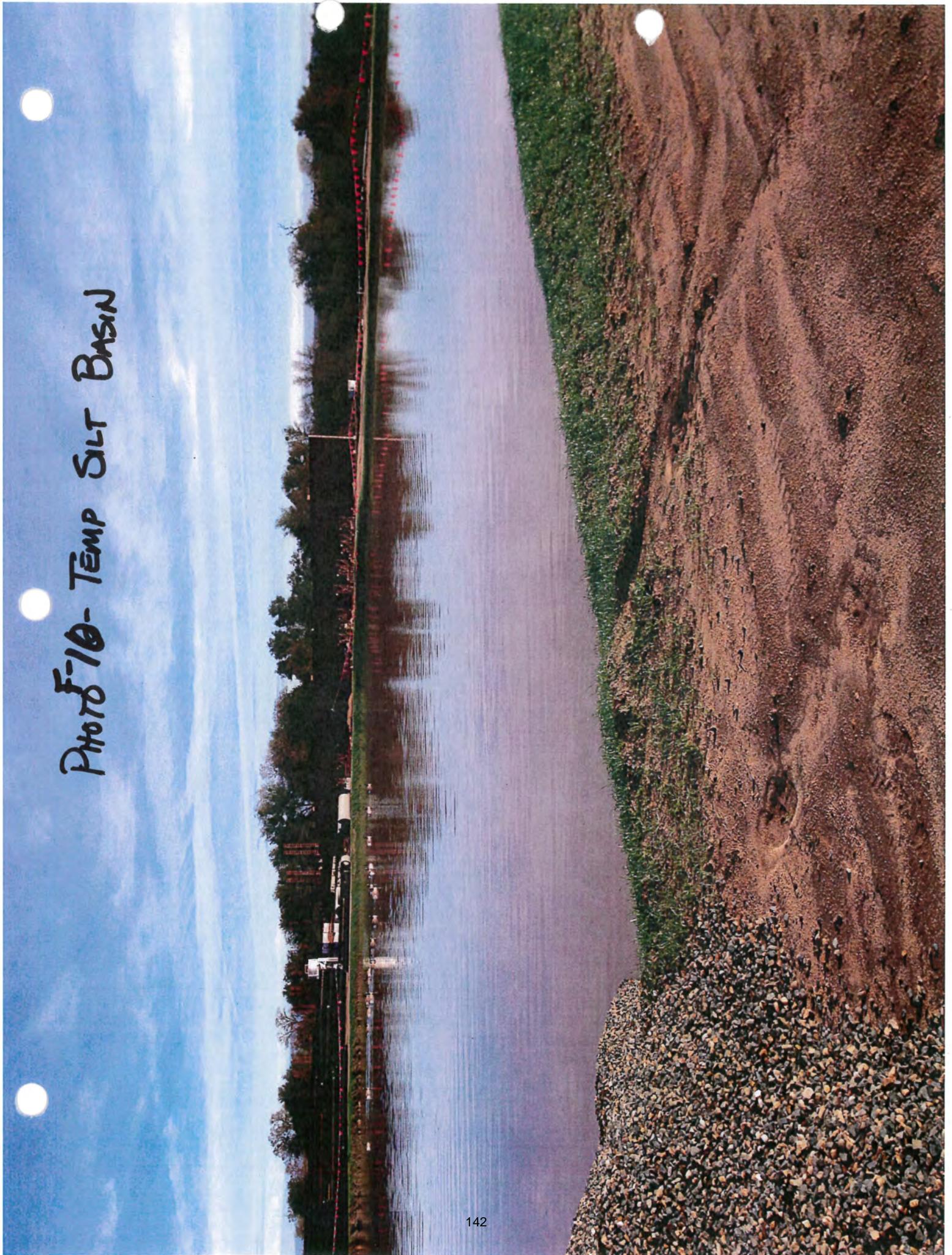
11/30/2012

Photo F-8 Dozer reworking DL berm



PHOTO F-9 - RETAINED WATER  
IN - DETENTION BASIN

PHOTO F-10- TEMP SILT BASIN





12-4-12

TAB G

Emailed Marty Hartzell the attached colored site map noting BMP measures placed and dates associated with application of measures.

- Additional earth berms in new detention basin
- GorillaSnot\* applied to new earthen berms in detention basin
- Additional pipe plugs in culvert and manhole at detention basin outfall to retain water on site
- Regrade and stabilize slope that was failing
- Show location of proposed water treatment system on Schriber Way
- Additional earthen berms south of Temp Silt Basin to slow water flow from site
- Added Earthguard\* soil stabilizer and visqueen to berms on Center @ Secret Ravine
- Show locations of added earthen berms in low lying choke points

**Not noted in the colored plan map or emails:**

- December 4<sup>th</sup> - SD Deacon consulted with Scott Thorne of Scott Thorne Environmental Consulting Services.
- December 5<sup>th</sup> SD Deacon negotiated with Total Site Maintenance to supplement TSM QSP with Scott Thorne Environmental Consulting Services to provide advice, an additional set of eyes and expertise. Scott Thorne's involvement includes but is not strictly limited to:
  - Meetings with Regional Water Board representatives
  - Weekly Site walks with TSM
  - General consulting advice regarding the site conditions and what ought to be done
  - General meetings with SDD construction staff
  - Observations of site BMP performance
  - Weekly summary

December 6<sup>th</sup> SD Deacon is contacted by owner of Rocklin Crossings that the Water Board has requested a meeting with all parties at their offices in Rancho Cordova on December 12<sup>th</sup>

Photo G-1 through G-3 - new basin "B" built in detention basin to contain 6.2M gallons of storm water

Photo G-4 - ATS system mobilizing 12-10-12

Photo G-5 pump system and rebuilt berm with plastic cover

## Andy Van Veldhuizen

---

**From:** Andy Van Veldhuizen  
**Sent:** Tuesday, December 04, 2012 4:00 PM  
**To:** MHartzell@waterboards.ca.gov  
**Cc:** Bob Aroyan; 'JPetersen@dsrg.com'; J.Vanderpost@rsc-engr.com; 'Dave'; Brian Hansen; Dan Leitheiser; Jeff Guerrero; Alan Douglas; Andy Van Veldhuizen  
**Subject:** RE: Rocklin Crossings SWPPP compliance  
**Attachments:** Rocklin Crossings SWPPP Plan 12-4-12.pdf.pdf; photo.JPG.JPG

Hello Marty,

We have been working at recovering from this past weekend's storms that created significant problems for the site.

The area that had the containment failure on Friday has a new larger earthen dike put in place (see attached photo). We are applying an Earthguard Soil Emulsion product on the slopes of the area and around this dike to minimize further erosion.

We also have a plan in place to provide additional dikes and water storage capacity around and near the temporary silt basin. Unfortunately due to the constrained weather window we are in we will not have these new storage locations in place until later this week. After these new dikes are installed we will be applying Gorilla-Snot Soil Stabilizer in these newly graded areas. Additionally we are proposing to the owner a filtration system to treat the stored water on site, we anticipate getting this system in place and operational by mid next week.

An updated map is attached.

As always should you have any questions please do not hesitate to call myself or our QSP Dave Clayson (916) 826-0154

---

### Andy Van Veldhuizen

Senior Project Manager

T: 916.969.0900 | F: 916.960.1134

S.D. Deacon Corp. of California | J.R. Roberts/Deacon, Inc.



Please consider the environment before printing this email. Thank you

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**From:** Andy Van Veldhuizen  
**Sent:** Monday, November 26, 2012 4:06 PM  
**To:** MHartzell@waterboards.ca.gov  
**Cc:** Bob Aroyan; 'JPetersen@dsrg.com'; J.Vanderpost@rsc-engr.com; 'Dave'; Brian Hansen; Dan Leitheiser; Jeff Guerrero; Alan Douglas; Andy Van Veldhuizen  
**Subject:** RE: Rocklin Crossings SWPPP compliance

Hello Marty,

I hope you had a great Thanksgiving holiday!

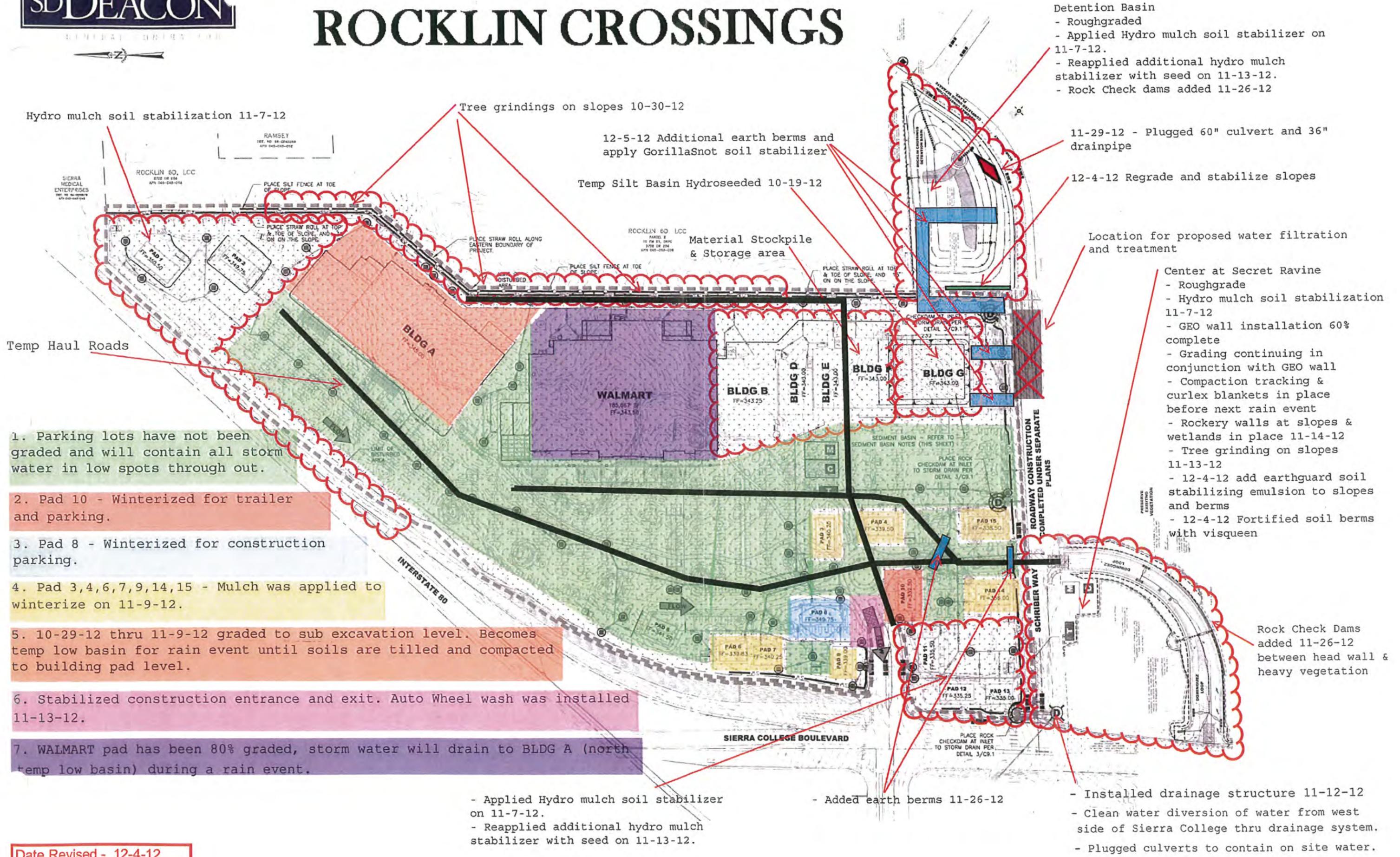
Due to the last few series of storms we have not made a whole lot of headway in furthering grading operations. What we have been doing is added more BMP's at our two most sensitive and vulnerable areas.

Rock check dams are being added in the Detention Basin and beyond the outfall of the Center @ Secret Ravine.

An updated map is attached.

As always should you have any questions please do not hesitate to call myself or our QSP Dave Clayson (916) 826-0154

# ROCKLIN CROSSINGS



Detention Basin  
 - Roughgraded  
 - Applied Hydro mulch soil stabilizer on 11-7-12.  
 - Reapplied additional hydro mulch stabilizer with seed on 11-13-12.  
 - Rock Check dams added 11-26-12

11-29-12 - Plugged 60" culvert and 36" drainpipe

12-4-12 Regrade and stabilize slopes

Location for proposed water filtration and treatment

Center at Secret Ravine  
 - Roughgrade  
 - Hydro mulch soil stabilization 11-7-12  
 - GEO wall installation 60% complete  
 - Grading continuing in conjunction with GEO wall  
 - Compaction tracking & curlex blankets in place before next rain event  
 - Rockery walls at slopes & wetlands in place 11-14-12  
 - Tree grinding on slopes 11-13-12  
 - 12-4-12 add earthguard soil stabilizing emulsion to slopes and berms  
 - 12-4-12 Fortified soil berms with visqueen

Rock Check Dams added 11-26-12 between head wall & heavy vegetation

- Installed drainage structure 11-12-12  
 - Clean water diversion of water from west side of Sierra College thru drainage system.  
 - Plugged culverts to contain on site water.

Hydro mulch soil stabilization 11-7-12

Tree grindings on slopes 10-30-12

12-5-12 Additional earth berms and apply GorillaSnot soil stabilizer

Temp Silt Basin Hydroseeded 10-19-12

Material Stockpile & Storage area

Temp Haul Roads

1. Parking lots have not been graded and will contain all storm water in low spots through out.

2. Pad 10 - Winterized for trailer and parking.

3. Pad 8 - Winterized for construction parking.

4. Pad 3,4,6,7,9,14,15 - Mulch was applied to winterize on 11-9-12.

5. 10-29-12 thru 11-9-12 graded to sub excavation level. Becomes temp low basin for rain event until soils are tilled and compacted to building pad level.

6. Stabilized construction entrance and exit. Auto Wheel wash was installed 11-13-12.

7. WARMART pad has been 80% graded, storm water will drain to BLDG A (north temp low basin) during a rain event.

- Applied Hydro mulch soil stabilizer on 11-7-12.  
 - Reapplied additional hydro mulch stabilizer with seed on 11-13-12.

- Added earth berms 11-26-12

**Date Revised - 12-4-12**

## Andy Van Veldhuizen

---

**From:** Jan Petersen [JPetersen@dsrg.com]  
**Sent:** Thursday, December 06, 2012 5:39 PM  
**To:** Bob Aroyan; Andy Van Veldhuizen; Doug Roberts; Matt Defazio; Rick Chavez; Jim Vanderpost  
**Subject:** Fw:Rocklin Crossing and Rocklin Commons Construction sites

Heres the official notice. Please make sure all the appropriate team members attend. Thanks.

Hartzell, Marty@Waterboards --- Rocklin Crossing and Rocklin Commons Construction sites ---

From: "Hartzell, Marty@Waterboards" <Marty.Hartzell@waterboards.ca.gov>  
To: [jpetersen@dsrg.com](mailto:jpetersen@dsrg.com)  
Cc: "Rosenbaum, Steve@Waterboards" <Steve.Rosenbaum@waterboards.ca.gov>, "Wyels, Wendy@Waterboards" <Wendy.Wyels@waterboards.ca.gov>  
Date: Thu, Dec 6, 2012 3:47 PM  
Subject: Rocklin Crossing and Rocklin Commons Construction sites

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Hello Janet,

Following the large discharges of sediment laden water off the subject construction sites on 30 November through 2 December, Water Board staff request a meeting with you to discuss site stabilization, storm water treatment, and compliance with the Construction General Permit.

Water Board staff are available on **Wednesday December 12 from 11:30 to 1:00** at our Rancho Cordova Office -see address below.

Compliance and Enforcement Supervisor Wendy Wyels, Storm Water Compliance and Enforcement Unit Chief Steve Rosenbaum, and I will attend. Water Board staff counsel may also sit in on the meeting.

Please invite appropriate contractors and consultants to relate how the Rocklin Crossing and Rocklin Commons construction sites will come back into compliance with the Construction General Permit.

Thank you.

Marty Hartzell  
Engineering Geologist  
Central Valley Regional Water Quality Control Board

11020 Sun Center Drive, Suite 200  
Rancho Cordova, CA 95670-6114  
Office: 916-464-4630  
e-mail: [mhartzell@waterboards.ca.gov](mailto:mhartzell@waterboards.ca.gov)  
website: [www.waterboards.ca.gov/centralvalley](http://www.waterboards.ca.gov/centralvalley)

Photo 1 - New Basin



PHOTO 2 - NEW BASIN

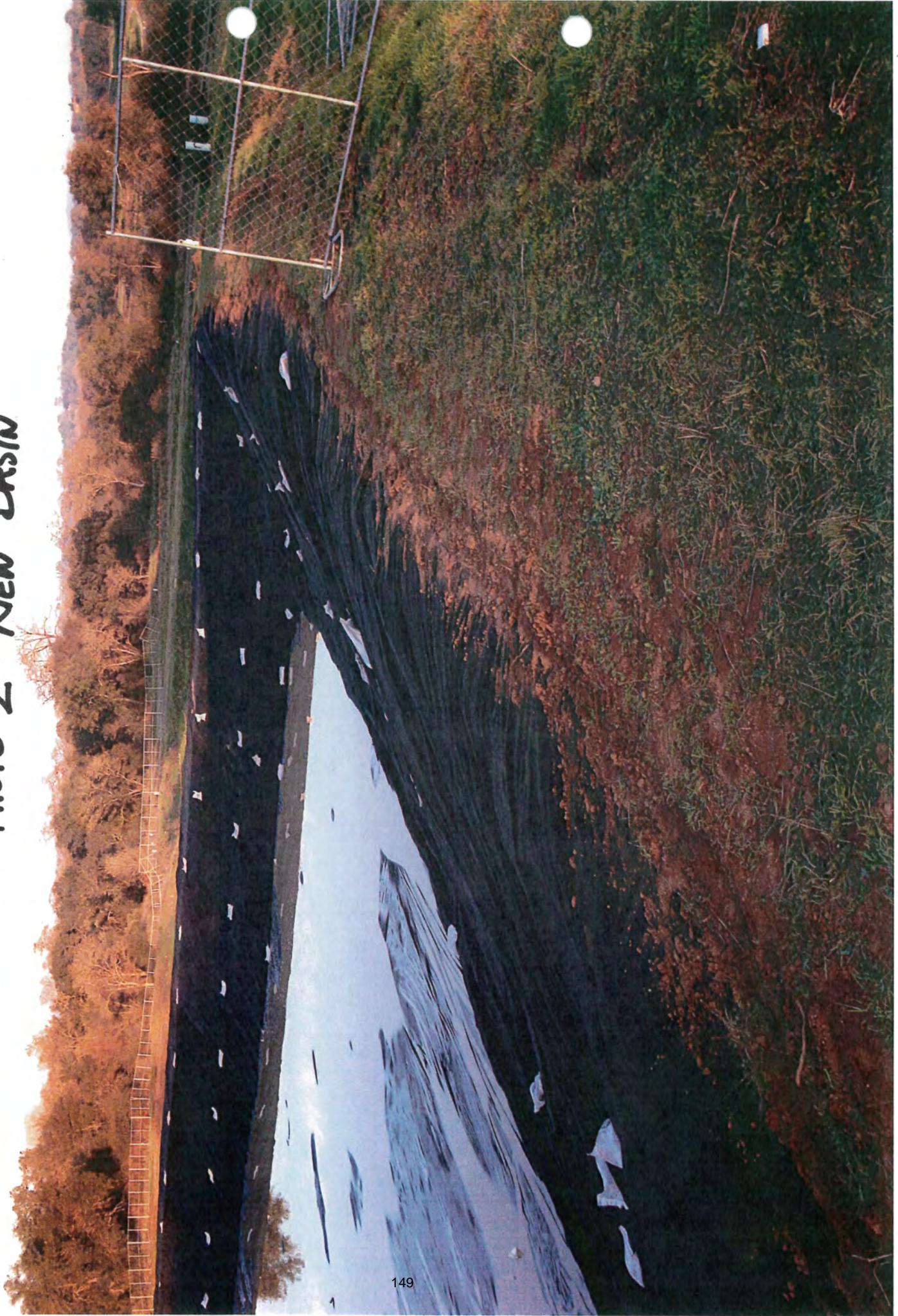


PHOTO 6-3- NEW BASIN

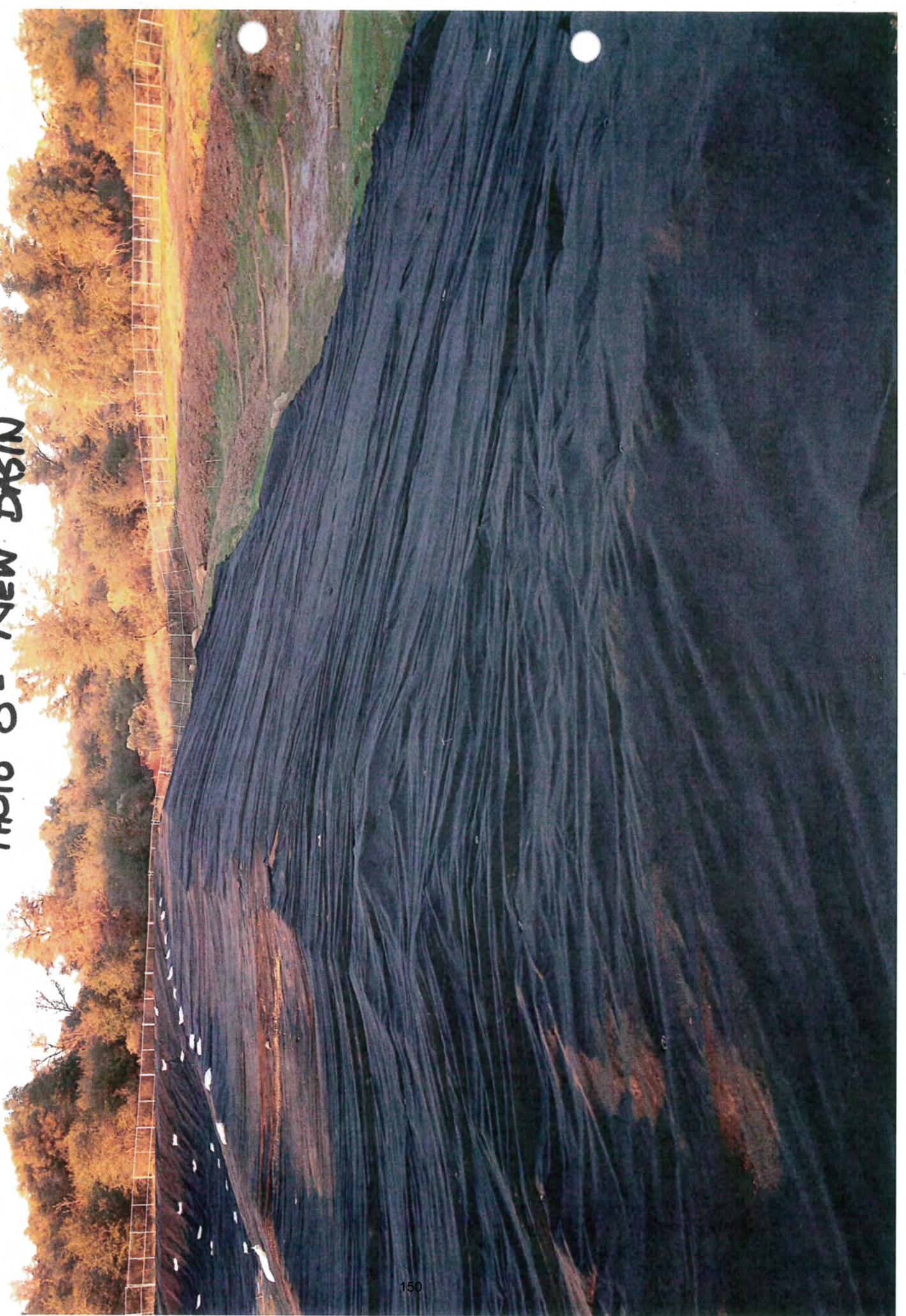


PHOTO 4- ATS MOBILIZING



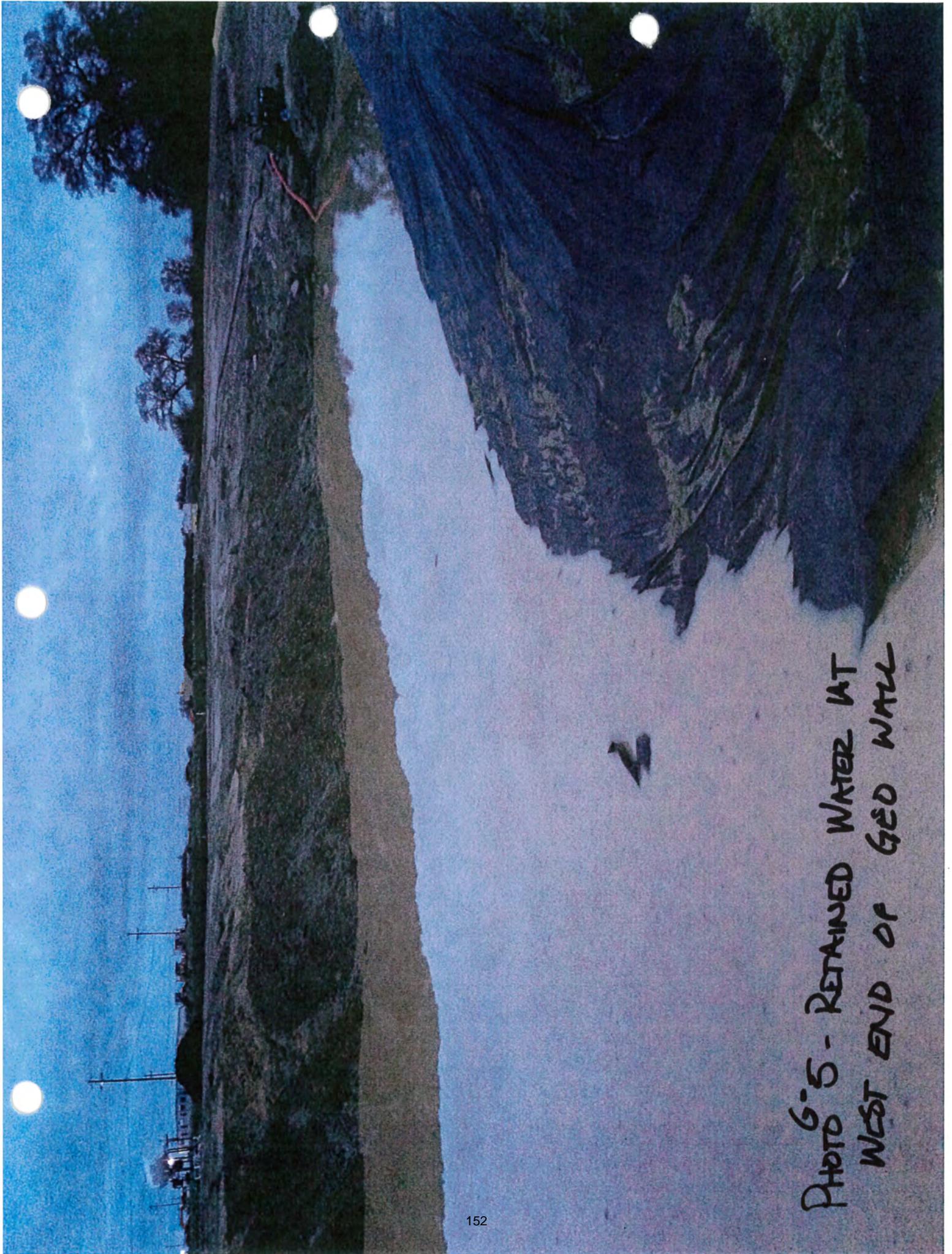


PHOTO 6-5 - RETAINED WATER AT  
WEST END OF GEO WALL



12-7-12

TAB H

Emailed Marty Hartzell the attached colored site map noting BMP measures placed and dates associated with application of measures.

- Completely lined with 4 oz fabric new temp basin and labeled as Basin B
- Further delineated basin B
- Show location of earthen berm built at west end of Dominguez Loop
- Show location of excavation that will retain water at west end of Dominguez Loop
- Show location of earthen berm between pads 3 and 8 built 11-26-12

Not noted in the colored plan map or emails:

Photo H-1 Sides of original temp silt basin (labeled Basin A) lined with 4oz fabric

## Andy Van Veldhuizen

---

**From:** Andy Van Veldhuizen  
**Sent:** Friday, December 07, 2012 5:05 PM  
**To:** MHartzell@waterboards.ca.gov  
**Cc:** Bob Aroyan; 'JPetersen@dsrg.com'; J.Vanderpost@rsc-engr.com; 'Dave'; Brian Hansen; Dan Leitheiser; Jeff Guerrero; Alan Douglas; Andy Van Veldhuizen; 'scott@thorneonyourside.com'  
**Subject:** RE: Rocklin Crossings SWPPP compliance  
**Attachments:** Rocklin Crossings SWPPP Plan 12-7-12.pdf.pdf

Hello Marty,

Some minor changes to the plans we sent earlier this week, the area labeled Basin B is now built and we will be lining the basin bottom and sides with a 4oz nonwoven fabric in lieu of the noted Gorilla Snot product on Monday the 10<sup>th</sup>, we feel that the fabric will better protect the area from erosion as the basin is filled and drained.

ATS Environmental Inc has been contracted to provide water filtration and treatment services and will begin mobilizing on Monday the 10<sup>th</sup> with an expected ready for operations date of the 14<sup>th</sup> pending ATS plan approval by SWRCB.

The active treatment system will utilize both temporary silt basins (Basin A and Basin B) as settling ponds. We anticipate using organic polymers such as chitosan acetate for the initial settling of the suspended materials to reduce the turbidity to better facilitate filtration and treatment. The two basins will alternate as a reception area for storm water collection and a settling basin from which to draw and treat water before discharging back into the environment.

ATS Environmental has been retained to prepare an ATS plan that is SMARTS ready to be reviewed by the QSD and subsequently submitted to the Board for approval and to set up and operate the treatment system.

We look forward to meeting with you and your team on Wednesday to discuss the processes and how we can better prepare the site for upcoming storms.

---

### Andy Van Veldhuizen

Senior Project Manager

T: 916.969.0900 | F: 916.960.1134

S.D. Deacon Corp. of California | J.R. Roberts/Deacon, Inc.



Please consider the environment before printing this email. Thank you

---

**From:** Andy Van Veldhuizen  
**Sent:** Tuesday, December 04, 2012 4:00 PM  
**To:** MHartzell@waterboards.ca.gov  
**Cc:** Bob Aroyan; 'JPetersen@dsrg.com'; J.Vanderpost@rsc-engr.com; 'Dave'; Brian Hansen; Dan Leitheiser; Jeff Guerrero; Alan Douglas; Andy Van Veldhuizen  
**Subject:** RE: Rocklin Crossings SWPPP compliance

Hello Marty,

We have been working at recovering from this past weekend's storms that created significant problems for the site.

The area that had the containment failure on Friday has a new larger earthen dike put in place (see attached photo). We are applying an Earthguard Soil Emulsion product on the slopes of the area and around this dike to minimize further erosion.

We also have a plan in place to provide additional dikes and water storage capacity around and near the temporary silt basin. Unfortunately due to the constrained weather window we are in we will not have these new storage locations in place until later this week. After these new dikes are installed we will be applying Gorilla-Snot Soil Stabilizer in these

# ROCKLIN CROSSINGS

Tree grindings on slopes 10-30-12

Hydro mulch soil stabilization 11-7-12

12-5-12 Additional earth berms and apply GorillaSpot soil stabilizer  
12/10-12 Temp silt basin B lined with 4 oz. fabric

Temp Silt Basin A Hydroseeded 10-19-12

Material Stockpile & Storage area

11-29-12 - Plugge xisting 60" culvert and existing 36" mainpipe

Detention Basin  
- Roughgraded  
- Applied Hydro mulch soil stabilizer on 11-7-12.  
- Reapplied additional hydro mulch stabilizer with seed on 11-13-12.  
- Rock Check dams added 11-26-12

12-4-12 Regrade and stabilize slopes

Location for proposed water filtration and treatment  
Mobilize to site 12/10  
Operational & Ready for SWRCB approval 12/14

Center at Secret Ravine  
- Roughgrade  
- Hydro mulch soil stabilization 11-7-12  
- GEO wall installation 60% complete  
- Grading continuing in conjunction with GEO wall  
- Compaction tracking & curlex blankets in place before next rain event  
- Rockery walls at slopes & wetlands in place 11-14-12  
- Tree grinding on slopes 11-13-12  
- 12-4-12 add earthguard soil stabilizing emulsion to slopes and berms  
- 12-4-12 Fortified soil berms with visqueen

12-4 applied earth guard to all exposed area

Rock Check Dams added 11-26-12 between head wall & heavy vegetation

Excavation providing for additional water collection

Earth Berm

- Installed drainage structure 11-12-12  
- Clean water diversion of water from west side of Sierra College thru drainage system.  
- Plugged culverts to contain on site water.

- Applied Hydro mulch soil stabilizer on 11-7-12.  
- Reapplied additional hydro mulch stabilizer with seed on 11-13-12.

- Added earth berms 11-26-12

Temp Haul Roads

1. Parking lots have not been graded and will contain all storm water in low spots through out.

2. Pad 10 - Winterized for trailer and parking.

3. Pad 8 - Winterized for construction parking.

4. Pad 3,4,6,7,9,14,15 - Mulch was applied to winterize on 11-9-12.

5. 10-29-12 thru 11-9-12 graded to sub excavation level. Becomes temp low basin for rain event until soils are tilled and compacted to building pad level.

6. Stabilized construction entrance and exit. Auto Wheel wash was installed 11-13-12.

7. WALMART pad has been 80% graded, storm water will drain to BLDG A (north temp low basin) during a rain event.

Date Revised - 12-7-12

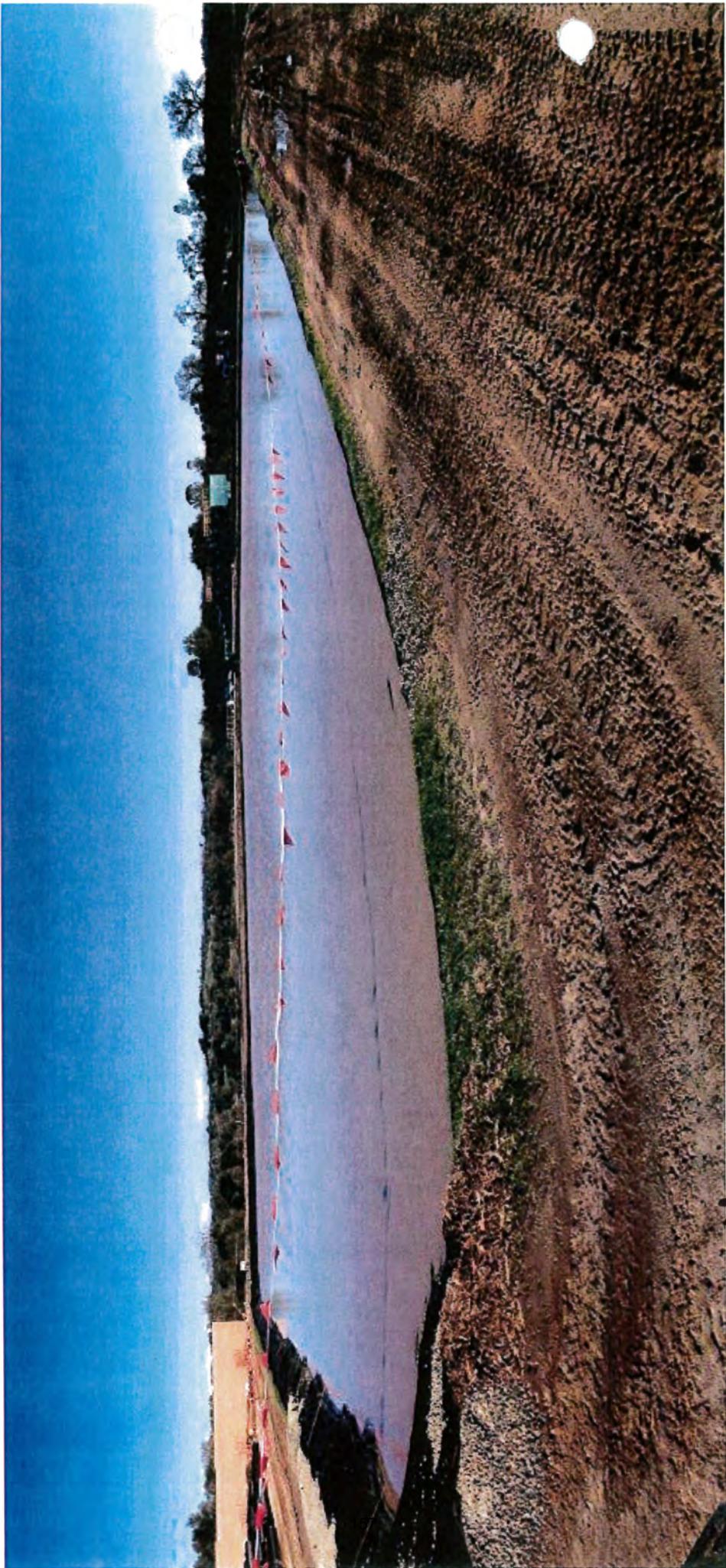


PHOTO #1 - SIDES OF ORIGINAL SILT BASIN  
LINED WITH 40% FABRIC



12-10-12

TAB I

Created phased grading plan and discussed with affected subcontractors, see attached site plan.

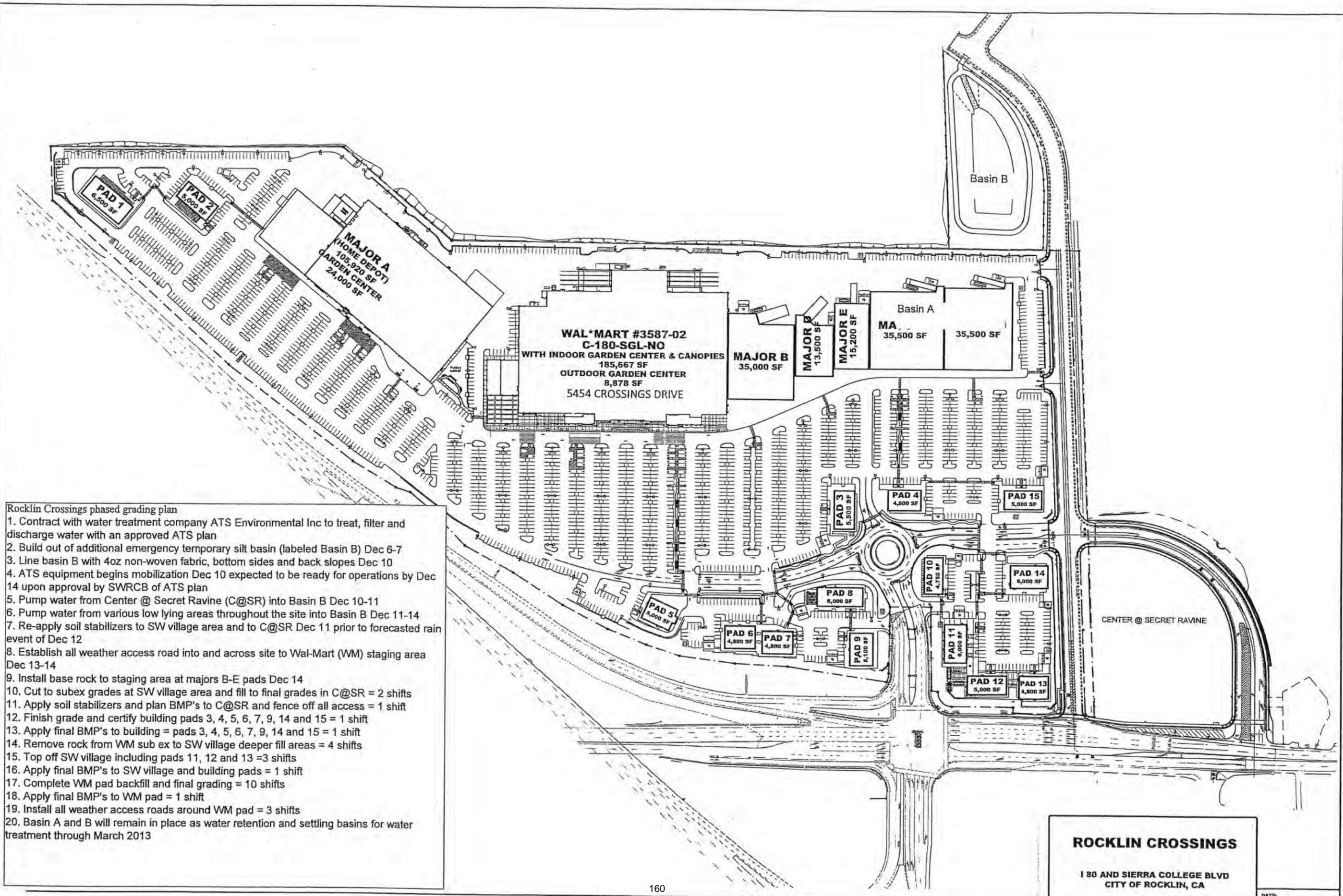
Phased grading plan to be implemented immediately with a goal of getting to site grades, suitable for proper soils stabilization for the duration of the winter.

Once critical and sensitive areas on site are graded and properly stabilized, grading operations will be reduced to portions critical to turnover of the Wal-Mart building pad on January 15, 2013. All other area will be graded in manageable portions that can also be stabilized prior to future rain events.

#### Rocklin Crossings phased grading plan

1. Contract with water treatment company ATS Environmental Inc to treat, filter and discharge water with an approved ATS plan
2. Build out of additional emergency temporary silt basin (labeled Basin B) Dec 6-7
3. Line basin B with 4oz non-woven fabric, bottom sides and back slopes Dec 10
4. ATS equipment begins mobilization Dec 10 expected to be ready for operations by Dec 14 upon approval by SWRCB of ATS plan
5. Pump water from Center @ Secret Ravine (C@SR) into Basin B Dec 10-11
6. Pump water from various low lying areas throughout the site into Basin B Dec 11-14
7. Re-apply soil stabilizers to SW village area and to C@SR Dec 11 prior to forecasted rain event of Dec 12
8. Establish all weather access road into and across site to Wal-Mart (WM) staging area Dec 13-14
9. Install base rock to staging area at majors B-E pads Dec 14
10. Cut to subex grades at SW village area and fill to final grades in C@SR = 2 shifts
11. Apply soil stabilizers and plan BMP's to C@SR and fence off all access = 1 shift
12. Remove existing BMPs and finish grade to be able to certify building pads 3, 4, 5, 6, 7, 9, 14 and 15 = 1 shift
13. Re-apply final BMP's to building pads 3, 4, 5, 6, 7, 9, 14 and 15 = 1 shift
14. Remove rock from WM sub ex to SW village deeper fill areas = 4 shifts
15. Top off SW village including pads 11, 12 and 13 =3 shifts
16. Apply final BMP's to SW village and building pads = 1 shift
17. Complete WM pad backfill and final grading = 10 shifts
18. Apply final BMP's to WM pad = 1 shift
19. Install all weather access roads around WM pad = 3 shifts
20. Basin A and B will remain in place as water retention and settling basins for water treatment through March 2013

Phased site grading plan reflects dates for completion before the next forecasted rain event, all other activities are noted as shift durations (one shift = one day). Activities designated as shift duration will only be started and completed within appropriate weather windows.



- Rocklin Crossings phased grading plan
1. Contract with water treatment company ATS Environmental Inc to treat, filter and discharge water with an approved ATS plan
  2. Build out of additional emergency temporary silt basin (labeled Basin B) Dec 6-7
  3. Line basin B with 4oz non-woven fabric, bottom sides and back slopes Dec 10
  4. ATS equipment begins mobilization Dec 10 expected to be ready for operations by Dec 14 upon approval by SWRCB of ATS plan
  5. Pump water from Center @ Secret Ravine (C@SR) into Basin B Dec 10-11
  6. Pump water from various low lying areas throughout the site into Basin B Dec 11-14
  7. Re-apply soil stabilizers to SW village area and to C@SR Dec 11 prior to forecasted rain event of Dec 12
  8. Establish all weather access road into and across site to Wal-Mart (WM) staging area Dec 13-14
  9. Install base rock to staging area at majors B-E pads Dec 14
  10. Cut to subex grades at SW village area and fill to final grades in C@SR = 2 shifts
  11. Apply soil stabilizers and plan BMP's to C@SR and fence off all access = 1 shift
  12. Finish grade and certify building pads 3, 4, 5, 6, 7, 9, 14 and 15 = 1 shift
  13. Apply final BMP's to building = pads 3, 4, 5, 6, 7, 9, 14 and 15 = 1 shift
  14. Remove rock from WM sub ex to SW village deeper fill areas = 4 shifts
  15. Top off SW village including pads 11, 12 and 13 = 3 shifts
  16. Apply final BMP's to SW village and building pads = 1 shift
  17. Complete WM pad backfill and final grading = 10 shifts
  18. Apply final BMP's to WM pad = 1 shift
  19. Install all weather access roads around WM pad = 3 shifts
  20. Basin A and B will remain in place as water retention and settling basins for water treatment through March 2013

**ROCKLIN CROSSINGS**  
 I 80 AND SIERRA COLLEGE BLVD  
 CITY OF ROCKLIN, CA



12-14-12

TAB J

Emailed Marty Hartzell the attached colored site map noting BMP measures placed and dates associated with application of measures:

- Remove designated haul roads and noted an added rock all weather road being constructed 12-13 and 12-14. This rock road will serve as access and also a rock check dam to slow the water flow during future storms across the site.
- Added is the base rock staging area next to the Wal-Mart pad that will be constructed as soon as the rock access road is complete and weather permits.
- Added notation to Temp silt Basin A where sides were lined with 4oz fabric on 12-7-12
- Added reapplication of Earthguard\* soil stabilizer to Center @ Secret Ravine on 12-11-12
- Added note to earthen berm at west end of Dominguez Loop to date construction of berm and protection of berm with visqueen on 12-1-12
- Added reapplication of Earthguard\* soil stabilizer to SW village (pads11-13 area) on 12-11-12
- Corrected spelling in item #5

Photo J-1 through J-4 new temp Basin B and ATS equipment being set up

## Andy Van Veldhuizen

---

**From:** Andy Van Veldhuizen  
**Sent:** Friday, December 14, 2012 2:27 PM  
**To:** 'Hartzell, Marty@Waterboards'  
**Cc:** Andy Van Veldhuizen; JPetersen@dsrg.com; James Vanderpost; Jeff Guerrero; Brian Hansen; Bob Aroyan; Dan Leitheiser; 'scott@thorneonyourside.com'; 'Dave Clayson'; Rick Chavez  
**Subject:** Rocklin Crossings SWPPP compliance weekly update 12-14-12  
**Attachments:** Site phased grading plan 12\_11\_12.pdf; Rocklin Crossings SWPPP Plan 12-13-12.pdf; Temp Basin B.jpg.pdf

Hello Marty,

Attached is this week's updated colored site map, updates from last week are:

1. Remove designated haul roads and noting an added rock all weather road being constructed 12-13 and 12-14. This rock road will serve as access and also a rock check dam to reduce the velocity of water across the site.
2. Added is the base rock staging area next to the Wal-Mart pad that will be constructed as soon as the rock access road is complete and weather permits.
3. Added notation to Temp silt Basin A where sides were lined with 4oz fabric on 12-7-12
4. Added reapplication of Earthguard\* soil stabilizer to Center @ Secret Ravine on 12-11-12
5. Added note to earthen berm at west end of Dominguez Loop to date reinforcement of berm and protection of berm with visqueen on 12-1-12
6. Added reapplication of Earthguard\* soil stabilizer to SW village (pads11-13 area) on 12-11-12
7. Corrected spelling in item #5

Our new temporary detention basin is complete and we are working at pumping water from the various low spots scattered throughout the site into this new basin.

The ATS system is nearly completed, there are only a few valves left to install that are expected to arrive on Monday and after installation a shakedown period of priming and testing will be performed.

We anticipate having the system ready for operations by mid-day Tuesday, Wednesday morning at the latest. I will call you on Monday after the last of the valves are installed and give you a better update.

I also attached the phased grading plan I had brought with me to Wednesday's meeting, we are working with the site team on getting this entire site stabilized.

Our plan is to:

1. Provide a rock access road into the site
2. Add base rock to exposed ground at building pads B, D and E
3. Finish grade Center @ Secret Ravine, hydroseed and fence for the winter
4. Finish grade the Wal-Mart pad, stabilize and turn over to the owner
5. Stabilize the full area to the North of Wal-Mart with a combination of soil stabilizers, mulch, tackifier and more hydroseeding, and fence off access for the winter
6. Provide for drainage to a collection point and protection for the rest of the site

We have a crew coming in to remove the silt by hand to clean up of site to the south of Center @ Secret Ravine beginning Monday the 17<sup>th</sup>.

Our full report of SWPPP compliance will be delivered to you early next week.

---

**Andy Van Veldhuizen**

Senior Project Manager

T: 916.969.0900 | F: 916.960.1134

# ROCKLIN CROSSINGS

Tree grindings on slopes 10-30-12

12-5-12 Additional earth berms and apply GorillaSpot soil stabilizer  
12/10-12 Temp silt basin B lined with 4 oz. fabric

Hydro mulch soil stabilization 11-7-12

- 10-19-12 Temp Silt Basin A Hydroseeded
- 12-7-12 Sides lined with 4oz fabric

- Material Stockpile & Storage area
- Walmart staging area
- 40,000 sqft with 8" base rock

11-29-12 - Plugged existing 60" culvert and existing 36" drainpipe

- Detention Basin
- Roughgraded
- Applied Hydro mulch soil stabilizer on 11-7-12.
- Reapplied additional hydro mulch stabilizer with seed on 11-13-12.
- Rock Check dams added 11-26-12

12-4-12 Regrade and stabilize slopes

- Location for proposed water filtration and treatment
- Mobilize to site 12-10-12
- Operational & Ready for SWRCB approval 12-14-12
- ATS Plans approved by SWRCB 12-12-12

Center at Secret Ravine

- Roughgrade
- Hydro mulch soil stabilization 11-7-12
- GEO wall installation 60% complete
- Grading continuing in conjunction with GEO wall
- Compaction tracking & curlex blankets in place before next rain event
- Rockery walls at slopes & wetlands in place 11-14-12
- Tree grinding on slopes 11-13-12
- 12-4-12 add earthguard soil stabilizing emulsion to slopes and berms
- 12-4-12 Fortified soil berms with visqueen

Added 3' high rock road from construction entrance to staging area. Also serves as rock check dam for water flow across site.

1. Parking lots have not been graded and will contain all storm water in low spots through out.

2. Pad 10 - Winterized for trailer and parking.

3. Pad 8 - Winterized for construction parking.

4. Pad 3,4,6,7,9,14,15 - Mulch was applied to winterize on 11-9-12.

5. 10-29-12 thru 11-9-12 graded to sub excavation level. Becomes temp low basin for rain event until soils are filled and compacted to building pad level.

6. Stabilized construction entrance and exit. Auto Wheel wash was installed 11-13-12.

7. WALMART pad has been 80% graded, storm water will drain to BLDG A (north temp low basin) during a rain event.

- Applied Hydro mulch soil stabilizer on 11-7-12.

- Reapplied additional hydro mulch stabilizer with seed on 11-13-12.

- Apply earthguard soil stabilizer 12-11-12

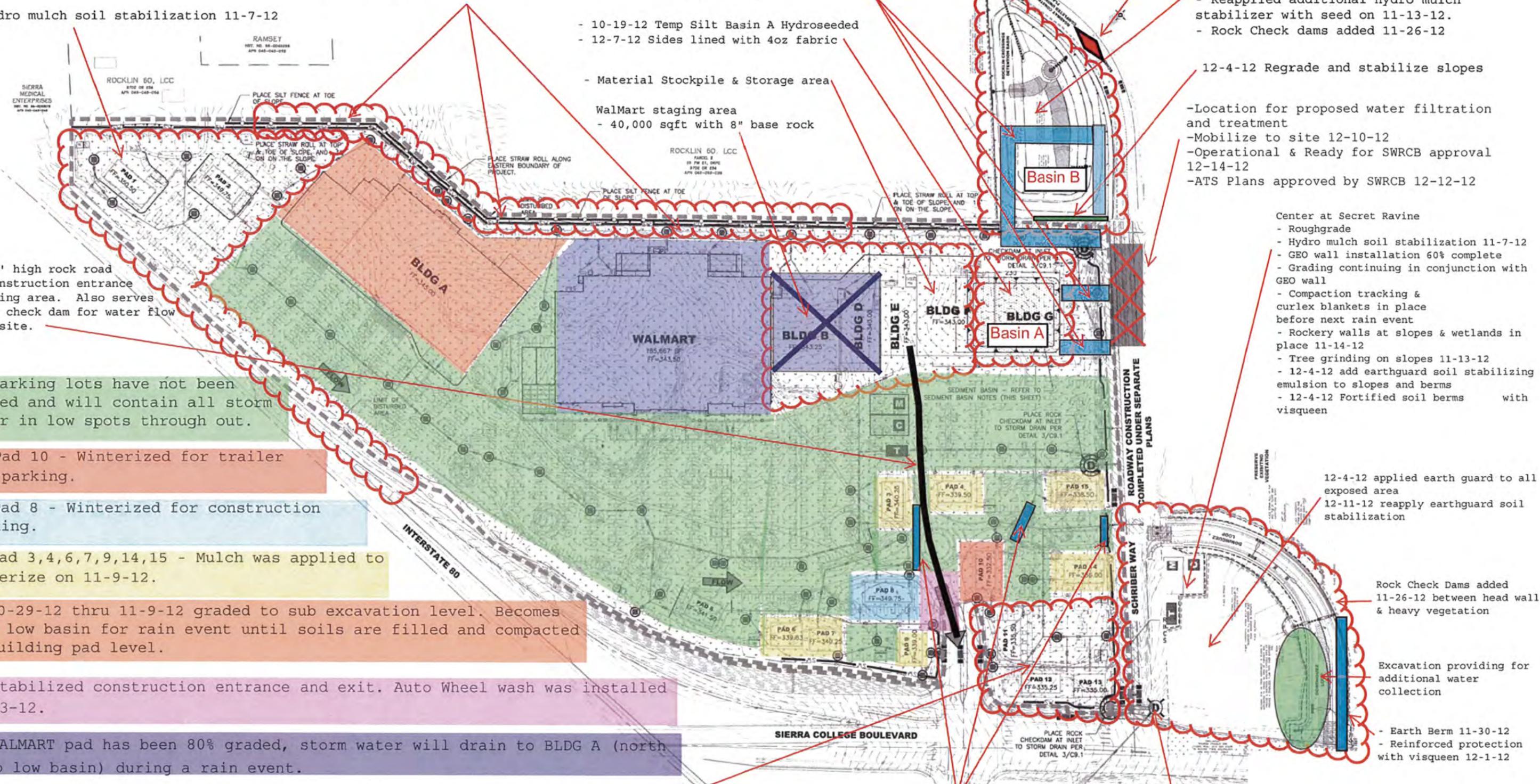
- Added earth berms 11-26-12

- Installed drainage structure 11-12-12

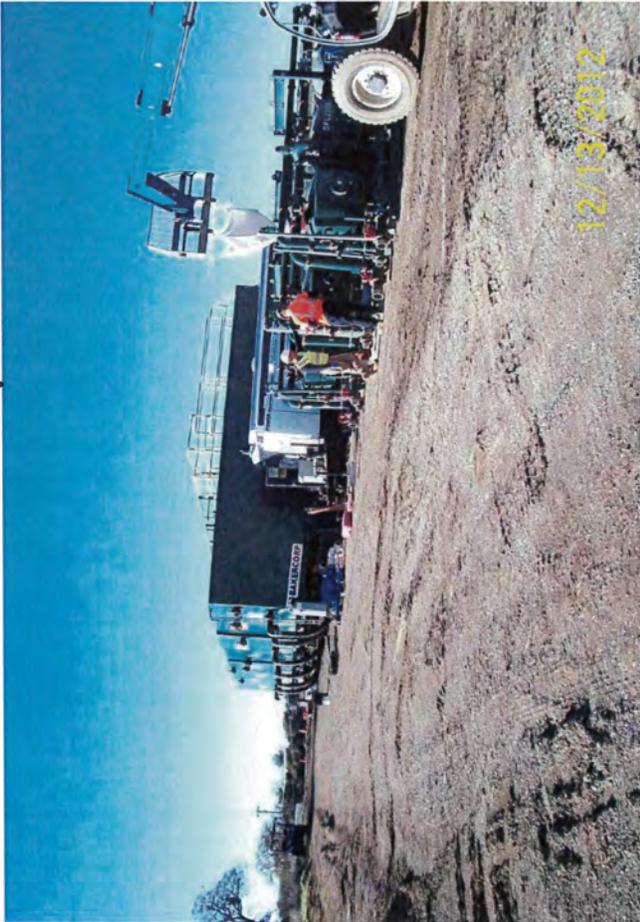
- Clean water diversion of water from west side of Sierra College thru drainage system.

- Plugged culverts to contain on site water.

**Date Revised - 12-13-12**



Photos 3-1-4



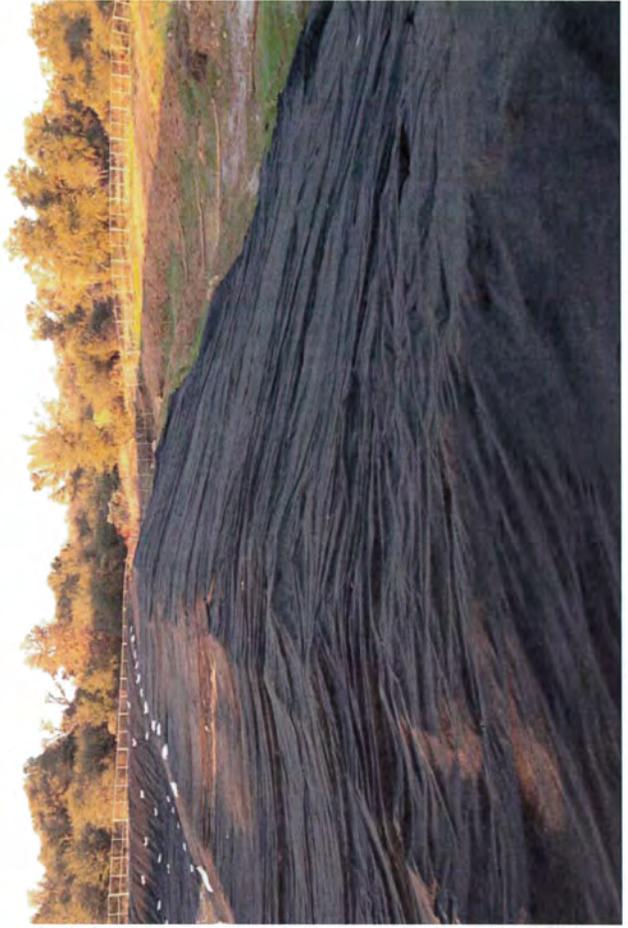
active treatment system getting set up



new temp basin B looking east 12-11-12



new temp basin B looking west 12-11-12



new temp basin B back slope (east side) 12-11-12



Total Site Maintenance

Weekly Maintenance Logs

# TSM

Total Site Maintenance  
1008 Black Diamond Way  
Lodi, CA 95240  
ph: (209) 371-8390  
fx: (916) 381-0566

## Work Order Form

Site: Rocky Crossing Customer: SD Deacon Date: 2/5/2017  
Crew Leader: Chris Foster Cell #: (916) 266-3026

### Work Performed:

- Replaced 150' of orange safety fence  
and installed 150' of new OSF

- Protected 4 storm drains with  
4 yellow jacket filters and  
2 siltfilters + rock mats.

### Comments:

### Superintendent

Signature: [Signature] Date: 2/8/17

Printed Name: Dan Lathier Phone: 916 992-0916

# TSM

Total Site Maintenance  
1008 Black Diamond Way  
Lodi, CA 95240  
ph: (209) 371-8390  
fx: (916) 381-0566

## Work Order Form

Site: Racklin Crossing Customer: SA NEALON Date: 9/6/12  
Crew Leader: Clint Pyle Cell #: (916) 266-3026

### Work Performed:

WEEKLY MAINT

- CLEANED ALL PROTECTED D.I.'S

- CLEANED GUTTERS AND WALKS

### Comments:

Scott RMP'S WILL BE ADDED AS NEEDED  
OR REQUESTED

### Superintendent

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_ Phone: \_\_\_\_\_

# TSM

Total Site Maintenance  
1008 Black Diamond Way  
Lodi, CA 95240  
ph: (209) 371-8390  
fx: (916) 381-0566

## Work Order Form

Site: Dominguez Loop  
Rock Hill Crossing  
DETENTION BASIN Customer: SD DEALON Date: 9/17/12  
Crew Leader: Crist Pustez Cell #: (916) 266-3026

### Work Performed:

- Installed 500' ft of warric  
along Sierra ~~College~~ College

- Installed 1000' ft of silt fence  
along Dominguez Loop and around  
one outfall

### Comments:

used warric from existing  
stock pile for install

### Superintendent

Signature: [Signature]

Date: 9/17

Printed Name: DAV Leithaiser <sup>SDD</sup>

Phone: \_\_\_\_\_

# TSM

Total Site Maintenance  
1008 Black Diamond Way  
Lodi, CA 95240  
ph: (209) 371-8390  
fx: (916) 381-0566

## Work Order Form

Site: ROCK/HW CROSSING Customer: SD DEACON Date: 9/24/2012  
Crew Leader: CLINT RUSLEY Cell #: (916) 266-3026

### Work Performed:

- CLEANED AND OR INSPECTED ALL PROTECTED STORM DRAINS ON PROJECT OF SEDIMENT AND OR DEBRIS

- CLEANED WALKS AND GUTTERS ON PROJECT WHERE NEEDED

- INSPECTED AND OR REPAIRED ALL LINEAR SEDIMENT BARRIERS ON PROJECT.

### Comments:

### Superintendent

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_ Phone: \_\_\_\_\_

# TSM

Total Site Maintenance  
1008 Black Diamond Way  
Lodi, CA 95240  
ph: (209) 371-8390  
fx: (916) 381-0566

## Work Order Form

Site: ROCK LID CROSSING Customer: SD DEACON Date: 10/4/2012  
Crew Leader: CLINT RISTE Cell #: (916) 266-3026

### Work Performed:

- installed 9 silt/sediment check dams  
along SIERRA College

- inspected and or cleaned all  
protected storm drains

- silt fence remains intact

- cleaned walks and gutters  
of sediment and debris

### Comments:

### Superintendent

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_ Phone: \_\_\_\_\_

# TSM

Total Site Maintenance  
1008 Black Diamond Way  
Lodi, CA 95240  
ph: (209) 371-8390  
fx: (916) 381-0566

## Work Order Form

Site: ROCK IN CROSSING Customer: SD DEACON Date: 10/9/2017  
Crew Leader: CHRIST PUSIEI Cell #: (916) 266-3026

### Work Performed:

- CLEANED AND OR INSPECTED ALL PROTECTED STORM DRAINS ON PROJECT.

- INSPECTED AND OR REPAIRED ALL LINEAR SEDIMENT BARRIERS: (WATIE, SILHENCE.)

- CLEANED ALL WALK'S AND GUTTERS ON PROJECT BY ENTRANCE.

### Comments:

### Superintendent

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_ Phone: \_\_\_\_\_

# TSM

Total Site Maintenance  
1008 Black Diamond Way  
Lodi, CA 95240  
ph: (209) 371-8390  
fx: (916) 381-0566

## Work Order Form

Site: Rockin Crossing Customer: SD DEACON Date: 10/22/12  
Crew Leader: Chris Pusley Cell #: (916) 266-3026

Work Performed: - Installed 200' of silt fence  
to project in areas of concern  
- Installed 275' of wattie  
to project as check dams  
in areas of concern.  
- 125' of wattie installed from  
Deacon stockpile.

### Comments:

### Superintendent

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_ Phone: \_\_\_\_\_

# TSM

Total Site Maintenance  
1008 Black Diamond Way  
Lodi, CA 95240  
ph: (209) 371-8390  
fx: (916) 381-0566

## Work Order Form

Site: ROCK/IN CROSSING Customer: SD DEACON Date: 10/30/2012  
Crew Leader: CLINT FUSLEY Cell #: (916) 266-3026

Work Performed: Installed 2100' of silt fence on back  
side of project.

### Comments:

### Superintendent

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_ Phone: \_\_\_\_\_

# TSM

Total Site Maintenance  
1008 Black Diamond Way  
Lodi, CA 95240  
ph: (209) 371-8390  
fx: (916) 381-0566

## Work Order Form

Site: Rocklin Crossing Customer: SD DEACON Date: 10/30/2012  
Crew Leader: Clint Postley Cell #: (916) 766-3026

### Work Performed:

- Placed CHECK DAM'S OF WATTLE  
WHERE NEEDED ON DOMINGUEZ LOOP  
AND ROCKLIN CROSSING

- REPAIRED SITTENCE ON DOMINGUEZ  
LOOP

- Placed Rock BAG CHECK DAM'S  
IN VEGETATED SWALE AT ROCKLIN  
CROSSING

Clint

### Comments:

Scrub  
Candies  
Lorence

### Superintendent

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_ Phone: \_\_\_\_\_

# TSM

Total Site Maintenance  
1008 Black Diamond Way  
Lodi, CA 95240  
ph: (209) 371-8390  
fx: (916) 381-0566

## Work Order Form

Site: DOMINGUEZ LOOP Customer: SI DEACON Date: 11/2/2012  
Crew Leader: CLINT PURLEY Cell #: (916) 266-3026

### Work Performed:

INSTALLED 75' OF SITTENCE  
TO SITE

### Comments:

### Superintendent

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_ Phone: \_\_\_\_\_

# TSM

Total Site Maintenance  
1008 Black Diamond Way  
Lodi, CA 95240  
ph: (209) 371-8390  
fx: (916) 381-0566

## Work Order Form

*Dominquez Loop*  
Site: ROCKLIN KING Customer: SD OLACON Date: 11/8/12  
Crew Leader: SAATH EYLES Cell #: 916 46-9291

**Work Performed:**  
- WRAPPED WATTLE AROUND FOOT OF STOCKPILE.  
- CLEANED ALL PROTECTED DIPS  
- INSTALLED Geo-TECH ON ROAD ON DOMINGUEZ LOOP w/ WATTLE V DAMS.

**Comments:**

### Superintendent

Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
Printed Name: \_\_\_\_\_ Phone: \_\_\_\_\_

# TSM

Total Site Maintenance  
1008 Black Diamond Way  
Lodi, CA 95240  
ph: (209) 371-8390  
fx: (916) 381-0566

## Work Order Form

Site: Dominquez Loop @  
Rocklin Xint

Customer: SP DEACON

Date: 11/16/12

Crew Leader: SCOTT EYLES

Cell #: 916-346-5291

### Work Performed:

- CLEANED ALL PROTECTIVE DI'S
- INSTALLED 50' NEW SILT FENCE.
- RE-INSTALLED 100' DAMAGED SILT FENCE  
w/ NEW.
- INSTALLED (6) CURLEX BLANKETS AT  
DISTURBED SOIL BY RETAINING WALL.

### Comments:

### Superintendent

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Phone: \_\_\_\_\_

# TSM

Total Site Maintenance  
1008 Black Diamond Way  
Lodi, CA 95240  
ph: (209) 371-8390  
fx: (916) 381-0566

## Work Order Form

Site: Rocklin Gasline Customer: SD Dept Cow Date: 11/27/12  
Crew Leader: Candido L Cell #: \_\_\_\_\_

Work Performed: - INSTALLED 30 ROCK BARS AT  
VARIOUS SPOTS ON SITE  
- CLEANED ALL PROTECTIVE OIL'S &  
BUTTER LINER.  
- CRACKS AND BARS ON SITE

### Comments:

### Superintendent

Signature: [Signature] Date: NOV 27<sup>th</sup> 2012  
Printed Name: Brian Hansen Phone: 912-2160

# TSM

Total Site Maintenance  
1008 Black Diamond Way  
Lodi, CA 95240  
ph: (209) 371-8390  
fx: (916) 381-0566

## Work Order Form

Site: Dominique Loop  
Rocklin Xing Customer: SD DEACON Date: 12/4/12  
Crew Leader: Scott Eyles Cell #: 916.346.9291

- Work Performed:
- RE-INSTALL WATTLE & SILT FENCE  
AT WALL ON DOM. LOOP
  - CONSTRUCTED 50 ROCK BAR WALL  
AT CORNER OF WALL ON DOM. LOOP
  - INSTALLED (1) CURVEY BLANKET  
AT DITCH IN FRONT OF SILT FENCE  
ON DOM. LOOP.
  - CLEANED ALL PROTECTED DIS &  
CUTTER LINES.

### Comments:

### Superintendent

Signature: [Signature] Date: 12/3/12  
Printed Name: Don Leithers Phone: \_\_\_\_\_

# TSM

Total Site Maintenance  
1008 Black Diamond Way  
Lodi, CA 95240  
ph: (209) 371-8390  
fx: (916) 381-0566

## Work Order Form

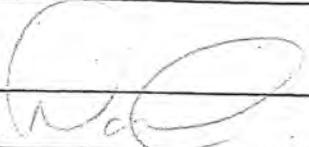
Site: DETENTION BASIN ROCKLIN CROSSING Customer: SD DEALON Date: 12/10/12  
Crew Leader: CLINT PUSLE Cell #: (916) 266-3026

### Work Performed:

- installed 21 rolls of GEDTEX TO BASIN
- 8 rolls of CURTEX BLANKETS.
- 250 ROCK BAGS.

Comments: DELIVERED 600' WATTLE FOR STOCKPILE

### Superintendent

Signature: 

Date: 12/10/12

Printed Name: Dan Leithorn

Phone: \_\_\_\_\_

# TSM

Total Site Maintenance  
1008 Black Diamond Way  
Lodi, CA 95240  
ph: (209) 371-8390  
fx: (916) 381-0566

## Work Order Form

Site: ROCK LN CROSSING Customer: SD DEACON Date: 12/11/12  
Crew Leader: SCOTT EYLES Cell #: 916-346-9291

Work Performed: - INSTALLED (5) WAFFLE V DAMS AT  
FLOW LINE FROM DOMINGUEZ LOOP  
OUTFALL  
- CLEANED ALL PROTECTED D1'S & GUTTER  
LINES OFF-SITE.  
- CHECKED ALL BMP'S ON-SITE

### Comments:

### Superintendent

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_ Phone: \_\_\_\_\_



Total Site Maintenance

Rain Event Action Plan

for storm November 28 – December

2

# Rain Event Action Plan (REAP)

Date: 11/26/12      WDID Number: 5531C364102

Date Rain Predicted to Occur: 11/27/12      Predicted % chance of rain: 80%

**Site Information:**  
DOMINGUEZ LOOP RD      ROCKLIN      I-80 & SCBLVI  
 Site Name, City and Zip Code      Project Risk Level:  Risk Level 2       Risk Level 3

**Site Stormwater Manager Information:**  
DAN LEITHEISER / SD DEACON / 916 997-0916  
 Name, Company, Emergency Phone Number (24/7)

**Erosion and Sediment Control Contractor - Labor Force contracted for the site:**  
DAVE CLAYSON / TSM / 916 826-0154  
 Name, Company, Emergency Phone Number (24/7)

**Stormwater Sampling Agent:**  
SAME  
 Name, Company, Emergency Phone Number (24/7)

**Current Phase of Construction**  
 Check ALL the boxes below that apply to your site.

<input checked="" type="checkbox"/> Grading and Land Development	<input type="checkbox"/> Vertical Construction	<input type="checkbox"/> Inactive Site
<input type="checkbox"/> Streets and Utilities	<input type="checkbox"/> Final Landscaping and Site Stabilization	<input type="checkbox"/> Other:

**Activities Associated with Current Phase(s)**  
 Check ALL the boxes below that apply to your site (some apply to all Phases).

**Grading and Land Development:**

<input type="checkbox"/> Demolition	<input type="checkbox"/> Vegetation Removal	<input type="checkbox"/> Vegetation Salvage-Harvest
<input checked="" type="checkbox"/> Rough Grade	<input type="checkbox"/> Finish Grade	<input type="checkbox"/> Blasting
<input type="checkbox"/> Soil Amendment(s):	<input checked="" type="checkbox"/> Excavation (____ ft)	<input checked="" type="checkbox"/> Soils Testing
<input checked="" type="checkbox"/> Rock Crushing	<input checked="" type="checkbox"/> Erosion and Sediment Control	<input checked="" type="checkbox"/> Surveying
<input type="checkbox"/> Equip. Maintenance/Fueling	<input checked="" type="checkbox"/> Material Delivery and Storage	<input type="checkbox"/> Other:

**Streets and Utilities:**

<input type="checkbox"/> Finish Grade	<input type="checkbox"/> Utility Install: water-sewer-gas	<input type="checkbox"/> Paving Operations
<input type="checkbox"/> Equip. Maintenance/Fueling	<input type="checkbox"/> Storm Drain Installation	<input type="checkbox"/> Material Delivery & Storage
<input type="checkbox"/> Curb and Gutter/Concrete Pour	<input type="checkbox"/> Masonry	<input type="checkbox"/> Other:

**Vertical Construction:**

<input type="checkbox"/> Framing	<input type="checkbox"/> Carpentry	<input type="checkbox"/> Concrete/Forms/Foundation
<input type="checkbox"/> Masonry	<input type="checkbox"/> Electrical	<input type="checkbox"/> Painting
<input type="checkbox"/> Drywall/Interior Walls	<input type="checkbox"/> Plumbing	<input type="checkbox"/> Stucco
<input type="checkbox"/> Equip. Maintenance/Fueling	<input type="checkbox"/> HVAC	<input type="checkbox"/> Tile
<input type="checkbox"/> Exterior Siding	<input type="checkbox"/> Insulation	<input type="checkbox"/> Landscaping & Irrigation
<input type="checkbox"/> Flooring	<input type="checkbox"/> Roofing	<input type="checkbox"/> Other:

**Final Landscaping & Site Stabilization:**

<input type="checkbox"/> Stabilization	<input type="checkbox"/> Vegetation Establishment	<input type="checkbox"/> E&S Control BMP Removal
<input type="checkbox"/> Finish Grade	<input type="checkbox"/> Storage Yard/ Material Removal	<input type="checkbox"/> Landscape Installation
<input type="checkbox"/> Painting and Touch-Up	<input type="checkbox"/> Irrigation System Testing	<input type="checkbox"/> Other:
<input type="checkbox"/> Drainage Inlet Stencils	<input type="checkbox"/> Inlet Filtration	<input type="checkbox"/> Perm. Water Quality Ponds
<input type="checkbox"/> Other:	<input type="checkbox"/> Other:	<input type="checkbox"/> Other:

**Inactive Construction Site:**

<input type="checkbox"/> E & S Control Device Installation	<input type="checkbox"/> Routine Site Inspection	<input type="checkbox"/> Trash Removal
<input type="checkbox"/> E & S Control Device Maintenance	<input type="checkbox"/> Street Sweeping	<input type="checkbox"/> Other:

# Rain Event Action Plan (REAP)

**Date:**

11/26/12

**WDID Number:**

5531C364102

**Trades Active on Site during Current Phase(s)**

*Check ALL the boxes below that apply to your site*

- |  |                                     |                                  |                          |  |
|--|-------------------------------------|----------------------------------|--------------------------|--|
| <input type="checkbox"/> Storm Drain Improvement | <input checked="" type="checkbox"/> | Grading Contractor               | <input type="checkbox"/> | Surveyor- Soil Technician              |
| <input type="checkbox"/> Street Improvements     | <input checked="" type="checkbox"/> | Water Pipe Installation          | <input type="checkbox"/> | Sanitary Station Provider              |
| <input type="checkbox"/> Material Delivery       | <input type="checkbox"/>            | Sewer Pipe Installation          | <input type="checkbox"/> | Electrical                             |
| <input type="checkbox"/> Trenching               | <input type="checkbox"/>            | Gas Pipe Installation            | <input type="checkbox"/> | Carpentry                              |
| <input type="checkbox"/> Concrete Pouring        | <input type="checkbox"/>            | Electrical Installation          | <input type="checkbox"/> | Plumbing                               |
| <input type="checkbox"/> Foundation              | <input type="checkbox"/>            | Communication Installation       | <input type="checkbox"/> | Masonry                                |
| <input type="checkbox"/> Demolition              | <input checked="" type="checkbox"/> | Erosion and Sediment Control     | <input type="checkbox"/> | Water, Sewer, Electric Utilities       |
| <input type="checkbox"/> Material Delivery       | <input checked="" type="checkbox"/> | Equipment Fueling/Maintenance    | <input type="checkbox"/> | Rock Products                          |
| <input type="checkbox"/> Tile Work- Flooring     | <input type="checkbox"/>            | Utilities, e.g., Sewer, Electric | <input type="checkbox"/> | Painters                               |
| <input type="checkbox"/> Drywall                 | <input type="checkbox"/>            | Roofers                          | <input type="checkbox"/> | Carpenters                             |
| <input type="checkbox"/> HVAC installers         | <input type="checkbox"/>            | Stucco                           | <input type="checkbox"/> | Pest Control: e.g., termite prevention |
| <input type="checkbox"/> Exterior Siding         | <input checked="" type="checkbox"/> | Masons                           | <input type="checkbox"/> | Water Feature Installation             |
| <input type="checkbox"/> Insulation              | <input type="checkbox"/>            | Landscapers                      | <input type="checkbox"/> | Utility Line Testers                   |
| <input type="checkbox"/> Fireproofing            | <input type="checkbox"/>            | Riggers                          | <input type="checkbox"/> | Irrigation System Installation         |
| <input type="checkbox"/> Steel Systems           | <input type="checkbox"/>            | Utility Line Testers             | <input type="checkbox"/> | Other:                                 |

**Trade Contractor Information Provided**

*Check ALL the boxes below that apply to your site.*

- |  |                          |                     |                          |                   |
|--|--------------------------|---------------------|--------------------------|-------------------|
| <input type="checkbox"/> Educational Material Handout    | <input type="checkbox"/> | Tailgate Meetings   | <input type="checkbox"/> | Training Workshop |
| <input checked="" type="checkbox"/> Contractual Language | <input type="checkbox"/> | Fines and Penalties | <input type="checkbox"/> | Signage           |
| <input type="checkbox"/> Other:                          | <input type="checkbox"/> | Other:              | <input type="checkbox"/> | Other:            |

Continued on next page.

# Rain Event Action Plan (REAP)

Date of REAP	11/26/12	WDID Number:	5531C364102
Date Rain Predicted to Occur:	11/27/12	Predicted % chance of rain:	80%

### Predicted Rain Event Triggered Actions

Below is a list of suggested actions and items to review for this project. Each active Trade should check all material storage areas, stockpiles, waste management areas, vehicle and equipment storage and maintenance, areas of active soil disturbance, and areas of active work to ensure the proper implementation of BMPs. Project-wide BMPs should be checked and cross-referenced to the BMP progress map.

Trade or Activity	Suggested action(s) to perform / item(s) to review prior to rain event
<input checked="" type="checkbox"/> Information & Scheduling	<input checked="" type="checkbox"/> Inform trade supervisors of predicted rain <input checked="" type="checkbox"/> Check scheduled activities and reschedule as needed <input checked="" type="checkbox"/> Alert erosion/sediment control provider <input checked="" type="checkbox"/> Alert sample collection contractor (if applicable) <input type="checkbox"/> Schedule staff for extended rain inspections (including weekends & holidays) <input checked="" type="checkbox"/> Check Erosion and Sediment Control (ESC) material stock <input checked="" type="checkbox"/> Review BMP progress map <input type="checkbox"/> Other: _____ <input type="checkbox"/> _____ <input type="checkbox"/> _____
<input checked="" type="checkbox"/> Material storage areas	<input type="checkbox"/> Material under cover or in sheds (ex: treated woods and metals) <input checked="" type="checkbox"/> Perimeter control around stockpiles <input type="checkbox"/> Other: _____ <input type="checkbox"/> _____ <input type="checkbox"/> _____
<input checked="" type="checkbox"/> Waste management areas	<input checked="" type="checkbox"/> Dumpsters closed <input type="checkbox"/> Drain holes plugged <input type="checkbox"/> Recycling bins covered <input type="checkbox"/> Sanitary stations bermed and protected from tipping <input type="checkbox"/> Other: _____ <input type="checkbox"/> _____ <input type="checkbox"/> _____
<input checked="" type="checkbox"/> Trade operations	<input checked="" type="checkbox"/> Exterior operations shut down for event (e.g., no concrete pours or paving) <input checked="" type="checkbox"/> Soil treatments (e.g., fertilizer) ceased within 24 hours of event <input checked="" type="checkbox"/> Materials and equipment (ex: tools) properly stored and covered <input checked="" type="checkbox"/> Waste and debris disposed in covered dumpsters or removed from site <input type="checkbox"/> Trenches and excavations protected <input checked="" type="checkbox"/> Perimeter controls around disturbed areas <input type="checkbox"/> Fueling and repair areas covered and bermed <input type="checkbox"/> Other: <u>STOCKPILES COVERED</u> <input type="checkbox"/> _____ <input type="checkbox"/> _____
<input checked="" type="checkbox"/> Site ESC BMPs	<input checked="" type="checkbox"/> Adequate capacity in sediment basins and traps <input checked="" type="checkbox"/> Site perimeter controls in place <input checked="" type="checkbox"/> Catch basin and drop inlet protection in place and cleaned <input checked="" type="checkbox"/> Temporary erosion controls deployed <input checked="" type="checkbox"/> Temporary perimeter controls deployed around disturbed areas and stockpiles <input checked="" type="checkbox"/> Roads swept; site ingress and egress points stabilized <input type="checkbox"/> Other: _____ <input type="checkbox"/> _____ <input type="checkbox"/> _____
<input checked="" type="checkbox"/> Concrete rinse out area	<input type="checkbox"/> Adequate capacity for rain <input checked="" type="checkbox"/> Wash-out bins covered <input type="checkbox"/> Other: _____ <input type="checkbox"/> _____ <input type="checkbox"/> _____
<input type="checkbox"/> Spill and drips	<input type="checkbox"/> All incident spills and drips, including paint, stucco, fuel, and oil cleaned <input checked="" type="checkbox"/> Drip pans emptied <input type="checkbox"/> Other: _____ <input type="checkbox"/> _____ <input type="checkbox"/> _____

Other / Discussion /  
Diagrams

PUMP WATER FROM LOW  
AREAS TO DETENTION BASIN  
TO CREATE ROOM IN HOLDING  
AREAS.

Attach a printout of the weather forecast from the NOAA website to the REAP.

I certify under penalty of law that this Rain Event Action Plan (REAP) will be performed in accordance with the General Permit by me or under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

*[Handwritten Signature]*

Date:

*11/26/12*

Qualified SWPPP Practitioner (Use ink please)

Local forecast by  
"City, St" or ZIP code

Enter location ...



[Location Help](#)

**Severe Weather Possible for Parts of Southern Plains and Lower Miss. V**

The NWS Storm Prediction Center is forecasting a risk of severe thunderstorms for M the southern Plains and lower Mississippi Valley, from northeast Texas across northe western Mississippi. The main threats will be large hail and damaging winds, but the t out.

[Read More...](#)

**3 MILES WSW LOOMIS CA**



Fair  
**54°F**  
12°C

Humidity 67%  
Wind Speed calm  
Barometer 30.07 in  
Dewpoint 43°F (6°C)  
Visiblity 10.00 mi

Last Update on 26 Nov 9:55 am PST

Curr  
**Lin**  
Lat:

[Mor](#)

TODAY	TONIGHT	TUESDAY	TUESDAY NIGHT	WEDNESDAY	WEDNESDAY NIGHT
Sunny High: 65 °F FRIDAY	Mostly Clear Low: 43 °F	Mostly Sunny High: 66 °F	Rain Low: 50 °F	Showers High: 59 °F	Showers Likely Low: 50 °F
Rain High: 61 °F					

**HAZARDOUS WEATHER CONDITIONS**

[Special Weather Statement](#)

Now      Weekend      Extended      Month

< October 2012

View:

November

2012

	High	Low	precip	Snow	Forecast	Avg. HI	Avg. Lo
Thu 11/1/2012	64°	48°	0.75 in	0 in		68°	48°
Fri 11/2/2012	49°	48°	0 in	0 in		68°	47°
Sat 11/3/2012	70°	46°	0 in	0 in		67°	47°
Sun 11/4/2012	72°	54°	0 in	0 in		67°	47°
Mon 11/5/2012	75°	55°	0 in	0 in		66°	47°
Tue 11/6/2012	79°	57°	0 in	0 in		66°	46°
Wed 11/7/2012	73°	57°	0 in	0 in		66°	46°
Thu 11/8/2012	55°	41°	0.27 in	0 in		65°	46°
Fri 11/9/2012	48°	37°	0.08 in	0 in		65°	45°
Sat 11/10/2012	50°	39°	0 in	0 in		64°	45°
Sun 11/11/2012	54°	36°	0 in	0 in		64°	45°
Mon 11/12/2012	57°	39°	0 in	0 in		63°	45°
Tue 11/13/2012	64°	43°	0 in	0 in		63°	44°
Wed 11/14/2012	66°	48°	0 in	0 in		62°	44°
Thu 11/15/2012	66°	48°	0 in	0 in		62°	44°
Fri 11/16/2012	57°	50°	0.24 in	0 in		62°	43°
Sat 11/17/2012	55°	52°	1.02 in	0 in		61°	43°
Sun 11/18/2012	55°	48°	1.15 in	0 in		61°	43°
Mon 11/19/2012	63°	48°	0 in	0 in		60°	43°
Tue 11/20/2012	61°	52°	0 in	0 in		60°	42°
Wed 11/21/2012	57°	52°	1.37 in	0 in		60°	42°
Thu 11/22/2012	63°	41°	0 in	0 in		59°	42°
Fri 11/23/2012	64°	48°	0 in	0 in		59°	42°
Sat 11/24/2012	64°	43°	0 in	0 in		59°	41°
Sun 11/25/2012	63°	43°	0 in	0 in		58°	41°
Mon 11/26/2012	63°	39°	0 in	0 in	 Sunny much of the time	58°	41°
Tue 11/27/2012	63°	45°	0 in	0 in	 Partly sunny	58°	41°
Wed 11/28/2012	57°	49°	1.1 in	0 in	 Breezy with rain	57°	40°
Thu 11/29/2012	60°	52°	0.9 in	0 in	 Rain and drizzle possible	57°	40°
Fri 11/30/2012	61°	49°	0.1 in	0 in	 Cloudy, rain possible; breezy	57°	40°

Risk Level: <input type="checkbox"/> Visual Inspection Field Log Sheet						
Date and Time of Inspection: <u>11/28/12</u> <u>3:00</u>			Report Date: <u>11/28/12</u>			
Inspection Type:	<input type="checkbox"/> Weekly	<input type="checkbox"/> Before predicted rain	<input checked="" type="checkbox"/> During rain event	<input type="checkbox"/> Following qualifying rain event	<input type="checkbox"/> Contained stormwater release	<input type="checkbox"/> Quarterly non-stormwater
Site Information						
Construction Site Name: <u>DOMINGUEZ LOOP RD</u>			<u>ROCKLIN</u>			
Construction stage and completed activities: <u>GRADING / R-WALL</u>			Approximate area of exposed site: <u>3AC</u>			
Weather and Observations						
Date Rain Predicted to Occur: <u>11/28/12</u>			Predicted % chance of rain: <u>100%</u>			
Estimate storm beginning: <u>11/28/12 A.M.</u> (date and time)		Estimate storm duration: <u>5 DAYS</u> (hours)	Estimate time since last storm: <u><del>11/27/12</del></u> (days or hours)		Rain gauge reading: <u><del>2.5</del></u> (Inches)	
Observations: If yes identify location			<u>11/16-21</u>		<u>3.78"</u>	
Odors	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>				
Floating material	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>				
Suspended Material	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>				
Sheen	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>				
Discolorations	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>				
Turbidity	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>		<u>STANDING WATER AREAS ON SITE</u>		
Inspections						
Outfalls or BMPs Evaluated			Deficiencies Noted			
(add additional sheets or attached detailed BMP Inspection Checklists)						
<u>PG 3</u>						
Photos Taken:	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>		Photo Reference IDs:		
Corrective Actions Identified (add USWRP/REAP change is needed)						
<u>PG 4</u>						
Inspector Information						
Inspector Name: <u>DAVE CLAYSON</u>			Inspector Title: <u>CESSWI / QSP</u>			
Signature: <u>[Signature]</u>			Date: <u>11/28/12</u>			

Risk Level 2  
Effluent Sampling Field Log Sheets

Construction Site Name: DOMINGUEZ LOOP RD      Date: 11/28/12      Time Start: 3:15

Sampler: DAVE CLAYSON

Sampling Event Type:     Stormwater     Non-stormwater     Non-visible pollutant

Field Meter Calibration  
pH Meter ID No./Desc.: PH 30      Turbidity Meter ID No./Desc.: 2020 E  
Calibration Date/Time: 11/27/12 10AM      Calibration Date/Time: 11/27/12 10AM

Discharge Location/Description	pH	Turbidity	Time

Discharge Location/Description	Sample Type	pH	Turbidity	Time
<u>WATER FLOWING OUT FROM OUTFALL STRUCTURE THRU VEGETATED FIELD</u>	<u>#1</u>	<u>8.16</u>	<u>18.2</u>	<u>3:30</u>
	<u>#2</u>	<u>8.21</u>	<u>16.5</u>	<u>11</u>
	<u>#3</u>	<u>8.12</u>	<u>17.0</u>	<u>11</u>

Additional Sampling Notes:  
WATER SAMPLE LOOKS VERY CLEAN, NO WATER FROM THIS JOB SITE ENTERS THIS PIPE AT THIS TIME. ONLY RUN ON WATER FROM A VEGETATED FIELD ACROSS ST.

Time End: 3:50

TSM  
SWPPP Inspection Form

Site-specific BMPs Evaluated	Descriptions of BMPs (erosion, sediment, chemical/waste, and non-storm water controls)
SILT FENCE, BARK	
GRINDINGS, BLANKETS	ALL IN GOOD SHAPE,
	BMPs FUNCTIONING AS
	DESIGNED.

Notes

NO RAIN @ TIME OF INSPECTION.

Inspector/Inspector Title	
Inspector: DAVE CLAYSON	Inspector Title: CESSWI/QSP
Signature: <i>[Signature]</i>	Date: 11/28/12



Mon 11/5/2012	75°	55°	0 in	0 in		66°	47°	
Tue 11/6/2012	79°	57°	0 in	0 in		66°	46°	
Wed 11/7/2012	73°	57°	0 in	0 in		66°	46°	
Thu 11/8/2012	55°	41°	0.27 in	0 in		65°	46°	
Fri 11/9/2012	48°	37°	0.08 in	0 in		65°	45°	
Sat 11/10/2012	50°	39°	0 in	0 in		64°	45°	
Sun 11/11/2012	54°	36°	0 in	0 in		64°	45°	
Mon 11/12/2012	57°	39°	0 in	0 in		63°	45°	
Tue 11/13/2012	64°	43°	0 in	0 in		63°	44°	
Wed 11/14/2012	66°	48°	0 in	0 in		62°	44°	
Thu 11/15/2012	66°	48°	0 in	0 in		62°	44°	
Fri 11/16/2012	57°	50°	0.24 in	0 in		62°	43°	
Sat 11/17/2012	55°	52°	1.02 in	0 in		61°	43°	
Sun 11/18/2012	55°	48°	1.15 in	0 in		61°	43°	
Mon 11/19/2012	63°	48°	0 in	0 in		60°	43°	
Tue 11/20/2012	61°	52°	0 in	0 in		60°	42°	
Wed 11/21/2012	57°	52°	1.37 in	0 in		60°	42°	
Thu 11/22/2012	63°	41°	0 in	0 in		59°	42°	
Fri 11/23/2012	64°	48°	0 in	0 in		59°	42°	
Sat 11/24/2012	64°	43°	0 in	0 in		59°	41°	
Sun 11/25/2012	63°	43°	0 in	0 in		58°	41°	
Mon 11/26/2012	64°	46°	0 in	0 in		58°	41°	
Tue 11/27/2012	61°	48°	0 in	0 in		58°	41°	
Wed 11/28/2012	55°	48°	0.8 in	0 in		Breezy and cooler with rain	57°	40°
Thu 11/29/2012	62°	51°	1.4 in	0 in		Mostly cloudy with a shower	57°	40°
Fri 11/30/2012	58°	50°	1 in	0 in		Windy with rain	57°	40°

EVENT  
3.78"



# NATIONAL WEATHER SERVICE

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**ABOUT**

Local forecast by  
"City, ST" or ZIP code

Enter location ...



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**Series of Strong Storms Will Bring Prolonged Period of Rain to Parts of West Coast**

Parts of the West Coast will experience a very prolonged wet period beginning on Wednesday, as a series of strong storms bring rain and mountain snow to the region, particularly northern California and southern Oregon, through the weekend. Rainfall amounts of 6-12 inches are forecast, along with wind gusts as high as 70 mph along the coast. Flooding is possible across the region. [Read More...](#)

## 3 MILES WSW LOOMIS CA

[En Español](#)



Overcast  
**46°F**  
8°C

Humidity 93%  
Wind Speed E 3 MPH  
Barometer 29.94 in  
Dewpoint 45°F (7°C)  
Visibility 4.00 mi  
Last Update on 28 Nov 6:55 am PST

Current conditions at  
**Lincoln Regional Karl Harder Field (KLHM)**  
Lat: 38.9092 Lon: -121.3513 Elev: 121ft.

[More Local Wx](#) | [3 Day History](#) | [Mobile Weather](#)

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TODAY	TONIGHT	THURSDAY	THURSDAY NIGHT	FRIDAY	FRIDAY NIGHT	SATURDAY	SATURDAY NIGHT	SUNDAY
100%	50%	60%	100%	100%	80%	100%	100%	100%
Showers	Chance Showers	Rain Likely	Rain	Rain	Rain	Rain	Rain	Rain
High: 58 °F	Low: 49 °F	High: 63 °F	Low: 54 °F	High: 59 °F	Low: 52 °F	High: 61 °F	Low: 54 °F	High: 60 °F

**HAZARDOUS WEATHER CONDITIONS**

[Wind Advisory](#)

[Flood Watch](#)

[Hazardous Weather Outlook](#)

## 7-DAY FORECAST

- Today** Showers. High near 58. Breezy, with a south southeast wind 17 to 22 mph, with gusts as high as 33 mph. Chance of precipitation is 100%. New precipitation amounts between a quarter and half of an inch possible.
- Tonight** A 50 percent chance of showers. Mostly cloudy, with a low around 49. South southeast wind 11 to 14 mph, with gusts as high as 21 mph. New precipitation amounts of less than a tenth of an inch possible.
- Thursday** Rain likely, mainly after 10am. Mostly cloudy, with a high near 63. South southeast wind 16 to 21 mph, with gusts as high as 31 mph. Chance of precipitation is 60%. New precipitation amounts between a tenth and quarter of an inch possible.
- Thursday Night** Rain. Low around 54. Breezy, with a south southeast wind 20 to 22 mph, with gusts as high as 33 mph. Chance of precipitation is 100%. New precipitation amounts between three quarters and one inch possible.
- Friday** Rain. High near 59. Windy, with a south southeast wind 26 to 32 mph, with gusts as high as 48 mph. Chance of precipitation is 100%.
- Friday Night** Rain. Low around 52. Breezy. Chance of precipitation is 80%.
- Saturday** Rain. High near 61. Breezy. Chance of precipitation is 100%.
- Saturday Night** Rain. Cloudy, with a low around 54. Breezy.
- Sunday** Rain. Cloudy, with a high near 60.

Risk Level						
Visual Inspection Field Log Sheet						
Date and Time of Inspection:			11/29/12 3:00		Report Date: 11/29/12	
Inspection Type:	<input type="checkbox"/> Weekly	<input type="checkbox"/> Before predicted rain	<input checked="" type="checkbox"/> During rain event	<input type="checkbox"/> Following qualifying rain event	<input type="checkbox"/> Contained stormwater release	<input type="checkbox"/> Quarterly non-stormwater
Site Information						
Construction Site Name: DOMINGUEZ LOOP RD Rocklin						
Construction stage and completed activities: GRADING				Approximate area of exposed site: 3 AC		
Weather and Observations						
Date Rain Predicted to Occur:			Predicted % chance of rain:			
11/29/12			80-100%			
Estimate storm beginning:		Estimate storm duration:		Estimate time since last storm:		Rain gauge reading:
11/28/12 AM		5 DAYS		11/16-21		3.78"
(date and time)		(hours)		(days or hours)		(inches)
Observations: If yes identify location						
Odors Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>						
Floating material Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>						
Suspended Material Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>						
Sheen Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>						
Discolorations Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>						
Turbidity Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> WITHIN STANDING WATER AREAS.						
Site Inspections						
Outfalls or BMPs Evaluated			Deficiencies Noted			
(add additional sheets or attached detailed BMP Inspection Checklists)						
Pg 3						
Photos Taken:		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		Photo Reference IDs:		
Corrective Actions Identified (note if SWPPP/REAP change is needed)						
Pg 4						
Inspector Information						
Inspector Name: DAVE CLAYSON				Inspector Title: CESSWI/QSP		
Signature:					Date: 11/29/12	

N/A 11/29/12

Risk Level 2 Effluent Sampling Field Log Sheets			
Construction Site Name:		Date:	Time Start:
Sampler:			
Sampling Event Type:	<input type="checkbox"/> Stormwater	<input type="checkbox"/> Non-stormwater	<input type="checkbox"/> Non-visible pollutant
Field Meter Calibration			
pH Meter ID No./Desc.: Calibration Date/Time:		Turbidity Meter ID No./Desc.: Calibration Date/Time:	
Field pH and Turbidity Measurements			
Discharge Location/Description	pH	Turbidity	Time
Grab Samples Collected			
Discharge Location/Description	Sample Type	Time	
Additional Sampling Notes:			
Time End:			

TSM  
SWPPP Inspection Form

Site-specific BMPs Evaluated	Descriptions of BMPs (erosion, sediment, chemical/waste, and non-storm water controls)
SILT FENCE, BLANKETS,	
BARK GRINDINGS, WATTLE,	ALL BMPS IN PLACE
ROCK BAGS, E.S.A. FENCING	& IN GOOD SHAPE.

Notes

RAIN JUST STARTING.  
HOLDING AREAS BEING DEWATERED TO MAKE ROOM FOR RAIN EVENT.

Inspector Information	
Inspector: DAVE CLAYSON	Inspector Title: CESSWI/QSP
Signature: <i>DC</i>	Date: 11/29/12





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**ABOUT**

Local forecast by  
 "City, ST" or ZIP code  
 Enter location ...

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**Series of Storms Continues to Batter Parts of West Coast**

Prolonged periods of rain and heavy mountain snow along with high winds continue to affect parts of the West Coast, as a series of strong storms moves onshore. Rainfall amounts of 2-5 inches are expected on Thursday, with the heaviest amounts in northern California and southern Oregon. Additional rainfall totals of 12-16 inches are likely through early next week across the region.  
[Read More...](#)

## 3 MILES WSW LOOMIS CA

[En Español](#)



Fair  
**61°F**  
 16°C

Humidity 72%  
 Wind Speed SSE 21 G 25 MPH  
 Barometer 30.01 in  
 Dewpoint 52°F (11°C)  
 Visibility 10.00 mi  
 Last Update on 29 Nov 10:35 am PST

Current conditions at  
**Lincoln Regional Karl Harder Field (KLHM)**  
 Lat: 38.9092 Lon: -121.3513 Elev: 121ft.

[More Local Wx](#) | [3 Day History](#) | [Mobile Weather](#)

[Share](#) |

TODAY	TONIGHT	FRIDAY	FRIDAY NIGHT	SATURDAY	SATURDAY NIGHT	SUNDAY	SUNDAY NIGHT	MONDAY
80%	100%	100%	90%	100%	100%	100%	100%	100%
Rain High: 64 °F	Rain Low: 53 °F	Rain High: 58 °F	Rain Low: 52 °F	Rain High: 60 °F	Heavy Rain Low: 53 °F	Rain High: 61 °F	Chance Showers Low: 44 °F	Partly Sunny High: 61 °F

**HAZARDOUS WEATHER CONDITIONS**

- [Wind Advisory](#)
- [Flood Watch](#)
- [Special Weather Statement](#)
- [Hazardous Weather Outlook](#)

## 7-DAY FORECAST

- Today** Rain, mainly after 4pm. High near 64. Breezy, with a south southeast wind around 22 mph, with gusts as high as 33 mph. Chance of precipitation is 80%. New precipitation amounts of less than a tenth of an inch possible.
- Tonight** Rain. Low around 53. Breezy, with a south southeast wind around 24 mph, with gusts as high as 37 mph. Chance of precipitation is 100%. New precipitation amounts between three quarters and one inch possible.
- Friday** Rain. High near 58. Windy, with a south southeast wind 29 to 32 mph, with gusts as high as 48 mph. Chance of precipitation is 100%. New precipitation amounts between 1 and 2 inches possible.
- Friday Night** Rain. Low around 52. Breezy, with a south wind 21 to 23 mph, with gusts as high as 34 mph. Chance of precipitation is 90%. New precipitation amounts between a quarter and half of an inch possible.
- Saturday** Rain. High near 60. Breezy, with a south southeast wind around 22 mph, with gusts as high as 33 mph. Chance of precipitation is 100%.
- Saturday Night** Rain. The rain could be heavy at times. Low around 53. Breezy. Chance of precipitation is 100%.
- Sunday** Rain. High near 61. Breezy. Chance of precipitation is 100%.
- Sunday Night** A chance of showers. Mostly cloudy, with a low around 44.
- Monday** Partly sunny, with a high near 61.

Mon 11/5/2012	75°	55°	0 in	0 in				
Tue 11/6/2012	79°	57°	0 in	0 in			66°	47°
Wed 11/7/2012	73°	57°	0 in	0 in			66°	46°
Thu 11/8/2012	55°	41°	0.27 in	0 in			66°	46°
Fri 11/9/2012	48°	37°	0.08 in	0 in			65°	46°
Sat 11/10/2012	50°	39°	0 in	0 in			65°	45°
Sun 11/11/2012	54°	36°	0 in	0 in			64°	45°
Mon 11/12/2012	57°	39°	0 in	0 in			64°	45°
Tue 11/13/2012	64°	43°	0 in	0 in			63°	45°
Wed 11/14/2012	66°	48°	0 in	0 in			63°	44°
Thu 11/15/2012	66°	48°	0 in	0 in			62°	44°
Fri 11/16/2012	57°	50°	0.24 in	0 in			62°	44°
Sat 11/17/2012	55°	52°	1.02 in	0 in			62°	43°
Sun 11/18/2012	55°	48°	1.15 in	0 in			61°	43°
Mon 11/19/2012	63°	48°	0 in	0 in			61°	43°
Tue 11/20/2012	61°	52°	0 in	0 in			60°	43°
Wed 11/21/2012	57°	52°	1.37 in	0 in			60°	42°
Thu 11/22/2012	63°	41°	0 in	0 in			60°	42°
Fri 11/23/2012	64°	48°	0 in	0 in			59°	42°
Sat 11/24/2012	64°	43°	0 in	0 in			59°	42°
Sun 11/25/2012	63°	43°	0 in	0 in			59°	41°
Mon 11/26/2012	64°	46°	0 in	0 in			58°	41°
Tue 11/27/2012	61°	48°	0 in	0 in			58°	41°
Wed 11/28/2012	54°	52°	0.81 in	0 in			58°	41°
Thu 11/29/2012	62°	54°	1.7 in	0 in		Increasingly windy	57°	40°
Fri 11/30/2012	56°	52°	1.4 in	0 in		Windy with pouring rain	57°	40°

Risk Level 2 Visual Inspection Field Log Sheet						
Date and Time of Inspection: <u>11/30/12</u> <u>9:15</u>			Report Date: <u>11/30/12</u>			
Inspection Type:	<input type="checkbox"/> Weekly	<input type="checkbox"/> Before predicted rain	<input checked="" type="checkbox"/> During rain event	<input type="checkbox"/> Following qualifying rain event	<input type="checkbox"/> Contained stormwater release	<input type="checkbox"/> Quarterly non-stormwater
Site Information						
Construction Site Name: <u>DOMINGUEZ LOOP RD</u>			<u>ROCKLIN</u>			
Construction stage and completed activities: <u>GRADING / WALLS</u>			Approximate area of exposed site: <u>3AC</u>			
Weather and Observations						
Date Rain Predicted to Occur: <u>11/30/12</u>			Predicted % chance of rain: <u>100%</u>			
Estimate storm beginning: <u>11/28/12 AM</u> (date and time)	Estimate storm duration: <u>5 DAYS</u> (hours)	Estimate time since last storm: <u>11/16-21</u> (days or hours)	Rain gauge reading: <u>3.78"</u> (inches)			
Observations: If yes identify location						
Odors	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>				
Floating material	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>				
Suspended Material	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>				
Sheen	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>				
Discolorations	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>				
Turbidity	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	<u>WITHIN STANDING WATER</u>			
Site Inspections						
Outfalls or BMPs Evaluated			Deficiencies Noted			
(add additional sheets or attached detailed BMP Inspection Checklists)						
<u>Pg 3</u>						
Photos Taken:	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Photo Reference IDs:			
Corrective Actions Identified (note if SWPPP/REAP change is needed)						
<u>Pg 4</u>						
Inspector Information						
Inspector Name: <u>DAVE CLAYSON</u>			Inspector Title: <u>CESSWI / QSP</u>			
Signature: <u>[Signature]</u>			Date: <u>11/30/12</u>			

Risk Level 2  
Effluent Sampling Field Log Sheets

Construction Site Name: <b>DOMINQUEZ LOOP RD</b>	Date: <b>11/30/12</b>	Time Start: <b>9:15</b>
Sampler: <b>DAVE CLAYSON</b>		<b>00014</b>
Sampling Event Type:	<input checked="" type="checkbox"/> Stormwater	<input type="checkbox"/> Non-stormwater
		<input type="checkbox"/> Non-visible pollutant

Field Meter Calibration	
pH Meter ID No./Desc.: <b>PH 30</b>	Turbidity Meter ID No./Desc.: <b>2020 WE</b>
Calibration Date/Time: <b>11/30/12 5PM</b>	Calibration Date/Time: <b>11/30/12 5PM</b>

Field pH and Turbidity Measurements			
Discharge Location/Description	pH	Turbidity	Time

Grab Samples Collected			
Discharge Location/Description	pH	Sample Type	Time
① <b>OUTFALL AREA PRIOR TO LEAVING SITE</b>	<b>7.69</b>	<b>3245 AU</b>	<b>9:30</b>
② <b>APPROX 100' OUT FROM OUTFALL STRUCTURE</b>	<b>7.50</b>	<b>2805 AU</b>	<b>9:35</b>

Additional Sampling Notes:

① **SAMPLE FROM BLOWOUT OF HOLDING AREAS PRIOR TO LEAVING SITE.**

② **SAMPLE FROM CONCENTRATED FLOW LEAVING SITE IN VEGETATED AREA.**

Time End: **11:00**

TSM  
SWPPP Inspection Form

Site-specific BMPs Evaluated	Descriptions of BMPs (erosion, sediment, chemical/waste, and non-storm water controls)
SILT FENCE	OVERRUN WITH CONCENTRATED
	FLOW IN ONE AREA.
BARK GRINDINGS	ON SLOPES HOLDING WELL.

Notes

MAJOR BLOWOUT FROM WATER HOLDING AREAS DUE TO HEAVY DOWNPOUR AND CONTAINMENT AREA FAILING. SEE SAMPLING

Inspector Information	
Inspector: DAVE CLAYSON	Inspector Title: CESSWI/QSP
Signature: <i>[Signature]</i>	Date: 11/30/12



**NATIONAL WEATHER SERVICE**

HOME FORECAST PAST WEATHER WEATHER SAFETY INFORMATION CENTER NEWS SEARCH ABOUT

Local forecast by "City, ST" or ZIP code  
 Enter location:  Go  
 12/1/2012 12:58 PM

**Onslaught of Storms Continues Along Pacific Coast**  
 A series of storms feeding off of tropical moisture from the Pacific will continue to impact northern California and the Pacific Northwest into the weekend. Heavy rainfall and strong, gusty winds are forecast, with rainfall totals of 10-20 inches possible, along with several feet of snow in the Sierra Nevada and Northern Rockies.  
[Read More...](#)

**3 MILES WSW LOOMIS CA**

En Español



Overcast  
**57°F**  
 14°C

Humidity 94%  
 Wind Speed SSW 25 G 36 MPH  
 Barometer 29.81 in  
 Dewpoint 55°F (13°C)  
 Visibility 0.50 mi  
 Last Update on 30 Nov 5:55 am PST

Current conditions at  
 Lincoln Regional Karl Harder Field  
 (LKL/HM)  
 Lat: 38.9092 Lon: -121.3513 Elev: 121ft.

[More Local Wx](#) | [3 Day History](#) | [Mobile Weather](#)  
[Share](#)

TODAY	TONIGHT	SATURDAY	SATURDAY NIGHT	SUNDAY	SUNDAY NIGHT	MONDAY	MONDAY NIGHT	TUESDAY
High: 60 °F		High: 62 °F		High: 61 °F		High: 62 °F		High: 62 °F

**HAZARDOUS WEATHER CONDITIONS**

- [Flood Advisory](#)
- [Wind Advisory](#)
- [Flood Watch](#)
- [Hazardous Weather Outlook](#)

**NWS Sacramento, CA**

Point Forecast: 3 Miles WSW Loomis CA  
 38.8°N 121.23°W (Elev. 266 ft)  
 Last Update: 3:30 am PST Nov 30, 2012  
 Forecast valid: 7am PST Nov 30, 2012-8pm PST Dec 6, 2012  
 Forecast Discussion

**7-DAY FORECAST**

- Today** Showers. High near 60. Breezy, with a south southeast wind 25 to 28 mph, with gusts as high as 36 mph. Chance of precipitation is 100%. New precipitation amounts between three quarters and one inch possible.
- Tonight** Rain. Low around 55. Breezy, with a south southeast wind 20 to 22 mph, with gusts as high as 29 mph. Chance of precipitation is 90%. New precipitation amounts between a tenth and quarter of an inch possible.
- Saturday** Rain. High near 62. South southeast wind around 18 mph, with gusts as high as 24 mph. Chance of precipitation is 100%. New precipitation amounts between a tenth and quarter of an inch possible.
- Saturday Night** Rain. The rain could be heavy at times. Low around 54. Breezy, with a south southeast wind 20 to 23 mph, with gusts as high as 30 mph. Chance of precipitation is 100%. New precipitation amounts between 1 and 2 inches possible.
- Sunday** Showers. The rain could be heavy at times. High near 61. Breezy, with a south wind 17 to 26 mph, with gusts as high as 34 mph. Chance of precipitation is 100%.
- Sunday Night** A 30 percent chance of showers. Mostly cloudy, with a low around 47.
- Monday** Partly sunny, with a high near 62.
- Monday Night** A slight chance of showers. Mostly cloudy, with a low around 47.
- Tuesday** A chance of showers. Mostly cloudy, with a high near 62.
- Tuesday Night** A chance of rain. Mostly cloudy, with a low around 50.
- Wednesday** A chance of rain. Mostly cloudy, with a high near 63.
- Wednesday Night** A chance of rain. Mostly cloudy, with a low around 49.
- Thursday** Partly sunny, with a high near 61.

**Click Map for Forecast**



**RADAR & SATELLITE IMAGES**



**HOURLY WEATHER GRAPH**



**ADDITIONAL FORECASTS AND INFORMATION**

LOCAL FORECAST FOR 50475000 SACRAMENTO, CA

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[Hourly Weather Graph](#)  
[Today's Events](#)  
[Radar Images](#)

[Air Traffic Forecasts](#)  
[International System of Units](#)

**NATIONAL DIGITAL FORECAST DATABASE**

Tue 11/20/2012	75°	55°	0 in	0 in		66°	47°
Wed 11/21/2012	79°	57°	0 in	0 in		66°	46°
Thu 11/22/2012	73°	57°	0 in	0 in		66°	46°
Fri 11/23/2012	55°	41°	0.27 in	0 in		65°	46°
Sat 11/24/2012	46°	37°	0.08 in	0 in		65°	45°
Sun 11/25/2012	50°	39°	0 in	0 in		64°	45°
Mon 11/26/2012	54°	36°	0 in	0 in		64°	45°
Tue 11/27/2012	57°	39°	0 in	0 in		63°	45°
Wed 11/28/2012	64°	45°	0 in	0 in		63°	44°
Thu 11/29/2012	66°	48°	0 in	0 in		62°	44°
Fri 11/30/2012	66°	48°	0 in	0 in		62°	44°
Sat 12/01/2012	57°	50°	0.24 in	0 in		62°	43°
Sun 12/02/2012	55°	52°	1.02 in	0 in		61°	43°
Mon 12/03/2012	55°	48°	1.15 in	0 in		61°	43°
Tue 12/04/2012	63°	48°	0 in	0 in		60°	43°
Wed 12/05/2012	61°	52°	0 in	0 in		60°	42°
Thu 12/06/2012	57°	52°	1.37 in	0 in		60°	42°
Fri 12/07/2012	63°	41°	0 in	0 in		59°	42°
Sat 12/08/2012	64°	48°	0 in	0 in		59°	42°
Sun 12/09/2012	64°	43°	0 in	0 in		59°	41°
Mon 12/10/2012	63°	43°	0 in	0 in		58°	41°
Tue 12/11/2012	64°	46°	0 in	0 in		58°	41°
Wed 12/12/2012	61°	48°	0 in	0 in		58°	41°
Thu 12/13/2012	54°	52°	0.81 in	0 in		57°	40°
Fri 12/14/2012	59°	52°	0.87 in	0 in		57°	40°
Sat 12/15/2012	57°	52°	1.1 in	0 in	Breezy with pouring rain	57°	40°

October 2012

Risk Level 2 Visual Inspection Field Log Sheet						
Date and Time of Inspection: 12/3/12 1:30				Report Date: 12/3/12		
Inspection Type:	<input type="checkbox"/> Weekly	<input type="checkbox"/> Before predicted rain	<input checked="" type="checkbox"/> During rain event	<input type="checkbox"/> Following qualifying rain event	<input type="checkbox"/> Contained stormwater release	<input type="checkbox"/> Quarterly non-stormwater
Site Information						
Construction Site Name: DOMINGUEZ LOOP RD						
Construction stage and completed activities: GRADING					Approximate area of exposed site: 3AC	
Weather and Observations						
Date Rain Predicted to Occur: 12/3/12				Predicted % chance of rain: 30%		
Estimate storm beginning: 11/28/12 AM (date and time)		Estimate storm duration: 5 DAYS (hours)		Estimate time since last storm: 11/16-21 (days or hours)		Rain gauge reading: 3.78" (Inches)
Observations: If yes identify location						
Odors	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>				
Floating material	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>				
Suspended Material	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>				
Sheen	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>				
Discolorations	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>				
Turbidity	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/> STANDING WATER				
Site Inspections						
Outfalls or BMPs Evaluated			Deficiencies Noted			
(add additional sheets or attached detailed BMP Inspection Checklists)						
PG 3						
PG 4						
Photos Taken: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Photo Reference IDs:						
Corrective Actions Identified (note if SWPPP/REAP change is needed)						
PG 4						
Inspector Information						
Inspector Name: DAVE CLAYSON				Inspector Title: CESSWI/QSP		
Signature:					Date: 12/3/12	

N/A 12/3/12

Risk Level 2 Effluent Sampling Field Log Sheets			
Construction Site Name:		Date:	Time Start:
Sampler:			
Sampling Event Type:	<input type="checkbox"/> Stormwater	<input type="checkbox"/> Non-stormwater	<input type="checkbox"/> Non-visible pollutant
Field Meter Calibration			
pH Meter ID No./Desc.: Calibration Date/Time:		Turbidity Meter ID No./Desc.: Calibration Date/Time:	
Field pH and Turbidity Measurements			
Discharge Location/Description	pH	Turbidity	Time
Grab Samples Collected			
Discharge Location/Description	Sample Type	Time	
Additional Sampling Notes:			
Time End:			

TSM  
SWPPP Inspection Form

Site-specific BMPs Evaluated	Descriptions of BMPs (erosion, sediment, chemical/waste, and non-storm water controls)
BLANKETS	DAMAGED BLANKETS
	REMOVED, MANY REMAIN
	IN GOOD.
BARK GRINDING, SILT FENCE	GRINDING HOLDING
	WELL.
	SILT DAMAGE ALONG
	DISCHARGE ROUTE.

Notes

- NO RAIN @ TIME OF INSPECTION.
- BMP MAINTENANCE SET FOR TOMORROW 12/4/12.
- GRADED NEW LARGE BASIN AREA, SUPPORTED BY ROCK ON LOW SIDE, COVERED WITH PLASTIC.
- PUMPING FROM THIS SITE TO TEMP BASIN.
- IT APPEARS SEDIMENT FLOW STOPPED PRIOR TO CREEK.

Inspector Information	
Inspector: DAVE CLAYSON	Inspector Title: CESSWI/OSP
Signature: <i>[Signature]</i>	Date: 12/3/12



Sat 12/1/2012	57°	54°	1.61 In	0 In			57°	40°
Sun 12/2/2012	57°	52°	2.40 In	0 In			56°	39°
Mon 12/3/2012	60°	48°	0 in	0 in		Clouds and sun	56°	39°
Tue 12/4/2012	59°	51°	0.3 in	0 In		Becoming rainy	56°	39°
Wed 12/5/2012	59°	52°	0.5 in	0 in		Mostly cloudy, showers around	56°	39°
Thu 12/6/2012	62°	38°	0 in	0 in		Sunshine and some clouds	55°	39°
Fri 12/7/2012	56°	38°	0 in	0 in		Fog in the a.m.; partly sunny	55°	39°
Sat 12/8/2012	55°	37°	0 in	0 in		Fog in the a.m.; partly sunny	55°	38°
Sun 12/9/2012	51°	32°	0 in	0 in		Partly sunny and cool	55°	38°
Mon 12/10/2012	55°	39°	0 in	0 in		Bright sunshine	55°	38°
Tue 12/11/2012	66°	45°	0 in	0 in		Sunny and warmer	55°	38°
Wed 12/12/2012	59°	47°	0 in	0 in		Plenty of sun	55°	38°
Thu 12/13/2012	66°	48°	0 in	0 in		Plenty of sun	54°	38°
Fri 12/14/2012	65°	47°	0 in	0 in		Abundant sunshine	54°	38°
Sat 12/15/2012	61°	45°	0 in	0 in		Abundant sunshine	54°	38°
Sun								

> 4.01

/2012	66°	48°	0 in	0 in	62°	44°
Fri 11/16/2012	57°	50°	0.24 in	0 in	62°	43°
Sat 11/17/2012	55°	52°	1.02 in	0 in	61°	43°
Sun 11/18/2012	55°	48°	1.15 in	0 in	61°	43°
Mon 11/19/2012	63°	48°	0 in	0 in	60°	43°
Tue 11/20/2012	61°	52°	0 in	0 in	60°	42°
Wed 11/21/2012	57°	52°	1.37 in	0 in	60°	42°
Thu 11/22/2012	63°	41°	0 in	0 in	59°	42°
Fri 11/23/2012	64°	48°	0 in	0 in	59°	42°
Sat 11/24/2012	64°	43°	0 in	0 in	59°	41°
Sun 11/25/2012	63°	43°	0 in	0 in	58°	41°
Mon 11/26/2012	64°	46°	0 in	0 in	58°	41°
Tue 11/27/2012	61°	48°	0 in	0 in	58°	41°
Wed 11/28/2012	54°	52°	0.81 in	0 in	57°	40°
Thu 11/29/2012	59°	52°	0.20 in	0 in	57°	40°
Fri 11/30/2012	57°	54°	3.55 in	0 in	57°	40°

4.56"



# NATIONAL WEATHER SERVICE



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Local forecast by  
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**Break From Heavy Rain in Store for Northern Calif., But More Rain Is On the Way**

Northern California will get a break from heavy precipitation on Monday, as the system that brought the latest round of rainfall has moved into the central Rockies. Another system will begin impacting the West Coast on Tuesday bringing another round of significant precipitation to northern California and the Pacific Northwest. An additional 2-5 inches of rain is possible with the next round.

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## 3 MILES WSW LOOMIS CA

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Fair  
**54°F**  
12°C

Humidity 71%  
Wind Speed calm  
Barometer 30.19 in  
Dewpoint 45°F (7°C)  
Visibility 10.00 mi  
Last Update on 03 Dec 10:55 am PST

Current conditions at  
Lincoln Regional Karl Harder Field (KLHM)  
Lat: 38.9092 Lon: -121.3513 Elev: 121ft.

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THIS AFTERNOON	TONIGHT	TUESDAY	TUESDAY NIGHT	WEDNESDAY	WEDNESDAY NIGHT	THURSDAY	THURSDAY NIGHT	FRIDAY
Mostly Sunny High: 62°F	Chance Rain Low: 49°F	Rain Likely High: 62°F	Rain Low: 52°F	Showers High: 61°F	Chance Showers Low: 50°F	Mostly Sunny High: 63°F	Partly Cloudy Low: 41°F	Mostly Sunny High: 60°F

## 7-DAY FORECAST

<b>This Afternoon</b>	Mostly sunny, with a high near 62. Light west wind.
<b>Tonight</b>	A 30 percent chance of rain after 10pm. Mostly cloudy, with a low around 49. Calm wind.
<b>Tuesday</b>	Rain likely, mainly after 4pm. Mostly cloudy, with a high near 62. South wind 3 to 6 mph. Chance of precipitation is 60%. New precipitation amounts of less than a tenth of an inch possible.
<b>Tuesday Night</b>	Rain. Low around 52. South southeast wind 3 to 5 mph. Chance of precipitation is 90%. New precipitation amounts between a quarter and half of an inch possible.
<b>Wednesday</b>	Showers, mainly before 4pm. High near 61. South wind around 7 mph. Chance of precipitation is 90%.
<b>Wednesday Night</b>	A 40 percent chance of showers, mainly before 10pm. Mostly cloudy, with a low around 50.
<b>Thursday</b>	Mostly sunny, with a high near 63.
<b>Thursday Night</b>	Partly cloudy, with a low around 41.
<b>Friday</b>	Mostly sunny, with a high near 60.
<b>Friday Night</b>	Partly cloudy, with a low around 42.
<b>Saturday</b>	Partly sunny, with a high near 59.
<b>Saturday</b>	Mostly cloudy, with a low around 42.





City of Rocklin

EROSION AND SEDIMENT CONTROL FIELD INSPECTION

Date: 8-24-12 Time: 2:20 Weather: Clear WDD: 55AK 364102  
 Contractor: SD Deason / Denahue/Schreiber Project: Deminguez Loop Rd.  
 Type of Inspection (Circle One): Monthly / Weekly / Pre-Storm / During / Post Storm  From Complaint

SITE INSPECTION FINDINGS	YES	NO	N/A	BMP CONDITION:		COMMENTS
				Effective	Satisfactory	
1. All areas used for construction entry are stabilized.	<input checked="" type="checkbox"/>					
2. Streets, sidewalks and gutters are clean and free of dirt, mud, concrete, etc.			<input checked="" type="checkbox"/>			Entrance through the crossings
3. Fiber rolls are installed and maintained.		<input checked="" type="checkbox"/>				install when needed.
4. Energy dissipation devices: <input type="checkbox"/> Rock Bar <input type="checkbox"/> Earth Berms <input type="checkbox"/> Check Dams <input type="checkbox"/> Other:			<input checked="" type="checkbox"/>			install when needed.
5. Silt fences are installed and maintained.		<input checked="" type="checkbox"/>				IN ACTIVE
6. Storm drains inlets are protected with rock bags and filters.			<input checked="" type="checkbox"/>			
7. Dust control			<input checked="" type="checkbox"/>			
8. Trash / debris containment			<input checked="" type="checkbox"/>			
9. Hazardous materials are protected and stored properly.			<input checked="" type="checkbox"/>			
10. Portable toilets are behind sidewalks and 50' away from DI's.			<input checked="" type="checkbox"/>			
11. Concrete washouts are being used and properly maintained.			<input checked="" type="checkbox"/>			
12. Stockpiles and spoils are covered and/or stabilized.			<input checked="" type="checkbox"/>			no stock pile
13. Slopes and banks are covered and stabilized.			<input checked="" type="checkbox"/>			no grading
14. There is evidence of erosion caused by rain or other source.		<input checked="" type="checkbox"/>				
15. There is evidence of sediment washing away from site.		<input checked="" type="checkbox"/>				
16. SWPPP documentation, contractor inspection reports current.	<input checked="" type="checkbox"/>					Last Contractor inspection 8-22-12,
17. Other.						

\* Needs Maintenance

Other Comments:

Inspector: [Signature] Phone Number: 240-8963



City of Rocklin

EROSION AND SEDIMENT CONTROL FIELD INSPECTION

Date: 8-20-12 Time: 2:30 Weather: Clear WDDID: 5531C-364102  
 Contractor: SD Deacon Project: Dominguez Loop Rd.  From Complaint

Type of Inspection (Circle One): Monthly  Weekly/ Pre-Storm / During / Post Storm

SITE INSPECTION FINDINGS	YES	NO	N/A	BMP CONDITION:		COMMENTS
				Effective	Satisfactory	
1. All areas used for construction entry are stabilized.	<input checked="" type="checkbox"/>					
2. Streets, sidewalks and gutters are clean and free of dirt, mud, concrete, etc.	<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/>		using Rocklin Crossing.
3. Fiber rolls are installed and maintained.		<input checked="" type="checkbox"/>				have not started Grading
4. Energy dissipation devices: <input type="checkbox"/> Rock Bar <input type="checkbox"/> Earth Berms <input type="checkbox"/> Check Dams <input type="checkbox"/> Other:		<input checked="" type="checkbox"/>				no Grading Yet.
5. Silt fences are installed and maintained.		<input checked="" type="checkbox"/>				"
6. Storm drains inlets are protected with rock bags and filters.		<input checked="" type="checkbox"/>				no under ground.
7. Dust control		<input checked="" type="checkbox"/>				not needed at this time
8. Trash / debris containment			<input checked="" type="checkbox"/>			
9. Hazardous materials are protected and stored properly.			<input checked="" type="checkbox"/>			
10. Portable toilets are behind sidewalks and 50' away from DI's.			<input checked="" type="checkbox"/>			
11. Concrete washouts are being used and properly maintained.			<input checked="" type="checkbox"/>			
12. Stockpiles and spoils are covered and/or stabilized.			<input checked="" type="checkbox"/>			no Grading Yet.
13. Slopes and banks are covered and stabilized.			<input checked="" type="checkbox"/>			"
14. There is evidence of erosion caused by rain or other source.	<input checked="" type="checkbox"/>					
15. There is evidence of sediment washing away from site.	<input checked="" type="checkbox"/>					
16. SWPPP documentation, contractor inspection reports current.	<input checked="" type="checkbox"/>					8-22-12 last inspection Bring up to date
17. Other.						

\* Needs Maintenance

Other Comments: Trees have been removed no grading.

Inspector: [Signature] Phone Number: 240-8963



City of Rocklin

EROSION AND SEDIMENT CONTROL FIELD INSPECTION

Date: 9-7-12 Time: 1:15 pm. Weather: Clear WDD: 5531C364102  
 Contractor: SD DEARLEN Project: Dominguez Loop

From Complaint

Type of Inspection (Circle One): Monthly / Weekly / Pre-Storm / During / Post Storm

SITE INSPECTION FINDINGS	YES	NO	N/A	BMP CONDITION:		COMMENTS
				Effective	Satisfactory NIP*	
1. All areas used for construction entry are stabilized.	X				✓	Using Crossing Entrance.
2. Streets, sidewalks and gutters are clean and free of dirt, mud, concrete, etc.			✓			
3. Fiber rolls are installed and maintained.	X					Needs to be installed.
4. Energy dissipation devices: <input type="checkbox"/> Rock Bar <input type="checkbox"/> Earth Berms <input type="checkbox"/> Check Dams <input type="checkbox"/> Other:			✓			Needs to be installed.
5. Silt fences are installed and maintained.	X					
6. Storm drains inlets are protected with rock bags and filters.			✓			
7. Dust control	X					Water Pail on site
8. Trash / debris containment			✓			
9. Hazardous materials are protected and stored properly.			✓			
10. Portable toilets are behind sidewalks and 50' away from DI's.			✓			
11. Concrete washouts are being used and properly maintained.			✓			
12. Stockpiles and spoils are covered and/or stabilized.			✓			
13. Slopes and banks are covered and stabilized.	X					
14. There is evidence of erosion caused by rain or other source.	X					
15. There is evidence of sediment washing away from site.	X					
16. SWPPP documentation, contractor inspection reports current.	X					last Contractor inspection 9-4-12
17. Other.						

\* Needs Maintenance now that silt has been stripped  
 Other Comments: Perimeter controls need to be in place.

Inspector: [Signature] Phone Number: 240-89163



# City of Rocklin Public Services

## EROSION AND SEDIMENT CONTROL FIELD INSPECTION

Date: 9-21-12 Time: 9:00 Weather: Clear WDID: 5531C 364102

Contractor: SD Deacon Project: DOMINGUEZ LOOP

Type of Inspection (Circle One):  Monthly /  Weekly /  Pre-Storm /  During /  Post Storm

SITE INSPECTION FINDINGS	YES	NO	N/A	BMP CONDITION			COMMENTS
				EFF	SAT	NM	
1. All areas used for construction entry are stabilized.	X						using crossing entrance
2. Streets, sidewalks and gutters are clean and free of dirt, mud, concrete, etc.		X				✓	Sweep as needed.
3. Fiber rolls are installed and maintained.	✗		✓				
4. Energy dissipation devices: <input type="checkbox"/> Rock Bar <input type="checkbox"/> Earth Berms <input type="checkbox"/> Check Dams <input type="checkbox"/> Other: _____			✓				
5. Silt fences are installed and maintained.	X				✓		
6. Storm drains inlets are protected with rock bags and filters.			✓				
7. Dust control	X						water Pull on site
8. Trash / debris containment			✓				
9. Hazardous materials are protected and stored properly.			✓				
10. Portable toilets are behind sidewalks and 50' away from DI's.			✓				
11. Concrete washouts are being used and properly maintained.			✓				
12. Stockpiles and spoils are covered and/or stabilized.			✓				
13. Slopes and banks are covered and stabilized.		X					Grading in progress
14. There is evidence of erosion caused by rain or other source.		X					
15. There is evidence of sediment washing away from site.		X					
16. SWPPP documentation, contractor inspection reports current.	X						LAST Contractor Inspection 9-18-12
17. Other.							

EFF = Effective \*\*\* SAT = Satisfactory \*\*\* NM = Needs Maintenance

Other Comments: -

Inspector: Jeffrey Lu

Phone Number: 240-8763

WHITE - Recipient      BLUE - Inspector 222      GREEN - Public Services



# City of Rocklin Public Services

## EROSION AND SEDIMENT CONTROL FIELD INSPECTION

Date: 10-18-12 Time: 9:45 Weather: clear WID: 5531C364102

Contractor: SD Deacon Project: Dominguez Loop

Type of Inspection (Circle One): Monthly / Weekly / Pre-Storm / During / Post Storm

SITE INSPECTION FINDINGS	YES	NO	N/A	BMP CONDITION			COMMENTS
				EFF	SAT	NM	
1. All areas used for construction entry are stabilized.	X						using Crossings
2. Streets, sidewalks and gutters are clean and free of dirt, mud, concrete, etc.	X						
3. Fiber rolls are installed and maintained.		X					
4. Energy dissipation devices: <input type="checkbox"/> Rock Bar <input type="checkbox"/> Earth Berms <input type="checkbox"/> Check Dams <input type="checkbox"/> Other: _____		X					
5. Silt fences are installed and maintained.	X						Around perimeter
6. Storm drains inlets are protected with rock bags and filters..			X				NON-ON Site
7. Dust control	X						
8. Wash / debris containment	X						
9. Hazardous materials are protected and stored properly.			X				
10. Portable toilets are behind sidewalks and 50' away from DI's.			X				
11. Concrete washouts are being used and properly maintained.	X						
12. Stockpiles and spoils are covered and/or stabilized.			X				NON ON Site
13. Slopes and banks are covered and stabilized.		X					Cover if IN ACTIVE for 14 days
14. There is evidence of erosion caused by rain or other source.		X					
15. There is evidence of sediment washing away from site.		X					
16. SWPPP documentation, contractor inspection reports current.	X						10-17-12
17. Other.							

F = Effective \*\*\* SAT = Satisfactory \*\*\* NM = Needs Maintenance

Other Comments: -

Inspector: Jeffrey [Signature]

Phone Number: 240-8963

WHITE - Recipient BLUE - Inspector 223 GREEN - Public Services



# City of Rocklin Public Services

## EROSION AND SEDIMENT CONTROL FIELD INSPECTION

Date: 10-26-12 Time: 9:45 Weather: Clear WDID: SS3IC 364102

Contractor: SD ~~Deacon~~ Deacon Project: Dominiguez Loop

Type of Inspection (Circle One): Monthly / Weekly / Pre-Storm / During / Post Storm

SITE INSPECTION FINDINGS	YES	NO	N/A	BMP CONDITION			COMMENTS
				EFF	SAT	NM	
1. All areas used for construction entry are stabilized.	X				✓		using crossings
2. Streets, sidewalks and gutters are clean and free of dirt, mud, concrete, etc.			✓				
3. Fiber rolls are installed and maintained.	X						added on slopes
4. Energy dissipation devices: <input type="checkbox"/> Rock Bar <input type="checkbox"/> Earth Berms <input type="checkbox"/> Check Dams <input type="checkbox"/> Other: _____			✓				
5. Silt fences are installed and maintained.	X				✓		
6. Storm drains inlets are protected with rock bags and filters.			✓				none on site
7. Dust control	X						
8. Ash / debris containment	X						
9. Hazardous materials are protected and stored properly.			✓				
10. Portable toilets are behind sidewalks and 50' away from DI's.			✓				
11. Concrete washouts are being used and properly maintained.	X						
12. Stockpiles and spoils are covered and/or stabilized.		X					
13. Slopes and banks are covered and stabilized.		X					
14. There is evidence of erosion caused by rain or other source.	X						Rilling on slopes
15. There is evidence of sediment washing away from site.		X					
16. SWPPP documentation, contractor inspection reports current.	X						Keep done 10-19-12 last inspection 10-24-12
17. Other.							

EFF = Effective \*\*\* SAT = Satisfactory \*\*\* NM = Needs Maintenance

Other Comments: -

Inspector: [Signature]

Phone Number: 240-8763

WHITE - Recipient

BLUE - Inspector  
224

GREEN - Public Services



# City of Rocklin Public Services

## EROSION AND SEDIMENT CONTROL FIELD INSPECTION

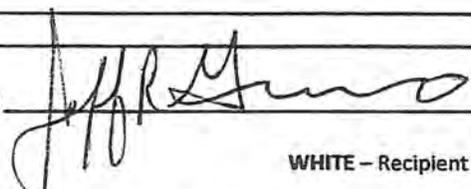
Date: 11-8-12 Time: 9:00 AM Weather: Forecast RAIN CLEAR WDID: 5531C 364102  
 Contractor: SD DEACON Project: DOMINGUEZ LOOP

Type of Inspection (Circle One): Monthly  **Weekly**  Pre-Storm / During / Post Storm

SITE INSPECTION FINDINGS	YES	NO	N/A	BMP CONDITION			COMMENTS
				EFF	SAT	NM	
1. All areas used for construction entry are stabilized.	X				✓		using crossings
2. Streets, sidewalks and gutters are clean and free of dirt, mud, concrete, etc.	X				✓		using crossings
3. Fiber rolls are installed and maintained.	X				✓		new rolls install
4. Energy dissipation devices: <input type="checkbox"/> Rock Bar <input type="checkbox"/> Earth Berms <input type="checkbox"/> Check Dams <input type="checkbox"/> Other: _____	X						Rock bags along gutter Sierra College
5. Silt fences are installed and maintained.	X				✓		
6. Storm drains inlets are protected with rock bags and filters.			✓				
7. Dust control	X						
8. Trash / debris containment	X						
9. Hazardous materials are protected and stored properly.			✓				
10. Portable toilets are behind sidewalks and 50' away from DI's.			✓				
11. Concrete washouts are being used and properly maintained.			✓				
12. Stockpiles and spoils are covered and/or stabilized.	X						stockpile covered with plastic
13. Slopes and banks are covered and stabilized.		X					most slopes have been covered with mulch
14. There is evidence of erosion caused by rain or other source.	X						Rilling on slopes
15. There is evidence of sediment washing away from site.		X					
16. SWPPP documentation, contractor inspection reports current.	X						Reamp dated 11-6-12
17. Other.							

EFF = Effective \*\*\* SAT = Satisfactory \*\*\* NM = Needs Maintenance

Other Comments: -

Inspector: 

Phone Number: 240-8963

WHITE - Recipient

BLUE - Inspector  
225

GREEN - Public Services



# City of Rocklin Public Services

## EROSION AND SEDIMENT CONTROL FIELD INSPECTION

Date: 11-16-12 Time: 10:00 AM Weather: cloudy Forecast Rain: Forecast Rain WDID: 5531C364102

Contractor: SD Deacon Project: Dominguez Loop

Type of Inspection (Circle One): Monthly  **Weekly**  Pre-Storm / During / Post Storm

SITE INSPECTION FINDINGS	YES	NO	N/A	BMP CONDITION			COMMENTS
				EFF	SAT	NM	
1. All areas used for construction entry are stabilized.	X				X		using crossings
2. Streets, sidewalks and gutters are clean and free of dirt, mud, concrete, etc.	X						
3. Fiber rolls are installed and maintained.	X						
4. Energy dissipation devices: <input type="checkbox"/> Rock Bar <input type="checkbox"/> Earth Berms <input type="checkbox"/> Check Dams <input type="checkbox"/> Other: _____			✓				
5. Silt fences are installed and maintained.	X						
6. Storm drains inlets are protected with rock bags and filters.			✓				inlets M/H above grade.
7. Dust control	X						
8. silt / debris containment			✓				
9. Hazardous materials are protected and stored properly.			✓				
10. Portable toilets are behind sidewalks and 50' away from DI's.			✓				
11. Concrete washouts are being used and properly maintained.			✓				
12. Stockpiles and spoils are covered and/or stabilized.		X					Active
13. Slopes and banks are covered and stabilized.	X						covering with mulch
14. There is evidence of erosion caused by rain or other source.		X					
15. There is evidence of sediment washing away from site.		X					
16. SWPPP documentation, contractor inspection reports current.							REAP dated: 11-14-12 inspection 11-16-12
17. Other.							

EFF = Effective \*\*\* SAT = Satisfactory \*\*\* NM = Needs Maintenance

Other Comments: -

Inspector: [Signature]

Phone Number: 240-8963

WHITE - Recipient

BLUE - Inspector

GREEN - Public Services



# City of Rocklin Public Services

## EROSION AND SEDIMENT CONTROL FIELD INSPECTION

Date: 11-29-12 Time: 2:15 p.m. Weather: Cloudy WDID: SS3IC364102

Contractor: SD Deacon Project: DOMINGUEZ LOOP

Type of Inspection (Circle One): Monthly / Weekly / Pre-Storm / During / Post Storm

SITE INSPECTION FINDINGS	YES	NO	N/A	BMP CONDITION			COMMENTS
				EFF	SAT	NM	
1. All areas used for construction entry are stabilized.	X						Rocklin Crossings Entrance
2. Streets, sidewalks and gutters are clean and free of dirt, mud, concrete, etc.	X						
3. Fiber rolls are installed and maintained.			X				none installed
4. Energy dissipation devices: <input type="checkbox"/> Rock Bar <input type="checkbox"/> Earth Berms <input type="checkbox"/> Check Dams <input type="checkbox"/> Other:			X				
5. Silt fences are installed and maintained.	X						Below slope / Key stone well
6. Storm drains inlets are protected with rock bags and filters.			X				NONE ON SITE
7. Dust control			X				
8. Wash / debris containment			X				
9. Hazardous materials are protected and stored properly.			X				
10. Portable toilets are behind sidewalks and 50' away from DI's.			X				
11. Concrete washouts are being used and properly maintained.			X				
12. Stockpiles and spoils are covered and/or stabilized.							
13. Slopes and banks are covered and stabilized.							
14. There is evidence of erosion caused by rain or other source.	X						Rilling
15. There is evidence of sediment washing away from site.		X					
16. SWPPP documentation, contractor inspection reports current.	X				✓		Reap dated 11-26-12 inspection 11-28-12
17. Other.							

FF = Effective \*\*\* SAT = Satisfactory \*\*\* NM = Needs Maintenance

Other Comments:

X storm water is being collected at Bottom of Site  
And Pumped into water truck Then dumped in Silt Road-Crossings

Inspector: [Signature]

Phone Number: 240-8963

WHITE - Recipient

BLUE - Inspector  
227

GREEN - Public Services



# City of Rocklin Public Services

## EROSION AND SEDIMENT CONTROL FIELD INSPECTION

Date: 12-13-12 Time: 1:45 Weather: Clear WDID: 55314364102

Contractor: SD Deacons Project: Dominguez Loop

Type of Inspection (Circle One): Monthly / Weekly / Pre-Storm / During / Post Storm

SITE INSPECTION FINDINGS	YES	NO	N/A	BMP CONDITION			COMMENTS
				EFF	SAT	NM	
1. All areas used for construction entry are stabilized.	X				✓		
2. Streets, sidewalks and gutters are clean and free of dirt, mud, concrete, etc.	X				✓		
3. Fiber rolls are installed and maintained.	X				✓		
4. Energy dissipation devices: <input type="checkbox"/> Rock Bar <input checked="" type="checkbox"/> Earth Berms <input type="checkbox"/> Check Dams <input type="checkbox"/> Other: _____	X						
5. Silt fences are installed and maintained.	X						
6. Storm drains inlets are protected with rock bags and filters.			✓				NONE ON SITE
7. Dust control			✓				
8. Trash / debris containment			✓				
9. Hazardous materials are protected and stored properly.			✓				
10. Portable toilets are behind sidewalks and 50' away from DI's.			✓				
11. Concrete washouts are being used and properly maintained.			✓				
12. Stockpiles and spoils are covered and/or stabilized.			✓				NONE ON SITE
13. Slopes and banks are covered and stabilized.	X						
14. There is evidence of erosion caused by rain or other source.	X						
15. There is evidence of sediment washing away from site.	X				✓		Silt Below cut Fall. Needs to be cleaned up.
16. SWPPP documentation, contractor inspection reports current.	X						Rep dated 12-10-12 last inspection 12-12-12
17. Other.							

EFF = Effective \*\*\* SAT = Satisfactory \*\*\* NM = Needs Maintenance

Other Comments: -

Inspector: [Signature]

Phone Number: 240-8963

WHITE - Recipient BLUE - Inspector GREEN - Public Services



# City of Rocklin Public Services

## EROSION AND SEDIMENT CONTROL FIELD INSPECTION

Date: 12-13-12 Time: 2:00 Weather: Clear WDID: 55310 364105

Contractor: SD Deacon Project: Leaves @ Secrets Ravine

Type of Inspection (Circle One): Monthly / Weekly / Pre-Storm / During / Post Storm

SITE INSPECTION FINDINGS	YES	NO	N/A	BMP CONDITION			COMMENTS
				EFF	SAT	NM	
1. All areas used for construction entry are stabilized.	X				✓		
2. Streets, sidewalks and gutters are clean and free of dirt, mud, concrete, etc.	X				✓		
3. Fiber rolls are installed and maintained.	X						along Sierra College Blvd.
4. Energy dissipation devices: <input type="checkbox"/> Rock Bar <input type="checkbox"/> Earth Berms <input type="checkbox"/> Check Dams <input checked="" type="checkbox"/> Other: <u>Rock Bags</u>	X						along gutter Sierra College Blvd.
5. Silt fences are installed and maintained.			✓				
6. Storm drains inlets are protected with rock bags and filters.			✓				none on site.
7. Dust control			✓				
8. Trash / debris containment			✓				
9. Hazardous materials are protected and stored properly.			✓				
10. Portable toilets are behind sidewalks and 50' away from DI's.			✓				
11. Concrete washouts are being used and properly maintained.			✓				
12. Stockpiles and spoils are covered and/or stabilized.			✓				no stock piles or spoils.
13. Slopes and banks are covered and stabilized.		X					
14. There is evidence of erosion caused by rain or other source.	X						Rilling
15. There is evidence of sediment washing away from site.		X					
16. SWPPP documentation, contractor inspection reports current.	X						Recap dated 12-10-12 last inspection 12-12-12
17. Other.							

EFF = Effective \*\*\* SAT = Satisfactory \*\*\* NM = Needs Maintenance

Other Comments: Majority of the site remains uncovered

Inspector: [Signature]

Phone Number: 240-8963

WHITE - Recipient

BLUE - Inspector

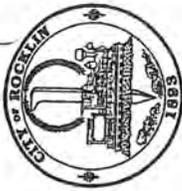
GREEN - Public Services



City of Rocklin

Weekly Inspection Logs

Rocklin Crossings



City of Rocklin

EROSION AND SEDIMENT CONTROL FIELD INSPECTION

Date: 8-24-12 Time: 2:00 P.M. Weather: Clear WDD: 5531C 364098  
 Contractor: SD Deesen / Deshaive/Schriber Project: Rocklin Crossing

Type of Inspection (Circle One): Weekly Pre-Storm / During / Post Storm  From Complaint

SITE INSPECTION FINDINGS	YES	NO	N/A	BMP CONDITION:		COMMENTS
				Effective	Satisfactory	
1. All areas used for construction entry are stabilized.	X				✓	
2. Streets, sidewalks and gutters are clean and free of dirt, mud, concrete, etc.	X				✓	don't let Tracking Accumulate Sweep Regularly.
3. Fiber rolls are installed and maintained.	X					
4. Energy dissipation devices: <input type="checkbox"/> Rock Bar <input type="checkbox"/> Earth Berms <input checked="" type="checkbox"/> Check Dams <input type="checkbox"/> Other:	X	X				INSTALL AROUND DT BELOW BEFORE WATER TOWER PER DETAIL 3 ON C.9.1
5. Silt fences are installed and maintained.	X	X				INSTALL WHEN NEEDED.
6. Storm drains inlets are protected with rock bags and filters.	X					INSTALL PER DETAIL 6 ON C.9.1
7. Dust control	X					Three water trucks on site AND WATER PULL
8. Trash / debris containment						
9. Hazardous materials are protected and stored properly.			✓			
10. Portable toilets are behind sidewalks and 50' away from DI's.	X				✓	
11. Concrete washouts are being used and properly maintained.			✓			
12. Stockpiles and spoils are covered and/or stabilized.	X					MASS Grading Site
13. Slopes and banks are covered and stabilized.	X					MASS Grading Site
14. There is evidence of erosion caused by rain or other source.	X					
15. There is evidence of sediment washing away from site.	X					
16. SWPPP documentation, contractor inspection reports current.	X					Contractor inspection 8-22-12.
17. Other.						

\* Needs Maintenance

Other Comments: \_\_\_\_\_  
 Inspector: [Signature] Phone Number: 240-8963



City of Rocklin

EROSION AND SEDIMENT CONTROL FIELD INSPECTION

Date: 8-30-12 Time: 2:45 Weather: Clear WDDID: 5531C-364098

Contractor: SD Demcon

Project: Rocklin Crossings

Type of Inspection (Circle One): Monthly / Weekly / Pre-Storm / During / Post Storm

From Complaint

SITE INSPECTION FINDINGS	YES	NO	N/A	BMP CONDITION:		COMMENTS
				Effective	Satisfactory	
1. All areas used for construction entry are stabilized.	X				✓	
2. Streets, sidewalks and gutters are clean and free of dirt, mud, concrete, etc.	X				✓	
3. Fiber rolls are installed and maintained.	X				✓	
4. Energy dissipation devices: <input type="checkbox"/> Rock Bar <input type="checkbox"/> Earth Berms <input type="checkbox"/> Check Dams <input type="checkbox"/> Other:		X				Small piece of entrance were installed at this time mass grade
5. Silt fences are installed and maintained.	X					
6. Storm drains inlets are protected with rock bags and filters.	X					
7. Dust control	X				✓	Net installed per plan 2 water trucks, water pull on site
8. Trash / debris containment						
9. Hazardous materials are protected and stored properly.						
10. Portable toilets are behind sidewalks and 50' away from DI's.	X				✓	
11. Concrete washouts are being used and properly maintained.			✓			not at this time
12. Stockpiles and spoils are covered and/or stabilized.		✓				mass grade
13. Slopes and banks are covered and stabilized.		✓				mass grade
14. There is evidence of erosion caused by rain or other source.	X					
15. There is evidence of sediment washing away from site.	X					
16. SWPPP documentation, contractor inspection reports current.	X					
17. Other.						last inspection 8-22-12 bring up to date

\* Needs Maintenance

Other Comments:

Inspector: [Signature] Phone Number: 240-8963



City of Rocklin

EROSION AND SEDIMENT CONTROL FIELD INSPECTION

Date: 9-7-12 Time: 1:00 pm Weather: Clear WDID: 55316364098  
 Contractor: S.D. Deacon Project: Rocklin Crossing  
 Type of Inspection (Circle One): Weekly / Pre-Storm / During / Post Storm

SITE INSPECTION FINDINGS	YES	NO	N/A	BMP CONDITION:		COMMENTS
				Effective	Satisfactory	
1. All areas used for construction entry are stabilized.	X					
2. Streets, sidewalks and gutters are clean and free of dirt, mud, concrete, etc.	X					
3. Fiber rolls are installed and maintained.			X			Sweep daily if necessary-
4. Energy dissipation devices: <input type="checkbox"/> Rock Bar <input type="checkbox"/> Earth Berms <input type="checkbox"/> Check Dams <input type="checkbox"/> Other:			X			
5. Silt fences are installed and maintained.	X					
6. Storm drains inlets are protected with rock bags and filters.	X					
7. Dust control	X					Water Pull on Site
8. Trash / debris containment	X					CON X Boxes on site
9. Hazardous materials are protected and stored properly.	X					
10. Portable toilets are behind sidewalks and 50' away from DI's.	X					
11. Concrete washouts are being used and properly maintained.			X			NO <del>Concrete</del> Concrete at this time
12. Stockpiles and spoils are covered and/or stabilized.	X					SITE IS ACTIVE
13. Slopes and banks are covered and stabilized.	X					IN the Process of Grading
14. There is evidence of erosion caused by rain or other source.	X					
15. There is evidence of sediment washing away from site.	X					
16. SWPPP documentation, contractor inspection reports current.	X					LAST Contractor Inspection 9-5-12
17. Other.						

From Complaint

\* Needs Maintenance

Other Comments: \_\_\_\_\_  
 Inspector: [Signature] Phone Number: 240-8963



# City of Rocklin Public Services

## EROSION AND SEDIMENT CONTROL FIELD INSPECTION

Date: 9-14-12 Time: 12:45 Weather: Clear WDID: 553K 36 4098

Contractor: SD Deacon Project: Rocklin Crossings

Type of Inspection (Circle One): Monthly / Weekly / Pre-Storm / During / Post Storm

SITE INSPECTION FINDINGS	YES	NO	N/A	BMP CONDITION			COMMENTS
				EFF	SAT	NM	
1. All areas used for construction entry are stabilized.	X				✓		
2. Streets, sidewalks and gutters are clean and free of dirt, mud, concrete, etc.		X				✓	Sweep as needed.
3. Fiber rolls are installed and maintained.	X				✓		
4. Energy dissipation devices: <input type="checkbox"/> Rock Bar <input type="checkbox"/> Earth Berms <input type="checkbox"/> Check Dams <input type="checkbox"/> Other: _____			✓				
5. Silt fences are installed and maintained.	X				✓		around SW corner di.
6. Storm drains inlets are protected with rock bags and filters.	X						off-site drain.
7. Dust control	X				✓		
Trash / debris containment	X						
9. Hazardous materials are protected and stored properly.	X						
10. Portable toilets are behind sidewalks and 50' away from DI's.	X						
11. Concrete washouts are being used and properly maintained.			✓				
12. Stockpiles and spoils are covered and/or stabilized.		X					Active
13. Slopes and banks are covered and stabilized.		X					
14. There is evidence of erosion caused by rain or other source.		X					
15. There is evidence of sediment washing away from site.		X					
16. SWPPP documentation, contractor inspection reports current.	X						Last contractor inspection 9-11-12
17. Other.							

EFF = Effective \*\*\* SAT = Satisfactory \*\*\* NM = Needs Maintenance

Other Comments: -

Inspector: [Signature] Phone Number: 240-8963

WHITE - Recipient

BLUE - Inspector  
235

GREEN - Public Services



# City of Rocklin Public Services

## EROSION AND SEDIMENT CONTROL FIELD INSPECTION

Date: 9-21-12 Time: 8:45 Weather: clear WDD: 5531C 36 4098

Contractor: SD Deacon Project: Rocklin Crossing

Type of Inspection (Circle One): Monthly / Weekly / Pre-Storm / During / Post Storm

SITE INSPECTION FINDINGS	YES	NO	N/A	BMP CONDITION			COMMENTS
				EFF	SAT	NM	
1. All areas used for construction entry are stabilized.	X				✓		
2. Streets, sidewalks and gutters are clean and free of dirt, mud, concrete, etc.		X				✓	Sweep as needed.
3. Fiber rolls are installed and maintained.	X				✓		
4. Energy dissipation devices: <input type="checkbox"/> Rock Bar <input type="checkbox"/> Earth Berms <input type="checkbox"/> Check Dams <input type="checkbox"/> Other: _____			✓				
5. Silt fences are installed and maintained.	X				✓		Around outfall by Sierra College.
6. Storm drains inlets are protected with rock bags and filters.	X						
7. Dust control	X						
Crash / debris containment	X						
9. Hazardous materials are protected and stored properly.	X						
10. Portable toilets are behind sidewalks and 50' away from DI's.	X						
11. Concrete washouts are being used and properly maintained.				✓			
12. Stockpiles and spoils are covered and/or stabilized.		X					Currently Active
13. Slopes and banks are covered and stabilized.		X					Grading in progress
14. There is evidence of erosion caused by rain or other source.		X					
15. There is evidence of sediment washing away from site.		X					
16. SWPPP documentation, contractor inspection reports current.	X						LAST Contractor Inspection 9-18-12
17. Other.							

EFF = Effective \*\*\* SAT = Satisfactory \*\*\* NM = Needs Maintenance

Other Comments: -

Inspector: [Signature]

Phone Number: 240-8963

WHITE - Recipient

BLUE - Inspector

GREEN - Public Services



# City of Rocklin Public Services

## EROSION AND SEDIMENT CONTROL FIELD INSPECTION

Date: 9-28-12 Time: 9:45 Weather: Clear WDID: 55312364098

Contractor: SD Deacon Project: Rocklin Crossings

Type of Inspection (Circle One): Monthly / Weekly / Pre-Storm / During / Post Storm

SITE INSPECTION FINDINGS	YES	NO	N/A	BMP CONDITION			COMMENTS
				EFF	SAT	NM	
1. All areas used for construction entry are stabilized.	X					✓	may need to be modified to be more effective.
2. Streets, sidewalks and gutters are clean and free of dirt, mud, concrete, etc.		X				✓	
3. Fiber rolls are installed and maintained.	X				✓		(Sweep for Ramp / Sierra College Blvd.)
4. Energy dissipation devices: <input type="checkbox"/> Rock Bar <input type="checkbox"/> Earth Berms <input type="checkbox"/> Check Dams <input type="checkbox"/> Other: _____			✓				
5. Silt fences are installed and maintained.			✓				
6. Storm drains inlets are protected with rock bags and filters.	X					X	Replace Broken Bags on Entrance Rd.
7. Dust control	X						
8. Trash / debris containment	X						
9. Hazardous materials are protected and stored properly.	X						using con x boxes
10. Portable toilets are behind sidewalks and 50' away from DI's.	X				✓		
11. Concrete washouts are being used and properly maintained.							
12. Stockpiles and spoils are covered and/or stabilized.		X					Active
13. Slopes and banks are covered and stabilized.		X					Active
14. There is evidence of erosion caused by rain or other source.		X					
15. There is evidence of sediment washing away from site.		X					
16. SWPPP documentation, contractor inspection reports current.	X						Last Contractor Inspection 9-29-12
17. Other.							

EFF = Effective \*\*\* SAT = Satisfactory \*\*\* NM = Needs Maintenance

Other Comments: -

Inspector: Jeff [Signature]

Phone Number: 240-8963

WHITE - Recipient

BLUE - Inspector

GREEN - Public Services



# City of Rocklin Public Services

## EROSION AND SEDIMENT CONTROL FIELD INSPECTION

Date: 10-5-12 Time: 10:30 AM Weather: light clouds WVID: 5531C 364098

Contractor: SD Deacon Project: Rocklin Crossing

Type of Inspection (Circle One): Monthly / Weekly / Pre-Storm / During / Post Storm

SITE INSPECTION FINDINGS	YES	NO	N/A	BMP CONDITION			COMMENTS
				EFF	SAT	NM	
1. All areas used for construction entry are stabilized.	X				✓		
2. Streets, sidewalks and gutters are clean and free of dirt, mud, concrete, etc.	X						Keep up with Sweeping
3. Fiber rolls are installed and maintained.	X				✓		At Entrance.
4. Energy dissipation devices: <input type="checkbox"/> Rock Bar <input type="checkbox"/> Earth Berms <input checked="" type="checkbox"/> Check Dams <input type="checkbox"/> Other: _____	X				✓		check dam for tire wash is properly installed Tail needs to be Buried.
5. Silt fences are installed and maintained.	X				✓		
6. Storm drains inlets are protected with rock bags and filters.	X						
7. Dust control	X						
-rash / debris containment	X						
9. Hazardous materials are protected and stored properly.	X						Con X Boxes are being used.
10. Portable toilets are behind sidewalks and 50' away from DI's.	X				✓		
11. Concrete washouts are being used and properly maintained.	X						Self cleaning trucks
12. Stockpiles and spoils are covered and/or stabilized.		X					Active.
13. Slopes and banks are covered and stabilized.		X					Active
14. There is evidence of erosion caused by rain or other source.		X					
15. There is evidence of sediment washing away from site.		X					
16. SWPPP documentation, contractor inspection reports current.	X						Last Contractor Inspection 10-2-12
17. Other.							

EFF = Effective \*\*\* SAT = Satisfactory \*\*\* NM = Needs Maintenance

Other Comments: -

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Inspector: [Signature]

Phone Number: 240-8963

WHITE - Recipient

BLUE - Inspector  
238

GREEN - Public Services



# City of Rocklin Public Services

## EROSION AND SEDIMENT CONTROL FIELD INSPECTION

Date: 10-11-12 Time: 9:30 Weather: Clear WDID: 55316364098  
 Contractor: SD Deacon Project: Rocklin Crossings

Type of Inspection (Circle One): Monthly / Weekly / Pre-Storm / During / Post Storm

SITE INSPECTION FINDINGS	YES	NO	N/A	BMP CONDITION			COMMENTS
				EFF	SAT	NM	
1. All areas used for construction entry are stabilized.	X				✓		
2. Streets, sidewalks and gutters are clean and free of dirt, mud, concrete, etc.	X						
3. Fiber rolls are installed and maintained.	X						
4. Energy dissipation devices: <input type="checkbox"/> Rock Bar <input type="checkbox"/> Earth Berms <input type="checkbox"/> Check Dams <input type="checkbox"/> Other: _____		X					
5. Silt fences are installed and maintained.	X						
6. Storm drains inlets are protected with rock bags and filters.	X						
7. Dust control	X						
Trash / debris containment	X						Cover all TRASH CANS prior to RAIN
9. Hazardous materials are protected and stored properly.	X						CON X boxes
10. Portable toilets are behind sidewalks and 50' away from DI's.	X				✓		
11. Concrete washouts are being used and properly maintained.	X						
12. Stockpiles and spoils are covered and/or stabilized.		X					Active
13. Slopes and banks are covered and stabilized.		X					Active
14. There is evidence of erosion caused by rain or other source.		X					
15. There is evidence of sediment washing away from site.		X					
16. SWPPP documentation, contractor inspection reports current.	X						LAST inspection 10-9-12
17. Other.							

EFF = Effective \*\*\* SAT = Satisfactory \*\*\* NM = Needs Maintenance

Other Comments: -

Inspector: [Signature]

Phone Number: 240-8963

WHITE - Recipient

BLUE - Inspector

GREEN - Public Services



# City of Rocklin Public Services

## EROSION AND SEDIMENT CONTROL FIELD INSPECTION

Date: 10-18-12 Time: 9:00 AM Weather: Clear WVID: 5531C 364098

Contractor: SD Deacon Project: Rocklin Crossings

Type of Inspection (Circle One): Monthly / Weekly / Pre-Storm / During / Post Storm

SITE INSPECTION FINDINGS	YES	NO	N/A	BMP CONDITION			COMMENTS
				EFF	SAT	NM	
1. All areas used for construction entry are stabilized.	X				X		
2. Streets, sidewalks and gutters are clean and free of dirt, mud, concrete, etc.	X						washing tires at Exit
3. Fiber rolls are installed and maintained.	X						
4. Energy dissipation devices: <input type="checkbox"/> Rock Bar <input type="checkbox"/> Earth Berms <input type="checkbox"/> Check Dams <input type="checkbox"/> Other: _____		X					install Rock check dam at outfall by Scriber Way + Sierra College PER-plan
5. Silt fences are installed and maintained.	X	<del>X</del>					Around outfall by Scriber + Sierra College
6. Storm drains inlets are protected with rock bags and filters.	X						
7. Dust control	X						
8. Wash / debris containment	X						per permit need to be covered prior to Rain
9. Hazardous materials are protected and stored properly.	X						
10. Portable toilets are behind sidewalks and 50' away from DI's.	X						
11. Concrete washouts are being used and properly maintained.	X						
12. Stockpiles and spoils are covered and/or stabilized.		X					Active
13. Slopes and banks are covered and stabilized.		X					IN active for more than 14 days They need to be covered.
14. There is evidence of erosion caused by rain or other source.		X					
15. There is evidence of sediment washing away from site.		X					
16. SWPPP documentation, contractor inspection reports current.	X						10-17-12
17. Other.							

EFF = Effective \*\*\* SAT = Satisfactory \*\*\* NM = Needs Maintenance

Other Comments: -

Inspector: [Signature]

Phone Number: 248-8963

WHITE - Recipient

BLUE - Inspector

GREEN - Public Services



# City of Rocklin Public Services

## EROSION AND SEDIMENT CONTROL FIELD INSPECTION

Date: 10-26-12 Time: 10:30 Weather: clear WVID: 5531C364098

Contractor: SD Deacon Project: Rocklin Crossings

Type of Inspection (Circle One): Monthly / Weekly / Pre-Storm / During / Post Storm

SITE INSPECTION FINDINGS	YES	NO	N/A	BMP CONDITION			COMMENTS
				EFF	SAT	NM	
1. All areas used for construction entry are stabilized.	X				✓		
2. Streets, sidewalks and gutters are clean and free of dirt, mud, concrete, etc.	X				✓		
3. Fiber rolls are installed and maintained.	X						
4. Energy dissipation devices: <input type="checkbox"/> Rock Bar <input type="checkbox"/> Earth Berms <input type="checkbox"/> Check Dams <input type="checkbox"/> Other: _____			✓				
5. Silt fences are installed and maintained.	X						Fencing has been added along East Property line at potential discharge points Broken bag at entrance.
6. Storm drains inlets are protected with rock bags and filters.	X						
7. Dust control	X						
8. _____ / debris containment							
9. Hazardous materials are protected and stored properly.	X						
10. Portable toilets are behind sidewalks and 50' away from DI's.	X						
11. Concrete washouts are being used and properly maintained.	X						
12. Stockpiles and spoils are covered and/or stabilized.		X					Active
13. Slopes and banks are covered and stabilized.		X					Active / <del>temp</del> temp detection pond needed 3-step applied. ↓
14. There is evidence of erosion caused by rain or other source.	X						Small Rills on slopes
15. There is evidence of sediment washing away from site.		X					
16. SWPPP documentation, contractor inspection reports current.	X						Keep done + 10-19-12 last inspection 10-24-12
17. Other.							

EFF = Effective \*\*\* SAT = Satisfactory \*\*\* NM = Needs Maintenance

Other Comments: -

detection pond has been Hydro Seeded. Requires 3-step per plan.

Inspector: Jeff R. [Signature]

Phone Number: 240-8963

WHITE - Recipient

BLUE - Inspector

GREEN - Public Services



# City of Rocklin Public Services

## EROSION AND SEDIMENT CONTROL FIELD INSPECTION

Forecast Rain.

Date: 11-8-12 Time: 10:00 AM Weather: cloudy WVID: 55316 364108

Contractor: S.D. Deacon Project: Rocklin Crossing Detention Pond

Type of Inspection (Circle One): Monthly / Weekly / Pre-Storm / During / Post Storm

SITE INSPECTION FINDINGS	YES	NO	N/A	BMP CONDITION			COMMENTS
				EFF	SAT	NM	
1. All areas used for construction entry are stabilized.	X				✓		Using Crossings
2. Streets, sidewalks and gutters are clean and free of dirt, mud, concrete, etc.			✓				
3. Fiber rolls are installed and maintained.	X						
4. Energy dissipation devices: <input type="checkbox"/> Rock Bar <input type="checkbox"/> Earth Berms <input type="checkbox"/> Check Dams <input type="checkbox"/> Other: _____			✓				
5. Silt fences are installed and maintained.	X						
6. Storm drains inlets are protected with rock bags and filters.			✓				NONE ON SITE
7. Dust control	X						
8. Trash / debris containment			✓				
9. Hazardous materials are protected and stored properly.			✓				
10. Portable toilets are behind sidewalks and 50' away from DI's.			✓				
11. Concrete washouts are being used and properly maintained.			✓				
12. Stockpiles and spoils are covered and/or stabilized.			✓				NONE ON SITE
13. Slopes and banks are covered and stabilized.	X						most of the site has been Hydro Seeded.
14. There is evidence of erosion caused by rain or other source.		X					
15. There is evidence of sediment washing away from site.		X					
16. SWPPP documentation, contractor inspection reports current.	X						Reap dated 11-6-12
17. Other.							

EFF = Effective \*\*\* SAT = Satisfactory \*\*\* NM = Needs Maintenance

Other Comments: -

Inspector: [Signature]

Phone Number: 248-8963

WHITE - Recipient

BLUE - Inspector  
242

GREEN - Public Services



# City of Rocklin Public Services

## EROSION AND SEDIMENT CONTROL FIELD INSPECTION

Forecast RAIN

Date: 11-8-12 Time: 10:30 AM Weather: Cloudy WDID: 5531C364098

Contractor: SD Deacon Project: Rocklin Crossings

Type of Inspection (Circle One): Monthly / Weekly / Pre-Storm / During / Post Storm

SITE INSPECTION FINDINGS	YES	NO	N/A	BMP CONDITION			COMMENTS
				EFF	SAT	NM	
1. All areas used for construction entry are stabilized.	X				✓		
2. Streets, sidewalks and gutters are clean and free of dirt, mud, concrete, etc.	X				✓		
3. Fiber rolls are installed and maintained.	X						Various Areas
4. Energy dissipation devices: <input type="checkbox"/> Rock Bar <input type="checkbox"/> Earth Berms <input type="checkbox"/> Check Dams <input type="checkbox"/> Other: _____			✓				
5. Silt fences are installed and maintained.	X						Fence has been installed along East Property line.
6. Storm drains inlets are protected with rock bags and filters.	X						
7. Dust control	X						
8. Trash / debris containment	X						
9. Hazardous materials are protected and stored properly.	X						
10. Portable toilets are behind sidewalks and 50' away from DI's.	X						
11. Concrete washouts are being used and properly maintained.	X						
12. Stockpiles and spoils are covered and/or stabilized.		X					
13. Slopes and banks are covered and stabilized.		X					Some Banks + slopes have been covered with Mulch
14. There is evidence of erosion caused by rain or other source.	X						Some Rilling Various Areas.
15. There is evidence of sediment washing away from site.		X					
16. SWPPP documentation, contractor inspection reports current.	X						Reap Dated 11-6-12
17. Other.							

EFF = Effective \*\*\* SAT = Satisfactory \*\*\* NM = Needs Maintenance

Other Comments: - Hydro Seed has been shot in various areas around the site

Inspector: [Signature]

Phone Number: 240-8963

WHITE - Recipient BLUE - Inspector GREEN - Public Services



# City of Rocklin Public Services

## EROSION AND SEDIMENT CONTROL FIELD INSPECTION

Date: 11-16-12 Time: 10:45 Weather: Forecast Rain. Cloudy WDD: 5531C364098  
 Contractor: SD Deacon Project: Rocklin Crossings

Type of Inspection (Circle One): Monthly / Weekly / Pre-Storm / During / Post Storm

SITE INSPECTION FINDINGS	YES	NO	N/A	BMP CONDITION			COMMENTS
				EFF	SAT	NM	
1. All areas used for construction entry are stabilized.	X				✓		Tire Wash Station HAS BEEN installed
2. Streets, sidewalks and gutters are clean and free of dirt, mud, concrete, etc.	X				✓		
3. Fiber rolls are installed and maintained.	X						
4. Energy dissipation devices: <input type="checkbox"/> Rock Bar <input type="checkbox"/> Earth Berms <input type="checkbox"/> Check Dams <input type="checkbox"/> Other: _____			✓				
5. Silt fences are installed and maintained.	X						Along East Property Line
6. Storm drains inlets are protected with rock bags and filters.	X						on site Drains Not Tied in
7. Dust control	X						
8. Trash / debris containment	X						
9. Hazardous materials are protected and stored properly.	X						masonry covering mortar
10. Portable toilets are behind sidewalks and 50' away from DI's.	X				✓		
11. Concrete washouts are being used and properly maintained.	X						
12. Stockpiles and spoils are covered and/or stabilized.		X					ACTIVE conditions changes daily
13. Slopes and banks are covered and stabilized.		X					Some slopes Along East Property Line covered with Mulch.
14. There is evidence of erosion caused by rain or other source.		X					
15. There is evidence of sediment washing away from site.		X					
16. SWPPP documentation, contractor inspection reports current.							Keep checked 11-14-12 Last inspection 11-16-12
17. Other.							

EFF = Effective \*\*\* SAT = Satisfactory \*\*\* NM = Needs Maintenance

Other Comments: -

Inspector: *[Signature]*

Phone Number: 240-8963

WHITE - Recipient BLUE - Inspector GREEN - Public Services



# City of Rocklin Public Services

## EROSION AND SEDIMENT CONTROL FIELD INSPECTION

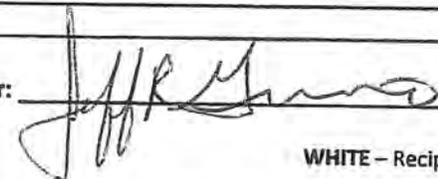
Date: 11-29-12 Time: 1:30pm Weather: cloudy WID: 55316364098  
 Contractor: SD Deacon Project: Rocklin Crossings

Type of Inspection (Circle One): Monthly / Weekly / Pre-Storm / During Post Storm

SITE INSPECTION FINDINGS	YES	NO	N/A	BMP CONDITION			COMMENTS
				EFF	SAT	NM	
1. All areas used for construction entry are stabilized.	X				✓		
2. Streets, sidewalks and gutters are clean and free of dirt, mud, concrete, etc.	X				✓		
3. Fiber rolls are installed and maintained.	X						
4. Energy dissipation devices: <input type="checkbox"/> Rock Bar <input type="checkbox"/> Earth Berms <input type="checkbox"/> Check Dams <input type="checkbox"/> Other: _____			X				
5. Silt fences are installed and maintained.	X						Behind Sound wall
6. Storm drains inlets are protected with rock bags and filters.		X					ON SITE DRAINS ALONG SCREEN WALL NOT PROTECTED. MAIN DRAIN NOT CONNECTED.
7. Dust control			X				
- trash / debris containment	X						
9. Hazardous materials are protected and stored properly.	X						
10. Portable toilets are behind sidewalks and 50' away from DI's.	X						
11. Concrete washouts are being used and properly maintained.	X						
12. Stockpiles and spoils are covered and/or stabilized.		X					
13. Slopes and banks are covered and stabilized.		X					
14. There is evidence of erosion caused by rain or other source.	X						RILLING VARIOUS AREAS
15. There is evidence of sediment washing away from site.	X	X					into Permanent Detention Pond.
16. SWPPP documentation, contractor inspection reports current.	X				✓		Reap dated 11-26-12 Inspection 11-28-12
17. Other.							

EFF = Effective    \*\*\* SAT = Satisfactory    \*\*\* NM = Needs Maintenance

Other Comments: -

Inspector: 

Phone Number: 240-8963

WHITE - Recipient      BLUE - Inspector      GREEN - Public Services



# City of Rocklin Public Services

## EROSION AND SEDIMENT CONTROL FIELD INSPECTION

Date: 12-13-12 Time: 2:30 Weather: Clear WVID: 5531C 364098  
 Contractor: SD Deacon Project: Rocklin Crossings

Type of Inspection (Circle One): Monthly / Weekly / Pre-Storm / During / Post Storm

SITE INSPECTION FINDINGS	YES	NO	N/A	BMP CONDITION			COMMENTS
				EFF	SAT	NM	
1. All areas used for construction entry are stabilized.	X				✓		
2. Streets, sidewalks and gutters are clean and free of dirt, mud, concrete, etc.	X				✓		
3. Fiber rolls are installed and maintained.	X						
4. Energy dissipation devices: <input type="checkbox"/> Rock Bar <input type="checkbox"/> Earth Berms <input checked="" type="checkbox"/> Check Dams <input type="checkbox"/> Other: _____	X						some at front entrance. used to detain water
5. Silt fences are installed and maintained.	X				✓		
6. Storm drains inlets are protected with rock bags and filters.		X					on site drains are not connected to City System.
7. Erosion control			✓				
8. Trash / debris containment	X						
9. Hazardous materials are protected and stored properly.	X						
10. Portable toilets are behind sidewalks and 50' away from DI's.	X						
11. Concrete washouts are being used and properly maintained.	X						
12. Stockpiles and spoils are covered and/or stabilized.		X					many stock piles
13. Slopes and banks are covered and stabilized.		X					
14. There is evidence of erosion caused by rain or other source.	X						
15. There is evidence of sediment washing away from site.		X					
16. SWPPP documentation, contractor inspection reports current.	X						Reap dated 12-10-12 Last inspection 12-12-12
17. Other.							

EFF = Effective \*\*\* SAT = Satisfactory \*\*\* NM = Needs Maintenance

Other Comments: Large portion of site remains uncovered.

Inspector: Jeff R...

Phone Number: 240-8963

WHITE - Recipient

BLUE - Inspector

GREEN - Public Services



# City of Rocklin Public Services

## EROSION AND SEDIMENT CONTROL FIELD INSPECTION

Date: 12-13-12 Time: 2:15 Weather: Clear WDID: 553K 364108

Contractor: S D Deacon Project: Rocklin Crossings Detention Pond

Type of Inspection (Circle One): Monthly / Weekly / Pre-Storm / During / Post Storm

SITE INSPECTION FINDINGS	YES	NO	N/A	BMP CONDITION			COMMENTS
				EFF	SAT	NM	
1. All areas used for construction entry are stabilized.	X				✓		
2. Streets, sidewalks and gutters are clean and free of dirt, mud, concrete, etc.	X				✓		
3. Fiber rolls are installed and maintained.	X						
4. Energy dissipation devices: <input type="checkbox"/> Rock Bar <input type="checkbox"/> Earth Berms <input type="checkbox"/> Check Dams <input checked="" type="checkbox"/> Other: _____	X						Fiber Roll
5. Silt fences are installed and maintained.	X					X	Fencing at outfall needs to be re set.
6. Storm drains inlets are protected with rock bags and filters.	X						out fall pipe plugged.
7. Dust control			✓				
8. Trash / debris containment			✓				
9. Hazardous materials are protected and stored properly.			✓				
10. Portable toilets are behind sidewalks and 50' away from DI's.			✓				
11. Concrete washouts are being used and properly maintained.			✓				
12. Stockpiles and spoils are covered and/or stabilized.			✓				none on site
13. Slopes and banks are covered and stabilized.	X						
14. There is evidence of erosion caused by rain or other source.		X					
15. There is evidence of sediment washing away from site.		X					
16. SWPPP documentation, contractor inspection reports current.							Rep dated 12-10-12 last inspection 12-12-12
17. Other.							

EFF = Effective \*\*\* SAT = Satisfactory \*\*\* NM = Needs Maintenance

Other Comments: -

Inspector: Jeffrey

Phone Number: 240-8963

WHITE - Recipient

BLUE - Inspector

GREEN - Public Services



# Exhibit 7

Prosecution Team Evidence List Exhibits for:

Rocklin Crossings



SMARCS  
 STWQS Entry \_\_\_\_\_  
 10/21/12  
 Date \_\_\_\_\_  
 By \_\_\_\_\_



**Central Valley Regional Water Quality Control Board**

**APPROVED**  
 author Sye for WWH  
 senior SIR WWH

21 December 2012

**CERTIFIED MAIL**  
**7009 1410 0000 7143 1437**

Rocklin Crossings, LLC,  
 Rocklin Holdings, LLC, and  
 Donahue Schriber Asset Management  
 Corporation  
 Janet Petersen, Vice President  
 Donahue Schriber  
 200 East Baker Street, Suite 100  
 Costa Mesa, CA 92626

**CERTIFIED MAIL**  
**7009 1410 0000 7143 1451**

Bob Aroyan, Vice President CA  
 S.D. Deacon Corporation of America  
 7745 Greenback Lane, Suite 250  
 Citrus Heights, CA 95610

**NOTICE OF VIOLATION AND WATER CODE SECTION 13267 ORDER FOR TECHNICAL AND MONITORING REPORTS, ROCKLIN CROSSINGS CONSTRUCTION SITE, SOUTHEAST CORNER OF I-80 AND SIERRA COLLEGE BOULEVARD, ROCKLIN, PLACER COUNTY, WDID #5S31C364098, #5S31C364108, #5S31C364102, and #5S31C364105**

On 30 November 2012, Central Valley Water Board staff inspected the Rocklin Crossings construction site located at the southeast corner of Interstate 80 and Sierra College Boulevard to evaluate compliance with the *General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities, Order 2009-0009 DWQ* (General Permit). The Rocklin Crossings construction site consists of four properties with separate Waste Discharge Identification Numbers (WDIDs) and two different owners as shown in the table below. Collectively, all four construction sites will be referred to as the Rocklin Crossings construction sites or Site(s) in this letter.

Site Name	WDID #	Owner Name
Rocklin Crossings	5S31C364098	Rocklin Crossings LLC and Rocklin Holdings LLC
Rocklin Crossings Detention Basin	5S31C364108	Rocklin Crossings LLC and Rocklin Holdings LLC
Dominguez Loop Road	5S31C364102	Donahue Schriber Asset Management Corp
Center at Secret Ravine	5S31C364105	Donahue Schriber Asset Management Corp

As the owner representative of all four Sites and the legally responsible person (LRP) enrolled in the General Permit for each project, Donahue Schriber Asset Management Corporation (Donahue Schriber) is responsible for complying with all elements of the General Permit. All four Rocklin Crossings construction sites are identified as Risk Level 2 sites under the terms of the General Permit.

This Notice of Violation is issued to the property owners, Rocklin Crossings, LLC, Rocklin Holdings, LLC and Donahue Schriber, through the owners' representative and LRP, Donahue

Schriber, and to the construction contractor, S.D. Deacon Corporation of America (S.D. Deacon), because each of their actions or inactions has contributed to violations of the General Permit.

From 28 November 2012 through 5 December 2012, a rainfall event occurred throughout northern and central California. In the Rocklin area, the heaviest rainfall occurred on Friday, November 30 and Sunday, December 2. This storm was forecast by NOAA (National Oceanic and Atmospheric Administration) National Weather Service a minimum of five days prior to the first rainfall on 28 November.

During the 30 November 2012 inspection, Water Board staff observed significant storm water management issues at the Site including failure to implement appropriate erosion and sediment control Best Management Practices (BMPs) in the active work area and a discharge of turbid water from the Site. Erosion controls were not installed on all disturbed soil areas across the active Site and turbid storm water accumulated in low areas and eventually flowed off the construction site where it entered Secret Ravine at two locations. Secret Ravine is a water of the United States. Based on staff's field measurements, turbid storm water discharges from the Rocklin Crossings construction sites to Secret Ravine were at least six times greater than the turbidity of surface waters in Secret Ravine during this storm event (see attached 30 November 2012 inspection report).

### **Violations**

The owner representative and LRP, Donahue Schriber, and the contractor, S.D. Deacon, have failed to fully implement appropriate erosion and sediment control BMPs, failed to minimize or prevent sediment discharges from the Site, and failed to take all responsible steps to minimize or prevent discharges in violation of the General Permit. Therefore, Donahue Schriber and S.D. Deacon are in violation of the following General Permit sections:

- Attachment D, Part E. Sediment Controls, which states in part:

*E. 3. Additional Risk Level 2 Requirement: Risk Level 2 dischargers shall implement appropriate erosion control BMPs (runoff control and soil stabilization) in conjunction with sediment control BMPs for areas under active construction. [Active areas of construction are areas undergoing land surface disturbance. This includes construction activity during the preliminary stage, mass grading stage, streets and utilities stage, and the vertical construction stage.]*

- Section IV. Special Provisions, which states in part:

#### A. Duty to Comply:

*1. The discharger shall comply with all of the conditions of this General Permit. Any permit noncompliance constitutes a violation of the Clean Water Act (CWA) and the Porter-Cologne Water Quality Control Act and is grounds for enforcement action and/or removal from General Permit coverage.*

D. Duty to Mitigate:

*The discharger shall take all responsible steps to minimize or prevent any discharge in violation of this General Permit, which has a reasonable likelihood of adversely affecting human health or the environment.*

- Section VI. Receiving Water Limitations, Part C., which states:

*The discharger shall ensure that storm water discharges and authorized non-storm water discharges will not contain pollutants that cause or contribute to an exceedance of any applicable water quality objectives or water quality standards (collectively, WQS) contained in a Statewide Water Quality Control Plan, the California Toxics Rule, the National Toxics Rule, or the applicable Regional Water Board's Water Quality Control Plan (Basin Plan).*

The Water Quality Control Plan for the Sacramento and San Joaquin River Basins identifies water quality standards for turbidity as follows:

*Waters shall be free of changes in turbidity that cause nuisance or adversely affect beneficial uses. Increases in turbidity attributable to controllable water quality factors shall not exceed the following limits:*

- *Where natural turbidity is less than 1 Nephelometric Turbidity Unit (NTU), controllable factors shall not cause downstream turbidity to exceed 2*
- *Where natural turbidity is between 1 and 5 NTUs, increases shall not exceed 1 NTU.*
- *Where natural turbidity is between 5 and 50 NTUs, increases shall not exceed 20 percent.*
- *Where natural turbidity is between 50 and 100 NTUs, increases shall not exceed 10 NTUs.*
- *Where natural turbidity is greater than 100 NTUs, increases shall not exceed 10 percent.*

*In determining compliance with the above limits, appropriate averaging periods may be applied provided that beneficial uses will be fully protected.*

**Response**

In response to this Notice of Violation, owner representative and LRP, Donahue Schriber, and contractor S.D. Deacon must complete the following:

- Install appropriate erosion and sediment control BMPs throughout the Rocklin Crossings construction site in conjunction with your SWPPP and amendments. This includes effectively stabilizing disturbed soil areas and maintaining erosion and sediment control BMPs across the site.

- Ensure that site BMPs are effective and result in the reduction or elimination of pollutants in storm water discharges and authorized non-storm water discharges from construction activity to the Best Available Technology Economically Achievable/Best Conventional Pollutant Control Technology BAT/BCT standard.

### **Water Code Section 13267 Requirement for Technical Reports**

Section 13267 of the California Water Code states, in part:

*In conducting an investigation specified in subdivision (a), the regional board may require that any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste within its region, or any citizen or domiciliary, or political agency or entity of this state who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge, waste outside of its region that could affect the quality of waters within its region shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. . .*

Section 13268 of the California Water Code states, in part:

*(a) Any person failing or refusing to furnish technical or monitoring program reports as required by subdivision (b) of Section 13267. . . or falsifying any information provided therein, is guilty of a misdemeanor and may be liable civilly in accordance with subdivision (b).*

*(b)(1) Civil liability may be administratively imposed by a regional board . . . for a violation of subdivision (a) in an amount which shall not exceed one thousand dollars (\$1,000) for each day in which the violation occurs.*

The owner representative and LRP, Donahue Schriber, and the contractor, S.D. Deacon have failed to comply with the General Permit to implement appropriate erosion control BMPs (runoff control and soil stabilization) in conjunction with sediment control BMPs for areas under active construction, and as a result of this failure, turbid storm water discharged to waters of the United States.

Pursuant to Water Code section 13627, Rocklin Crossings, LLC, Rocklin Holdings, LLC and Donahue Schriber, through the property owners' representative and LRP, Donahue Schriber and the construction contractor, S.D. Deacon Corporation of America are directed to submit a technical report containing the following information by **18 January 2013**:

- 1) A complete Numeric Action Level (NAL) Exceedance Report as outlined in Attachment D, Section I.15. in the General Permit for the 28 November 2012 to 5 December 2012 storm event. In addition, the NAL Exceedance Report must include:
  - a) An estimate of the volume of sediment laden water discharged from the construction site,
  - b) An estimate of sediment laden water discharged into Secret Ravine,

- c) Copies of all water quality sampling results with sampling locations identified on a site map,
- d) An updated SWPPP map showing current BMPs installed across the site,
- e) Representative photographs showing current site conditions and how the site has been effectively stabilized with both sediment and erosion control BMPs, and
- f) A narrative explanation of how the structural BMPs were installed and will be maintained throughout the construction site, and how the active treatment system will be operated to prevent future turbid storm water discharges to Secret Ravine.

The burden, including the costs, of producing this technical report bears a reasonable relationship to the need for the report since the report is necessary to determine the impact to water quality and assess whether further action is required to protect beneficial uses.

If preparation of the technical report involves planning, investigation, evaluation, engineering design, or other work requiring interpretation and proper application of engineering or geologic sciences, the report shall be prepared by or under the direction of persons registered to practice in California pursuant to California Business and Professions Code sections 6735, 7835, and 7835.1. As required by these laws, completed technical reports must bear the signature(s) and seal(s) of the registered professional(s) in a manner such that all work can be clearly attributed to the professional responsible for the work.

In addition to the above technical report, Donahue Schriber and S.D. Deacon are requested to submit copies of all contracts between Rocklin Crossings, LLC, Rocklin Holdings, LLC, Donahue Schriber, and S.D. Deacon, in regard to the Rocklin Crossings construction site. Failure to submit these contracts will result in the Regional Water Board issuing a subpoena commanding their production.

Under Section 13385 of the Water Code, the Central Valley Water Board may impose administrative civil liabilities (monetary fines) for violations of the General Permit. The maximum administrative civil liability for each violation is ten thousand dollars (\$10,000) per day and ten dollars (\$10) per gallon of polluted storm water discharged in excess of 1,000 gallons. Failure to comply with reporting requirements contained in this Notice of Violation and Order to submit Technical Reports may result in further enforcement action, including civil liabilities of up \$1,000 per day pursuant to Water Code section 13268.

Please contact Marty Hartzell at (916) 464-4630 or Steve Rosenbaum at (916) 464-4631 with any questions.

PAMELA C. CREEDON  
Executive Officer

Enclosures: 30 November 2012 inspection report with site photographs

cc: Eugene Bromley, U.S. Environmental Protection Agency, Region IX, San Francisco  
Donald Tanner, National Marine Fisheries Service, Sacramento  
Mayumi Okamoto, Office of Enforcement, State Water Board, Sacramento  
Jeff Guerrero, City of Rocklin Construction Inspector, Rocklin



Central Valley Regional Water Quality Control Board

21 December 2012

CERTIFIED MAIL
7009 1410 0000 7143 1437

Rocklin Crossings, LLC,
Rocklin Holdings, LLC, and
Donahue Schriber Asset Management
Corporation
Janet Petersen, Vice President
Donahue Schriber
200 East Baker Street, Suite 100
Costa Mesa, CA 92626

CERTIFIED MAIL
7009 1410 0000 7143 1451

Bob Aroyan, Vice President
S.D. Deacon Corporation of America
7745 Greenback Lane, Suite 250
Citrus Heights, CA 95610

NOTICE OF VIOLATION AND WATER CODE SECTION 13267 ORDER FOR TECHNICAL AND MONITORING REPORTS, ROCKLIN CROSSINGS CONSTRUCTION SITE, SOUTHEAST CORNER OF I-80 AND SIERRA COLLEGE BOULEVARD, ROCKLIN, PLACER COUNTY, WDID #5S31C364098, #5S31C364108, #5S31C364102, and #5S31C364105

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Table with 3 columns: Site Name, WDID #, Owner Name. Rows include Rocklin Crossings, Rocklin Crossings Detention Basin, Dominguez Loop Road, and Center at Secret Ravine.

As the owner representative of all four Sites and the legally responsible person (LRP) enrolled in the General Permit for each project, Donahue Schriber Asset Management Corporation (Donahue Schriber) is responsible for complying with all elements of the General Permit. All four Rocklin Crossings construction sites are identified as Risk Level 2 sites under the terms of the General Permit.

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### Violations

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- *Where natural turbidity is between 1 and 5 NTUs, increases shall not exceed 1 NTU.*
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- *Where natural turbidity is between 50 and 100 NTUs, increases shall not exceed 10 NTUs.*
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**Response**

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  - a) An estimate of the volume of sediment laden water discharged from the construction site,
  - b) An estimate of sediment laden water discharged into Secret Ravine,

- c) Copies of all water quality sampling results with sampling locations identified on a site map,
- d) An updated SWPPP map showing current BMPs installed across the site,
- e) Representative photographs showing current site conditions and how the site has been effectively stabilized with both sediment and erosion control BMPs, and
- f) A narrative explanation of how the structural BMPs were installed and will be maintained throughout the construction site, and how the active treatment system will be operated to prevent future turbid storm water discharges to Secret Ravine.

The burden, including the costs, of producing this technical report bears a reasonable relationship to the need for the report since the report is necessary to determine the impact to water quality and assess whether further action is required to protect beneficial uses.

If preparation of the technical report involves planning, investigation, evaluation, engineering design, or other work requiring interpretation and proper application of engineering or geologic sciences, the report shall be prepared by or under the direction of persons registered to practice in California pursuant to California Business and Professions Code sections 6735, 7835, and 7835.1. As required by these laws, completed technical reports must bear the signature(s) and seal(s) of the registered professional(s) in a manner such that all work can be clearly attributed to the professional responsible for the work.

In addition to the above technical report, Donahue Schriber and S.D. Deacon are requested to submit copies of all contracts between Rocklin Crossings, LLC, Rocklin Holdings, LLC, Donahue Schriber, and S.D. Deacon, in regard to the Rocklin Crossings construction site. Failure to submit these contracts will result in the Regional Water Board issuing a subpoena commanding their production.

Under Section 13385 of the Water Code, the Central Valley Water Board may impose administrative civil liabilities (monetary fines) for violations of the General Permit. The maximum administrative civil liability for each violation is ten thousand dollars (\$10,000) per day and ten dollars (\$10) per gallon of polluted storm water discharged in excess of 1,000 gallons. Failure to comply with reporting requirements contained in this Notice of Violation and Order to submit Technical Reports may result in further enforcement action, including civil liabilities of up \$1,000 per day pursuant to Water Code section 13268.

Please contact Marty Hartzell at (916) 464-4630 or Steve Rosenbaum at (916) 464-4631 with any questions.



PAMELA C. CREEDON  
Executive Officer

Enclosures: 30 November 2012 inspection report with site photographs

cc: Eugene Bromley, U.S. Environmental Protection Agency, Region IX, San Francisco  
Donald Tanner, National Marine Fisheries Service, Sacramento  
Mayumi Okamoto, Office of Enforcement, State Water Board, Sacramento  
Jeff Guerrero, City of Rocklin Construction Inspector, Rocklin

# Exhibit

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Prosecution Team Evidence List Exhibits for:  
Rocklin Crossings

## Storm Water Construction General Permit Inspection Report Central Valley Regional Water Quality Control Board

Inspection Date & Time:	24 December 2012 0755 hours	Inspected By: M. Hartzell
-------------------------	-----------------------------	---------------------------

Site Name	WDID #	Owner Name	Acres
Rocklin Crossings	5S31C364098	Rocklin Crossings LLC and Rocklin Holdings	50.4
Dominguez Loop Road	5S31C364102	Donahue Schriber Asset Management Corp	2.9
Center at Secret Ravine	5S31C364105	Donahue Schriber Asset Management Corp	3.7
Rocklin Crossings Detention Basin	5S31C364108	Rocklin Crossings LLC and Rocklin Holdings	2.4

Site Address: All four sites listed above are located at the intersection of Sierra College Boulevard and Schriber Way, which is southeast of Interstate 80 in Rocklin, Placer County. Total site acreage is 59.4 acres.

Inspection Type: <input checked="" type="checkbox"/> Compliance <input type="checkbox"/> Follow-up <input type="checkbox"/> Termination <input type="checkbox"/> Other (describe)	
SWPPP on site? Yes. All four SWPPPs are available at the Rocklin Crossings trailer.	Evidence of Erosion? Yes. Minor riling across unstabilized areas.
Photos Taken? Yes	Evidence of Tracking? No.
Weather: Clear and cool. Rain on Fri-Sat-Sun totaled 2.75 inches.	Evidence of SW or Non-SW Discharge? No.

### Inspection Summary / Comments:

I met with Bob Aroyan, VP for SD Deacon; Andy Van Veldhuizen, PM for SD Deacon; Brian Hansen, Site Superintendent for SD Deacon; Dave Clayson, QSP with Total Site Maintenance, and reviewed the site following a three day rain event. According to the rain gauge log, the site received 0.25" on 12/21, 1.0" on 12/22, and 1.5" on 12/23, for a three day total of 2.75 inches. Andy stated that Deacon was working to install a fully electronic tipping bucket rain gauge.

The Center at Secret Ravine (CSR) area was still actively being graded and compacted and Deacon staff reported that Earthgard was applied to site soils prior to the rain event. Rills and concentrated flow lines were still observed across the CSR area, but now all SW and eroded soils accumulated in a temporary basin on the Dominguez Loop Road area, and SW was being pumped to the detention basins.

Graded areas in the middle and north end of the construction site where active construction was taking place prior to the rain event were also reported to be treated with Earthgard on 12/19-20. The rocked access road from the site entrance to south of Wal-Mart pad now acts as a levee to prevent SW collected at the north end of the site from flowing to the CSR area. Accumulated SW north of this road will be pumped to the basins.

Patrick Sparks, operator with Advanced Treatment Systems was treating water out of Basin A. The treatment system was operating in batch treatment mode, and treating 60-70K gallons every 40 minutes. Patrick stated that the turbidity in Basin A influent was still at 1600 to 3000 NTU, which dropped to around 150 NTU after pre-treatment. The ATS totalizer at the time of my visit was 523,449 gallons.

Signature: Marty Hartzell 	Date: 11 February 2013	Date Entered: <u>1/4/13</u> Entered By: <u>MMA</u> Senior Review: _____
---	------------------------	---



Photo 1. View of the Center at Secret Ravine (CSR) area where soils were treated with Earthgard prior to the rain event.



Photo 2. CSR area looking towards the temporary detention basin. Note gully in loose soils in foreground.



Photo 3. Temporary detention basin at the CSR area. A 6-inch pump was set up to pump water to the upper detention basins.



Photo 4. View of the 11/30/12 discharge point at the Dominguez Loop Road area.



Photo 5. View of the storm drain outlet where sediment was deposited following the 11/30/12 discharge event.



Photo 6. Soil deposited between the Photo 5 retaining wall and Secret Ravine was covered with blanket.



Photo 7. View of the CSR temporary detention basin looking west. A hard line is being used for the discharge pipe.



Photo 8. Water from the Photo 7 temp detention basin pumps to a vault where water is then pumped to the detention basins.



Photo 9. View of the site looking NW from Schriber Way. Active areas were also treated with Earthgard prior to the rain event.



Photo 10. Site soils are saturated and water was ponding at the surface.



Photo 11. View of Detention Basin A looking north from Schriber Way.



Photo 12. View of the ATS that was currently treating water from Basin A and discharging it indirectly to Secret Ravine.



Photo 13. Detention Basin B was lined with filter fabric.



Photo 14. This is the east side of Basin B. Laborers maintaining the filter fabric after a wind storm.



Photo 15. View of Crossings Detention Basin discharge point. The culvert outlet was plugged, thereby retaining storm water in the detention basin.



Photo 16. Treated storm water flows out of the storm drain system in Schriber Way. This drainage ditch is tributary to Secret Ravine.



Photo 17. View of the active drilling and blasting area near the center and north end of the construction site.



Photo 18. Same area as Photo 17. Deacon staff reported that these areas were also treated with Earthgard.



Photo 1.



Photo 2.



Photo 3.



Photo 4.



Photo 5.



Photo 6.



Photo 7.



Photo 8.



Photo 9.



Photo 10.



Photo 11.



Photo 12.



Photo 13.



Photo 14.



Photo 15.



Photo 16.



Photo 17.



Photo 18.



Photo 19.

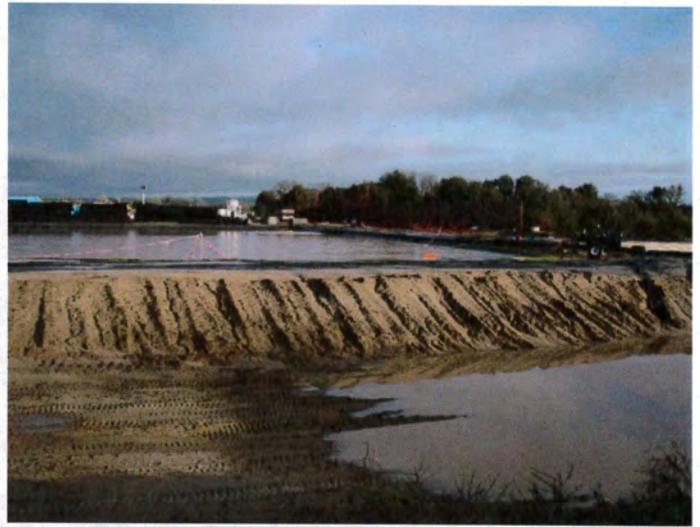


Photo 20.



Photo 21.



Photo 22.

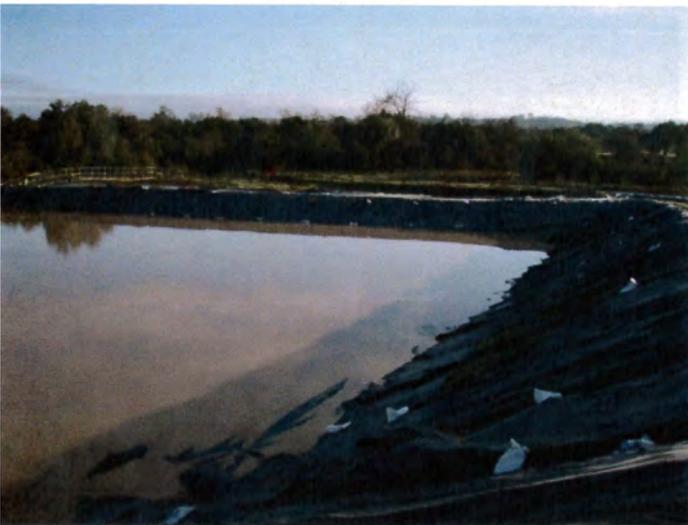


Photo 23.



Photo 24.



Photo 25.



Photo 26.



Photo 27.



Photo 28.



Photo 29.



Photo 30.



Photo 31.



Photo 32.



Photo 33.



Photo 34.



Photo 35.



Photo 36.

# Exhibit 9

Prosecution Team Evidence List Exhibits for:  
Rocklin Crossings

Central Valley Regional Water Quality Control Board

14 January 2013



Rocklin Crossings, LLC,  
Rockling Holdings, LLC, and  
Donahue Schriber Asset Management  
Corporation  
Janet Petersen, Vice President  
Donahue Schriber  
200 East Baker Street, Suite 100  
Costa Mesa, CA 92626

Bob Aroyan, Vice President  
S.D. Deacon Corporation of America <sup>CA</sup>  
7745 Greenback Lane, Suite 250  
Citrus Heights, CA 95610

**TIME EXTENSION FOR NOTICE OF VIOLATION AND WATER CODE SECTION 13267  
ORDER FOR TECHNICAL AND MONITORING REPORTS, ROCKLIN CROSSINGS  
CONSTRUCTION SITE, SOUTHEAST CORNER OF I-80 AND SIERRA COLLEGE  
BOULEVARD, ROCKLIN, PLACER COUNTY, WDID #5S31C364098, #5S31C364108,  
#5S31C364102, and #5S31C364105**

On 21 December 2012, the Executive Officer of the Central Valley Regional Water Quality Control Board (Central Valley Water Board) issued a Notice of Violation (NOV) and Water Code Section 13267 Order for Technical and Monitoring Reports (13267 Order) to Rocklin Crossings, LLC, Rocklin Holdings, LLC, and Donahue Schriber, through the owners' representative and legally responsible party, Donahue Schriber, and to the construction contractor, S.D. Deacon Corporation of America (S.D. Deacon). The deadline to submit a technical report in response to the 13267 Order is 18 January 2013.

On 11 January 2013, counsel for Donahue Schriber requested a 7-day extension to the 18 January 2013 deadline in the NOV and 13267 Order. This letter grants a 7-day extension to all parties named in the 21 December 2012 NOV and 13267 Order. The new deadline to respond is **25 January 2013**.

Pursuant to Water Code section 13267, the Central Valley Water Board has broad authority to investigate the quality of any waters of the state within its jurisdiction in connection with any action relating to any plan or requirement authorized by Division 7 of the California Water Code. Furthermore, the requirement to submit technical and/or monitoring reports to the Central Valley Water Board may be directed to *any* person who has discharged, discharges, or is suspected of having discharged waste within the Central Valley Region. Rocklin Crossings, LLC, Rocklin Holdings, LLC and Donahue Schriber, through the property owners' representative and legally responsible party Donahue Schriber, and the construction contractor, S.D. Deacon are any such persons required to respond pursuant to Water Code 13267.

Questions regarding the 13267 Order should be directed to the attention of Marty Hartzell [mhartzell@waterboards.ca.gov](mailto:mhartzell@waterboards.ca.gov) or Steve Rosenbaum [srosenbaum@waterboards.ca.gov](mailto:srosenbaum@waterboards.ca.gov).

PAMELA C. CREEDON  
Executive Officer

cc: via email only

Mayumi E. Okamoto, Office of Enforcement , State Water Board, Sacramento  
[mokamoto@waterboards.ca.gov](mailto:mokamoto@waterboards.ca.gov)

David M. Boyers, Office of Enforcement , State Water Board, Sacramento  
[dboyers@waterboards.ca.gov](mailto:dboyers@waterboards.ca.gov)

Howard F. Wilkins III, Remy Moose Manley, LLP, Sacramento  
[hwilkins@rmmenvirolaw.com](mailto:hwilkins@rmmenvirolaw.com)

Melissa A. Thorme, Downey Brand, LLP, Sacramento  
[mthorme@downeybrand.com](mailto:mthorme@downeybrand.com)

## Central Valley Regional Water Quality Control Board

14 January 2013

Rocklin Crossings, LLC,  
Rockling Holdings, LLC, and  
Donahue Schriber Asset Management  
Corporation  
Janet Petersen, Vice President  
Donahue Schriber  
200 East Baker Street, Suite 100  
Costa Mesa, CA 92626

Bob Aroyan, Vice President  
S.D. Deacon Corporation of America  
7745 Greenback Lane, Suite 250  
Citrus Heights, CA 95610

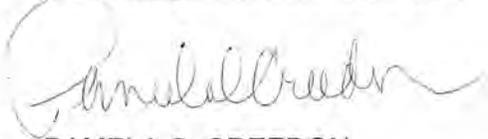
***TIME EXTENSION FOR NOTICE OF VIOLATION AND WATER CODE SECTION 13267  
ORDER FOR TECHNICAL AND MONITORING REPORTS, ROCKLIN CROSSINGS  
CONSTRUCTION SITE, SOUTHEAST CORNER OF I-80 AND SIERRA COLLEGE  
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Questions regarding the 13267 Order should be directed to the attention of Marty Hartzell [mhartzell@waterboards.ca.gov](mailto:mhartzell@waterboards.ca.gov) or Steve Rosenbaum [srosenbaum@waterboards.ca.gov](mailto:srosenbaum@waterboards.ca.gov).



PAMELA C. CREEDON  
Executive Officer

cc: via email only

Mayumi E. Okamoto, Office of Enforcement , State Water Board, Sacramento  
[mokamoto@waterboards.ca.gov](mailto:mokamoto@waterboards.ca.gov)

David M. Boyers, Office of Enforcement , State Water Board, Sacramento  
[dboyers@waterboards.ca.gov](mailto:dboyers@waterboards.ca.gov)

Howard F. Wilkins III, Remy Moose Manley, LLP, Sacramento  
[hwilkins@rmmenvirolaw.com](mailto:hwilkins@rmmenvirolaw.com)

Melissa A. Thorne, Downey Brand, LLP, Sacramento  
[mthorne@downeybrand.com](mailto:mthorne@downeybrand.com)

# Exhibit 10

Prosecution Team Evidence List Exhibits for:  
Rocklin Crossings



# TRANSMITTAL

DATE: 01-25-13

TO: Marty Hartzell  
Central Valley Regional Water Quality Control Board  
11020 Sun Center Drive #200  
Rancho Cordova, CA 95670-6114

- Mail
- Hand Delivery
- Will Call
- Overnight
- Messenger

PROJECT: Rocklin Crossings, Dominguez Loop, Center @ Secret Ravine, Detention Basin

SDD NO.: 992.1-.3 and 992A

<u>NO. OF COPIES</u>	<u>DESCRIPTION</u>
2	NAL Exceedance Report including Contracts between SD Deacon and Donahue Schriber

- For Approval
- For Your Signature
- Per Your Request
- For Payment
- For Your Records

- SUBMITTALS**
- Approved as Submitted
  - Make Corrections Noted
  - Rejected / Resubmit

Remarks:

Accepted by:

Delivered by: 

Andy Van Veldhuizen  
Sr. Project Manager

cc: Files/ SDD Project #992

RECEIVED  
SACRAMENTO  
CVR/DCG  
13 JAN 25 PM 1:54

S.D. Deacon Corp. of California  
7745 Greenback Lane, Suite 250, Citrus Heights, CA 95610  
T: 916.969.0900 • F: 916.729.0900  
Contractor's License No. 760475  
[www.deacon.com](http://www.deacon.com)

SEATTLE | PORTLAND | SACRAMENTO | IRVINE



January 25, 2013

Via Hand Delivery

Pamela C. Creedon  
Executive Officer  
Regional Water Quality Control Board  
Central Valley Region  
11020 Sun Center Drive #200  
Rancho Cordova, California 95670

RECEIVED  
SACRAMENTO  
CVR REGION  
13 JAN 25 11

Re: Response to Notice of Violation and Water Code Section 13267 Order Issued on December 21, 2012 for Rocklin Crossings (WDID #5S31C364098, #5S31C364108, #5S31C364102, and #5S31C364105)

Dear Ms. Creedon:

This letter responds to the Notice of Violation (“NOV”) and Water Code Section 13267 Order for Technical and Monitoring Reports issued on December 21, 2012 for the Rocklin Crossings construction site. The Rocklin Crossings construction site has coverage under the General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities, Order No. 2009-0009-DWQ as amended by Order No. 2010-0014-DWQ (“CGP”) issued by the California State Water Resources Control Board. On behalf of Rocklin Crossings LLC, Rocklin Holdings LLC and Donahue Schriber Asset Management Company as the legally responsible person (“LRP”) under the CGP, I am providing a complete Numeric Action Level (“NAL”) Exceedance Report as outlined in Attachment D, Section 1.15 of the CGP for the storm event that occurred from November 28, 2012 to December 5, 2012, as requested in the NOV. In addition to information required for the NAL Exceedance Report in the CGP, the attached NAL Exceedance Report also includes the following information requested in the NOV:

- An estimated volume of sediment laden water discharged from the construction site. (See Section 4 and Appendix F of the NAL Exceedance Report for this information.)
- Copies of all water quality sampling results with a map identifying sampling locations. (See Appendix C of the NAL Exceedance Report for this information.)
- An updated Storm Water Pollution Prevention Plan (“SWPPP”) Map showing current Best Management Practices (“BMPs”) installed across the site. (See Appendix D of the NAL Exceedance Report for this information.)
- Representative photographs showing current site conditions and how the site has been effectively stabilized with both sediment and erosion controls. (See Appendix E of the NAL Exceedance Report for this information.)

- A narrative explanation of how the structural BMPs were installed and will be maintained throughout the construction site and how the Advanced Treatment System (ATS) will be operated to ensure future discharges comply with the CGP. (See Section 4 of the NAL Exceedance Report for this information.)

The NOV discusses several sections of the General Permit and alleges that Rocklin Crossings construction site did not comply with those provisions. As explained in the attached NAL Exceedance Report, S.D. Deacon Corporation (the "Contractor"), continuously implemented BMPs in compliance with the General Permit during the days of the alleged violations. (See Section 3 of the NAL Exceedance Report for this information.) BMPs were maintained on a regular basis, repaired as needed, and added to address changes in site conditions from the beginning of construction up to, during, and after the rain event occurred. These actions are evidenced by the site's SWPPPs, Rain Event Action Plans (REAPs), and correspondence sent to Regional Board staff documenting these activities. As demonstrated in these documents and the NAL Exceedance Report, Rocklin Crossings LLC, Rocklin Holdings LLC, Donahue Schriber Asset Management Company and S.D. Deacon are committed to maintaining BMPs in the best possible condition to most effectively protect water quality.

The NOV attaches an inspection report from November 30, 2012, wherein by Regional Board staff observed discharges from the Rocklin Crossings construction site during very heavy rains. As addressed in the NAL Exceedance Report, the Contractor immediately began to implement corrective actions to address the discharges and was able to stop the discharges through its efforts. As requested in the NOV, the NAL Exceedance Report estimates volume of sediment laden water discharged from the site for a limited period of time during particularly heavy rain that exceeded the capacity of the site. These estimates, however, should not be construed as an admission of liability or of any violation of the CGP. Neither Rocklin Crossings LLC, Rocklin Holdings LLC, Donahue Schriber Asset Management Company nor S.D. Deacon waive any potential defenses should the Regional Board take further action in this matter.

Finally, the NOV requests all contracts between Rocklin Crossings, LLC, Rocklin Holdings, LLC, Donahue Schriber Asset Management Company and S.D. Deacon in regard to the Rocklin Crossings construction site. The requested contracts contain confidential and proprietary information. Nonetheless, in a good faith effort to work with the Regional Board we have provided copies of the requested contracts. Please note that we have redacted the contract price from the documents. In providing the redacted contracts Rocklin Crossings LLC, Rocklin Holdings LLC, Donahue Schriber Asset Management Company do not waive any claims regarding the confidential nature of the contracts themselves. If the Regional Board needs additional information regarding the contracts or the contract price, please let me know what information is needed and the reasons the information is necessary to resolve this matter.

Pamela C. Creedon  
January 25, 2013  
Page 3

I believe that this letter fully responds to the NOV and your request for information. Rocklin Crossings LLC, Rocklin Holdings LLC, Donahue Schriber Asset Management Company remain committed to working with the Regional Board to ensure the Rocklin Crossings construction site remains in compliance with the CGP in order to effectively protect water quality. If you have any questions about this letter or believe additional information is needed to evaluate compliance with the CGP, please contact me at your earliest convenience at 714-966-6426.

Sincerely,

**DONAHUE SCHRIBER REALTY GROUP, LP**



Janet L. Petersen  
Vice President - Development Services

JLP:lir

cc: via email only

Mayumi E. Okamoto, Office of Enforcement, State Water Board  
(mokamoto@waterboards.ca.gov)  
David M. Boyers, Office of Enforcement, State Water Board  
(dboyers@waterboards.ca.gov)  
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Melissa A. Thorne, Downey Brand, LLP  
(mthorne@downeybrand.com)  
Bob Aroyan, SD Deacon Construction  
Andy Van Veldhuizen, SD Deacon Construction  
David Mossman, DSRG  
Scott Lawrence, DSRG

**Attachments to January 25, 2013 Response to Notice of Violation and Water Code Section 13267 Order Issued on December 21, 2012 for Rocklin Crossings (WDID #5S31C364098, #5S31C364108, #5S31C364102, and #5S31C364105)**

- (1) Numeric Action Level Exceedance Report for Rocklin Crossings Construction Site by Donahue Schriber Asset Management Corp., Rocklin Crossings LLC, Rocklin Holdings, LLC, dated January 25, 2013.
- (2) Construction Contract for Rocklin Crossings, Dominguez Loop and Schriber Way (Contract # RC25900) between Rocklin Crossings, LLC & Rocklin Holdings, LLC and Donahue Schriber Asset Management Corporation and S.D. Deacon Corp. Of California, dated September 5, 2012 [contract price redacted]
- (3) Construction Contract for Rocklin Crossings, On and Off Site Work (Contract # RC251000) between Rocklin Crossings, LLC & Rocklin Holdings, LLC and S.D. Deacon Corp. of California, dated September 5, 2012 [contract price redacted]
- (4) Construction Contract for Rocklin Crossings, PCWA Onsite Water Improvements (Contract # RC251001) between Rocklin Crossings, LLC & Rocklin Holdings, LLC and S.D. Deacon Corp. of California, dated September 5, 2012 [contract price redacted]
- (5) Construction Contract for Rocklin Crossings, East Side Canal Relocation (Contract # RC251002) between Rocklin Crossings, LLC & Rocklin Holdings, LLC and S.D. Deacon Corp. of California, dated September 5, 2012 [contract price redacted]

Donahue Schriber Asset Management Corp  
Rocklin Crossings LLC  
Rocklin Holdings LLC.

# Numeric Action Level Exceedance Report

---

## Rocklin Crossings Construction Site

January 25, 2013

This document contains the information required by the General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities, Order No. 2009-0009-DWQ, as amended by Order No. 2010-0014-DWQ, issued by the California State Water Resources Control Board and the Notice of Violation and Water Code Section 13267 Order for Technical and Monitoring Reports issued on December 21, 2012 to the Rocklin Crossings Construction Site. **Submission of this document does not equate to an admission of liability, of responsibility, of wrongdoing, or of any violation of the Construction General Permit, and does not constitute a waiver of any potential defenses.**

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## Certification

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, to the best of my knowledge and belief, the information submitted is, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

  
\_\_\_\_\_  
Legally Responsible Person's (LRP) Signature

1/24/13  
\_\_\_\_\_  
Date

JANET L PETERSEN  
\_\_\_\_\_  
Name

714.966.6426  
\_\_\_\_\_  
Telephone Number

VICE PRESIDENT DEVELOPMENT SERVICES  
\_\_\_\_\_  
Title

DONAHUE SCHRIEBER  
\_\_\_\_\_  
Company

## Section 1 Introduction

This Numeric Action Level (NAL) Exceedance Report was prepared and is being timely submitted in response to a Notice of Violation (NOV) and Water Code Section 13267 Order for Technical and Monitoring Reports issued on December 21, 2012 by the Central Valley Regional Water Quality Control Board (Regional Board) for the Rocklin Crossings Construction Site (site). The site is located on the Southeast Corner of Interstate-80 and Sierra College Boulevard in Placer County. The Rocklin Crossings Construction Site has coverage under the General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities, Order No. 2009-0009-DWQ as amended by Order No. 2010-0014-DWQ (Construction General Permit) issued by the California State Water Resources Control Board. The site consists of the following separate Waste Discharge Identification (WDID) Numbers and Site Owners:

Site Name	WDID Number	Owner Name
Rocklin Crossings	5S31C364098	Rocklin Crossings LLC and Rocklin Holdings LLC
Rocklin Crossings Detention Basin	5S31C364108	Rocklin Crossings LLC and Rocklin Holdings LLC
Dominguez Loop Road	5S31C364102	Donahue Schriber Asset Management Corp
Center at Secret Ravine	5S31C364105	Donahue Schriber Asset Management Corp

### Notice of Violation

A NOV was issued as a result of an inspection that was conducted by Regional Board staff on November 30, 2012. At that time, a storm event was occurring, which began on November 28<sup>th</sup> and lasted until December 2<sup>nd</sup>. During this period of time the site received approximately 7.0 inches of rainfall according to the onsite rain gauge (see Appendix A for Rainfall Chart).

As noted in the NOV, the owner representative of all four Sites and the Legally Responsible Person (LRP) enrolled in the Construction General Permit for each project, Donahue Schriber Asset Management Corporation, is responsible for complying with all elements of the General Permit.<sup>1</sup> The NOV also noted that the Rocklin Crossings construction sites are identified as Risk Level 2 sites under the terms of the Construction General Permit.

Pursuant to California Water Code Section 13267, the NOV requested the preparation of a NAL Exceedance Report pursuant to the requirements of the General Permit, Attachment D, Section I.15. In compliance with the information required under the Construction General Permit, this NAL Exceedance Report provides the following information requested in the NOV:

- An estimated volume of sediment laden water discharged from the construction site. See Section 4 of this report for this information.

<sup>1</sup> Under the Construction General Permit, the LRP is the project proponent that possesses a real property interest in the land containing the construction site. (Order No. 2009-0009-DWQ as amended by Order No. 2010-0014-DWQ, Appendix 5 at pages 5-6.)

- An estimated volume of sediment laden water discharged to Secret Ravine. See Section 4 and Appendix F of this Report for this information.
- Copies of all water quality sampling results with a map identifying sampling locations. See Appendix C.
- An updated Storm Water Pollution Prevention Plan (SWPPP) Map showing current Best Management Practices (BMPs) installed across the site. See Appendix D.
- Representative photographs showing current site conditions and how the site has been effectively stabilized with both sediment and erosion controls. See Appendix E.
- A narrative explanation of how the structural BMPs were installed and will be maintained throughout the construction site and how the Advanced Treatment System (ATS) will be operated to ensure future discharges comply with the Construction General Permit. See Section 4.

The majority of this information was previously submitted to Regional Board staff through email correspondence, in a submittal of a summary of requested information, dated December 18, 2012, or was included in the Regional Board approved Active Treatment System (ATS) Plan prepared by Active Treatment System, Inc. This document not only provides, incorporates by reference and summarizes the previously provided information, but also provides a supplemental account of the BMPs that were in place prior to the event, a more in depth explanation of the events that occurred, a summary of communication with Regional Board staff, and a summary of the actions that have been implemented to ensure continued compliance with the Construction General Permit.

## Section 2 Site Information

This section provides general information related to the Rocklin Crossings construction site to provide context for the rest of the document.

### Site Description

**Prior to Construction** - The Rocklin Crossings construction site consists of approximately 50.4 acres and is located on the southeast corner of Interstate 80 and Sierra College Boulevard in Rocklin, California. The project site is located approximately 1,000 feet north of Secret Ravine. Prior to construction, storm water runoff generated from the site sheet flowed into a number of offsite ephemeral drainages that ultimately discharged into Secret Ravine.

**Prior to Event** - Since the commencement of construction, the site has been mass graded into two onsite watersheds, Shed A and Shed B (See Appendix B, Pre-Event SWPPP Map). Until mid-December 2012, Shed A sheet-flowed in a north to south direction, to numerous low spots, where any accumulating water was then pumped from the various areas to Basin A to allow for settlement prior to discharge. Shed B also sheet-flowed to various low spots and then was captured, pumped and transported to Basin A.

**Post Event** - Between December 5-10, 2012, a second basin, Basin B, was constructed to provide additional onsite storage. Runoff is now pumped to Basin B for holding and then transferred to Basin A for treatment by an Active Treatment System (ATS). Deployment of the ATS was on December 10, 2012 and the system was fully operational December 18, 2012. The ATS discharges indirectly to Secret Ravine.

### Storm Water Pollution Prevention Plan

The original SWPPP for this construction site, dated July 11, 2012, was prepared by RSC Engineering (Daniel Taylor, Qualified SWPPP Developer (QSD)). The SWPPP was submitted, as required by the Construction General Permit, to the Regional Board via the Storm Water Multiple Application and Reporting Tracking System (SMARTs). The Qualified SWPPP Practitioner (QSP) for the site is Dave Clayson of Total Site Maintenance (TSM). The QSD is responsible for the day-to-day upkeep of the SWPPP and any required SWPPP amendments; while the QSP is responsible for observation and inspection activities, required sampling, and providing sediment and erosion control recommendations.

### Section 3 Best Management Practices (BMPs) In Place Prior to Event

Prior to the late November/early December rain event that is the subject of the NOV, grading along with rock drilling and blasting were the primary construction activities being conducted at the site. Therefore, BMP implementation mostly focused on erosion and sediment control efforts consistent with SWPPP prepared for the site. The Contractor, S.D. Deacon Corporation, continuously implemented BMPs from the beginning of construction up to, during, and after the rain event occurred. BMPs were maintained on a regular basis, repaired as needed, and added to address changes in site conditions continuously during the months of October and November (prior to the event). These actions are evidenced by the continuous, at least weekly email correspondence sent to Regional Board staff documenting these activities. This continuous flow of communication demonstrates the ongoing commitment to storm water quality on the site.

Additionally, the SWPPP Map provided in Appendix B identifies the BMPs that were implemented on the site. Below is a summary of the specific BMPs that were fully implemented prior to the event.

#### Good Site Management (Housekeeping)

Throughout the site, good housekeeping BMPs were deployed and good housekeeping practices were followed to ensure storm water runoff did not come into contact with waste or hazardous materials.

- A self-contained tire wash was installed at the entrance.
- All sanitation facilities were located away from watercourses and storm drains, and were placed in a manner that they could not easily be knocked over by equipment or vehicles.
- Waste disposal containers were covered.
- Hazardous and waste materials were stored in a manner that would eliminate the potential for these materials to come into contact with storm water runoff.

#### Non Storm Water Management

Sources of non-storm water, prior to the event, were related to the tire wash (located at the construction entrance) and dust control. However, since the tire wash is self-contained and recycles the wash water, there was no need to discharge any associated water. Additionally, dust control activities were completed in a fashion that did not generate excess water. With these activities, the potential non-storm water discharges were eliminated.

#### Erosion Control

Prior to the event, sediment discharges from the site were controlled by a combination of erosion control and containment BMPs. Please refer to the SWPPP Map located in Appendix B.

- Areas that were complete and were considered non-active were stabilized with hydroseed and/or soil stabilizing emulsion, mulched with recycled vegetative material left over from the clearing and grubbing phase, or were covered with a rolled erosion control product.
- Areas that were not completed and were still active were controlled by relying on the graded topography and constructed dikes for containment. It was understood that this approach was

acceptable to Regional Board staff as it was discussed during the October 31, 2012 field meeting and documented in a subsequent email to Regional Board staff.

### Sediment Control

A variety of sediment control measures were deployed throughout the site prior to the event. Below is a summary of these measures. Please refer to the SWPPP Map located in Appendix B for the specific BMPs that were deployed and for the locations of deployment.

- The Contractor installed silt fencing or fiber rolls along the perimeter of the job site.
- The construction entrance was stabilized with rock.
- Sediment Basin A was constructed in accordance with the sizing requirements prepared by the QSD and included in the SWPPP. The sizing of the basin was completed in accordance with the Construction General Permit.
- Appropriate linear sediment controls were placed along slopes to reduce the slope length.
- Drain inlet protection was installed on manholes and inlets as they were constructed or the constructed manholes and/or inlets were plugged.
- Access roads were compacted and stabilized with rock material.
- Rock check dams were constructed to reduce the velocity of storm water runoff.
- Street sweeping was completed as necessary to address any tracking of sediment off of the site.

### Run-off and Run-on Controls

Both run-off and run-on controls were in place prior to the event. Run-off controls consisted of energy dissipation and careful placement of discharge points. Run-on primarily occurs on the western edge of the site. A clear water diversion was installed to divert run-on from an 18-inch culvert. Inlets to the culvert were plugged to prevent storm water runoff from disturbed soil areas from entering into the system.

## Section 4 Description of Numerical Action Limit Exceedance

The Construction General Permit includes Numeric Action Levels (NALs) for pH and turbidity. The NAL for pH is 6.5 to 8.5 and the NAL for turbidity is 250 nephelometric turbidity units (NTU). The NALs primary purpose is to assist dischargers in evaluating the effectiveness of their on-site measures; they are not effluent limitations. Exceedance of an NAL does not itself constitute a violation of the General Permit; rather they are triggers for additional action if exceeded. The Permit requires Risk Level 2 and 3 sites to complete the following if a NAL is exceeded:

- Implement additional BMPs and revise the SWPPP to substantially reduce pollutants consistently below the NAL.
- Conduct sampling activities.
- Report the NAL and required sampling results through SMARTs.
- Prepare a NAL Exceedance Report, if requested by the Regional Board.

Below is a summary of the rain event and the NAL exceedance for turbidity; including discharge calculations.

### Description of Event and Immediate Short Term Corrective Actions Taken

The NOV was related to the continuous Qualifying Rain Event that occurred during the time period of November 28<sup>th</sup> to December 2, 2012. The Construction General Permit defines a Qualifying Rain Event as any event that produces 0.5 inches or more of precipitation with a 48-hour or greater period between storm events. **As previously stated, during that period of time, the site received approximately 7.0 inches of rain. Please note that this amount of rain exceeds the 5-year, 24-hour Compliance Storm Event identified in the Construction General Permit.**<sup>2</sup>

A written narrative of the events that occurred and the actions taken, along with photographs and site maps, was provided to Regional Board Staff on December 18, 2012. Therefore, the information below is a summary of this previously provided information. In addition to the summary, discharge calculations are provided.

During a 23-hour period, beginning 8:00 AM on November 28<sup>th</sup> and ending 7:00 AM on November 29<sup>th</sup> the rain gauge present on the site indicated that the site received 0.75 inches of rain. During the inspection that occurred the morning of November 29<sup>th</sup>, it was observed that the BMPs implemented on the site were effectively controlling the discharge of sediment from the site. The Contractor performed BMP maintenance as necessary and continued pumping operations, removing water from low containment areas to transport sediment laden water to Basin A.

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<sup>2</sup> Under the Construction General Permit, Risk Level 3 discharges are exempt from compliance with Numeric Effluent Limitations if rainfall is equal to or larger than a 5 year, 24-hour storm event. (Order No. 2009-0009-DWQ as amended by Order No. 2010-0014-DWQ at page 29, Provision V.B.3.) A larger storm event "exceeds the capacities of available BMPs to minimize discharges." (*California Building Industry Association v. SWRCB*, Judgment, Case No. 34-2009-800000338-CU-WM-GDS at page 9, lines 23-25.)

During the 96-hour period, starting at 5:00 AM on November 30<sup>th</sup> through 7:00 AM December 2<sup>nd</sup>, the site received an additional approximately 6.25 inches of rain. During an inspection that occurred at 5:30 AM on November 30, 2012, it was observed that although heavy rain was occurring, the BMPs and runoff control measures on the site were effectively managing storm water runoff and controlling the discharge of sediment.

By 8:00 AM, it was observed that due to the heavy rain and associated storm water accumulation, there was one location, located near Basin A, where a constructed berm had been breached, resulting in storm water overwhelming a protected outlet culvert located on the south side of the Immediately upon the identification of this issue, repairs to the berm were initiated and the culvert was plugged to prevent future discharges.

*missed word*

While the Contractor was addressing the berm breach, the containment area located at the west end of Dominguez Loop also began to become overwhelmed due to the severe rains the site was experiencing. Normally, runoff accumulating in the containment area was pumped into a water truck that was then transported the water to Basin A. However, due to the heavy amount of rainfall occurring, the containment area was overwhelmed resulting in the discharge of water that caused eventual failure of an earthen dike that had been constructed to prevent storm water runoff from leaving the site. Immediate efforts were initiated to repair the dike, and the flow of storm water runoff was stopped within 1.5 hours. As a temporary measure, the dike was immediately protected with visquine. The Contractor then contacted a subcontractor to request the deployment of a dozer to re-grade the dike higher and wider. Re-grading of the dike began at 11:00 AM. By the end of the day, on November 30, 2012, the dike had been completely reconstructed. Much of the sediment that left the site was stopped by heavy vegetation prior to reaching Secret Ravine.

In addition to the dike repair, the Contractor also ordered a 6-inch pump to be delivered the following day (December 1, 2012). This larger pump was used to pump water from the containment area, located within Dominguez Loop, to Basin A. The 6-inch pump was on site by 7:00 AM on December 1, 2012, the day after the event. Pumping began by 9:30 AM and was continued through the weekend.

### Sampling Activities

The QSP took samples on November 28, 2012 and November 30, 2012. Turbidity samples were taken up stream, at the point of discharge, and downstream. An Ad Hoc Monitoring report providing the sampling results were reported to the Regional Board through SMARTs. This report, additional sampling information, and a map depicting the locations where the samples were taken are located in Appendix E. *c*

### Long Term Corrective Actions

To eliminate the potential for further discharges of sediment, the Contractor worked diligently to implement additional BMPs on the site. Immediately after the event, a long term corrective action strategy was developed and provided to Regional Board staff on December 10, 2012, that included:

- The implementation of an Active Treatment System (ATS) and placement of associated piping.

- The construction of an additional basin to increase storm water storage capacity well beyond the Construction General Permit's requirement for the ATS to be designed to capture and treat a volume equivalent to the run-off from a 10-year, 24-hour storm event using a runoff coefficient of 1.0 .
- Placement of additional pumps and associated piping to transport water to the basin.
- The implementation of a more restrictive phased grading plan to make the site more manageable in regards to management of storm water runoff.
- The application of additional erosion control measures to address areas that recently became inactive.
- Construction of all-weather access roads.
- Obtaining additional support from storm water consultants (Supplemental QSP) as a QA/QC oversight of the contracted QSP and QSD to review and supplement the SWPPP.

**Active Treatment System** - The day of the event, November 30, 2012, the Contractor contacted Active Treatment Systems, Inc. to provide an Active Treatment System (ATS) to treat storm water generated from the site. Active Treatment Systems, Inc. prepared an ATS Plan that was submitted to the Regional Board for approval per the requirements of the Construction General Permit. The system described in the ATS Plan and implemented on site was designed to accommodate a 10-year, 24-hour storm event (4 inches of rain)<sup>3</sup> and drain in less than 72-hours. The ATS Plan was uploaded to SMARTs on December 11, 2012 and approval of the plan was obtained from the Regional Board on December 12, 2012. The ATS was mobilized on December 10, 2012 and was fully operational on December 18, 2012.

Storm water accumulating within Dominguez Loop is pumped by the 6-inch pipe to either Basin A or Basin B. If Basin A has capacity and is not in the process of actively treating storm water, water is pumped to Basin A. If Basin A does not have capacity, water is pumped to Basin B and stored until such time that the water is pumped to Basin A for pre-treatment and settlement. The chemical additive Chitosan is added to the water in Basin A to aid in flocculation of the sediment particles. Once the appropriate amount of flocculation has occurred, settlement of sediment occurs within the basin. Water is then transferred to a series of baker tanks for additional treatment and then is finally processed through a series of sand filters that removes the remaining sediment and the chemical additive prior to discharge.

To date, the system has been working as intended and in compliance with the ATS requirements indicated in the Construction General Permit. All observation, sampling, and documentation activities have been completed and required documentation has been uploaded to SMARTs.

**Erosion Control** – Additional erosion control measures are continuously implemented on the site to address changing site conditions and to ensure that the potential for sediment laden discharges to

<sup>3</sup> In the case of ATS, the industry-standard design storm is 10-year, 24-hour storm (as stated in Attachment F of the General Permit), so the compliance storm event was established as the 10-year, 24-hour storm event as well to provide consistency. (Order No. 2009-0009-DWQ as amended by Order No. 2010-0014-DWQ, Fact Sheet at page 37.)

Secret Ravine are eliminated or minimized. Areas of the site that are non-active are stabilized and construction will not be reinitiated in these areas until after the rainy season. Additional Erosion Control BMPs, such as stabilizing emulsion, and hydro mulch, have been placed at multiple locations throughout the site.

Going forward, the storm water runoff from the site will be managed by implementing the existing pumping and treatment strategy. This strategy is proving to be an effective way to manage storm water at the site. Additionally, BMPs will continue to be repaired and improved and additional new BMPs will be considered and implemented, as needed. Please refer to the SWPPP Map located in Appendix D for details. Please refer to Appendix E for photographs of the BMPs implemented.

#### Discharge Calculations

The QSD, Daniel Taylor, P.E. of RSC Engineering, prepared a memorandum providing the discharge calculations required by the NOV (See Appendix F). The discharge calculation memorandum provides the following information:

- A summary of the assumptions that were utilized to complete the calculations.
- A description of the methods that were utilized to complete the calculations.
- Separate calculations for the two discharge locations.
- Calculation backcheck information to confirm the validity of the calculations.
- Summary of total estimated volume discharged from the site during the event.

It should be noted that the calculations do not attempt to determine the amount of any specific discharge that exceeded the NAL for turbidity. It is reasonable to assume that not 100% of any specific discharge exceeded 250 NTUs.

## Appendix A Rainfall Chart



Table 5-A-1  
 Depth-Duration-Frequency Coefficients

150 - 3000 feet elevation  
 West of Sierra Nevada Crest

Depths in inches at 150 feet

Duration	2yr	5yr	10yr	25yr	50yr	100yr	200yr	500yr
5m	0.13	0.20	0.25	0.32	0.38	0.44	0.49	0.58
10m	0.19	0.29	0.36	0.46	0.54	0.62	0.70	0.82
15m	0.23	0.35	0.43	0.55	0.64	0.73	0.82	0.96
30m	0.32	0.47	0.57	0.72	0.83	0.94	1.04	1.22
1h	0.45	0.64	0.77	0.94	1.07	1.21	1.33	1.53
2h	0.64	0.88	1.04	1.26	1.42	1.59	1.76	2.00
3h	0.77	1.04	1.23	1.47	1.66	1.85	2.03	2.31
6h	1.06	1.40	1.65	1.95	2.22	2.23	2.75	3.10
12h	1.43	1.91	2.24	2.67	3.00	3.30	3.60	4.00
1d	1.90	2.50	2.98	3.46	3.85	4.25	4.60	5.20
2d	2.51	3.40	3.95	4.65	5.15	5.70	6.20	7.00
3d	3.00	4.07	4.65	5.50	6.20	6.80	7.50	8.40
5d	3.61	4.91	5.76	6.85	7.63	8.42	9.20	10.29
10d	4.73	6.44	7.54	8.96	9.97	11.01	11.95	13.45

total for 3 day period  
 per rain gauge measurements  
 beginning Nov 30 and  
 ending Dec 2<sup>nd</sup>

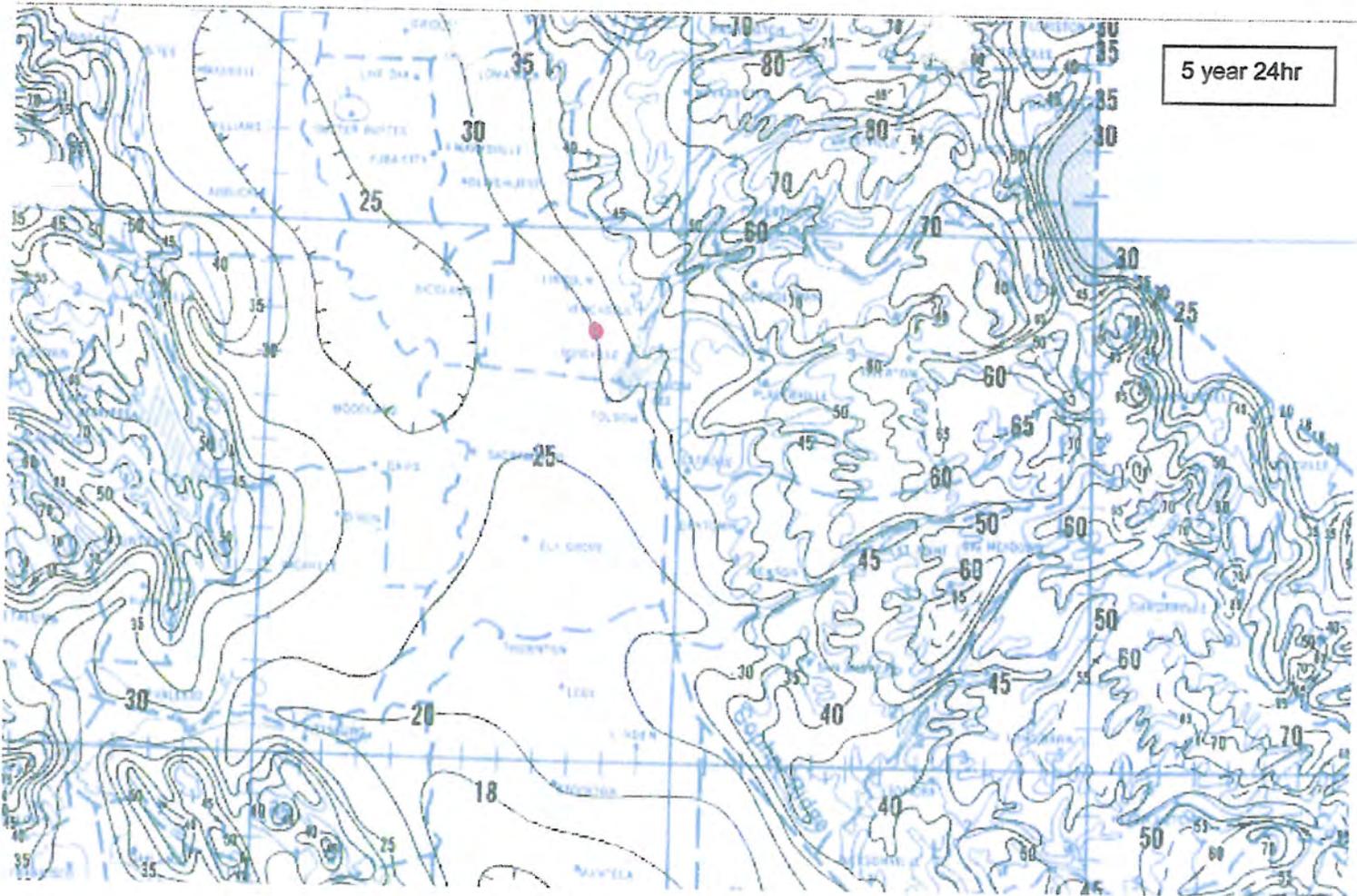
7"

total for rain event  
 per rain gauge measurements  
 beginning Nov 28 and ending  
 Dec 2<sup>nd</sup>

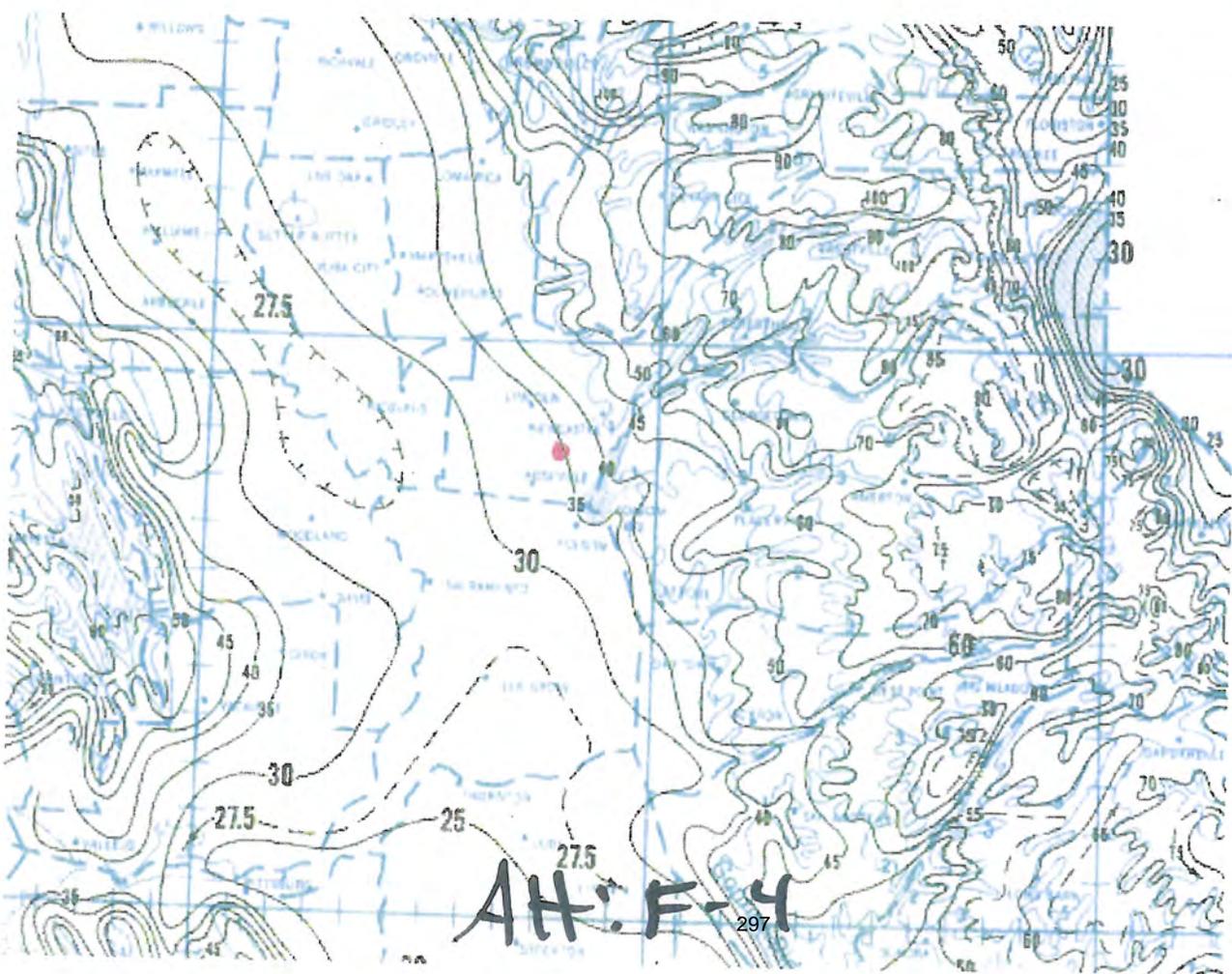
Change in depth, inches per 1000 feet

Duration	2yr	5yr	10yr	25yr	50yr	100yr	200yr	500yr
5m	0.007	0.000	-0.003	-0.007	-0.017	-0.023	-0.027	-0.037
10m	0.007	0.003	0.000	-0.010	-0.020	-0.027	-0.037	-0.050
15m	0.017	0.013	0.013	0.003	0.000	-0.007	-0.013	-0.027
30m	0.030	0.040	0.040	0.040	0.040	0.040	0.040	0.030
1h	0.063	0.087	0.100	0.120	0.133	0.137	0.157	0.173
2h	0.107	0.157	0.193	0.230	0.260	0.287	0.313	0.350
3h	0.143	0.220	0.263	0.327	0.373	0.413	0.457	0.513
6h	0.230	0.357	0.433	0.540	0.593	0.733	0.757	0.850
12h	0.453	0.663	0.820	0.977	1.127	1.250	1.400	1.600
1d	0.700	1.037	1.240	1.547	1.783	1.983	2.200	2.500
2d	1.163	1.667	2.017	2.483	2.850	3.167	3.533	4.000
3d	1.647	2.343	2.850	3.500	3.933	4.383	4.833	5.533
5d	2.287	3.230	3.913	4.717	5.390	5.960	6.600	7.570
10d	3.490	4.920	5.987	7.180	8.177	8.997	10.350	11.683

5 year 24hr



10 year 24hr

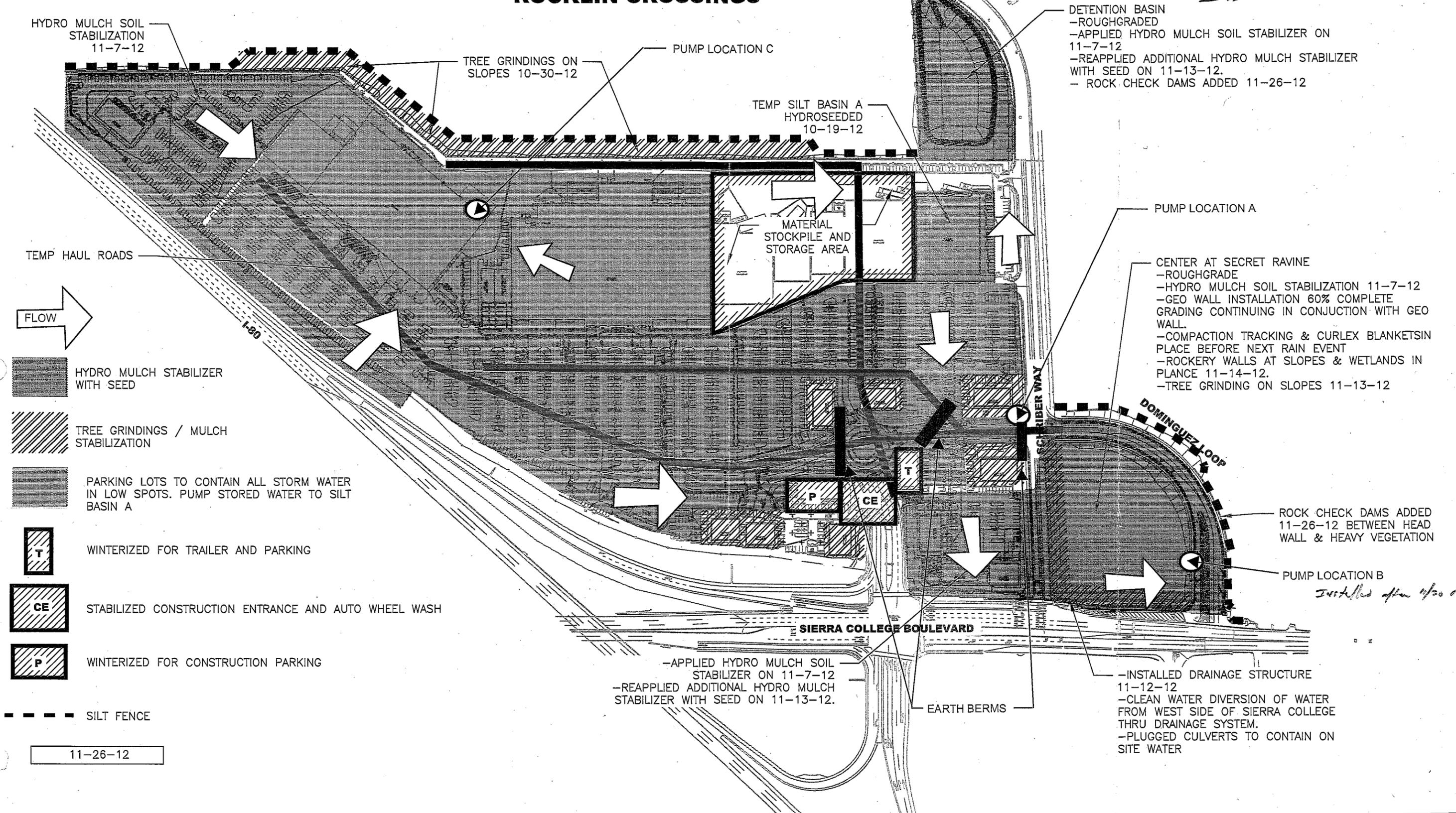


## Appendix B Pre-Incident SWPPP Map

# ROCKLIN CROSSINGS

NORTH

*- BASIN "B"*



DETENTION BASIN  
 -ROUGHGRADED  
 -APPLIED HYDRO MULCH SOIL STABILIZER ON 11-7-12  
 -REAPPLIED ADDITIONAL HYDRO MULCH STABILIZER WITH SEED ON 11-13-12.  
 - ROCK CHECK DAMS ADDED 11-26-12

PUMP LOCATION A

CENTER AT SECRET RAVINE  
 -ROUGHGRADE  
 -HYDRO MULCH SOIL STABILIZATION 11-7-12  
 -GEO WALL INSTALLATION 60% COMPLETE GRADING CONTINUING IN CONJUNCTION WITH GEO WALL.  
 -COMPACTION TRACKING & CURLEX BLANKETS IN PLACE BEFORE NEXT RAIN EVENT  
 -ROCKERY WALLS AT SLOPES & WETLANDS IN PLACE 11-14-12.  
 -TREE GRINDING ON SLOPES 11-13-12

ROCK CHECK DAMS ADDED 11-26-12 BETWEEN HEAD WALL & HEAVY VEGETATION

PUMP LOCATION B

*Installed after 2/20 discharge*

-APPLIED HYDRO MULCH SOIL STABILIZER ON 11-7-12  
 -REAPPLIED ADDITIONAL HYDRO MULCH STABILIZER WITH SEED ON 11-13-12.

-INSTALLED DRAINAGE STRUCTURE 11-12-12  
 -CLEAN WATER DIVERSION OF WATER FROM WEST SIDE OF SIERRA COLLEGE THRU DRAINAGE SYSTEM.  
 -PLUGGED CULVERTS TO CONTAIN ON SITE WATER

FLOW

HYDRO MULCH STABILIZER WITH SEED

TREE GRINDINGS / MULCH STABILIZATION

PARKING LOTS TO CONTAIN ALL STORM WATER IN LOW SPOTS. PUMP STORED WATER TO SILT BASIN A

T WINTERIZED FOR TRAILER AND PARKING

CE STABILIZED CONSTRUCTION ENTRANCE AND AUTO WHEEL WASH

P WINTERIZED FOR CONSTRUCTION PARKING

SILT FENCE

11-26-12

## Appendix C Sampling Information



Erosion Control Quote Sheet
A CA. SBE Co #46336

Serving All of California

903 Lucas Road
Lodi, Ca 95242
916/826-0154 office
888/557-9332 fax
go-tsm.com
License # 843101

Date: 1/7/2013
Customer: SD Deacon
From: Dave Clayson
Attention: Andy

Office: 969-0900
Job Name: Rocklin Crossing

Fax:

Following is the narrative defining each grab sample taken including location, date and approximate time for exhibit 1 dated 1/7/13 -

- #1 - 3 grab samples taken of discharge just out from headwall structure at Dominguez Loop Rd on 11/28/2012 at approx 3:30 pm.
a) Ph 8.16 Turbidity 18.2
b) Ph 8.21 Turbidity 16.5
c) Ph 8.12 Turbidity 17.0
#2 - grab sample taken from where basin wall broke leading to discharge from site on 11/30/2012 @ approximately 9:30 am - Dominguez Loop Rd.
a) Ph 7.69 Turbidity 3245 ntu
#3 - grab sample taken from discharged water approximately 100' out from headwall structure on 11/30/2012 @ approximately 9:30 am - Dominguez Loop Rd.
a) Ph 7.50 Turbidity 2805 ntu
#4 - grab sample taken from Basin B prior to entering outfall structure on 11/30/2012 @ approximately 9:45 am - Detention Basin Site.
a) Ph 7.92 Turbidity 2610 ntu
#5 - grab sample taken from discharged water approx 50' out from outfall structure on 11/30/2012 @ approximately 9:50 am - Detention Basin site.
a) Ph 7.87 Turbidity 2425 ntu
#6 - grab sample taken from Secret Ravine Creek upstream from where our discharge entered the same Creek on 11/30/2012 @ approximately 10 am - Detention Basin Site.
a) Ph 7.9 Turbidity 871 ntu
#7 - grab sample taken from Secret Ravine Creek at the upstream bridge prior to job site to establish a baseline prior to the next storm event, on 12/20/2012 @ approximately 12:50 pm.
a) Ph 7.98 Turbidity 15.2
#8 - grab sample taken from Secret Ravine Creek at bridge below job site to establish baseline prior to next storm event, on 12/20/2012 @ approximately 1:00 pm.
a) Ph 7.95 Turbidity 5.03
#9 - visual observation of clean flow through the site water out from the headwall structure on 12/23/2012 @ approximately 9:50 am - Dominguez Loop Rd.
a) No samples taken

Authorized Signature

Date

Handwritten signature and date 1/7/13

TSM Inc. Rep

Date



## **AD HOC MONITORING REPORT**

For  
RAIN EVENT PERIOD: 11/28/2012 – 12/05/2012  
STORM WATER DISCHARGES ASSOCIATED WITH CONSTRUCTION ACTIVITIES

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Annual Reporting Period July 1, 2012 through June 30, 2013

**WDID No:** 5S31C364108

**Risk Level:** Level2

### **Property Owner Information:**

Owner Name: Rocklin Crossings LLC and Rocklin Holdings LLC    Contact Person: Jan Petersen  
Address: 200 East Baker Street Suite 100    e-mail: jpetersen@dsrg.com  
City: Costa Mesa    State: CA    Zip: 92626    Phone: 714-966-6426

### **Site Information:**

Site Name: Rocklin Crossings Detention Basin    Contact Person: Jan Petersen  
Address: South East Corner of I80 and Sierra College Boulevard    e-mail: jpetersen@dsrg.com  
City: Rocklin    State: CA    Zip: 95650    Phone: 714-966-6426

### **Event Information:**

Event Type: RAIN EVENT	Event ID: 781639
Event Start Date/Time: 11/28/2012	Event End Date/Time: 12/05/2012
Rainfall Amount: 9.39	Number of Business Days: 1
Certified By:	Date Certified:

**DESCRIPTION OF ANALYTICAL PARAMETERS**

The Construction Activities Storm Water General Permit (General Permit) requires you to analyze storm water samples for at least two parameters. These are pH and turbidity. In addition, you must monitor for any other pollutants which you believe to be present in your storm water discharge (i.e. non-visible pollutants) as a result of construction site materials.

**pH (required)** - is a numeric measure of the hydrogen-ion concentration. The neutral, or acceptable, range is within 6.5 to 8.5 (Numeric Action Level-NAL range). At values less than 6.5, the water is considered acidic; above 8.5 it is considered alkaline or basic. The Numeric Effluent Limitation (NEL) for pH is 6.0-9.0. An example of an acidic substance is vinegar, and an alkaline or basic substance is liquid antacid. Pure rainfall tends to have a pH of a little less than 7. There may be sources of materials or construction activities which could increase or decrease the pH of your storm water discharge.

**Turbidity (required)** - is the cloudiness of water quantified by the degree to which light traveling through a water column is scattered by the suspended organic and inorganic particles it contains. The turbidity test is reported in Nephelometric Turbidity Units (NTU) or Jackson Turbidity Units (JTU). The NAL for turbidity in this General Permit is 250 NTU. The NEL is 500 NTU

**Suspended Sediment Concentration (SSC)** - is the measure of the concentration of suspended solid material in a water sample by measuring the dry weight of all of the solid material from a known volume of a collected water sample. Results are reported in mg/L.

**Benthic Macroinvertebrate Bioassessment** – evaluation of animals without backbones, living in or on sediments or other substrates, of a size large enough to be seen by the unaided eye, and which can be retained by a U.S. Standard No. 30 sieve (28 openings per inch, 0.595-mm openings) to assess the biological conditions (health) of a waterbody.

Ad Hoc Monitoring Report -11/28/2012 - 12/05/2012  
DATA SUMMARY

Monitoring Location	Sample Date / Time	% Total Discharge	Parameter	Results	Units	Analytical Method	Method Detection Limit	Analyzed By	QSP Name
Prior to leaving thru outfall of detention basin B	2012-11-30 09:45:00.0	10	pH	7.92	SU	GRAB	8.5	SELF	Dave Clayson
Prior to leaving thru outfall of detention basin B	2012-11-30 09:45:00.0	10	Turbidity	2610	NTU	GRAB	250	SELF	Dave Clayson
Sample from just outside of outfall in detention basin B	2012-11-30 09:50:00.0	10	pH	7.87	SU	GRAB	8.5	SELF	Dave Clayson
Sample from just outside of outfall in detention basin B	2012-11-30 09:50:00.0	10	Turbidity	2425	NTU	GRAB	250	SELF	Dave Clayson
Sample from Creek upstream of discharge from detention basin B	2012-11-30 10:00:00.0	10	pH	7.9	SU	GRAB	8.5	SELF	Dave Clayson
Sample from Creek upstream of discharge from detention basin B	2012-11-30 10:00:00.0	10	Turbidity	871	NTU	GRAB	250	SELF	Dave Clayson

Ad Hoc Monitoring Report -11/28/2012 - 12/05/2012  
DAILY AVERAGES

No. of Business Days	Business Day Date	pH Average/SU	Turbidity Average/NTU	Calculation Summary
1	2012-11-30	7.89	1968	Numbers are from an average of all 3 samples.

Ad Hoc Monitoring Report -11/28/2012 - 12/05/2012

ATTACHMENTS

Attachment Title	Description	Date Uploaded	Attachment Type	Doc Part No/Total Parts
Detention Basin Corrective Action	Corrective actions implemented since discharge	2012-12-06 12:59:41.0	Supporting Documentation	1/1

### Corrective Action Log

Location	BMP Deficiencies and Corrective Action Needed	Action Noted Date	Repair Date	Verified Date	Notes
	FILL IN LARGE SLIDE AREA ON SLOPE I.E. LARGE ROCK ETC.	11/30/12			
	FURTHER STABILIZE CONCENTRATED FLOW LINE @ TOE OF SLOPE	11/30/12			
	RECOMMEND PLUGGING OUTFALL TO PREVENT WATER FROM LEAVING SITE, CONTAIN WITHIN BASIN.	11/30/12	11/30/12		COMPLETED
	COMPLETELY PLUGGED OF DISCHARGE PIPE TO INSURE NO FURTHER DISCHARGES, COMPLETELY REGRADING/SHAPING BASIN B, MAKING DEEPER, CREATING EARTH WALL ACROSS BASIN CUTTING OFF ANY ACCESS TO OUTFALL. THE PLAN IS TO STABILIZE ENTIRE NEWLY DISTURBED SOIL OF SLOPES & BOTTOM WITH GEO TEX FABRIC. BADLY RILLED SLOPES BEING FIXED ALSO.	12/4/12			IMPLEMENTATIONS

## **AD HOC MONITORING REPORT**

For  
RAIN EVENT PERIOD: 11/28/1900 – 12/05/2012  
STORM WATER DISCHARGES ASSOCIATED WITH CONSTRUCTION ACTIVITIES

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Annual Reporting Period July 1, 2012 through June 30, 2013

**WDID No:** 5S31C364102

**Risk Level:** Level2

### **Property Owner Information:**

Owner Name: Donahue Schriber Asset Management Corp DSAMC Contact Person: Janet Petersen  
Address: 200 E Baker St Ste 100 e-mail: [jpetersen@dsrg.com](mailto:jpetersen@dsrg.com)  
City: Costa Mesa State: CA Zip: 92626 Phone: 714-966-6426

### **Site Information:**

Site Name: Dominguez Loop Road Contact Person: Janet Petersen  
Address: East side of Sierra College Boulevard and South of Croftwood Drive e-mail: [jpetersen@dsrg.com](mailto:jpetersen@dsrg.com)  
City: Rocklin State: CA Zip: 95650 Phone: 714-966-6426

### **Event Information:**

Event Type: RAIN EVENT Event ID: 781629  
Event Start Date/Time: 11/28/1900 Event End Date/Time: 12/05/2012  
Rainfall Amount: 9.39 Number of Business Days: 1  
Certified By: Date Certified:

**DESCRIPTION OF ANALYTICAL PARAMETERS**

The Construction Activities Storm Water General Permit (General Permit) requires you to analyze storm water samples for at least two parameters. These are pH and turbidity. In addition, you must monitor for any other pollutants which you believe to be present in your storm water discharge (i.e. non-visible pollutants) as a result of construction site materials.

**pH (required)** - is a numeric measure of the hydrogen-ion concentration. The neutral, or acceptable, range is within 6.5 to 8.5 (Numeric Action Level-NAL range). At values less than 6.5, the water is considered acidic; above 8.5 it is considered alkaline or basic. The Numeric Effluent Limitation (NEL) for pH is 6.0-9.0. An example of an acidic substance is vinegar, and an alkaline or basic substance is liquid antacid. Pure rainfall tends to have a pH of a little less than 7. There may be sources of materials or construction activities which could increase or decrease the pH of your storm water discharge.

**Turbidity (required)** - is the cloudiness of water quantified by the degree to which light traveling through a water column is scattered by the suspended organic and inorganic particles it contains. The turbidity test is reported in Nephelometric Turbidity Units (NTU) or Jackson Turbidity Units (JTU). The NAL for turbidity in this General Permit is 250 NTU. The NEL is 500 NTU

**Suspended Sediment Concentration (SSC)** - is the measure of the concentration of suspended solid material in a water sample by measuring the dry weight of all of the solid material from a known volume of a collected water sample. Results are reported in mg/L.

**Benthic Macroinvertebrate Bioassessment** – evaluation of animals without backbones, living in or on sediments or other substrates, of a size large enough to be seen by the unaided eye, and which can be retained by a U.S. Standard No. 30 sieve (28 openings per inch, 0.595-mm openings) to assess the biological conditions (health) of a waterbody.

Ad Hoc Monitoring Report -11/28/1900 - 12/05/2012  
DATA SUMMARY

Monitoring Location	Sample Date / Time	% Total Discharge	Parameter	Results	Units	Analytical Method	Method Detection Limit	Analyzed By	QSP Name
100' out from outfall structure into vegetated field	2012-11-30 09:30:00.0	10	pH	<del>7.59</del> 7.5	SU	GRAB	8.5	SELF	Dave Clayson
100' out from outfall structure into vegetated field	2012-11-30 09:30:00.0	10	Turbidity	<del>3245</del> 2805	NTU	GRAB	250	SELF	Dave Clayson
outfall area where discharge occurred	2012-11-30 09:35:00.0	10	pH	<del>7.51</del> 7.69	SU	GRAB	8.5	SELF	Dave Clayson
outfall area where discharge occurred	2012-11-30 09:35:00.0	10	Turbidity	<del>3245</del> 3245	NTU	GRAB	250	SELF	Dave Clayson

Ad Hoc Monitoring Report -11/28/1900 - 12/05/2012  
DAILY AVERAGES

No. of Business Days	Business Day Date	pH Average/SU	Turbidity Average/NTU	Calculation Summary
1	2012-11-30	7.59	3025	The numbers represent the average of both samples taken.

Ad Hoc Monitoring Report -11/28/1900 - 12/05/2012

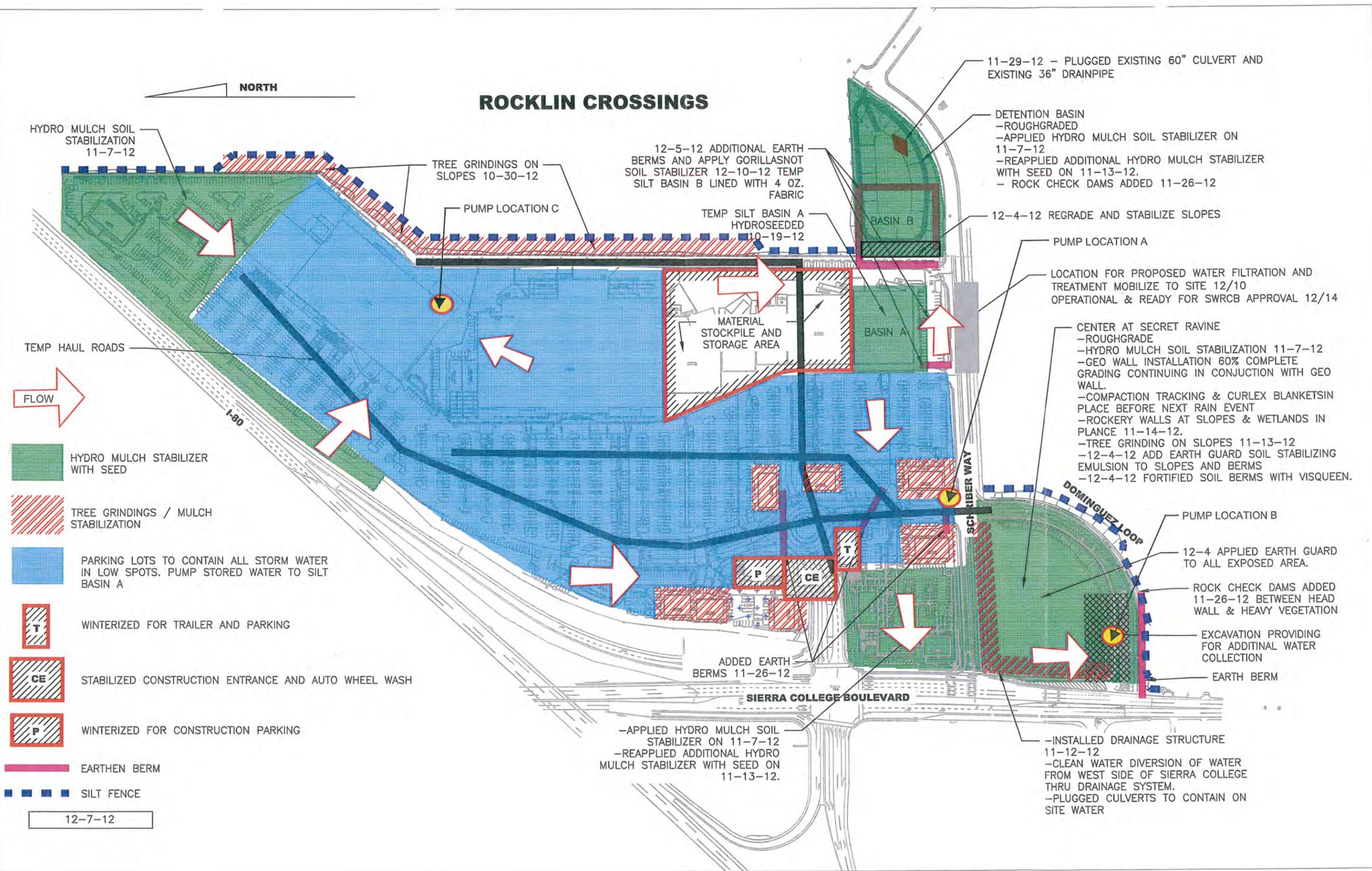
ATTACHMENTS

Attachment Title	Description	Date Uploaded	Attachment Type	Doc Part No/Total Parts
Corrective action recommendations	Corrective actions implemented to prevent future discharges	2012-12-06 11:03:10.0	Supporting Documentation	1/1



## Appendix D Post-Incident SWPPP Map

# ROCKLIN CROSSINGS



NORTH

HYDRO MULCH SOIL STABILIZATION 11-7-12

TREE GRINDINGS ON SLOPES 10-30-12

12-5-12 ADDITIONAL EARTH BERMS AND APPLY GORILLASNOT SOIL STABILIZER 12-10-12 TEMP SILT BASIN B LINED WITH 4 OZ. FABRIC

PUMP LOCATION C

TEMP SILT BASIN A HYDROSEEDED 10-19-12

11-29-12 - PLUGGED EXISTING 60" CULVERT AND EXISTING 36" DRAINPIPE

DETENTION BASIN -ROUGHGRADED -APPLIED HYDRO MULCH SOIL STABILIZER ON 11-7-12 -REAPPLIED ADDITIONAL HYDRO MULCH STABILIZER WITH SEED ON 11-13-12. - ROCK CHECK DAMS ADDED 11-26-12

12-4-12 REGRADE AND STABILIZE SLOPES

PUMP LOCATION A

LOCATION FOR PROPOSED WATER FILTRATION AND TREATMENT MOBILIZE TO SITE 12/10 OPERATIONAL & READY FOR SWRCB APPROVAL 12/14

CENTER AT SECRET RAVINE -ROUGHGRADE -HYDRO MULCH SOIL STABILIZATION 11-7-12 -GEO WALL INSTALLATION 60% COMPLETE GRADING CONTINUING IN CONJUNCTION WITH GEO WALL. -COMPACTION TRACKING & CURLEX BLANKETS IN PLACE BEFORE NEXT RAIN EVENT -ROCKERY WALLS AT SLOPES & WETLANDS IN PLACE 11-14-12. -TREE GRINDING ON SLOPES 11-13-12 -12-4-12 ADD EARTH GUARD SOIL STABILIZING EMULSION TO SLOPES AND BERMS -12-4-12 FORTIFIED SOIL BERMS WITH VISQUEEN.

TEMP HAUL ROADS

FLOW

HYDRO MULCH STABILIZER WITH SEED

TREE GRINDINGS / MULCH STABILIZATION

PARKING LOTS TO CONTAIN ALL STORM WATER IN LOW SPOTS. PUMP STORED WATER TO SILT BASIN A

T WINTERIZED FOR TRAILER AND PARKING

CE STABILIZED CONSTRUCTION ENTRANCE AND AUTO WHEEL WASH

P WINTERIZED FOR CONSTRUCTION PARKING

EARTHEN BERM

SILT FENCE

12-7-12

ADDED EARTH BERMS 11-26-12

SIERRA COLLEGE BOULEVARD

-APPLIED HYDRO MULCH SOIL STABILIZER ON 11-7-12 -REAPPLIED ADDITIONAL HYDRO MULCH STABILIZER WITH SEED ON 11-13-12.

-INSTALLED DRAINAGE STRUCTURE 11-12-12 -CLEAN WATER DIVERSION OF WATER FROM WEST SIDE OF SIERRA COLLEGE THRU DRAINAGE SYSTEM. -PLUGGED CULVERTS TO CONTAIN ON SITE WATER

PUMP LOCATION B

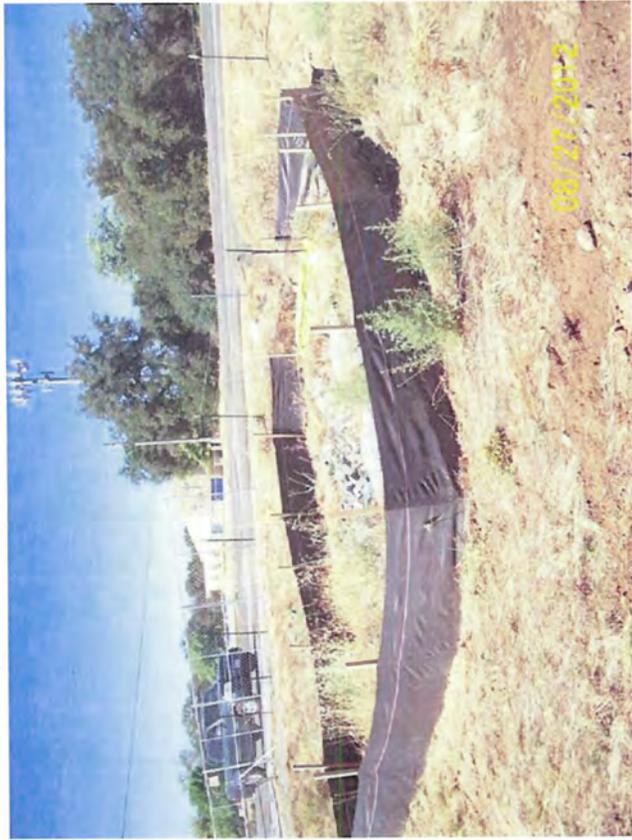
12-4 APPLIED EARTH GUARD TO ALL EXPOSED AREA.

ROCK CHECK DAMS ADDED 11-26-12 BETWEEN HEAD WALL & HEAVY VEGETATION

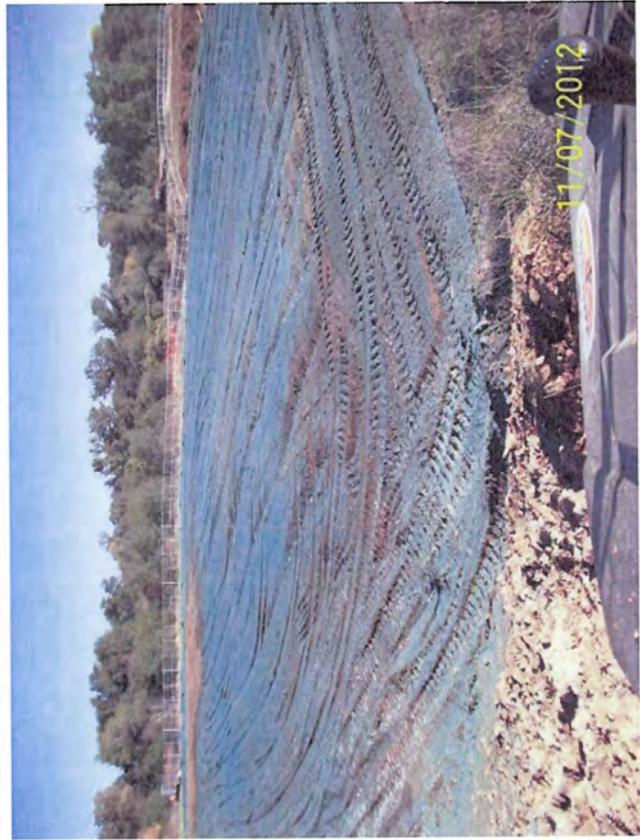
EXCAVATION PROVIDING FOR ADDITIONAL WATER COLLECTION

EARTH BERM

## Appendix E BMP Photographs



Protected drain inlet, Sierra College -Scriber



Basin B Hydroseeded prior to using as secondary Basin



Mulch at Slopes (screen wall behind WM&HD) – 11-5-12



Dominguez Loop Rockery wall construction with bark on slopes



Geo Wall looking West 11-20-12



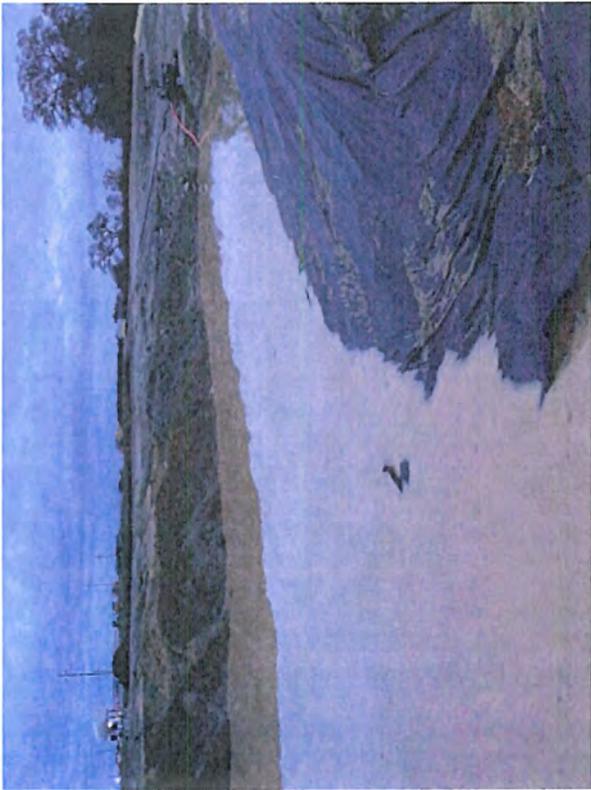
Geo Wall looking West



Geo Wall looking East



Dominguez Loop - Curlex Blankets & Earth Berm



Dominguez Loop Pumping – 12-1-12.



Basin B under construction to become secondary Basin



Basin B looking west – 12-10-12



Extended Stabilized Construction Entrance



Dominguez Loop Earthguard applied – 12-18-12



Dominguez Loop Earthguard applied and curlex blankets in place – 12-19-12



Dominguez Loop Earthguard applied 12-19-12



Earthguard applied to Site – 12-19-12



ATS Filtration System – 12-19-12



ATS Sediment Tanks – 12-19-12



Pumping at Dominguez Loop – 12-23-12



Mulch on slopes of Sierra College – 12-24-12



Pumping at Dominguez Loop - 12-24-12



Pumping at Schriber Way - 12-24-12



Pumping at Walmart loading dock



Center at Secret Ravine from Dominguez Loop - Hydroseeded



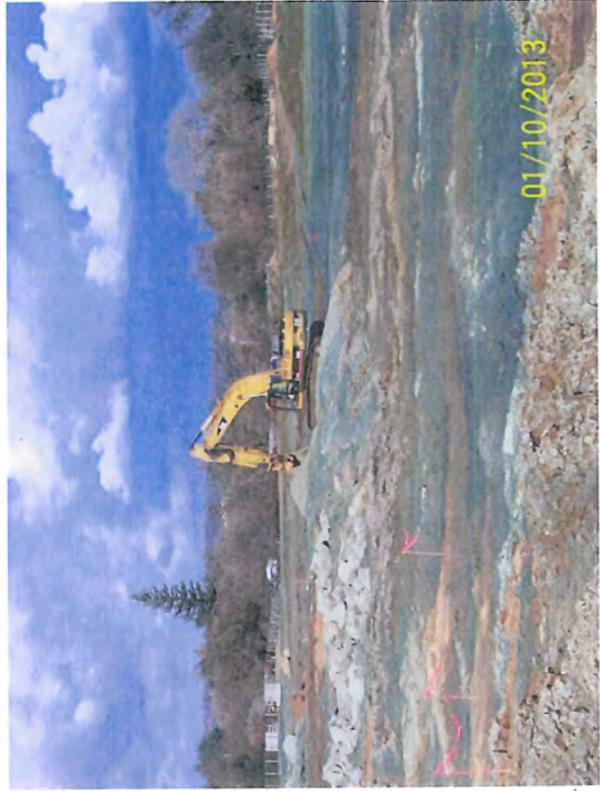
Looking North - Center at Secret Ravine/Dominguez Loop - Hydroseeded



Looking South - Center at Secret Ravine - Curlex Blankets & Mulch



Dominguez Loop - sump pump out location



Hydroseeded North Section

## Appendix F Discharge Calculations

# Estimated volume of sediment laden water discharged from the site Response to Notice of Violation

For:

Rocklin Crossings WDID# 5S31C364098  
Rocklin Crossings Detention Basin WDID# 5S31C364108  
Dominguez Loop Road WDID# 5S31C364102  
Center at Secret Ravine WDID# 5S31C364105

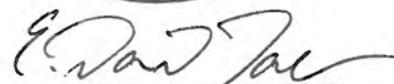
Prepared by:

**RSC Engineering**

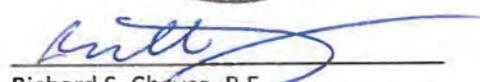
January 25, 2013

RSC Engineering, Inc.  
Consulting Engineers



  
E. Daniel Taylor, P.E.



  
Richard S. Chavez, P.E.  
President

# Response to Notice of Violation

for

Rocklin Crossings WDID# 5S31C364098  
Rocklin Crossings Detention Basin WDID# 5S31C364108  
Dominguez Loop Road WDID# 5S31C364102  
Center at Secret Ravine WDID# 5S31C364105

## Estimated volume of sediment laden water discharged from the site

January, 25 2013

### 1. Introduction:

This calculation is in response to a request in the Notice of Violation (NOV) dated December 21, 2012 for the following projects:

Rocklin Crossings	WDID# 5S31C364098
Rocklin Crossings Detention Basin	WDID# 5S31C364108
Dominguez Loop Road	WDID# 5S31C364102
Center at Secret Ravine	WDID# 5S31C364105

The request is to provide “An estimate of the volume of sediment laden water discharged from the construction site” and “An estimate of sediment laden water discharged into Secret Ravine”.

As stated in the NOV, the storm event started on November 28, 2012 and ended on December 5, 2012. The site discharged water at two locations: **Discharge location #1 was at the inlet structure of the detention basin** and **discharge location #2 was at the south side of Dominguez Loop**. Refer to Figure 1 for discharge locations.

This report presents the volume estimates of the water discharged from the site and into Secret Ravine based on available information including: the report prepared by Andy Van Veldhuizen with SD Deacon Dated December 18, 2012 describing the events surrounding the storm event in question (**Appendix A**), the NOV dated December 21, 2012 (**Appendix B**), and the stream gauge station data provided by the City of Roseville for the stream gauge located at Rocklin Road and Secret Ravine (Attached).

### 3. Methods:

Discharge volumes were determined by multiplying the contributing shed area, the depth of rainfall, and a land use coefficient (C).

$$\text{Volume (cubic feet)} = C * \text{Area (square feet)} * \text{Rainfall (feet)} + \text{assumed storage volume}$$

The land use coefficient adjusts the amount of runoff to account for cover material and infiltration. Based on the table below, a “C” of 0.30 was used for bare soil areas since the soil in both Areas 1 and 2 were reported to have been loosely compacted with rocky material. A “C” coefficient of 0.20 was used for the detention basin area since it was un-compacted and covered with vegetation:

Land Use	C	Land Use	C
<i>Business:</i> Downtown areas Neighborhood areas	0.70 - 0.95 0.50 - 0.70	<i>Lawns:</i>	
		Sandy soil, flat, 2%	0.05 - 0.10
		Sandy soil, avg., 2-7%	0.10 - 0.15
		Sandy soil, steep, 7%	0.15 - 0.20
		Heavy soil, flat, 2%	0.13 - 0.17
		Heavy soil, avg., 2-7%	0.18 - 0.22
		Heavy soil, steep, 7%	0.25 - 0.35
<i>Residential:</i> Single-family areas Multi units, detached Multi units, attached Suburban	0.30 - 0.50 0.40 - 0.60 0.60 - 0.75 0.25 - 0.40	<i>Agricultural land:</i>	
		<i>Bare packed soil</i>	
		*Smooth	0.30 - 0.60
		*Rough	0.20 - 0.50
		<i>Cultivated rows</i>	
		*Heavy soil, no crop	0.30 - 0.60
		*Heavy soil, with crop	0.20 - 0.50
		*Sandy soil, no crop	0.20 - 0.40
		*Sandy soil, with crop	0.10 - 0.25
		<i>Pasture</i>	
*Heavy soil	0.15 - 0.45		
		*Sandy soil	0.05 - 0.25
		Woodlands	0.05 - 0.25
<i>Industrial:</i> Light areas Heavy areas	0.50 - 0.80 0.60 - 0.90	<i>Streets:</i>	
		Asphaltic	0.70 - 0.95
		Concrete	0.80 - 0.95
		Brick	0.70 - 0.85
Parks, cemeteries	0.10 - 0.25	Unimproved areas	0.10 - 0.30
Playgrounds	0.20 - 0.35	Drives and walks	0.75 - 0.85
Railroad yard areas	0.20 - 0.40	Roofs	0.75 - 0.95

Source: <http://water.me.vccs.edu/courses/CIV246/table2.htm>

Back check calculations were performed, when possible, to compare the estimated discharge volumes against the photos documenting the discharge event. Location 1 was back checked using the weir equation over the inlet drain structure at the downstream end of the detention basin and location 2 was back checked using the Manning’s channel flow equation at the discharge adjacent to the end of the retaining wall at the south side of Dominguez Loop.

### Discharge Location #1 Backcheck:

Photo # 15 in the NOV shows a discharge at the inlet structure in the detention basin. Given a total volume of 2,256 cubic feet over a 4 hour time span the average flow rate is 0.16 cfs. Based on the known weir parameters of the inlet structure the depth of flow over the weir can be calculated. The front side of the inlet structure is negated from the following calculations since a board was placed at the front of the inlet to stop the flow. The water built up and overtopped the 2 sides of the riser structure.

$$\text{Weir equation: } Q = \frac{2}{3} * C_d * A * \sqrt{2gh}$$

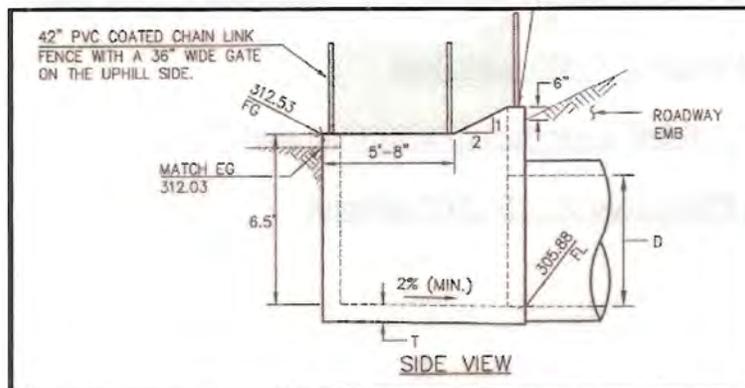
$$C_d = 0.6$$

$$A = h \times 5.67' \times 2 \text{ (two sides)}$$

$$Q = 0.16 \text{ cfs}$$

$$h = 0.03'$$

A flow depth of 0.03' seems reasonable with the water depth shown in Photo #15.

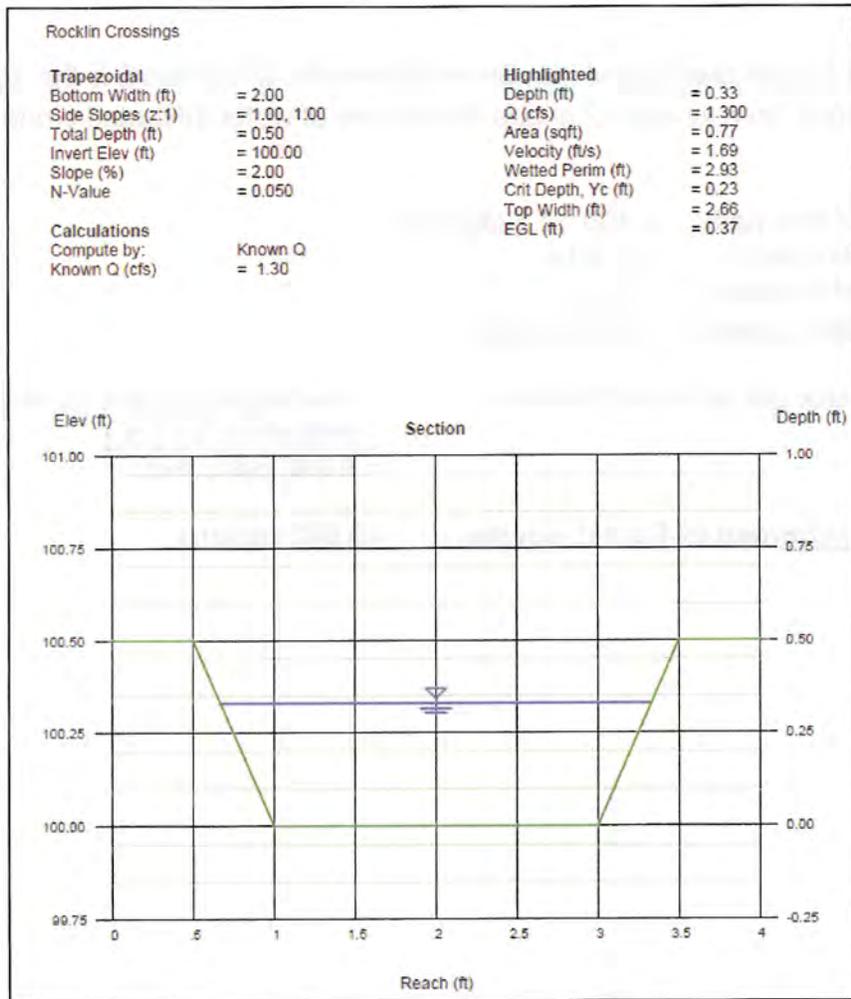


### Existing Riser Detail (Outlet structure at Detention Basin)

Detail from Croftwood Access Road by TLA Engineering & Planning Dated 3/1/07

**Discharge Location #2 backcheck:**

Photo # 9 in the NOV shows the discharge at location #2 as defined channel flow at the end of the retaining wall on the south side of Dominguez Loop Road. Given a total volume of 6,840 cubic feet over a 1.5 hour time span the average flow rate is 1.3 cfs. Based on photo # 9 in the NOV it is assumed that the channel formed by the discharge at location #2 had an approximate 2' bottom with 1:1 side slopes and a 2% slope in the direction of flow. The depth of flow in the channel is calculated using the Manning's equation for open channel flow as follows:



**Manning's Equation Channel Flow Calculator**

Depth of flow= 0.33'

A flow depth of 0.33' seems reasonable compared to the water depth shown in Photo #9.

## 7. Summary / Discussion:

The results from the calculations in the above report are summarized as follows:

### Volume discharged from site:

Discharge Location #1 (Detention Basin)  
Area: 3.1 acres  
Rainfall: 0.87 inches  
Estimated volume: 16,873 gallons ✓

Discharge Location #2 (Dominguez Loop)  
Area: 6.2 acres  
Rainfall: 0.30 inches  
Storage released 4,800 cubic feet  
Estimated volume: 51,167 gallons ✓

**Total Estimated volume discharged from Site: 68,039 gallons** ✓

### Volume discharged Into Secret Ravine:

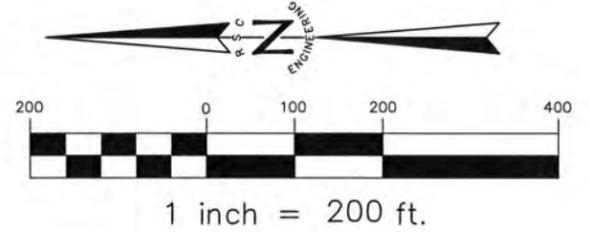
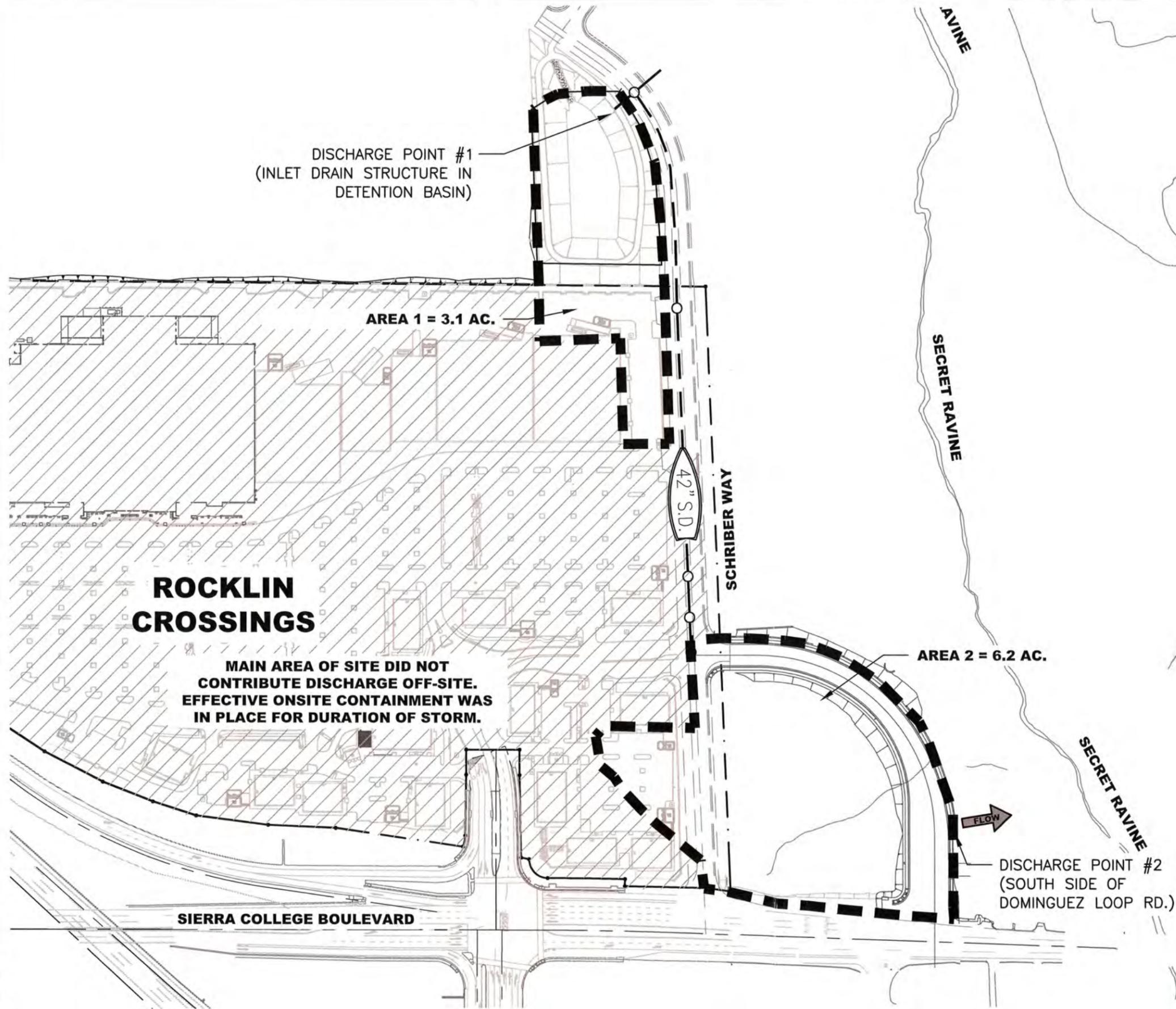
Estimated volume from location #1 (Detention Basin): 16,873 gallons  
Estimated volume from location #2 (Dominguez Loop): 49,592 gallons

**Total Estimated volume discharged into Secret Ravine: 66,465 gallons**

The results listed above are estimates based on available information including: photos, field reports by personnel (eye witnesses) at the site during the rain event, and recorded rainfall data from the City of Roseville. The calculations are not based on field measurements during the storm event. The volume estimates listed in this report should not be misconstrued as quantitative engineering results but rather as opinions based on engineering judgment.

The back-checks of volumes for each discharge are provided as an independent check of the reasonableness of the assumptions used in the primary volume calculations. The back checks are not intended to provide confirmation of the primary calculations; they are intended to put the primary calculations into perspective and verify reasonableness.

DRAWING: P:\A...-002\Engineering\Reports\SWPPP (MULTI)\NOV Technical Report\FIGURES\Figure 1\_Discharge Map.dwg  
 LAST MODIFIED: Jan 22, 13 - 13:27  
 PLOT DATE: Jan 24, 2013 - 9:00:51 AM



**ROCKLIN CROSSINGS**

MAIN AREA OF SITE DID NOT CONTRIBUTE DISCHARGE OFF-SITE. EFFECTIVE ONSITE CONTAINMENT WAS IN PLACE FOR DURATION OF STORM.



**ROCKLIN CROSSINGS**  
 ROCKLIN, CA

**FIGURE - 1**  
**DISCHARGE EXHIBIT**

PROJECT NO.:001-002    DATE: 1/25/2013    SHEET NO. 1 OF 1

# **ROCKLIN CROSSINGS**

## **City of Roseville Rain Gage Records Secret Ravine at Rocklin Road**

**November 28, 2012 – December 5, 2012**

Tabular Data Display  
 Point: 1618 CHINA GARDEN RD Precipitation Gage

28-Nov-12		29-Nov-12		30-Nov-12		1-Dec-12		2-Dec-12		3-Dec-12		4-Dec-12		5-Dec-12	
Time (hr.)	Depth (in.)														
6.4	2.1	6.3	2.7	0.2	3.1	5.9	5.8	0.8	6.4	6.0	8.2	5.9	8.2	0.4	8.3
8.3	2.1	15.9	2.7	0.3	3.1	6.2	5.8	1.3	6.5			16.2	8.3	8.6	8.4
9.5	2.2	18.3	2.7	0.3	3.2	8.0	5.8	2.2	6.5			17.8	8.3	15.9	8.4
9.8	2.2	19.8	2.8	0.5	3.2	8.6	5.9	2.6	6.5			23.9	8.3	25.2	8.5
10.0	2.3	21.6	2.8	0.6	3.2	9.1	5.9	3.5	6.6					25.2	8.5
11.1	2.4	22.2	2.8	0.8	3.3	9.4	5.9	5.4	6.6					25.2	8.5
11.4	2.4	22.7	2.9	1.1	3.3	9.6	6.0	6.0	6.7					25.2	8.6
11.6	2.5	22.8	2.9	1.4	3.3	9.7	6.0	6.1	6.7					25.2	8.6
11.9	2.5	23.3	3.0	1.8	3.4	9.8	6.0	6.2	6.7					25.2	8.7
12.0	2.6	23.7	3.0	2.2	3.4	11.3	6.1	6.4	6.7					25.2	8.7
12.2	2.6	24.0	3.0	2.4	3.5	18.1	6.1	6.6	6.8					25.2	8.7
18.3	2.6			2.7	3.5	18.8	6.1	6.9	6.8					25.2	8.8
23.1	2.6			3.5	3.6	19.7	6.1	7.1	6.9					25.2	8.8
23.2	2.7			4.4	3.6	21.7	6.2	7.2	6.9					25.2	8.8
				5.3	3.7	22.0	6.2	7.4	6.9					25.2	8.8
				5.4	3.7	22.4	6.3	7.5	7.0					25.2	8.9
				5.5	3.7	22.7	6.3	7.8	7.0					25.2	8.9
				5.6	3.8	22.9	6.3	8.0	7.1					25.2	8.9
				5.8	3.9	23.6	6.4	8.1	7.1					25.2	8.9
				5.9	3.9			8.2	7.2						
				5.9	3.9			8.2	7.2						
				6.0	4.0			8.2	7.2						
				6.0	4.0			8.2	7.3						
				6.2	4.1			8.2	7.4						
				6.2	4.1			8.2	7.4						
				6.9	4.1			8.2	7.4						
				8.1	4.1			8.2	7.5						
				8.6	4.2			8.2	7.5						
				8.8	4.2			8.2	7.6						
				8.8	4.3			8.3	7.6						
				8.9	4.3			8.3	7.7						
				9.0	4.3			8.4	7.7						
				9.2	4.4			8.4	7.7						
				9.3	4.4			8.5	7.8						
				9.4	4.5			8.6	7.8						
				9.7	4.5			8.6	7.8						
				10.3	4.5			8.7	7.8						
				10.6	4.6			8.8	7.9						
				10.8	4.6			8.9	8.0						
				10.9	4.7			9.1	8.0						
				11.1	4.7			9.3	8.0						
				11.2	4.8			9.5	8.1						
				11.3	4.8			9.5	8.1						
				11.4	4.8			9.8	8.2						
				11.6	4.9			10.1	8.2						
				11.7	4.9			10.4	8.2						
				11.8	5.0			10.4	8.2						
				12.2	5.0			18.1	8.2						
				12.5	5.0										
				12.9	5.1										
				13.0	5.1										
				13.2	5.2										
				13.7	5.2										
				13.8	5.2										
				18.2	5.2										
				19.2	5.3										
				19.4	5.3										
				19.5	5.4										
				19.8	5.4										
				20.3	5.4										
				20.4	5.5										
				20.5	5.5										
				20.6	5.6										
				20.7	5.6										
				22.2	5.7										

0.6

0.3

0.6

0.6

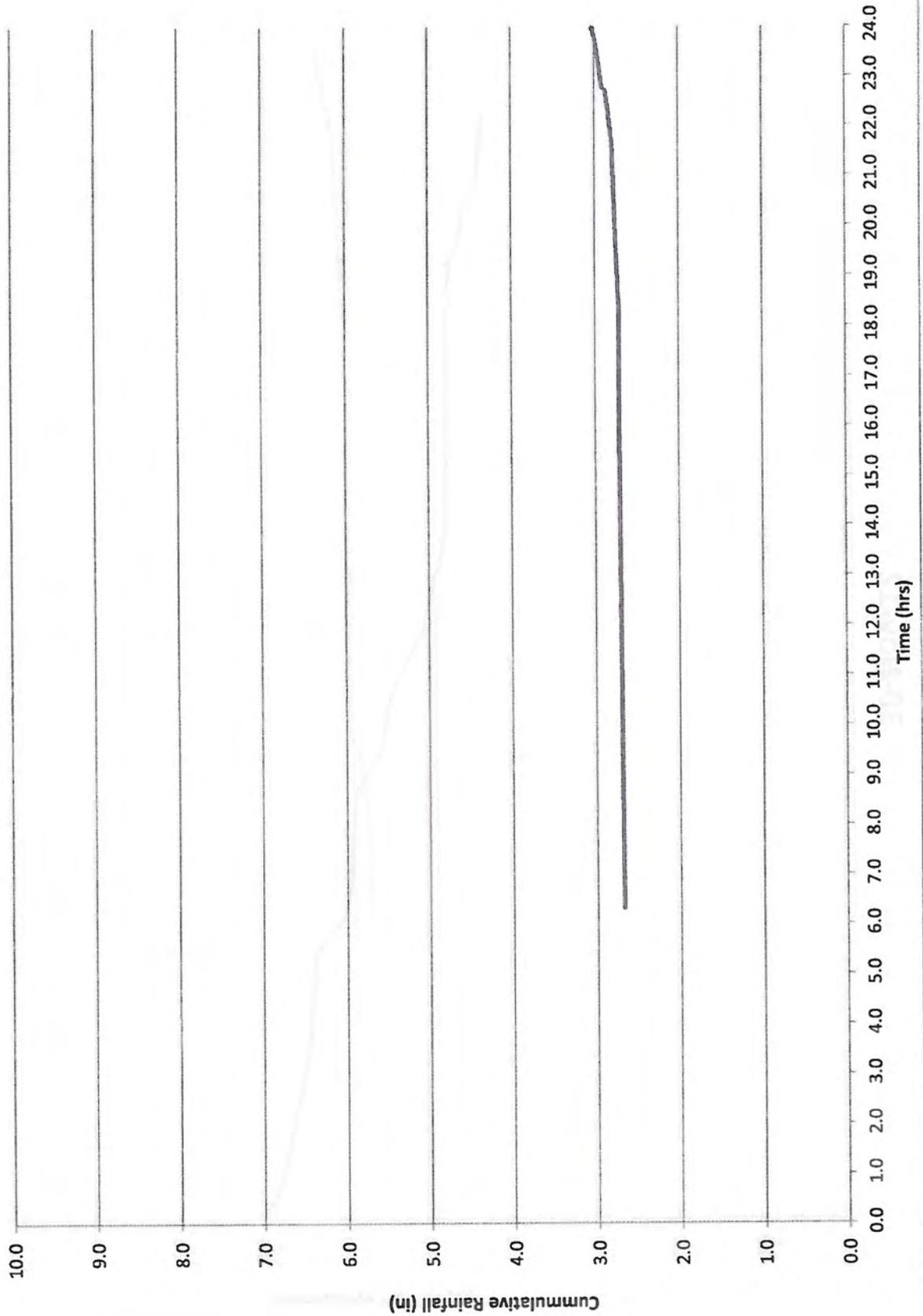
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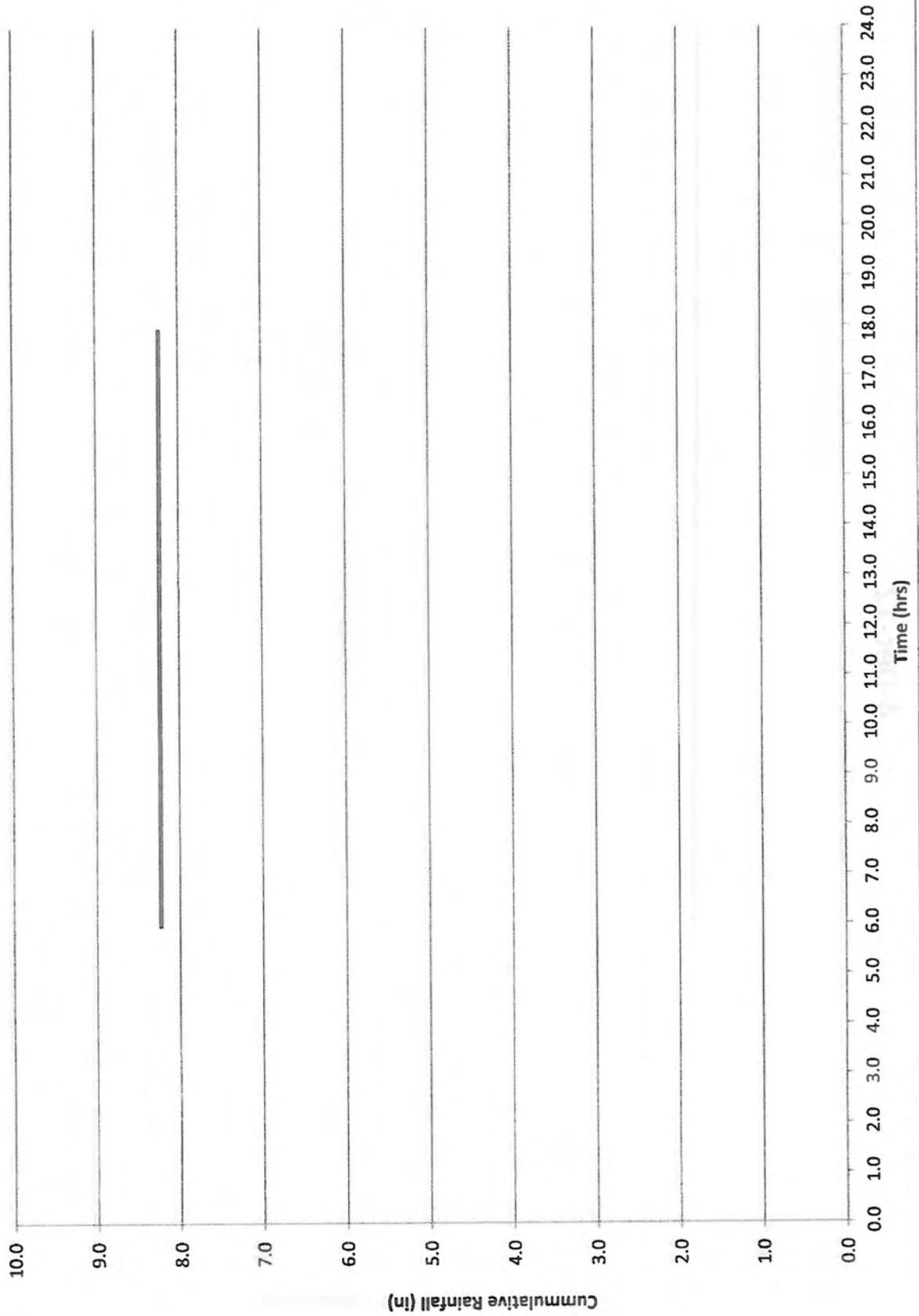
1.8

2.6

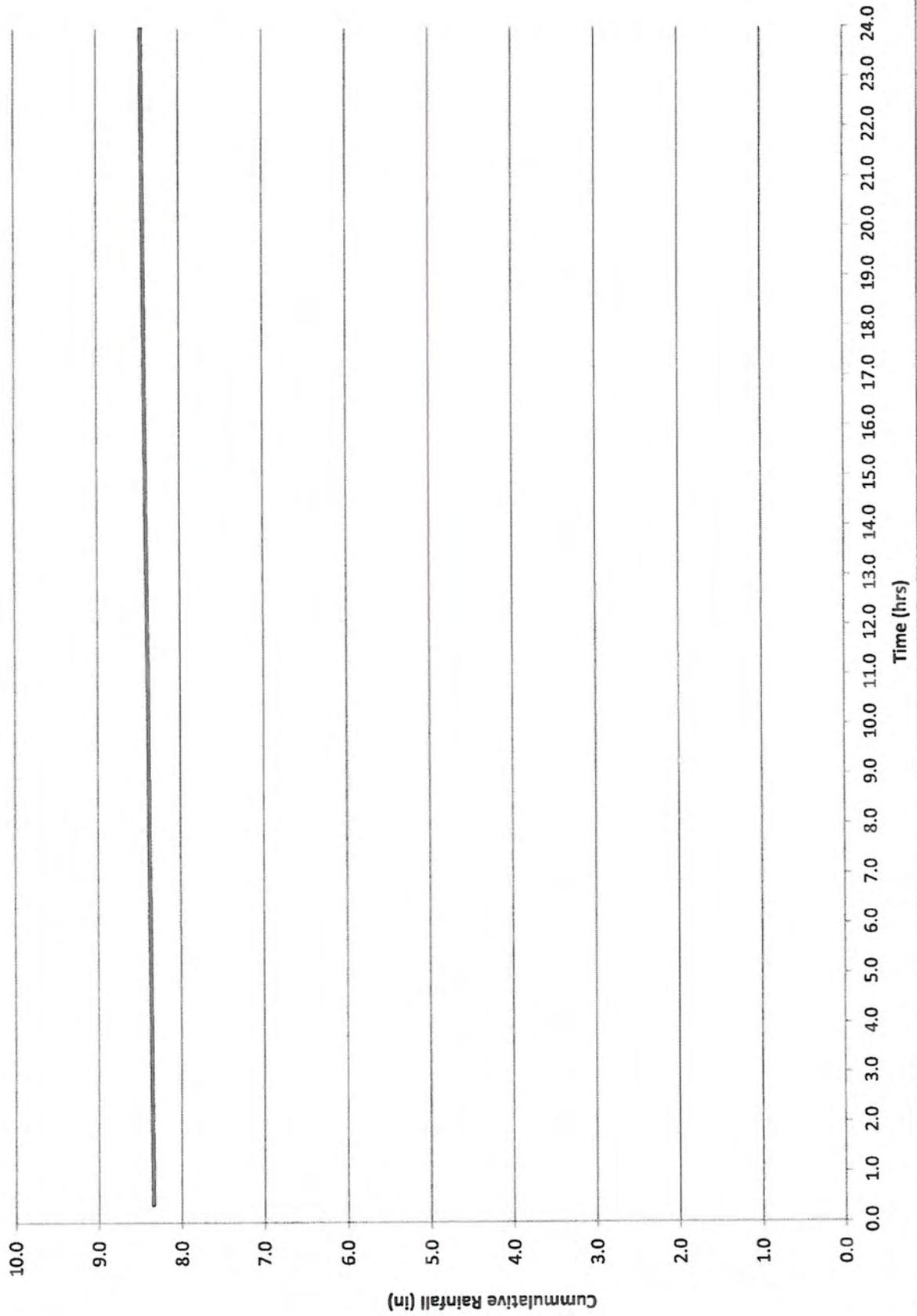
29-Nov-12



3-Dec-12



5-Dec-12



# Exhibit 11

Prosecution Team Evidence List Exhibits for:

Rocklin Crossings

## Hartzell, Marty@Waterboards

---

**From:** Okamoto, Mayumi@Waterboards  
**Sent:** Friday, February 15, 2013 3:53 PM  
**To:** Hartzell, Marty@Waterboards; Rosenbaum, Steve@Waterboards; Wyels, Wendy@Waterboards  
**Subject:** FW: Follow-up clarification Response to NOV & 13267 Order for Rocklin Crossings  
**Attachments:** Letter to M. Okamoto SWRCB with attachment (00203898).pdf

Here you go...

Have a nice three day weekend.

---

**From:** Howard Wilkins III [mailto:cwilkins@rmmenvirolaw.com]  
**Sent:** Friday, February 15, 2013 3:49 PM  
**To:** Okamoto, Mayumi@Waterboards  
**Cc:** Boyers, David@Waterboards; Thorne, Melissa (mthorne@DowneyBrand.com); Jan Petersen; Bob Aroyan (bob.aroyan@deacon.com); Andy Van Veldhuizen <andy.vanveldhuizen@deacon.com> (andy.vanveldhuizen@deacon.com); David Mossman; Scott Lawrence  
**Subject:** RE: Follow-up clarification Response to NOV & 13267 Order for Rocklin Crossings

Ms. Okamoto,

Attached is our response to your February 11, 2013 e-mail (see below). Following up on our conversation yesterday, I renew my request that your office agree to an informal meeting with my client, Donahue Schriber, and with the site's contractor, S.D. Deacon, prior to initiating any formal enforcement actions in this matter. As indicated in the attached letter, we believe this is critical to ensure the Rocklin Crossings site's future compliance with your office's interpretation of the Construction General Permit. If you have any questions about the attached letter or believe additional information is needed to evaluate the site's compliance with the Construction General Permit, please contact me at your earliest convenience at (916) 443-2745. Thank you.

Best Regards,

**Chip Wilkins**  
Attorney

**REMY | MOOSE | MANLEY**

LLP

455 Capitol Mall, Suite 210 | Sacramento, CA 95814  
P (916) 443-2745 x 210 | F (916) 443-9017  
[cwilkins@rmmenvirolaw.com](mailto:cwilkins@rmmenvirolaw.com) | rmmenvirolaw.com

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---

**From:** Okamoto, Mayumi@Waterboards [mailto:Mayumi.Okamoto@waterboards.ca.gov]  
**Sent:** Thursday, February 14, 2013 11:10 AM  
**To:** Howard Wilkins III  
**Cc:** Thorne, Melissa (mthorne@DowneyBrand.com); Boyers, David@Waterboards  
**Subject:** RE: Follow-up clarification Response to NOV & 13267 Order for Rocklin Crossings

Chip,

This email confirms an extension until tomorrow 2/15/13 to respond to the clarifying questions in our email dated 2/11/13.

Thanks.

-Mayumi

Mayumi E. Okamoto  
Attorney, Office of Enforcement  
State Water Resources Control Board  
1001 "I" Street, 16<sup>th</sup> Floor  
Sacramento, California 95814  
Direct: 916.341.5674  
Fax: 916.341.5896

---

**From:** Howard Wilkins III [<mailto:cwilkins@rmmenvirolaw.com>]  
**Sent:** Thursday, February 14, 2013 10:36 AM  
**To:** Okamoto, Mayumi@Waterboards  
**Cc:** Thorne, Melissa ([mthorne@DowneyBrand.com](mailto:mthorne@DowneyBrand.com)); Boyers, David@Waterboards  
**Subject:** RE: Follow-up clarification Response to NOV & 13267 Order for Rocklin Crossings  
**Importance:** High

Mayumi,

This e-mail follows up on the voicemail message I just left for you. As I mentioned in my message, I have a couple quick questions for you and would like an additional day to respond to your e-mail below. I have a hearing in San Francisco at 3:30 this afternoon and need to jump on a train at noon. Please contact me at your earliest convenience. Thank you.

Best Regards,

**Chip Wilkins**  
[cwilkins@rmmenvirolaw.com](mailto:cwilkins@rmmenvirolaw.com)

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---

**From:** Okamoto, Mayumi@Waterboards [<mailto:Mayumi.Okamoto@waterboards.ca.gov>]  
**Sent:** Monday, February 11, 2013 5:13 PM  
**To:** Howard Wilkins III  
**Cc:** Thorne, Melissa ([mthorne@DowneyBrand.com](mailto:mthorne@DowneyBrand.com)); Boyers, David@Waterboards  
**Subject:** Follow-up clarification Response to NOV & 13267 Order for Rocklin Crossings  
**Importance:** High

The Central Valley Water Board staff has received and reviewed the response to the NOV & 13267 Order dated 1/25/13. After review, staff has a few follow-up questions **bolded below** to clarify some of the information provided in the response:

1. Section 2 on Page 5 refers to watersheds "Shed A and Shed B" that existed on the site prior to the 11/30 to 12/2 rain event and references the Appendix B Pre-Events SWPPP map. These Sheds are not shown on the Appendix B Pre-Events SWPPP map. **Do you have a map with Shed A and Shed B delineated? What is the acreage of each of the two Sheds?**
2. Regarding paragraph 2 on Page 9, **where is/was the "protected outlet culvert" located?** Also, Line 3 in paragraph 2 appears to have a word(s) missing in the third line following "on the south side of the..." **Please provide a corrected sentence.**
3. Paragraph 3 on Page 9 states that the earthen dike at the west end of the Dominguez Loop failed and the runoff was stopped within 1.5 hours. The NOV Response does not specifically state when the breach failure occurred, but S.D. Deacon estimated the failure to occur at 0830 hours in their 12/18/12 Summary of BMPs and other storm water control efforts submittal. S.D. Deacon staff also verbally stated on 12/12/12 at the Water Board office meeting that the Dominguez Loop Road earth dam breached around 8AM on 11/30/12, the temp basin was enlarged, and discharges off the site were stopped by "Friday night".

Water Board staff believe that the discharge of turbid storm water at the Dominguez Loop Road earth dam (aka Discharge Point #2) may have been temporarily interrupted as repair efforts were initiated. Water Board staff was on site on 11/30 from 0940 to approximately 1110 hours and turbid storm water was still discharging from Discharge Point #2 at 1100 hours when QSP Dave Clayson and Water Board staff left the Discharge Point #2 site. Water Board Photograph No. 76, taken at 1055 hours at Discharge Point #2 is attached for your review.

**Based on this information, please revise your estimate of when discharges off the construction site were stopped.**

4. Appendix F provides the estimated volume of sediment laden storm water discharged from the site. Figure 1 in Appendix F provides an estimate of the drainage area for Discharge Point #2 at 6.2 acres, but this area does not include storm water flowing from graded and compacted roads or areas north of the Dominguez Loop Road and Center at Secret Ravine properties. The drainage area for the Dominguez Loop Road and the Center at Secret Ravine sites is listed in SMARTS at 2.9 acres and 3.7 acres, respectively, which by itself is 6.6 acres.

Figure 1 includes a statement that the "Main area of site did not contribute discharge off-site", and "Effective onsite containment was in place for duration of storm." However, the 11/30/12 Daily Superintendent Report states that "Around 7:45am dike behind job trailer was overflowing causing dike to leak, water ran across Schriber way down to holding basin at Dominguez Loop." On 11/30, Water Board staff observed storm water ponding near the construction trailer and flowing south towards Schriber Way.

**Based on this information, please reevaluate the Area 2 drainage area.**

Please provide an email or a letter responding to the above four questions by COB Thursday, February 14th. Please contact myself or Supervising Senior Attorney David Boyers, who is cc'ed on this email, with any questions.

Thanks.

Mayumi E. Okamoto  
Attorney, Office of Enforcement  
State Water Resources Control Board  
1001 "I" Street, 16<sup>th</sup> Floor

Sacramento, California 95814

Direct: 916.341.5674

Fax: 916.341.5896



REMY | MOOSE | MANLEY  
LLP

Howard "Chip" Wilkins III  
cwilkins@rmmenvirolaw.com

February 15, 2013

**Via E-mail Only**

Ms. Mayumi E. Okamoto  
Office of Enforcement  
State Water Resources Control Board  
1001 "I" Street, 16th Floor  
Sacramento, California 95814

Re: Response to February 11, 2013 E-mail Requesting Follow-up Clarification  
Response to NOV & 13267 Order for Rocklin Crossings (WDID #5S31C364098,  
#5S31C364108, #5S31C364102, and #5S31C364105)

Dear Ms. Okamoto:

This letter responds to your February 11, 2013 e-mail requesting clarification of some of the information provided in the January 25, 2013 Response to Notice of Violation and Water Code Section 13267 Order Issued on December 21, 2012 for Rocklin Commons ("January 25, 2013 NOV Response"). This letter also follows up on our conversation yesterday and my request that your office agree to an informal meeting with my client, Donahue Schriber, and with the site's contractor, S.D. Deacon, prior to initiating any formal enforcement actions in this matter. As indicated in the January 25, 2013 NOV Response, my client and S.D. Deacon remain committed to working with the Regional Water Quality Control Board for the Central Valley Region ("Regional Board") and the Office of Enforcement to ensure the Rocklin Crossings construction site remains in compliance with the Construction General Permit in order to effectively protect water quality. If your office believes any violations of the Construction General Permit occurred at the site after reviewing the January 25, 2013 NOV Response, we believe it is critical that we understand the basis for such a determination to ensure future compliance at the site.

This response sets forth verbatim each question posed in your February 11, 2013 e-mail followed by my client's response. This response contains the information required by the General Permit for Storm Water Discharges Associated with Construction and land Disturbance Activities, Order No. 2009-0009-DWQ, as amended by Order No. 2010-0014-DWQ, issued by the California State Water Resources Control Board. The response does not equate to an admission of liability, of responsibility, of wrongdoing, or of any violation of the Construction General Permit, and does not constitute a waiver of any potential defenses. Please note that this response as well as my client's January 25, 2013 NOV Response represents their current knowledge based on information reasonably available to them and is as complete as is now required by law. The responses may not, however, contain other facts that might be obtained through

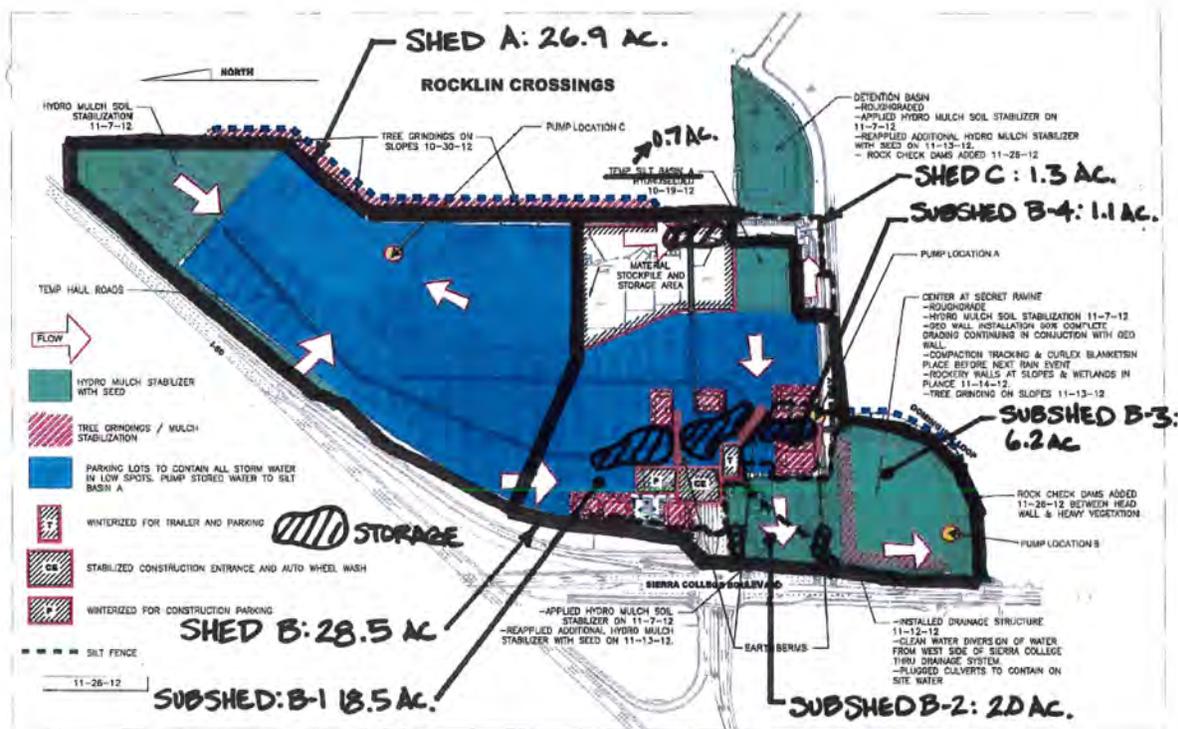
ongoing factual investigation, review, and analysis. Therefore, we specifically reserve the right, without creating an obligation to do so, to amend and/or supplement the responses.

### Responses to February 11, 2013 E-mail Clarification Questions

1. Section 2 on Page 5 refers to watersheds "Shed A and Shed B" that existed on the site prior to the 11/30 to 12/2 rain event and references the Appendix B Pre-Events SWPPP map. These Sheds are not shown on the Appendix B Pre-Events SWPPP map. Do you have a map with Shed A and Shed B delineated? What is the acreage of each of the two Sheds?

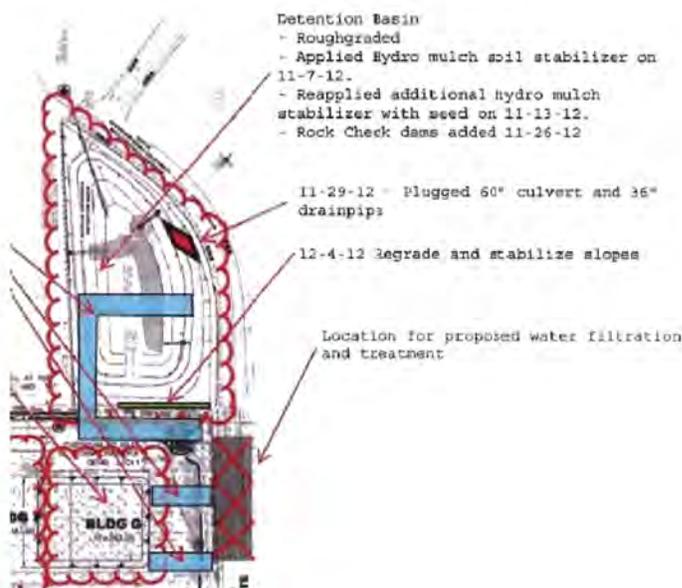
**Response to Question No. 1:** The requested information was generally included in the original Appendix B Pre-Incident SWPPP map (with pump locations A, B and C and Water Sheds A, B and C) and in the revisions to Attachment F, Figure 1. A revised map is provided below with additional detail regarding the Shed A and B designations. (See Revised Appendix B Pre-Incident SWPPP map below.) The revised map identifies the acreages and limits of the major watershed areas A (26.9 acres) and B (28.5 acres) as requested. In addition to the requested information, the revised map defines subareas for Shed Area B to identify the construction berms and water storage areas. Shed Area C is also defined because this area flows to the detention basin east of the shopping center to Discharge point #1. The acreages for each area and sub-area are identified on the revised map.

### Revised Appendix B Pre-Incident SWPPP map.



2. a. Regarding paragraph 2 on Page 9, where is/was the “protected outlet culvert” located? b. Also, Line 3 in paragraph 2 appears to have a word(s) missing in the third line following “on the south side of the...” Please provide a corrected sentence.

**Response to Question No. 2.a:** The protected outlet culvert referenced in paragraph 2 on Page 9 of the January 25, 2013 submittal refers to a 30” plug in the upstream manhole from the culvert that connects the proposed detention basin with the swale on the south side of Schriber Way. Please see the red diamond in the below diagram.



**Response to Question No. 2.b:** We apologize for the editing error. The omitted words were “as yet to be constructed detention basin.” The referenced part of that sentence should read as follows: “... where a constructed berm had been breached, resulting in storm water overwhelming a protected outlet culvert located on the south side of the as yet to be constructed detention basin.”

3. Paragraph 3 on Page 9 states that the earthen dike at the west end of the Dominguez Loop failed and the runoff was stopped within 1.5 hours. The NOV Response does not specifically state when the breach failure occurred, but S.D. Deacon estimated the failure to occur at 0830 hours in their 12/18/12 Summary of BMPs and other storm water control efforts submittal. S.D. Deacon staff also verbally stated on 12/12/12 at the Water Board office meeting that the Dominguez Loop Road earth dam breached around 8AM on 11/30/12, the temp basin was enlarged, and discharges off the site were stopped by “Friday night”.

Water Board staff believe that the discharge of turbid storm water at the Dominguez Loop Road earth dam (aka Discharge Point #2) may have been temporarily interrupted as repair efforts were initiated. Water Board staff was on site on 11/30 from 0940 to approximately 1110 hours and turbid storm water was still discharging from Discharge Point #2 at 1100 hours when QSP Dave Clayson and Water Board staff left the Discharge Point #2 site. Water Board Photograph No. 76, taken at 1055 hours at Discharge Point #2 is attached for your review.

**Based on this information, please revise your estimate of when discharges off the construction site were stopped.**

**Response to Question No. 3:** As indicated in the January 25, 2013 NOV Response, the earthen dike at the west end of the Dominguez Loop failed at approximately 8:30 AM on 11/30/2012. Repairs immediately began on the dike and a crushed rock dam was completed at location #2 within 1.5 hours of discovery of the breach/discharge (i.e., by 10:00 AM). Evidence provided in the Regional Board photo forwarded with your February 11, 2013, email indicates that some storm water continued to discharge from this location even after the crushed rock dam was completed. This storm water flow, however, was attenuated by the repair efforts to the crushed rock dam by on site SD Deacon staff, as evidenced in NOV photos #8 and #17 and the Regional Board photo forwarded with the February 11 email requesting additional information.

As requested in your e-mail, we have modified our January 25, 2013 NOV Response. Revised calculations (revisions to Appendix F) by RSC Engineering are attached to this response, which modify the estimated discharge stop time at Discharge Point #2. (See attached "Response to Notice of Violation Follow Up and Clarification" dated February 14, 2013.) In the discharge volume calculations provided with the January 25, 2013 NOV Response, RSC Engineering assumed a discharge time span from 8:30 AM to 10:00 AM. (1.5 hours). The revised calculations attached to this response extend the discharge time by 1.25 hours increasing the total time of discharge to 2.75 hours. The revised discharge end time in the volume calculations is 11:15 AM, increasing the discharged volume at location #2 by 5,063 gallons.

Please note that the evidence available to us at this time indicates that all discharges were stopped at Discharge Point #2 by 11:15 AM on 11/30/2012. The Superintendent's daily notes indicate that the bulldozer operator arrived at this location at 11:00 AM and went right to work establishing a fortified berm on Dominguez Loop. (See date stamped photo of the bulldozer working the area.) Although the photo is not time stamped, available evidence indicates the all discharges ceased within a very short amount of time (i.e., 15 minutes) after the bulldozer began work, when enough dirt had been pushed by the bulldozer into place to stop the remaining storm water discharge.

Please also note that while the discharge at location #2 ceased by 11:15 AM, S.D. Deacon continued efforts throughout the day to restore, reinforce, and fortify the earthen dike to ensure continued containment at this location. A new earthen

berm was completed with a stouter width by Friday night as we discussed during our 12/12/12 meeting at the Water Board office and in the January 25, 2013 NOV Response.



4. Appendix F provides the estimated volume of sediment laden storm water discharged from the site. Figure 1 in Appendix F provides an estimate of the drainage area for Discharge Point #2 at 6.2 acres, but this area does not include storm water flowing from graded and compacted roads or areas north of the Dominguez Loop Road and Center at Secret Ravine properties. The drainage area for the Dominguez Loop Road and the Center at Secret Ravine sites is listed in SMARTS at 2.9 acres and 3.7 acres, respectively, which by itself is 6.6 acres.

Figure 1 includes a statement that the “Main area of site did not contribute discharge off-site”, and “Effective onsite containment was in place for duration of storm.” However, the 11/30/12 Daily Superintendent Report states that “Around 7:45am dike behind job trailer was overflowing causing dike to leak, water ran across Schriber way down to holding basin at Dominguez Loop.” On 11/30, Water Board staff observed storm water

ponding near the construction trailer and flowing south towards Schriber Way.

**Based on this information, please reevaluate the Area 2 drainage area.**

**Response to Question No. 4:** RSC Engineering has clarified the noted acreage discrepancy in Figure 1-A (Area Exhibit) in the attached “Response to Notice of Violation Follow Up and Clarification” dated February 14, 2013. The acreages noted in the two SWPPP documents in the SMARTS system include an “overlap” area that is included in the SWPPP and a stabilized slope area that discharges directly offsite (not at location #2). When adjustments are made for these areas, the net acreages are then consistent with the areas noted in Figure 1 of Appendix F.

Figure 1 of Appendix F has been revised to address the stated concerns that reference the 11/30/2012 visual observation of Water Board Staff member Marty Hartzell. Please refer to Figure 1 - Revised, Dated Feb. 14, 2013 and the Revised Technical calculations that consider the resulting increased area which are contained in the attached “Response to Notice of Violation Follow Up and Clarification” dated February 14, 2013.

Please note that the dike referenced in the Superintendent Daily report of 11/30/12 is the earthen berm located near Pump location A and connecting to the double crossed hatched building pad #14, which parallels Schriber Way as shown on Appendix B Pre-Incident SWPPP Map.

Water observed to be flowing south overtopped this berm and moved south along Schriber Way where it ponded further before making its way across Schriber Way and onto the Center @ Secret Ravine property. This is further evidenced by the NOV photos #2, #3 and #4.

Water that ponded under and around the construction trailer was contained by another earthen berm located on the map extending diagonally from the red triangle designated with the letter “T” and the topography of the area immediately surrounding the trailer. This berm is also shown in the previously mentioned NOV photo #2.

The building pad that the trailer sits on was cut into existing land, creating a depressed section of land (see aerial photo below). All water in the watershed north of Area #2 (Figure 1 of Attachment F) was contained by a combination of the designed building pad construction and the earthen berm in NOV photo #2

**Based on this new information, RSC Engineering added additional area to its calculations, which increased the estimated volume discharged from the site by approximately 5,085 gallons.** Please see revised calculations (revisions to Appendix F) by RSC Engineering attached to this response.



\*\*\*

We believe this letter fully responds to the information requested in your e-mail. If you have any questions about this letter or believe additional information is needed to evaluate my client's compliance with the Construction General Permit, please contact me at your earliest convenience at (916) 443-2745. We look forward to further discussing this matter with you.

Very truly yours,

Howard "Chip" Wilkins III

Attachment: RSC Engineering, Response to Notice of Violation Follow up and Clarification Re: Volume estimates of Sediment laden discharge from site, dated February 14, 2013

cc: via email only

David M. Boyers, Office of Enforcement, State Water Board  
(dboyers@waterboards.ca.gov)  
Melissa A. Thorne, Downey Brand, LLP

Mayumi E. Okamoto  
February 15, 2013  
Page 8

(mthorme@downeybrand.com)  
Janet L. Petersen, Donahue Schriber Realty Group, LP  
Bob Aroyan, SD Deacon Construction  
Andy Van Veldhuizen, SD Deacon Construction  
David Mossman, DSRG  
Scott Lawrence, DSRG

# ATTACHMENT



**Response to Notice of Violation  
Follow up and Clarification  
Re: Volume estimates of Sediment laden discharge from  
site**

For:

Rocklin Crossings WDID# 5S31C364098  
Rocklin Crossings Detention Basin WDID# 5S31C364108  
Dominguez Loop Road WDID# 5S31C364102  
Center at Secret Ravine WDID# 5S31C364105

**RSC Engineering**

February 14, 2013

RSC Engineering, Inc.  
Consulting Engineers

2250 Douglas Blvd.  
Suite 150  
Roseville, CA 95661  
916.788.2884  
Fax 916.788.4408  
rsc-engr.com

Response to NOV Follow up Clarification Volume Calculations  
February 14, 2013

Page: 1

Please see the responses in bold to the questions below:

### Question #3:

Paragraph 3 on Page 9 states that the earthen dike at the west end of the Dominguez Loop failed and the runoff was stopped within 1.5 hours. The NOV Response does not specifically state when the breach failure occurred, but S.D. Deacon estimated the failure to occur at 0830 hours in their 12/18/12 Summary of BMPs and other storm water control efforts submittal. S.D. Deacon staff also verbally stated on 12/12/12 at the Water Board office meeting that the Dominguez Loop Road earth dam breached around 8AM on 11/30/12, the temp basin was enlarged, and discharges off the site were stopped by "Friday night".

Water Board staff believe that the discharge of turbid storm water at the Dominguez Loop Road earth dam (aka Discharge Point #2) may have been temporarily interrupted as repair efforts were initiated. Water Board staff was on site on 11/30 from 0940 to approximately 1110 hours and turbid storm water was still discharging from Discharge Point #2 at 1100 hours when QSP Dave Clayson and Water Board staff left the Discharge Point #2 site. Water Board Photograph No. 76, taken at 1055 hours at Discharge Point #2 is attached for your review.

Based on this information, please revise your estimate of when discharges off the construction site were stopped.

**Per conversations with S.D. Deacon, the discharge was partially stopped at 10:00 a.m. when the rock berm was re-constructed as shown in the photo (1.5 hours after the berm failure); the discharge was completely stopped at 11:15 a.m. once the D-8 arrived at the discharge location.**

The runoff at discharge location 2 during the time span from 10:00 a.m. to 11:15 a.m. cannot be calculated using the product of rainfall, area, and C factor as was done in the original calculations. During this time span the discharge was significantly reduced by the re-constructed crushed rock berm. A large percentage of the runoff from Area 2 was captured behind the re-constructed crushed rock berm while the remainder flowed through the re-constructed rock berm.

The volume of water discharged from 10:00 a.m. to 11:15 a.m. is calculated by estimating the flow in photo #76 taken by Marty Hartzell at 10:55 a.m. on 11/30/12 (shown below):



Using an assumed flow depth of 1 inch and an assumed flow width of 2 feet, the flow rate shown in this picture can be calculated using the sharp crested weir equation:

$$Q = \frac{2}{3} * C_d * A * \sqrt{2gh}$$

$C_d = 0.6$

$A = \text{flow depth} * \text{flow width} = 0.08' * 2'$

$Q = 0.15 \text{ cfs}$

Given the calculated flow rate and the time duration of flow the Volume of water discharged can be calculated as follows:

**Discharge Volume from Area2 from 10:00 a.m. to 11:15 a.m.**

<b>Flow rate:</b>	<b>0.15 cfs (from flow estimate above)</b>
<b>Flow time:</b>	<b>4,500 sec. (1.25 hrs. 10:00 to 11:15)</b>
<b>Volume:</b>	<b>675 cubic feet</b>
<b>Volume:</b>	<b><u>5,063 gallons</u></b>

**Question #4:**

*Appendix F provides the estimated volume of sediment laden storm water discharged from the site. Figure 1 in Appendix F provides an estimate of the drainage area for Discharge Point #2 at 6.2 acres, but this area does not include storm water flowing from graded and compacted roads or areas north of the Dominguez Loop Road and Center at Secret Ravine properties. The drainage area for the Dominguez Loop Road and the Center at Secret Ravine sites is listed in SMARTS at 2.9 acres and 3.7 acres, respectively, which by itself is 6.6 acres.*

**Please see the attached exhibit which illustrates the discharge area for the 11-30-2012 storm event, the disturbed area from the Dominguez Loop SWPPP, and the disturbed area from the Center at secret Ravine SWPPP. The exhibit shows the disturbed areas from the two SWPPPs overlap. Removing the overlap area ( 1.18 ac) and the stabilized slope area that discharges directly offsite ( 0.60 ac) and comparing the sum of the two SWPPP plans ( 4.82 ac) vs the 11/30/12 discharge map ( 6.2 ac) shows that the discharge acreage is greater than the combined area of the two SWPPP documents.**

*Figure 1 includes a statement that the "Main area of site did not contribute discharge off-site", and "Effective onsite containment was in place for duration of storm." However, the 11/30/12 Daily Superintendent Report states that "Around 7:45am dike behind job trailer was overflowing causing dike to leak, water ran across Schriber way down to holding basin at Dominguez Loop." On 11/30, Water Board staff observed storm water ponding near the construction trailer and flowing south towards Schriber Way.*

*Based on this information, please reevaluate the Area 2 drainage area.*

**The revised exhibit includes the additional drainage area that contributed to the discharge point #2 after overtopping the berm on the north side of Schriber Way between pad 15 and pad 14 directly north of the intersection with Dominguez Loop Road. In addition to the area up-stream of that berm, the area north of Schriber way and east of Sierra College Boulevard was added to the total area contributing to the discharge at discharge location #2. This area (Area 2B in the attached revised Discharge Exhibit) was covered by existing vegetation and allowed ponding in two locations prior to releasing across Schriber Way to the south.**

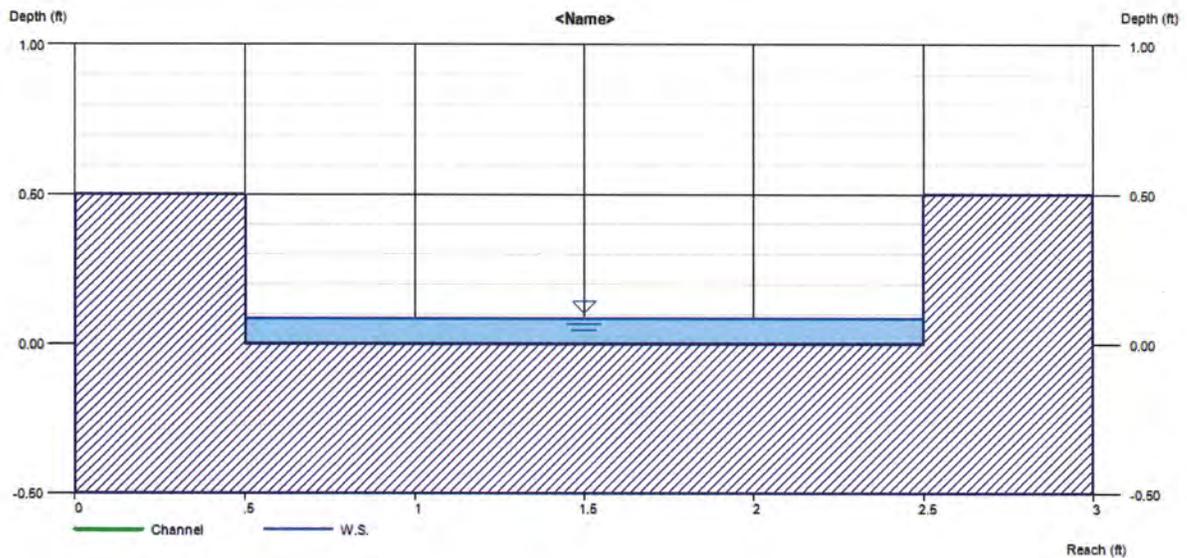
**The runoff from Area 2A was attenuated due to the ponding up-stream of the berm and the runoff from Area 2B was attenuated by the dense existing vegetative cover and the two ponding areas. The additional discharge from these areas is estimated to be the precipitation over the areas during the span of time from 8:30 a.m. to 10:00 a.m. (0.3 inches, Refer to the Appendix F from the Response to Notice of Violation dated 1-25-2013) multiplied by the area and the C coefficient of 0.2 (due to the vegetative cover and ponding).  
Volume 2A and 2B = Rainfall (ft.) \* Area (s.f.) \* C**

**Volume from Areas 2A and 2B**

Area 2A + Area 2B: 135,624 s.f. (1.1 ac. + 2.0 ac.)  
 Rainfall: 0.025 ft. (0.3 in.)  
 C: 0.2  
 Volume: 678 cubic feet  
Volume: 5,085 gallons

**Backcheck of Volume from areas 2A and 2B**

Photo #4 from the NOV shows the discharge from areas 2A and 2B flowing across Schriber Way and into The Center at Secret Ravine. Given a total volume of 678 cf. over a 1.5 hour time span, the average flow rate is 0.13 cfs. Based on photo #4 from the NOV and given the average flow across Schriber Way the flow depth over Schriber Way is estimated using the broad crested weir equation with a bottom width of 2 feet. The Broad crested weir calculations are presented below:



Depth (ft)	Q (cfs)	Area (sqft)	Veloc (ft/s)	TopWidth (ft)	Energy (ft)
0.09	0.130	0.17	0.76	2.00	0.09

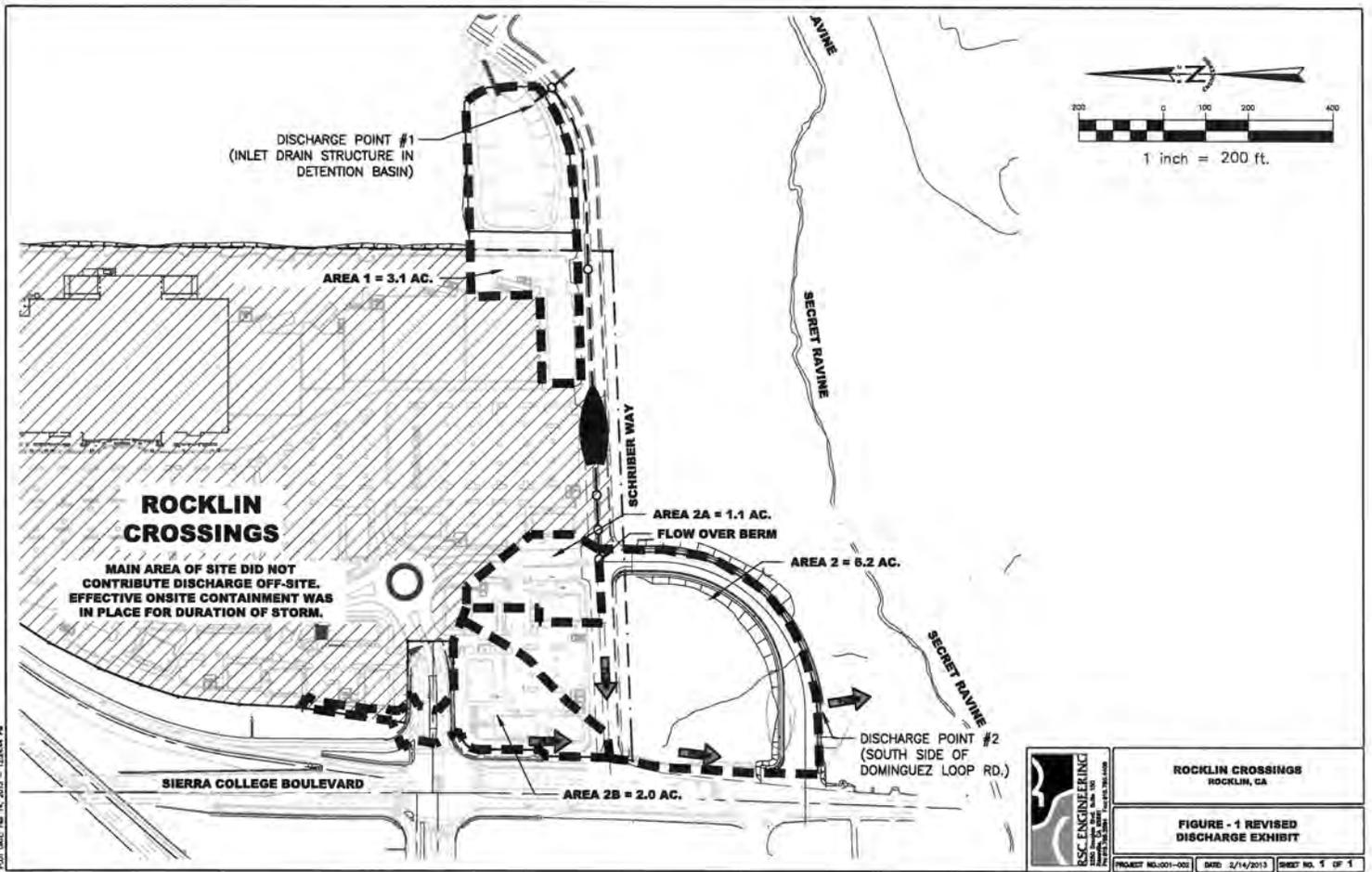
**Depth of Flow = 0.09'**

A flow depth of 0.09' above the roadway surface seems reasonable with what is shown in Photo# 4.

**Summary:**

Discharge Volume reported in 1/25/2013 Response to NOV:	51,167 gallons
Additional Volume discharged from Areas 2A and 2B north of Schriber Way:	5,085 gallons
Additional Volume discharged at discharge #2 from 10:00 a.m. to 11:15 a.m.:	5,063 gallons
<b><u>Revised Discharge Volume from Location #2:</u></b>	<b><u>61,315 gallons</u></b>

I:\Projects\2013\0213-001\Engineering\Reports\0213-001-001-001.dwg by: [unclear] Date: 2/14/2013 11:24:14 AM  
 PLOT DATE: 2/14/2013 11:24:14 AM



<b>ROCKLIN CROSSINGS</b> ROCKLIN, CA		
<b>FIGURE - 1 REVISED</b> <b>DISCHARGE EXHIBIT</b>		
PROJECT NO: 001-001	DATE: 2/14/2013	SHEET NO. 1 OF 1



# Exhibit 12

Prosecution Team Evidence List Exhibits for:

Rocklin Crossings

FILE  
sent

## Rosenbaum, Steve@Waterboards

---

**From:** Hartzell, Marty@Waterboards  
**Sent:** Monday, July 08, 2013 4:29 PM  
**To:** Bob Aroyan (bob.aroyan@deacon.com); Jan Petersen (jpetersen@dsrg.com)  
**Cc:** Rosenbaum, Steve@Waterboards; Wyels, Wendy@Waterboards; Okamoto, Mayumi@Waterboards; Boyers, David@Waterboards  
**Subject:** FW: ACL Complaint for Rocklin Crossings  
**Attachments:** r5-2013-0519\_cov.pdf; r5-2013-0519-enf.pdf; r5-2013-0519\_att\_a.pdf; r5-2013-0519\_hp.pdf

Hello Jan and Bob,

Attached is the Administrative Civil Liability (ACL) Complaint for the Rocklin Crossings construction site for violations that occurred in November and December 2012. The attachments include a Cover Letter, ACL Complaint, Attachment A, and Hearing Procedures. A paper copy will follow by US Mail. Please forward to your attorneys. Please contact me with any questions.

Marty Hartzell  
Engineering Geologist  
Central Valley Regional Water Quality Control Board

11020 Sun Center Drive, Suite 200  
Rancho Cordova, CA 95670-6114  
Office: 916-464-4630  
e-mail: [mhartzell@waterboards.ca.gov](mailto:mhartzell@waterboards.ca.gov)  
website: [www.waterboards.ca.gov/centralvalley](http://www.waterboards.ca.gov/centralvalley)

# Exhibit 13

Prosecution Team Evidence List Exhibits for:  
Rocklin Crossings

Central Valley Regional Water Quality Control Board

8 July 2013



Donahue Schriber Asset Management Corporation  
Janet Petersen, Vice President  
Donahue Schriber  
200 East Baker Street, Suite 100  
Costa Mesa, CA 92626

**CERTIFIED MAIL**  
7012 0470 0000 9903 9218

**ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2013-0519, ROCKLIN CROSSINGS,  
SOUTHEAST CORNER OF INTERSTATE 80 AND SIERRA COLLEGE BOULEVARD,  
ROCKLIN, PLACER COUNTY**

Enclosed is an Administrative Civil Liability Complaint (Complaint), issued to Donahue Schriber Asset Management Corporation (hereafter Discharger) pursuant to Water Code section 13385, for violations of the *NPDES General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities, Order 2009-0009-DWQ*. The Complaint proposes administrative civil liability in the amount of **two hundred eleven thousand and thirty eight dollars (\$211,038)** for violations that occurred in November and December 2012.

Pursuant to Water Code section 13323, the Discharger may:

- Pay the proposed administrative civil liability and waive its right to a hearing (Option #1 on the attached waiver form); or
- Appear before the Water Board for a hearing on this matter.

If the Central Valley Water Board does not receive payment and a signed waiver by **29 July 2013**, a hearing will be scheduled for the **3-4 October 2013** Board meeting in Rancho Cordova. This hearing will be governed by the attached Hearing Procedures, which have been approved by the Board Chair for use in adjudicating matters such as this one. Any objections to the Hearing Procedures must be received by Patrick Pulupa, whose contact information is listed in the Hearing Procedures, by **5 p.m. on 15 July 2013**.

If the Discharger chooses to sign the waiver and pay the assessed civil liability, this will be considered a tentative settlement of the violations. The settlement will be considered final pending a 30-day comment period, starting from the date this Complaint is issued. Interested parties may comment on the proposed action during this period by submitting written comments to the Central Valley Water Board staff person listed below. Should the Central Valley Water Board receive new information or comments during this comment period, the Executive Officer may withdraw the complaint, return payment, and issue a new complaint. If the Central Valley Water Board does not hold a hearing on the matter, and if the terms of the final settlement are

FILE

not significantly different from those proposed in the enclosed Complaint, then there will not be additional opportunities for public comment on the proposed settlement.

In order to conserve resources, this letter transmits paper copies of the documents to the Discharger only. Interested persons may download the documents from the Central Valley Water Board's Internet website at:

[http://www.waterboards.ca.gov/centralvalley/board\\_decisions/tentative\\_orders/](http://www.waterboards.ca.gov/centralvalley/board_decisions/tentative_orders/).

Copies of these documents can also be obtained by contacting or visiting the Central Valley Water Board's office weekdays between 8:00 AM and 5:00 PM.

If you have any questions or comments regarding the Administrative Civil Liability Complaint, please contact Steve Rosenbaum at (916) 464-4631 or [srosenbaum@waterboards.ca.gov](mailto:srosenbaum@waterboards.ca.gov).

WENDY S. WYELS, Supervisor  
Compliance and Enforcement Section

Enclosures: ACL Complaint R5-2013-0519  
Waiver Form  
Hearing Procedures

cc w/o encl: Kenneth Greenberg, USEPA, Region 9, San Francisco  
Mayumi Okamoto, Office of Enforcement, SWRCB, Sacramento  
David Boyers, Office of Enforcement, SWRCB, Sacramento  
Ken Landau, Central Valley Water Board Advisory Team, Sacramento  
Patrick Pulupa, Office of Chief Counsel, SWRCB, Sacramento  
Howard Wilkins, Remy Moose Manley, Sacramento  
Melissa Thorne, Downey Brand, Sacramento  
Bob Aroyan, S. D. Deacon Corporation of California, Citrus Heights  
Jeff Guerrero, City of Rocklin Community Development, Rocklin

## Central Valley Regional Water Quality Control Board

8 July 2013

Donahue Schriber Asset Management Corporation  
Janet Petersen, Vice President  
Donahue Schriber  
200 East Baker Street, Suite 100  
Costa Mesa, CA 92626

**CERTIFIED MAIL**  
7012 0470 0000 9903 9218

***ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2013-0519, ROCKLIN CROSSINGS,  
SOUTHEAST CORNER OF INTERSTATE 80 AND SIERRA COLLEGE BOULEVARD,  
ROCKLIN, PLACER COUNTY***

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Pursuant to Water Code section 13323, the Discharger may:

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If the Discharger chooses to sign the waiver and pay the assessed civil liability, this will be considered a tentative settlement of the violations. The settlement will be considered final pending a 30-day comment period, starting from the date this Complaint is issued. Interested parties may comment on the proposed action during this period by submitting written comments to the Central Valley Water Board staff person listed below. Should the Central Valley Water Board receive new information or comments during this comment period, the Executive Officer may withdraw the complaint, return payment, and issue a new complaint. If the Central Valley Water Board does not hold a hearing on the matter, and if the terms of the final settlement are

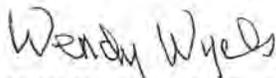
not significantly different from those proposed in the enclosed Complaint, then there will not be additional opportunities for public comment on the proposed settlement.

In order to conserve resources, this letter transmits paper copies of the documents to the Discharger only. Interested persons may download the documents from the Central Valley Water Board's Internet website at:

[http://www.waterboards.ca.gov/centralvalley/board\\_decisions/tentative\\_orders/.](http://www.waterboards.ca.gov/centralvalley/board_decisions/tentative_orders/)

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WENDY S. WYELS, Supervisor  
Compliance and Enforcement Section

Enclosures: ACL Complaint R5-2013-0519  
Waiver Form  
Hearing Procedures

cc w/o encl: Kenneth Greenberg, USEPA, Region 9, San Francisco  
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David Boyers, Office of Enforcement, SWRCB, Sacramento  
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Patrick Pulupa, Office of Chief Counsel, SWRCB, Sacramento  
Howard Wilkins, Remy Moose Manley, Sacramento  
Melissa Thorne, Downey Brand, Sacramento  
Bob Aroyan, S. D. Deacon Corporation of California, Citrus Heights  
Jeff Guerrero, City of Rocklin Community Development, Rocklin

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2013-0519

IN THE MATTER OF

DONAHUE SCHRIBER ASSET MANAGEMENT CORPORATION  
FOR  
ROCKLIN CROSSINGS  
PLACER COUNTY

This Complaint is issued to Donahue Schriber Asset Management Corporation (hereafter Discharger) pursuant to Water Code 13385, which authorizes the imposition of Administrative Civil Liability, and Water Code section 13323, which authorizes the Executive Officer to issue this Complaint. This Complaint is based on evidence that the Discharger violated provisions of the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities, Order No. 2009-0009-DWQ (NPDES No. CAS000002).

The Executive Officer of the Central Valley Regional Water Quality Control Board (Central Valley Water Board or Board) alleges the following:

**Background**

1. Rocklin Crossings, LLC and Rocklin Holdings, LLC are the property owners of Rocklin Crossings and Rocklin Crossings Detention Basin construction sites, and Donahue Schriber Asset Management Corporation (Donahue Schriber) is the property owner of the Dominguez Loop Road and Center at Secret Ravine construction sites. Collectively, all four construction sites will be referred to as the Rocklin Crossings construction sites, or Site(s) in this Complaint.
2. All four Sites are contiguous and are located southeast of the intersection of Interstate 80 and Sierra College Boulevard in Placer County. The Sites cover 59.4 acres and are being developed for two anchor tenants (Walmart and Home Depot), multiple smaller retail stores and restaurants, parking lots, and a two-acre storm water detention basin.
3. S.D. Deacon Corporation of California (S.D. Deacon) is the general contractor and is responsible for all phases of construction under contract to Donahue Schriber.
4. On 2 September 2009, the State Water Resources Control Board adopted the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities, Order No. 2009-0009-DWQ (NPDES No. CAS000002) (General Permit). This Order became effective on 1 July 2010.
5. On 16 July 2012, Donahue Schriber, acting as the property owners' representative, applied for permit coverage under the General Permit for the Rocklin Crossings construction sites by filing four Notice of Intent applications on the Water Board's SMARTS (Storm Water Multiple Application and Tracking System) data management system. Donahue Schriber determined that all four projects are Risk Level 2 sites based on Project Sediment Risk and Receiving Water Risk under the terms of the General Permit. Janet Petersen, Vice President of Development Services with Donahue Schriber, is listed as the legally responsible person (LRP) for the Rocklin Crossing construction sites, and Donahue Schriber is responsible for complying with all elements of the General Permit at all four Sites. This Complaint is being issued to Donahue Schriber, only, because of its status as the LRP for the Sites.

6. On 18 July 2012, the Notices of Intent for the four Rocklin Crossings construction sites were approved and the Sites were assigned the following Waste Discharge Identification Numbers (WDID #).

Site Name	WDID #
Rocklin Crossings	5S31C364098
Rocklin Crossings Detention Basin	5S31C364108
Dominguez Loop Road	5S31C364102
Center at Secret Ravine	5S31C364105

7. Among other items, the General Permit requires that:
- (a) Dischargers shall minimize or prevent pollutants in storm water discharges and authorized non-storm water discharges through the use of controls, structures, and management practices that achieve BAT (best available technology economically achievable) for toxic and non-conventional pollutants and BCT (best conventional control technology) for conventional pollutants. (General Permit, Section V.A.2);
  - (b) Risk Level 2 dischargers shall implement appropriate erosion control BMPs (runoff and soil stabilization) in conjunction with sediment control BMPs for areas under active construction (General Permit, Attachment D, Section E);
  - (c) A State-certified Qualified SWPPP Developer (QSD) shall prepare a site-specific Storm Water Pollution Prevention Plan (SWPPP) and dischargers identify the Risk Level prior to construction (General Permit, Sections XIV, A. and VIII); and
  - (d) Risk Level 2 dischargers shall ensure a Qualified SWPPP Practitioner (QSP) develops a Rain Event Action Plan (REAP), a written document specific for each rain event, that when implemented is designed to protect all exposed portions of a site within 48 hours prior to any likely precipitation event. A REAP must be developed when there is a forecast of 50% or greater probability of precipitation in the project area (General Permit, Attachment D, Section H) and is to be implemented no later than 24 hours prior to the likely precipitation event
8. The Discharger completed site-specific SWPPPs for all four Rocklin Crossings sites and uploaded the SWPPPs to the SMARTS data management system between 12 July and 13 July 2012. As listed in SMARTS, construction activities for all four Sites were scheduled to begin on 25 July 2012 and are to be completed by 15 October 2013.
9. Section 3 of the site-specific SWPPP for the Rocklin Crossings construction sites states that the entire site will be disturbed during the rough grading phase, and that straw mulch will be applied to all disturbed soils prior to any forecast rain event. The SWPPP states that straw mulch will be applied as a temporary erosion control BMP and shall be applied in conformance with the CASQA (California Stormwater Quality Association) BMP Factsheet EC-6. However, as described below, the Discharger did not follow its SWPPP because it failed to apply straw mulch to disturbed soils prior to a rain event and failed to implement appropriate erosion and sediment control BMPs.

### Chronology

10. On 22 October 2012, Water Board staff conducted an inspection at the Site following an approximate one inch rain event in the Rocklin area. No construction activity was observed from the construction entrance at Sierra College Boulevard. Ponding was observed on graded lots,

and staff observed that no erosion controls were installed on active construction areas visible from the construction entrance. The lack of erosion control BMPs on a Risk Level 2 site prior to a rain event is a violation of the General Permit. Staff contacted Janet Petersen on 25 October 2012 and arranged a site meeting for 31 October 2012.

11. On 31 October 2012, Water Board staff met with Janet Petersen and S.D. Deacon staff and completed a thorough inspection of the four Sites. Staff observed that perimeter sediment controls were in place and appeared to be working; however, no erosion control best management practices (BMPs) were installed across the active construction sites. The Discharger was in the process of stabilizing completed building pads with tree mulch, and covering some perimeter slopes with tree mulch. Following the inspection, staff discussed stabilizing all active construction areas prior to rain events as required by the General Permit.
12. Starting on 2 November 2012 and continuing weekly to 18 February 2013, S.D. Deacon provided a weekly summary of construction activities and activities completed to stabilize the Sites. Active construction through November 2012 included drilling and blasting granite outcrops and using the rock and soil to fill portions of the Center at Secret Ravine and the Dominguez Loop Road sites. As of 26 November 2012, S.D. Deacon reported in its weekly summary that multiple areas were stabilized with rock, tree mulch, or hydro-mulch, and that future parking lot areas had not been graded and would contain all storm water in low spots. As documented in later weekly summary reports, between 26 and 28 November 2012, three earthen berms were added to the temporary haul roads in the parking lot areas, and an area at the southwest end of the Dominguez Loop Road site was excavated for temporary water storage during the forecasted rain events.
13. Temporary water storage was not addressed in the SWPPP, although updated SWPPP maps provided in weekly summaries showed the water storage features described above. However, Board staff did not find documentation in the record that the temporary storage basin or the earthen berms were designed with consideration of the size of the impending storm event or that they were equipped with overflow protection such as a rocked spillway to protect the structures from failure. The installation of temporary water storage areas, if engineered and designed correctly, is considered a BMP. However, the General Permit requires that *both* erosion control and sediment control BMPs be installed. The Discharger did not install the appropriate combination of BMPs.
14. From 28 November 2012 through 5 December 2012, multiple rainfall events occurred throughout northern and central California. In the Rocklin area, the heaviest rainfall occurred on 30 November (Friday) and 2 December (Sunday). This storm was forecast by NOAA (National Oceanic and Atmospheric Administration) National Weather Service a minimum of five days prior to the first rainfall on 28 November. As stated above, the General Permit requires that Risk Level 2 dischargers develop and implement a Rain Event Action Plan (REAP) to protect all exposed portions of a site within 48 hours prior to a precipitation event when there is a forecast of 50% or greater probability of precipitation in the project area. The Discharger's REAPs completed for the four construction Sites on 26 November 2012 stated that site erosion and sediment control BMPs were deployed at each of the four construction Sites. However, as noted below, the Water Board staff inspection on 30 November 2012 found that BMPs were not adequately deployed across the southern portion of the Rocklin Crossing site, the Center at Secret Ravine site, and the Dominguez Loop Road site.
15. On 30 November 2012, Water Board staff completed a site inspection during a heavy rain event. The rain event started on 28 November 2012 and produced approximately 0.75 inches of rainfall within the first two days, and then 2.25 inches of rainfall within the first 11 hours on 30 November. Water Board staff subsequently determined that the 30 November to 2 December storm event

was approximately equivalent to a 25 year recurrence interval as provided by NOAA Precipitation Frequency Data Server.<sup>1</sup>

During the inspection, staff observed turbid storm water discharging from two locations at the Site. First, from the Dominguez Loop Road site where an earthen berm, constructed for perimeter control, had breached allowing stored storm water to flow to Secret Ravine. Staff collected a grab sample of turbid storm water below the Dominguez Loop Road discharge point and a grab sample from Secret Ravine upstream of the discharge point. Both samples were analyzed for turbidity using a portable turbidimeter. The Dominguez Loop Road sample result was greater than 1,000 NTU, and the Secret Ravine sample result was 153 NTU.

Staff then met with the QSP for the site and reviewed the Rocklin Crossings Detention Basin site. Staff observed a second turbid storm water discharge from the Detention Basin site into a ditch that leads to Secret Ravine. It was later identified by the Discharger that a plug was placed in the detention basin outlet, but this plug failed, allowing turbid storm water to flow into Secret Ravine. The QSP collected a grab sample from within the ditch and identified the turbidity at 2,425 NTU. This sample represents the turbidity in storm water discharging from the Detention Basin Site into Secret Ravine. Due to the high flows in Secret Ravine, it was not safe for staff to collect an upstream or downstream sample directly from the creek. However, photographs taken at the time of the discharge show that the storm water flowing off the construction site was visibly turbid while the water upstream of the discharge point in Secret Ravine was much clearer.

16. Based on the 30 November 2012 inspection, Board staff determined that the Site did not have appropriate erosion or sediment control BMPs installed prior to the 28 November through 5 December 2012 rain events as required by the SWPPP and the General Permit. This lack of soil stabilization led to the discharge into Secret Ravine from two separate locations on the same day.
17. During the 28 November to 5 December 2012 rain events, the Discharger pumped storm water collected across the Site to both of the existing on-site detention basins to minimize potential discharges to Secret Ravine. On 18 December 2012, the Discharger started operating an on-site active treatment system (ATS) to treat suspended sediment in storm water. Treated effluent was discharged to the storm drain system on Schriber Way, which flows to Secret Ravine.
18. On 21 December 2012, Board staff issued a Notice of Violation (NOV) and Water Code section 13267 Order for the General Permit violations observed during the inspection on 30 November 2012. The Notice of Violation required a response from the Discharger by 18 January 2013, which was later extended to 25 January 2013. The NOV and 13267 Order required the Discharger to install appropriate erosion and sediment control BMPs throughout the Sites and submit a complete Numeric Action Level (NAL) Exceedance Report for the 28 November 2012 through 5 December 2012 storm events.
19. On 24 December 2012, Board staff conducted an inspection following a storm event which started on 21 December (Friday) and continued through 25 December 2012 (Tuesday) and produced approximately 2.75 inches of precipitation as of 24 December. The Center at Secret Ravine site was still actively being graded and compacted prior to the start of the storm event on 21 December 2012, and S.D. Deacon staff stated that disturbed soils across the Center at Secret Ravine site were treated with an "Earthguard" product prior to the rain event. However, the Earthguard-treated areas were not covered with mulch, straw, or fibers to prevent soil particles

<sup>1</sup> <http://hdsc.nws.noaa.gov/hdsc/pfds/>

from detaching and becoming transported in storm water runoff, and evidence of erosion was observed across portions of the Center at Secret Ravine site. Based on the lack of soil coverage and erosion observed across the active site, it appeared to Board staff that the Earthguard product was not effective in stabilizing soils during rainfall events, and staff concluded that this application was not an appropriate erosion control and therefore a violation of the General Permit. In addition, staff reviewed the SWPPP to determine if the QSD had evaluated whether the Earthguard product was appropriate for use as a soil stabilization BMP at the Rocklin Crossings construction sites. However, this evaluation was not conducted. As presented in Finding 9 above, the site-specific SWPPP for the Rocklin Crossings construction sites stated that straw mulch, not Earthguard, would be applied to all disturbed soils prior to any forecast rain event.

Staff also observed the active treatment system in operation and the system operator reported that approximately 523,000 gallons of turbid storm water had been treated and discharged since the system became operational on 18 December 2012.

20. On 25 January 2013, the Discharger submitted a NOV Response, and on 17 February 2013, the Discharger provided additional responses following staff's initial review. The Discharger's NOV Response with additions stated that the Site received seven inches of rainfall between 28 November and 2 December 2012, and estimated that approximately 76,613 gallons of turbid storm water discharged from the Site to Secret Ravine on 30 November 2012 between 8:00 AM and 12 noon. The Discharger states that BMP repairs were completed at the two discharge points by 12 noon and the remaining volume of storm water was contained on-site in low areas, road depressions, and detention basins. Board staff reviewed the Discharger's estimates and calculations and agrees that the estimated discharge volume from the Site is reasonable.

### **Violations at Rocklin Crossings Construction Sites**

21. General Permit Section V.A.2, Effluent Standards, Narrative Effluent Limitations, states, in part: *2. Dischargers shall minimize or prevent pollutants in storm water discharges and authorized non-storm water discharges through the use of controls, structures, and management practices that achieve BAT for toxic and non-conventional pollutants and BCT for conventional pollutants.*

Violation 1: The Discharger is alleged to have violated this requirement of the General Permit by discharging 76,613 gallons of turbid storm water to Secret Ravine on 30 November 2012.

22. General Permit Attachment D, Provision E.3. Sediment Controls, states in part: *Additional Risk Level 2 Requirement: Risk Level 2 dischargers shall implement appropriate erosion control BMPs (runoff control and soil stabilization) in conjunction with sediment control BMPs for areas under active construction.*

Violation 2: The Discharger is alleged to have violated this requirement of the General Permit for a period of eight days (28 November to 5 December 2012) for failure to implement appropriate erosion control BMPs for areas under active construction.

Violation 3: The Discharger is alleged to have violated this requirement of the General Permit for a period of five days (21 December to 25 December 2012) for failure to implement appropriate erosion control BMPs for areas under active construction.

### Surface Water Beneficial Uses

23. Surface water drainage from the Rocklin Crossings construction sites flows to Secret Ravine, which is a tributary to Miners Ravine, which is tributary to Dry Creek, which is tributary to the Sacramento River between Colusa Drain and the I Street Bridge.
24. The *Water Quality Control Plan for the Sacramento River and San Joaquin River Basins, Fourth Edition* (hereafter Basin Plan) designates beneficial uses, establishes water quality objectives, contains implementation plans and policies for protecting waters of the basin, and incorporates by reference plans and policies adopted by the State Water Resources Control Board. The existing and potential beneficial uses for the Sacramento River from Colusa Basin Drain to the "I" Street Bridge, and tributary streams, are municipal and domestic supply, agricultural supply for irrigation, contact water recreation, other non-contact water recreation, warm and cold freshwater aquatic habitat, warm and cold fish migration habitat, warm and cold spawning habitat, wildlife habitat, and navigation..

### Calculation of Penalties Under Water Code Section 13385

25. Water Code section 13385 states, in relevant part:
  - (a) *Any person who violates any of the following shall be liable civilly in accordance with this section:*
    - (2) *A waste discharge requirement ... issued pursuant to this chapter... (5) Any requirements of Section 301, 302, 306, 307, 308, 318, 401, or 405 of the Clean Water Act, as amended.*
26. The General Permit was adopted by the State Water Board on 2 September 2009, pursuant to Clean Water Act sections 201, 208(b), 302, 303(b), 304, 306, 307, 402, and 403. Section IV(A)(1) of the General Permit, states in part:

*Any permit noncompliance constitutes a violation of the Clean Water Act (CWA) and the Porter-Cologne Water Quality Control Act and is grounds for enforcement action and/or removal from General Permit coverage.*
27. The Discharger's failure to implement the elements of the General Permit described above violated the General Permit and therefore, violated the Clean Water Act and the Porter-Cologne Water Quality Control Act. Water Code section 13385 authorizes the imposition of administrative civil liability for such violations.
28. Water Code section 13385 states, in relevant part:
  - (c) Civil liability may be imposed administratively by the state board or a regional board pursuant to Article 2.5 (commencing with Section 13323) of Chapter 5 in an amount not to exceed the sum of both of the following:
    - (1) Ten thousand dollars (\$10,000) for each day in which the violation occurs.
    - (2) Where there is a discharge, any portion of which is not susceptible to cleanup or is not cleaned up, and the volume discharged but not cleaned up exceeds 1,000 gallons, an additional liability not to exceed ten dollars (\$10) multiplied by the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons.

(e) ...At a minimum, liability shall be assessed at a level that recovers the economic benefits, if any, derived from the acts that constitute the violation.

29. **Maximum Administrative Civil Liability under Water Code Section 13385:** Pursuant to Water Code section 13385(c), each violation of the General Permit identified above is subject to penalties not to exceed \$10,000 per day and \$10 per gallon of discharge exceeding 1,000 gallons.

- The Discharger failed to comply with Sediment Control Provision E.3 from 28 November through 5 December 2012, a period of 8 days, and from 21 December through 25 December 2012, a period of 5 days. Therefore, the maximum penalty is \$10,000 X 13 days, or \$130,000.
- A total of 76,613 gallons of turbid storm water discharged from the Site to Secret Ravine on 30 November 2012. The maximum penalty for this discharge is (76,613– 1,000) gallons X \$10 per gallon plus \$10,000 (for one day of violation), or \$766,130.

The maximum liability for these violations is **eight hundred ninety six thousand one hundred and thirty dollars (\$896,130)**.

30. **Minimum Administrative Civil Liability under Water Code Section 13385:** Pursuant to Water Code section 13385(e), at a minimum, civil liability must be assessed at a level that recovers the economic benefits, if any, derived from the acts that constitute the violation. The violations of the General Permit were due to failure to implement appropriate erosion and sediment control BMPs as listed in the site specific SWPPP. CASQA estimates installation and maintenance of straw mulch at \$1,823 to \$4,802 per acre (July 2007 data), and this range is generally dependent on slope and soil type. The economic benefit received by the Discharger by not installing and maintaining appropriate erosion control BMPs is estimated to be \$2,000 per acre, based on a generally flat site that can be easily accessed by wheeled vehicles. Based on information submitted by the Discharger, Board staff estimated that approximately 40 acres of disturbed area was not adequately protected with BMPs. Therefore, the cost to stabilize this construction site is estimated to be \$80,000. The economic benefit incurred by the Discharger is the failure to spend \$80,000 between 28 November and 25 December 2012; the value can be calculated as the interest on a loan to complete the work. Using the US EPA's BEN model, the economic benefit gained by non-compliance is calculated to be approximately one hundred seventeen dollars (\$117), which becomes the minimum civil liability which must be assessed pursuant to section 13385.

### **Proposed Administrative Civil Liability**

31. Pursuant to Water Code section 13385(e), in determining the amount of any civil liability imposed under Water Code section 13385(c), the Board is required to take into account the nature, circumstances, extent, and gravity of the violations, whether the discharges are susceptible to cleanup or abatement, the degree of toxicity of the discharges, and, with respect to the violator, the ability to pay, the effect on its ability to continue its business, any voluntary cleanup efforts undertaken, any prior history of violations, the degree of culpability, economic benefit or savings, if any, resulting from the violations, and other matters that justice may require.
32. On 17 November 2010, the State Water Board adopted Resolution No. 2009-0083 amending the Water Quality Enforcement Policy (Enforcement Policy). The Enforcement Policy was approved by the Office of Administrative Law and became effective on 20 May 2010. The Enforcement

Policy establishes a methodology for assessing administrative civil liability. The use of this methodology addresses the factors that are required to be considered when imposing a civil liability as outlined in Water Code section 13385(e).

33. This administrative civil liability was derived from the use of the penalty methodology in the Enforcement Policy, as explained in detail in Attachment A. The proposed civil liability takes into account such factors as the Discharger's culpability, history of violations, ability to pay and continue in business, and other factors as justice may require.
34. As described above, the maximum penalty for the violations is \$896,130. The Enforcement Policy requires that the minimum liability imposed be at least 10% higher than the estimated economic benefit of \$117, so that liabilities are not construed as the cost of doing business and that the assessed liability provides a meaningful deterrent to future violations. In this case, the economic benefit amount, plus 10%, is \$129. Based on consideration of the above facts and after applying the penalty methodology and allowing for staff costs pursuant to the Enforcement Policy, the Executive Officer of the Central Valley Water Board proposes that civil liability be imposed administratively on the Discharger in the amount of **\$211,038**. The specific factors considered in this penalty are detailed in Attachment A.

#### **Regulatory Considerations**

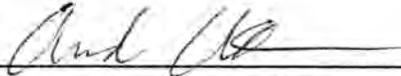
35. Notwithstanding the issuance of this Complaint, the Central Valley Water Board retains the authority to assess additional penalties for violations of the requirements of the General Permit for which penalties have not yet been assessed or for violations that may subsequently occur.
36. An administrative civil liability may be imposed pursuant to the procedures described in Water Code section 13323. An administrative civil liability complaint alleges the act or failure to act that constitutes a violation of law, the provision of law authorizing administrative civil liability to be imposed, and the proposed administrative civil liability.
37. Issuance of this Administrative Civil Liability Complaint to enforce Water Code Division 7, Chapter 5.5 is exempt from the provisions of the California Environmental Quality Act (Pub. Resources Code § 21000 et seq.), in accordance with California Code of Regulations, title 14, section 15321(a)(2).

#### **DONAHUE SCHRIBER IS HEREBY GIVEN NOTICE THAT:**

1. The Executive Officer of the Central Valley Water Board proposes an administrative civil liability in the amount of **two hundred and eleven thousand and thirty eight dollars (\$211,038)**. The amount of the proposed liability is based upon a review of the factors cited in Water Code section 13385, as well as the State Water Resources Control Board's 2010 Water Quality Enforcement Policy, and includes consideration of the economic benefit or savings resulting from the violations.
2. A hearing on this matter will be conducted at the Central Valley Water Board meeting scheduled on **3-4 October 2013**, unless the following occurs by **29 July 2013**:

The Discharger waives the hearing by completing the attached form (checking off the box next to Option #1) and returning it to the Central Valley Water Board, along with payment for the proposed civil liability of **two hundred and eleven thousand and thirty eight dollars (\$211,038)**.

3. If a hearing is held, the Central Valley Water Board will consider whether to affirm, reject, or modify the proposed Administrative Civil Liability, or whether to refer the matter to the Attorney General for recovery of judicial civil liability.

  
\_\_\_\_\_  
for PAMELA C. CREEDON, Executive Officer

8 July 2013

\_\_\_\_\_  
Date

Waiver Form  
Attachment A: Specific Factors Considered for Civil Liability

WMH/SER/WSW: 8 July 2013

**WAIVER FORM  
FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT**

By signing this waiver, I affirm and acknowledge the following:

I am duly authorized to represent Donahue Schriber Asset Management Corporation (hereafter Discharger) in connection with Administrative Civil Liability Complaint R5-2013-0519 (hereafter Complaint). I am informed that Water Code section 13323, subdivision (b), states that, "a hearing before the regional board shall be conducted within 90 days after the party has been served. The person who has been issued a complaint may waive the right to a hearing."

(**OPTION 1: Check here if the Discharger waives the hearing requirement and will pay in full.**)

a. I hereby waive any right the Discharger may have to a hearing before the Central Valley Water Board.

b. I certify that the Discharger will remit payment for the proposed civil liability in the full amount of **two hundred and eleven thousand and thirty eight dollars (\$211,038)** by check that references "ACL Complaint R5-2013-0519" made payable to the *State Water Pollution Cleanup and Abatement Account*. Payment must be received by the Central Valley Water Board by **29 July 2013**.

c. I understand the payment of the above amount constitutes a proposed settlement of the Complaint, and that any settlement will not become final until after a 30-day public notice and comment period. Should the Central Valley Water Board receive significant new information or comments during this comment period, the Central Valley Water Board's Executive Officer may withdraw the complaint, return payment, and issue a new complaint. I also understand that approval of the settlement will result in the Discharger having waived the right to contest the allegations in the Complaint and the imposition of civil liability.

d. I understand that payment of the above amount is not a substitute for compliance with applicable laws and that continuing violations of the type alleged in the Complaint may subject the Discharger to further enforcement, including additional civil liability.

\_\_\_\_\_  
(Print Name and Title)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

**Attachment A to ACL Complaint R5-2013-0519:  
Specific Factors Considered for Civil Liability  
Rocklin Crossings, Placer County**

The State Water Board's *Water Quality Enforcement Policy* (Enforcement Policy) establishes a methodology for determining administrative civil liability by addressing the factors that are required to be considered under California Water Code (CWC) section 13385(e). Each factor of the nine-step approach is discussed below, as is the basis for assessing the corresponding score. The Enforcement Policy can be found at:

[http://www.waterboards.ca.gov/water\\_issues/programs/enforcement/docs/enf\\_policy\\_final111709.pdf](http://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/enf_policy_final111709.pdf).

**Violation 1: Two Separate Discharges of Turbid Water on 30 November 2012**

**Step 1 – Potential for Harm for Discharge Violations**

The "potential harm to beneficial uses" factor considers the harm to beneficial uses that may result from exposure to the pollutants in the discharge, while evaluating the nature, circumstances, extent, and gravity of the violation(s). A three-factor scoring system is used for each violation or group of violations: (1) the potential harm to beneficial uses; (2) the degree of toxicity of the discharge; and (3) whether the discharge is susceptible to cleanup or abatement.

**Factor 1: Harm or Potential Harm to Beneficial Uses**

A score between 0 and 5 is assigned based on a determination of whether the harm or potential for harm to beneficial uses is negligible (0) to major (5). In this case the potential harm to beneficial uses was determined to be **moderate** (i.e. a score of **3**), which is defined as a "moderate threat to beneficial uses (i.e., impacts are observed or reasonably expected and impacts to beneficial uses are moderate and likely to attenuate without appreciable acute or chronic effects)."

The Discharger failed to implement appropriate erosion control BMPs prior to the 28 November to 5 December 2012 (8 days) storm event(s) as required by the General Permit. This failure resulted in a sediment-laden discharge to Secret Ravine, a sensitive water body with cold, spawn, and migratory beneficial uses. Both erosion and sediment control BMPs are required to be implemented on active construction sites to prevent soil particles from detaching and to contain any soil particles that become entrained in storm water runoff. These BMPs need to be designed by the Qualified SWPPP Developer (QSD) to work in unison and prevent or reduce sediment discharging from the site. In lieu of erosion control BMPs, the Discharger implemented a strategy to contain storm water on site which was not designed for the predicted storm event and ultimately failed.

The failure to implement appropriate erosion control BMPs has the potential to impact beneficial uses in Secret Ravine. The beneficial uses of Secret Ravine, as a tributary to the Sacramento River between Colusa Drain and "I" Street Bridge via Miners Ravine and Dry Creek, include municipal and domestic supply, agricultural supply for irrigation, contact water recreation, other non-contact water recreation, warm and cold freshwater aquatic habitat, warm and cold fish migration habitat, warm and cold spawning habitat, wildlife habitat, and navigation. Discharges of sediment to surface waters can cloud the receiving water, thereby reducing the amount of sunlight reaching aquatic plants, clog fish gills, smother aquatic habitat and spawning areas, and impede navigation. Sediment can also transport other materials such as nutrients, metals, and oils and grease.

In April 2008, the consulting firm EDAW (now called AECOM – Design + Planning) completed a Final Environmental Impact Report (EIR) for the Rocklin Crossings Project<sup>1</sup>. EDAW identified that Secret Ravine Creek provides spawning and rearing habitat for the federally threatened Central Valley Steelhead and spawning habitat for the federal candidate species and state species of special concern Central Valley fall- and late fall-run Chinook Salmon. EDAW received a number of comments on the Draft EIR regarding the project's potential effect on Secret Ravine and the creek's salmon population. In response, the Final EIR states that uncontrolled soil erosion generated during project construction could indirectly affect fish habitat and benthic macro-invertebrates by degrading the water quality within Secret Ravine Creek. However, EDAW added that the project's runoff, erosion, and subsequent sedimentation issues would be minimized or eliminated through preparation and implementation of an erosion control plan and stormwater pollution prevention plan (SWPPP) and the installation of appropriate Best Management Practices (BMPs).

Section 2 of the Final EIR, Master Response on Water Quality, states the following: "The BMPs proposed to be implemented during construction include: the use of soil stabilizers, fiber rolls, inlet filters, and gravel bags to prevent pollutants from being carried off-site in stormwater generated on the project site. The erosion control plan would ensure that proper control of siltation, sedimentation, and other pollutants would be implemented per the National Pollution Discharge Elimination System (NPDES) permit requirements and City ordinance standards. Debris, soil, silt, sand, bark, slash, sawdust, cement, concrete, washings, petroleum products or other organic or earthen material would not be allowed to enter into or be placed where it may be washed by rainfall or runoff into Secret Ravine Creek."

Section 4 of the Final EIR states that construction techniques shall be identified that would reduce the potential runoff, the SWPPP shall identify the erosion and sedimentation control measures to be implemented, and BMPs identified in the SWPPP shall be used in subsequent site development activities. As discussed below, erosion and sediment control measures were identified in the SWPPP; however, erosion control measures were not implemented, and sediment controls were not effective in preventing sediment discharges from the site.

As discussed in the EIR, the discharge of sediment to surface waters can negatively impact aquatic organisms. However, the discharges took place over a four hour period during a time of high flow in Secret Ravine, and the impacts are expected to attenuate without appreciable acute or chronic effects. Therefore a moderate score of 3 was assigned to this factor.

#### Factor 2: The Physical, Chemical, Biological, or Thermal Characteristics of the Discharge

A score between 0 and 4 is assigned based on a determination of the risk or threat of the discharged material. In this case, a score of 2 was assigned, which means that the chemical and/or physical characteristics of the discharged material poses a moderate risk or threat to potential receptors (i.e. the chemical and/or physical characteristics of the discharged material have some level of toxicity or pose a moderate level of concern regarding receptor protection). Discharges of sediment can cloud the receiving water, which reduces the amount of sunlight reaching aquatic plants, clog fish gills, smother aquatic habitat and spawning areas, and impede navigation. Sediment can also transport other materials such as nutrients, metals, and oils and grease.

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<sup>1</sup>[http://www.rocklin.ca.us/depts/develop/planning/publications\\_n\\_maps/rocklin\\_crossings\\_environmental\\_impact\\_report/default.asp](http://www.rocklin.ca.us/depts/develop/planning/publications_n_maps/rocklin_crossings_environmental_impact_report/default.asp)

Factor 3: Susceptibility to Cleanup or Abatement

A score of 0 is assigned for this factor if 50% or more of the discharge is susceptible to cleanup or abatement. A score of 1 is assigned if less than 50% of the discharge is susceptible to cleanup or abatement. This factor is evaluated regardless of whether the discharge was actually cleaned up or abated by the discharger. In this case, sediment laden storm water discharged into Secret Ravine and was carried downstream with the current. Cleanup or abatement is not possible and therefore, a factor of 1 is assigned.

Final Score – “Potential for Harm”

The scores of the three factors are added to provide a Potential for Harm score for each violation or group of violations. In this case, a final score of 6 was calculated. The total score is then used in Step 2 below.

Step 2 – Assessment for Discharge Violations

This step addresses penalties based on both a per-gallon and a per-day basis for the discharge violation.

Per Gallon Assessments for Discharge Violations

When there is a discharge, the Central Valley Water Board is to determine the initial liability amount on a per gallon basis using the Potential Harm score from Step 1 and the Extent of Deviation from Requirement of the violation. The Potential Harm score from Step 1 is 6 and the Extent of Deviation from Requirements is considered to be **Major** because the Discharger failed to implement appropriate erosion control BMPs and rendered the requirement ineffective. General Permit requires both erosion and sediment control BMPs on active construction sites to prevent soil particles from detaching and to contain any soil particles that become entrained in storm water runoff. The installation of temporary water storage areas as done by the Discharger, if engineered and designed correctly, is considered a BMP. However, the General Permit requires that both erosion control and sediment control BMPs be installed. The Discharger did not install an appropriate combination of BMPs.

Table 1 of the Enforcement Policy (p. 14) is used to determine a “per gallon” factor based on the total score from Step 1 and the level of Deviation from Requirement. For this particular case, the per gallon factor is 0.22. This value is multiplied by the volume of discharge and the per gallon civil liability, as described below.

An estimated volume of 76,613 gallons of turbid storm water was discharged from two locations on 30 November 2012. The maximum civil liability allowed under Water Code section 13385 is \$10 per gallon for discharges. While the Enforcement Policy states that a lower initial per-gallon value may be used for “high volume” discharges, for this case, Water Board staff do not recommend using less than \$10/gallon in the initial penalty calculation, given the relatively small volume of discharge on 30 November 2012 and the beneficial uses of the receiving water.

Water Code section 13385(c)(2) states that the civil liability amount is to be based on the number of gallons discharged but not cleaned up, over 1,000 gallons for each spill or discharge event. As shown in the table below, there was one discharge event on 30 November 2012 with an estimated volume of 76,613 gallons. The Per Gallon Assessment is calculated as: (Factor from Table 1) x (discharge volume-1,000) x (\$10 per gallon).

Per Day Assessments for Discharge Violations

When there is a discharge, the Central Valley Water Board is to determine the initial liability amount on a per day basis using the same Potential Harm score from Step 1 and the same Extent of Deviation from Requirement used in the per-gallon analysis. The Potential Harm score from Step 1 is 6 and the Extent of Deviation from Requirements is considered to be **Major**. Therefore, the "per day" factor is **0.22** as determined from Table 2 in the Enforcement Policy. The Per Day Assessment is calculated as (factor from Table 2) x (number of days) x \$10,000 per day.

**Violation 1 – Per Gallon and Per Day Assessment for Discharge Violations**

The initial liability amount for the discharge violations of the General Permit, Section V., A.2.(Narrative Effluent Limitations) on 30 November 2012 is as follows:

Per Gallon Liability:

a)  $0.22 \times (76,613 \text{ gallons discharged} - 1000 \text{ gallons}) \times \$10 \text{ per gallon} = \$166,349$

Per Day Liability:

b)  $0.22 \times (1\text{day}) \times \$10,000 = \$2,200$

Total Initial Liability (a+b) = **\$168,549**

**Step 3 – Per Day Assessment for Non-Discharge Violations**

In this case, this factor does not apply because Violation 1 is related to a discharge to surface waters and the liability was determined in Step 2.

**Step 4 – Adjustment Factors**

There are three additional factors to be considered for modification of the amount of initial liability: the violator's culpability, efforts to cleanup or cooperate with regulatory authority, and the violator's compliance history.

Culpability

Higher liabilities should result from intentional or negligent violations as opposed to accidental violations. A multiplier between 0.5 and 1.5 is to be used, with a higher multiplier for negligent behavior. The Discharger was given a multiplier value of **1.1** because of the Discharger failed to implement erosion control BMPs as required by the Construction General Permit for a forecasted multi-day storm event. Although the Discharger utilized low areas to hold water, there is no documentation in the record that the temporary storage basins and earthen berms were designed with consideration of the size of the impending storm event or that they were equipped with overflow protection such as a rocked spillway to protect the structures from failure.

The General Permit requires that Risk Level 2 dischargers develop and implement a Rain Event Action Plan (REAP) to protect all exposed portions of a site within 48 hours prior to a precipitation event when there is a forecast of 50% or greater probability of precipitation in the project area. The Discharger's REAPs completed for the four construction Sites on 26 November 2012 stated that site erosion and sediment control BMPs were deployed at each of the four construction Sites. However, the Water Board staff inspection on 30 November 2012 found that straw and tack erosion control BMPs were not implemented across the southern portion of the Rocklin Crossing site, the Center at Secret Ravine site, and the Dominguez Loop Road site. This failure to implement appropriate BMPs led to the discharge of

turbid water which should have been avoided based on the strength of the storm forecast. The Discharger did not anticipate what a reasonable person would have and did not implement appropriate measures to avoid the discharge.

Cleanup and Cooperation

This factor reflects the extent to which a discharger voluntarily cooperated in returning to compliance and correcting environmental damage. A multiplier between 0.75 and 1.5 is to be used, with a higher multiplier when there is a lack of cooperation. The Discharger was given a multiplier value of **0.75** because of the cooperation exhibited by the Discharger to return to compliance. Following discovery of discharges off the construction site, the Discharger deepened a failed temporary detention basin at the Center at Secret Ravine site and pumped accumulated storm water to larger on-site detention basins and stopped the discharges off the construction site within four hours.

History of Violations

This factor is to be used when there is a history of repeat violations. A minimum multiplier of 1.1 is to be used, and is to be increased as necessary. In this case, a multiplier of **1** was used because there have been no previous unauthorized discharge violations at this Site other than the alleged violations currently at issue in this Complaint.

**Step 5 - Determination of Total Base Liability Amount**

The Total Base Liability is determined by applying the adjustment factors from Step 4 to the Total Initial Liability Amount determined in Step 2.

**Violation 1 – Total Base Liability Amount**

Initial Liability x Culpability Multiplier x Cleanup and Cooperation Multiplier x History of Violations Multiplier = Total Base Liability

$$\$168,549 \times 1.1 \times 0.75 \times 1 = \$139,053$$

Total Base Liability = **\$139,053**

Steps 6 through 10 are applied to the combined Total Base Liability Amount for all violations and will be discussed after the Total Base Liability Amount has been determined for the remaining violations.

**Violation 2: Failure to Implement Appropriate BMPs on Active Construction Areas during a rain event prior to installation of the Active Treatment System.**

The General Permit requires Risk Level 2 dischargers to implement appropriate erosion and sediment control BMPs. The Rocklin Crossings site is Risk Level 2.

Board staff considered the Discharger to be in violation of the erosion control BMP requirements only on the days when rain occurred at the site because the General Permit distinguishes between active and inactive construction areas. Active construction areas are defined in the General Permit as: *“areas undergoing land surface disturbance. This includes construction activity during the preliminary stage, mass grading stage, streets and utilities stage and the vertical construction stage.”* Active areas must

have appropriate erosion and sediment controls installed prior to and during rain events, but not between rain events. The General Permit defines inactive areas of construction as "*areas of construction activity that have been disturbed and are not scheduled to be re-disturbed for at least 14 days.*" Inactive areas must have effective soil cover during the entire period of inactivity, regardless of rainfall.

For the Rocklin Crossings site, Board staff understands that the Discharger was conducting drilling and blasting, grading, and compaction work at the south end of the Site, and utility installation activities, and returned to work as soon as possible following the rain events. Therefore, staff considered the requirements for installation of erosion control BMPs at active construction areas, rather than inactive areas, when determining the violations in this case.

Violation 2 is for the period of 28 November through 5 December 2012 (8 days) when the Discharger failed to have appropriate erosion control BMPs installed at the site during a rain event prior to installing an Active Treatment System (ATS). The ATS began operation on 18 December 2012.

#### **Step 1 – Potential for Harm for Discharge Violations**

This step is not applicable because the violation is a not a discharge violation.

#### **Step 2 – Assessment for Discharge Violations**

This step is not applicable because the violation is a not a discharge violation.

#### **Step 3 – Per Day Assessment for Non-Discharge Violations**

The "per day" factor is calculated for each non-discharge violation or group of violations considering the 1) potential for harm and 2) the extent of the deviation from the applicable requirements.

#### **Potential for Harm**

The characteristics of the violation present either a minor, moderate, or major potential for harm or threat to beneficial uses. The Potential for Harm is considered to be **Moderate**, which is defined in the Enforcement Policy as "The characteristics of the violation present a substantial threat to beneficial uses and/or the circumstances of the violation indicate a substantial potential for harm. Most incidents would be considered to present a moderate potential for harm."

The Discharger failed to implement appropriate erosion control BMPs prior to the 28 November to 5 December 2012 (8 days) storm event(s) as required by the General Permit. Temporary erosion controls such as straw and tack cover disturbed soils and protect soil particles from detaching, which helps lock the soil particles in place and reduces turbidity in storm water runoff. Discharges of sediment to surface waters can cloud the receiving water, thereby reducing the amount of sunlight reaching aquatic plants, clog fish gills, smother aquatic habitat and spawning areas, and impede navigation. Sediment can also transport other materials such as nutrients, metals, and oils and grease. This failure to implement appropriate erosion control BMPs has the potential to impact beneficial uses of a sensitive habitat. As described in the EIR, "*The BMPs proposed to be implemented during construction include: the use of soil stabilizers, fiber rolls, inlet filters, and gravel bags to prevent pollutants from being carried off-site in stormwater generated on the project site. The erosion control plan would ensure that proper control of siltation, sedimentation, and other pollutants would be implemented per the National Pollution Discharge Elimination System (NPDES) permit requirements and City ordinance standards. Debris, soil, silt, sand, bark, slash, sawdust, cement, concrete, washings, petroleum products or other organic or earthen material would not be allowed to enter into or be placed where it may be washed by*

rainfall or runoff into Secret Ravine Creek." However, the Discharger did not follow the mitigation measures identified in the EIR or the erosion control BMPs required by the General Permit.

#### Deviation from Requirement

The violation represents either a minor, moderate, or major deviation from the applicable requirements. The Deviation from Requirement is considered **Major**, which is defined in the Enforcement Policy as "The requirement has been rendered ineffective (e.g., discharger disregards the requirement, and/or the requirement is rendered ineffective in its essential functions)."

General Permit requires both erosion and sediment control BMPs on active construction sites to prevent soil particles from detaching and to contain any soil particles that become entrained in storm water runoff. The installation of temporary water storage areas as done by the Discharger, if engineered and designed correctly, is considered a BMP. However, the General Permit requires that both erosion control and sediment control BMPs be installed. The Discharger did not install an appropriate combination of BMPs.

The Discharger failed to implement appropriate erosion controls as required by the General Permit and rendered the permit requirements ineffective. There was a high potential for sediment laden storm water to discharge from the construction site to Secret Ravine, and it is appropriate to select a "Major" Deviation from Requirement.

Using Table 3 in the Enforcement Policy, the range of factors for a **Moderate** Potential for Harm and a **Major** Deviation from Requirement is 0.4 to 0.7, and the middle of the range (0.55) was used for the Per Day Factor. This value is multiplied by the days of violation and the maximum per day penalty, as shown below.

#### **Violation 2 –Per Day Assessment for Non-Discharge Violations**

The initial liability amounts for the violations of the General Permit, Att. D., Section E.3. (Sediment Controls) calculated on a per-day basis, are as follows:

a) 28 November to 5 December 2012 (8 days):  $8 \text{ days} \times \$10,000 \text{ per day} \times 0.55 = \$44,000$

Total Initial Liability = **\$44,000**

#### **Step 4 – Adjustment Factors**

There are three additional factors to be considered for modification of the amount of initial liability: the violator's culpability, efforts to cleanup or cooperate with regulatory authority, and the violator's compliance history.

#### Culpability

Higher liabilities should result from intentional or negligent violations as opposed to accidental violations. A multiplier between 0.5 and 1.5 is to be used, with a higher multiplier for negligent behavior. The Discharger was given a multiplier value of **1.1** because of the Discharger's failure to implement appropriate BMPs prior to a forecasted multi-day storm event. This failure to implement BMPs led to the

discharges of turbid water which could have been avoided had appropriate BMPs been in place prior to the forecasted storm event. Again, as presented above, the General Permit requires that Risk Level 2 dischargers develop and implement a Rain Event Action Plan (REAP) to protect all exposed portions of a site within 48 hours prior to a precipitation event when there is a forecast of 50% or greater probability of precipitation in the project area. The Discharger's REAPs completed for the four construction Sites on 26 November 2012 stated that site erosion and sediment control BMPs were deployed at each of the four construction Sites. However, the Water Board staff inspection on 30 November 2012 found that straw and tack erosion control BMPs were not implemented across the southern portion of the Rocklin Crossing site, the Center at Secret Ravine site, and the Dominguez Loop Road site. This failure to implement appropriate BMPs led to the discharge of turbid water which should have been avoided based on the strength of the storm forecast. The Discharger did not anticipate what a reasonable person would have and did not implement appropriate measures to avoid the violations.

#### Cleanup and Cooperation

This factor reflects the extent to which a discharger voluntarily cooperated in returning to compliance and correcting environmental damage. A multiplier between 0.75 and 1.5 is to be used, with a higher multiplier when there is a lack of cooperation. The Discharger was given a multiplier value of **0.9** because of the cooperation exhibited by the Discharger to implement structural BMPs that reduce the potential for future discharges. Following notification of turbid storm water discharging off the construction site, the Discharger deepened a failed temporary detention basin and pumped accumulated storm water to larger on-site detention basins, and discharges off the construction site were stopped within four hours. However, the Discharger did not implement appropriate erosion control BMPs on active construction areas for the eight days identified in this violation.

#### History of Violations

This factor is to be used when there is a history of repeat violations. A minimum multiplier of 1.1 is to be used, and is to be increased as necessary. In this case, a multiplier of **1.0** was used because there have been no previous violations at the Site other than the alleged violations currently at issue in this Complaint.

#### **Step 5 - Determination of Total Base Liability Amount**

The Total Base Liability is determined by applying the adjustment factors from Step 4 to the Total Initial Liability Amount determined in Step 3.

#### **Violation 2 - Total Base Liability Amount**

Total Initial Liability x Culpability Multiplier x Cleanup and Cooperation Multiplier x History of Violations Multiplier = Total Base Liability

$$\$44,000 \times 1.1 \times 0.9 \times 1.0 = \$43,560$$

Total Base Liability = **\$43,560**

Steps 6 through 10 are applied to the combined Total Base Liability Amount for all violations and will be discussed after the Total Base Liability Amount has been determined for the remaining violation.

### **Violation 3: Failure to Implement Appropriate BMPs on Active Construction Areas following Installation of the Active Treatment System.**

Violation 3 is for the period of 21 December to 25 December 2012 (5 days) when the Discharger failed to have adequate erosion control BMPs installed at the site during a rain event after the Active Treatment System was installed. Again, Board staff considered the requirements for installation of erosion control BMPs on active construction areas in determining these violations.

#### **Step 1 – Potential for Harm for Discharge Violations**

This step is not applicable because the violation is a not a discharge violation.

#### **Step 2 – Assessment for Discharge Violations**

This step is not applicable because the violation is a not a discharge violation.

#### **Step 3 – Per Day Assessment for Non-Discharge Violations**

The “per day” factor is calculated for each non-discharge violation or group of violations considering the 1) potential for harm and 2) the extent of the deviation from the applicable requirements.

#### **Potential for Harm**

The characteristics of the violation present either a minor, moderate, or major potential for harm or threat to beneficial uses. The Potential for Harm is considered to be **Minor**, which is defined in the Enforcement Policy as “The characteristics of the violation present a minor threat to beneficial uses, and/or the circumstances of the violation indicate a minor potential for harm.”

The Discharger applied an Earthguard product to disturbed soils prior to the 21 December to 25 December 2012 storm event. During a 24 December 2012 site inspection, Board staff identified that the Earthguard-treated areas were not covered with mulch, straw, or fibers to prevent soil particles from detaching and becoming transported in storm water runoff, and evidence of erosion was observed across portions of the Center at Secret Ravine site. Based on the lack of soil coverage and erosion observed across the active site, it appeared to Board staff that the Earthguard product was not effective in stabilizing soils during rainfall events, and concluded that this application was not an appropriate erosion control and therefore a violation of the General Permit.- This failure to implement appropriate erosion control BMPs has the potential to impact beneficial uses.

The Discharger substantially mitigated the potential for harm by implementing structural BMPs that reduce the potential for future discharges. Although these efforts do not negate the requirement to implement appropriate erosion control BMPs at the Sites during rain events, the effective combination of erosion and sediment control BMPs combined with a strategy to pump accumulated storm water from temporary detention basins to larger on-site basins significantly reduced the potential for discharges off the construction site. Therefore, the Potential for Harm is “minor”.

#### **Deviation from Requirement**

The violation represents either a minor, moderate, or major deviation from the applicable requirements. The Deviation from Requirement is considered **Minor**, which is defined in the Enforcement Policy as “The intended effectiveness of the requirement remains generally intact (e.g., while the requirement was not met, there is general intent by the discharger to follow the requirement).”

The Discharger implemented an Earthguard product to disturbed soils prior to the 21 December to 25 December 2012 storm event; however, as discussed above, Board staff determined that the Discharger failed to implement appropriate erosion control BMPs as required by the General Permit. The Discharger implemented structural BMPs that reduce the potential for future discharges, and these BMPs combined with a strategy to pump accumulated storm water from temporary detention basins to larger on-site basins significantly reduced the potential for discharges off the construction site.

Using Table 3 in the Enforcement Policy, the range of factors for a **Minor** Potential for Harm and a **Minor** Deviation from Requirement is 0.1 to 0.2, and the middle of the range (0.15) was used for the Per Day Factor. This value is multiplied by the days of violation and the maximum per day penalty, as shown below.

**Violation 3 –Per Day Assessment for Non-Discharge Violations**

The initial liability amounts for the violations of the General Permit, Att. D., Section E.3. (Sediment Controls) calculated on a per-day basis, are as follows:

a) 21 December to 25 December 2012 (5 days):  $5 \text{ days} \times \$10,000 \text{ per day} \times 0.15 = \$7,500$

Total Initial Liability = **\$7,500**

**Step 4 – Adjustment Factors**

There are three additional factors to be considered for modification of the amount of initial liability: the violator's culpability, efforts to cleanup or cooperate with regulatory authority, and the violator's compliance history.

Culpability

Higher liabilities should result from intentional or negligent violations as opposed to accidental violations. A multiplier between 0.5 and 1.5 is to be used, with a higher multiplier for negligent behavior. The Discharger was given a multiplier value of **1.1** because of the Discharger's failure to implement appropriate BMPs prior to a forecasted multi-day storm event.

The Center at Secret Ravine site was still actively being graded and compacted prior to the start of the storm event on 21 December 2012, and S.D. Deacon staff stated that disturbed soils across the Center at Secret Ravine site were treated with an "Earthguard" product prior to the rain event. However, the Earthguard-treated areas were not covered with mulch, straw, or fibers to prevent soil particles from detaching and becoming transported in storm water runoff, and evidence of erosion was observed across portions of the Center at Secret Ravine site. Based on the lack of soil coverage and erosion observed across the active site, it appeared to Board staff that the Earthguard product was not effective in stabilizing soils during rainfall events. Staff concluded that this application was not an appropriate erosion control and therefore a violation of the General Permit. In addition, staff reviewed the SWPPP to determine if the QSD had evaluated whether the Earthguard product was appropriate for use as a soil stabilization BMP at the Rocklin Crossings construction sites. Board staff found no evidence that this evaluation was conducted. Instead, the site-specific SWPPP for the Rocklin Crossings construction sites stated that straw mulch, not Earthguard, would be applied to all disturbed soils prior

to any forecast rain event. The Discharger did not anticipate what a reasonable person would have and did not implement appropriate measures to avoid the violations.

Cleanup and Cooperation

This factor reflects the extent to which a discharger voluntarily cooperated in returning to compliance and correcting environmental damage. A multiplier between 0.75 and 1.5 is to be used, with a higher multiplier when there is a lack of cooperation. The Discharger was given a multiplier value of **0.9** because of the cooperation exhibited by the Discharger to implement additional BMPs and reduce the potential for sediment discharges to surface waters. However, the Discharger did not implement appropriate erosion control BMPs on active construction areas for the five days identified in this violation.

History of Violations

This factor is to be used when there is a history of repeat violations. A minimum multiplier of 1.1 is to be used, and is to be increased as necessary. In this case, a multiplier of **1.0** was used because there have been no previous violations at this Site other than the alleged violations currently at issue in this Complaint.

**Step 5 - Determination of Total Base Liability Amount**

The Total Base Liability is determined by applying the adjustment factors from Step 4 to the Total Initial Liability Amount determined in Step 3.

**Violation 3 - Total Base Liability Amount**

Total Initial Liability x Culpability Multiplier x Cleanup and Cooperation Multiplier x History of Violations Multiplier = Total Base Liability

$$\$7,500 \times 1.1 \times 0.9 \times 1.0 = \$7,425$$

Total Base Liability = **\$7,425**

**COMBINED TOTAL BASE LIABILITY AND FACTORS APPLIED TO ALL VIOLATIONS**

The combined Total Base Liability Amount for the two violations is **\$190,038** ( \$139,053 + \$43,560 + \$7,425).

The following factors apply to the combined Total Base Liability Amount for the violations discussed above.

**STEP 6 – Ability to Pay and Continue in Business**

The Order is only being issued to the Legally Responsible Party (LRP), Donahue Schriber, therefore Central Valley Water Board staff considered only Donahue Schriber’s ability to pay and to continue in business when determining the administrative civil liability amount.

According to a March 2013 press release<sup>2</sup>, Donahue Schriber is a private Real Estate Investment Trust (REIT) operating on the West Coast. The company owns and manages 76 neighborhood, community, and power shopping centers representing over 11 million square feet of retail space. The shopping centers are located throughout California, Arizona, Nevada, Oregon, and Washington. When completed, the Crossings site will consist of approximately 544,000 square feet of new retail and restaurant space with Walmart and Home Depot as the anchor tenants.

In 2013, the company's major investors, the New York State Teacher's Retirement System and J.P. Morgan Strategic Property Fund approved an additional \$100 million in common equity for growth capital to allow the Company to "take advantage of new market opportunities". In 2012, Donahue Schriber disposed of \$250 million of non-strategic assets and acquired four shopping centers valued at over \$200 million.

Given the size of the Discharger's company and the scale of the Rocklin Crossings project, the Discharger has the ability to pay the combined Total Base Liability Amount.

Although the Order only names Donahue Schriber as the responsible party, Board staff are aware that some LRPs have contract provisions in which any civil liability is passed to the contractor. The record for this case does not include the contract between Donahue Schriber and the contractor, S.D. Deacon, but staff still completed a brief review of the contractor's ability to pay. According to its website<sup>3</sup>, S. D. Deacon is the largest retail contractor on the West Coast and fifth largest in the U.S. The company projected \$400 million in business volume in 2012, and employs 400 people in five offices, including one in Sacramento. Given the size of the company, S.D. Deacon has the ability to pay the penalty, if it were to be passed on by Donahue Schriber by any indemnity provisions in the contract.

#### **STEP 7 – Other Factors as Justice May Require**

The costs of investigation and enforcement are "other factors as justice may require", and should be added to the liability amount. The Central Valley Water Board has incurred \$21,000 in staff costs associated with the investigation and enforcement of the violations alleged herein. This represents approximately 140 hours of staff time devoted to investigating and drafting the complaint at \$150 an hour. In accordance with the Enforcement Policy, this amount is added to the Combined Total Base Liability Amount.

It should be recognized that the Discharger, Donahue Schriber, also violated the Storm Water General Permit at its Rocklin Commons construction site, which is across the freeway from Rocklin Crossings. In that matter, the Executive Officer issued an Administrative Civil Liability Complaint in the amount of \$51,550 for the failure to install appropriate erosion controls from 28 November to 5 December 2012, and for the failure to collect storm water samples. Donahue Schriber paid the liability and waived its right to a hearing before the Central Valley Water Board. Given the history of violations for this Discharger, it could be argued that a higher "history of violations" multiplier would be more appropriate than the neutral multiplier of 1 which the Prosecution Team is currently proposing.

<sup>2</sup> <http://www.donahueschriber.com/newsdetails.aspx?newsid=126>

<sup>3</sup> <http://www.sddeacon.com/>

### **STEP 8 – Economic Benefit**

Pursuant to CWC section 13385(e), civil liability, at a minimum, must be assessed at a level that recovers the economic benefits, if any, derived from the acts that constitute the violation. The violations of the General Permit were due to a failure to implement appropriate erosion and sediment control BMPs as required by the General Permit and listed in the site specific SWPPP. The California Stormwater Quality Association (CASQA) estimates installation and maintenance of straw mulch at \$1,823 to \$4,802 per acre (July 2007 data), and this range is generally dependent on slope and soil type. The economic benefit received by the Discharger by not installing and maintaining appropriate erosion control BMPs is estimated to be \$2,000 per acre, based on a generally flat site that can be easily accessed by wheeled vehicles. Based on information submitted by the Discharger, Board staff calculated that approximately 40 acres of disturbed area were not adequately protected with BMPs. Therefore, the cost to stabilize this acreage is estimated to be \$80,000 (40 acres x \$2,000/acre). The Discharger realized some cost savings by not spending \$80,000 prior to the 28 November 2012 or 21 December 2012 storm events. However, the Discharger started using an active treatment system on 18 December 2012. Therefore, the economic benefit can be calculated as the interest saved by not spending \$80,000 for a period of 20 days from 28 November to 18 December 2012. Water Board Senior Economist staff used the US EPA's BEN model to determine the economic benefit, as required by the Enforcement Policy. The estimated value is \$117.

The Enforcement Policy states (p. 21) that the total liability shall be at least 10% higher than the economic benefit, "so that liabilities are not construed as the cost of doing business and the assessed liability provides a meaningful deterrent to future violations." The economic benefit plus 10% is \$129.

### **STEP 9 – Maximum and Minimum Liability Amounts**

a) Minimum Liability Amount: Economic Benefit plus 10%: **\$129**

Discussion: The Enforcement Policy requires that the minimum liability amount imposed not be below the economic benefit plus ten percent. As discussed above, the Central Valley Water Board Prosecution Team's estimate of the Discharger's economic benefit obtained from the violations cited in this Complaint is \$117. Therefore, the minimum liability amount pursuant to the Enforcement Policy is \$129.

b) Total Maximum Liability Amount: **\$896,130**

- i. Maximum liability amount Violation 1: \$766,130 (76,613 gallons discharged (-1,000 gallons) x \$10 per gallon, plus 1 day x \$10,000/day)
- ii. Maximum liability amount Violation 2: \$80,000 (8 days x \$10,000/day)
- iii. Maximum liability amount Violation 3: \$50,000 (5 days x \$10,000/day)

Discussion: The maximum administrative liability amount is the maximum amount allowed by CWC section 13385. Without the benefit of the alternative approach for calculating liability for multiday violations under the Enforcement Policy, the Discharger could be assessed up to \$896,130 in administrative civil liabilities for the alleged violations.

The proposed liability falls within these maximum and minimum liability amounts.

### **STEP 10 – Final Liability Amount**

Based on the foregoing analysis, and consistent with the Enforcement Policy, the final liability amount proposed for the alleged violations is **\$211,038** (\$190,038 + \$21,000).

Central Valley Regional Water Quality Control Board

HEARING PROCEDURE  
FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT  
R5-2013-0519

ISSUED TO  
DONAHUE SCHRIBER ASSET MANAGEMENT CORPORATION  
ROCKLIN CROSSINGS  
PLACER COUNTY

SCHEDULED FOR 3-4 OCTOBER 2013

PLEASE READ THIS HEARING PROCEDURE CAREFULLY. FAILURE TO COMPLY WITH THE DEADLINES AND OTHER REQUIREMENTS CONTAINED HEREIN MAY RESULT IN THE EXCLUSION OF YOUR DOCUMENTS AND/OR TESTIMONY.

**Overview**

Pursuant to Water Code section 13323, the Executive Officer has issued an Administrative Civil Liability (ACL) Complaint to Donahue Schriber Asset Management Corporation (hereafter Discharger), alleging violations of Water Code section 13385 for violations of the *NPDES General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities, Order 2009-0009-DWQ*. The ACL Complaint proposes that the Central Valley Water Board impose administrative civil liability in the amount of \$211,038. A hearing is currently scheduled to be conducted before the Board during its 3-4 October 2013 meeting.

The purpose of the hearing is to consider relevant evidence and testimony regarding the ACL Complaint. At the hearing, the Central Valley Water Board will consider whether to issue an administrative civil liability order assessing the proposed liability, or a higher or lower amount. The Board may also decline to assess any liability, or may continue the hearing to a later date. If less than a quorum of the Board is available, this matter may be conducted before a hearing panel. The public hearing will commence at 8:30 a.m. or as soon thereafter as practical, or as announced in the Board's meeting agenda. The meeting will be held at:

11020 Sun Center Drive, Suite 200, Rancho Cordova, California.

An agenda for the meeting will be issued at least ten days before the meeting and posted on the Board's web page at:

[http://www.waterboards.ca.gov/centralvalley/board\\_info/meetings](http://www.waterboards.ca.gov/centralvalley/board_info/meetings)

**Hearing Procedure**

The hearing will be conducted in accordance with this Hearing Procedure, which has been approved by the Board Chair for the adjudication of such matters. The procedures governing adjudicatory hearings before the Central Valley Water Board may be found at California Code of Regulations, title 23, section 648 et seq., and are available at

<http://www.waterboards.ca.gov>

Copies will be provided upon request. In accordance with section 648(d), any procedure not provided by this Hearing Procedure is deemed waived. Except as provided in section 648(b) and herein, Chapter 5 of the Administrative Procedures Act (Gov. Code, § 11500 et seq.) does not apply to this hearing.

The Discharger shall attempt to resolve objections to this Hearing Procedure with the Prosecution Team BEFORE submitting objections to the Advisory Team.

### **Separation of Prosecutorial and Advisory Functions**

To help ensure the fairness and impartiality of this proceeding, the functions of those who will act in a prosecutorial role by presenting evidence for consideration by the Board (the "Prosecution Team") have been separated from those who will provide legal and technical advice to the Board (the "Advisory Team"). Members of the Advisory Team are: Kenneth Landau, Assistant Executive Officer and Patrick Pulupa, Staff Counsel. Members of the Prosecution Team are: Pamela Creedon, Executive Officer; Andrew Altevogt, Assistant Executive Officer; Wendy Wyels, Environmental Program Manager; Steve Rosenbaum, Senior Engineering Geologist; Marty Hartzell, Engineering Geologist; Mike Fischer, Water Resources Control Engineer; Mayumi Okamoto, Staff Counsel, and David Boyers, Supervising Senior Staff Counsel.

Any members of the Advisory Team who normally supervise any members of the Prosecution Team are not acting as their supervisors in this proceeding, and vice versa. Pamela Creedon regularly advises the Central Valley Water Board in other, unrelated matters, but is not advising the Central Valley Water Board in this proceeding. Other members of the Prosecution Team act or have acted as advisors to the Central Valley Water Board in other, unrelated matters, but they are not advising the Central Valley Water Board in this proceeding. Members of the Prosecution Team have not had any ex parte communications with the members of the Central Valley Water Board or the Advisory Team regarding this proceeding.

### **Hearing Participants**

Participants in this proceeding are designated as either "Designated Parties" or "Interested Persons." Designated Parties may present evidence and cross-examine witnesses and are subject to cross-examination. Interested Persons may present non-evidentiary policy statements, but may not cross-examine witnesses and are not subject to cross-examination. Interested Persons generally may not present evidence (e.g., photographs, eye-witness testimony, monitoring data). At the hearing, both Designated Parties and Interested Persons may be asked to respond to clarifying questions from the Central Valley Water Board, staff, or others, at the discretion of the Board Chair.

The following participants are hereby designated as Designated Parties in this proceeding:

1. Central Valley Water Board Prosecution Team
2. Donahue Schriber Asset Management Corporation

### **Requesting Designated Party Status**

Persons who wish to participate in the hearing as a Designated Party must request designated party status by submitting a request in writing so that it is received no later than the deadline listed under "Important Deadlines" below. The request shall include an explanation of the basis for status as a Designated Party (i.e., how the issues to be addressed at the hearing affect the person, the need to present evidence or cross-examine witnesses), along with a statement explaining why the parties listed above do not adequately represent the person's interest. Any objections to these requests for designated party status must be submitted so that they are received no later than the deadline listed under "Important Deadlines" below.

**Primary Contacts****Advisory Team:**

Kenneth Landau  
11020 Sun Center Drive, Suite 200, Rancho Cordova, CA 95670  
Phone: (916) 464-4726  
klandau@waterboards.ca.gov

Patrick Pulupa, Staff Counsel  
State Water Resources Control Board, Office of Chief Counsel  
Physical Address: 1001 I Street, Sacramento, CA 95814  
Mailing Address: P.O. Box 100, Sacramento, CA 95812  
Phone: (916) 341-5189; fax: (916) 341-5896  
ppulupa@waterboards.ca.gov

**Prosecution Team:**

Wendy Wyels, Environmental Program Manager  
11020 Sun Center Drive, Suite 200, Rancho Cordova, CA 95670  
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wwyels@waterboards.ca.gov

Mayumi Okamoto, Staff Counsel  
State Water Resources Control Board, Office of Enforcement  
Physical Address: 1001 I Street, Sacramento, CA 95814  
Mailing Address: P.O. Box 100, Sacramento, CA 95812  
Phone: (916) 341-5674; fax: (916) 341-5896  
mokamoto@waterboards.ca.gov

**Discharger**

Donahue Schriber Asset Management Corporation  
Janet Petersen, Vice President  
Donahue Schriber  
200 East Baker Street, Suite 100  
Costa Mesa, CA 92626  
Phone: (714) 966-6426  
jpetersen@dsrg.com

**Ex Parte Communications**

Designated Parties and Interested Persons are forbidden from engaging in ex parte communications regarding this matter. An ex parte communication is a written or verbal communication related to the investigation, preparation, or prosecution of the ACL Complaint between a Designated Party or an Interested Person and a Board Member or a member of the Board's Advisory Team (see Gov. Code, § 11430.10 et seq.). However, if the communication is copied to all other persons (if written) or is made in a manner open to all other persons (if verbal), then the communication is not considered an ex parte communication. Communications regarding non-controversial procedural matters are also not considered ex parte communications and are not restricted.

### **Hearing Time Limits**

To ensure that all participants have an opportunity to participate in the hearing, the following time limits shall apply: each Designated Party shall have a combined 30 minutes to present evidence (including evidence presented by witnesses called by the Designated Party), to cross-examine witnesses (if warranted), and to provide a closing statement. Each Interested Person shall have 3 minutes to present a non-evidentiary policy statement. Participants with similar interests or comments are requested to make joint presentations, and participants are requested to avoid redundant comments. Participants who would like additional time must submit their request to the Advisory Team so that it is received no later than the deadline listed under "Important Deadlines" below. Additional time may be provided at the discretion of the Advisory Team (prior to the hearing) or the Board Chair (at the hearing) upon a showing that additional time is necessary. Such showing shall explain what testimony, comments, or legal argument requires extra time, and why it could not have been provided in writing by the applicable deadline.

A timer will be used, but will not run during Board questions or the responses to such questions, or during discussions of procedural issues.

### **Submission of Evidence and Policy Statements**

The Prosecution Team and all other Designated Parties (including the Discharger) must submit the following information in advance of the hearing:

1. All evidence (other than witness testimony to be presented orally at the hearing) that the Designated Party would like the Central Valley Water Board to consider. Evidence and exhibits already in the public files of the Central Valley Board may be submitted by reference, as long as the exhibits and their location are clearly identified in accordance with California Code of Regulations, title 23, section 648.3. Board members will not generally receive copies of materials incorporated by reference unless copies are provided, and the referenced materials are generally not posted on the Board's website.
2. All legal and technical arguments or analysis.
3. The name of each witness, if any, whom the Designated Party intends to call at the hearing, the subject of each witness' proposed testimony, and the estimated time required by each witness to present direct testimony.
4. The qualifications of each expert witness, if any.

**Prosecution Team:** The Prosecution Team's information must include the legal and factual basis for its claims against each Discharger; a list of all evidence on which the Prosecution Team relies, which must include, at a minimum, all documents cited in the ACL Complaint, Staff Report, or other material submitted by the Prosecution Team; and the witness information required under items 3-4 for all witnesses, including Board staff.

**Designated Parties (including the Discharger):** All Designated Parties shall submit comments regarding the ACL Complaint along with any additional supporting evidence not cited by the Central Valley Water Board's Prosecution Team no later than the deadline listed under "Important Deadlines" below.

**Rebuttal:** Any Designated Party that would like to submit evidence, legal analysis, or policy statements to rebut information previously submitted by other Designated Parties shall submit this rebuttal information so that it is received no later than the deadline listed under "Important Deadlines" below. "Rebuttal" means evidence, analysis or comments offered to disprove or contradict other submissions. Rebuttal shall be limited to the scope of the materials previously submitted. Rebuttal information that is not responsive to information previously submitted may be excluded.

Copies: Board members will receive copies of all submitted materials. The Board Members' hard copies will be printed in black and white on 8.5"x11" paper from the Designated Parties' electronic copies. Designated Parties who are concerned about print quality or the size of all or part of their written materials should provide an extra nine paper copies for the Board Members. For voluminous submissions, Board Members may receive copies in electronic format only. Electronic copies will also be posted on the Board's website. Parties without access to computer equipment are strongly encouraged to have their materials scanned at a copy or mailing center. The Board will not reject materials solely for failure to provide electronic copies.

Other Matters: The Prosecution Team will prepare a summary agenda sheet (Summary Sheet) and will respond to all significant comments. The Summary Sheet and the responses shall clearly state that they were prepared by the Prosecution Team. The Summary Sheet and the responses will be posted online, as will revisions to the proposed Order.

Interested Persons: Interested Persons who would like to submit written non-evidentiary policy statements are encouraged to submit them to the Advisory Team as early as possible, but they must be received by the deadline listed under "Important Deadlines" to be included in the Board's agenda package. Interested Persons do not need to submit written comments in order to speak at the hearing.

Prohibition on Surprise Evidence: In accordance with California Code of Regulations, title 23, section 648.4, the Central Valley Water Board endeavors to avoid surprise testimony or evidence. Absent a showing of good cause and lack of prejudice to the parties, the Board Chair may exclude evidence and testimony that is not submitted in accordance with this Hearing Procedure. Excluded evidence and testimony will *not* be considered by the Central Valley Water Board and will not be included in the administrative record for this proceeding.

Presentations: Power Point and other visual presentations may be used at the hearing, but their content shall not exceed the scope of other submitted written material. These presentations must be provided to the Advisory Team at or before the hearing both in hard copy and in electronic format so that they may be included in the administrative record.

Witnesses: All witnesses who have submitted written testimony shall appear at the hearing to affirm that the testimony is true and correct, and shall be available for cross-examination.

### **Evidentiary Documents and File**

The ACL Complaint and related evidentiary documents are on file and may be inspected or copied at the Central Valley Water Board office at 11020 Sun Center Drive, Rancho Cordova, CA 95670. This file shall be considered part of the official administrative record for this hearing. Other submittals received for this proceeding will be added to this file and will become a part of the administrative record absent a contrary ruling by the Central Valley Water Board's Chair. Many of these documents are also posted on-line at:

[http://www.waterboards.ca.gov/centralvalley/board\\_decisions/tentative\\_orders/index.shtml](http://www.waterboards.ca.gov/centralvalley/board_decisions/tentative_orders/index.shtml)

Although the web page is updated regularly, to assure access to the latest information, you may contact Wendy Wyels (contact information above) for assistance obtaining copies.

### **Questions**

Questions concerning this proceeding may be addressed to the Advisory Team attorney (contact information above).

**IMPORTANT DEADLINES**

*All required submissions must be received by 5:00 p.m. on the respective due date.*

8 July 2013	<ul style="list-style-type: none"> <li>Prosecution Team issues ACL Complaint, Hearing Procedure, and other related materials.</li> </ul>
15 July 2013	<ul style="list-style-type: none"> <li>Objections due on Hearing Procedure.</li> <li>Deadline to request "Designated Party" status.</li> </ul> <p><u>Electronic or Hard Copies to:</u> All other Designated Parties, All known Interested Persons, Prosecution Team Attorney, Advisory Team Attorney</p> <p><u>Electronic and Hard Copies to:</u> Prosecution Team Primary Contact, Advisory Team Primary Contact</p>
19 July 2013	<ul style="list-style-type: none"> <li>Deadline to submit opposition to requests for Designated Party status.</li> </ul> <p><u>Electronic or Hard Copies to:</u> All other Designated Parties, All known Interested Persons, Prosecution Team Attorney, Advisory Team Attorney</p> <p><u>Electronic and Hard Copies to:</u> Prosecution Team Primary Contact, Advisory Team Primary Contact</p>
29 July 2013	<ul style="list-style-type: none"> <li>Discharger's deadline to submit payment and waiver or proceed to Hearing .</li> </ul> <p><u>Electronic or Hard Copy to:</u> Prosecution Team Primary Contact</p>
1 August 2013	<ul style="list-style-type: none"> <li>Advisory Team issues decision on requests for designated party status.</li> <li>Advisory Team issues decision on Hearing Procedure objections.</li> </ul>
9 August 2013	<ul style="list-style-type: none"> <li>Prosecution Team's deadline for submission of information required under "Submission of Evidence and Policy Statements," above.</li> </ul> <p><u>Electronic or Hard Copies to:</u> All other Designated Parties, All known Interested Persons</p> <p><u>Electronic and Hard Copies to:</u> Advisory Team Primary Contact, Advisory Team Attorney</p>
29 August 2013	<ul style="list-style-type: none"> <li>Remaining Designated Parties' (including the Discharger's) deadline to submit all information required under "Submission of Evidence and Policy Statements" above. This includes all written comments regarding the ACL Complaint.</li> <li>Interested Persons' comments are due.</li> </ul> <p><u>Electronic or Hard Copies to:</u> All other Designated Parties, All known Interested Persons, Prosecution Team Attorney, Advisory Team Attorney</p> <p><u>Electronic and Hard Copies to:</u> Prosecution Team Primary Contact, Advisory Team Primary Contact</p>
6 September 2013	<ul style="list-style-type: none"> <li>All Designated Parties shall submit any rebuttal evidence, any rebuttal to legal arguments and/or policy statements, and all evidentiary objections.</li> <li>Deadline to submit requests for additional time.</li> <li>If rebuttal evidence is submitted, all requests for additional time (to respond to the rebuttal at the hearing) must be made within 3 working days of <i>this</i> deadline.</li> </ul> <p><u>Electronic or Hard Copies to:</u> All other Designated Parties, All known Interested Persons, Prosecution Team Attorney, Advisory Team Attorney</p> <p><u>Electronic and Hard Copies to:</u> Prosecution Team Primary Contact, Advisory Team Primary Contact</p>
11 September 2013 <sup>†</sup>	<ul style="list-style-type: none"> <li>Prosecution Team submits Summary Sheet and responses to comments.</li> </ul> <p><u>Electronic or Hard Copies to:</u> All other Designated Parties, All known Interested Persons</p> <p><u>Electronic and Hard Copies to:</u> Advisory Team Primary Contact, Advisory Team Attorney</p>
3-4 October 2013	<ul style="list-style-type: none"> <li>Hearing</li> </ul>

<sup>†</sup> This deadline is set based on the date that the Board compiles the Board Members' agenda packages. Any material received after this deadline will not be included in the Board Members' agenda packages.

# Exhibit 15

Prosecution Team Evidence List Exhibits for:  
Rocklin Crossings



### *DONAHUE SCHRIBER SECURES \$100 MILLION IN ADDITIONAL GROWTH CAPITAL*

[Back to News](#)

(COSTA MESA, Calif. – March 5, 2013) - Donahue Schriber Chairman and CEO, Patrick S. Donahue, announced the Company's major investors, the New York State Teachers' Retirement System and J.P. Morgan Strategic Property Fund have approved an additional \$100 million common equity investment for growth capital. The money will be utilized to help fund the Company's strategic growth plans over the next three to five years. Donahue Schriber celebrated a banner year in 2012 with solid property performance, the disposition of \$250 million of non-strategic assets and the acquisition of four shopping centers valued at over \$200 million, and ended the year with a strong balance sheet. The Company remains focused on expanding its holdings of grocery-anchored shopping centers in high barrier-to-entry, supply constrained markets on the West Coast.

When asked about the additional \$100 million of growth capital, Donahue stated, "We are thrilled with the level of commitment and support we receive from the New York State Teachers' Retirement System and J.P. Morgan Strategic Property Fund. Our teams are in place, our balance sheet is stronger than ever, and we are well positioned to take advantage of new market opportunities."

Donahue Schriber is a private Real Estate Investment Trust (REIT) operating on the West Coast. The company owns and operates a portfolio of 76 neighborhood, community, and power shopping centers representing over 11 million square feet throughout California, Arizona, Nevada, Oregon, and Washington. For more information about the company, visit [www.donahueschriber.com](http://www.donahueschriber.com).

[200 E. Baker Street, Suite 100, Costa Mesa, CA 92626](#)  
PH: 714.545.1400 Fax: 714.545.4222  
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Donahue Schriber Secures \$100 Million in  
Additional Growth Capital  
» [more](#)



# Exhibit 16

Prosecution Team Evidence List Exhibits for:  
Rocklin Crossings



Steve Deacon and three friends—the owners of J.R. Roberts Corp.—founded S.D. Deacon Corp. in Portland in 1981. Bob Hall, Bob Olsen and Jim Reilly had formed J.R. Roberts in Sacramento in 1979 and then partnered with Steve to start S.D. Deacon with Steve as the managing shareholder.

The company's first office space was an eight by 10-foot room in a small office building in southwest Portland, borrowed from some friends. Steve and his wife were the company, with support from J.R. Roberts.

Business volume the first year was \$360,000 with a company goal to just survive. By 1986, the volume was \$10 million; \$100 million in 1993; \$185 million in 2003; \$325 million in 2005 and \$400 million projected for 2012. We attribute this extraordinary growth to our discovery that the more independence and authority we provide to our people, the further they take the company. Growth has never been a primary focus of the company, but when our people were given more responsibility and authority, the results were remarkable.

We have about 400 people working in the 15 divisions that operate out of offices in Seattle, Portland, Sacramento, Pleasanton and Irvine. Consistent with the company culture, there is no headquarters office and there is very little hierarchy.

**NEWS & AWARDS**

1.29.13

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—Dennis Boone  
President

Anderson & Boone Architects AIA, P.S.

**OUR PEOPLE**

**Vikram Sundaram**  
Project Manager

Irvine



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# Exhibit 17

Prosecution Team Evidence List Exhibits for:  
Rocklin Crossings



NOAA Atlas 14, Volume 6, Version 2  
 Location name: Loomis, California, US\*  
 Coordinates: 38.7979, -121.2026  
 Elevation: 305ft\*  
 \* source: Google Maps



**POINT PRECIPITATION FREQUENCY ESTIMATES**

Sanja Perica, Sarah Dietz, Sarah Heim, Lillian Hiner, Kazungu Maitaria, Deborah Martin, Sandra Pavlovic, Ishani Roy, Carl Trypalkuk, Dale Unruh, Fenglin Yan, Michael Yekta, Tan Zhao, Geoffrey Bonnin, Daniel Brewer, Li-Chuan Chen, Tye Parzybok, John Yarchoan

NOAA, National Weather Service, Silver Spring, Maryland

[PF tabular](#) | [PF graphical](#) | [Maps & aeriels](#)

**PF tabular**

PDS-based point precipitation frequency estimates with 90% confidence intervals (in inches) <sup>1</sup>										
Duration	Average recurrence interval (years)									
	1	2	5	10	25	50	100	200	500	1000
5-min	0.105 (0.092-0.121)	0.129 (0.113-0.150)	0.164 (0.142-0.190)	0.194 (0.167-0.228)	0.238 (0.197-0.291)	0.275 (0.221-0.345)	0.314 (0.245-0.406)	0.358 (0.270-0.479)	0.421 (0.302-0.593)	0.474 (0.327-0.696)
10-min	0.150 (0.131-0.174)	0.185 (0.162-0.215)	0.235 (0.204-0.273)	0.278 (0.239-0.326)	0.341 (0.282-0.417)	0.394 (0.317-0.494)	0.450 (0.351-0.582)	0.512 (0.387-0.686)	0.604 (0.433-0.850)	0.680 (0.468-0.998)
15-min	0.182 (0.159-0.210)	0.224 (0.195-0.260)	0.284 (0.247-0.330)	0.336 (0.289-0.395)	0.413 (0.341-0.505)	0.476 (0.383-0.598)	0.544 (0.425-0.704)	0.620 (0.468-0.830)	0.730 (0.524-1.03)	0.822 (0.566-1.21)
30-min	0.250 (0.219-0.290)	0.309 (0.269-0.358)	0.392 (0.340-0.455)	0.464 (0.399-0.544)	0.569 (0.470-0.696)	0.656 (0.528-0.824)	0.750 (0.586-0.971)	0.854 (0.645-1.14)	1.01 (0.722-1.42)	1.13 (0.780-1.66)
60-min	0.344 (0.300-0.398)	0.424 (0.370-0.492)	0.538 (0.467-0.625)	0.636 (0.547-0.747)	0.781 (0.645-0.956)	0.901 (0.725-1.13)	1.03 (0.804-1.33)	1.17 (0.885-1.57)	1.38 (0.991-1.95)	1.56 (1.07-2.28)
2-hr	0.500 (0.437-0.579)	0.606 (0.529-0.702)	0.757 (0.658-0.879)	0.889 (0.764-1.04)	1.08 (0.894-1.33)	1.25 (1.00-1.56)	1.42 (1.11-1.84)	1.62 (1.22-2.17)	1.91 (1.37-2.69)	2.15 (1.48-3.16)
3-hr	0.630 (0.550-0.728)	0.757 (0.660-0.877)	0.938 (0.815-1.09)	1.10 (0.944-1.29)	1.33 (1.10-1.63)	1.53 (1.23-1.92)	1.74 (1.36-2.25)	1.98 (1.49-2.65)	2.33 (1.67-3.28)	2.62 (1.80-3.84)
6-hr	0.928 (0.811-1.07)	1.11 (0.966-1.28)	1.36 (1.18-1.58)	1.59 (1.36-1.86)	1.91 (1.58-2.34)	2.18 (1.75-2.74)	2.47 (1.93-3.20)	2.79 (2.11-3.74)	3.26 (2.34-4.59)	3.66 (2.52-5.36)
12-hr	1.32 (1.15-1.53)	1.58 (1.38-1.83)	1.94 (1.68-2.25)	2.24 (1.93-2.64)	2.69 (2.22-3.29)	3.05 (2.45-3.83)	3.43 (2.68-4.44)	3.85 (2.90-5.15)	4.44 (3.19-6.26)	4.94 (3.40-7.24)
24-hr	1.89 (1.70-2.16)	2.29 (2.05-2.61)	2.82 (2.52-3.23)	3.27 (2.90-3.78)	3.90 (3.34-4.66)	4.40 (3.69-5.37)	4.93 (4.03-6.15)	5.48 (4.36-7.04)	6.26 (4.77-8.39)	6.89 (5.07-9.55)
2-day	2.50 (2.24-2.85)	3.11 (2.78-3.54)	3.89 (3.47-4.46)	4.54 (4.02-5.24)	5.42 (4.64-6.47)	6.11 (5.11-7.44)	6.80 (5.56-8.49)	7.52 (5.98-9.66)	8.50 (6.48-11.4)	9.27 (6.82-12.9)
3-day	2.95 (2.64-3.36)	3.72 (3.33-4.25)	4.73 (4.22-5.41)	5.54 (4.90-6.39)	6.63 (5.67-7.90)	7.45 (6.24-9.08)	8.28 (6.77-10.3)	9.13 (7.25-11.7)	10.3 (7.82-13.7)	11.1 (8.19-15.4)
4-day	3.28 (2.93-3.73)	4.19 (3.75-4.78)	5.36 (4.78-6.14)	6.29 (5.57-7.26)	7.53 (6.44-8.98)	8.45 (7.08-10.3)	9.37 (7.66-11.7)	10.3 (8.18-13.2)	11.5 (8.79-15.4)	12.5 (9.17-17.3)
7-day	4.02 (3.60-4.58)	5.24 (4.68-5.97)	6.75 (6.02-7.72)	7.92 (7.01-9.14)	9.44 (8.07-11.3)	10.5 (8.84-12.9)	11.6 (9.50-14.5)	12.7 (10.1-16.3)	14.1 (10.7-18.9)	15.1 (11.1-20.9)
10-day	4.58 (4.10-5.21)	5.99 (5.36-6.84)	7.74 (6.90-8.85)	9.08 (8.03-10.5)	10.8 (9.23-12.9)	12.0 (10.1-14.7)	13.2 (10.8-16.5)	14.4 (11.4-18.5)	15.9 (12.1-21.3)	17.0 (12.5-23.5)
20-day	6.06 (5.42-6.90)	7.93 (7.09-9.05)	10.2 (9.10-11.7)	11.9 (10.6-13.8)	14.1 (12.1-16.8)	15.7 (13.1-19.1)	17.2 (14.0-21.4)	18.6 (14.8-23.9)	20.4 (15.6-27.4)	21.7 (16.0-30.2)
30-day	7.35 (6.58-8.38)	9.54 (8.53-10.9)	12.2 (10.9-13.9)	14.2 (12.6-16.4)	16.7 (14.3-20.0)	18.5 (15.5-22.6)	20.2 (16.5-25.3)	21.9 (17.4-28.1)	24.0 (18.3-32.1)	25.5 (18.8-35.4)
45-day	9.07 (8.12-10.3)	11.6 (10.3-13.2)	14.6 (13.0-16.7)	16.9 (14.9-19.5)	19.8 (16.9-23.6)	21.8 (18.3-26.6)	23.8 (19.4-29.7)	25.7 (20.4-33.0)	28.1 (21.4-37.6)	29.8 (21.9-41.3)
60-day	10.9 (9.78-12.4)	13.7 (12.2-15.6)	17.0 (15.2-19.5)	19.6 (17.3-22.6)	22.8 (19.5-27.2)	25.1 (21.0-30.6)	27.3 (22.3-34.1)	29.5 (23.4-37.8)	32.2 (24.5-43.1)	34.1 (25.1-47.3)

<sup>1</sup> Precipitation frequency (PF) estimates in this table are based on frequency analysis of partial duration series (PDS). Numbers in parenthesis are PF estimates at lower and upper bounds of the 90% confidence interval. The probability that precipitation frequency estimates (for a given duration and average recurrence interval) will be greater than the upper bound (or less than the lower bound) is 5%. Estimates at upper bounds are not checked against probable maximum precipitation (PMP) estimates and may be higher than currently valid PMP values. Please refer to NOAA Atlas 14 document for more information.

[Back to Top](#)

**PF graphical**

# Exhibit 18

Prosecution Team Evidence List Exhibits for:  
Rocklin Crossings

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**Sacramento, CA**

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- Watches / Warnings
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- NOAA Watch
- Local Outlook
- Current Conditions
- Observations
- Radar
- Satellite
- Precipitation
- Soundings/Profilers
- Other Observations
- Forecasts
- Forecast Discussion
- Local Area
- Activity Planner
- Aviation Weather
- Fire Weather
- Marine Weather
- Severe Weather
- Hurricane Center
- Weather Tables
- Hydrology
- Rivers and Lakes
- Other Hydro Info
- Climate
- Local
- National
- Drought
- More...
- Climate portal
- Weather Safety
- Preparedness
- Weather Radio
- SkyWarn™
- StormReady
- Weather Spotters
- Additional Info
- Items of Interest
- Other Useful Links
- Education Resources
- COOP Observer
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- Computer models
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- Contact info
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**Warnings and/or Advisories In Effect for this Point:**  
**Flood Watch**  
**Special Weather Statement**  
 Change Table Font Size Increase Decrease  
 For warnings and/or advisories in effect for adjacent areas to this point,  
 see <http://www.wrh.noaa.gov/sto>

Forecast For Lat/Lon: 38.5580/-121.4580 (Elev. 26 ft)  
 Sacramento CA

Forecast Created at: 3pm PST Nov 26, 2012  
 Custom Weather Forecast Table

	Mon Nov 26				Tue Nov 27				Wed Nov 28				Thu Nov 29				Fri Nov 30		Sat Dec 01		Sun Dec 02					
Weather	Patchy Fog	Fog	Patchy Fog	Patchy Fog	Rain	Chance Rain	Chance Rain	Likely Rain	Rain	Chance Rain	Chance Rain	Likely Rain	Rain	Chance Rain	Chance Rain	Likely Rain	Rain	Likely Rain	Rain	Likely Rain						
Daily-Temp	High 65 Low 41				High 66 Low 40				High 59 Low 48				High 63 Low 52				High 65 Low 52		High 63 Low 51		High 65 Low 52					
Chance of Precip	0%	0%	0%	0%	0%	0%	10%	85%	85%	35%	35%	65%	80%	100%	100%	95%	95%	70%	70%	85%	85%	70%	70%	65%	65%	
Precip	0.00"	0.00"	0.00"	0.00"	0.00"	0.00"	0.00"	0.15"	0.35"	0.01"	0.01"	0.01"	0.15"	0.35"	0.45"	0.40"	0.30"	0.15"	0.25"	0.25"	0.32"	0.23"	0.08"			
12-hr Snow Total	0"	0"	0"	0"	0"	0"	0"	0"	0"	0"	0"	0"	0"	0"	0"	0"	0"	0"	0"	0"	0"	0"	0"	0"		
FRET	0.04"				0.04"				0.07"				0.08"				0.06"		0.05"		0.0					
6-Hour	4am	10am	4pm	10pm	4am	10am	4pm	10pm	4am	10am	4pm	10pm	4am	10am	4pm	10pm	4am	10am	4pm	10pm	4am	10am	4pm	10pm	4am	10am
Temp	43	55	60	48	43	57	65	52	49	55	57	54	52	56	60	56	54	59	62	59	58	54	61	52	53	55
Cloudiness	0%	0%	10%	25%	48%	41%	77%	81%	84%	100%	76%	79%	94%	84%	100%	100%	97%	97%	96%	96%	93%	93%	91%	91%	92%	92%
Dewpoint	40	45	46	44	41	42	47	48	46	46	49	50	50	52	53	50	50	52	55	56	57	51	57	50	49	52
Relative Humidity	90%	68%	59%	87%	92%	56%	52%	86%	90%	71%	76%	86%	93%	86%	80%	81%	87%	77%	79%	89%	95%	91%	86%	93%	88%	87%
Wind	SE	S	N	N	N	E	S	SW	SE	SE	SE	SE	SE	S	S	SE	SE	S	SE	SE	SE	SE	SE	SE	S	S
Snow Level (ft)	9967	9947	9625	9487	8573	8713	7410	8146	7392	6704	6373	6573	5863	6766	8025	8025	8562	8562	8576	8576	9732	9732	8642	8642	7559	7559

**Forecast Weather Table Interface**

Select Weather Format:  Custom Weather Table  XML  Point Forecast Page

Enter a Location or Click on Map Below

Search by address; city, state; latitude/longitude...

Interval in Hours:  1  3  6

Duration in Days:  1  2  3  4  5  6  7



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Warnings and/or Advisories In Effect for this Point:

**Flood Watch**  
**Wind Advisory**

For warnings and/or advisories in effect for adjacent areas to this point, see <http://www.wrh.noaa.gov/sto>

Change Table Font Size Increase Decrease

Forecast For Lat/Lon: 38.5580/-121.4580 (Elev. 26 ft)  
 Sacramento CA

Forecast Created at: 1pm PST Nov 27, 2012  
 Custom Weather Forecast Table

	Tue Nov 27				Wed Nov 28			Thu Nov 29				Fri Nov 30				Sat Dec 01				Sun Dec 02				
Weather	Fog and Fog				Rain	Rain Showers	Chance Rain Showers	Slight Chance Rain Showers	Likely Rain	Rain	Rain	Rain	Rain	Rain	Rain	Likely Rain	Chance Rain	Chance Rain	Chance Rain	Chance Rain				
Daily-Temp	High 64 Low 40				High 60 Low 48			High 65 Low 51				High 65 Low 53				High 62 Low 54				High 62 Low 52				
Chance of Precip	0%	0%	0%	5%	100%	80%	35%	20%	80%	80%	100%	100%	100%	100%	85%	85%	85%	85%	70%	70%	65%	65%	45%	45%
Precip	0.00"	0.00"	0.00"	0.00"	0.16"	0.42"	0.00"	0.00"	0.01"	0.12"	0.44"	0.69"	0.58"	0.52"	0.17"	0.32"	0.66"	0.56"	0.60"	0.50"	0.40"	0.12"		
12-hr Snow Total	0"	0"	0"	0"	0"	0"	0"	0"	0"	0"	0"	0"	0"	0"	0"	0"	0"	0"	0"	0"	0"	0"	0"	0"
FRET	0.04"				0.07"			0.07"				0.07"				0.05"				0.05"				
6-Hour Temp	4am	10am	4pm	10pm	4am	10am	4pm	10pm	4am	10am	4pm	10pm	4am	10am	4pm	10pm	4am	10am	4pm	10pm	4am	10am	4pm	10pm
Temp	42	56	63	50	48	57	58	54	52	57	59	60	57	59	57	56	58	58	59	55	53	56	60	53
Cloudiness	42%	38%	66%	58%	100%	100%	58%	69%	86%	98%	100%	100%	100%	100%	100%	100%	98%	98%	91%	91%	92%	92%	84%	84%
Dewpoint	40	43	48	46	45	48	52	50	49	50	53	54	53	53	51	52	54	55	53	49	52	53	50	50
Relative Humidity	91%	62%	58%	86%	90%	71%	80%	87%	89%	76%	79%	82%	87%	81%	80%	82%	88%	86%	85%	93%	86%	87%	78%	90%
Wind	N	S	S	SW	SE	SE	SE	SE	SE	SE	S	SE	SE	SE	S	SE	SE	SE	SE	SE	SE	SE	S	SE
	2	1	5	7	16	28	17	12	10	20	20	21	24	22	20	16	18	18	20	20	20	14	8	6
Snow Level (ft)	8571	8267	7495	7592	6778	8079	6094	6270	6312	6621	7741	8381	8490	8108	8492	8267	9375	9375	8154	8154	7468	7468	6591	6591

Forecast Weather Table Interface

Select Weather Format

Custom Weather Table  
 XML  
 Point Forecast Page

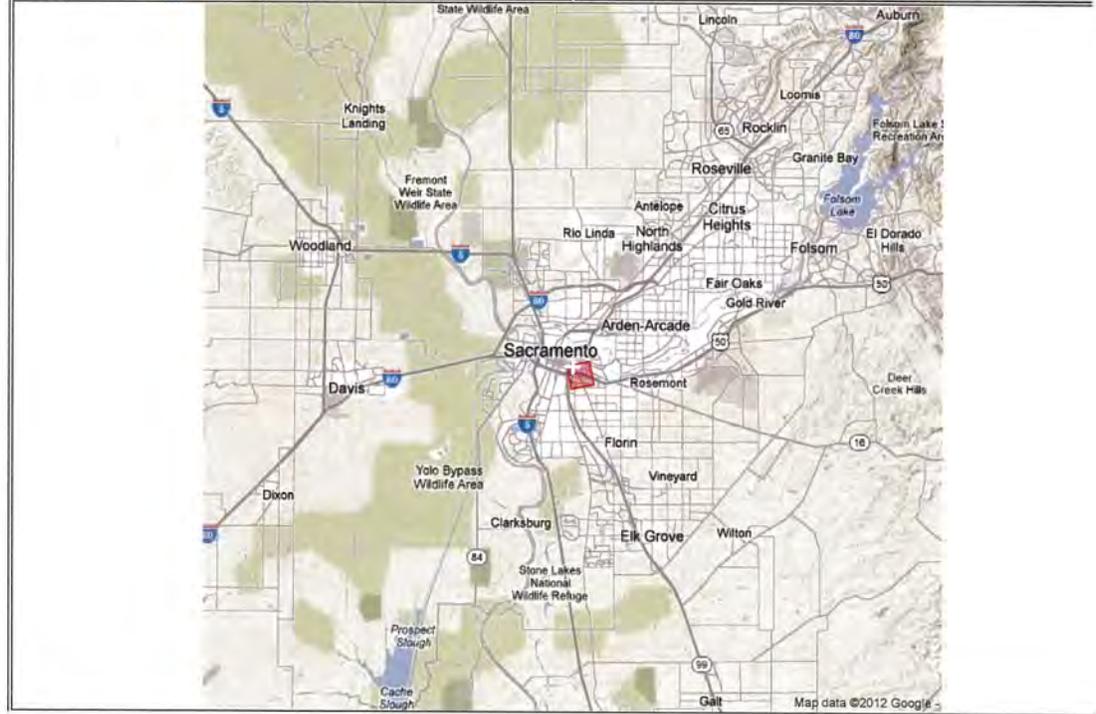
Point Forecast Matrix  
 Hourly Tabular Forecast  
 Hourly Weather Graph

Interval in Hours:  1  3  6

Duration in Days:  1  2  3  4  5  6  7

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# Exhibit 19

Prosecution Team Evidence List Exhibits for:  
Rocklin Crossings



Photo 1. Lincoln Bypass Project, 12 October 2010. Seed, straw and tack applied to disturbed soil areas as permanent erosion controls.



Photo 2. Lincoln Bypass Project, 25 October 2010. Seed, straw and tack applied to disturbed soil areas near Orchard Creek as permanent erosion controls.



Photo 3. Rocklin Commons, 24 December 2012. Hydro-mulch applied to disturbed soil areas as temporary erosion controls.



Photo 4. Rocklin Commons, 24 December 2012. Hydro-mulch applied to disturbed soil areas as temporary erosion controls.



Photo 5. Lincoln Bypass Project, 13 October 2009. Rock check dam installed within a roadside drainage ditch.



Photo 6. Lincoln Bypass Project, 16 December 2009. Temporary straw bale berm covered with plastic installed in a roadside drainage ditch.



Photo 7. Lincoln Bypass Project, 25 October 2010. Temporary straw bale berm covered with plastic installed in a roadside drainage ditch.



Photo 8. Lincoln Bypass Project, 20 January 2010. Temporary straw bale and sand bag berm covered with plastic installed in a roadside drainage ditch. The outflow channel was also protected with plastic.



Photo 9. Lincoln Bypass Project, 25 October 2010.  
Temporary straw bale berm covered with plastic  
installed in a roadside drainage ditch.



Photo 10. Rocklin Commons, 24 December 2012.  
Temporary earth berm covered with plastic and  
weighted with sand bags. This area was used as a  
temporary detention basin during the December 21st  
through the 25th, 2012 rain event.

# Exhibit 20

Prosecution Team Evidence List Exhibits for:  
Rocklin Crossings

# Appendix F

## Guidance on Selection of Temporary Slope Stabilization Techniques

Temporary stabilization is an important step in protecting a construction site; by providing effective [erosion control](#) through stabilization, generated [sediment](#) can be significantly reduced.

### Selecting Temporary Stabilization Measures

Stabilization measures can vary significantly in cost, effectiveness, means and ease of installation, and longevity. Each construction site has unique site factors and faces a unique set of challenges. Site factors should be compared to the relative costs and functionality of the various stabilization methods to select the most appropriate methods for the area to be stabilized. Temporary stabilization measures should be selected by the [Qualified SWPPP Developer](#) (QSD) prior to implementation, with the site erosion and [sediment control](#) strategy evaluated and optimized throughout construction. The following [Best Management Practice](#) (BMP) characteristics are presented to assist in selection of stabilization methods. These factors include:

- Functional Longevity of the [BMP](#)
- Seasonality (Project Timing) and Climate
- Site accessibility
- Material availability
- Slope inclination
- Soil Type and Condition
- Estimated BMP effectiveness
- Cost effectiveness

### *Functional Longevity of the BMP*

As shown in the Table F-1, each temporary stabilization technique has an estimated period of relative effectiveness. Estimating the required longevity of the temporary stabilization method is the first step in selecting a technique. The length of time required to (1) establish adequate temporary [vegetation](#) density or (2) protect the soil until redisturbance should be considered. Estimating time to vegetation establishment should include a factor of safety for unknown weather conditions (drought) that may lengthen the actual time to achieve vegetative stabilization. Once the required longevity is known, and the BMPs have been screened for that specific time frame, all other factors in this section should be considered prior to making a decision regarding temporary stabilization. The Table F-1 provides a guideline for initial consideration of temporary stabilization techniques. The table is structured so that the shortest lasting techniques are presented at the top, with increasing longevity as you move down. It should be noted that any technique from a higher longevity category can be utilized for a lower category; however, might not be as cost effective or easy to install. This table is not inclusive of

all temporary stabilization methods available; additional temporary stabilization methods, including proprietary products, should be selected based on manufacturer’s recommendations of longevity.

**Table F-1 Guidelines for Temporary Stabilization Techniques**

Required Longevity	Temporary Stabilization Method	Associated Fact Sheet
< 6 months	Hydraulic Mulching (Paper/Cellulose Fiber, Wood Fiber without tackifier)	EC-3
	Soil Binders – Short Lived Plant Based	EC-5
	Straw Mulch	EC-6
	Compost Blanket – (depth 1-inch or less)	EC-14
6 - 12 months	Hydraulic Mulch (wood fiber with tackifier)	EC-3
	Bonded/Stabilized Fiber Matrices	
	Straw Blanket	EC-7
	Wood Fiber Blanket	
	Compost Blanket – (depth 2-inch)	EC-14
	Soil Binders – Long Lived Plant Based and Cementitious	EC-5
12 – 18 months	Soil Binders - Polymeric Emulsion Blends	EC-5
	Jute Blanket	EC-7
	Compost Blanket – (depth 3-inch or greater)	EC-14
>18 months	Straw/Coconut Blanket	EC-7
	Coconut Blanket	
	Synthetic Matting	
	Wood Chips (Flat surfaces only)	EC-8

***Seasonality (Project Timing) and Climate***

While timing construction to occur during the dry, summer season can be beneficial to preventing erosion due to lack of precipitation, it can have a negative effect on stabilization efforts that include a vegetative component for the same reason. If temporary stabilization efforts include a vegetative component, the time of year when those measures are applied must be considered when choosing the longevity of the BMP (and may require an irrigation component). Very hot and dry climates can also decrease the standard longevity of stabilization BMPs as presented; if specifying stabilization measures in extremely hot climates, factor this into the selection criteria. If temporary stabilization measures are applied in the rainy, winter season, it is important to consider drying time and soil moisture requirements/limitations when selecting soil stabilization methods.

### ***Site Accessibility***

Projects that are generally close to roads capable of supporting trucks are generally not limited in their selection of temporary stabilization BMPs. As the distance of the area requiring stabilization increases from a roadway, the choices for stabilization become more limited. For instance, blown-straw mulching and hydraulic applications from a mounted sprayer are typically feasible within approximately 150 feet of a roadway or alternate safe truck access way; and pneumatically applied [compost](#) is typically feasible within approximately 300 feet of a roadway or access way. Hand application of straw and compost, or running very long hose runs (which are capable of reaching distances of up to 1000 feet) from a hydraulic mulcher can be much more costly due to required increase in labor.

### ***Material Availability***

Depending on site location and the timing of application, specific stabilization products may not be locally available, may have significant cost constraints on shipping to a project location, or, required application equipment or contractors may not be available for use or hire in the timeframe required (especially prior to the rainy season or predicted storm events). For this reason, it is important to assess product and contractor availability prior to the immediate need for temporary stabilization. If possible, temporary stabilization BMP materials should be acquired during the initial stages of construction and should be maintained (under cover or in storage) until their use is required. Materials should not be stored outside as exposure to sun and rain can decrease their functional longevity once installed.

### ***Slope Inclination***

Temporary stabilization techniques will vary based upon the slope of the area requiring stabilization. Most temporary stabilization methods presented in the fact sheets can be considered for slopes gentler than 2:1 (H:V), with the exception of wood mulch stabilization (which can be highly transportable even on relatively flat slopes). For slopes 2:1 (H:V) or greater, stabilization can be achieved using high-durability erosion control blankets (Straw/Coconut or Coconut Fiber – See EC-7) or chemically or mechanically bonded hydraulic applications ([BFM](#), [SFM](#), [MBFM](#) – See EC-3). Slopes steeper than 1:1 (H:V) or steep rocky slopes may require stabilization methods not presented in this manual, including anchored wire mesh, shotcrete, or other structural solutions (such as retaining walls) and should be designed and specified by a licensed engineer.

### ***Soil Type and Condition***

Soil type and condition should be determined prior to selecting any hydraulic application, including the use of Soil Binders (EC-5) for temporary stabilization. [Soil binders](#) can be soil-type specific, so it is important to characterize your site soils prior to selection. For instance, [polyacrylamides](#) (PAMs) do not function well in sandy soils; therefore stand-alone PAM or using a [hydraulic mulch](#) with a [PAM](#) tackifier is not appropriate under these conditions. In addition to soil type, the condition of the soil can also play a significant role in selection of a specific soil stabilization technique. Soils that are wet or saturated may prohibit the use of certain hydraulic applications that require a specific drying time and soils that are too dry may require wetting or conditioning prior to application. Soil type does not generally affect erosion control blanket or

mat (EC-7) installations; however, uneven or rocky slopes can prevent their proper application. Soils must have uniform contact with erosion control blankets and mats for them to be effective.

### ***Estimated BMP Effectiveness***

While the majority of temporary stabilization techniques presented are effective at preventing erosion when properly applied, there are some that perform better than others. For instance, hydraulic mulch applied without tackifier (such as guar) is estimated to be only 50-60% effective as a stand-alone measure; however, with a tackifier included, effectiveness estimates increase to 65-99%. It is generally good practice to combine sediment control techniques (e.g., slope interruption, barriers at the top and bottom of slope) with temporary stabilization techniques; however, it is essential when utilizing a technique that does not have 90-99% estimated effectiveness. Multiple measures (temporary stabilization combined with sediment control) should also be utilized when erosion could cause potential property damage or direct impacts to receiving waters down slope.

### ***Cost Effectiveness***

While the primary driver behind selecting temporary stabilization should be prevention of erosion and its associated environmental impacts, it is important to maintain cost-effectiveness while implementing these measures. Once all other factors have been considered and a list of potential BMPs has been developed, the relative cost of those BMPs should be considered when making a final decision. Proper stabilization of difficult terrain or complex areas should not be compromised based on cost decisions; proper stabilization techniques and their potential cost should be considered prior to initiating construction in difficult or steep terrain. Estimated costs for temporary stabilization techniques are provided in the individual fact sheets and in the table below; however, can vary greatly by region and season and should be assessed for each individual project.

**Table F-2 Temporary Stabilization Comparison Table**

Surface Mulch Category	Unit Cost Installed	Estimated Relative Erosion Control Effectiveness	Standard Application Rate	Ease of Installation
<b>Hydraulic Mulching</b> Types: Wood, paper, cellulose fiber	\$900–1,200/ac	50 – 60%	2,000 lbs per acre	2
<b>Compost Application</b>	\$1,500-\$5,000/ac	40 – 50%	(1" blanket application)	3
	\$5,000-15,000/ac	95 - 99%	(2" blanket application)	3
	\$10,000-20,000/ac	95 - 99%	(3" blanket application)	3
<b>Straw Mulching</b> Types: Rice and wheat	\$1,800–2,100/ac	90 – 95%	2 tons per acre	3
<b>Wood Chip</b> Types: Blanket	\$900–1,200/ac	Unknown		3
<b>Hydraulic Matrices</b> Types: Wood mulch + Granular or liquid binder Paper mulch + Granular or liquid binder Cellulose mulch + binder	\$1,000-2,000/ac	65 - 99%	2,000 lbs/ac mulch	2
			+ 10% tackifier	2
				2
<b>Bonded Fiber Matrices</b>	\$5,000–6,500/ac	90 – 99%	3,500 – 4,000 lbs/ac	3
<b>Rolled Erosion Control Products</b>				
Types: Biodegradable				
Jute	\$6,000–7,000/ac	65 – 70%	N/A	4
Curled Wood Fiber	\$8,000–10,500/ac	90 – 99%	N/A	4
Straw	\$8,000–10,500/ac	90 – 99%	N/A	4
Wood Fiber	\$8,000–10,500/ac	90 – 99%	N/A	4
Coconut Fiber	\$13,000–14,000/ac	90 – 99%	N/A	4
Coconut Fiber Net	\$30,000–33,000/ac	90 – 99%	N/A	4
Straw Coconut	\$10,000–12,000/ac	90 – 99%	N/A	4
Non-Biodegradable				
Plastic Netting	\$2,000–2,200/ac	< 50%	N/A	4
Plastic Mesh	\$3,000–3,500/ac	75 – 80%	N/A	4
Synthetic Fiber w/Netting	\$34,000–40,000/ac	90 – 99%	N/A	4
Bonded Synthetic Fibers	\$45,000–55,000/ac	90 – 99%	N/A	5
Combination Synthetic and Biodegradable Fibers	\$30,000–36,000/ac	85 – 99%	N/A	5

JANUARY				
MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY
		1	2 NTP MOBILIZATION	3
			9	10 Grading
6 Install erosion & sediment control measures	7	8 Land clearing		15
		14		16
				22
		13		23

## Objectives

EC	Erosion Control	<input checked="" type="checkbox"/>
SE	Sediment Control	<input checked="" type="checkbox"/>
TR	Tracking Control	<input checked="" type="checkbox"/>
WE	Wind Erosion Control	<input checked="" type="checkbox"/>
NS	Non-Stormwater Management Control	
WM	Waste Management and Materials Pollution Control	

## Legend:

- Primary Objective
- Secondary Objective

## Description and Purpose

Scheduling is the development of a written plan that includes sequencing of construction activities and the implementation of BMPs such as erosion control and sediment control while taking local climate (rainfall, wind, etc.) into consideration. The purpose is to reduce the amount and duration of soil exposed to erosion by wind, rain, runoff, and vehicle tracking, and to perform the construction activities and control practices in accordance with the planned schedule.

## Suitable Applications

Proper sequencing of construction activities to reduce erosion potential should be incorporated into the schedule of every construction project especially during rainy season. Use of other, more costly yet less effective, erosion and sediment control BMPs may often be reduced through proper construction sequencing.

## Limitations

- Environmental constraints such as nesting season prohibitions reduce the full capabilities of this BMP.

## Implementation

- Avoid rainy periods. Schedule major grading operations during dry months when practical. Allow enough time before rainfall begins to stabilize the soil with vegetation or physical means or to install sediment trapping devices.
- Plan the project and develop a schedule showing each phase of construction. Clearly show how the rainy season relates to soil

## Targeted Constituents

Sediment	<input checked="" type="checkbox"/>
Nutrients	
Trash	
Metals	
Bacteria	
Oil and Grease	
Organics	

## Potential Alternatives

None



disturbing and re-stabilization activities. Incorporate the construction schedule into the SWPPP.

- Include on the schedule, details on the rainy season implementation and deployment of:
  - Erosion control BMPs
  - Sediment control BMPs
  - Tracking control BMPs
  - Wind erosion control BMPs
  - Non-stormwater BMPs
  - Waste management and materials pollution control BMPs
- Include dates for activities that may require non-stormwater discharges such as dewatering, sawcutting, grinding, drilling, boring, crushing, blasting, painting, hydro-demolition, mortar mixing, pavement cleaning, etc.
- Work out the sequencing and timetable for the start and completion of each item such as site clearing and grubbing, grading, excavation, paving, foundation pouring utilities installation, etc., to minimize the active construction area during the rainy season.
  - Sequence trenching activities so that most open portions are closed before new trenching begins.
  - Incorporate staged seeding and re-vegetation of graded slopes as work progresses.
  - Schedule establishment of permanent vegetation during appropriate planting time for specified vegetation.
- Non-active areas should be stabilized as soon as practical after the cessation of soil disturbing activities or one day prior to the onset of precipitation.
- Monitor the weather forecast for rainfall.
- When rainfall is predicted, adjust the construction schedule to allow the implementation of soil stabilization and sediment treatment controls on all disturbed areas prior to the onset of rain.
- Be prepared year round to deploy erosion control and sediment control BMPs. Erosion may be caused during dry seasons by un-seasonal rainfall, wind, and vehicle tracking. Keep the site stabilized year round, and retain and maintain rainy season sediment trapping devices in operational condition.
- Apply permanent erosion control to areas deemed substantially complete during the project's defined seeding window.

### **Costs**

Construction scheduling to reduce erosion may increase other construction costs due to reduced economies of scale in performing site grading. The cost effectiveness of scheduling techniques should be compared with the other less effective erosion and sedimentation controls to achieve a cost effective balance.

## **Inspection and Maintenance**

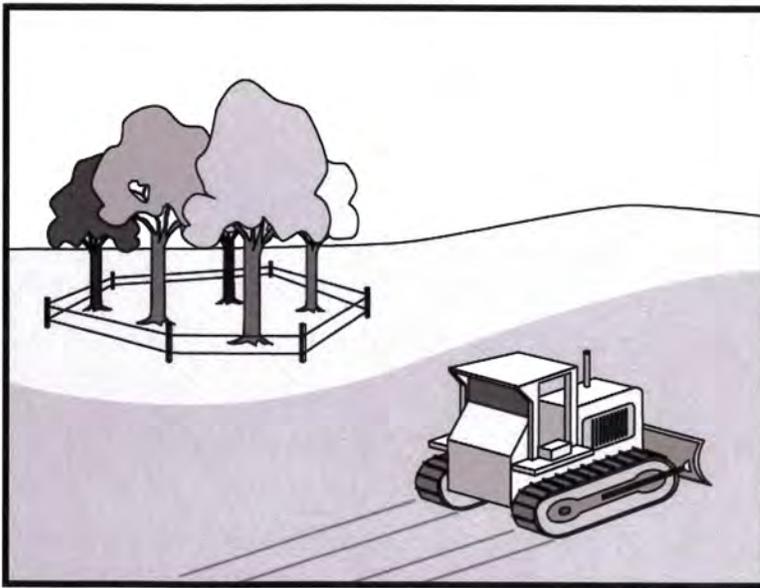
- Verify that work is progressing in accordance with the schedule. If progress deviates, take corrective actions.
- Amend the schedule when changes are warranted.
- Amend the schedule prior to the rainy season to show updated information on the deployment and implementation of construction site BMPs.

## **References**

Stormwater Quality Handbooks Construction Site Best Management Practices (BMPs) Manual, State of California Department of Transportation (Caltrans), November 2000.

Stormwater Management for Construction Activities Developing Pollution Prevention Plans and Best Management Practices (EPA 832-R-92-005), U.S. Environmental Protection Agency, Office of Water, September 1992.

# Preservation Of Existing Vegetation EC-2



## Description and Purpose

Carefully planned preservation of existing vegetation minimizes the potential of removing or injuring existing trees, vines, shrubs, and grasses that protect soil from erosion.

## Suitable Applications

Preservation of existing vegetation is suitable for use on most projects. Large project sites often provide the greatest opportunity for use of this BMP. Suitable applications include the following:

- Areas within the site where no construction activity occurs, or occurs at a later date. This BMP is especially suitable to multi year projects where grading can be phased.
- Areas where natural vegetation exists and is designated for preservation. Such areas often include steep slopes, watercourse, and building sites in wooded areas.
- Areas where local, state, and federal government require preservation, such as vernal pools, wetlands, marshes, certain oak trees, etc. These areas are usually designated on the plans, or in the specifications, permits, or environmental documents.
- Where vegetation designated for ultimate removal can be temporarily preserved and be utilized for erosion control and sediment control.

## Objectives

EC	Erosion Control	<input checked="" type="checkbox"/>
SE	Sediment Control	
TR	Tracking Control	
WE	Wind Erosion Control	
NS	Non-Stormwater Management Control	
WM	Waste Management and Materials Pollution Control	

## Legend:

- Primary Objective
- Secondary Objective

## Targeted Constituents

Sediment	<input checked="" type="checkbox"/>
Nutrients	
Trash	
Metals	
Bacteria	
Oil and Grease	
Organics	

## Potential Alternatives

None



# **EC-2 Preservation Of Existing Vegetation**

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## **Limitations**

- Requires forward planning by the owner/developer, contractor, and design staff.
- Limited opportunities for use when project plans do not incorporate existing vegetation into the site design.
- For sites with diverse topography, it is often difficult and expensive to save existing trees while grading the site satisfactory for the planned development.

## **Implementation**

The best way to prevent erosion is to not disturb the land. In order to reduce the impacts of new development and redevelopment, projects may be designed to avoid disturbing land in sensitive areas of the site (e.g., natural watercourses, steep slopes), and to incorporate unique or desirable existing vegetation into the site's landscaping plan. Clearly marking and leaving a buffer area around these unique areas during construction will help to preserve these areas as well as take advantage of natural erosion prevention and sediment trapping.

Existing vegetation to be preserved on the site must be protected from mechanical and other injury while the land is being developed. The purpose of protecting existing vegetation is to ensure the survival of desirable vegetation for shade, beautification, and erosion control. Mature vegetation has extensive root systems that help to hold soil in place, thus reducing erosion. In addition, vegetation helps keep soil from drying rapidly and becoming susceptible to erosion. To effectively save existing vegetation, no disturbances of any kind should be allowed within a defined area around the vegetation. For trees, no construction activity should occur within the drip line of the tree.

## **Timing**

- Provide for preservation of existing vegetation prior to the commencement of clearing and grubbing operations or other soil disturbing activities in areas where no construction activity is planned or will occur at a later date.

## **Design and Layout**

- Mark areas to be preserved with temporary fencing. Include sufficient setback to protect roots.
  - Orange colored plastic mesh fencing works well.
  - Use appropriate fence posts and adequate post spacing and depth to completely support the fence in an upright position.
- Locate temporary roadways, stockpiles, and layout areas to avoid stands of trees, shrubs, and grass.
- Consider the impact of grade changes to existing vegetation and the root zone.
- Maintain existing irrigation systems where feasible. Temporary irrigation may be required.
- Instruct employees and subcontractors to honor protective devices. Prohibit heavy equipment, vehicular traffic, or storage of construction materials within the protected area.

# Preservation Of Existing Vegetation EC-2

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## Costs

There is little cost associated with preserving existing vegetation if properly planned during the project design, and these costs may be offset by aesthetic benefits that enhance property values. During construction, the cost for preserving existing vegetation will likely be less than the cost of applying erosion and sediment controls to the disturbed area. Replacing vegetation inadvertently destroyed during construction can be extremely expensive, sometimes in excess of \$10,000 per tree.

## Inspection and Maintenance

During construction, the limits of disturbance should remain clearly marked at all times. Irrigation or maintenance of existing vegetation should be described in the landscaping plan. If damage to protected trees still occurs, maintenance guidelines described below should be followed:

- Verify that protective measures remain in place. Restore damaged protection measures immediately.
- Serious tree injuries shall be attended to by an arborist.
- Damage to the crown, trunk, or root system of a retained tree shall be repaired immediately.
- Trench as far from tree trunks as possible, usually outside of the tree drip line or canopy. Curve trenches around trees to avoid large roots or root concentrations. If roots are encountered, consider tunneling under them. When trenching or tunneling near or under trees to be retained, place tunnels at least 18 in. below the ground surface, and not below the tree center to minimize impact on the roots.
- Do not leave tree roots exposed to air. Cover exposed roots with soil as soon as possible. If soil covering is not practical, protect exposed roots with wet burlap or peat moss until the tunnel or trench is ready for backfill.
- Cleanly remove the ends of damaged roots with a smooth cut.
- Fill trenches and tunnels as soon as possible. Careful filling and tamping will eliminate air spaces in the soil, which can damage roots.
- If bark damage occurs, cut back all loosened bark into the undamaged area, with the cut tapered at the top and bottom and drainage provided at the base of the wood. Limit cutting the undamaged area as much as possible.
- Aerate soil that has been compacted over a trees root zone by punching holes 12 in. deep with an iron bar, and moving the bar back and forth until the soil is loosened. Place holes 18 in. apart throughout the area of compacted soil under the tree crown.
- Fertilization
  - Fertilize stressed or damaged broadleaf trees to aid recovery.
  - Fertilize trees in the late fall or early spring.

## **EC-2 Preservation Of Existing Vegetation**

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- Apply fertilizer to the soil over the feeder roots and in accordance with label instructions, but never closer than 3 ft to the trunk. Increase the fertilized area by one-fourth of the crown area for conifers that have extended root systems.
- Retain protective measures until all other construction activity is complete to avoid damage during site cleanup and stabilization.

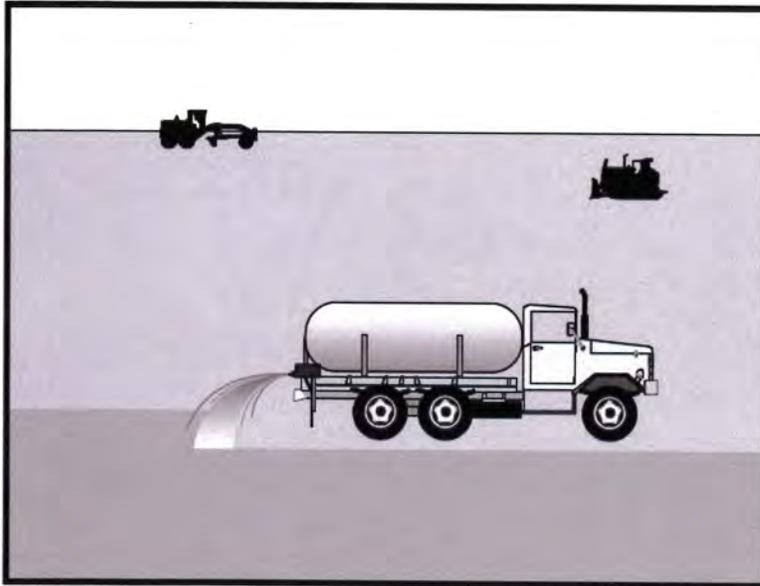
### **References**

County of Sacramento Tree Preservation Ordinance, September 1981.

Stormwater Quality Handbooks Construction Site Best Management Practices (BMPs) Manual, State of California Department of Transportation (Caltrans), November 2000.

Stormwater Management of the Puget Sound Basin, Technical Manual, Publication #91-75, Washington State Department of Ecology, February 1992.

Water Quality Management Plan for The Lake Tahoe Region, Volume II, Handbook of Management Practices, Tahoe Regional Planning Agency, November 1988.



### Description and Purpose

Soil binders consist of applying and maintaining a soil stabilizer to exposed soil surfaces. Soil binders are materials applied to the soil surface to temporarily prevent water induced erosion of exposed soils on construction sites. Soil binders also prevent wind erosion.

### Suitable Applications

Soil binders are typically applied to disturbed areas requiring short term temporary protection. Because soil binders can often be incorporated into the work, they are a good alternative to mulches in areas where grading activities will soon resume. Soil binders are also suitable for use on stockpiles.

### Limitations

- Soil binders are temporary in nature and may need reapplication.
- Soil binders require a minimum curing time until fully effective, as prescribed by the manufacturer. Curing time may be 24 hours or longer. Soil binders may need reapplication after a storm event.
- Soil binders will generally experience spot failures during heavy rainfall events. If runoff penetrates the soil at the top of a slope treated with a soil binder, it is likely that the runoff will undercut the stabilized soil layer and discharge at a point further down slope.

### Objectives

EC	Erosion Control	<input checked="" type="checkbox"/>
SE	Sediment Control	
TR	Tracking Control	
WE	Wind Erosion Control	<input checked="" type="checkbox"/>
NS	Non-Stormwater Management Control	
WM	Waste Management and Materials Pollution Control	

### Legend:

- Primary Objective
- Secondary Objective

### Targeted Constituents

Sediment	<input checked="" type="checkbox"/>
Nutrients	
Trash	
Metals	
Bacteria	
Oil and Grease	
Organics	

### Potential Alternatives

- EC-3 Hydraulic Mulch
- EC-4 Hydroseeding
- EC-6 Straw Mulch
- EC-7 Geotextiles and Mats
- EC-8 Wood Mulching



- Soil binders do not hold up to pedestrian or vehicular traffic across treated areas.
- Soil binders may not penetrate soil surfaces made up primarily of silt and clay, particularly when compacted.
- Some soil binders may not perform well with low relative humidity. Under rainy conditions, some agents may become slippery or leach out of the soil.
- Soil binders may not cure if low temperatures occur within 24 hours of application.
- The water quality impacts of soil binders are relatively unknown and some may have water quality impacts due to their chemical makeup.
- A sampling and analysis plan must be incorporated into the SWPPP as soil binders could be a source of non-visible pollutants.

### **Implementation**

#### ***General Considerations***

- Regional soil types will dictate appropriate soil binders to be used.
- A soil binder must be environmentally benign (non-toxic to plant and animal life), easy to apply, easy to maintain, economical, and should not stain paved or painted surfaces. Soil binders should not pollute stormwater.
- Some soil binders may not be compatible with existing vegetation.
- Performance of soil binders depends on temperature, humidity, and traffic across treated areas.
- Avoid over spray onto roads, sidewalks, drainage channels, existing vegetation, etc.

#### ***Selecting a Soil Binder***

Properties of common soil binders used for erosion control are provided on Table 1 at the end of this BMP. Use Table 1 to select an appropriate soil binder. Refer to WE-1, Wind Erosion Control, for dust control soil binders.

Factors to consider when selecting a soil binder include the following:

- Suitability to situation - Consider where the soil binder will be applied, if it needs a high resistance to leaching or abrasion, and whether it needs to be compatible with any existing vegetation. Determine the length of time soil stabilization will be needed, and if the soil binder will be placed in an area where it will degrade rapidly. In general, slope steepness is not a discriminating factor for the listed soil binders.
- Soil types and surface materials - Fines and moisture content are key properties of surface materials. Consider a soil binder's ability to penetrate, likelihood of leaching, and ability to form a surface crust on the surface materials.
- Frequency of application - The frequency of application can be affected by subgrade conditions, surface type, climate, and maintenance schedule. Frequent applications could

lead to high costs. Application frequency may be minimized if the soil binder has good penetration, low evaporation, and good longevity. Consider also that frequent application will require frequent equipment clean up.

### ***Plant-Material Based (Short Lived) Binders***

**Guar:** Guar is a non-toxic, biodegradable, natural galactomannan based hydrocolloid treated with dispersant agents for easy field mixing. It should be mixed with water at the rate of 11 to 15 lb per 1,000 gallons. Recommended minimum application rates are as follows:

**Application Rates for Guar Soil Stabilizer**

Slope (H:V):	Flat	4:1	3:1	2:1	1:1
lb/acre:	40	45	50	60	70

**Psyllium:** Psyllium is composed of the finely ground muciloid coating of plantago seeds that is applied as a dry powder or in a wet slurry to the surface of the soil. It dries to form a firm but rewettable membrane that binds soil particles together but permits germination and growth of seed. Psyllium requires 12 to 18 hours drying time. Application rates should be from 80 to 200 lb/acre, with enough water in solution to allow for a uniform slurry flow.

**Starch:** Starch is non-ionic, cold water soluble (pre-gelatinized) granular cornstarch. The material is mixed with water and applied at the rate of 150 lb/acre. Approximate drying time is 9 to 12 hours.

### ***Plant-Material Based (Long Lived) Binders***

**Pitch and Rosin Emulsion:** Generally, a non-ionic pitch and rosin emulsion has a minimum solids content of 48%. The rosin should be a minimum of 26% of the total solids content. The soil stabilizer should be non-corrosive, water dilutable emulsion that upon application cures to a water insoluble binding and cementing agent. For soil erosion control applications, the emulsion is diluted and should be applied as follows:

- For clayey soil: 5 parts water to 1 part emulsion
- For sandy soil: 10 parts water to 1 part emulsion

Application can be by water truck or hydraulic seeder with the emulsion and product mixture applied at the rate specified by the manufacturer.

### ***Polymeric Emulsion Blend Binders***

**Acrylic Copolymers and Polymers:** Polymeric soil stabilizers should consist of a liquid or solid polymer or copolymer with an acrylic base that contains a minimum of 55% solids. The polymeric compound should be handled and mixed in a manner that will not cause foaming or should contain an anti-foaming agent. The polymeric emulsion should not exceed its shelf life or expiration date; manufacturers should provide the expiration date. Polymeric soil stabilizer should be readily miscible in water, non-injurious to seed or animal life, non-flammable, should provide surface soil stabilization for various soil types without totally inhibiting water infiltration, and should not re-emulsify when cured. The applied compound should air cure within a maximum of 36 to 48 hours. Liquid copolymer should be diluted at a rate of 10 parts water to 1 part polymer and the mixture applied to soil at a rate of 1,175 gallons/acre.

**Liquid Polymers of Methacrylates and Acrylates:** This material consists of a tackifier/sealer that is a liquid polymer of methacrylates and acrylates. It is an aqueous 100% acrylic emulsion blend of 40% solids by volume that is free from styrene, acetate, vinyl, ethoxylated surfactants or silicates. For soil stabilization applications, it is diluted with water in accordance with manufacturer’s recommendations, and applied with a hydraulic seeder at the rate of 20 gallons/acre. Drying time is 12 to 18 hours after application.

**Copolymers of Sodium Acrylates and Acrylamides:** These materials are non-toxic, dry powders that are copolymers of sodium acrylate and acrylamide. They are mixed with water and applied to the soil surface for erosion control at rates that are determined by slope gradient:

<b>Slope Gradient (H:V)</b>	<b>lb/acre</b>
Flat to 5:1	3.0 – 5.0
5:1 to 3:1	5.0 – 10.0
2:2 to 1:1	10.0 – 20.0

**Poly-Acrylamide and Copolymer of Acrylamide:** Linear copolymer polyacrylamide is packaged as a dry flowable solid. When used as a stand alone stabilizer, it is diluted at a rate of 11lb/1,000 gal of water and applied at the rate of 5.0 lb/acre.

**Hydro-Colloid Polymers:** Hydro-Colloid Polymers are various combinations of dry flowable poly-acrylamides, copolymers and hydro-colloid polymers that are mixed with water and applied to the soil surface at rates of 55 to 60 lb/acre. Drying times are 0 to 4 hours.

***Cementitious-Based Binders***

**Gypsum:** This is a formulated gypsum based product that readily mixes with water and mulch to form a thin protective crust on the soil surface. It is composed of high purity gypsum that is ground, calcined and processed into calcium sulfate hemihydrate with a minimum purity of 86%. It is mixed in a hydraulic seeder and applied at rates 4,000 to 12,000 lb/acre. Drying time is 4 to 8 hours.

***Applying Soil Binders***

After selecting an appropriate soil binder, the untreated soil surface must be prepared before applying the soil binder. The untreated soil surface must contain sufficient moisture to assist the agent in achieving uniform distribution. In general, the following steps should be followed:

- Follow manufacturer’s written recommendations for application rates, pre-wetting of application area, and cleaning of equipment after use.
- Prior to application, roughen embankment and fill areas.
- Consider the drying time for the selected soil binder and apply with sufficient time before anticipated rainfall. Soil binders should not be applied during or immediately before rainfall.
- Avoid over spray onto roads, sidewalks, drainage channels, sound walls, existing vegetation, etc.

- Soil binders should not be applied to frozen soil, areas with standing water, under freezing or rainy conditions, or when the temperature is below 40°F during the curing period.
- More than one treatment is often necessary, although the second treatment may be diluted or have a lower application rate.
- Generally, soil binders require a minimum curing time of 24 hours before they are fully effective. Refer to manufacturer's instructions for specific cure time.
- For liquid agents:
  - Crown or slope ground to avoid ponding.
  - Uniformly pre-wet ground at 0.03 to 0.3 gal/yd<sup>2</sup> or according to manufacturer's recommendations.
  - Apply solution under pressure. Overlap solution 6 to 12 in.
  - Allow treated area to cure for the time recommended by the manufacturer; typically at least 24 hours.
  - Apply second treatment before first treatment becomes ineffective, using 50% application rate.
  - In low humidities, reactivate chemicals by re-wetting with water at 0.1 to 0.2 gal/yd<sup>2</sup>.

## Costs

Costs vary according to the soil stabilizer selected for implementation. The following are approximate costs:

Soil Binder	Cost per Acre
Plant-Material Based (Short Lived) Binders	\$400
Plant-Material Based (Long Lived) Binders	\$1,200
Polymeric Emulsion Blend Binders	\$400 <sup>(1)</sup>
Cementitious-Based Binders	\$800

(1) \$1,200 for Acrylic polymers and copolymers

Source: Caltrans Guidance for Soil Stabilization for Temporary Slopes, Nov. 1999

## Inspection and Maintenance

- Inspect BMPs prior to forecast rain, daily during extended rain events, after rain events, weekly during the rainy season, and at two-week intervals during the non-rainy season.
- Areas where erosion is evident shall be repaired and BMPs re-applied as soon as possible. Care should be exercised to minimize the damage to protected areas while making repairs, as any area damaged will require re-application of BMPs.
- Reapply the selected soil binder as needed to maintain effectiveness.

**References**

Manual of Standards of Erosion and Sediment Control Measures, Association of Bay Area Governments, May 1995.

Sedimentation and Erosion Control, An Inventory of Current Practices Draft, US EPA, April 1990.

Stormwater Quality Handbooks Construction Site Best Management Practices (BMPs) Manual, State of California Department of Transportation (Caltrans), November 2000.

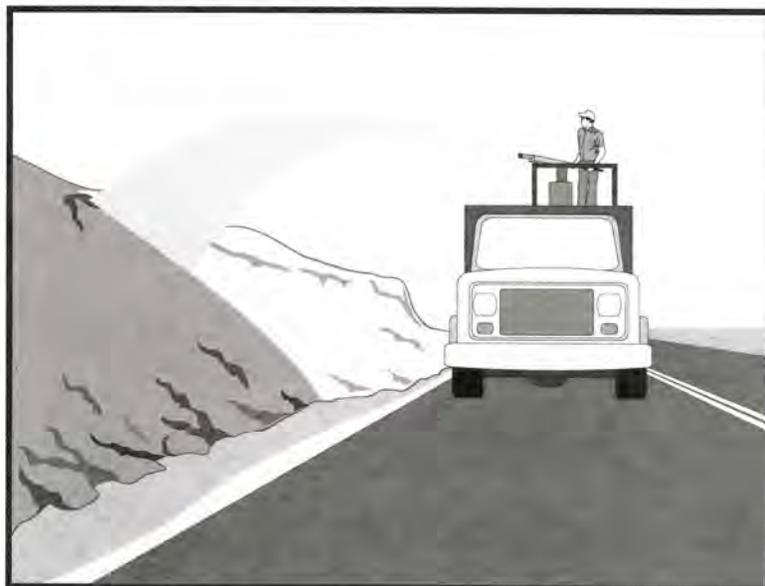
Guidance Document: Soil Stabilization for Temporary Slopes, State of California Department of Transportation (Caltrans), November 1999.

Stormwater Management for Construction Activities, Developing Pollution Prevention Plans and Best Management Practices, EPA 832-R-92005; USEPA, April 1992.

**Table 1 Properties of Soil Binders for Erosion Control**

Evaluation Criteria	Binder Type			
	Plant Material Based (Short Lived)	Plant Material Based (Long Lived)	Polymeric Emulsion Blends	Cementitious-Based Binders
Relative Cost	Low	Low	Low	Low
Resistance to Leaching	High	High	Low to Moderate	Moderate
Resistance to Abrasion	Moderate	Low	Moderate to High	Moderate to High
Longevity	Short to Medium	Medium	Medium to Long	Medium
Minimum Curing Time before Rain	9 to 18 hours	19 to 24 hours	0 to 24 hours	4 to 8 hours
Compatibility with Existing Vegetation	Good	Poor	Poor	Poor
Mode of Degradation	Biodegradable	Biodegradable	Photodegradable/ Chemically Degradable	Photodegradable/ Chemically Degradable
Labor Intensive	No	No	No	No
Specialized Application Equipment	Water Truck or Hydraulic Mulcher	Water Truck or Hydraulic Mulcher	Water Truck or Hydraulic Mulcher	Water Truck or Hydraulic Mulcher
Liquid/Powder	Powder	Liquid	Liquid/Powder	Powder
Surface Crusting	Yes, but dissolves on rewetting	Yes	Yes, but dissolves on rewetting	Yes
Clean Up	Water	Water	Water	Water
Erosion Control Application Rate	Varies <sup>(1)</sup>	Varies <sup>(1)</sup>	Varies <sup>(1)</sup>	4,000 to 12,000 lbs/acre

(1) See Implementation for specific rates.



## Description and Purpose

Straw mulch consists of placing a uniform layer of straw and incorporating it into the soil with a studded roller or crimper, or anchoring it with a tackifier or stabilizing emulsion. Straw mulch protects the soil surface from the impact of rain drops, preventing soil particles from becoming dislodged.

## Suitable Applications

Straw mulch is suitable for disturbed areas requiring temporary protection until permanent stabilization is established. Straw mulch can be specified for the following applications:

- As a stand-alone BMP on disturbed areas until soils can be prepared for permanent vegetation. The longevity of straw mulch is typically less than six months.
- Applied in combination with temporary seeding strategies
- Applied in combination with permanent seeding strategies to enhance plant establishment and final soil stabilization
- Applied around containerized plantings to control erosion until the plants become established to provide permanent stabilization

## Limitations

Availability of straw and straw blowing equipment may be limited just prior to the rainy season and prior to storms due to high demand.

## Categories

EC	Erosion Control	<input checked="" type="checkbox"/>
SE	Sediment Control	
TC	Tracking Control	
WE	Wind Erosion Control	<input checked="" type="checkbox"/>
NS	Non-Stormwater Management Control	
WM	Waste Management and Materials Pollution Control	

## Legend:

- Primary Category
- Secondary Category

## Targeted Constituents

Sediment	<input checked="" type="checkbox"/>
Nutrients	
Trash	
Metals	
Bacteria	
Oil and Grease	
Organics	

## Potential Alternatives

- EC-3 Hydraulic Mulch
- EC-4 Hydroseeding
- EC-5 Soil Binders
- EC-7 Geotextiles and Mats
- EC-8 Wood Mulching
- EC-14 Compost Blanket

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- There is a potential for introduction of weed seed and unwanted plant material if weed-free agricultural straw is not specified.
- Straw mulch applied by hand is more time intensive and potentially costly.
- Wind may limit application of straw and blow straw into undesired locations.
- May have to be removed prior to permanent seeding or prior to further earthwork.
- “Punching” of straw does not work in sandy soils, necessitating the use of tackifiers.
- Potential fugitive dust control issues associated with straw applications can occur. Application of a stabilizing emulsion or a water stream at the same time straw is being blown can reduce this problem.
- Use of plastic netting should be avoided in areas where wildlife may be entrapped and may be prohibited for projects in certain areas with sensitive wildlife species, especially reptiles and amphibians.

## Implementation

- Straw should be derived from weed-free wheat, rice, or barley. Where required by the plans, specifications, permits, or environmental documents, native grass straw should be used.
- Use tackifier to anchor straw mulch to the soil on slopes.
- Crimping, punch roller-type rollers, or track walking may also be used to incorporate straw mulch into the soil on slopes. Track walking can be used where other methods are impractical.
- Avoid placing straw onto roads, sidewalks, drainage channels, sound walls, existing vegetation, etc.
- Straw mulch with tackifier should not be applied during or immediately before rainfall.
- Additional guidance on the comparison and selection of temporary slope stabilization methods is provided in Appendix F of the Handbook.

## Application Procedures

- When using a tackifier to anchor the straw mulch, roughen embankment or fill areas by rolling with a crimping or punching-type roller or by track walking before placing the straw mulch. Track walking should only be used where rolling is impractical.
- Apply straw at a rate of between 3,000 and 4,000 lb/acre, either by machine or by hand distribution and provide 100% ground cover. A lighter application is used for flat surfaces and a heavier application is used for slopes.
- Evenly distribute straw mulch on the soil surface.
- Anchoring straw mulch to the soil surface by “punching” it into the soil mechanically (incorporating) can be used in lieu of a tackifier.

- Methods for holding the straw mulch in place depend upon the slope steepness, accessibility, soil conditions, and longevity.
  - A tackifier acts to glue the straw fibers together and to the soil surface. The tackifier should be selected based on longevity and ability to hold the fibers in place. A tackifier is typically applied at a rate of 125 lb/acre. In windy conditions, the rates are typically 180 lb/acre.
  - On very small areas, a spade or shovel can be used to punch in straw mulch.
  - On slopes with soils that are stable enough and of sufficient gradient to safely support construction equipment without contributing to compaction and instability problems, straw can be "punched" into the ground using a knife blade roller or a straight bladed coulter, known commercially as a "crimper."

## Costs

Average annual cost for installation and maintenance is included in the table below. Application by hand is more time intensive and potentially more costly.

BMP	Unit Cost per Acre
Straw mulch, crimped or punched	\$2,458-\$5,375
Straw mulch with tackifier	\$1,823-\$4,802

Source: Cost information received from individual product suppliers solicited by Geosyntec Consultants (2004).

## Inspection and Maintenance

- BMPs must be inspected in accordance with General Permit requirements for the associated project type and risk level. It is recommended that at a minimum, BMPs be inspected weekly, prior to forecasted rain events, daily during extended rain events, and after the conclusion of rain events.
- Areas where erosion is evident should be repaired and BMPs re-applied as soon as possible. Care should be exercised to minimize the damage to protected areas while making repairs, as any area damaged will require re-application of BMPs.
- The key consideration in inspection and maintenance is that the straw needs to last long enough to achieve erosion control objectives. Straw mulch as a stand-alone BMP is temporary and is not suited for long-term erosion control.
- Maintain an unbroken, temporary mulched ground cover while disturbed soil areas are inactive. Repair any damaged ground cover and re-mulch exposed areas.
- Reapplication of straw mulch and tackifier may be required to maintain effective soil stabilization over disturbed areas and slopes.

## References

Soil Stabilization BMP Research for Erosion and Sediment Controls: Cost Survey Technical Memorandum, State of California Department of Transportation (Caltrans), July 2007.

Erosion and Sediment Control Manual, Oregon Department of Environmental Quality, February 2005.

Controlling Erosion of Construction Sites, Agricultural Information Bulletin #347, U.S. Department of Agriculture (USDA), Natural Resources Conservation Service (NRCS) (formerly Soil Conservation Service – SCS).

Guides for Erosion and Sediment Control in California, USDA Soils Conservation Service, January 1991.

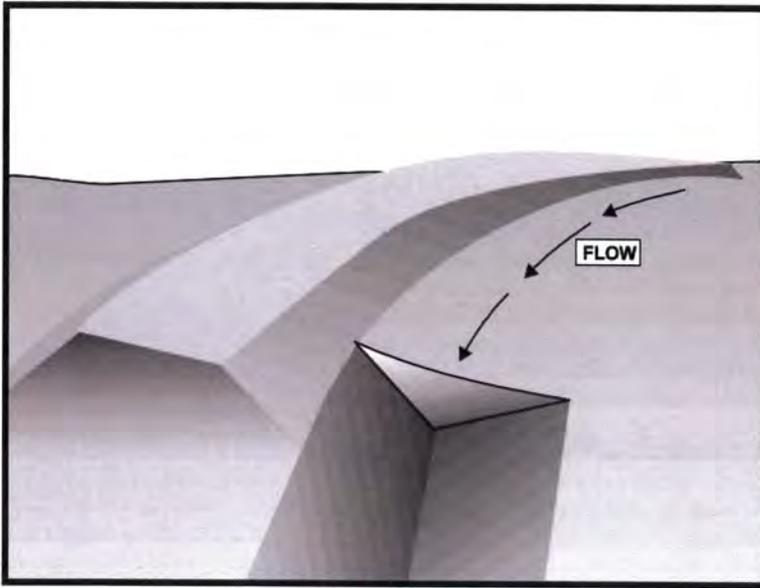
Manual of Standards of Erosion and Sediment Control Measures, Association of Bay Area Governments, May 1995.

Soil Erosion by Water, Agricultural Information Bulletin #513, U.S. Department of Agriculture, Soil Conservation Service.

Stormwater Quality Handbooks Construction Site Best Management Practices (BMPs) Manual, State of California Department of Transportation (Caltrans), March 2003.

Stormwater Management of the Puget Sound Basin, Technical Manual, Publication #91-75, Washington State Department of Ecology, February 1992.

Water Quality Management Plan for the Lake Tahoe Region, Volume II, Handbook of Management Practices, Tahoe Regional Planning Agency, November 1988.



### Description and Purpose

An earth dike is a temporary berm or ridge of compacted soil used to divert runoff or channel water to a desired location. A drainage swale is a shaped and sloped depression in the soil surface used to convey runoff to a desired location. Earth dikes and drainage swales are used to divert off site runoff around the construction site, divert runoff from stabilized areas and disturbed areas, and direct runoff into sediment basins or traps.

### Suitable Applications

Earth dikes and drainage swales are suitable for use, individually or together, where runoff needs to be diverted from one area and conveyed to another.

- Earth dikes and drainage swales may be used:
  - To convey surface runoff down sloping land
  - To intercept and divert runoff to avoid sheet flow over sloped surfaces
  - To divert and direct runoff towards a stabilized watercourse, drainage pipe or channel
  - To intercept runoff from paved surfaces
  - Below steep grades where runoff begins to concentrate
  - Along roadways and facility improvements subject to flood drainage

### Objectives

EC	Erosion Control	<input checked="" type="checkbox"/>
SE	Sediment Control	
TR	Tracking Control	
WE	Wind Erosion Control	
NS	Non-Stormwater Management Control	
WM	Waste Management and Materials Pollution Control	

### Legend:

- Primary Objective
- Secondary Objective

### Targeted Constituents

Sediment	<input checked="" type="checkbox"/>
Nutrients	
Trash	
Metals	
Bacteria	
Oil and Grease	
Organics	

### Potential Alternatives

None



## **EC-9 Earth Dikes and Drainage Swales**

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- At the top of slopes to divert runoff from adjacent or undisturbed slopes
- At bottom and mid slope locations to intercept sheet flow and convey concentrated flows
- Divert sediment laden runoff into sediment basins or traps

### **Limitations**

Dikes should not be used for drainage areas greater than 10 acres or along slopes greater than 10 percent. For larger areas more permanent drainage structures should be built. All drainage structures should be built in compliance with local municipal requirements.

- Earth dikes may create more disturbed area on site and become barriers to construction equipment.
- Earth dikes must be stabilized immediately, which adds cost and maintenance concerns.
- Diverted stormwater may cause downstream flood damage.
- Dikes should not be constructed of soils that may be easily eroded.
- Regrading the site to remove the dike may add additional cost.
- Temporary drains and swales or any other diversion of runoff should not adversely impact upstream or downstream properties.
- Temporary drains and swales must conform to local floodplain management requirements.
- Earth dikes/drainage swales are not suitable as sediment trapping devices.
- It may be necessary to use other soil stabilization and sediment controls such as check dams, plastics, and blankets, to prevent scour and erosion in newly graded dikes, swales, and ditches.

### **Implementation**

The temporary earth dike is a berm or ridge of compacted soil, located in such a manner as to divert stormwater to a sediment trapping device or a stabilized outlet, thereby reducing the potential for erosion and offsite sedimentation. Earth dikes can also be used to divert runoff from off site and from undisturbed areas away from disturbed areas and to divert sheet flows away from unprotected slopes.

An earth dike does not itself control erosion or remove sediment from runoff. A dike prevents erosion by directing runoff to an erosion control device such as a sediment trap or directing runoff away from an erodible area. Temporary diversion dikes should not adversely impact adjacent properties and must conform to local floodplain management regulations, and should not be used in areas with slopes steeper than 10%.

Slopes that are formed during cut and fill operations should be protected from erosion by runoff. A combination of a temporary drainage swale and an earth dike at the top of a slope can divert runoff to a location where it can be brought to the bottom of the slope (see EC-11, Slope Drains). A combination dike and swale is easily constructed by a single pass of a bulldozer or grader and

compacted by a second pass of the tracks or wheels over the ridge. Diversion structures should be installed when the site is initially graded and remain in place until post construction BMPs are installed and the slopes are stabilized.

Diversion practices concentrate surface runoff, increasing its velocity and erosive force. Thus, the flow out of the drain or swale must be directed onto a stabilized area or into a grade stabilization structure. If significant erosion will occur, a swale should be stabilized using vegetation, chemical treatment, rock rip-rap, matting, or other physical means of stabilization. Any drain or swale that conveys sediment laden runoff must be diverted into a sediment basin or trap before it is discharged from the site.

## **General**

- Care must be applied to correctly size and locate earth dikes, drainage swales. Excessively steep, unlined dikes, and swales are subject to erosion and gully formation.
- Conveyances should be stabilized.
- Use a lined ditch for high flow velocities.
- Select flow velocity based on careful evaluation of the risks due to erosion of the measure, soil types, overtopping, flow backups, washout, and drainage flow patterns for each project site.
- Compact any fills to prevent unequal settlement.
- Do not divert runoff onto other property without securing written authorization from the property owner.
- When possible, install and utilize permanent dikes, swales, and ditches early in the construction process.
- Provide stabilized outlets.

## **Earth Dikes**

Temporary earth dikes are a practical, inexpensive BMP used to divert stormwater runoff. Temporary diversion dikes should be installed in the following manner:

- All dikes should be compacted by earth moving equipment.
- All dikes should have positive drainage to an outlet.
- All dikes should have 2:1 or flatter side slopes, 18 in. minimum height, and a minimum top width of 24 in. Wide top widths and flat slopes are usually needed at crossings for construction traffic.
- The outlet from the earth dike must function with a minimum of erosion. Runoff should be conveyed to a sediment trapping device such as a Sediment Trap (SE-3) or Sediment Basin (SE-2) when either the dike channel or the drainage area above the dike are not adequately stabilized.

## EC-9 Earth Dikes and Drainage Swales

- Temporary stabilization may be achieved using seed and mulching for slopes less than 5% and either rip-rap or sod for slopes in excess of 5%. In either case, stabilization of the earth dike should be completed immediately after construction or prior to the first rain.
- If riprap is used to stabilize the channel formed along the toe of the dike, the following typical specifications apply:

Channel Grade	Riprap Stabilization
0.5-1.0%	4 in. Rock
1.1-2.0%	6 in. Rock
2.1-4.0%	8 in. Rock
4.1-5.0%	8 in. -12 in. Riprap

- The stone riprap, recycled concrete, etc. used for stabilization should be pressed into the soil with construction equipment.
- Filter cloth may be used to cover dikes in use for long periods.
- Construction activity on the earth dike should be kept to a minimum.

### ***Drainage Swales***

Drainage swales are only effective if they are properly installed. Swales are more effective than dikes because they tend to be more stable. The combination of a swale with a dike on the downhill side is the most cost effective diversion.

Standard engineering design criteria for small open channel and closed conveyance systems should be used (see the local drainage design manual). Unless local drainage design criteria state otherwise, drainage swales should be designed as follows:

- No more than 5 acres may drain to a temporary drainage swale.
- Place drainage swales above or below, not on, a cut or fill slope.
- Swale bottom width should be at least 2 ft
- Depth of the swale should be at least 18 in.
- Side slopes should be 2:1 or flatter.
- Drainage or swales should be laid at a grade of at least 1 percent, but not more than 15 percent.
- The swale must not be overtopped by the peak discharge from a 10-year storm, irrespective of the design criteria stated above.
- Remove all trees, stumps, obstructions, and other objectionable material from the swale when it is built.
- Compact any fill material along the path of the swale.

- Stabilize all swales immediately. Seed and mulch swales at a slope of less than 5 percent, and use rip-rap or sod for swales with a slope between 5 and 15 percent. For temporary swales, geotextiles and mats (EC-7) may provide immediate stabilization.
- Irrigation may be required to establish sufficient vegetation to prevent erosion.
- Do not operate construction vehicles across a swale unless a stabilized crossing is provided.
- Permanent drainage facilities must be designed by a professional engineer (see the local drainage design criteria for proper design).
- At a minimum, the drainage swale should conform to predevelopment drainage patterns and capacities.
- Construct the drainage swale with a positive grade to a stabilized outlet.
- Provide erosion protection or energy dissipation measures if the flow out of the drainage swale can reach an erosive velocity.

## Costs

- Cost ranges from \$15 to \$55 per ft for both earthwork and stabilization and depends on availability of material, site location, and access.
- Small dikes: \$2.50 - \$6.50/linear ft; Large dikes: \$2.50/yd<sup>3</sup>.
- The cost of a drainage swale increases with drainage area and slope. Typical swales for controlling internal erosion are inexpensive, as they are quickly formed during routine earthwork.

## Inspection and Maintenance

- Inspect BMPs prior to forecast rain, daily during extended rain events, after rain events, weekly during the rainy season, and at two-week intervals during the non-rainy season.
- Inspect BMPs subject to non-stormwater discharges daily while non-stormwater discharges occur.
- Inspect ditches and berms for washouts. Replace lost riprap, damaged linings or soil stabilizers as needed.
- Inspect channel linings, embankments, and beds of ditches and berms for erosion and accumulation of debris and sediment. Remove debris and sediment and repair linings and embankments as needed.
- Temporary conveyances should be completely removed as soon as the surrounding drainage area has been stabilized or at the completion of construction

## References

Erosion and Sediment Control Handbook, S.J. Goldman, K. Jackson, T.A. Bursetynsky, P.E., McGraw Hill Book Company, 1986.

## **EC-9 Earth Dikes and Drainage Swales**

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Manual of Standards of Erosion and Sediment Control Measures, Association of Bay Area Governments, May 1995.

National Association of Home Builders (NAHB). Stormwater Runoff & Nonpoint Source Pollution Control Guide for Builders and Developers. National Association of Home Builders, Washington, D.C., 1995

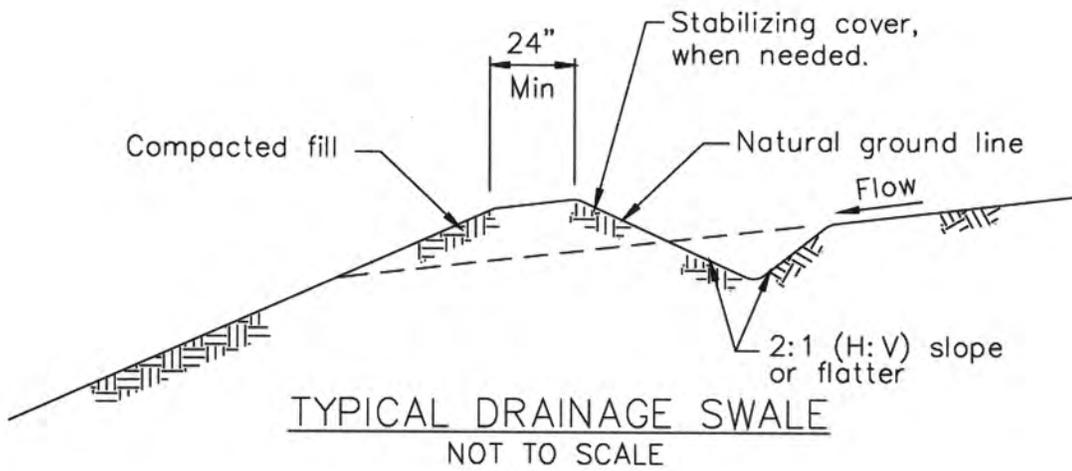
National Management Measures to Control Nonpoint Source Pollution from Urban Areas, United States Environmental Protection Agency, 2002.

Southeastern Wisconsin Regional Planning Commission (SWRPC). Costs of Urban Nonpoint Source Water Pollution Control Measures. Technical Report No. 31. Southeastern Wisconsin Regional Planning Commission, Waukesha, WI. 1991

Stormwater Quality Handbooks Construction Site Best Management Practices (BMPs) Manual, State of California Department of Transportation (Caltrans), November 2000.

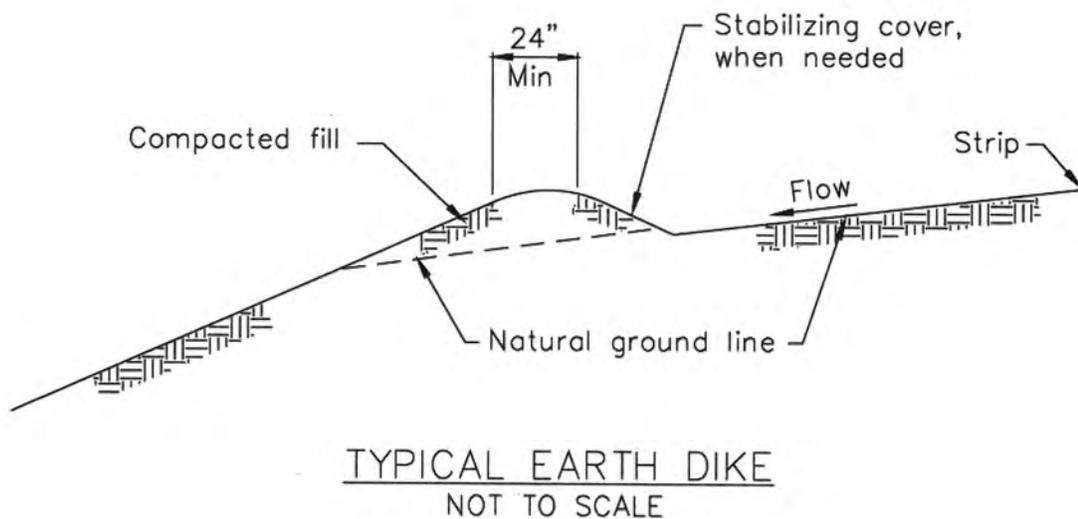
Stormwater Management of the Puget Sound Basin, Technical Manual, Publication #91-75, Washington State Department of Ecology, February 1992.

Water Quality Management Plan for the Lake Tahoe Region, Volume II, Handbook of Management Practices, Tahoe Regional Planning Agency, November 1988.



NOTES:

1. Stabilize inlet, outlets and slopes.
2. Properly compact the subgrade.



# Exhibit 21

Prosecution Team Evidence List Exhibits for:  
Rocklin Crossings



## **TECHNICAL MEMORANDUM ON SECRET RAVINE CREEK AND SPECIAL-STATUS FISH Public Draft Environmental Impact Report for the Rocklin Crossings Project**

The southeast corner of the Rocklin Crossings Project is located approximately 300 feet northwest of Secret Ravine Creek. Secret Ravine Creek, which is part of the Dry Creek Watershed, provides spawning and rearing habitat for the federally threatened Central Valley steelhead (*Oncorhynchus mykiss*) and spawning habitat for fall- and late fall-run Chinook salmon (*Oncorhynchus tshawytscha*), a federal candidate species and state species of special concern. Thus, uncontrolled soil erosion generated during project construction could indirectly affect fish habitat and benthic macroinvertebrates by degrading the water quality within Secret Ravine Creek. Urban pollutants generated from the site during ongoing operations could also potentially degrade water quality, if not properly controlled and treated.

In light of this possibility, a number of commenters have voiced concern regarding the project's effect on Secret Ravine Creek and the creek's salmon population. The following memorandum addresses those various comments in a comprehensive manner by providing information on special-status fish and habitat in the project area, as well as describing the potential impacts from the project and the effectiveness of the mitigation proposed to address such impacts. The response also addresses the analysis and conclusions of the following studies identified by the commenters: Ayres, et al. (2003), U.C. Santa Barbara, *Assessment of Stressors on Fall-Run Chinook Salmon in Secret Ravine*, Placer County, CA; and U.C. Berkeley, 2003, *A benthic macro invertebrate survey of Secret Ravine: the effects of urbanization on species diversity and abundance*.

Further, as discussed below, the project's runoff, erosion and subsequent sedimentation issues will be minimized or eliminated, through implementation of Mitigation Measures 4.10-2 and 4.10-3, which require the preparation of an erosion control plan and stormwater pollution prevention plan (SWPPP) and the installation of appropriate Best Management Practices (BMPs) for compliance with all the requirements of the City's Stormwater Runoff Pollution Control Ordinance (Title 8, Chapter 8.30 of the City Code) and the Grading and Erosion and Sedimentation Control Ordinance (Title 15, Chapter 15.28 of the City Code), which regulate stormwater and prohibit non-stormwater discharges except where regulated by an NPDES permit.

Site operations with the potential to degrade water quality in the long term would also be mitigated through Mitigation Measure 4.10-3, which requires the project applicant to identify additional stormwater runoff BMPs. Currently, stormwater runoff for the project is planned to be pre-treated by roadway catch-basin filters and continuous deflection system (CDS) units, and then routed to a detention basin. While the catchbasin filters and CDS units would function as the primary treatment BMPs, the detention basin would serve to further reduce pollutants in storm water through infiltration, biological uptake, and settling. The detention basin has been designed to function as a water quality basin in accordance with Guidance Document for Volume and Flow-based Sizing of Permanent Post-Construction Best Management Practices for Stormwater Quality Protection published by the Placer Regional Stormwater Coordination Group (PRSCG) (May 2005), and would serve to provide the preferred "treatment train" system. Such measures are designed to reduce the discharge pollutant concentrations to comply with existing water quality criteria and to minimize the potential for impacting Secret Ravine Creek, Central Valley steelhead and Critical Habitat, or Chinook salmon. Prior to issuance of a grading permit for the site, however, the BMPs shall be reviewed for adequacy by the City of Rocklin, Engineering Department to ensure that they will effectively remove pollutants from the site's stormwater runoff. At that time, if technologies as effective as, or more effective than, catch-basin filters or CDS units are available, they can be considered.



The mitigation proposed will prevent the project from contributing to the degradation of Secret Ravine Creek and the special-status fish that use the Creek. Moreover, as discussed below, it appears that, regardless of the existing or proposed uses of the project site, special-status fish populations in Secret Ravine Creek have already been declining in recent years. The reason for the recent decline in fall-run Chinook salmon stocks in Secret Ravine Creek is unclear, however. The decrease in the numbers of live Chinook salmon, carcasses, and redds observed in 2007 in the Dry Creek Watershed is similar to low numbers observed in other California streams. (A "redd" is a gravel-covered depression [or nest] in which salmon lay their eggs.) Thus, the decline appears to be a coast-wide phenomenon, and is likely related to ocean conditions (Pacific Fishery Management Council 2008) rather than causes local to Secret Ravine Creek.

Based on the positive results of presence/absence surveys conducted by CDFG in 2004 and 2005 and observations of juvenile salmonids in 2007 by ECORP biologists, however, successful spawning and rearing is still occurring even though the overall quality of the stream habitats within lower Secret Ravine Creek (i.e., within the general Project area) is currently relatively poor for anadromous fish. The results of habitat typing within the area of potential impact associated with the Rocklin Crossings project and the project's proposed detention basin indicate that limited spawning and rearing habitat is present for both Central Valley steelhead and Chinook salmon. The stream habitats in both Dry Creek and Secret Ravine Creek consist primarily of flatwater areas comprised of runs and shallow pools with very few riffles (ECORP 2007, 2008). Moreover, the small amount of riffle and pool tail-out habitat that occurs in lower Secret Ravine Creek is already degraded by an abundance of sand, resulting in embeddedness of cobble and gravel substrates.

The poor to moderate quality of the stream habitats in Secret Ravine Creek is also evidenced by the moderate benthic macro invertebrate (BMI) diversity noted within the above reaches of lower Secret Ravine Creek. Macroinvertebrates are an important food source for Chinook salmon and steelhead and are also good indicators of stream quality. While the "*A benthic macro invertebrate survey of Secret Ravine*" (U.C. Berkeley, 2003) study attributes the differences in BMI community structure between the upstream and downstream sites to impacts associated with urban runoff and nutrient loading in the vicinity of the downstream site, no information (water quality data or sources of impairment) was provided in the study to support this conclusion.

While habitat within Secret Ravine Creek may be currently of poor to moderate quality, the project will not contribute to any further degradation. With implementation of Mitigation Measures 4.10-2 and 4.10-3, the water entering Secret Ravine Creek would meet existing water quality criteria from the project area, and the project's potential impacts on Central Valley steelhead and designated Critical Habitat, and on Central Valley fall/late fall-run Chinook salmon, as well as BMIs, would be reduced to a less than significant level.

### **Background on Special-Status Fish Populations and Habitat in or around the Project Area**

Secret Ravine Creek, which is part of the Dry Creek Watershed, provides spawning and rearing habitat for the federally threatened Central Valley steelhead (*Oncorhynchus mykiss*) and spawning habitat for fall- and late fall-run Chinook salmon (*Oncorhynchus tshawytscha*), a federal candidate species and state species of special concern. In addition, the Dry Creek Watershed, including Secret Ravine Creek, is designated as Critical Habitat for steelhead trout. Central Valley steelhead and designated Critical Habitat are protected by law under the federal Endangered Species Act (ESA), as amended. Fall- and late fall-run Chinook salmon, however, have not been listed under either the federal or state ESAs, and as such, are not protected by these federal or state laws. Fall-run and late fall-run Chinook salmon, however, are designated by the National Marine Fisheries Service as "candidate" species, and by the California Department of Fish and Game as "species of special concern."

### ***Current Special-Status Fish Populations in Secret Ravine Creek***

Fisheries data for Secret Ravine Creek are available from the California Department of Fish and Game (CDFG), Region 2. Fish surveys conducted in Secret Ravine Creek by CDFG and others (Vanicek 1993b) documented the presence of 22 species, including eight native fishes. More recent surveys conducted by Garcia and Associates and CDFG in 1998 and 2002, respectively, documented the presence of the same general fish assemblage.

While current local population information for steelhead or Chinook salmon within the Dry Creek Watershed is not available, due to the lack of systematic or comprehensive surveys, data trends indicate that special-status fish populations in the Dry Creek Watershed, which includes Secret Ravine Creek, have been declining in recent years. The earliest surveys to evaluate salmon spawning activities in Secret Ravine Creek were conducted by CDFG in 1963, with subsequent surveys conducted in 1964-1966, 1968, and 1985. From 1998 through 2000, CDFG conducted additional surveys to determine the distribution of rearing steelhead and Chinook salmon, and to determine emigration timing of juvenile steelhead and salmon from both Secret and Miners Ravine creeks. Since 2000, the only surveys that have been conducted in Secret Ravine Creek are the one-day salmon counts performed annually (since 1997) by the Dry Creek Conservancy (DCC), and the presence/absence surveys conducted by CDFG in 2004 and 2005. The DCC surveys are similar to the earlier CDFG surveys (prior to 1998), which involved observations of live fish, carcasses, and redds to determine the run size and population estimates. The 2004-2005 CDFG surveys involved the use of electrofishing gear to determine presence/absence only. The 1998-2000 CDFG surveys also involved electrofishing but the data were collected within standard reach lengths to provide quantitative data for estimating the population.

From 1998 through 2000, CDFG conducted electrofishing and screw trapping in Dry Creek below the confluence with Miners and Secret Ravine creeks. Sampling results indicated that during all three years of monitoring, young-of-the-year steelhead, yearling, and older fish were present in both Miners and Secret Ravine Creeks (Bailey Environmental 2003).

In 2004 and 2005, CDFG conducted resource assessment surveys in the creek to determine presence/absence of Central Valley steelhead and Chinook salmon. As part of this assessment, CDFG electrofished interspersed sections of the creek from the headwaters, near Newcastle, downstream to just above the confluence with Miners Ravine Creek. The results of these surveys conducted in October and November 2004, and May 2005, are provided, by stream reach, in Table 8-1.

**Table 8-1. Surveys by Stream Reach**

Location	Fall 2004		Spring 2005	
	Steelhead	Chinook	Steelhead	Chinook
Upstream of Gilardi Road crossing	+	--	+	--
Buckeye Road off Penryn Rock Spring Road	+	--	+	--
China Mine Road crossing	+	--	+	--
L.D.S. Recreation Park at Penryn Road	+	--	+	+
Loomis Basin Park	--	--	+	+
Horseshoe Bar Road crossing	+	--	+	+
Behind Sierra College at Rocklin Road	--	--	--	+
Greenbrae Road	--	--	--	+
Upstream of East Roseville Parkway	--	--	--	+
Downstream of East Roseville Parkway	--	--	NA	NA
Upstream of confluence with Miners Ravine	--	--	NA	NA

+ - Observed within reach

-- - Not observed within reach

In addition to the information collected by CDFG since 2003, the DCC has conducted annual one-day salmon surveys for live fish, carcasses, and redds in Secret Ravine Creek (and in Miners Ravine, Antelope, Linda/Cirby, and Dry creeks). The surveys were conducted primarily by volunteers in November in 2003 and 2004, and in December from 2005 through 2007. These data are provided in the Table 8-2.

**Table 8-2. Annual One-Day Salmon Surveys**

Reach Location	Live Fish					Carcasses					Redds				
	2003	2004	2005	2006	2007	2003	2004	2005	2006	2007	2003	2004	2005	2006	2007
Confluence to East Roseville Parkway, Roseville	7	16	5	0	1	3	1	1	1	2	1	5	1	0	0
East Roseville Parkway to China Garden Rd., Rocklin	12	40	13	5	1	11	8	4	8	1	3	33	32	30	4
China Garden Rd. to Rocklin Rd., Rocklin	42	35	30	0	0	12	3	5	2	0	18	15	24	2	0
Rocklin Rd. to Sierra College Blvd., Rocklin	61	23	-	0	0	14	9	-	0	0	2	7	-	10	0
Sierra College Blvd. to Brace Rd., Loomis	22	40	15	0	0	8	12	2	0	0	7	5	4	0	0
Brace Rd. to Loomis Basin Park, Loomis	61	68	0	0	0	38	30	1	0	0	37	-	0	0	0
Loomis Basin Park, Loomis	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
<i>Totals</i>	<i>205</i>	<i>222</i>	<i>63</i>	<i>5</i>	<i>2</i>	<i>86</i>	<i>63</i>	<i>13</i>	<i>11</i>	<i>3</i>	<i>68</i>	<i>65</i>	<i>61</i>	<i>42</i>	<i>4</i>

Based on available information and observations by ECORP biologists in 2007, it appears that Central Valley steelhead and Chinook salmon are still successfully spawning (and rearing for steelhead) in Secret Ravine Creek. Since 2003, however, the numbers of fish have declined, especially in 2007.

The decrease in the numbers of live Chinook salmon, carcasses, and redds observed in 2007 in the Dry Creek Watershed, however, is similar to low numbers observed in other California streams. In 2007, a total of 87,966 natural and hatchery fall-run Chinook salmon adults were estimated to have returned to the Sacramento Basin to spawn. This number represents the second-lowest escapement estimate on record and was approximately 33% of the pre-season expectation of 265,500 returning adults. Table 8-4 presents the number of natural and hatchery adult fall-run Chinook salmon that returned to the Sacramento River Watershed (including the Dry Creek Watershed) to spawn from 2000 to 2007 (Pacific Fishery Management Council 2008). As is evident from the data, the annual variation in the numbers of fall-run Chinook salmon returning to spawn in California streams can be substantial from one year to the next.

**Table 8-4. Natural and Hatchery Adult Fall-Run Chinook Salmon that Returned to the Sacramento River Watershed**

Year	Upper River <sup>1</sup>			Lower River <sup>2</sup>			Totals		
	Hatchery	Natural <sup>3</sup>	Subtotal	Hatchery	Natural	Subtotal	Hatchery	Natural	Grand Total
2000	20,793	152,923	173,716	26,782	216,291	243,073	47,575	369,214	416,789

2001	23,710	130,440	154,150	33,689	358,217	391,906	57,399	488,657	546,056
2002	61,946	481,924	543,870	23,747	207,883	231,630	85,693	689,806	775,499
2003	82,708	184,802	247,510	25,490	248,636	274,126	108,198	413,438	521,636
2004	51,557	70,557	122,114	28,510	132,930	161,440	80,067	203,487	283,554
2005	142,135	96,716	238,851	41,166	113,990	155,156	183,301	210,706	394,007
2006	56,966	85,882	142,848	21,722	103,338	125,060	78,688	189,220	267,908
2007	11,558	32,854	44,412	9,681	33,873	43,554	21,239	66,727	87,966

<sup>1</sup> The Sacramento River and tributaries upstream of the Feather River

<sup>2</sup> The Sacramento River and tributaries downstream of the Feather River

<sup>3</sup> Fish spawning in natural areas are the result of natural and hatchery production

The reason for the recent decline in fall-run Chinook salmon stocks in Secret Ravine Creek, the Dry Creek Watershed and statewide is unclear. Both hatchery and naturally produced fish have been negatively affected, and returns of coastal stocks in Oregon, the Columbia River, and British Columbia were all low in 2007. In addition, only 2,000 jacks (immature fish that return to the rivers at age two) returned to Central Valley streams in 2007 relative to the long-term average of 40,000 fish, indicating that the number of returning adults in 2008 will probably also be low. This decline appears to be a coast-wide phenomenon, and is likely related to ocean conditions (Pacific Fishery Management Council 2008) rather than causes local to Secret Ravine Creek.

In addition to the recent low numbers of fish returning to the Dry Creek Watershed to spawn, barriers to fish passage occur within the Dry Creek Watershed that may contribute to this decline. These barriers include temporary beaver dams, seasonal flashboard dams, pipeline crossings, concrete dams, and natural falls. According to David Vanicek (1993), several man-made structures and natural barriers exist within the Dry Creek channel that could potentially restrict migration at low flows, especially the pipeline crossing at the Cirby Creek confluence near Riverside Drive in Roseville. However, recent modifications to the pipeline crossing have improved passage conditions. The absence of holding pools and the potential presence of barriers at low flows creates inadequate conditions for the upstream movement of adult salmon during the fall spawning run (Vanicek 1993). Even though anadromous (ocean-going) species routinely migrate into the watershed to spawn, full access to Secret Ravine and Miners Ravine creeks may not be possible during low flow periods.

Near the mouth of Secret Ravine Creek, an old pipeline crossing and concrete sill across the stream channel may be a complete barrier or impede passage during certain low flow conditions (Bailey Environmental 2003). In addition, low flows during the spawning migration, especially for fall-run Chinook salmon, have also been identified as a potential passage problem in Secret Ravine Creek (Dry Creek Conservancy 2001).

### ***Current Special-Status Fish Habitat in Secret Ravine Creek***

In general, spawning and rearing habitat for anadromous salmonids includes cold flowing water, suitable substrates, and readily available food sources. Both steelhead and Chinook salmon require gravel and cobble substrates with limited amounts of fine sediments (sand, silt, and clay) for spawning. Fry (a term used for a young salmon after it hatches from the egg), and older juveniles, require adequate instream cover (cobble or boulders, large woody debris, undercut banks, or submerged and overhanging vegetation) for protection from predators. In general, water temperatures of 15 °C (59 °F) or less are

necessary for successful incubation and hatching of eggs for both steelhead and Chinook salmon. Chinook salmon fry and juveniles can tolerate warmer water temperatures (up to approximately 20 °C (68 °F), while steelhead juveniles can tolerate temperatures up to 26 to 27° (79 to 81 °F).

The overall quality of the stream habitats within lower Secret Ravine Creek is relatively poor for anadromous fish and other species. Stream habitats in both Dry Creek and Secret Ravine Creek consist primarily of flatwater areas comprised of runs and shallow pools with very few riffles (ECORP 2007, 2008). Stream habitats within Secret Ravine Creek are generally of higher quality than those in Dry Creek, although fine sediments dominate substrates in both creeks. According to the results of an ecological risk assessment conducted by Ayres, et al. (2003), sediment in Secret Ravine Creek is the primary stressor to Chinook salmon, and is associated with two other stressors, stream flow and channel morphology. The risk assessment used two models (the Modified Relative Risk Model and the Stressor-Driven Risk Model) and available data to help understand and predict links between sources, stressors, and their resulting ecological effects. Even though both models identified sediment as the primary stressor in the creek, neither model was able to accurately account for the relative contributions that any particular stressor has on the system.

Furthermore, the presence of fine sediment in the lower reaches of Secret Ravine Creek would be expected, since the creek flows through an alluvial floodplain comprised primarily of small substrate. Surveys conducted in the upper portion of Dry Creek and in Miners Ravine and Secret Ravine creeks indicate that stream substrates are dominated by sand, silt, and clay (51% combined) (Vanicek 1993). In general, bank substrates within and downstream of the Project consist primarily of sand and small gravel, with a small percentage of large gravel, cobble, boulder, and bedrock. Stream cover for fish is generally sparse, and mostly limited to overhanging vegetation, which provides overhead cover for fish that is not available from other sources in the creek (i.e., boulders, undercut banks, downed woody debris, bubble and turbulent water cover, etc.). Based on the composition of the dominant streambed and bank substrates throughout much of lower reach, it is likely that the stream channel has always had relatively high levels of sand and gravel.

Other potential stressors on Chinook salmon include reduced fish access and toxicity. Toxicity issues associated with the presence of heavy metals may be a result of past mining operations within the drainage. Available water quality data for Secret Ravine Creek is limited to a few studies conducted by the DCC and the Central Valley Regional Water Quality Control Board (CVRWQCB). These data include a variety of parameters, although the information is not comprehensive or systematic. The DCC periodically conducts "first flush" and/or quarterly monitoring upstream of Rocklin Road and at the confluence with Miners Ravine Creek. Water quality data have shown that the nitrate to orthophosphate ratio for the creek varies from the recommended 10:1; however, the values were not excessive (Bailey Environmental 2003). From 2000 to 2002, the CVRWQCB collected monthly water quality samples from three locations within Secret Ravine Creek. Results of this effort, which included pesticide scans, indicated that pesticides were not a problem within the watershed; however, standards for cadmium, copper, and zinc were exceeded in at least one sample. In addition, pH values tended to fluctuate throughout the year, although adjacent watersheds and drainages also showed the same type of fluctuations (Bailey Environmental 2003).

Based on available temperature data for Secret Ravine Creek, conditions are generally suitable for both steelhead and salmon during the late fall, winter, and spring throughout most of the stream length. During the summer, water temperatures in the lower reaches of the creek (mostly downstream of Sierra College Boulevard) are normally too warm to support rearing of juvenile steelhead. According to CDFG (2006), suitable year-round rearing habitat for steelhead is present from at least Brace Road in Loomis, upstream to the headwaters. During the summer, high water temperatures and associated effects appear to be a limiting factor for steelhead rearing from approximately Sierra College downstream to the confluence with Miners Ravine Creek (CDFG 2006). However, from late fall through spring, lower water temperatures allow salmonids to use the lower reaches for rearing.

Thus, in general, due to the scarcity of suitable riffles and pool tail-outs, spawning and rearing habitat for Central Valley steelhead and Chinook salmon is generally sparse within the Dry Creek Watershed (including Secret Ravine Creek). Moreover, the small amount of riffle and pool tail-out habitat that occurs in lower Secret Ravine Creek (i.e., within the general Project area) is already degraded by an abundance of sand, resulting in embeddedness of cobble and gravel substrates.

### ***2007 Secret Ravine Creek Special-Status Fish Habitat Assessment (Habitat Typing)***

In the fall of 2007, ECORP Consulting fisheries biologists conducted a field-based fish habitat assessment (or habitat/species evaluation) for special-status fish occurring in Secret Ravine Creek within and adjacent to the Project area. Above Sierra College Boulevard, the Secret Ravine Creek channel is generally stable with abundant streamside vegetation and very few areas with active erosion. Most of this lower portion of Secret Ravine Creek flows through an alluvial floodplain comprised primarily of small substrates.

The assessment included approximately 2,903 linear feet of creek upstream of the proposed detention basin discharge point (upstream reach), and about 1,665 feet from the discharge point downstream to the Sierra College Boulevard Bridge (downstream reach) (Figure 1). These reaches were selected to evaluate potential effects of the detention basin discharge on downstream habitats and Central Valley steelhead. In general, bank substrates both upstream and downstream of the proposed detention basin discharge point consist primarily of sand and gravel, with a small percentage of boulder and bedrock. The Valley-foothill riparian corridor within these reaches ranges from poorly to relatively well developed, providing moderate bank stability. During stream habitat typing, a total of 70 separate habitats (i.e., discrete and distinct types of habitats, such as runs, riffles, or pools) were recorded within the 2,903 feet upstream reach; and a total of 48 separate habitats were recorded within the 1,665 foot downstream reach.

#### *Findings of Habitat Typing in the Upstream Reach*

With the exception of a short bedrock cascade, the Secret Ravine Creek channel upstream of the detention basin discharge point (upstream reach) is generally low gradient (<2% slope) and moderately incised, consisting primarily of earthen banks with interspersed areas of bedrock and large boulder. The average wetted width of the stream channel was 14.2 feet, and the average depth was about 1.3 feet. In-stream habitats were dominated by runs and step-runs (~65%), followed by glides (~15%) and pools (~16%). The remaining stream habitats included riffles (~2%) and cascades (<2%). Substrate composition within the upstream reach was generally similar to that recorded for the downstream reach, although the percentage of fine sediment (silt and sand) was higher than in the downstream reach due to a higher percentage of pool and glide habitat within the upstream reach. Fine sediment comprised 68% of the substrate within the upstream reach (~61% sand and 7% silt). Gravel comprised about 9% of the substrate (~5.0% fine and 4% coarse), while cobble was sparse, averaging approximately 3%. Boulders and bedrock comprised approximately 19% of the substrate (10% and 9%, respectively). Canopy cover varied from 0 to 100%, with an average of ~23%. Instream cover for fish was generally limited (averaging about 22%) and varied with habitat type. Available cover consisted primarily of overhanging vegetation, object cover, water turbulence and depth, and undercut banks.

Within the upstream reach, the limited spawning and rearing habitat with suitable substrates, sparse cover for fish, and generally meager canopy provides only marginal habitat value for anadromous salmonids (trout and salmon).

#### *Findings of Habitat Typing in the Downstream Reach*

The Secret Ravine Creek channel from the proposed detention basin discharge point downstream to the Sierra College Boulevard Bridge (downstream reach) is generally low gradient (<2% slope) and

moderately incised, consisting primarily of earthen banks with interspersed areas of bedrock and large boulder. The average wetted width of the stream channel was 15.7 feet, and the average depth was 0.9 feet. In-stream habitats within this 1,665 foot reach were dominated by runs and step-runs (~42%), followed by glides (23%) and low gradient riffles (~18%). The remaining stream habitats include pools (~14%) and high gradient riffles (~3%). Substrate composition within this reach was generally similar to that recorded for the upstream reach, although the percentage of fine sediment (silt and sand) was somewhat lower than in the upstream reach. Fine sediment comprised 63% of the substrate within the downstream reach (~57% sand and 6% silt). Gravel comprised approximately 14% of the substrate (13% fine and 1.0% coarse), while cobble was relatively sparse, averaging about 4%. Boulders and bedrock comprised 7% and 5% of the substrate, respectively, within this reach. Canopy cover varied from 0 to 100%, with an average of ~39%. Instream cover for fish was generally low to moderate, averaging about 27%. Available cover varied with habitat type, and consisted primarily of overhanging vegetation, object cover, water turbulence and depth, and undercut banks.

Within the downstream reach, riffle habitat and pool tail-outs with suitable substrates for spawning and rearing are more common, cover for fish is slightly higher, and the canopy is denser than in the upstream reach, providing moderate habitat value for anadromous salmonids (trout and salmon).

#### *Findings of Habitat Typing in the Upstream and Downstream Reaches Combined*

The two reaches combined total 4,568 feet in length and contain 118 separate habitats. Within the two reaches, run and glide habitats comprise about 75% of the total linear distance. These habitat types are common in most "Valley" streams that flow through predominantly low gradient earthen channels. Sand was the dominant substrate observed, averaging nearly 60% within the combined reaches. As a result, embeddedness of gravel, cobble, and boulder substrates was common throughout both reaches. In general, embeddedness estimates averaged 25 to 50% in most rocky areas, although some areas exceeded 50%.

Channel widths in run and glide habitats averaged 15.1 feet. Maximum depths in these two habitat types averaged 1.6 feet with average depths of 0.9 feet. Run and glide habitat had relatively high percentages of sand and silt (averaging 72% of the total substrate) with relatively small amounts of gravel (9% total; 6% fine and 2% coarse), boulder (6%), bedrock (4%), and cobble (2%). Canopy cover in run and glide habitats ranged from 0 to 80%, with an average of 21%. Average canopy cover was greater in the upstream reach (30%) with lower average values (24%) in the downstream reach. Instream cover for fish, which consists primarily of overhanging vegetation, object cover, and water turbulence or depth, was relatively low, averaging between 15 and 20%.

Pools comprised approximately 18% of the stream habitats within the two reaches. Main channel pools were the most abundant pool type (comprising 47% of the pool habitat) and were generally the widest areas of the creek, averaging slightly less than 5.5 meters (18 feet) in width. Other pool habitats present within the reach included lateral scour pools, backwater pools, secondary channel pools, and a single trench pool. These additional pool types accounted for the remaining 53% of the total pool habitat. Due to the abundance of fine sediments (sand and silt), pool depths were generally shallow. The maximum depth recorded in a single pool was 4.4 feet. Main channel and corner pools combined had an average maximum depth of 2.0 feet and an average depth of 1.5 feet. As expected, pools had relatively high percentages of silt and sand, averaging 69% of the total substrate. The remainder of the substrate consisted of approximately 7% gravel, 9% boulder, and 10% bedrock. Canopy cover for pool habitats ranged from 0 to 90% with an average of 28%. Instream cover for fish was generally low to moderate, averaging about 25%. Available cover observed consisted primarily of object cover, overhanging vegetation, and water depth.

Overall, riffle habitats were sparse, comprising less than 3% of the habitats within the two reaches combined. The limited amount of riffle habitat appeared to be associated with a general lack of rocky



substrates combined with a low gradient stream profile. A total of 14 short riffles were recorded within the two reaches combined (12 low gradient and two high gradient). The riffles averaged slightly less than 13.1 feet in width, with average maximum depths of 1.3 feet and average depths of 0.8 feet. Substrate composition within riffle habitats consisted of a mixture of sand (28%), similar amounts of fine and coarse gravel (14% and 13% respectively; totaling 27%), cobble (16%), and boulder (25%) with a small amount of bedrock (4%). Canopy cover in riffle habitats averaged 34%, with a range of 0 to 70%. Instream cover for fish was moderate to good (46%), consisting of object cover, overhanging vegetation, and water turbulence.

During habitat mapping, surveyors observed downstream movement of sand throughout both reaches, even though flows were relatively low. This continual sand movement reduces the potential for rooted aquatic vegetation to become well established within the stream channel, and is likely responsible for the embeddedness of cobble and gravel substrates.

*Fish Observations during Habitat Typing*

Due to the presence of anadromous salmonids within Secret Ravine Creek, fisheries sampling is not authorized by the National Marine Fisheries Service (NMFS) as part of habitat assessments. However, fish were occasionally observed during habitat typing performed by ECORP in 2007. Fish observed included native Sacramento pikeminnow (*Ptychocheilus grandis*) and steelhead trout (*Oncorhynchus mykiss*), and several introduced species, including largemouth bass (*Micropterus salmoides*), green sunfish (*Lepomis cyanellus*), bluegill (*L. macrochirus*), and mosquitofish (*Gambusia affinis*). During the assessments, a few steelhead fingerlings were observed in the fall upstream of Sierra College Boulevard, and one dead Chinook salmon fingerling (impaled on a branch in the stream) was observed in the spring just downstream of China Garden Road.

*Water Quality Sampling Results Collected during Habitat Typing*

Water quality parameters recorded in Secret Ravine Creek during each site visit included water temperature, conductivity, total dissolved solids, salinity, dissolved oxygen, and pH. Table 8-3 provides water quality values that were recorded during habitat typing for the Rocklin Crossings Project on 8, 9, and 11 October 2007 and in the reach downstream of China Garden Road for another project on 7 May 2007. Values obtained for temperature and dissolved oxygen met the water quality standards for cold freshwater habitat as stipulated in the Basin Plan (State Water Resources Control Board), and was within the acceptable range for salmonid rearing (Moyle 2002). Values for the remaining parameters were within the normal range for foothill streams in this region. Stream flow was measured at 12.0 cubic feet per second (cfs) on 7 May 2007, at 8.2 cfs on 8 October 2007; and at 10 cfs on 9 and 11 October.

**Table 8-3. Water Quality Values Recorded During Habitat Typing**

Date	Water Temperature (°C)	Water Conductivity (ms/cm)	Total Dissolved Solids	Turbidity (NTU)	Salinity (ppt)	Dissolved Oxygen mg/L (%)	pH
7 May 2007	17.1	144	--	2.1	0.0	9.5 (109)	7.7
8 October 2007	15.1	134	0.11	--	0.1	13.5 (134)	7.9
9 October 2007	15.4	117	0.09	--	0.1	12.3 (123)	7.8
11 October 2007	15.5	142	0.11	--	0.1	12.0 (121)	7.9

**Conclusions Regarding Special-Status Fish Populations Based on Results of Habitat Typing**

In general, results of habitat typing within the area of potential impact associated with the Rocklin Crossings project and the proposed detention basin indicate that limited spawning and rearing habitat is present for both Central Valley steelhead and Chinook salmon within the two surveyed reaches. Additionally, based on available information and observations by ECORP biologists, it appears that Central Valley steelhead and Chinook salmon are still successfully spawning (and rearing for steelhead) in Secret Ravine Creek, although, as discussed above, since 2003 the numbers have declined, especially in 2007.

### **Status of Benthic Macroinvertebrates in Secret Ravine Creek**

Benthic macroinvertebrates (BMIs) are animals without backbones that live on the bottom of streams during all or part of their life cycle. Macroinvertebrates are an important food source for Chinook salmon and steelhead, which spawn in Dry Creek. In addition, differences in BMI populations can indicate perturbations such as pollution. Aquatic macroinvertebrates are also good indicators of stream quality because they have limited migration patterns and cannot escape pollution, so they show cumulative impacts of pollution as well as impacts of habitat loss not detected by traditional water quality assessments (de Barruel 2003).

In general, stream habitat characteristics required by salmonids for spawning and rearing also provide optimal conditions for BMI communities. These characteristics include cool flowing water with high dissolved oxygen levels, and abundant gravel and cobble substrates with limited amounts of fine sediments (sand, silt, and clay).

Sediment (especially fines) within stream courses can degrade habitat for BMI assemblages by eliminating interstitial spaces between substrate that serve as habitat for aquatic invertebrates. Stream habitats in both Dry Creek and Secret Ravine Creek consist primarily of flatwater areas comprised of runs and shallow pools with very few riffles (ECORP 2007, 2008). Based on surveys conducted in the upper portion of Dry Creek and in Miners Ravine and Secret Ravine Creeks, stream substrates were dominated by sand, silt, and clay (51% combined) (Vanicek 1993). Sand also appears to be the dominant substrate type in lower Secret Ravine Creek downstream of the Horseshoe Bar Road Bridge (personal observations by ECORP fisheries biologists 2007 and 2008). As a result, BMI populations within the lower portion of Secret Ravine Creek would be expected to have moderate Taxa Richness (20 to 40 species). Taxa Richness is the total number of different types of animals in the sample; greater taxa richness generally indicates greater habitat quality. Streams with higher percentages of more favorable substrates of gravel and cobble (which is more typical for salmonid streams) would be expected to have high Taxa Richness (50 to 70 species).

Very little BMI data have been collected in Secret Ravine Creek. The most recent study available was conducted in 2003 through the University of California, Berkeley by de Barruel and West (2003). In addition, the DCC conducted limited BMI sampling in 2000 and 2001 (Bailey Environmental 2003), and Wayne Fields collected samples at several locations in 1999 (Fields 1999). Sampling efforts in 2003, 2001, and 1999 were conducted at two general locations on Secret Ravine Creek: an upper site behind Sierra College, and a lower site above the confluence with Miners Ravine Creek. The locations of the 2000 sampling sites are not available. Wayne Fields collected samples at these two sites and at several additional sites including the Horseshoe Bar Road area, near the west end of China Garden Road, downstream of Dominguez Road, and Loomis Basin Park.

Data obtained in September by Fields (1999) showed the same general trends in BMI populations at each stream location sampled. Abundance (an estimate of the total number of organisms in a sample based on the proportion of organisms counted in the subsample) was slightly higher at the downstream sites, with similar diversity (Taxa Richness) at all locations. Analysis of the data indicated that BMI species composition and population levels were not significantly different at five of the six sampling sites located between the mouth of Secret Ravine Creek and Loomis Basin Park (approximately 5.7 miles upstream of the confluence with Miners Ravine Creek).

Results of sampling conducted by the DCC from 2000 through 2004 generally showed the same trends as Fields (1999) with the greatest Abundance at the downstream site and similar diversity (Taxa Richness) at both sites. The number of tolerant taxa was also similar between the two sites, and the number of sensitive taxa was only slightly higher at the upstream site relative to the downstream site. Percent Chironomidae (midge larvae) was usually slightly higher at the downstream site than at the upstream site; though, midge larvae comprised a relatively large proportion of the samples at both sites.

Data collected by de Barruel and West (2003) also showed that Abundance was greatest at the downstream site and diversity (Taxa Richness) was generally similar at both locations. The number of sensitive taxa was consistently higher at the upstream site relative to the downstream site, which indicates improved stream habitat conditions for BMIs at the upstream site relative to the downstream site. The percent error for these data, however, was relatively high and overlapped at both sites, indicating that these metrics showed high variability between samples. Percent Chironomidae (midge larvae) comprised a large proportion of the BMI population at the downstream site, but were not present at the upstream site. Large numbers of midges generally indicate poorer water quality conditions; they are very tolerant to a wide variety of conditions. But they occur virtually everywhere in varying numbers and diversity. The lack of midge larvae at the upstream site is highly unusual, since midge larvae are usually ubiquitous (in varying densities) in all flowing water systems.

The results of the above studies indicates that BMI communities within the lower reaches of Secret Ravine Creek (downstream of Loomis Park) are generally similar and that stream conditions (including water quality) and species diversity (which is in the moderate range) do not vary significantly throughout most of lower Secret Ravine Creek.

Due to the limited amount of sampling conducted as part of the de Barruel study, differences in habitat characteristics at sampling locations, and the high variability observed for BMI metrics between samples, it is not possible to use the results of this study to determine if BMI populations at the two sites have been negatively affected by urban development. Many of the conclusions provided in this report lack necessary supporting documentation or are based on insufficient data. The report attributes the differences in BMI community structure between the upstream and downstream sites to impacts associated with urban runoff and nutrient loading in the vicinity of the downstream site, yet no information (water quality data or sources of impairment) was provided to support this conclusion. Thus, while the authors conclude that the BMI population at the downstream site has been negatively affected by urban development, they fail to provide either any information regarding which development areas or potential sources of degradation are present within the lower reach that are affecting the site, or water quality results that indicate polluted conditions. Additionally, the study only addresses a single sampling effort conducted during one year and does not evaluate the natural variation typical of BMI communities.

Furthermore, the data collected in the above studies cannot be compared due to different sampling methods, different sampling locations and habitat characteristics, and potentially different sample collection times (sampling dates were only provided for one study). Thus, caution must be used when interpreting the limited and discontinuous data available for the creek, as these studies only represent BMI population data for specific points in time (which may not reflect average conditions) at varying site locations, and do not address overall variability within the system. Since BMI communities are typically highly variable and are influenced by a multitude of physical habitat characteristics and water quality parameters, even slight variations in habitat can have significant effects on the benthic community. Some of the more important habitat characteristics include: elevation; stream gradient, width, and aspect; substrate composition and distribution; water depth, velocity, temperature, turbidity, presence of toxicants, and other water quality issues; amount and type of streamside vegetation; and percent canopy cover. In addition, BMI communities can vary annually depending on the time of year that sampling is conducted (i.e., organisms present in the spring may be reduced or absent in the summer or fall), the

amount and timing of rainfall, water and air temperatures, and other environmental factors. None of these factors are fully addressed or accounted for in the studies.

Differences in rainfall amounts and timing can directly affect the magnitude and duration of local stream flows and corresponding water velocities, which can affect BMI community abundance and composition metrics. Wetter years with high spring outflows can mobilize and re-distribute substantial amounts of substrate within the stream channel, and create localized scour. BMI community responses to these types of disturbances usually include lower organism diversity and abundance for a period following these events. Hynes (1970) and other investigators have observed that periods of high water reduce invertebrate fauna and associated food resources (i.e., algae and periphyton) in streams.

Therefore, to adequately describe and evaluate the health of stream BMI communities requires several consecutive years of sampling at specific locations to document and quantify annual variation and trends in community structure and population dynamics. The samples need to be collected during the same general time period each year using the same methodology. At the current time, these data are not available for Secret Ravine Creek.

Based on anecdotal evidence (the presence of high water marks and deposition of organic material along the creek), Secret Ravine Creek is a flashy system during the wet season with periodic high winter/spring flows. During the summer and fall, stream flows are typically low, but consistent. Streams that experience these types of annual flow regimes tend to have BMI communities with patchy distributions associated with key habitat characteristics that include stream gradient and channel morphology, water depth and velocity, substrate composition including fines, and food availability. The high variability and patchiness of benthic macroinvertebrate communities has been well documented in the literature (Hynes 1970, Lake 2000).

#### ***Conclusions Regarding Status of Benthic Macroinvertebrates in Secret Ravine Creek Based on Habitat Typing Results***

Observations made in the spring and fall of 2007 by ECORP during stream habitat typing associated with the Rocklin Crossings project indicate that benthic habitats do not appear to currently support a robust BMI community structure. The moderate BMI diversity noted within the above reaches of lower Secret Ravine Creek is likely due to a combination of factors, including a general absence of riffle habitat; the presence of abundant fine sediments; the general lack of gravel and cobble substrates; and relatively high embeddedness that reduces the interstitial spaces between gravel and cobble substrates for BMIs.

In general, the differences in BMI communities observed at the site behind Sierra College and above the confluence with Miners Ravine Creek are typical of the lower reaches of small streams that flow out of the Sierra foothills. The BMI population at the downstream site is typical of the lowest reaches (Valley floor) of many of these small streams where habitat characteristics and water quality conditions are usually more stressful than at upstream locations. Downstream of China Garden Road, the stream channel becomes lower gradient and wider, the riparian corridor is less well developed than in upstream areas, and water temperatures are warmer due to increased exposure. In addition, differences in microhabitat are also present between the upstream and downstream sites which affect BMI use of the habitat.

#### ***Potential Effects of the Project on Secret Ravine Creek***

The southeast corner of the Rocklin Crossings Project is located approximately 300 feet northwest of Secret Ravine Creek. While it appears that the numbers of Chinook salmon in the Creek have declined in recent years, they are still successfully spawning and rearing in the Creek. The results of habitat typing indicate that limited spawning and rearing habitat is present for both Central Valley steelhead and Chinook salmon within the vicinity of the Rocklin Crossings project area. Additionally, the habitat typing

study indicates that benthic habitats do not appear to currently support a robust BMI community structure in the vicinity of or downstream of the Rocklin Crossings project area.

The abundance of fine sediment has been identified by CDFG, the DCC, Vanicek (1993), Ayres, et al. (2003), and others as a major issue relative to spawning and rearing habitat for both Central Valley steelhead and Chinook salmon in the lower reaches of the creek. Ayres, et al. (2003) attributed increased sedimentation in Secret Ravine Creek to the presence of impervious surfaces and off-highway vehicle use. Most of the existing impervious surfaces within close proximity to the creek, however, are associated with Interstate 80, single family residences that occur along much of the stream channel, and residential roads that cross the creek, not the proposed project site. In general, small to large amounts of impervious surfaces are already present along portions of Secret Ravine Creek.

Since the majority of the creek flows through private property, most of the off-highway vehicle use has occurred in the lower reaches below Sierra College Boulevard, especially between China Garden Road and the confluence with Miners Ravine Creek, where public access is readily available. Avoidance and protection measures to be implemented along Secret Ravine Creek as part of the proposed Vista Oaks Development (located immediately downstream of the end of China Garden Road) should eliminate off-highway vehicle use in this area and allow for stabilization of the stream banks. Elimination of this major source of stream bank erosion and fine sediment should reduce the overall amount of sediment in the lower reaches of the creek.

Uncontrolled soil erosion generated during project construction could indirectly affect fish habitat and benthic macroinvertebrates by degrading the water quality within Secret Ravine Creek. Urban pollutants generated from the site during ongoing operations could also potentially degrade water quality, if not properly controlled and treated. Given the project's location and the mitigation measures discussed below and in the EIR, it is unlikely the project would significantly affect either Critical Habitat or special-status fish species.

The project's runoff, erosion and subsequent sedimentation issues will be minimized or eliminated, through implementation of Mitigation Measures 4.10-2 and 4.10-3, which require the preparation of an erosion control plan and stormwater pollution prevention plan (SWPPP) and the installation of appropriate Best Management Practices (BMPs) for compliance with all the requirements of the City's Stormwater Runoff Pollution Control Ordinance (Title 8, Chapter 8.30 of the City Code) and the Grading and Erosion and Sedimentation Control Ordinance (Title 15, Chapter 15.28 of the City Code), which regulate stormwater and prohibit non-stormwater discharges except where regulated by an NPDES permit.

The BMPs proposed to be implemented during construction include: the use of soil stabilizers, fiber rolls, inlet filters, and gravel bags to prevent pollutants from being carried off-site in stormwater generated on the project site. The erosion control plan will ensure that proper control of siltation, sedimentation, and other pollutants will be implemented per the National Pollution Discharge Elimination System (NPDES) permit requirements and County ordinance standards. Debris, soil, silt, sand, bark, slash, sawdust, cement, concrete, washings, petroleum products or other organic or earthen material will not be allowed to enter into or be placed where it may be washed by rainfall or runoff into Secret Ravine Creek. Furthermore, the SWPPP will specify the pollutants that are likely to be used during construction and that could be present in stormwater drainage and non-stormwater discharges; and to ensure the BMPs are effective, a sampling and monitoring program will be included in the SWPPP that meets the requirements of SWRCB Order 99-08-DWQ. (Mitigation Measures 4.10-2c.)

Site operations with the potential to degrade water quality in the long term would also be mitigated through Mitigation Measure 4.10-3, which requires the project applicant to identify additional storm water runoff BMPs. Currently, stormwater runoff from the project is planned to be pre-treated through roadway catchbasin filters and continuous deflection system (CDS) units, and will then be routed to a detention basin. While the catchbasin filters and CDS units would function as the primary treatment BMPs, the

detention basin would serve to further reduce pollutants in stormwater through infiltration, biological uptake, and settling. The detention basin has been designed to function as a water quality basin in accordance with Guidance Document for Volume and Flow-based Sizing of Permanent Post-Construction Best Management Practices for Stormwater Quality Protection published by the Placer Regional Stormwater Coordination Group (PRSCG) (May 2005), and would serve to provide the preferred "treatment train" system. The detention basin has been designed to serve a dual use; attenuate peak post project flows and accommodate the water quality volume.

ECORP estimated post-project pollutant concentrations for a design that incorporates both CDS units/catchbasin filters and a water quality basin (Table 15-4). Pollutant concentrations are estimated to occur below established limits, for all evaluated pollutants that have associated limits.

**Table 15-4. Rocklin Crossing Estimated Pollutant Concentrations**

Constituent of Concern	Units	Secret Ravine Baseline Concentration	Typical* Commercial Concentration	Pre-treatment BMP** Removal (%)	Basin*** Removal (%)	Project w/pre-treatment BMPs and Basin	Criteria
Oil and Grease	mg/L	0.00	6.94	33.00	30.30	3.24	Not Available
Total Suspended Solids	mg/L	54.40	84.00	27.00	54.00	28.21	Not Available
Total Dissolved Solids	mg/L	108.90	38.74	15.30	-12.80	37.01	450 <sup>a</sup>
Total Organic Carbon	mg/L	10.40	11.84	0.00	22.20	9.21	Not Available
Nitrate	mg/L	1.70	1.21	41.00	35.40	0.46	10 <sup>b</sup>
Nitrite	mg/L	0.00	1.21	41.00	35.40	0.46	1.0 <sup>b</sup>
Zinc (Total)	ug/L	0.00	197.20	47.00	58.50	43.37	43-78 <sup>c</sup>

\* City of Stockton Water Quality Monitoring Program (HSI Hydrologic Systems, 2002 – River Island EIR)

\*\* Currently proposed: catchbasin filters and CDS Units. Removal rates based on those for hydrodynamic separators: USEPA NPDES Stormwater BMPs Database (updated 6/2003)

\*\*\* Based on those for dry pond USEPA NPDES Stormwater BMPs Database (updated 6/2003)

a. Water Quality Limit for Agriculture (Ayers & Westcot)

b. Maximum Contaminant Level Allowed in Drinking Water, Regional Water Quality Control Board Basin Plan

c. Assumed hardness of 30-60 mg/L, calcium carbonate

The Water Quality Control Plan (Basin Plan) for the California Regional Water Quality Control Board Central Valley Region identifies narrative criteria for oil and grease. Numerical criteria are not identified; however, the Regional Board has imposed, by order, discharger-specific limits ranging from 10-20 mg/L. The estimated project discharge concentration falls below this limit.

The project's proposed detention basin would serve to mitigate for downstream impacts related to flow modification. Design of the project detention basin to serve a dual detention/water quality function, and thus would serve to minimize the discharge of pollutants from the project site. With the incorporation of a water quality basin ensuring that the estimated pollutant concentrations (for evaluated pollutants) would comply with existing water quality criteria.

Following discharge from the detention basin, the stormwater would flow through an existing grassy swale for approximately 300 feet before entering Secret Ravine Creek. Such measures are designed to reduce the discharge pollutant concentrations to comply with existing water quality criteria and to minimize the potential for impacting Secret Ravine Creek, Central Valley steelhead and Critical Habitat, or Chinook salmon. Prior to issuance of a grading permit for the site, however, the BMPs shall be reviewed for adequacy by the City of Rocklin, Engineering Department to ensure that they will effectively remove

pollutants from the site's stormwater runoff. At that time, if technologies as effective as, or more effective than, catch-basin filters or CDS units are available, they can be considered.

Thus, with implementation of Mitigation Measures 4.10-2, 4.10-3, the quality of the water entering Secret Ravine Creek would not be degraded, and the project's potential impacts on Central Valley steelhead and designated Critical Habitat, and on Central Valley fall/late fall-run Chinook salmon, as well as BMIs, would be reduced to a less than significant level. Even so, the language of Mitigation Measures 4.10-2, 4.10-3, and 4.12-11 could be improved upon in order to further allay concerns about potential effects on fish. As modified the Measures would read as follows:

**Mitigation Measure 4.10-2 Potential for Short-Term Construction-Related Water Quality Degradation**

- a. The project applicant shall demonstrate compliance, through its erosion control plan and SWPPP, with all requirements of the City's Stormwater Runoff Pollution Control Ordinance (Title 8, Chapter 8.30 of the City Code) and the Grading and Erosion and Sedimentation Control Ordinance (Title 15, Chapter 15.28 of the City Code), which regulate stormwater and prohibit non-stormwater discharges except where regulated by an NPDES permit. This includes preparing erosion, sediment, and pollution control plans for the entire construction site. The project's grading plans shall be approved by the City of Rocklin, Engineering Department prior to the initiation of site grading activities. The project applicant shall implement measures including the use of soil stabilizers, fiber rolls, inlet filters, and gravel bags to prevent pollutants from being carried off-site in stormwater generated on the project site. These measures shall be designed to accommodate stormwater discharges associated with proposed measures that would be implemented to control on-site dust generation (e.g., wheel washing, active watering).
- b. Prior to the issuance of a grading permit or any construction activity, the project applicant shall obtain from the Central Valley RWQCB the appropriate regulatory approvals for project construction including a Section 401 water quality certification, ~~and an NPDES stormwater permit for general construction activity, including construction dewatering activities.~~
- c. As required under the NPDES stormwater permit for general construction activity, the project applicant shall prepare and submit the appropriate Notice of Intent and prepare the SWPPP and the erosion control plan for pollution prevention and control prior to initiating site construction activities. The SWPPP shall identify and specify the use of erosion sediment control BMPs, means of waste disposal, implementation of approved local plans, nonstormwater management controls, and inspection and maintenance responsibilities. The SWPPP shall also specify the pollutants that are likely to be used during construction and that could be present in stormwater drainage and nonstormwater discharges. A sampling and monitoring program shall be included in the SWPPP that meets the requirements of SWRCB Order 99-08-DWQ to ensure the BMPs are effective.
- d. Construction techniques shall be identified that would reduce the potential runoff and the SWPPP shall identify the erosion and sedimentation control measures to be implemented. The SWPPP shall also specify spill prevention and contingency measures, identify the types of materials used for equipment operation, and identify measures to prevent or clean up spills of hazardous materials used for equipment operation and hazardous waste. Emergency procedures for responding to spills shall also be identified. BMPs identified in the SWPPP shall be used in subsequent site

development activities. The SWPPP shall identify personnel training requirements and procedures that would be used to ensure that workers are aware of permit requirements and proper installation and performance inspection methods for BMPs specified in the SWPPP. The SWPPP shall also identify the appropriate personnel responsible for supervisory duties related to implementation of the SWPPP. All construction contractors shall retain a copy of the approved SWPPP on the construction site.

### **Level of Significance After Mitigation**

With implementation of the above mitigation measures, erosion from site soils would be minimized and pollutants would be largely captured on the site. Also, the implementation of identified spill prevention and cleanup plans would limit the potential for hazardous material spills to adversely affect storm water quality. Therefore, the project's construction-related water quality impacts would be reduced to a less-than- significant level.

### **Mitigation Measure 4.10-3 Potential Long-Term Degradation of Water Quality**

Before issuance of a grading permit for the site, the project applicant shall ~~obtain from the Central Valley RWQCB a general NPDES permit~~ submit a Notice of Intent to comply with the NPDES General Permit for Construction Related Activities and shall comply with all of the permit requirements in order to minimize storm water discharges associated with site operations. In addition, the project applicant shall prepare a SWPPP and implement Best Management Practices designed to minimize sedimentation and release of products used during site operations.

Before approval of the final project design, the project applicant shall identify storm water runoff BMPs selected from the Storm Water Quality Task Force's California Storm Water Best Management Practices Handbook (American Public Works Association 1993), the Bay Area Stormwater Management Agencies Association's (1999) Start at the Source: Design Guidance Manual for Stormwater Quality Protection, or similar documents. The applicant shall adopt a "treatment train" stormwater quality program in which stormwater is subject to more than one type of BMP. Source control BMPs shall constitute the first-step BMPs and shall include, but would not be limited to, administrative controls such as signage at inlets to prevent illicit discharges into storm drains, parking lot and other pavement area sweeping, public education, and hazardous waste management and disposal programs. Second-step BMPs may include underground hydrodynamic separators or catch basin filters, or, upon approval of the City of Rocklin, a substitute device of equal or greater effectiveness. The second-step BMPs shall contain a media or structure designed to remove oil and grease. The third-step BMP shall include a water quality basin designed according to the Guidance Document for Volume and Flow-based Sizing of Permanent Post-Construction Best Management Practices for Stormwater Quality Protection published by the Placer Regional Stormwater Coordination Group (PRSCG) (May 2005). Typical BMPs that could be used on the project site shall include, but are not limited to, catchbasin inserts, compost storm water filters, sand filters, vegetated filter strips, biofiltration swales, oil/water separators, bioretention basins, or other equally effective measures. Other BMPs shall include, but would not be limited to, administrative controls such as signage at inlets to prevent illicit discharges into storm drains, parking lot and other pavement area sweeping, public education, and hazardous waste management and disposal programs. BMPs shall identify and implement mechanisms for the routine maintenance, inspection, and repair of pollution control mechanisms. In addition, the BMPs shall be reviewed for adequacy by the City of Rocklin, Engineering Department prior to issuance of a grading permit for the site to

ensure that they will effectively remove pollutants from the site's stormwater runoff. Long-term functionality of the stormwater quality BMPs shall be provided for through a maintenance and inspection program. Prior to issuance of the first occupancy permit, the applicant shall submit to the City of Rocklin a Maintenance and Monitoring Plan for all stormwater BMPs. The Maintenance and Monitoring Plan shall 1) identify a schedule for the inspection and maintenance of each BMP, 2) identify methods and materials for maintenance of each BMP, 3) and include provisions for the repair or replacement of BMPs.

#### **Level of Significance After Mitigation**

With the implementation of the BMPs identified above, ~~the stormwater discharge from the project site would be captured within the project's drainage systems and would be filtered through oil/water separators and/or other equally effective control systems pre-treatment devices such as hydrodynamic separators or catch basin inlet filters prior to being directed to the detention water quality basin. Once in the detention-basin, the settlement of undissolved solids would occur, stormwater would undergo further removing contaminants from the stormwater treatment. Long-term functionality of the BMPs would be provided for through a maintenance and monitoring program.~~ As the stormwater is discharged from the detention basin, it would flow through an existing grassy swale for approximately 300 feet before entering Secret Ravine Creek. ~~The grassy swale would remove additional contaminants within the stormwater through biofiltration.~~ The implementation of these BMPs, consistent with the requirements of the site's NPDES permit and the SWPPP, and design criteria identified by PRSCG, would ensure that the quality of the water entering Secret Ravine Creek would not be substantially degraded. With implementation of the above mitigation measures, the project's operational water quality impacts would be reduced to a less-than-significant level.

#### **Mitigation Measure 4.12-11: Degradation of Chinook Salmon and Steelhead Trout Habitat.**

Implement Mitigation Measures 4.10-2 and 4.10-3 identified in Section 4.10, Hydrology and Water Quality of this report in order to ensure water quality within Secret Ravine Creek is not substantially degraded with project construction and operation.

#### **Level of Significance after Mitigation**

With the implementation of the BMPs identified in Mitigation Measures 4.10-2 and 4.10-3, ~~the storm stormwater discharge from the project site would be captured within the project's drainage systems and would be filtered through pre-treatment devices such as hydrodynamic oil/water separators and/or catch basin inlet filters other equally effective control systems prior to being directed to the water quality basin. Once in the basin, the stormwater would undergo further treatment. Following discharge from the detention basin: Once in the detention basin, the settlement of undissolved solids would occur, further removing contaminants from the storm water. As the storm stormwater is discharged from the detention basin, it would flow through an existing grassy swale for approximately 300 feet before entering Secret Ravine Creek. The grassy swale would remove additional contaminants within the storm water through biofiltration.~~ The implementation of these BMPs, consistent with the requirements of the site's NPDES permit and the SWPPP, and design criteria identified by PRSCG, would ensure that the quality of the water entering Secret Ravine Creek would not be substantially degraded. With implementation of the identified mitigation measures, the project's impacts on

Central Valley fall/late fall-run Chinook salmon and Central Valley steelhead trout would be reduced to a less-than-significant level.

While habitat within Secret Ravine Creek may be currently of poor to moderate quality, the project will not contribute to any further degradation. With implementation of Mitigation Measures 4.10-2, 4.10-3, and 4.12-11, the water from the project area entering Secret Ravine Creek would meet existing water quality criteria, and the project's potential impacts on Secret Ravine Creek and special-status fish would be reduced to a less than significant level.

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**Re: Comments on Proposed Administrative Civil Liability Order No. R5-2013-0519**

Dear Mr. Landau and Mr. Pulupa:

Associated General Contractors (AGC) of California has been the voice of the construction industry since 1920. We are an organization of construction firms and industry-related companies committed to improving our physical environment through our commitment to the principles of Skill, Integrity and Responsibility. We represent over 1,000 contractors, specialty, and associate member companies throughout California.

While AGC of California does not normally comment on individual enforcement actions, the proposed penalty action in Order No. R5-2013-0519 against Donahue Schriber Asset Management Corporation for the Rocklin Crossings Project in Placer County, California, raises issues due to the precedent that this penalty action could set, which is contrary to State policy.

**A. Using \$10 per gallon for Construction Stormwater penalties is not consistent with the State Water Board's Enforcement Policy.**

AGC of California strongly objects to the Regional Water Quality Control Board's use of \$10 per gallon as a base amount to compute the proposed penalty for the alleged discharge violations in ACL No. R5-2013-0519 against Donahue



Schriber. The State Water Resources Control Board's 2010 Enforcement Policy clearly states that a maximum amount of \$2.00 per gallon should be used to determine the per gallon penalty amount for storm water. This is the rule, except in cases where explicit findings, supported by evidence demonstrate that "where reducing these maximum amounts results in an inappropriately small penalty, such as dry weather discharges or *small volume discharges that impact beneficial uses*" and that in those instances, "a higher amount, *up to the maximum* per gallon amount, may be used." (See 2010 Enforcement Policy, p. 14 (emphasis added).) Since this was not a dry weather discharge and the draft penalty document does not seem to include any conclusive findings or evidence that beneficial uses were actually impacted, the use of \$10 per gallon is inconsistent with the express language of the Enforcement Policy.

Further, the Regional Board cannot allege that the amount released in this matter is not a "high volume discharge" that should not be given the per gallon reduction set forth in the Enforcement Policy, because other recent Administrative Civil Liability ("ACL") Complaints with a *lower volumes* than the one at issue at Rocklin Crossings (76,613 gallons) used \$2 per gallon – namely, this Regional Board's own Cascade Crossing, ACL No. R5-2013-0520 (37,500 gallons) for the same storm event as the one in Rocklin Crossing, and Placenta-Yorba Linda Unified School District, ACL No. R8-2010-0024 (55,887 gallons).

**B. Using \$10 per gallon for Construction Stormwater penalties is not consistent with other Construction Stormwater ACLs.**

The State Water Board's Enforcement Policy strives "*consistent enforcement*" statewide. (2010 Enforcement Policy at pg. 1.) Thus, the stated goals of the Enforcement Policy are:

"...to protect and enhance the quality of the waters of the State by defining an enforcement process that addresses water quality problems in the most efficient, effective, *and consistent manner*. In adopting this Policy, the State Water Board intends to provide guidance that will enable Water Board staff to expend its limited resources in ways that openly address the greatest needs, deter harmful conduct, protect the public, and achieve maximum water quality benefits. Toward that end, it is the intent of the State Water Board that the *Regional Water Boards' decisions be consistent with this Policy*.

(*Id.* at pg. 1. (emphasis added).) Thus, all discharge penalties in similar construction stormwater matters should be determined in a manner consistent with the express goals and intent of the 2010 Enforcement Policy. The currently proposed ACL No. R5-2013-0519 fails to meet that consistency requirement.

Every construction stormwater ACL penalty found that was imposed since the 2010 Enforcement Policy was adopted in 2010 has used \$2.00 per gallon as the starting point, except one, for EI-PLA 75 LLC, ACL No. R8-2010-0025, which used \$3.00. In the EI-PLA matter, which had a larger discharge of 101,631 gallons, and higher culpability and history of violations factors, the penalty came out at \$197,367, which is less than the amount proposed against Donahue Schriber for a smaller discharge volume. In addition, in the EI-PLA matter, the Regional Board did not automatically jump from \$2 per gallon to the maximum of \$10, but used a lesser amount of \$3 per gallon (although no express justification was included for this value).

In this one instance in the EI-PLA matter where a higher amount of \$3 was used, the ACL followed a number of enforcement actions against the Discharger by the City of Placentia (*see* ACL Order No. R8-2010-0025 at pg. 2, para. 5.b.), two Stop Work Orders, a Cease and Desist Order, two citations totaling \$300 (*id.*), and two Notices of Violation from the Santa Ana Regional Board (*id.* at pg. 3, para. 5.d. and pg. 4, para. 5.k.). That Complaint cited a litany of alleged violations, including failing to employ effective erosion and sediment controls despite numerous warnings and inspections, and failing to implement effective tracking and perimeter controls, effective trash and waste management controls, and adequate storm drain protection among other violations. (*See id.* (R8-2010-0025).) The numerous and repeated violations in the EI-PLA case are not found in the facts for the Rocklin Crossings case.

For the reasons set forth above, AGC strongly recommends ACL No. R5-2013-0519 must be recalculated using a \$2.00 per gallon base amount prior to adoption in order to be consistent with the Enforcement Policy and with other ACLs issued both statewide and in this region.

Respectfully submitted,



Thomas T. Holsman  
CEO  
AGC of California





via U.S. mail and electronic mail

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September 3, 2013

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Re: **Comments on Proposed Administrative Civil Liability  
Order No. R5-2013-0519**

Dear Mr. Landau and Mr. Pulupa:

Building Industry Legal Defense Foundation (“BILD”) writes this letter to respectfully lodge its strong concerns about the wisdom the proposed \$10 per gallon penalty that is proposed to be levied in the above-referenced penalty action. For the reasons discussed below, BILD believes that the \$10 per gallon penalty would constitute a travesty of justice given the lower penalty limit (\$2 per gallon) that generally applies to high-volume discharges as set forth in the State Water Board’s Enforcement Policy (the “Policy”). Moreover, it would seemingly be an abuse of discretion, given the lack of any colorable reasoning for departing from the \$2 per gallon maximum set forth in the Policy for high-volume discharges, including high-volume stormwater discharges (concerning which the discharger is often a hapless victim).

The Building Industry Legal Defense Foundation is a non-profit mutual benefit corporation and wholly-controlled affiliate of the Building Industry Association of Southern California, Inc. (“BIA/SC”). BIA/SC, in turn, is a non-profit trade association representing nearly 1,000 member companies. The mission of BIA/SC is to promote and protect the building industry to ensure its members’ success in providing homes for all Southern Californians. BILD’s purposes are, among others, to monitor legal and regulatory developments and to intervene when appropriate to improve the legal climate for BIA/SC’s members and the construction industry in Southern California.

Messrs. Landau and Palupa  
September 3, 2013  
Page 2

Here, the Regional Water Quality Control Board has proposed a penalty of \$10 per gallon for the alleged violations indicated in ACL R5-2013-0519 against Donahue Schriber. The amount per gallon proposed is inconsistent with the maxima amounts set forth in the Policy, which establishes a generally-applicable maximum penalty for violations resulting in high-volume discharges, including those of stormwater, of no more than \$2 per gallon, subject to rational exception in appropriate circumstances. Specifically, regional boards may depart from the \$2 per gallon maximum for high-volume discharges, and a penalty of up to \$10 per gallon can be imposed, only “where the [former] results in an inappropriately small penalty, such as dry weather [i.e., non-stormwater, wholly-anthropogenic] discharges or small volume discharges that [actually] impact beneficial uses....”

In the matter at hand, there occurred a *paradigmatic* high-volume stormwater discharge due to an unusually impactful storm event. Donahue Schriber caused no dry-weather discharge, and was itself a victim of the large storm, which – given its intensity – understandably overcame Donahue Schriber’s storm water management controls. In short, *there is no unusual culpability of the type would justify departing from the high-volume maximum penalty of \$2 per gallon.* If the Regional Board were to adhere to the \$2 per gallon maximum applicable to high-volume discharges, the penalty will be extremely large as is: \$153,226.

BILD submits that, if the Regional Board can ignore the \$2 per gallon maximum penalty limitation for high-volume discharges in this relatively innocuous situation, then the high-volume discharge limitation could be rendered entirely meaningless. It exists for a reason, which is largely to account for the very large volumes of stormwater which results from large storm events. BILD respectfully urges the Regional Board to reconsider the penalty and adhere to the \$2 per gallon maximum penalty limitation for high-volume discharges.

Respectfully submitted,



Andrew R. Henderson  
General Counsel



September 4, 2013

Mr. Kenneth Landau, Advisory Team  
Central Valley Regional Water Quality Control Board  
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Mr. Patrick Pulupa, Staff Counsel, Advisory Team  
State Water Resources Control Board, Office of Chief Counsel  
1001 I Street,  
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Subject: Comments on need for consistent, statewide application of Enforcement Policy as raised by proposed Administrative Civil Liability (ACL) Order No. R5-2013-0519

Dear Advisory Team Members, Mr. Landau, and Mr. Pulupa:

The California Stormwater Quality Association (CASQA) is taking this opportunity to comment on a matter raised by the pending enforcement action referenced above. As a matter of policy, CASQA generally only comments on regional issues that have the potential to be precedent setting or that appear to deviate from statewide policy with little or no justification provided. We want to clarify that we are not commenting on the merits of the enforcement action but rather on the application of the Enforcement Policy (Policy). CASQA is concerned the ACL before you either deviates from the State Water Board's Policy and/or raises important questions regarding interpretation and application of this relatively new Policy to the development of ACL penalties.

**Classification of the discharge in the subject ACL is not consistent with prior application of the High Volume Discharges section of the State Water Board's 2010 Enforcement Policy**

In the proposed penalty for the alleged discharge violations in ACL No. R5-2013-0519, the Regional Water Board proposes to use \$10 per gallon to compute a base liability amount even though the 2010 Enforcement Policy states that a **maximum amount of \$2 per gallon** should be used to determine the per gallon penalty amount for "high volume discharges," including stormwater (the discharge volume in the subject ACL is 76,613 gallons):

"Since the volume of sewage spills and releases of stormwater from construction sites and municipalities can be very large for sewage spills and releases of municipal stormwater or stormwater from construction sites, a maximum amount of \$2.00 per gallon should be used with the above factor to determine the per gallon amount for sewage spills and stormwater." (2010 Enforcement Policy at pg. 14 (emphasis added).)

While the Enforcement Policy does not define a “high volume discharge” it appears that a stormwater discharge over 1,000 gallons could be considered a “high volume discharge” that receives the per gallon reduction set forth in the Enforcement Policy. This is consistent with the Enforcement Policy’s removal of the first 1,000 gallons from the penalty equation. Further, this is consistent with other recent ACL complaints that alleged *lower volumes* than the 76,613 gallons in the subject ACL were “high volume discharges” subject to the \$2 per gallon assessment. (*See e.g.*, ACL No. R5-2013-0520 (37,500 gallons); ACL No. R8-2010-0024 (55,887 gallons).)

### **Using \$10 per gallon is not consistent with other construction stormwater ACLs**

The State Water Board’s Enforcement Policy strives to have enforcement actions be consistent statewide. (2010 Enforcement Policy at pg. 1.) The 2010 Enforcement Policy reiterates this theme of ensuring that enforcement actions are consistent throughout California.

- p. 1 “Timely and consistent enforcement of these laws is critical”; “create a fair and consistent statewide approach to liability assessment”;
- p. 2 Chapter Heading - “FAIR, FIRM, AND CONSISTENT ENFORCEMENT”; “Water Boards shall strive to be fair, firm, and consistent”; “Water Board orders shall be consistent”; “Water Boards shall implement a consistent and valid approach”; “providing consistent treatment for violations that are similar in nature”;
- p. 9 “the public expect them to fairly and consistently implement”;
- p. 10 “a consistent outcome can be reasonably expected using this Policy”; “Be assessed in a fair and consistent manner”;
- p. 32 “In order to provide a consistent approach to enforcement throughout the State, enforcement orders shall be standardized to the extent appropriate.”

Based on this emphasis in the Enforcement Policy, CASQA believes Regional Water Boards must adopt similar penalties for comparable construction stormwater discharges, and must determine these penalties in a manner consistent with the stated goals, intent, and applicable sections of the 2010 Enforcement Policy. The proposed ACL No. R5-2103-0519 does not appear to meet this requirement for consistency without supporting information of why this action deserves to be assessed differently<sup>1</sup>.

Construction stormwater ACL penalties adopted since the effective date of the 2010 Enforcement Policy have all used \$2 per gallon as the starting point, except one; EI-PLA 75 LLC, ACL No. R8-2010-0025, used \$3 per gallon. The EI-PLA case had a history of violations and other contributing factors that were considered in the determination of the penalty. The record for ACL No. R5-2013-0519 does not make a similar demonstration of additional factors that would warrant a higher per gallon penalty.

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<sup>1</sup> The only justification provided for not using the High Volume Discharges section of the Policy appears to be the statement “While the Enforcement Policy states that a lower initial per-gallon value may [Note: Policy states “should”] be used for “high volume” discharges, for this case, Water Board staff do not recommend using less than \$10/gallon in the initial penalty calculation, given the relatively small volume of discharge on 30 November 2012 and the beneficial uses of the receiving water.” (Page 3, Attachment A, Administrative Civil Liability Complaint R5-2013-0519).

CASQA Comments on application of Enforcement Policy as raised by proposed ACL

For the reasons given in this letter, we urge the Regional Water Board to classify the subject discharge as a high volume discharge subject to the maximum \$2 per gallon penalty amount to be consistent with the Enforcement Policy and with other past construction stormwater ACLs, or make clear in the record why this discharge warrants staff taking such an extraordinary exception to the clear direction provided in the Policy.

Additionally, given the important questions raised in the development of the subject ACL regarding interpretation and application of the Enforcement Policy to high volume discharges of municipal and construction site stormwater, CASQA recommends a discussion between Office of Enforcement, CASQA, and other appropriate parties. The purpose of the discussion would be to provide clarity regarding application of the “high volume discharges” section of the Enforcement Policy.

Thank you for the opportunity to provide comments. Please contact Geoff Brosseau, our Executive Director, at (650) 365-8620 if you have any questions or need additional information, or me at (714) 955-0670.

Sincerely,

A handwritten signature in black ink that reads "Richard Boon". The signature is written in a cursive, slightly slanted style.

Richard Boon, Chair  
California Stormwater Quality Association

cc: Steve Rosenbaum, Central Valley Regional Water Board  
Wendy Wyels, Central Valley Regional Water Board  
Pamela Creedon, Central Valley Regional Water Board  
CASQA Construction Subcommittee, Executive Program Committee, Board of Directors

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BEFORE THE CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
FOR THE CENTRAL VALLEY REGION

In the Matter of:

DONAHUE SCHRIBER ASSET  
MANAGEMENT CORPORATION  
FOR ROCKLIN CROSSINGS,  
PLACER COUNTY, Administrative Civil  
Liability Complaint No. R5-2013-0519

ACLC No. R5-2013-0519

**S.D. Deacon's Submission of Evidence and  
Policy Statements and Designation of  
Witnesses**

Pursuant to the Advisory Team's Hearing Procedures, the designated parties were required to submit witness designations, evidence and policy statements, including following information:

1. All evidence (other than witness testimony to be presented orally at the hearing) that the Designated Party would like the Central Valley Water Board to consider. Evidence and exhibits already in the public files of the Central Valley Board may be submitted by reference, as long as the exhibits and their location are clearly identified in accordance with California Code of Regulations, title 23, section 648.3. Board members will not generally receive copies of materials incorporated by reference unless copies are provided, and the referenced materials are generally not posted on the Board's website.
2. All legal and technical arguments or analysis.
3. The name of each witness, if any, whom the Designated Party intends to

1 call at the hearing, the subject of each witness' proposed testimony, and the estimated  
2 time required by each witness to present direct testimony.

3 4. The qualifications of each expert witness, if any.

4 **I. S.D. DEACON'S EVIDENCE AND EXHIBITS**

5 The following exhibits and evidence, authenticated and attached to the Declaration of  
6 Andy Van Veldhuizen filed herewith, are being submitted by S.D. Deacon<sup>1</sup>:

7 A. Site map delineating the pre-incident SWPPP map into several sub-shed areas.

8 B. Copies of the Rain Event Action Plans (REAPs) prepared by TSM on November  
9 26-29, 2012 in preparation for the storm event discussed in the ACL Complaint.

10 C. Rain Gauge Log Sheet for the Rocklin Crossings site for November 1, 2012 to  
11 December 5, 2012 and other rainfall information.

12 D. State Water Resources Control Board's Enforcement Policy adopted in 2009 and  
13 approved for state law purposes on May 20, 2010 (taken from SWRCB's website at  
14 [http://www.waterboards.ca.gov/water\\_issues/programs/enforcement/docs/enf\\_policy\\_finall111709.pdf](http://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/enf_policy_finall111709.pdf), last accessed on September 4, 2013.)<sup>2</sup>

16 E. ACL Complaint No. R5-2013-0520 ACL issued by the Central Valley Regional  
17 Water Quality Control Board to HBT of Saddle Ridge LLC for the Cascade Crossing  
18 construction site on March 4, 2013, which was downloaded from the site:

19 [www.swrcb.ca.gov/.../cascade\\_crossing/r5-2013-0520\\_enf.pdf](http://www.swrcb.ca.gov/.../cascade_crossing/r5-2013-0520_enf.pdf) and Attachment A from  
20 downloaded from the site:

21 [http://www.swrcb.ca.gov/rwqcb5/board\\_decisions/tentative\\_orders/cascade\\_crossing/r5-2013-0520\\_att\\_a.pdf](http://www.swrcb.ca.gov/rwqcb5/board_decisions/tentative_orders/cascade_crossing/r5-2013-0520_att_a.pdf) (last accessed on September 4, 2013), and for which S.D. Deacon  
22 requests official notice be taken.

24 F. ACL Complaint No. R8-2010-0024 issued to the Placentia-Yorba Linda Unified  
25 School District on June 10, 2010, which was downloaded from the following website:

27 <sup>1</sup> S.D. Deacon also incorporates by reference the exhibits, evidence and arguments submitted by Donahue Schriber.

28 <sup>2</sup> This Policy is more akin to a regulation than evidence in this matter, thus S.D. Deacon requests official notice be taken of the existence and content of this Policy.

1 [http://www.swrcb.ca.gov/rwqcb8/board\\_decisions/adopted\\_orders/orders/2010/10\\_024\\_ACL](http://www.swrcb.ca.gov/rwqcb8/board_decisions/adopted_orders/orders/2010/10_024_ACL)  
2 [C\\_Placentia-Yorba\\_Linda\\_USD.pdf](http://www.swrcb.ca.gov/rwqcb8/board_decisions/adopted_orders/orders/2010/10_024_ACL) (last accessed on September 4, 2013), and for which S.D.  
3 Deacon requests official notice be taken.

4 G. ACL Complaint No. R8-2010-0023 issued to EI-PLA 75, LLC on May 27, 2010,  
5 which was downloaded from the following website:

6 [http://www.waterboards.ca.gov/rwqcb8/board\\_decisions/adopted\\_orders/orders/2010/10\\_025](http://www.waterboards.ca.gov/rwqcb8/board_decisions/adopted_orders/orders/2010/10_025)  
7 [\\_ACL\\_C\\_EI-PLA75LLC.pdf](http://www.waterboards.ca.gov/rwqcb8/board_decisions/adopted_orders/orders/2010/10_025) (last accessed on September 4, 2013), and for which S.D. Deacon  
8 requests official notice be taken.

9 H. SWRCB Order No. 2009-0009-DWQ, amended by 2010-0014-DWQ & 2012-  
10 0006-DWQ, located from

11 [http://www.waterboards.ca.gov/water\\_issues/programs/stormwater/docs/constpermits/wqo\\_20](http://www.waterboards.ca.gov/water_issues/programs/stormwater/docs/constpermits/wqo_20)  
12 [09\\_0009\\_complete.pdf](http://www.waterboards.ca.gov/water_issues/programs/stormwater/docs/constpermits/wqo_20) (last accessed on September 4, 2013), and for which S.D. Deacon  
13 requests official notice be taken.

## 14 **II. LEGAL AND TECHNICAL ANALYSIS AND ARGUMENT**

### 15 **A. FACTUAL BACKGROUND**

16 S.D. Deacon provides general contractor services to the Legally Responsible Person  
17 (LRP) and site owner Donahue Schriber for the Rocklin Crossings construction site. (*See*  
18 Declaration of Andy Van Veldhuizen (Van Veldhuizen Decl.) at ¶ 3.) The Qualified SWPPP  
19 Developer (QSD) for this site was Daniel Taylor of RSC Engineering and the Qualified SWPPP  
20 Practitioner (QSP) for the site was Dave Clayson of Total Site Maintenance (TSM). (*Id.*) The  
21 QSD was responsible for the day-to-day upkeep of the site's Storm Water Pollution Prevention  
22 Plan (SWPPP) and any required SWPPP amendments; while the QSP was responsible for  
23 observation and inspection activities, required sampling, and providing sediment and erosion  
24 control recommendations. (*Id.*)

25 Stormwater discharges from this site are regulated by the General Permit for Storm Water  
26 Discharges Associated with Construction and Land Disturbance Activities, Order No. 2009-0009-  
27 DWQ, as amended by Order No. 2010-0014-DWQ, issued by the California State Water  
28

1 Resources Control Board (hereinafter “Construction Stormwater General Permit”). (Van  
2 Veldhuizen Decl. at ¶ 4; Exhibit H.) Notices of Intent (NOIs) to be covered under the  
3 Construction Stormwater General Permit were submitted by the LRP in mid-July of 2012. (*See*  
4 *id.*; *see also* Prosecution Team Exhibits 27, 32, 50, 57, 59, 66, 83 and 84.) The original SWPPPs  
5 for this construction site, dated July 11, 2012, were prepared by RSC Engineering. (*See id.*; *see*  
6 *also* Prosecution Team Exhibits 31, 49, 67, and 82.) The SWPPPs were submitted, as required by  
7 the Construction Stormwater General Permit, to the Regional Quality Control Board for the  
8 Central Valley Region (Regional Board) via the Storm Water Multiple Application and Reporting  
9 Tracking System (SMARTS). (*Id.*; *see also* Prosecution Team’s Evidence List, indicated these  
10 were “Documents located in SMARTS Database.”)

11 The Rocklin Crossings construction site consists of approximately 50.4 acres and is  
12 located on the southeast corner of Interstate 80 and Sierra College Boulevard in Rocklin,  
13 California. (Van Veldhuizen Decl. at ¶ 5.) The main project site is located approximately 1,000  
14 feet north of Secret Ravine. (*Id.*) Prior to construction, storm water runoff generated from the site  
15 sheet flowed into a number of offsite ephemeral drainages that ultimately discharged into Secret  
16 Ravine. (*Id.*)

17 Since the commencement of construction, the site has been mass graded into two onsite  
18 watersheds, Shed A and Shed B (*See* Van Veldhuizen Decl. at ¶6; Exhibit A (Site Map)). Until  
19 mid-December 2012, Shed A sheet-flowed in a north to south direction, to numerous low spots,  
20 where any accumulating water was then pumped to Basin A to allow for settlement prior to  
21 discharge. (*Id.*) Shed B also sheet-flowed to various low spots and then was captured, pumped  
22 and transported to Basin A. Basin A then discharged indirectly to Secret Ravine. (*Id.*)

23 Throughout the site, good housekeeping BMPs were deployed, such as those listed below,  
24 and good housekeeping practices were followed to ensure storm water runoff did not come into  
25 contact with waste or hazardous materials. (Van Veldhuizen Decl. at ¶ 7.)

- 26 • A self-contained tire wash was installed at the entrance.
- 27 • All sanitation facilities were located away from watercourses and storm drains, and  
28 were placed in a manner that they could not easily be knocked over by equipment or

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vehicles.

- Waste disposal containers were covered.
- Hazardous and waste materials were stored in a manner that would eliminate the potential for these materials to come into contact with storm water runoff.

In addition, other BMPs were in place including, among other things, sediment control BMPs. (Van Veldhuizen Decl. at ¶ 8.) The site had been inspected by Regional Board staff and S.D. Deacon was in regular communication with Regional Board staff about activities and BMPs at the site. (*Id.*) When substantive modifications to the SWPPP were made or BMPs needed to be altered substantially, revisions to the SWPPP were uploaded to SMARTS. (*See id.*; *see also* Prosecution Team Exhibits 39-41, 43, and 70.)

Prior to the storm event at issue, Rain Event Action Plans (REAPs) were prepared. (*See* Van Veldhuizen Decl. at ¶ 9; Exhibit B.) The events in question took place on November 30th, 2012. (Van Veldhuizen Decl. at ¶ 9.)

During the 23-hour period leading up to these events, beginning 8:00 AM on November 28th and ending 7:00 AM on November 29th, the rain gauge present on the site indicated that the site had received 0.75 inches of rain. (Van Veldhuizen Decl. at ¶ 10; Exhibit C.) During the inspection that occurred the morning of November 29th, the BMPs implemented on the site were effectively controlling the discharge of sediment from the site. (Van Veldhuizen Decl. at ¶ 10.) The Contractor performed BMP maintenance as necessary and continued pumping operations, removing water from low containment areas to transport sediment laden water to Basin A. (*Id.*)

During the 96-hour period, starting at 5:00 AM on November 30th through 7:00 AM December 2nd, the site received an additional approximately 6.25 inches of rain. (Van Veldhuizen Decl. at ¶ 11.) During an inspection that occurred at 5:30 AM on November 30, 2012, it was observed that although heavy rain was occurring, the BMPs and runoff control measures on the site were effectively managing storm water runoff and controlling the discharge of sediment. (*Id.*)

By 8:00 AM, the storm event overwhelmed the BMPs at the site since the storm was large enough to exceed the 5-year, 24-hour Compliance Storm Event size identified in the Construction

1 Stormwater General Permit.<sup>3</sup> (See Veldhuizen Decl. at ¶ 13; see also Exhibit K (RSC Summary  
2 Memo) at p. 2 (“the average rainfall intensity experience the morning of November 30  
3 significantly exceeded the average intensity of a 5 year-24 hour storm....the documented storm  
4 intensity exceeds the average storm intensity of a 25 year, 24 hour storm event.”).)

5 Due to the very heavy rain and associated storm water accumulation, at one location  
6 located near Basin A a constructed berm breached, resulting in sediment laden water  
7 overwhelming a protected outlet culvert located on the south side of the as yet to be constructed  
8 detention basin. Immediately upon the identification of this issue, repairs to the berm were  
9 initiated and the culvert was plugged to prevent future discharges. (Van Veldhuizen Decl. at ¶  
10 12.)

11 While the Contractor was addressing the berm breach, the containment area located at the  
12 west end of Dominguez Loop also began to become overwhelmed due to the severe rains the site  
13 was experiencing. (Van Veldhuizen Decl. at ¶ 13.) Normally, runoff accumulating in the  
14 containment area was pumped into a water truck that then transported the water to Basin A. (*Id.*)  
15 However, due to the heavy amount of rainfall occurring in a short period of time, the containment  
16 area was overwhelmed resulting in the discharge of water that caused eventual eroding of an  
17 earthen dike that had been constructed to prevent storm water runoff from leaving the site. (*Id.*)  
18 Immediate efforts were initiated to repair the dike, and the flow of storm water runoff was  
19 partially stopped by 10:00 a.m. when the rock berm was reconstructed, and completely halted just  
20 over an hour later at approximately 11:15 a.m. (*Id.*) As a temporary measure, the dike was  
21 immediately protected with Visquine. (*Id.*) The Contractor had also immediately contacted a  
22 subcontractor to request the instantaneous deployment of a dozer to re-grade the dike higher and  
23 wider. Re-grading of the dike began at 11:00 AM. (*Id.*) By the end of the day, on November 30,

24 \_\_\_\_\_  
25 <sup>3</sup> Under the Construction Stormwater General Permit, Risk Level 3 discharges are exempt from receiving water  
26 monitoring to determine compliance with Numeric Effluent Limitations, including those for turbidity, if rainfall is  
27 equal to or greater than a 5-year, 24-hour storm. (See Exhibit H (Permit) at p. 30, Provision V.C.3.) Arguably, a  
28 Risk Level 2 site, such as Rocklin Crossings (see Prosecution Team Exhibits 30, 56, 63, and 79), should be exempt  
from compliance with Numeric Action Levels in a similar size storm event. Case law has recognized that larger  
storm events may exceed “the capacities of available BMPs to minimize discharges.” (See *accord California  
Building Industry Association v. SWRCB*, Judgment in Case No. 34-2009-800000338-CU-WM-GDS at p. 9, lines 23-  
25; see also Exhibit H (Permit) at 25-26 (upset defense).)

1 2012, the dike had been completely reconstructed. (*Id.*) Much of the sediment that left the site  
2 was stopped by heavy vegetation prior to reaching Secret Ravine and, where accessible, this  
3 sediment was protected with straw blankets, straw wattles, rock bags, and hydro-seeding. (Van  
4 Veldhuizen Decl. at ¶ 14.)

5 In addition to the dike repair, the Contractor also ordered a 6-inch pump to be delivered  
6 the following day (December 1, 2012). (Van Veldhuizen Decl. at ¶ 15.) This larger pump was  
7 used to pump water from the containment area, located within Dominguez Loop, to Basin A. (*Id.*)  
8 The 6-inch pump was on site by 7:00 AM on December 1, 2012, the day after the incident. (*Id.*)  
9 Pumping began by 9:30 AM and was continued through the weekend. (*Id.*)

10 To eliminate the potential for further discharges of sediment, the Contractor worked  
11 diligently to implement additional BMPs on the site. (Van Veldhuizen Decl. at ¶ 16.)  
12 Immediately after the event, a long term corrective action strategy was developed and provided to  
13 Regional Board staff on December 10, 2012, that included:

- 14 • The construction of an additional basin to increase storm water storage capacity.
- 15 • Placement of additional pumps and associated piping to transport water to the basin.
- 16 • The implementation of a phased grading plan to make the site more manageable in regards to management of storm water runoff.
- 17 • The application of additional erosion control measures.
- 18 • Construction of all-weather access roads.
- 19 • Obtaining additional support from storm water consultants (Supplemental QSP) as  
20 a QA/QC oversight of the contracted QSP and QSD to review and supplement the SWPPP. (*Id.*)

21 In addition, on the day of the incident, November 30, 2012, the Contractor contacted  
22 Active Treatment Systems, Inc. to provide an Active Treatment System (ATS) to treat storm  
23 water generated from the site. (Van Veldhuizen Decl. at ¶ 17.) Between December 5-10, 2012, a  
24 second basin, Basin B, was also constructed to provide additional onsite storage. (*Id.*) Runoff  
25 was pumped to Basin B for holding and then transferred to Basin A for treatment by the ATS.  
26 (*Id.*) Active Treatment Systems, Inc. prepared an ATS Plan that was submitted to the Regional  
27 Board for approval per the requirements of the Construction Stormwater General Permit. (*Id.*)  
28 The system described in the ATS Plan and implemented on site was designed to accommodate a

1 10-year, 24-hour storm event (4 inches of rain) and drain in less than 72-hours. (*Id.*) The ATS  
2 Plan was uploaded to SMARTs on December 11, 2012 (Prosecution Team Exhibit 33) and  
3 approval of the plan was obtained from the Regional Board on December 12, 2012. (*Id.*)  
4 Deployment of the ATS was on December 10, 2012 and the system was fully operational on  
5 December 18, 2012. (*Id.*) The ATS discharged indirectly to Secret Ravine. (*Id.*)

6 For the remainder of the 2012/13 storm season, storm water accumulating within  
7 Dominguez Loop was pumped by the 6-inch pipe to either Basin A or Basin B. (Van Veldhuizen  
8 Decl. at ¶ 18.) If Basin A had capacity and was not in the process of actively treating storm  
9 water, water was pumped to Basin A. (*Id.*) If Basin A did not have capacity, water was pumped  
10 to Basin B and stored until such time that the water was pumped to Basin A for pre-treatment and  
11 settlement. (*Id.*) The chemical additive Chitosan was added to the water in Basin A to aid in  
12 flocculation of the sediment particles. (*Id.*) Once the appropriate amount of flocculation had  
13 occurred, sediment settled out within the basin. (*Id.*) Water was then transferred to a series of  
14 baker tanks for additional ATS treatment and then was finally processed through a series of sand  
15 filters that removed the remaining sediment and the chemical additive prior to discharge. (*Id.*)

16 For the end of last rain season, the treatment system worked as intended and in  
17 compliance with the ATS requirements indicated in the Construction Stormwater General Permit.  
18 (*See accord* Prosecution Team Exhibits 34-38, 42.) (Van Veldhuizen Decl. at ¶ 19.) For the  
19 upcoming rain season, the large permanent detention basin will be finalized and used to store any  
20 stormwater coming off of the whole site. (*Id.*)

21 Despite having many meetings with Regional Board staff and being very cooperative and  
22 open, Donahue Schriber and S.D. Deacon were unable to come to an acceptable settlement of this  
23 matter. S.D. Deacon's challenge to this enforcement action mainly hinges on the ACL  
24 Complaint's inconsistency with the State Water Board's Enforcement Policy and its requirements  
25 related to assessments of penalties on a dollars per gallon basis. (*See* Van Veldhuizen Decl. at ¶  
26 20; Exhibit D (Enforcement Policy) at p. 14; *see also* comment letters filed with the Advisory  
27 Team from the Building Industry Legal Defense Foundation (Sept. 3, 2013), and from the  
28 Associated General Contractors of California (August 1, 2013).) Had the proposed penalty been

1 more reasonable and consistent with the Enforcement Policy and other ACLs in this region and  
2 statewide, S.D. Deacon would not have requested Designated Party status and this hearing may  
3 not have been necessary. (See Van Veldhuizen Decl. at ¶ 20; Exhibits E-G (other ACLs).)

4 **B. RELEVANT LEGAL BACKGROUND**

5 1. The 2010 Enforcement Policy's Per Gallon Assessment

6 In 2009, the State Water Resources Control Board ("SWRCB") updated and adopted its  
7 2002 Enforcement Policy, which was approved by the Office of Administrative Law on May 20,  
8 2010. (See Exhibit D (2010 Enforcement Policy), attached to Van Veldhuizen Decl.) One of the  
9 modifications to that policy was to move away from using the statutory maximum amount of  
10 \$10.00 per gallon set under Water Code section 13385(c)(2)<sup>4</sup> for the baseline penalty calculation  
11 for certain categories of discharges because historic penalty actions for certain types of discharges  
12 (stormwater discharges, and sewer and recycled water spills) were previously set too high for  
13 these categories. (Compare to 2002 Enforcement Policy using \$10 per gallon, which can be  
14 found at the following site:

15 ([http://www.swrcb.ca.gov/water\\_issues/programs/enforcement/archived.shtml](http://www.swrcb.ca.gov/water_issues/programs/enforcement/archived.shtml) at p. 22 ("Up to  
16 \$10,000 per day of violation plus an additional liability of \$10 per gallon for each gallon over  
17 1,000 gallons where there is a discharge that is not cleaned up.")(emphasis added).) The result  
18 was the following language related to a *lower per gallon amount* imposed for discharges of  
19 stormwater, recycled water, and sewer spills larger than 1000 gallons:<sup>5</sup>

20 "The Water Boards shall apply the above per gallon factor to the maximum per gallon  
21 amounts allowed under statute for the violations involved. Since the volume of sewage spills and  
22 releases of stormwater from construction sites and municipalities can be very large for sewage  
spills and releases of municipal stormwater or stormwater from construction sites, a maximum

23 <sup>4</sup> Water Code section 13385(c) states: "Civil liability may be imposed administratively by the state board or a  
24 regional board pursuant to Article 2.5 (commencing with Section 13323) of Chapter 5 in an amount not to exceed the  
sum of both of the following:

25 (1) Ten thousand dollars (\$10,000) for each day in which the violation occurs.

26 (2) Where there is a discharge, any portion of which is not susceptible to cleanup or is not cleaned up, and  
the volume discharged but not cleaned up exceeds 1,000 gallons, an additional liability not to exceed ten dollars  
(\$10) multiplied by the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons.

27 <sup>5</sup> Arguably, any discharges above 1000 gallons should be considered "high volume discharges" under the 2010  
28 Enforcement Policy since gallonage below that amount is not charged any per gallon penalty. (See accord Water  
Code section 13385(c)(2); Exhibit D at p. 14.)

1 amount of \$2.00 per gallon should be used with the above factor to determine the per gallon  
2 amount for sewage spills and stormwater. Similarly, for releases of recycled water that has been  
3 Where reducing these maximum amounts results in an inappropriately small penalty, such as dry  
4 weather discharges or small volume discharges that impact beneficial uses, a higher amount, up to  
5 the maximum per gallon amount, may be used.” (See Exhibit D at p. 14 (emphasis added).)

6 2. The 2010 Enforcement Policy’s Consistency Requirements

7 The 2010 Enforcement Policy contains numerous references to the requirement and goal  
8 that Water Board enforcement actions throughout California be consistent. (See accord Exhibit D  
9 (Enforcement Policy) at p. 1 (“Timely and consistent enforcement of these laws is critical”;  
10 “create a fair and consistent statewide approach to liability assessment”); p. 2 (Chapter Heading -  
11 “FAIR, FIRM, AND CONSISTENT ENFORCEMENT”; “Water Boards shall strive to be fair,  
12 firm, and consistent”; “Water Board orders shall be consistent”; “Water Boards shall implement  
13 a consistent and valid approach”; “providing consistent treatment for violations that are similar  
14 in nature”); p. 9 (“the public expect them to fairly and consistently implement”); p. 10 (“it is a  
15 goal of this Policy to establish broad consistency in the Water Boards’ approach to  
16 enforcement”; “provide a consistent approach and analysis of factors to determine administrative  
17 civil liability “; “a consistent outcome can be reasonably expected using this Policy”; “Be  
18 assessed in a fair and consistent manner”; “this chapter provides the decision-maker with a  
19 methodology for arriving at a liability amount consistent with these objectives”); p. 32 (“In order  
20 to provide a consistent approach to enforcement throughout the State, enforcement orders shall  
21 be standardized to the extent appropriate.”).) Thus, the Enforcement Policy requires that the  
22 Regional Board ensure that this ACL imposes a penalty similar to those imposed in other  
23 construction stormwater matters, and that the liability factors are determined in a manner  
24 consistent with the express goals and intent of the 2010 Enforcement Policy. The currently  
25 proposed ACL No. R5-2013-0519 fails to meet this consistency requirement.

26 **C. THE PROPOSED ACL IS INCONSISTENT WITH THE CLEAR TERMS OF THE**  
27 **ENFORCEMENT POLICY RELATED TO PER GALLON ASSESSMENTS.**

28 In the proposed discretionary penalty for the alleged discharge violations in ACL No. R5-  
2013-0519 against Donahue Schriber, the Prosecution Team used \$10 per gallon to compute the  
base liability amount. (See ACL No. R5-2013-0519, Prosecution Team Exhibit 13, at pp. 7-8,

1 and Attachment A at pp. 3-4.) The justification for the use of this amount was as follows:

2 “An estimated volume of 76,613 gallons of turbid storm water was discharged from two  
3 locations on 30 November 2012. The maximum civil liability allowed under Water Code  
4 section 13385 is \$10 per gallon for discharges. While the Enforcement Policy states that a  
5 lower initial per-gallon value may be used for “high volume” discharges, for this case,  
6 Water Board staff do not recommend using less than \$10/gallon in the initial penalty  
7 calculation, given the relatively small volume of discharge on 30 November 2012 and the  
8 beneficial uses of the receiving water.” (*Id.* at p. 3.)

9 The statutory maximum of \$10 per gallon should not have been used in this case. Instead,  
10 the Enforcement Policy makes clear that, for sewage spills and stormwater, a maximum of \$2 per  
11 gallon should be used. This is the mandate *unless* findings have been made, supported by  
12 reasoning and evidence cited in the ACL Complaint, that the penalty is inappropriately small and  
13 that the discharge was either a dry weather discharge or a small volume discharge that impacts  
14 beneficial uses. In this case, for the reasons set forth below, S.D. Deacon respectfully requests  
15 that the proposed penalty be recalculated consistent with the requirements of the Enforcement  
16 Policy, using \$2 per gallon.

17 **D. THE PROSECUTION TEAM FAILED TO PROVE ANY HARM TO BENEFICIAL USES  
18 OR PROVIDE ANY JUSTIFICATION FOR A HIGHER PER GALLON AMOUNT.**

19 The Enforcement Policy only allows a maximum per gallon amount for stormwater  
20 discharges above the mandated \$2 per gallon “[w]here reducing these maximum amounts results  
21 in an inappropriately small penalty, such as dry weather discharges or small volume discharges  
22 that impact beneficial uses.” (*See* Exhibit D at p. 14 (emphasis added).) The Prosecution Team  
23 failed to demonstrate that the use of \$2 per gallon in its calculation would result in an  
24 “inappropriately small penalty.” Further, the discharge in question was not a “dry weather  
25 discharge” since it occurred during a very large rain event. (*See* Van Veldhuizen Decl. at ¶¶ 11-  
26 13.) Finally, the Prosecution Team failed to demonstrate this was a “small volume discharge” or  
27 that the discharge would “impact beneficial uses.” In fact, S.D. Deacon and Donahue Schriber’s  
28 fisheries expert in this case, Dr. Michael Bryan, concluded that “level of impact, should any  
impact to aquatic life have occurred, would have been sufficiently small in magnitude, duration,  
and geographic extent that no appreciable harm to any of the populations of aquatic organisms  
using Secret Ravine would have occurred.” (*See* Donahue Schriber’s Exhibit I at p. 11; *see also*

1 Exhibit J (CV of Dr. Michael Bryan.)

2 Finally, *even if* such a demonstration had been made by the Prosecution Team, they  
3 provided no justification whatsoever why the maximum per gallon amount of \$10 per gallon was  
4 used instead of some amount between \$2 and \$10 per gallon. (See Exhibit 13, Attachment A;  
5 Exhibit D (Enforcement Policy)(if justification demonstrated, “a higher amount, up to the  
6 maximum per gallon amount, may be used.”)(emphasis added).) There is no justification for a  
7 \$10 per gallon amount, particularly when the Prosecution Team’s calculated a Harm Factor of 6  
8 only equates to a harm factor of *moderate*, not high, and does not provide justification for a  
9 higher per gallon penalty amount. Further, according to the S.D. Deacon and Donahue Schriber’s  
10 fisheries expert in this case, the more accurate harm factor is minor, not moderate. (See Exhibit I  
11 at p. 10-11.) Thus, no justification has been provided or exists for exceeding the Enforcement  
12 Policy’s mandated maximum of \$2 per gallon for stormwater discharges.

13 **E. THE PROPOSED PENALTY IS INCONSISTENT WITH OTHER RECENT CENTRAL**  
14 **VALLEY REGIONAL BOARD ACLS AND ACL PENALTIES STATEWIDE.**

15 Not only is the Regional Board’s proposed ACL contrary to the Enforcement Policy, it is  
16 also inconsistent with other recent penalty actions in the Central Valley Region. In the recent  
17 enforcement action for the Cascade Crossing construction site, ACL No. R5-2013-0520, which  
18 occurred during the same large rain event as the one in this case, the Prosecution Team for that  
19 matter used \$2.00 per gallon, not \$10 per gallon. (See Exhibit E to Van Veldhuizen Decl., ACL  
20 No. R5-2013-0520 at Attachment A, p. 2.) The following justification was provided in that case:

21 “Because of the volume of the discharge, it is considered a “high volume discharge” under  
22 the Enforcement Policy. For high volume discharges, the Enforcement Policy allows a  
23 civil liability value of either \$2 per gallon (for sewage) or \$1 per gallon (for recycled  
24 water) instead of the maximum civil liability of \$10 per gallon allowed under Water Code  
section 13385. In this case, it is appropriate to use the \$2 per gallon value in calculating  
the liability because of the high volume.”

25 While part of the penalty in Cascade Crossing was for a larger discharge event of 193,500  
26 gallons, the Regional Board also used \$2/gallon for a smaller discharge event of 37,500 gallons,  
27 about half the size of the event at issue for Rocklin Crossings. (See Exhibit E at Attachment A, p.  
28 3.) Thus, the size of the event in the Rocklin Crossings case at issue should not be used as a

1 justification to vary from the clear mandate in the Enforcement Policy to use \$2 per gallon for  
2 stormwater discharges exceeding 1000 gallons. (*See also accord* Exhibit F to Van Veldhuizen  
3 Decl., Placentia-Yorba Linda Unified School District, ACL No. R8-2010-0024 at Attachment A  
4 (applying \$2 per gallon to discharge of 55,887 gallons).)

5 All discharge penalties in similar construction stormwater matters should be determined in  
6 a manner consistent with the express goals and intent of the 2010 Enforcement Policy. The  
7 currently proposed ACL No. R5-2013-0519 fails to meet that consistency requirement. Every  
8 construction stormwater ACL penalty found in California that was imposed after adoption of the  
9 2010 Enforcement Policy, except one,<sup>6</sup> has used \$2.00 per gallon as the starting point for  
10 calculating base liability. However, even in the one instance where more than two dollars per  
11 gallon amount was used (and higher culpability and history of violation factors were imposed),  
12 the final penalty was \$197,367, which is *less* than the \$211,038 amount proposed against  
13 Donahue Schriber for a smaller discharge volume. In addition, in the one matter where \$2 per  
14 gallon was not used, Region 8 did not automatically jump from \$2 per gallon to the maximum of  
15 \$10 as was done in Donahue Schriber's case, but used a lower amount of three dollars per gallon.  
16 (*See id.* (R8-2010-0025).)

17 For the reasons set forth above, ACL No. R5-2013-0519 must be recalculated using a  
18 \$2.00 per gallon base amount in order to be consistent with the Enforcement Policy and with  
19 other ACLs issued both statewide and in this region.

20 **F. THE REGIONAL BOARD MUST ADJUST THIS ACL TO ENSURE STATEWIDE**  
21 **CONSISTENCY.**

22 Principles of due process and equal protection require fundamental fairness in

23 \_\_\_\_\_  
24 <sup>6</sup> The only exception was in the enforcement action against EI-PLA 75, LLC, ACL No. R8-2010-0025 (Exhibit G to  
25 Van Veldhuizen Decl.), where Region 8 used \$3.00 per gallon. In the EI-PLA matter, the situation was  
26 distinguishable because the discharge was larger (101,631 gallons) and the ACL followed a number of enforcement  
27 actions against the discharger by the City of Placentia (*see* ACL Order No. R8-2010-0025 at p. 2, para. 5.b.), two  
28 Stop Work Orders, a Cease and Desist Order, two citations totaling \$300 (*id.*), and two Notices of Violation from the  
Santa Ana Regional Board (*id.* at pg. 3, para. 5.d. and pg. 4, para. 5.k.). That Complaint cited a litany of alleged  
violations, including failing to employ effective erosion and sediment controls despite numerous previous warnings  
and inspections, and failing to implement effective tracking and perimeter controls, effective trash and waste  
management controls, and adequate storm drain protection among other violations. (*See id.* (R8-2010-0025).)  
Similar facts are not present in the Rocklin Crossings matter.

1 adjudicatory hearings, and also require that persons subject to legislation or regulation that are in  
2 the same circumstances be treated alike. (U.S. Const. amend. XIV, §1; Cal. Const. art. I, §§ 7,  
3 15.) When comparing the Rocklin Crossings ACL to others in the Central Valley Region or  
4 elsewhere in the state, the Regional Board is not be treating similar discharges similarly. The  
5 proposed ACL penalty is neither fair nor consistent with other recent enforcement actions under  
6 similar laws. Such differential treatment raises issues of equal protection and fundamental  
7 fairness. In this case, Donahue Schriber is being punished more harshly than other similar  
8 situated construction stormwater dischargers without adequate justification, thereby potentially  
9 violating constitutional equal protection requirements.

10 The Regional Board must modify the Rocklin Crossings ACL to be consistent with other  
11 similar discharges using the clear terms of the 2010 Enforcement Policy, which explicitly states  
12 that: “[e]xamples of circumstances warranting an adjustment under this step are: c. The  
13 calculated amount is entirely disproportionate to assessments for similar conduct made in the  
14 recent past using the same Enforcement Policy.” (See Enforcement Policy at pg. 19 (Step 7 –  
15 Other Factors as Justice may Require).)

### 16 **III. PERCIPIENT WITNESS DESIGNATION**

17  
18 S.D. Deacon designates the following percipient witnesses to testify at the upcoming  
19 hearing:

20 1. **Mr. Robert Aroyan** – Mr. Aroyan can and will testify about S.D. Deacon and the  
21 overview of this construction project. (5 minutes for direct testimony)

22 2. **Mr. Andy Van Veldhuizen** – Mr. Van Veldhuizen can and will testify about the  
23 Rocklin Crossings construction site, the Storm Water Pollution Prevention Plan (SWPPP) and  
24 BMPs for that site, pre-storm preparations, events during and after the 2012 rain event, and other  
25 issues raised in the ACL Complaint and/or his declaration. (5-10 minutes for direct testimony)

### 26 **IV. EXPERT WITNESS DESIGNATION**

27 S.D. Deacon jointly designates the following expert witness with Donahue Schriber to  
28 testify in the hearing on this matter:



1 DOWNEY BRAND LLP  
2 MELISSA A. THORME (Bar No. 151278)  
3 621 Capitol Mall, 18th Floor  
4 Sacramento, CA 95814-4731  
5 Telephone: (916) 444-1000  
6 Facsimile: (916) 444-2100  
7 [mthorme@downeybrand.com](mailto:mthorme@downeybrand.com)

8 Attorneys for  
9 S.D. DEACON OF CALIFORNIA

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BEFORE THE CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
FOR THE CENTRAL VALLEY REGION

In the Matter of:

DONAHUE SCHRIBER ASSET  
MANAGEMENT CORPORATION  
FOR ROCKLIN CROSSINGS,  
PLACER COUNTY, Administrative Civil  
Liability Complaint No. R5-2013-0519

ACLC No. R5-2013-0519

**Declaration of Andy Van Veldhuizen in  
support of S.D. Deacon's Submission of  
Evidence and Policy Statements and  
Designation of Witnesses**

I, Andy Van Veldhuizen, do hereby declare as follows:

1. I am a Senior Project Manager with S.D. Deacon of California and one of the people responsible for overseeing S.D. Deacon's role as general contractor for the Rocklin Crossings Project in Rocklin, California. I make this declaration in support of S.D. Deacon's Submission of Evidence and Policy Statements and Designation of Witnesses.

2. I am familiar with and have knowledge of the Rocklin Crossings project, including the circumstances surrounding the alleged violations contained in the Administrative Civil Liability Complaint No. R5-2013-0519. I am authorized and have personal knowledge of the matters set forth in this declaration, and if called upon to testify to these matters, I would and could so testify.

3. S.D. Deacon provides general contractor services to the Legally Responsible Person (LRP) and site owner Donahue Schriber Asset Management Corporation (Donahue

1 Schriber) for the Rocklin Crossings construction site in Rocklin, California. The Qualified  
2 SWPPP Developer (QSD) for this site was Daniel Taylor of RSC Engineering and the Qualified  
3 SWPPP Practitioner (QSP) for the site was Dave Clayson of Total Site Maintenance (TSM), who  
4 was later assisted by an additional QSP, Scott Thorne. The QSD is responsible for the day-to-day  
5 upkeep of the site's Storm Water Pollution Prevention Plan (SWPPP) and any required SWPPP  
6 amendments; while the QSPs are responsible for observation and inspection activities, required  
7 sampling, and providing sediment and erosion control recommendations.

8 4. Stormwater discharges from this site are regulated by the General Permit for Storm  
9 Water Discharges Associated with Construction and Land Disturbance Activities, Order No.  
10 2009-0009-DWQ, as amended by Order No. 2010-0014-DWQ, issued by the California State  
11 Water Resources Control Board (hereinafter "Construction Stormwater General Permit").  
12 Notices of Intent (NOIs) to be covered under the Construction Stormwater General Permit were  
13 submitted by the LRP in mid-July of 2012. (*See* Prosecution Team Exhibits 27, 32, 50, 57, 59, 66,  
14 83 and 84.) The original SWPPPs for this construction site, dated July 11, 2012, were prepared  
15 by RSC Engineering. (*See* Prosecution Team Exhibits 31, 49, 67, and 82.) The SWPPPs were  
16 submitted, as required by the Construction Stormwater General Permit, to the Regional Quality  
17 Control Board for the Central Valley Region (Regional Board) via the Stormwater Multiple  
18 Application and Reporting Tracking System (SMARTS). (*Id.*; *see also* Prosecution Team's  
19 Evidence List, indicating these were "Documents located in SMARTS Database.")

20 5. The Rocklin Crossings construction site consists of approximately 50.4 acres and  
21 is located on the southeast corner of Interstate 80 and Sierra College Boulevard in Rocklin,  
22 California. The main project site is located approximately 1,000 feet north of Secret Ravine.  
23 Prior to construction, storm water runoff generated from the site sheet-flowed into a number of  
24 offsite ephemeral drainages that ultimately discharged into Secret Ravine.

25 6. Since the commencement of construction, the site was mass graded into two main  
26 onsite watersheds, Shed A and Shed B (*See* Exhibit A attached to this Declaration (Site Map)).  
27 Until mid-December 2012, Shed A sheet-flowed in a north to south direction, to numerous low  
28 spots, where any accumulating water was then pumped to Basin A to allow for settlement prior to

1 discharge. Shed B also sheet-flowed to various low spots and then was captured, pumped and  
2 transported to Basin A. Basin A then discharged indirectly to Secret Ravine.

3 7. Throughout the site, good housekeeping BMPs were deployed, such as those listed  
4 below, and good housekeeping practices were followed to ensure storm water runoff did not come  
5 into contact with waste or hazardous materials.

- 6 • A self-contained tire wash was installed at the entrance.
- 7 • All sanitation facilities were located away from watercourses and storm drains, and  
8 were placed in a manner that they could not easily be knocked over by equipment or  
9 vehicles.
- 10 • Waste disposal containers were covered.
- 11 • Hazardous and waste materials were stored in a manner that would eliminate the  
12 potential for these materials to come into contact with storm water runoff.

13 8. In addition, other BMPs were in place including, among other things, sediment  
14 control BMPs. The site had been inspected by Regional Board staff and S.D. Deacon was in  
15 regular communication with Regional Board staff about activities and BMPs at the site. When  
16 substantive modifications to the SWPPP were made or BMPs needed to be altered, revisions to  
17 the SWPPP were uploaded to SMARTS. (*See e.g.*, Prosecution Team Exhibits 39-41, 43, and  
18 70.)

19 9. Prior to the storm event at issue, Rain Event Action Plans (REAPs) were prepared.  
20 (*See* Exhibit B attached to this Declaration.) The storm event in question took place on November  
21 30th, 2012.

22 10. During the 23-hour period leading up to these events, beginning 8:00 AM on  
23 November 28th and ending 7:00 AM on November 29th, the rain gauge present on the site  
24 indicated that the site had received 0.75 inches of rain. (*See* Exhibit C (rain log).) During the  
25 inspection that occurred the morning of November 29th, the BMPs implemented on the site were  
26 effectively controlling the discharge of sediment from the site. BMP maintenance was performed  
27 as necessary and continued pumping operations, removing water from low containment areas to  
28 transport sediment laden water to Basin A.

11. During the 96-hour period, starting at 5:00 AM on November 30th through 7:00  
AM December 2nd, the site received an additional approximately 6.25 inches of rain. (*See* Exhibit

1 C.) During an inspection that occurred at 5:30 AM on November 30, 2012, it was observed that  
2 although heavy rain was occurring, the BMPs and runoff control measures on the site were  
3 effectively managing storm water runoff and controlling the discharge of sediment.

4 12. By 8:00 AM, due to the continued very heavy rain and associated storm water  
5 accumulation, there was one location, located near Basin A, where a constructed berm had been  
6 breached, resulting in sediment laden water overwhelming a protected outlet culvert located on  
7 the south side of the as yet to be constructed detention basin. Immediately upon the identification  
8 of this issue, repairs to the berm were initiated and the culvert was plugged to prevent future  
9 discharges.

10 13. While the berm breach was being addressed, the containment area located at the  
11 west end of Dominguez Loop also began to become overwhelmed due to the severe rains the site  
12 was experiencing, which we believe exceed the 5-year, 24-hour Compliance Storm Event size  
13 identified in the Construction Stormwater General Permit. (See Exhibit C.) Normally, runoff  
14 accumulating in the containment area was pumped into a water truck that then transported the  
15 water to Basin A. However, due to the heavy amount of rainfall occurring in such a short period  
16 of time, the containment area was overwhelmed resulting in the discharge of water that caused  
17 eventual eroding of an earthen dike that had been constructed to prevent storm water runoff from  
18 leaving the site. Immediate efforts were initiated to repair the dike, and the flow of storm water  
19 runoff was partially stopped within 1.5 hours (by 10:00 a.m.) when the rock berm was  
20 reconstructed and completely stopped just over an hour later at approximately 11:15 a.m. As a  
21 temporary measure, the dike was immediately protected with Visquine. We had also immediately  
22 contacted a subcontractor to request the instantaneous deployment of a dozer to re-grade the dike  
23 higher and wider. Re-grading of the dike began at 11:00 AM. By the end of the day, on  
24 November 30, 2012, the dike had been completely reconstructed.

25 14. Much of the sediment that left both parts of the site was stopped by heavy  
26 vegetation prior to reaching Secret Ravine and, where accessible, this sediment was protected  
27 with straw blankets, straw wattles, rock bags, and hydro-seeding.

28 15. In addition to the dike repair, we also ordered a 6-inch pump to be delivered the

1 following day (December 1, 2012). This larger pump was used to pump water from the  
2 containment area, located within Dominguez Loop, to Basin A. The 6-inch pump was on site by  
3 7:00 AM on December 1, 2012, the day after the incident. Pumping began by 9:30 AM and was  
4 continued through the weekend.

5 16. To eliminate the potential for further discharges of sediment, we worked diligently  
6 to implement additional BMPs on the site. Immediately after the event, a long term corrective  
7 action strategy was developed and provided to Regional Board staff on December 10, 2012, that  
8 included:

- 9 • The construction of an additional basin to increase storm water storage capacity.
- 10 • Placement of additional pumps and associated piping to transport water to the basin.
- 11 • The implementation of a phased grading plan to make the site more manageable in regards to management of storm water runoff.
- 12 • The application of additional erosion control measures.
- 13 • Construction of all-weather access roads.
- 14 • Obtaining additional support from storm water consultants (Supplemental QSP) as a QA/QC oversight of the contracted QSP and QSD to review and supplement the SWPPP.

15 17. In addition, on the day of the incident, November 30, 2012, we contacted Active  
16 Treatment Systems, Inc. to provide an Active Treatment System (ATS) to treat storm water  
17 generated from the site. Between December 5th and 10th, 2012, a second basin, Basin B, was  
18 also constructed to provide additional onsite storage. Runoff was pumped to Basin B for holding  
19 and then transferred to Basin A for treatment by the ATS. Active Treatment Systems, Inc.  
20 prepared an ATS Plan that was submitted to the Regional Board for approval per the requirements  
21 of the Construction Stormwater General Permit. The system described in the ATS Plan and  
22 implemented on site was designed to accommodate a 10-year, 24-hour storm event (4 inches of  
23 rain) and drain in less than 72-hours. The ATS Plan was uploaded to SMARTs on December 11,  
24 2012 (Prosecution Team Exhibit 33) and approval of the plan was obtained from the Regional  
25 Board on December 12, 2012. Deployment of the ATS began on December 10, 2012 and the  
26 system was fully operational December 18, 2012. The ATS discharged indirectly to Secret  
27 Ravine.  
28

1           18.     For the remainder of the 2012/13 storm season, storm water accumulating within  
2 Dominguez Loop was pumped by the 6-inch pipe to either Basin A or Basin B. If Basin A had  
3 capacity and was not in the process of actively treating storm water, water was pumped to Basin  
4 A. If Basin A did not have capacity, water was pumped to Basin B and stored until such time that  
5 the water was pumped to Basin A for pre-treatment and settlement. The chemical additive  
6 Chitosan was added to the water in Basin A to aid in flocculation of the sediment particles. Once  
7 the appropriate amount of flocculation had occurred, sediment settled out within the basin. Water  
8 was then transferred to a series of baker tanks for additional ATS treatment and then was finally  
9 processed through a series of sand filters that removed the remaining sediment and the chemical  
10 additive prior to discharge.

11           19.     For the end of last rain season, the treatment system worked as intended and in  
12 compliance with the ATS requirements indicated in the Construction Stormwater General Permit.  
13 (*See accord* Prosecution Team Exhibits 34-38, 42.) For the upcoming rain season, the large  
14 permanent detention basin will be finalized and used to store any stormwater coming off of the  
15 whole site.

16           20.     Despite having many meetings with Regional Board staff and being very  
17 cooperative and open, the Designated Parties in this action (i.e., Donahue Schriber and S.D.  
18 Deacon) were unable to come to an acceptable settlement of this matter. S.D. Deacon's challenge  
19 to this enforcement action mainly hinges on the ACL Complaint's inconsistency with the State  
20 Water Board's Enforcement Policy and its requirements related to assessments of penalties on a  
21 dollars per gallon basis. (*See Exhibit D (Enforcement Policy)* attached to this Declaration at p.  
22 14.) Had the proposed penalty been more reasonable and consistent with the Enforcement Policy  
23 and other ACLs in this region and statewide (*see Exhibits E-G (other ACLs)* attached to this  
24 Declaration), S.D. Deacon would not have requested Designated Party status and this hearing  
25 would not have been necessary.

26           21.     Attached hereto is **Exhibit A**, which to the best of my knowledge is a true and  
27 correct copy of a site map delineating the pre-incident SWPPP map into several sub-shed areas.

28           22.     Attached hereto is **Exhibit B**, which to the best of my knowledge is a true and

1 correct copy of the Rain Event Action Plans (REAPs), which were prepared by TSM on  
2 November 26-29, 2012 in preparation for the storm event discussed in the ACL Complaint.

3 23. Attached hereto is **Exhibit C**, which to the best of my knowledge is a true and  
4 correct copy of the Rain Gauge Log Sheet for the Rocklin Crossings site for November 1, 2012 to  
5 December 5, 2012, and information including a chart and a precipitation map on the duration and  
6 frequency of storm events for the western Sierra Nevada Crest in Placer County.

7 24. Attached hereto is **Exhibit D**, which to the best of my knowledge is a true and  
8 correct copy of the State Water Resources Control Board's Enforcement Policy adopted in 2009  
9 and approved for state law purposes on May 20, 2010 (taken from SWRCB's website at  
10 [http://www.waterboards.ca.gov/water\\_issues/programs/enforcement/docs/enf\\_policy\\_final111709](http://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/enf_policy_final111709)  
11 [.pdf](#) (last accessed on September 4, 2013), and for which S.D. Deacon requests official notice be  
12 taken.

13 25. Attached hereto is **Exhibit E**, which to the best of my knowledge is a true and  
14 correct copy of ACL Complaint No. R5-2013-0520 ACL issued by the Central Valley Regional  
15 Water Quality Control Board to HBT of Saddle Ridge LLC for the Cascade Crossing construction  
16 site on March 4, 2013, which was downloaded from the site:

17 [www.swrcb.ca.gov/.../cascade\\_crossing/r5-2013-0520\\_enf.pdf](http://www.swrcb.ca.gov/.../cascade_crossing/r5-2013-0520_enf.pdf) and Attachment A from  
18 downloaded from the site:

19 [http://www.swrcb.ca.gov/rwqcb5/board\\_decisions/tentative\\_orders/cascade\\_crossing/r5-2013-](http://www.swrcb.ca.gov/rwqcb5/board_decisions/tentative_orders/cascade_crossing/r5-2013-0520_att_a.pdf)  
20 [0520\\_att\\_a.pdf](#) (last accessed on September 4, 2013), and for which S.D. Deacon requests  
21 official notice be taken.

22 26. Attached hereto is **Exhibit F**, which to the best of my knowledge is a true and  
23 correct copy of ACL Complaint No. R8-2010-0024 issued to the Placentia-Yorba Linda Unified  
24 School District on June 10, 2010, which was downloaded from the following website:

25 [http://www.swrcb.ca.gov/rwqcb8/board\\_decisions/adopted\\_orders/orders/2010/10\\_024\\_ACLC\\_P](http://www.swrcb.ca.gov/rwqcb8/board_decisions/adopted_orders/orders/2010/10_024_ACLC_P)  
26 [lacentia-Yorba\\_Linda\\_USD.pdf](#) (last accessed on September 4, 2013), and for which S.D.  
27 Deacon requests official notice be taken.

28 27. Attached hereto is **Exhibit G**, which to the best of my knowledge is a true and

1 correct copy of ACL Complaint No. R8-2010-0023 issued to EI-PLA 75, LLC on May 27, 2010,  
2 which was downloaded from the following website:  
3 [http://www.waterboards.ca.gov/rwqcb8/board\\_decisions/adopted\\_orders/orders/2010/10\\_025\\_AC](http://www.waterboards.ca.gov/rwqcb8/board_decisions/adopted_orders/orders/2010/10_025_AC)  
4 [LC\\_EI-PLA75LLC.pdf](#) (last accessed on September 4, 2013), and for which S.D. Deacon  
5 requests official notice be taken.

6 28. Attached hereto is **Exhibit H**, which to the best of my knowledge is a true and  
7 correct copy of the complete version of Order No. 2009-0009-DWQ, amended by 2010-0014-  
8 DWQ & 2012-0006-DWQ, located from  
9 [http://www.waterboards.ca.gov/water\\_issues/programs/stormwater/docs/constpermits/wqo\\_2009](http://www.waterboards.ca.gov/water_issues/programs/stormwater/docs/constpermits/wqo_2009)  
10 [0009\\_complete.pdf](#) (last accessed on September 4, 2013), and for which S.D. Deacon requests  
11 official notice be taken.

12  
13 I declare under penalty of perjury under the laws of the State of California that the  
14 foregoing declaration is true and accurate.

15 Executed this 4th day of September, 2013, in Citrus Heights, California

16  
17  
18  
19 By:  \_\_\_\_\_

20 Andy Van Veldhuizen

21 S.D. DEACON OF CALIFORNIA

22  
23  
24  
25 1335335.1

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3 455 Capitol Mall, Suite 210  
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8 BEFORE THE CALIFORNIA WATER QUALITY CONTROL BOARD  
9 CENTRAL VALLEY REGION

10 In the Matter of: ) DECLARATION OF HOWARD F.  
11 ) WILKINS III IN SUPPORT OF DONAHUE  
12 Donahue Schriber Asset Management ) SCHRIBER ASSET MANAGEMENT  
13 Corporation; Rocklin Crossing, Placer County ) CORPORATION'S SUBMISSION OF  
14 Administrative Civil Liability Complaint ) EVIDENCE AND POLICY STATEMENTS  
15 No. R5-2013-0519 ) AND DESIGNATION OF WITNESSES  
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1 I, Howard F. Wilkins III, hereby declare as follows:

2 1. I am a member in good standing of the State Bar of California. I am a partner in the  
3 Sacramento, California, law firm of Remy Moose Manley, LLP, counsel of record in this matter for  
4 Donahue Schriber Asset Management Corporation ("Donahue Schriber"). I make this declaration in  
5 support of Donahue Schriber's Submission of Evidence and Policy Statements and Designation of  
6 Witnesses, filed concurrently with this declaration.

7 2. The matters set forth in this declaration are within my person knowledge and, if called  
8 upon to testify to these matters, I could and would so testify.

9 3. Attached hereto as Exhibit "I" is a true and correct copy of a technical memorandum  
10 prepared by Michael Bryan, Ph.D.

11 4. Attached hereto as Exhibit "J" is a true and correct copy of a Curriculum Vitae for  
12 Michael Bryan, Ph.D. Dr. Bryant is an expert witness who can and will testify at the hearing for this  
13 matter and can authenticate the content of Exhibits "I" and "J" if further authentication is required.

14 5. Attached hereto as Exhibit "K" is a true and correct copy of a technical memorandum  
15 prepared by RSC Engineering, Inc.

16 6. Attached hereto as Exhibit "L" is a true and correct copy of Curriculum Vitae for  
17 Richard Chavez, P.E. Mr. Chavez is an expert witness who can and will testify at the hearing for this  
18 matter and can authenticate the content of Exhibits "K" and "L" if further authentication is required.

19 I declare under penalty of perjury under the laws of the State of California that the  
20 foregoing declaration is true and accurate.

21 Executed this 4th day of September, 2013, in Sacramento, California

22  
23  
24 By:   
25 Howard F. Wilkins III

# **EXHIBIT I**

**TECHNICAL MEMORANDUM FROM  
MICHAEL BRYAN, PH.D.,  
DONAHUE SCHRIBER ASSET  
MANAGEMENT CORPORATION, TO  
CENTRAL VALLEY REGIONAL WATER  
QUALITY CONTROL BOARD**

## TECHNICAL MEMORANDUM

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Date: September 4, 2013

Prepared for: Central Valley Regional Water Quality Control Board

On Behalf of: Donahue Schriber Asset Management Corporation

Prepared by: Michael Bryan, Ph.D.

Project: Rocklin Crossings Development Project

Subject: Written testimony regarding the potential effects of storm water discharges from the Rocklin Crossings Project on aquatic life beneficial uses of Secret Ravine

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### 1 Introduction

#### 1.1 Background

The Rocklin Crossings development project (Project) consists of a shopping center located on 59.4 acres southeast of the intersection of Interstate 80 and Sierra College Boulevard in Placer County. On September 2, 2009, the State Water Resources Control Board adopted the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities, Order No. 2009-0009-DWQ (NPDES No. CAS000002) (General Permit) for the Project, which became effective on July 1, 2010.

Construction at the Project site was initiated in 2012. In November and December 2012, Regional Water Board staff observed several violations of the General Permit during inspections of the construction site. On July 8, 2013, the Regional Water Board issued Administrative Civil Liability Complaint R5-2013-0519 (Complaint) to the Donahue Schriber Asset Management Corporation (Donahue Schriber), the property owner, based on allegations that Donahue Schriber had violated provisions of its General Permit. The Complaint alleges three separate violations; however, this testimony will only address "Violation 1," which is defined as two separate discharges of turbid water off the construction site into Secret Ravine on November 30, 2012.

#### 1.2 Purpose and Intended Use of this Document

The purpose and intended use of this document is to provide expert testimony regarding the potential for Violation 1 cited above to adversely affect the aquatic life beneficial uses in Secret Ravine. More specifically, the Complaint issued by the Regional Water Board, in accordance with the State Water Board's Water Quality Enforcement Policy (Effective May 20, 2010), considered the harm that may result to beneficial uses from exposure to pollutants or contaminants in an illegal discharge, in light of the statutory factors of the nature, circumstances,

extent and gravity of the violation or violations. The score evaluates direct or indirect harm or potential for harm from the violation. A score between 0 and 5 is assigned based on a determination of whether the harm or potential for harm to beneficial uses is negligible (0), minor (1), below moderate (2), moderate (3), above moderate (4), or major (5).<sup>1</sup>

The Complaint provides no direct observations or evidence of actual harm to aquatic life in Secret Ravine and, furthermore, provides no scientific assessment of the potential for harm to the aquatic life beneficial uses resulting from Violation 1. Rather, the Complaint simply proclaims that the Violation resulted in moderate (i.e., a score of 3) harm to beneficial uses.

To inform the Board, I provide herein a scientific assessment of the potential for harm associated with Violation 1, based on my expertise as a fisheries biologist and aquatic toxicologist. This written testimony concludes with my expert opinion, based on my scientific assessment, as to whether the potential harm to the aquatic life beneficial uses of Secret Ravine from Violation 1 was: negligible (0), minor (1), below moderate (2), moderate (3), above moderate (4), or major (5), according to the definitions of these terms in the State Water Board's Water Quality Enforcement Policy.

## **2 Characterization of the Violation 1 Discharge Event**

### **2.1 Background Information**

On November 30, 2012, Regional Water Board staff conducted a site inspection during a heavy rain event that produced 2.25 inches of rainfall within the first 11 hours of the day (Regional Water Board Inspection Report of November 30, 2012, dated December 20, 2012). This is considered a 1 in 25-year event, based on review of rainfall precipitation data for this area for the period 1922-2012 (see page 4 of the Complaint). In the Complaint, staff state that they observed "*...turbid storm water discharging from two locations...*" on the construction site.

At the downstream location (i.e., Dominguez Loop Road site), an earthen berm constructed next to a retaining wall, designed to contain stormwater within the construction site perimeter had breached, allowing storm water to flow from the southeast corner of the construction site, across approximately 175-200 ft of riparian habitat between the construction site boundary and Secret Ravine, which then flowed into Secret Ravine. Regional Water Board staff measured turbidity of "*greater than 1,000 NTU*" in the storm water using a handheld meter. Since turbidity was

<sup>1</sup> **0 = Negligible** - no actual or potential harm to beneficial uses.

**1 = Minor** - low threat to beneficial uses (i.e., no observed impacts but potential impacts to beneficial uses with no appreciable harm). **2 = Below moderate** - less than moderate threat to beneficial uses (i.e., impacts are observed or reasonably expected, harm to beneficial uses is minor). **3 = Moderate** - moderate threat to beneficial uses (i.e., impacts are observed or reasonably expected and impacts to beneficial uses are moderate and likely to attenuate without appreciable acute or chronic effects). **4 = Above moderate** - more than moderate threat to beneficial uses (i.e., impacts are observed or likely substantial, temporary restrictions on beneficial uses (e.g., less than 5 days), and human or ecological health concerns). **5 = Major** - high threat to beneficial uses (i.e., significant impacts to aquatic life or human health, long term restrictions on beneficial uses (e.g., more than five days), high potential for chronic effects to human or ecological health).

recorded as “>1,000 NTU, it is assumed that 1,000 NTU was the maximum reading capability of the meter used. This turbidity measurement was apparently taken near the construction site boundary at a linear distance of approximately 175-200 ft from Secret Ravine. Staff then recorded a turbidity measurement of 153 NTU in Secret Ravine a short distance upstream of the point at which the storm water from the Dominguez Loop Road location entered the creek.

Regional Water Board staff then inspected the Rocklin Crossings Detention Basin site (Detention Basin site), which is located upstream of the Dominguez Loop Road location, where they observed a second discharge of storm water from the construction site. Turbidity measured at the detention basin outlet was 2,425 NTU. It is my understanding that Dave Clayson of Total Site Maintenance (TSM) made this turbidity measurement, apparently using a turbidity meter with a measurement range above 1,000 NTU. It was later determined that a plug placed into this detention basin outlet had failed and the Complaint states that this plug failure allowed “...storm water to flow into Secret Ravine.” No turbidity measurement was recorded in Secret Ravine upstream of the discharge from the Detention Basin or downstream from the Dominguez Loop Road location.

Based on an assessment conducted by RSC Engineering (2013a and 2013b), the Complaint alleges that a total of 76,613 gallons of storm water from both areas of the construction site entered Secret Ravine between 8:00 am and 12:00 noon on November 30, 2012. A subsequent assessment examined the Secret Ravine hydrograph for this period at the flow gauge located approximately 1.2 miles downstream of the construction site and estimated that the total volume of flow discharged from the construction site from Violation 1 accounted for approximately 0.32% (i.e., one-third of one percent) of the total flow in the creek. Based on average discharge of 450 cfs measured at the Secret Ravine gauge, the contribution to total flow attributable to Violation 1 was approximately 1.44 cfs ( $450 \text{ cfs} * 0.0032$ ), on average.

## **2.2 Characterization of Turbidity and Sediment Entering Secret Ravine**

To inform this expert testimony, I conducted a site inspection on August 26, 2013. A number of key observations discussed below are based on this site inspection, along with information I reviewed from the record.

### **2.2.1 Detention Basin Site**

The 600-ft riparian habitat area between the Detention Basin outlet and the Secret Ravine at this upstream site consists of relatively dense upland and riparian vegetation (i.e., trees, shrubs, and grasses) over an undulating topography that would create hydraulic control points in which storm water would back up and pool before reaching the creek. This would cause much of the stormwater sediment load, particularly the sand-sized materials, to settle out onto the riparian landscape prior to reaching the creek channel.

Based on information in the record collected by Dave Clayson of TSM dated January 7, 2013, Secret Ravine apparently split into two channels under the November 30, 2012 high-flow event immediately downstream of the Croftwood Drive road bridge. The “secondary high-flow

channel” runs to the northwest of the main channel, and apparently may come within about 250 ft of the Detention Basin outlet. The Detention Basin discharge was observed entering this secondary high-flow channel by Dave Clayson and a Regional Water Board staff member on November 30, 2012, rather than the main channel of Secret Ravine. This secondary high-flow channel flowed downstream approximately 200-300 yards before re-connecting with the Secret Ravine’s main channel, well upstream of the Dominguez Loop Road discharge location.

Based on turbidity measurements taken by Dave Clayson on November 30, 2012, the turbidity of the stormwater exiting the Detention Basin outfall structure was 2,425 NTU. At this same time, the turbidity in the secondary high-flow channel of Secret Ravine, upstream of the Detention Basin’s discharge into this secondary high-flow channel, was 871 NTU. Also on the morning of November 30, 2012, downstream beyond where the secondary high-flow channel re-connected with the main channel but upstream of where the Dominguez Loop Road discharged stormwater entered Secret Ravine, the Regional Water Board staff member measured Secret Ravine turbidity at 153 NTU.

It is not surprising that the turbidity of the secondary high-flow channel (871 NTU) was markedly higher than that of Secret Ravine’s main channel (153 NTU) upstream of any discharge influences. This is because the secondary channel is dry most of the year and when high flows enter into dry channels, they churn up and re-suspend previously dry sands and silts that were deposited there by previous flood waters as they slowed and receded. The fact that the main channel of Secret Ravine had a turbidity as low as 153 NTU downstream of the Detention Basin discharge site indicates that much of the sediment load being carried by the Detention Basin discharge (measured at 2,425 NTU) settled-out in the riparian area and vegetation before reaching the secondary high-flow channel, settled within the secondary high-flow channel, and/or within initial reaches of the main channel. It further indicates that what turbid storm water did enter the creek’s channels at this site (later estimated to be 16,873 gallons) was diluted greatly, thereby resulting in the relatively low 153 NTU measured further downstream in Secret Ravine’s main channel.

## **2.2.2 Dominguez Loop Road Site**

An estimated 61,315 gallons of storm water left the Dominguez Loop Road location, of which 1,575 gallons was estimated to have been lost to infiltration prior to reaching Secret Ravine. The remaining 59,740 gallons of storm water from the Dominguez Loop Road location that entered the main channel of Secret Ravine accounted for most of the total estimated storm water that entered the creek as a result of Violation 1. However, the approximately 175-200 ft area of riparian habitat between the location at which turbidity was measured near the breached retaining wall and Secret Ravine contains grasses, bushes, blackberry, and trees. During my site visit of August 29, 2013, deposits of sand from the discharge event were observed in the grassy areas and along the blackberries throughout the riparian zone, indicating that much of the sand settled out of the storm water as it flowed over the land, and thus never entered Secret Ravine. The amount of sand and silt that entered Secret Ravine with this stormwater runoff cannot be accurately estimated. However, it should be noted that the substrate composition in this reach of Secret Ravine is dominated by fine (i.e., sand, silt) substrates. Consequently, the conveyance of

sand and silt into the water body at this site would simply be adding more of the already dominant substrate material. The >1,000 NTU turbidity measurement recorded at this site may well have been reduced by the overland flow and associated settling of sand within the riparian area, prior to it entering Secret Ravine. Nevertheless, for the purposes of this assessment, it is assumed that >1,000 NTU water entered Secret Ravine. It is clear that a substantial amount of sand did settle out within the riparian habitat area, never making it into the creek.

### **3 Characterization of Secret Ravine**

Secret Ravine is a perennially flowing tributary to Miner's Ravine, which is a tributary to Dry Creek, which is a tributary to the Sacramento River between Colusa Drain and the I Street Bridge. The designated aquatic life beneficial uses for Secret Ravine are warm and cold freshwater habitat, warm and cold fish migration, and warm and cold spawning habitat. The instream habitat, flows, and aquatic biological resources of the creek are described in the following subsections.

#### **3.1 Instream Habitat and Flows**

Secret Ravine drains a watershed of approximately 19.7 square miles, flowing approximately 10.5 miles from its headwaters at 1,285 feet to its confluence at Miners Ravine at an elevation of 165 feet (Dry Creek Conservancy 2001). Average rainfall in the watershed is approximately 25.0 inches per year, with most precipitation falling from December through February (Dry Creek Conservancy 2001). During the summer and early fall months, flow in Secret Ravine is relatively low and consistent, often ranging from 0.5 to 3 cfs (Dry Creek Conservancy 2001). During the winter and spring months, the creek is generally flashy with high-flow events during and immediately following storms (ECORP 2007).

In 2007, ECORP (2007) conducted an assessment of instream habitat for anadromous salmonids in two reaches: (1) a reach extending 2,903 ft upstream of the Detention Basin site (upstream reach), and (2) the 1,665-ft reach extending from the Detention Basin location to the Sierra College Boulevard Bridge (downstream reach). Overall, the two reaches were characterized as low gradient (<2% slope). Overall, a total of 14 short riffles (12 low-gradient and 2 high-gradient) were identified, comprising a combined total of less than 3% of the total available habitat in the two reaches. These researchers concluded that riffle habitat in the vicinity of Rocklin Crossings was "sparse" and limited by a lack of coarse substrates and a low gradient stream profile.

Substrate composition in the two reaches was characterized as consisting primarily of sand and fine sediments (ECORP 2007). A combined 68% of substrate in the upstream reach was characterized as sand (61%) and silt (7%). A combined 63% of substrate in the downstream reach was characterized as sand (57%) and silt (6%). Sand accounted for 60% of the substrate in the two reaches combined and accounted for 28% of the substrate composition in all riffles. Estimates of substrate embeddedness ranged from 25-50% on average, which the researchers attributed to the visible downstream movement of sands in both reaches, despite relatively low flows (ECORP 2007). Similarly, the Dry Creek Conservancy (2001) described sand as the

"...overwhelming dominant substrate element..." in Secret Ravine. The abundance of fine sediments in Secret Ravine has been identified by the California Department of Fish and Wildlife (CDFW), the Dry Creek Conservancy, and other researchers as one of the primary factors limiting production of fall-run Chinook salmon and steelhead in the creek (ECORP 2007; Dry Creek Conservancy 2001; Vanicek 1993; Ayres et al. 2003).

### 3.2 Aquatic Biological Resources

Secret Ravine's aquatic life beneficial uses (i.e., COLD, WARM, SPAWN, and MIGR) are represented by the fish and BMI communities that it supports. Based on fish community surveys conducted by the CDFW (Vanicek 1993), Garcia and Associates (2002), and observations made by ECORP (2007), Secret Ravine supports approximately 22 fish species, including eight native fishes. The resident fish assemblage is composed of 20 warmwater fishes, including species in the families Cyprinidae (minnows), Centrarchidae (basses and sunfishes), Catostomidae (suckers), Ictaluridae (bulhead catfishes), and Cottidae (sculpins). The spawning periods for fish species residing in Secret Ravine range from early spring to summer (Moyle 2002). Therefore, the life stages of resident fishes that occur in Secret Ravine in November include adults and juveniles. Based on these life histories, no eggs, alevins, or free-swimming larvae of the 20 resident fish species would have been present in Secret Ravine in late November.

Despite the poor habitat conditions for anadromous fish, Secret Ravine may support two anadromous fishes: (1) fall-run Chinook salmon and (2) steelhead (ECORP 2007). Fall-run Chinook salmon adults and redds have been observed upstream, downstream, and in the reach adjacent to the construction site in most years surveyed from 2003 to 2007; however, the total number of redds observed in Secret Ravine declined steadily from 68 redds observed in 2003 to 4 redds in 2007 (all 4 redds of 2007 were observed approximately 3-4 miles downstream of the project site) (ECORP 2007). Fall-run Chinook salmon typically spawn from late October through December shortly after arriving in their natal streams and, therefore, incubating eggs may potentially have been present in late November. However, there is no evidence in the Complaint to document the presence of Chinook salmon redds in the vicinity of the storm water discharges during November 2012.

Adult steelhead may be present in Secret Ravine during their seasonal spawning migrations. Both adult and juvenile steelhead have historically been observed in Secret Ravine in surveys conducted as recently as 2007 (ECORP 2007). However, because Central Valley steelhead spawn during the winter and spring months (typically January-April; McEwan and Jackson 1996; Moyle 2002), no steelhead eggs would be present in the gravels in late November. Juvenile steelhead rear in their natal streams for at least one year prior to emigrating and, therefore, may be present in Secret Ravine near the Rocklin Crossings location in late November. However, the majority of spawning and rearing by steelhead occurs upstream of the project site (Titus 2001).

Surveys of Secret Ravine's BMI community have been conducted in recent decades by Fields (1999), the Dry Creek Conservancy (Bailey Environmental 2003), and by the University of California, Berkeley (de Barruel and West 2003). These surveys all support the conclusion that Secret Ravine's BMI community is largely composed of organisms that are moderately to highly

tolerant to environmental degradation and have a relatively low degree of taxonomic diversity and abundance. Species in the family Chironomidae (midges), which are generally tolerant organisms that are widespread and common, comprised a large proportion of the BMI community (ECORP 2007). Based on their habitat assessment and review of available BMI surveys, ECORP (2007) concluded that the benthic habitats in Secret Ravine "...do not appear to currently support a robust BMI community structure in the vicinity of or downstream of the Rocklin Crossings project area." The relatively low diversity and abundance of BMIs in Secret Ravine is likely due to the limited availability of high-quality habitats (e.g., riffles, coarse substrates with minimal embeddedness) (ECORP 2007) and represents a BMI community adapted to degraded conditions and unstable substrates dominated by fine sediments.

#### **4 Assessment of Potential Impacts**

##### **4.1 Key Considerations from Review of Scientific Literature**

There are several ways in which highly turbid water, carrying a sand and silt load, entering a water body could cause acute (short-term) and chronic (long-term) adverse impacts to resident aquatic life. The level of impact to a water body's aquatic life beneficial uses depends upon the relative frequency, magnitude, and geographic extent of such events. Because Violation 1 was a single 3-4 hour event during a precipitation-driven high-flow period, the manner in which adverse effects to Secret Ravine's aquatic life could potentially have occurred from Violation 1 is limited to the following.

- 1) Acute lethality of fish or BMIs due to water column turbidity levels.
- 2) Deposition of sand and silt on existing substrates, thereby burying incubating fish eggs and BMIs resulting in mortality of incubating eggs and BMIs present.
- 3) High turbidity and sand/silt settling cause fish and BMIs to move to other locations upstream (fish) or downstream (fish and BMIs) of the most affected area.

Because this was a single, short-duration event, no long-term adverse impacts to Secret Ravine's aquatic life would occur. Any local deposition of sand and silt within the channel from this single event would simply be redistributed to downstream reaches under this and subsequent precipitation-driven high flow periods. The substrate of the affected reach would rapidly return to an equilibrium state based on the creek's hydrology and geomorphology.

The majority of studies of potential effects of elevated turbidity in streams examine avoidance behavior or long-term spatial effects on fish or BMI abundance. Few studies examine the potential effects of short-term (i.e., one day or less) exposures of aquatic organisms to elevated turbidities, presumably because fish communities occurring in rivers and creeks are adapted to elevated turbidities and suspended sediment concentrations during and immediately after winter-spring storm events. Tolerance to elevated turbidities associated with winter freshets is essential to survival for aquatic organisms occurring in such systems (Gammon 1970). Naturally occurring turbidities rarely reach levels that are directly lethal to fish (Caux et al. 1997).

Newcombe and MacDonald (1991) concluded that turbidities exceeding 100,000 NTU are lethal to fish, but rarely occur in nature and typically are not of sufficient duration to pose a threat. In a study of fish and BMI species considered to be highly sensitive to increases in turbidity, Rowe et al. (2002) observed no mortality when repeatedly exposing the organisms to turbidities of 1,000 NTU every 2-3 days over a 22-day period. These researchers also reported that 24-hr exposure to turbidities of up to 20,000 NTU had no observable effect on the survival of the BMIs examined (i.e., caddisflies, damselflies, and mayflies) or most of the fish species examined.

Based on the scientific literature reported above, and aquatic organisms ability to withstand short-term exposure to high turbidity and sediments loads which they encounter annually during large storm events, it can be definitively concluded that no acute lethality to fish or BMIs would have occurred due to water column turbidity levels that occurred within Secret Ravine on November 30, 2012 for the 3-4 hours period that the stormwater discharge occurred. The remainder of this assessment will assess the potential for impacts associated with #2 and #3 listed above.

#### 4.2 Fish Eggs

The earliest life stages of fish (i.e., incubating eggs and alevins), which occur in the gravel and require interstitial flow for survival, are most susceptible to the adverse effects associated with increased sediment loads (Lloyd 1987). Based on the timing of fall-run Chinook salmon spawning and the incubation period required before alevins are hatched, the only early life stage potentially occurring in Secret Ravine in late November would be fall-run Chinook salmon eggs. However, as discussed above, the availability of spawning habitats in the reach adjacent to and downstream of the construction site is limited and quality of spawning habitat is considered poor to moderate due to a high proportion of fine sediments in the creek substrate (ECORP 2007; Dry Creek Conservancy 2001). The 25-50% embeddedness of riffles reported by ECORP (2007) for the reaches of Secret Ravine they evaluated immediately upstream and downstream of the construction site is marginal for spawning by anadromous salmonids. The California Department of Fish and Wildlife (CDFG 1998) considers 25% or less embeddedness of spawning substrates as suitable for Chinook salmon and steelhead. Consequently, based on historical Chinook salmon spawning data (ECORP 2007) and the dominant substrates in Secret Ravine adjacent to and immediately downstream of the Project site, it is unlikely that fall-run Chinook salmon redds with incubating eggs occurred in the creek adjacent to and immediately downstream of the construction site during the November 30, 2012 discharge event.

In the event that fall-run Chinook salmon did spawn in these reaches, the potential for adverse effects associated with the discharge events (i.e., burying of gravels containing incubating eggs) is low based on the following. First, I would not expect fall-run Chinook salmon to have had established redds in the secondary high-flow channel at the time of the discharge event because of unsuitable substrate (dominated by fine materials deposited by previous flood events) and because this channel would not have had flow in it for most, if not all, of the fall prior to November 30<sup>th</sup>. Second, within a couple hundred yards downstream of where the secondary high-flow channel rejoins the main channel, turbidity was measured at 153 NTU, which is well below any concern level for impacts to incubating salmon eggs or other aquatic life for short-

term storm period exposures. Third, the volume of water with elevated turbidity (and carrying a sand/silt load) that entered the creek comprised only 0.32% of the total flow in the creek and thus received on the order of 300:1 dilution. Fourth, the majority of sediments with the potential to embed gravels (i.e., sands) would have settled out of the storm water prior to reaching the creek due to the large areas of dense riparian vegetation present between the construction site boundary and Secret Ravine, which I observed on my site visit. Fifth, the contribution of sand and silt from the storm water discharge would represent a negligible load to the creek overall, relative to the sand/silt load that the watershed and creek itself mobilized during this storm event. Sixth, the discharge of turbid storm water carrying a sand/silt load entered a reach of Secret Ravine that is already dominated by sand substrates (see Section 3.1). The high precipitation-driven flow within the creek at the time of the discharge event, as well as subsequent precipitation-driven high-flow events would be expected to mobilize and redistribute discharged sands and silts along with the larger sand/silt load naturally mobilized from the watershed and channel by the high storm flows.

Based on these findings, it is my expert opinion that the sand and silt load that entered Secret Ravine associated with Violation 1 was not of sufficient volume and duration to cause notable harm to fish eggs that may have been incubating in the creek substrate. No impacts to fish eggs, including fall-run Chinook salmon eggs in redds, were observed or documented for this event. Although not observed, there existed a low potential for discharged sands and silts to have covered Chinook salmon eggs, and thus possibly adversely affected incubating eggs, should there have been one or more salmon redds immediately downstream of the Dominguez Loop Road discharge location, where the greatest settling of sands would have occurred. The majority of finer sands and silts would have been transported greater distances downstream and would have settled-out in the same manner that the creek's naturally recruited fine sand/silt load did. As such, the finer sands/silt would not have covered incubating Chinook salmon eggs near the discharge location or at downstream sites by magnitude that would have inhibited their incubation. Most of the larger sands discharged into the creek would have settled-out within a relatively short reach of the creek downstream of the Dominguez Loop Road discharge location. Thus, the larger, more rapidly settled sands would have affected only a very small portion of the Chinook salmon eggs incubating within Secret Ravine in the fall of 2012, if any at all, and thus would not result in any notable population-level effect to the species (i.e., would result in no appreciable harm to the species).

#### **4.3 Adult and Juvenile Fishes**

As discussed in Section 3.2, no free-swimming larvae of any fish species occur in Secret Ravine in November. However, adult life stages of all 22 resident and anadromous fish species occurring in Secret Ravine could be present near the Rocklin Crossings construction site in November, and juvenile life stages of all fish species except fall-run Chinook salmon could also be present. No impacts to adult or juvenile fishes were observed or documented for this event. Based on the results of published studies discussed above, the potential for adverse effects on adult and juvenile fish associated with the discharge event is very low for the following reasons. First, the volume of water with elevated turbidity (and carrying a sand/silt load) that entered the creek comprised only 0.32% of the total flow in the creek and, therefore, would not have caused

turbidity or suspended sediment loads in the creek to exceed published thresholds for acute or chronic effects on aquatic life. Second, the duration of the discharge event lasted less than 4 hours and, therefore, any incremental contribution of elevated sediment levels or turbidity was shorter than the durations cited in the scientific literature for causing acute or chronic effects on fish. Third, adult and juvenile fish are mobile and would be expected to avoid areas of elevated suspended sediments in the immediate vicinity of the storm water discharge and seek areas of lower turbidity and suspended sediment load, if desired.

Based on these findings, it is my expert opinion that the turbid water and associated sand and silt load that entered Secret Ravine due to Violation 1 was not of sufficient volume and duration to cause any notable population-level effects to adult or juvenile life stages of any fish species (i.e., would result in no appreciable harm to the species) occurring in Secret Ravine.

#### **4.4 Benthic Macroinvertebrates**

As discussed in Section 3.2, surveys of Secret Ravine's BMI community indicate that the community is dominated by organisms adapted to habitat conditions with unstable substrates dominated by fine sediments (i.e., sands and silts). Because much of the BMI community is found in the same riffle habitats that anadromous salmonids spawn in, the release of storm water with elevated turbidity levels (and carrying a sand/silt load) from the site during the November 2012 discharge event would not have adversely affected the BMI community of Secret Ravine for the same reasons discussed above for fish eggs. No impacts to BMIs were observed or documented for this event. Based on the results of published studies discussed above, the potential for adverse effects on BMIs associated with the discharge event is very low for the following reasons. First, the volume of water with elevated turbidity that entered the creek comprised a negligible proportion (i.e., 0.32%) of the total flow in the creek and thus received on the order of >300:1 dilution. Second, the majority of the sand in the storm water would have settled out of the storm water prior to reaching the creek. Third, the amount of sand/silt remaining in the storm water after passing through the riparian buffer zone would represent a negligible contribution of sand/silt load to the creek, relative to the creek's load that was mobilized from the watershed and channel during the storm event. The settling of the heavier sands that entered the creek would have occurred within a short distance downstream, with the finer materials distributed over greater distances downstream. Hence, any "burying" of BMIs would have occurred in a small geographic area. Finally, most BMI taxa have the ability to avoid unfavorable conditions by, for example, dislodging and drifting downstream, burrowing into the substrate, crawling to more favorable locations, or enclosing themselves.

Based on these findings, it is my expert opinion that the turbid water and associated sand and silt load that entered Secret Ravine due to Violation 1 was not of sufficient volume and duration to cause any notable population-level effects to BMIs (i.e., would result in no appreciable harm to the BMI community of the reach or the creek as a whole) occurring in Secret Ravine.

## **5 Conclusions**

Based on the scientific assessment presented above, it is my expert opinion that the harm or potential for harm to the aquatic life beneficial uses of Secret Ravine that may have resulted from

of Violation 1 was “minor,” as defined by the State Water Board’s Water Quality Enforcement Policy. No impacts to aquatic life were observed, but a low potential for short-term impacts to beneficial uses existed. The level of impact, should any impact to aquatic life have occurred, would have been sufficiently small in magnitude, duration, and geographic extent that no appreciable harm to any of the populations of aquatic organisms using Secret Ravine would have occurred.

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# **EXHIBIT J**

## **RESUME OF MICHAEL BRYAN**

Michael D. Bryan, Ph.D.  
Partner / Principal Scientist

Dr. Michael Bryan has over 26 years of combined consulting and research experience focused on fisheries biology, water quality, and aquatic toxicology. Dr. Bryan's fisheries and water quality experience extends to managing and serving as principal scientist for Endangered Species Act (ESA) Section 7 consultations with the National Marine Fisheries Service (NMFS) and U.S. Fish and Wildlife Service (USFWS), California Environmental Quality Act (CEQA) /National Environmental Policy Act (NEPA) documents, water quality and aquatic ecology studies, and regulatory permitting.

Dr. Bryan's research background provides a strong foundation for conducting specialized water quality and fisheries studies, including experimental design, study implementation, and project documentation. This work includes conducting biological assessments of fish and benthic macroinvertebrates to identify potential effects of new wastewater outfalls and Endangered Species Act compliance.

Dr. Bryan applies his extensive knowledge of fisheries and water quality in his management and technical oversight of CEQA/NEPA assessments for water supply and conveyance, flood control, and wastewater treatment and disposal projects. Dr. Bryan has developed a deep understanding of CVP/SWP operations, and the fish resources and water quality of the American River, Sacramento River, and Sacramento-San Joaquin Delta system. Dr. Bryan's expertise in preparing CEQA/NEPA assessments includes refinement of alternatives and development of defensible assessment thresholds.

Through his work on specialized fisheries and water quality studies and regulatory permitting and compliance, Dr. Bryan has established working relationships with federal and state resource agency representatives. Dr. Bryan applies his expertise to assist clients with strategic planning; compliance monitoring; technical evaluations; project refinement and implementation; and expert witness testimony.

**EDUCATION** Ph.D., Environmental Toxicology & Fisheries Biology, 1993, Iowa State University

M.S., Fisheries Biology, 1989, Iowa State University

B.S., Fisheries Biology & Biology, 1986, University of Wisconsin, Stevens Point

**REPRESENTATIVE**

**FISHERIES BIOLOGY**

**PROJECT**

**BIOLOGICAL ASSESSMENT – NEW MOUNTAIN HOUSE WASTEWATER TREATMENT PLANT OUTFALL IN OLD RIVER**

**EXPERIENCE**

Prepared a Biological Assessment addressing the potential effects on Endangered Species Act-listed anadromous fish species that could result from placing a new diffuser outfall into the Old River, and operating the outfall to discharge up to 5.4 mgd of treated municipal effluent at buildout. Developed conservation measures to be implemented as part of the project to avoid/minimize effects on listed fishes. Worked closely with National Marine Fisheries Service in

preparing the associated Biological Opinion.

**BIOLOGICAL ASSESSMENT – IRONHOUSE SANITARY DISTRICT WASTEWATER TREATMENT PLANT OUTFALL IN THE SACRAMENTO RIVER**

Prepared a Biological Assessment addressing the potential effects on Endangered Species Act-listed anadromous fish species that could result from placing a new diffuser outfall into the San Joaquin River, and operating the outfall to discharge up to 8.6 mgd of treated municipal effluent at buildout. Developed conservation measures to be implemented as part of the project to avoid/minimize effects on listed fishes. Worked closely with National Marine Fisheries Service in preparing the associated Biological Opinion.

**BIOLOGICAL ASSESSMENT – CITY OF CHICO WASTEWATER TREATMENT PLANT EXPANSION**

Prepared a Biological Assessment for project to address potential project construction and operational effects on ESA listed fish species and their habitats that could result from placing a new diffuser outfall in the Sacramento River and operating the outfall to discharge up to 12 mgd of treated municipal effluent. Developed conservation measures to be implemented as part of the project to avoid/minimize effects on listed fishes.

**COSUMNES RIVER FLOW AUGMENTATION PROJECT**

Lead fisheries consultant on project that provides up to 5,000 acre-foot of American River water annually routed through the Folsom South Canal to pre-wet the lower Cosumnes River channel to provide earlier and more prolonged hydraulic continuity throughout the lower river during the fall-run chinook salmon spawning season. Assessed potential fish resource impacts of implementing the project on the fish resources of the lower American River, Cosumnes River, and Mokelumne River.

**AQUATIC BIOLOGICAL RESOURCES ASSESSMENT OF HANGTOWN CREEK**

Principal-in-charge for study design and implementation of fish sampling (electrofishing), benthic macroinvertebrate sampling, habitat assessment, and temperature monitoring. Benthic macroinvertebrate sampling was conducted using the California Department of Fish and Game California Stream Bioassessment Procedure. Study focused on evaluating the thermal effects of the Hangtown Creek Wastewater Treatment Plant's discharge on the aquatic ecology of Hangtown Creek.

**PUTAH CREEK FLOW RESTORATION PROJECT**

Served as principal-in-charge of the Putah Creek fisheries assessment

to determine how the project, developed to address debris buildup below the Putah Creek Diversion Dam through dam and channel modifications, could incorporate elements to achieve a secondary objective of protecting, maintaining, and possibly enhancing Putah Creek's aquatic habitats and fish resources.

#### **LOWER YUBA RIVER CALFED PROJECT**

Co-Principal-in-charge and technical lead for developing a local-level Implementation Plan for Lower Yuba River anadromous fish habitat restoration. Project involved working with the Lower Yuba River Fisheries Technical Working Group, which has representatives from all state and federal fishery agencies, to perform a comprehensive review of available fishery, ecological, and hydrologic information and to develop a conceptual model for the Yuba River aquatic ecosystem. This model is a framework to guide the refinement, evaluation, and prioritization of restoration actions proposed by Calfed's Ecosystem Restoration Program Plan, U.S. Fish and Wildlife's Anadromous Fish Restoration Program, California Department of Fish and Game's 1991 Plan, and other fish management plans already developed for the river. The conceptual model identifies testable hypotheses related to key ecosystem processes, habitat conditions, stressors, and fish population trends and behavior, including habitat use. Based on this work, restoration actions, pilot projects, and studies are prioritized for near-term and long-term implementation in a manner consistent with long-term ecosystem and watershed management goals.

#### **LOWER AMERICAN RIVER OPERATIONS WORKING GROUP PARTICIPANT**

Provided technical assistance to staff from U.S. Bureau of Reclamation, California Department of Fish and Game, U.S. Fish and Wildlife Service, and National Marine Fisheries Services in evaluating alternative Folsom Dam shutter operational scenarios for the summer/fall period to maximize thermal benefits to Lower American River fall-run chinook salmon and steelhead, and to balance benefits to these two species.

#### **CDFG/YCWA INTERIM SETTLEMENT AGREEMENT**

Initiated and led the development of a California Department of Fish and Game-Yuba County Water Agency (YCWA) Interim Settlement Agreement and Interim Study Plan for the Lower Yuba River. Facilitated negotiations between CDFG and YCWA, which were conducted to reach agreement on several issues, including minimum instream flow, water temperature, and flow fluctuation requirements associated with operation of the Yuba River Development Project. This process ultimately culminated in the Lower Yuba River Accord. The Accord resolved a nearly 20-year legal and political fight over water rights and fisheries flows. The Accord received the State's

highest environmental award.

**LOWER AMERICAN RIVER SALMON MORTALITY MODEL DEVELOPMENT**

Project manager and technical lead for refinement of the U.S. Bureau of Reclamation's Lower American River early life stage fall-run chinook salmon mortality model. Compiled historic data defining temporal distributions of immigration and temporal and spatial distributions of spawning. Worked with Reclamation computer programmers to make code changes that resulted in an improved model that reflected the best available biological data for the river's fall-run chinook salmon population.

**LOWER SACRAMENTO RIVER AND DELTA TRIBUTARIES TECHNICAL TEAM APPOINTEE**

Appointed to the Lower Sacramento River and Delta Tributaries Technical Team, as part of the Anadromous Fish Restoration Program of the Central Valley Project Improvement Act. Developed technical reports outlining the key factors currently limiting chinook salmon and steelhead populations in the Lower American and Yuba rivers. Worked cooperatively with California Department of Fish and Game and U.S. Fish and Wildlife Service biologists on the project.

**CENTRAL VALLEY PROJECT RESTORATION TECHNICAL LIAISON**

Served as a technical liaison between the Northern California Power Agency, a contributor to the Central Valley Project (CVP) Restoration Fund, and the state and federal fish resource agencies charged with applying these funds to restore Central Valley anadromous fish populations. Developed a strategic process for establishing a shared understanding among these and other stakeholders regarding CVP restoration goals, objectives, and criteria for prioritizing expenditures from the CVP Restoration Fund to achieve basin-wide, fish population-restoration goals.

**BAY/DELTA FISHERIES REPORT**

Prepared a technical report for the Northern California Power Agency that identified the major factors that have contributed to recent declines in San Francisco Bay/Sacramento-San Joaquin Delta fishery resources. The factors contributing to recent declines of anadromous and resident fish populations were ranked according to their relative importance or contribution to observed population declines.

**SACRAMENTO SPLITTAIL DISTRIBUTION AND RELATIVE ABUNDANCE STUDY**

Project manager and technical lead for a large interagency (Department of Water Resources, California Department of Fish and Game, U.S. Bureau of Reclamation, U.S. Fish and Wildlife Service, U.C. Davis, State Water Contractors, and Interagency Ecological Program) gill net survey that documented the distribution and relative abundance of Sacramento splittail in the Sacramento and San Joaquin rivers and Delta. Developed the experimental design and field operating procedures for the project, and supervised field personnel. Performed all statistical analyses of catch data, and prepared the project report.

**CEQA/NEPA**

**TERTIARY FILTRATION, ULTRAVIOLET DISINFECTION, AND BIOSOLIDS DEWATERING PROJECT CEQA INITIAL STUDY/MITIGATED NEGATIVE DECLARATION - CITY OF GALT**

As principal-in-charge, assisted the City of Galt (under contract to West Yost Associates) with environmental compliance documentation, NPDES permit acquisition, and environmental permitting for the proposed Phase 1 upgrade of selected unit processes at the wastewater treatment plant. Phase I of the project provides upgraded facilities (i.e., add tertiary treatment and ultraviolet disinfection) and will initiate a new discharge in the summer (previously permitted as a seasonal (winter) discharge). Phase II of the project involves further upgrades of the treatment facilities (improved nitrogen removal) and expansion in capacity from 3.0 million gallons per day (mgd) to 4.5 mgd. RBI prepared the CEQA Initial Study/Mitigated Negative Declaration (IS/MND) for the Phase 1 upgrades and necessary construction-related permits.

**IRONHOUSE SANITARY DISTRICT WASTEWATER TREATMENT PLANT EXPANSION AND UPGRADE – CEQA AND PERMITTING**

As principal-in-charge, assisted the Ironhouse Sanitary District (ISD) with environmental compliance, NPDES permit acquisition, and environmental permitting for the proposed expansion and upgrade of the ISD municipal wastewater treatment plant that serves the communities of Oakley, Bethel Island, and outlying communities. RBI prepared the water quality and the fishery and aquatic resources chapters of the environmental impact report, which was prepared by Jones & Stokes. RBI developed thresholds of significance for interpreting the effects of anticipated receiving water quality changes on aquatic resources. Addressed Endangered Species Act issues related to listed fish species.

RBI was instrumental in securing authorization of a new NPDES

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permit for ISD's proposed surface discharge outfall in the San Joaquin River at Jersey Island. RBI led the consulting team to negotiate and secure the NPDES permit through the Central Valley RWQCB and prepared the key elements of the Report of Waste Discharge. In addition, RBI assisted ISD in securing environmental permits to authorize the dredging and dredge-material disposal necessary to construct and install a new surface discharge outfall pipe and diffuser in the San Joaquin River. RBI prepared the sampling and analysis plan for sediment and dredge material characterization, and secured authorization under the Central Valley RWQCB's general waiver of waste discharge requirements for dredge material disposal to land. RBI provided monitoring and ongoing permit implementation services to ISD for the construction project.

#### **IRONHOUSE SANITARY DISTRICT HIGHWAY 4 PIPELINE PROJECT CEQA COMPLIANCE**

As principal-in-charge, worked with the ISD in implementing a strategic phased approach to CEQA compliance for ISD's proposed construction of a new sanitary sewer gravity trunk, and forcemain conveyance pipelines and recycled water pipeline within its service area. Phase 1 involved the upfront identification of potential project development constraints, regulatory requirements, and identification of the appropriate CEQA documentation and process. Phase 2 of the project involved preparation of an Initial Study/Mitigated Negative Declaration to meet CEQA requirements and support future regulatory permitting. Additionally, RBI managed technical subconsultants for the conduct of botanical rare plant surveys, and air quality, noise and cultural resource assessments.

#### **PLACER COUNTY SEWER MAINTENANCE DISTRICT 1 WASTEWATER TREATMENT PLANT UPGRADE AND EXPANSION – CEQA INITIAL STUDY/MITIGATED NEGATIVE DECLARATION**

Principal-in-charge of the hydrology and water quality section of the Initial Study/Mitigated Negative Declaration for the Sewer Maintenance District 1 Wastewater Treatment Plant Upgrade and Expansion project, and assisted with the biological resources section of the document by preparing the impact assessment for fisheries and aquatic resources. RBI assessed potential construction-related impacts and direct and cumulative long-term operations-related impacts of treatment plant upgrades and the increased effluent discharge rate to Rock Creek and Dry Creek, and water bodies further downstream. RBI assessed the potential water quality impacts on a constituent-by-constituent basis, incorporating key information from the antidegradation analysis and other technical reports that RBI had prepared for Placer County under separate contracts for work on the plant's NPDES permitting compliance.

**SACRAMENTO REGIONAL WASTEWATER TREATMENT PLANT 2020 MASTER PLAN EIR**

Lead consultant for preparing water quality and fishery and aquatic habitat chapters of the EIR. Responsible for coordinating all hydrologic and water quality modeling, and the use of modeled output for impact assessment purposes. Contributed to development of alternatives to be evaluated and thresholds of significance for the water quality and fisheries/aquatic habitat resources. Also assisted in conducting stakeholder and technical workshops associated with development of the 2020 Master Plan.

**LAKE OF THE PINES WASTEWATER TREATMENT PLANT UPGRADE EIR**

Lead consultant for preparing the water quality/hydrology and fishery and aquatic resources chapters of the EIR, which was prepared by EDAW for Nevada County. Contributed to development of alternatives to be evaluated and developed thresholds of significance for the water quality/hydrology and fisheries chapters. Also assisted in conducting stakeholder and technical workshops associated with development of the facilities Master Plan.

**CITY OF CHICO WASTEWATER TREATMENT PLANT EXPANSION EIR**

Lead consultant for preparing the fishery and aquatic resources chapter of the EIR, which was prepared by Jones & Stokes. Contributed to development of alternatives to be evaluated and developed thresholds of significance for the chapter. Also assisted in refinement of water quality assessments used to make determinations regarding potential impacts to aquatic resources in the Sacramento River.

**DEL WEBB TEHAMA PROJECT**

Lead consultant for preparing the fishery and aquatic resources chapter of the EIR, which was prepared by Impact Sciences. Conducted site surveys and habitat characterizations. Consulted with National Marine Fisheries Service to obtain a concurrence letter of not likely to adversely affect steelhead using adjacent water bodies.

**HANGTOWN CREEK WASTEWATER TREATMENT PLANT UPGRADES IS/MND**

Principal-in-charge for preparing an Initial Study/Mitigated Negative Declaration in support of planned upgrades to the Hangtown Creek Wastewater Treatment Plant. This environmental document was prepared to meet CEQA requirements and to support application for a State Revolving Fund loan to fund, in part, the planned improvements.

**LOWER CASCADE CANAL MODERNIZATION PROJECT EIR**

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Lead technical consultant for preparing the aquatic biological resources chapter of the EIR. Responsible for conducting detailed fisheries habitat and hydraulic assessments on the Lower Cascade Canal and presenting information to stakeholders. Contributed to the development of alternatives to be evaluated and thresholds of significance for determining impacts.

**CITY OF LINCOLN WASTEWATER TREATMENT AND RECLAMATION FACILITY EIR**

Provided technical review and oversight for the fisheries and aquatic biological resources chapter of EIR. Assisted project team with addressing potential impacts and preparing supplements and addendums to EIR. Consulted with National Marine Fisheries Service on anadromous fish issues, including Endangered Species Act issues, related to new wastewater discharges to Auburn Ravine.

**DEER CREEK WASTEWATER TREATMENT PLANT EXPANSION EIR**

Lead author for water quality and fisheries chapters of the EIR, prepared for the El Dorado Irrigation District, which involved compiling and assessing effluent and receiving water quality data and evaluating acute and chronic bioassay testing results.

**EASTERN SACRAMENTO COUNTY REPLACEMENT WATER SUPPLY PROJECT**

Lead consultant for preparing the water quality and fishery and aquatic resources chapters of the EIR, which was prepared by EDAW for Sacramento County. Contributed to development of alternatives to be evaluated and developed thresholds of significance for the water quality and fisheries chapters. Performed detailed analysis of effects on American River and tributary water quality and compliance with water quality standards that would result from inputting remediated groundwater into the system. Also assessed effects on fish resources in the American, Cosumnes, and Mokelumne rivers of using up to 5,000 acre-feet of remediated water, annually, to pre-wet the Cosumnes River channel to provide earlier and more prolonged hydraulic continuity throughout the lower river during the fall-run chinook salmon spawning season.

**BAY DELTA CONSERVATION PLAN EIR/EIS**

Provided strategic input to HDR, lead author of the EIR/EIS, regarding assessment of the plan's effects on water quality in the Sacramento-San Joaquin Delta and primary tributaries. Developed thresholds of significance for assessing water quality effects and participated in development of the water quality assessment framework, which required analysis of multiple alternatives and future time steps to address phased implementation of project elements. Directed assessments of multiple constituent-specific assessments, including

boron, pathogens, trace metals, nutrients, temperature, PCBs, pesticides, constituents of emerging concern, and DBP formation potential.

**SUCTION DREDGING PERMITTING PROGRAM SUPPLEMENTAL EIR, CALIFORNIA DEPARTMENT OF FISH AND GAME**

Principal-in-charge of water quality and toxicology impacts assessment for the Initial Study and supplemental EIR, which was prepared by Horizon Environmental. The EIR addresses the potential project-level environmental impacts of statewide suction dredging activity regulations. The focus of the analysis was on effects of dredging-related discharge of mercury in streams that have remnant contamination from historic gold mining activity.

**EL DORADO IRRIGATION DISTRICT WATER SUPPLY MASTER PLAN EIR**

Lead technical consultant for preparing the hydrology, water quality, and aquatic biological resources chapters of the programmatic EIR. Responsible for evaluating Master Plan demands and District operations to meet projected demands to determine how such operations could impact these resources. Provided strategic guidance for integrating other District facilities into the assessment to produce a more real-world assessment.

**EDWPA SUPPLEMENTAL WATER RIGHTS PROJECT EIR**

Directed the development of the water quality chapter for the El Dorado County Water and Power Authority (EDWPA) Supplemental Water Rights Project EIR. The proposed project is to establish permitted water rights allowing diversion of 40,000 AFA water from the American River basin to meet planned future water demands in the EID and GDPUD service areas and other areas located within El Dorado County that are outside of these service areas. The assessment addressed effects of the proposed project on American River watershed, Sacramento River, and Delta water quality.

**SACRAMENTO AREA WATER FORUM PROPOSAL EIR**

Prepared the fisheries and surface water quality chapters of the EIR and regularly presented technical information on effects of reservoir operations and water management on fish resources and water quality to the Water Forum, a coalition of 46 stakeholders representing agriculture, business, public agencies, and environmental groups collectively developing a strategic water-planning platform for the greater Sacramento area. Served as liaison between hydrologic/water temperature/salmon mortality modelers, Fischer-Delta (water quality) modelers, and other technical staff and CEQA consultants/City-County management staff responsible for

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preparing the EIR. Contributed to preparation of a Habitat Management Program (HMP) for the Lower American River, designed to preserve the wildlife, fisheries, recreational, and aesthetic values of the Lower American River, as well as mitigate for any potential impacts of the Water Forum Proposal.

**NATOMA PIPELINE REPLACEMENT AND FOLSOM WATER TREATMENT PLANT EXPANSION PROJECT EIR/EA**

Managed preparation of fisheries sections of the EIR/EA. The project involved analyzing the construction and operational impacts associated with pipeline replacement and water treatment plant expansion, as well as a 7,000 AFA increment of additional water planned to be diverted from Folsom Reservoir. Worked closely with modelers to develop hydrologic simulations to depict hydrologic effects of the project. Assessed output from the hydrologic, temperature, and salmon mortality models to identify project-specific and cumulative impacts to reservoir, river, and Delta fish resources. The project required compliance with federal and state regulations, including the Endangered Species Act and Clean Water Act.

**NARROWS II POWERHOUSE INTAKE EXTENSION MITIGATED NEGATIVE DECLARATION/INITIAL STUDY**

Technical lead for assessing the potential effects on the fish resources of Englebright Reservoir and the Lower Yuba River from drawing water into the Narrows II Powerhouse from a lower elevation within Englebright Reservoir as a result of extending the current intake structure. Prepared a technical report on findings, with an emphasis on temperature-related effects on Lower Yuba River anadromous fish resources.

**PLACER COUNTY WATER AGENCY AND NORTHRIDGE WATER DISTRICT GROUNDWATER STABILIZATION PROJECT EIR**

Managed preparation of fisheries chapter of the EIR. Analyzed the hydrologic effects of the project as they would affect Folsom Reservoir seasonal storage levels, lower American and Sacramento River flows, and Delta inflow/outflow, and water temperatures, and the potential for such changes to impact fish resources in these water bodies. Worked closely with modelers to develop hydrologic simulations to depict hydrologic effects of the project.

**LONG-TERM REOPERATION OF FOLSOM DAM AND RESERVOIR EIR**

Fisheries lead to determine the feasibility of indefinitely extending Sacramento Area Flood Control Agency's Folsom Dam and Reservoir Reoperation Agreement with the U.S. Bureau of Reclamation. Worked closely with modelers to develop hydrologic simulations to

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depict hydrologic effects of the project. Output from hydrologic, temperature, and salmon mortality models was assessed to identify project-specific and cumulative impacts to reservoir, river, and Delta fish resources. Additional activities included meeting with National Marine Fisheries Service, U.S. Fish and Wildlife Service, and California Department of Fish and Game to determine the need for consultation under the federal and state endangered species acts and determination of potential impacts to fishery resources throughout the Central Valley Project resulting from integrated reservoir operations.

**CVP WATER SUPPLY CONTRACTS EIS/EIR**

Lead author for the fisheries and water quality chapters of the joint programmatic EIS/EIR prepared for the Central Valley Project (CVP) Water Supply Contracts under Section 206 of Public Law 101-514. Evaluated hydrologic, river and reservoir water temperature, and salmon mortality model output to determine potential impacts to CVP reservoir, lower American and Sacramento rivers, and Delta fish resources that could result from diverting a portion of the water from Folsom Reservoir. Worked closely with project engineers to design the hydrologic modeling studies and determine output needed to conduct the necessary environmental assessments. Also participated in development and evaluation of project alternatives capable of fulfilling project purposes, with an emphasis on water supply, affected hydrology, and environmental constraints.

**HAMILTON CITY PUMPING PLANT FISH SCREEN IMPROVEMENT PROJECT EIR/EIS**

Developed technical approach to assessing the effects of the proposed project and its alternatives on fisheries and aquatic habitats. Lead author for all fisheries sections of the EIR/EIS. Fisheries and aquatic habitat chapter received U.S. EPA's highest review score. Key issues included analyses of alternative means of simultaneously protecting fish (including the endangered winter-run chinook salmon) while re-establishing reliability in Glenn-Colusa Irrigation District's diversions from the Sacramento River. This project involved many state and federal agencies, including California Department of Fish and Game, U.S. Bureau of Reclamation, U.S. Fish and Wildlife Service, National Marine Fisheries Service, U.S. Army Corps of Engineers, California Department of Water Resources, and the State Reclamation Board.

**NPDES PERMITTING / WASTEWATER DISCHARGER STUDIES**

**NPDES PERMIT RENEWAL**

Provides technical and strategic services to negotiate waste discharge requirements in NPDES permits for wastewater treatment plants

(WWTPs) issued by state regional water quality control boards (RWQCB). This includes conducting detailed reviews and preparing detailed comments on tentative NPDES permits to establish a record for administrative appeals, as well as face-to-face negotiations with RWQCB staff and other resources agencies, including California Department of Fish and Game, National Marine Fisheries Service, and Department of Public Services staff, over permit terms. Also prepares discharger presentations and provides public testimony at NPDES permit adoption hearings. These services have been provided for:

- El Dorado Irrigation District – Deer Creek and El Dorado Hills WWTPs (1996–present)
- Sacramento Regional County Sanitation District (1997–present)
- City of Roseville – Dry Creek and Pleasant Grove Creek WWTPs (1998–present)
- Placer County – Sewer Maintenance District 1, Sewer Maintenance District 3, Sheridan, and Applegate WWTPs (1998–present)
- City of Vacaville – Easterly WWTP (1999–present)
- City of Placerville – Hangtown Creek Water Reclamation Facility (1999–present)
- City of Brentwood WWTP (2003–present)
- Nevada County – Lake Wildwood, Lake of the Pines, and Cascade Shores WWTPs (2003–present)
- Mountain House Community Services District – Mountain House WWTP (2006–present)
- Ironhouse Sanitary District WWTP (2006–present)
- City of Stockton Regional Wastewater Control Facility (2008–present)
- Town of Windsor (2007–2010)
- National Park Service (2008–present)
- City of Ione (2010–present)
- Colusa Industrial Properties (2007–2008)
- City of Santa Rosa (2005–2007)
- Los Angeles County Sanitation Districts – Los Coyotes Water Reclamation Plant and Long Beach Water Reclamation Plant (2002–2005)
- City of Lincoln/Del Webb – Lincoln Wastewater Treatment and Reclamation Facility (2000–2005)

**PROFESSIONAL THERMAL PLAN EXCEPTIONS**  
**AFFILIATIONS /** Principal-in-charge and technical lead to conduct special studies in  
**CERTIFICATIONS** support of obtaining Clean Water Act section 316(a) exceptions to

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California Thermal Plan temperature objectives applied in NPDES permits and facilitate the exceptions' approval by the Central Valley Regional Water Quality Board (RWQCB) and fish resource agencies – California Department of Fish and Game, National Marine Fisheries Services, and U.S. Fish and Wildlife Service. Has developed or is currently developing exceptions as follows:

- *California Department of General Services (DGS)*. Completed study evaluating the temperature-related effects the Central Heating and Cooling Plant discharges to the Sacramento River on migrating fish. Based on this study, its findings, and concurrency on findings by the fish resource agencies, the RWQCB issued a Thermal Plan Exception to DGS, resulting in a cost-effective solution to DGS's temperature compliance issue.
- *Brentwood Wastewater Treatment Plant*. Completed study evaluating the temperature regime of Marsh Creek under the influence of the discharge and whether the regime could continue to support the indigenous aquatic life, as part of developing information to support a Thermal Plan exception. Developed alternative temperature limitations to protect the Marsh Creek aquatic life and also resolve the temperature compliance issue. Currently facilitating concurrence of alternative temperature limitations by the fish resource agencies.
- *Sacramento Regional County Sanitation District*. Completed study evaluating the effects of the Sacramento Regional Wastewater Treatment Plant discharge on the Sacramento River near-field and far-field temperature regime in support of renewing Thermal Plan exceptions for this discharge. Currently conducting a related temperature and fisheries study requested by the fish resource agencies to further examine the effects of the discharge on Sacramento River aquatic life.

#### **ANTIDegradation ANALYSES**

Principal-in-charge for conducting antidegradation analyses for municipal wastewater dischargers consistent with state and federal policies and guidance, in support of new or expanded discharge capacity. Antidegradation analyses completed include:

##### Surface Water

- Ironhouse Sanitary District Wastewater Treatment Plant - new discharge
- Sewer Maintenance District 1 Wastewater Treatment Plant --

upgrade and expansion

- City of Galt Wastewater Treatment Plant – new summer discharge and expansion
- El Dorado Hills Wastewater Treatment Plant – upgrade and expansion

Groundwater

- Ironhouse Sanitary District Master Reclamation Permit
- City of Roseville Aquifer Storage and Recovery

**TOXICITY REDUCTION EVALUATIONS(TREs)**

Principal-in-charge for TREs/TIEs performed for municipal wastewater dischargers, including the preparation of TRE work plans and action plans required by NPDES permits, interpretation of toxicity test results, and negotiations with regional water quality control board staffs to conclude the TRE. Dischargers for which TREs have been or are being performed include:

- City of Stockton Regional Wastewater Control Facility, *Selenastrum capricornutum* and *Ceriodaphnia dubia*
- Town of Windsor Wastewater Treatment, Reclamation and Disposal Facility, *Selenastrum capricornutum*
- City of Davis Water Pollution Control Plant, *Selenastrum capricornutum*
- City of Woodland Wastewater Treatment Plant, *Selenastrum capricornutum*
- City of Brentwood Wastewater Treatment Plant, *Ceriodaphnia dubia*

**WATER-EFFECT RATIO STUDIES**

Principal-in-charge for conducting water-effect ratio (WER) studies for municipal wastewater dischargers consistent with U.S. EPA and state guidance. Studies include:

- Deer Creek Wastewater Treatment Plant Copper WER
- Town of Windsor Wastewater Treatment, Reclamation, and Disposal Facility Copper WER
- Placer County Sewer Maintenance District 1 Aluminum WER
- City of Colfax Wastewater Treatment Plant Copper WER

**RECEIVING WATER TEMPERATURE STUDIES**

Principal-in-charge on studies conducted to evaluate seasonal

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temperature regimes and compliance with receiving water limitations stipulated in NPDES permits. Provided oversight in study plan development, managed field staff, and managed preparation of study reports for studies on the following receiving waters.

- Deer Creek – El Dorado County, CA for El Dorado Irrigation District
- Hangtown Creek – Placerville, CA for City of Placerville
- Old Alamo Creek, New Alamo Creek, and Ulatis Creek – Solano County, CA for City of Vacaville
- Marsh Creek – Contra Costa County, CA for City of Brentwood
- Sacramento River – for Sacramento Regional County Sanitation District and California Department of General Services
- Dry Creek and Pleasant Grove Creek – Placer County, CA for City of Roseville
- Atwater Drain – Atwater, CA for City of Atwater
- Dredger Cut, Highline Canal, and White Slough – San Joaquin County, CA for City of Lodi

#### **EFFLUENT AND RECEIVING WATER QUALITY ASSESSMENTS**

Principal-in-charge on effluent and receiving water quality assessments for the following dischargers:

- Hangtown Creek Water Reclamation Facility
- El Dorado Hills Wastewater Treatment Plant
- Deer Creek Wastewater Treatment Plant
- Sewer Maintenance District 1 Wastewater Treatment Plant – Placer County
- Sewer Maintenance District 3 Wastewater Treatment Plant – Placer County
- Sheridan Wastewater Treatment Plant – Placer County
- Stockton Regional Wastewater Control Facility (ongoing)
- Easterly Wastewater Treatment Plant – City of Vacaville (ongoing)

Assessments documented effluent and receiving water concentrations of over 180 constituents, including all California Toxics Rule/National Toxics Rule constituents, to determine whether contaminant-specific waste discharge requirements are warranted in the dischargers' NPDES permits.

#### **VINEYARD SURFACE WATER TREATMENT PLANT - SACRAMENTO COUNTY WATER AGENCY**

As principal-in-charge, assisted RMC Water and Environment for the permitting of a temporary surface water discharge of test water resulting from the startup of a large (80 mgd) water treatment plant

in southern Sacramento County. RBI prepared a technical report characterizing projected effluent quality of the testing and startup discharges, and assessment of potential effects to the small ephemeral stream channel (Gerber Creek) which will serve as the receiving water for temporary discharges lasting approximately 6 months with discharge rates varying up to 15 mgd. RBI assisted with preparation of permit application requirements for consistency with the Central Valley RWQCB's "limited threat general NPDES permit," which was an adopted streamlined permit procedure at the time of the project. The permit strategy involved development of a request, with supporting justification, of a temporary exception for the discharge to exceed applicable state water quality objectives for trihalomethane compounds. RBI also prepared the assessments of potential impacts to hydrology, water quality, and fisheries and aquatic resources for an amended CEQA Initial Study and Mitigated Negative Declaration that was prepared for the project.

**PORT OF STOCKTON STORMWATER ADMINISTRATIVE ORDER ON CONSENT  
NEGOTIATION AND TOXICITY MONITORING REVIEW**

Developed and negotiated stormwater toxicity monitoring requirements in the U.S. EPA's Administrative Order to achieve reasonable and scientifically defensible requirements. Technically reviewed and interpreted bioassay laboratory reports from stormwater monitoring events in support of maintaining compliance with the Order. Directed toxicity identification evaluations (TIEs), when needed.

**SEASONAL COLIFORM BACTERIA LIMITATIONS**

Negotiated alternative winter coliform bacteria limitations to be included in NPDES permits, which involved extensive technical analyses, technical report preparation, and negotiations with Central Valley Regional Water Quality Control Board policy and permitting staff and Department of Health Services (now Department of Public Health) technical staff. Dischargers assisted include: El Dorado Irrigation District's Deer Creek Wastewater Treatment Plant and Placer County's Sewer Maintenance District 1 Wastewater Treatment Plant.

**ECOLOGICAL, WATER QUALITY, AND HYDROLOGIC EVALUATION OF DEER CREEK**

Project manager and technical lead on a study documenting the ecological, water quality, and hydrologic conditions of Deer Creek upstream and downstream of the Deer Creek Wastewater Treatment Plant discharge. Conducted reconnaissance survey, developed experimental approach, and supervised/participated in field data collection. Documented fish and benthic macroinvertebrate taxa. Prepared final project report, which served, in part, as the basis for

NPDES permit renewal.

**RECEIVING WATER DISSOLVED OXYGEN STUDIES**

As principal-in-charge and project manager, evaluated the effects of municipal wastewater treatment plant effluent discharges on downstream dissolved oxygen profiles using U.S. EPA's STREAMDO IV model. Studies conducted on Deer Creek for El Dorado Irrigation District, and Old Alamo, New Alamo, and Ulatis creeks for the City of Vacaville.

**BASIN PLAN AMENDMENTS / USE ATTAINABILITY ANALYSES**

**SITE-SPECIFIC OBJECTIVES – PH, TURBIDITY, AND TEMPERATURE**

Principal-in-charge and lead water quality/aquatic ecology specialist for development of site-specific amendments to the Central Valley Regional Water Quality Control Board (RWQCB) Water Quality Control Plan (Basin Plan) for Deer Creek pH, turbidity, and temperature. Developed supporting technical studies/information, drafted RWQCB Staff Report/Functional Equivalent Document, and prepared responses to peer review and public comments.

**REGION-WIDE BASIN PLAN OBJECTIVES – PH AND TURBIDITY**

Provided technical and strategic services to the Central Valley Regional Water Quality Control Board, on behalf of Central Valley dischargers, to develop and adopt region-wide amendments to the Central Valley Region Water Quality Control Plan (Basin Plan) for pH and turbidity. Work tiered from the development of site-specific objectives for pH and turbidity for Deer Creek.

**AQUATIC LIFE USE ATTAINABILITY ANALYSIS – OLD ALAMO CREEK**

Examined the suitability of Old Alamo Creek to support anadromous salmonids by examining the available instream and riparian habitat, flow regime, thermal regime, water quality, and existing fish and benthic macroinvertebrate communities and participated in preparation of the Use Attainability Analysis (UAA) report. The UAA supported de-designating the cold freshwater habitat and cold migration beneficial uses assigned to Old Alamo Creek.

**MUNICIPAL AND DOMESTIC SUPPLY (MUN) USE ATTAINABILITY ANALYSIS – NEW ALAMO CREEK AND ULATIS CREEK**

Principal-in-charge for the preparation of a Use Attainability Analysis (UAA) of the MUN use of New Alamo and Ulatis creeks, located in Solano County, consistent with U.S. EPA guidance. The project consisted of assembling hydrologic and water quality characteristics of the watersheds and documenting the extent of MUN use historically occurred or could be attained in the creeks. The UAA

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supported development of site-specific objectives for trihalomethane compounds for the protection of human health.

**SITE-SPECIFIC OBJECTIVES – CHLOROFORM, DIBROMOCHLOROMETHANE, AND DICHLOROBROMOMETHANE**

Principal-in-charge and co-author of technical report for the development of site-specific objectives (SSOs) for three trihalomethane (THM) compounds for New Alamo and Ulatis creeks, Solano County. SSOs were developed to be protective of human health-related uses and resolve the THM criteria compliance issues resulting from the City of Vacaville's Easterly Wastewater Treatment Plant discharge. Also participated in the review and drafting of key sections of the Regional Water Quality Control Board's (RWQCB) Staff Report supporting a Basin Plan amendment for the SSOs, and meetings with RWQCB and U.S. Environmental Protection Agency Region 9 staff overseeing the SSO development and approval.

**MUNICIPAL AND DOMESTIC SUPPLY (MUN) USE ATTAINABILITY ANALYSIS – ATWATER DRAIN**

Principal-in-charge for the preparation of a Use Attainability Analysis report for Atwater Drain, located in Merced County, to evaluate the suitability of its MUN designation. Required the evaluation of watershed land use, hydrology, and water quality information, as well as the documentation of past and current diversions from the drain.

**OTHER WATER QUALITY STUDIES**

**SOUTH FORK AMERICAN RIVER WATERSHED ASSESSMENT**

Principal-in-charge responsible for compilation and evaluation of available water quality data collected in the South Fork American River watershed. Project used a geographic information systems approach to prioritize sub-basins within the watershed for future water quality monitoring and restoration.

**SEDIMENT TOTAL MAXIMUM DAILY LOAD (TMDL)**

Project manager and technical lead for providing fisheries and water quality expertise to assist the Imperial Irrigation District with participating in the development of a silt TMDL for the Alamo River, the main tributary to the Salton Sea, Imperial Valley, CA. Using available scientific literature, characterized the effects of suspended sediments on freshwater aquatic life. Reviewed and provided comments on the Draft Problem Statement prepared by the Colorado River Basin Regional Water Quality Control Board.

**EFFLUENT DISCHARGE IMPACT ASSESSMENT**

Project manager and technical lead on evaluation of potential impacts to human health and aquatic life from discharging tertiary-treated municipal wastewater treatment plant effluent into Folsom Reservoir or Lake Natoma as part of dry year water conservation measures under the Sacramento Area Water Forum Proposal. Met with California Department of Health Services (now Department of Public Health) staff to discuss the proposed action and its potential effects on human health associated with downstream municipal purveyor diversions.

**FOLSOM DAM TEMPERATURE CONTROL DEVICE (TCD) ASSESSMENT**

Project manager and technical lead for assessing the potential impacts of operating a TCD at the urban water supply intakes at Folsom Dam. Identified seasonal impacts to Lower American River water temperatures and fish resources, and the quality of raw and finished urban water supplies diverted from Folsom Dam and the Lower American River.

**SEDIMENT CONTAMINANT MONITORING**

Project manager and technical lead for a North American-wide sediment contaminant monitoring survey designed to define the range of polydimethylsiloxanes in surface sediments of marine and freshwater systems receiving large municipal wastewater discharges. Supervised preparation of site-specific sampling plans, developed an experimental approach for the overall project, prepared a comprehensive quality assurance project plan, and contributed to preparation of project reports. Study served as the basis for subsequent bioassays and ecological risk assessments.

**ECOLOGICAL RISK ASSESSMENT**

Directed the aquatic assessment of component of a probabilistic ecological risk assessment that quantified the potential risk posed to wildlife and aquatic populations from opening and operating a gold mine in northern Washington.

**STORMWATER QUALITY MONITORING**

Project manager and technical lead for the Laguna West stormwater runoff water quality mitigation-monitoring project, Sacramento County. Developed the experimental design and field operating procedures, statistically analyzed laboratory bioassay and contaminant data, directed activities for field personnel, and wrote project progress and final reports.

# **EXHIBIT K**

## **CROSSINGS SUMMARY MEMO**



## Rocklin Crossings

- Estimated Sediment Laden Discharge from the Site
- Estimated Dilution in Secret Ravine
- Rainfall Event Approximation

Date: September 4, 2013  
RSC Proj. #: 001-002

### • Volume Estimates of Sediment Laden Discharge from the Site

RSC Engineering has prepared several technical memoranda that estimated the volume of sediment laden water discharged from the site, estimated dilution rates in Secret Ravine, and estimated the approximate rainfall event intensity as part of the response to the Notice of Violation (NOV) and Water Code Section 13267 Order for Technical and Monitoring Reports issued on December 21, 2012 for the Rocklin Crossings construction site (WDID #5S31C364098, #5S31C364108, #5S31C364102 and #5S31C364105). This memo summarizes this information.

The estimated discharge volumes from location #1 (Detention Basin) and location #2 (Dominguez Loop) as follows:

Location	Estimated Discharge Volume Leaving the Site (Gallons)	Estimated Infiltration after Leaving the Site (Gallons)	Estimated Discharge Increase in response to Water Board Questions (Gallons)	Estimated Volume Leaving the Site (Gallons)	Estimated Volume Potentially Entering Secret Ravine (Gallons)
#1-Detention Basin	16, 873	-0-	-0-	16,873	16,873
#2-Dominguez Loop	51,167	1,575	10,148	61,315	59,740

Total Estimated Volume Leaving the Site 78,188  
Total Estimated Volume Potentially Entering Secret Ravine 76,613

**NOTES:**

- 1) The volumes summarized above are from Technical Memoranda that developed estimates based on available information including photos, field reports by personnel (eye witnesses) at the site

during the rain event, and recorded rainfall data from the City of Roseville. The calculations are not based on field measurements during the storm event. The volume estimates listed above should not be misconstrued as quantitative engineering results but rather as opinions based on engineering judgment.

- 2) The volumes summarized above are from two Technical Memoranda prepared by RSC Engineering attached hereto.

- **Estimated Dilution in Secret Ravine**

Volume of water potentially discharged to Secret Ravine	76,613 gallons
Volume of water passing the site in Secret Ravine over the two hour time from 8:15 am to 10:15 am on November 30, 2012	24,235,200 gallons
Percentage of potential site discharge over flow volume in Secret Ravine	0.32%
Dilution ratio	316:1

**NOTES:**

The information summarized above is from the Technical Memo prepared by RSC Engineering attached hereto.

- **Rainfall Event Approximation**

On November 30, the morning of the violation approximately 2.45 inches of rain fell between the hours of 10:00 PM the night before (November 29) and 1:30 PM the day of the violation. The average intensity of rainfall during this 15.5 hour period was 0.158 inches/hour. According to the Placer County Flood Control and Water Conservation District Storm Water Management Manual, the predicted rainfall amount for a 5 year-24 hour storm is 2.69 inches or an average intensity of 0.112 inches/hour. This data clearly indicates that the average rainfall intensity experienced the morning of November 30 significantly exceeded the average intensity of a 5 year-24 hour storm. Furthermore, as the table below illustrates, the documented storm intensity exceeds the average storm intensity of a 25 year 24 hour storm event.

Storm	Rainfall Amount	Average Intensity
5 year 24 hour	2.69 inches	0.112 in./hr.
10 year 24 hour	3.21 inches	0.133 in./hr.
25 year 24 hour	3.75 inches	0.156 in./hr.
50 year 24 hour	4.18 inches	0.174 in./hr.

**ATTACHMENT A**

**ESTIMATED VOLUME OF SEDIMENT  
LADEN WATER DISCHARGED FROM  
THE SITE**

**RESPONSE TO NOTICE OF VIOLATION**



RSC ENGINEERING

# Estimated volume of sediment laden water discharged from the site Response to Notice of Violation

For:

Rocklin Crossings WDID# 5S31C364098  
Rocklin Crossings Detention Basin WDID# 5S31C364108  
Dominguez Loop Road WDID# 5S31C364102  
Center at Secret Ravine WDID# 5S31C364105

Prepared by:

**RSC Engineering**

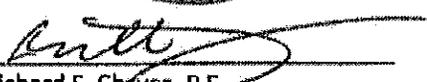
January 25, 2013

RSC Engineering, Inc.  
Consulting Engineers



  
E. Daniel Taylor, P.E.



  
Richard S. Chavez, P.E.  
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# Response to Notice of Violation

for

Rocklin Crossings WDID# 5S31C364098  
Rocklin Crossings Detention Basin WDID# 5S31C364108  
Dominguez Loop Road WDID# 5S31C364102  
Center at Secret Ravine WDID# 5S31C364105

## Estimated volume of sediment laden water discharged from the site

January, 25 2013

### 1. Introduction:

This calculation is in response to a request in the Notice of Violation (NOV) dated December 21, 2012 for the following projects:

Rocklin Crossings	WDID# 5S31C364098
Rocklin Crossings Detention Basin	WDID# 5S31C364108
Dominguez Loop Road	WDID# 5S31C364102
Center at Secret Ravine	WDID# 5S31C364105

The request is to provide "An estimate of the volume of sediment laden water discharged from the construction site" and "An estimate of sediment laden water discharged into Secret Ravine".

As stated in the NOV, the storm event started on November 28, 2012 and ended on December 5, 2012. The site discharged water at two locations: Discharge location #1 was at the inlet structure of the detention basin and discharge location #2 was at the south side of Dominguez Loop. Refer to Figure 1 for discharge locations.

This report presents the volume estimates of the water discharged from the site and into Secret Ravine based on available information including: the report prepared by Andy Van Veldhuizen with SD Deacon Dated December 18, 2012 describing the events surrounding the storm event in question (Appendix A), the NOV dated December 21, 2012 (Appendix B), and the stream gauge station data provided by the City of Roseville for the stream gauge located at Rocklin Road and Secret Ravine (Attached).

## **2. Assumptions:**

### ***Rain gauge***

Precipitation measurements used in these calculations are based upon the City of Roseville maintained rain gauge (rain gauge) on Secret Ravine where it crosses Rocklin road just east of Highway 80 and 1.2 miles south west of the project. The continuously recording rain gauge records were used since they provide the best available record of time versus rainfall depth.

### ***Location 1***

The volume of water discharged from location 1 is assumed to be the amount of precipitation that fell over Area 1 for the duration of the observed discharge event. Based on observations from onsite personnel, there was no stored water within Area 1 prior to the discharge.

### ***Location 2***

The volume of discharged water from location 2 is assumed to be the amount of precipitation over Area 2 for the duration of the observed discharge event and the volume of water in a temporary storage area that escaped when the berm along the south side of Dominguez Loop was breached. It is assumed, based on Photo #8 in the NOV, that the entire basin emptied during the discharge event.

### ***Discharge Into Secret Ravine.***

The volume of water discharged into Secret Ravine is assumed to be the volume discharged from the site minus the volume of water infiltrated between the site and Secret Ravine.

At location 1 the volume of water discharged into Secret Ravine is assumed to be equal to the volume discharged from the site. Location 1 is connected to Secret Ravine by an existing swale that was, prior to the discharge event, flowing with water; therefore the soil in the swale was saturated, negating infiltration.

The water from location 2 flowed overland through a heavily vegetated path, estimated to be 30' wide by 280' long, to reach Secret Ravine. It is assumed that the soil infiltration downstream of location 2 was 0.2 inches/hour (*Placer County Storm water Management Manual, Table 5-3*).

### 3. Methods:

Discharge volumes were determined by multiplying the contributing shed area, the depth of rainfall, and a land use coefficient (C).

Volume (cubic feet) = C \* Area (square feet) \* Rainfall (feet) + assumed storage volume

The land use coefficient adjusts the amount of runoff to account for cover material and infiltration. Based on the table below, a "C" of 0.30 was used for bare soil areas since the soil in both Areas 1 and 2 were reported to have been loosley compacted with rocky material. A "C" coefficient of 0.20 was used for the detention basin area since it was un-compacted and covered with vegetation:

Land Use	C	Land Use	C
<i>Business:</i> Downtown areas Neighborhood areas	0.70 - 0.95 0.50 - 0.70	<i>Lawns:</i>	
		Sandy soil, flat, 2%	0.05 - 0.10
		Sandy soil, avg., 2-7%	0.10 - 0.15
		Sandy soil, steep, 7%	0.15 - 0.20
		Heavy soil, flat, 2%	0.13 - 0.17
		Heavy soil, avg., 2-7%	0.18 - 0.22
		Heavy soil, steep, 7%	0.25 - 0.35
<i>Residential:</i> Single-family areas Multi units, detached Multi units, attached Suburban	0.30 - 0.50 0.40 - 0.60 0.60 - 0.75 0.25 - 0.40	<i>Agricultural land:</i>	
		<i>Bare packed soil</i>	
		*Smooth	0.30 - 0.60
		*Rough	0.20 - 0.50
		<i>Cultivated rows:</i>	
		*Heavy soil, no crop	0.30 - 0.60
		*Heavy soil, with crop	0.20 - 0.50
		*Sandy soil, no crop	0.20 - 0.40
		*Sandy soil, with crop	0.10 - 0.25
		<i>Pasture</i>	
*Heavy soil	0.15 - 0.45		
		*Sandy soil	0.05 - 0.25
		Woodlands	0.05 - 0.25
<i>Industrial:</i> Light areas Heavy areas	0.50 - 0.80 0.60 - 0.90	<i>Streets:</i>	
		Asphaltic	0.70 - 0.95
		Concrete	0.80 - 0.95
		Brick	0.70 - 0.85
Parks, cemeteries	0.10 - 0.25	Unimproved areas	0.10 - 0.30
Playgrounds	0.20 - 0.35	Drives and walks	0.75 - 0.85
Railroad yard areas	0.20 - 0.40	Roofs	0.75 - 0.95

Source: <http://water.me.vccs.edu/courses/CIV246/table2.htm>

Back check calculations were performed, when possible, to compare the estimated discharge volumes against the photos documenting the discharge event. Location 1 was back checked using the weir equation over the inlet drain structure at the downstream end of the detention basin and location 2 was back checked using the Manning's channel flow equation at the discharge adjacent to the end of the retaining wall at the south side of Dominguez Loop.

The volume of water discharged into Secret Ravine is calculated by subtracting the infiltrated water downstream of the site from the total volume of site discharge. Infiltration is calculated by multiplying the flow area by the infiltration rate by the duration of discharge.

Volume (infiltration) = Area of flow(sf.) \* Infiltration rate(ft./hr.) \* Duration of discharge(hr.)

#### 4. Discharge Location #1 (Detention Basin):

According to accounts given by S.D. Deacon the inlet drain structure in the detention basin was not discharging at 7:00 AM on November 30th. When S.D. Deacon returned to the detention basin at approximately 9:00 AM the inlet drain structure in the detention basin was discharging. For the purposes of this calculation it is assumed that the discharge began at 8:00 AM. The pipe down stream of the outlet structure was plugged by 12:00 PM on the same day and discharge was stopped for the duration of the storm.

The rain gauge recorded a rainfall depth of 0.87 inches during the time span of the location #1 discharge. (8:00 AM to 12:00 PM on November 30th).

#### Volume from Area 1 (refer to Figure 1):

Area<sub>1</sub>: 134,269 sf.  
Rainfall: 0.07 ft. (0.87")  
C: 0.24 (weighted average 58% vegetated, 42% bare soil)  
Volume: 2,256 cubic feet

Volume @ Discharge 1: 16,873 gallons

**Discharge Location #1 Backcheck:**

Photo # 15 in the NOV shows a discharge at the inlet structure in the detention basin. Given a total volume of 2,256 cubic feet over a 4 hour time span the average flow rate is 0.16 cfs. Based on the known weir parameters of the inlet structure the depth of flow over the weir can be calculated. The front side of the inlet structure is negated from the following calculations since a board was placed at the front of the inlet to stop the flow. The water built up and overtopped the 2 sides of the riser structure.

$$\text{Weir equation: } Q = \frac{2}{3} * C_d * A * \sqrt{2gh}$$

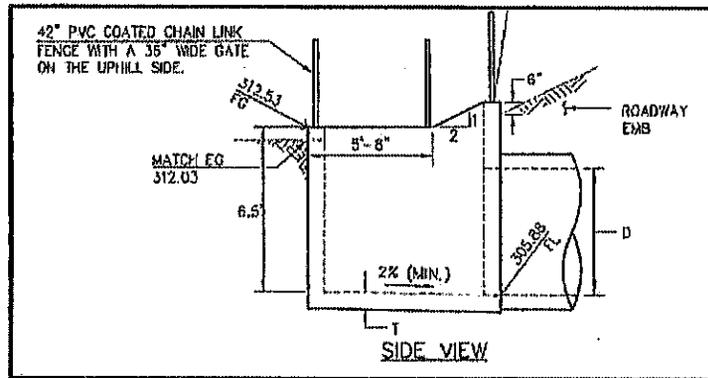
$$C_d = 0.6$$

$$A = h \times 5.67' \times 2 \text{ (two sides)}$$

$$Q = 0.16 \text{ cfs}$$

$$h = 0.03'$$

A flow depth of 0.03' seems reasonable with the water depth shown in Photo #15.



**Existing Riser Detail (Outlet structure at Detention Basin)**

Detail from Croftwood Access Road by TLA Engineering & Planning Dated 3/1/07

## 5. Discharge Location #2 (Dominguez Loop):

Per the daily superintendent report for November 30th (December 18 report, Appendix A, Tab F) the breach over the Dominguez loop berm began at 8:30 AM. Verbal testimony indicated that the breach was repaired within 1.5 hours. It is assumed that the discharge was stopped by 10:00 AM on the same day.

The rain gauge recorded a rainfall depth of 0.30 inches during the time span of the location #2 discharge.

Area <sub>2</sub> :	272,059 sf.
Rainfall:	0.025 ft. (0.30")
C:	0.30
<u>Volume (precip):</u>	<u>2,040 cubic feet</u>

The storage basin upstream of the Dominguez Loop berm is reported to have been 80' long by 30' wide by 2' deep making storage volume 4,800 cubic feet. Volume from Area 2 (refer to Figure 1). Area 2 is the area contributing to discharge location 2 comprising a small portion of the Rocklin Crossings site north of Schriber Way, the Center at Secret Ravine site, and the Dominguez Loop site.

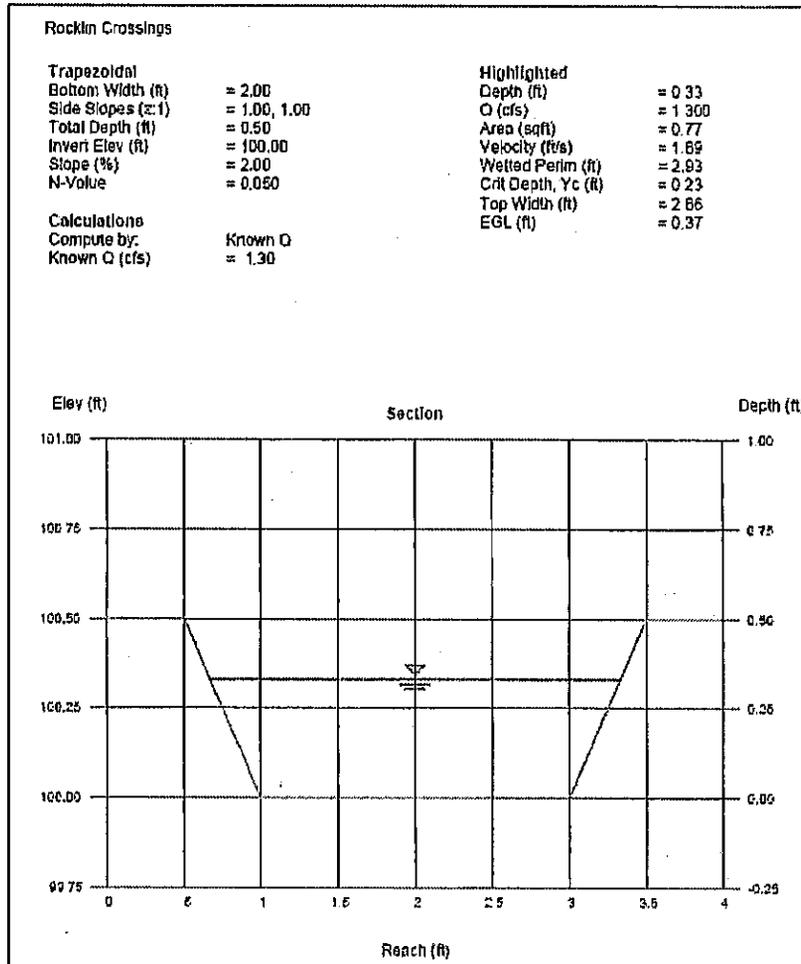
Volume (storage): 4,800 cubic feet

Total Volume: 6,840 cubic feet (precip.+storage)

Total Volume @ Discharge 2: 51,167 gallons

**Discharge Location #2 backcheck:**

Photo # 9 in the NOV shows the discharge at location #2 as defined channel flow at the end of the retaining wall on the south side of Dominguez Loop Road. Given a total volume of 6,840 cubic feet over a 1.5 hour time span the average flow rate is 1.3 cfs. Based on photo # 9 in the NOV it is assumed that the channel formed by the discharge at location #2 had an approximate 2' bottom with 1:1 side slopes and a 2% slope in the direction of flow. The depth of flow in the channel is calculated using the Manning's equation for open channel flow as follows:



**Manning's Equation Channel Flow Calculator**

Depth of flow= 0.33'

A flow depth of 0.33' seems reasonable compared to the water depth shown in Photo #9.

**6. Volume of water discharged into Secret Ravine:**

**Location 1:**

The volume of water discharged into Secret Ravine at location 1 is equal to the volume of water discharged from site at location 1.

Volume 1 discharged to Secret Ravine: 2,256 cubic feet

**Volume 1 Discharged to Secret Ravine: 16,873 gallons**

**Location 2:**

The Volume of water discharged into Secret Ravine from location 2 is the volume of water discharged from location 2 minus the volume of water infiltrated along the flow path:

Area of flow path: 8,400 s.f. (280'x30')  
Infiltration rate: 0.2 in/hr  
Time of infiltration: 1.5 hrs.  
Infiltration Volume: 210 cubic feet

Volume 2 discharged to Secret Ravine = Discharge 2 @ site (6,840 cf.)  
– Infiltration (210 cf.)  
= 6,630 cubic feet

**Volume 2 Discharged to Secret Ravine: 49,592 gallons**

## 7. Summary / Discussion:

The results from the calculations in the above report are summarized as follows:

### Volume discharged from site:

Discharge Location #1 (Detention Basin)

Area: 3.1 acres  
Rainfall: 0.87 inches  
Estimated volume: 16,873 gallons

Discharge Location #2 (Dominguez Loop)

Area: 6.2 acres  
Rainfall: 0.30 inches  
Storage released 4,800 cubic feet  
Estimated volume: 51,167 gallons

**Total Estimated volume discharged from Site: 68,039 gallons**

### Volume discharged into Secret Ravine:

Estimated volume from location #1 (Detention Basin): 16,873 gallons  
Estimated volume from location #2 (Dominguez Loop): 49,592 gallons

**Total Estimated volume discharged into Secret Ravine: 66,465 gallons**

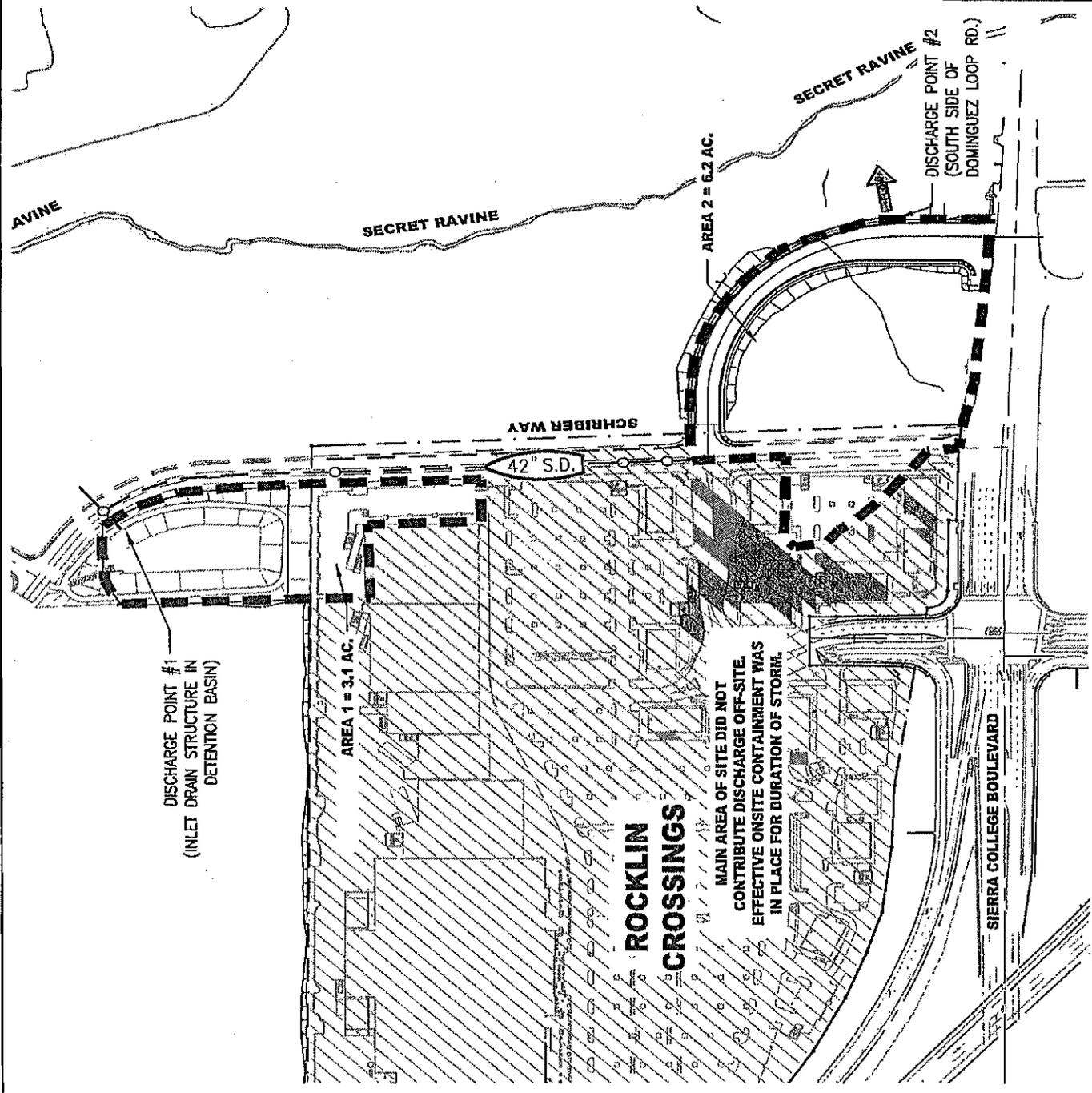
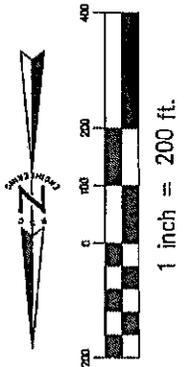
The results listed above are estimates based on available information including: photos, field reports by personnel (eye witnesses) at the site during the rain event, and recorded rainfall data from the City of Roseville. The calculations are not based on field measurements during the storm event. The volume estimates listed in this report should not be misconstrued as quantitative engineering results but rather as opinions based on engineering judgment.

The back-checks of volumes for each discharge are provided as an independent check of the reasonableness of the assumptions used in the primary volume calculations. The back checks are not intended to provide confirmation of the primary calculations; they are intended to put the primary calculations into perspective and verify reasonableness.

# **ROCKLIN CROSSINGS**

## **City of Roseville Rain Gage Records Secret Ravine at Rocklin Road**

**November 28, 2012 – December 5, 2012**



E.S.C. ENGINEERING  
 10000 DOWNEY BLVD  
 SUITE 100  
 DOWNEY, CA 91704-4102  
 TEL: 714.225.8888 FAX: 714.225.4102

PROJECT: ROCKLIN-002 | DATE: 1/29/2013 | SHEET NO. 1 OF 1

ROCKLIN CROSSINGS  
 ROCKLIN, CA

FIGURE - 1  
 DISCHARGE EXHIBIT

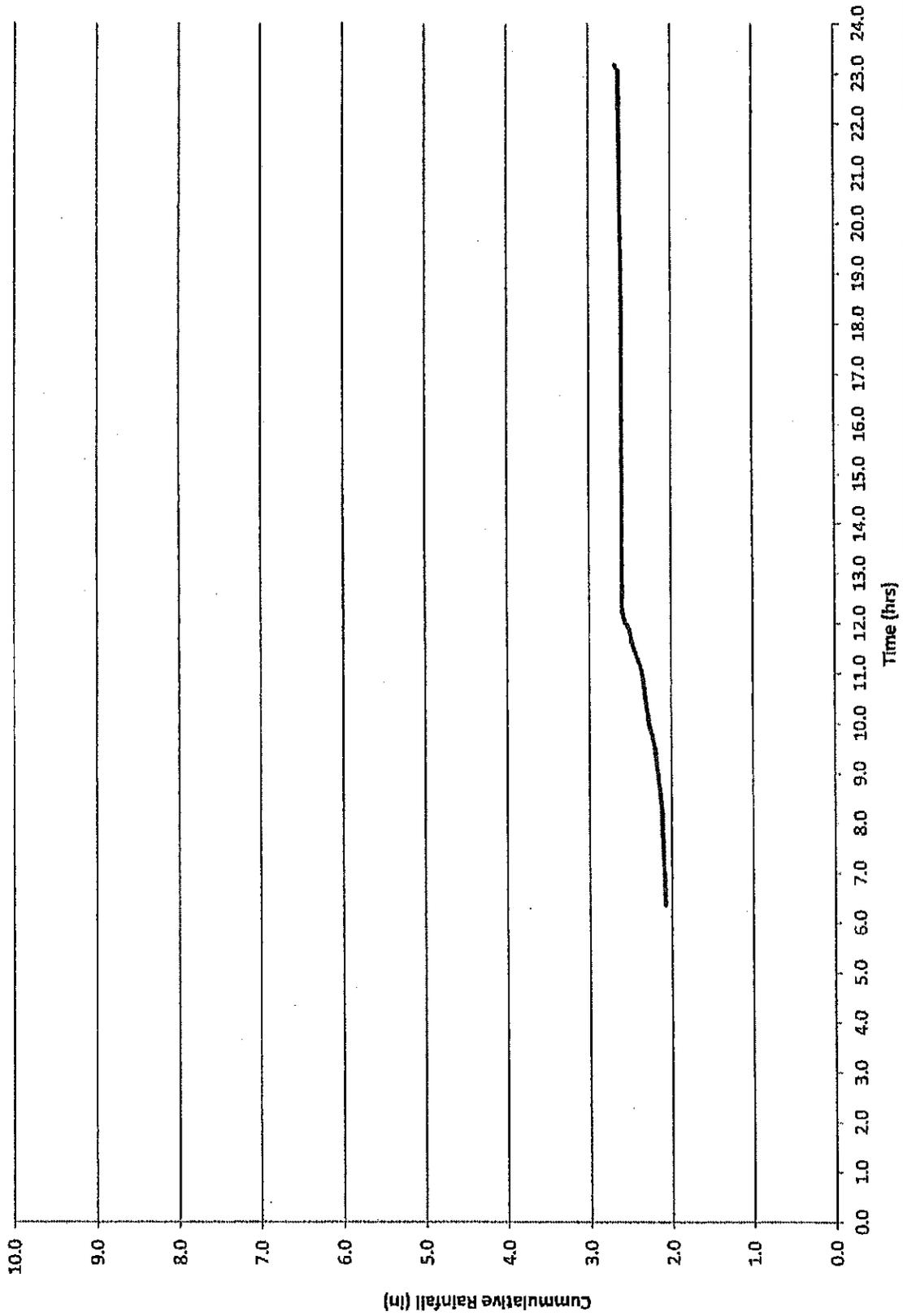
DRWING: R:\2011-002\Engineering\Report\SWPPP (MULT)\MOW Technical Report\FIGURES\Figure 1-Discharge Map.dwg  
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 LAST MODIFIED: Jan 22, 2013 - 11:27  
 PLOT DATE: Jan 24, 2013 - 8:00:51 AM

Tabular Data Display

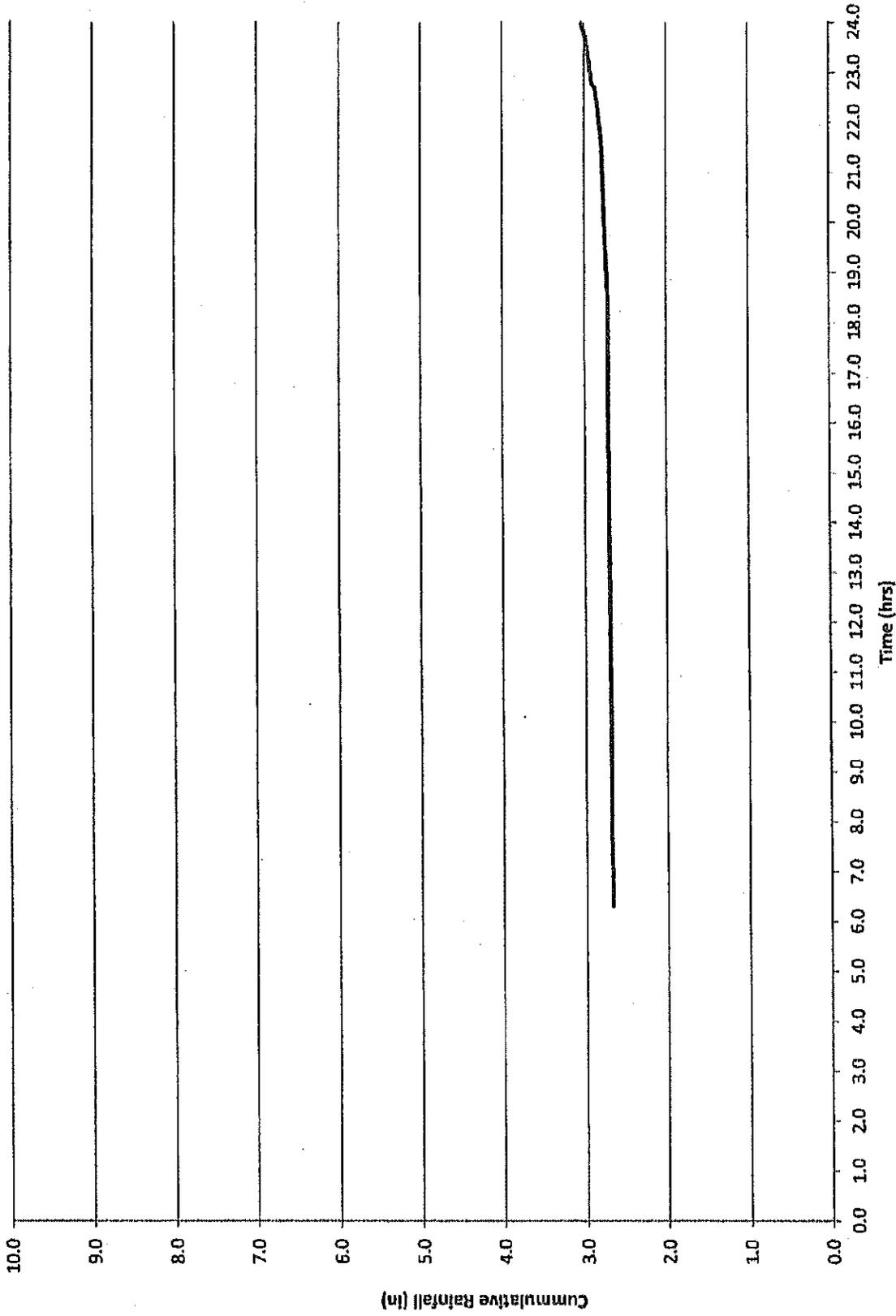
Point: 1818 CHINA GARDEN RD Precipitation Gage

28-Nov-12		29-Nov-12		30-Nov-12		1-Dec-12		2-Dec-12		3-Dec-12		4-Dec-12		5-Dec-12	
Time (hr.)	Depth (in.)														
6.4	2.1	6.3	2.7	0.2	3.1	5.9	5.8	0.8	5.4	6.0	8.2	5.9	8.2	0.4	8.3
8.3	2.1	15.9	2.7	0.3	3.1	6.2	5.8	1.3	6.5	17.9	8.2	16.2	8.3	8.8	8.4
9.5	2.2	18.3	2.7	0.3	3.2	8.0	5.8	2.2	6.9			17.8	8.3	16.9	8.4
9.8	2.2	19.8	2.8	0.5	3.2	8.6	5.9	2.6	6.5			23.9	8.3	25.2	8.5
10.0	2.3	21.6	2.8	0.6	3.2	9.1	5.9	3.5	6.6					25.2	8.5
11.1	2.4	22.2	2.8	0.8	3.3	9.4	5.9	3.4	6.6					25.2	8.5
11.4	2.4	22.7	2.9	1.1	3.3	9.6	6.0	6.0	6.7					25.2	8.6
11.6	2.5	22.8	2.9	1.4	3.3	9.7	6.0	6.1	6.7					25.2	8.6
11.9	2.5	23.3	3.0	1.8	3.4	9.8	6.0	6.2	6.7					25.2	8.7
12.0	2.6	23.7	3.0	2.2	3.4	11.9	6.1	6.4	6.7					25.2	8.7
12.2	2.6	24.0	3.0	2.4	3.5	18.1	6.1	6.6	6.8					25.2	8.7
18.3	2.6			2.7	3.5	18.8	6.1	6.9	6.8					25.2	8.8
23.1	2.6			3.5	3.6	19.7	6.1	7.1	6.9					25.2	8.8
23.2	2.7			4.4	3.6	21.7	6.2	7.2	6.9					25.2	8.8
				5.3	3.7	22.0	6.2	7.4	6.9					25.2	8.9
				5.4	3.7	22.4	6.3	7.5	7.0					25.2	8.9
				5.5	3.7	22.7	6.3	7.8	7.0					25.2	8.9
				5.6	3.8	22.9	6.3	8.0	7.1					25.2	8.9
				5.8	3.9	23.6	6.4	8.1	7.1					25.2	8.9
				5.9	3.9			8.2	7.2						
				5.9	3.9			8.2	7.2						
				6.0	4.0			8.2	7.2						
				6.0	4.0			8.2	7.3						
				6.2	4.1			8.2	7.4						
				6.2	4.1			8.2	7.4						
				6.9	4.1			8.2	7.4						
				8.1	4.1			8.2	7.5						
				8.6	4.2			8.2	7.5						
				8.8	4.2			8.2	7.6						
				8.8	4.3			8.3	7.6						
				8.9	4.3			8.3	7.7						
				9.0	4.3			8.4	7.7						
				9.2	4.4			8.4	7.7						
				9.3	4.4			8.5	7.8						
				9.4	4.5			8.6	7.8						
				9.7	4.5			8.6	7.8						
				10.9	4.5			8.7	7.8						
				10.6	4.6			8.8	7.9						
				10.8	4.6			8.9	8.0						
				10.9	4.7			9.1	8.0						
				11.1	4.7			9.3	8.0						
				11.2	4.8			9.5	8.1						
				11.3	4.8			9.5	8.1						
				11.4	4.8			9.8	8.2						
				11.6	4.9			10.1	8.2						
				11.7	4.9			10.4	8.2						
				11.8	5.0			10.4	8.2						
				12.2	5.0			16.1	8.2						
				12.5	5.0										
				12.9	5.1										
				13.0	5.1										
				13.2	5.1										
				13.7	5.1										
				13.8	5.2										
				18.2	5.2										
				19.2	5.3										
				19.4	5.3										
				19.5	5.4										
				19.8	5.4										
				20.3	5.4										
				20.4	5.5										
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				20.8	5.6										
				20.7	5.6										
				22.2	5.7										

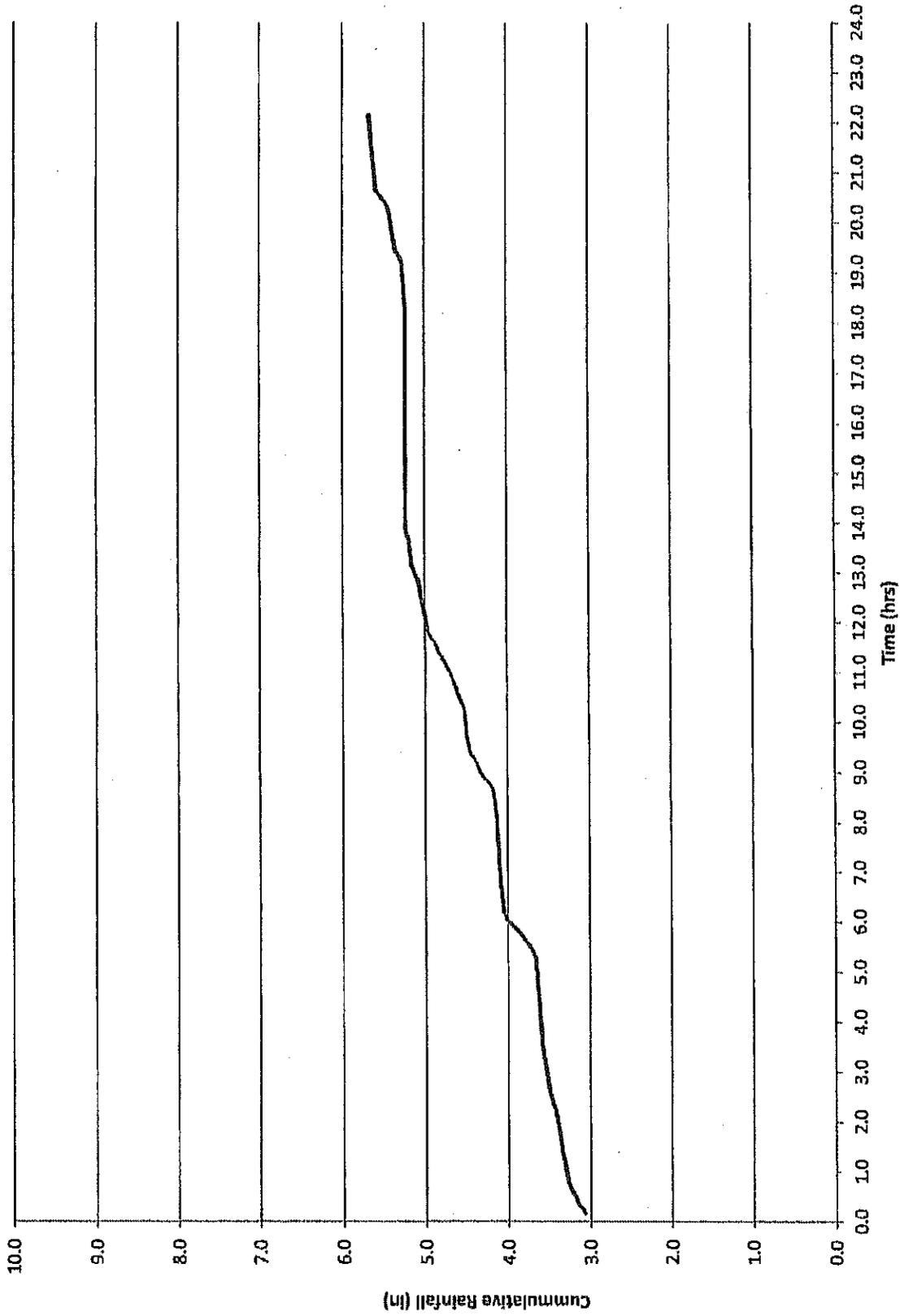
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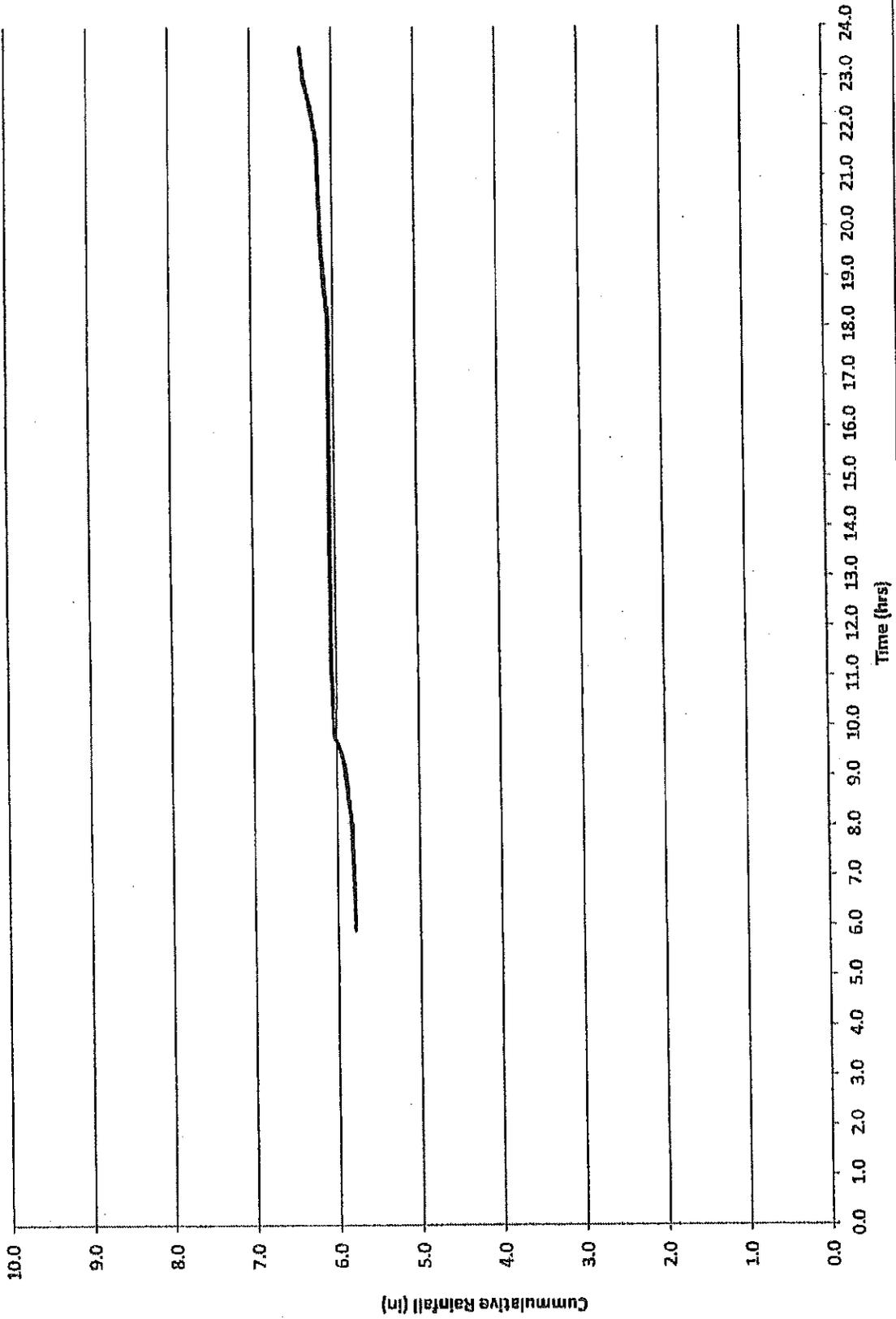
29-Nov-12



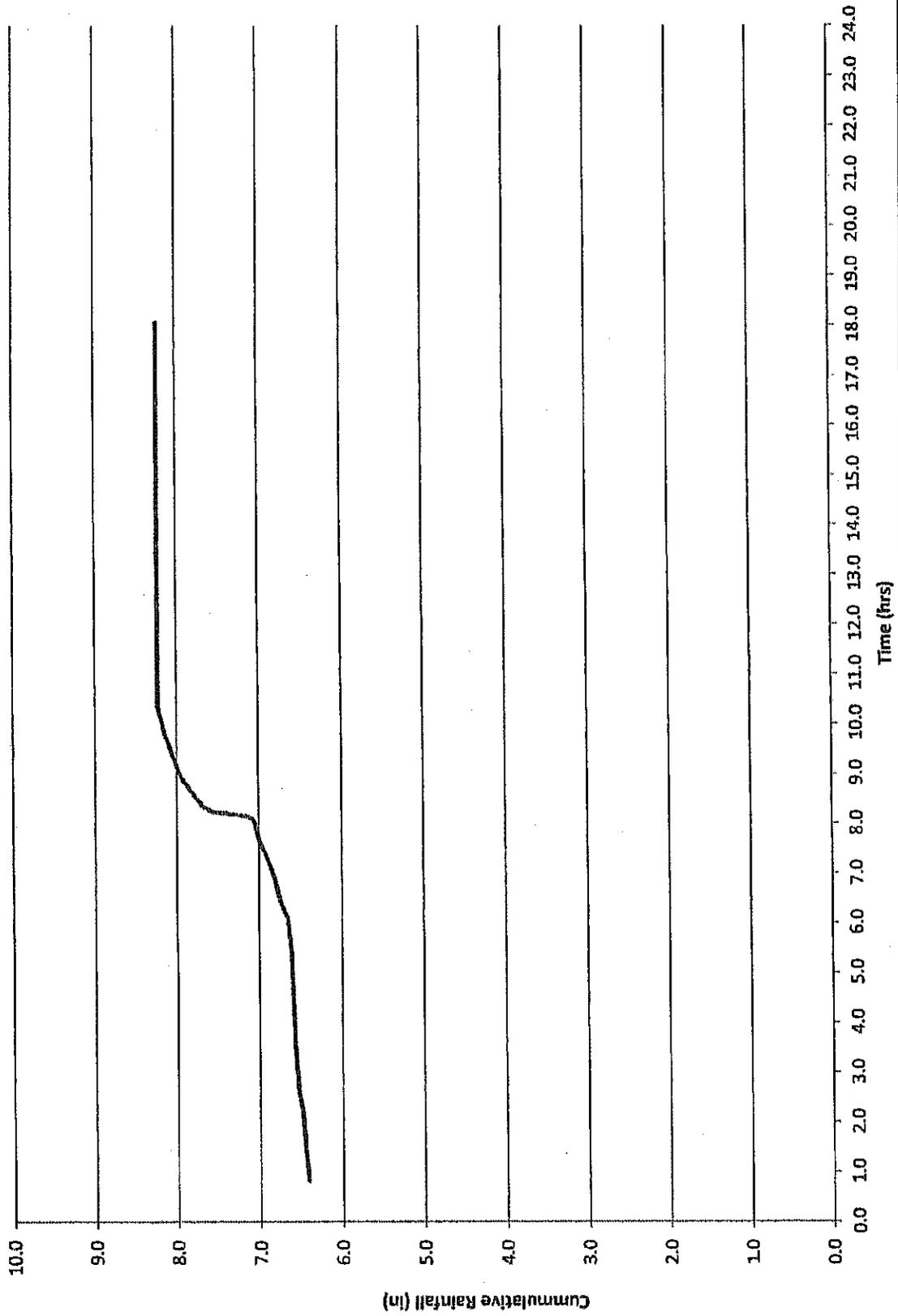
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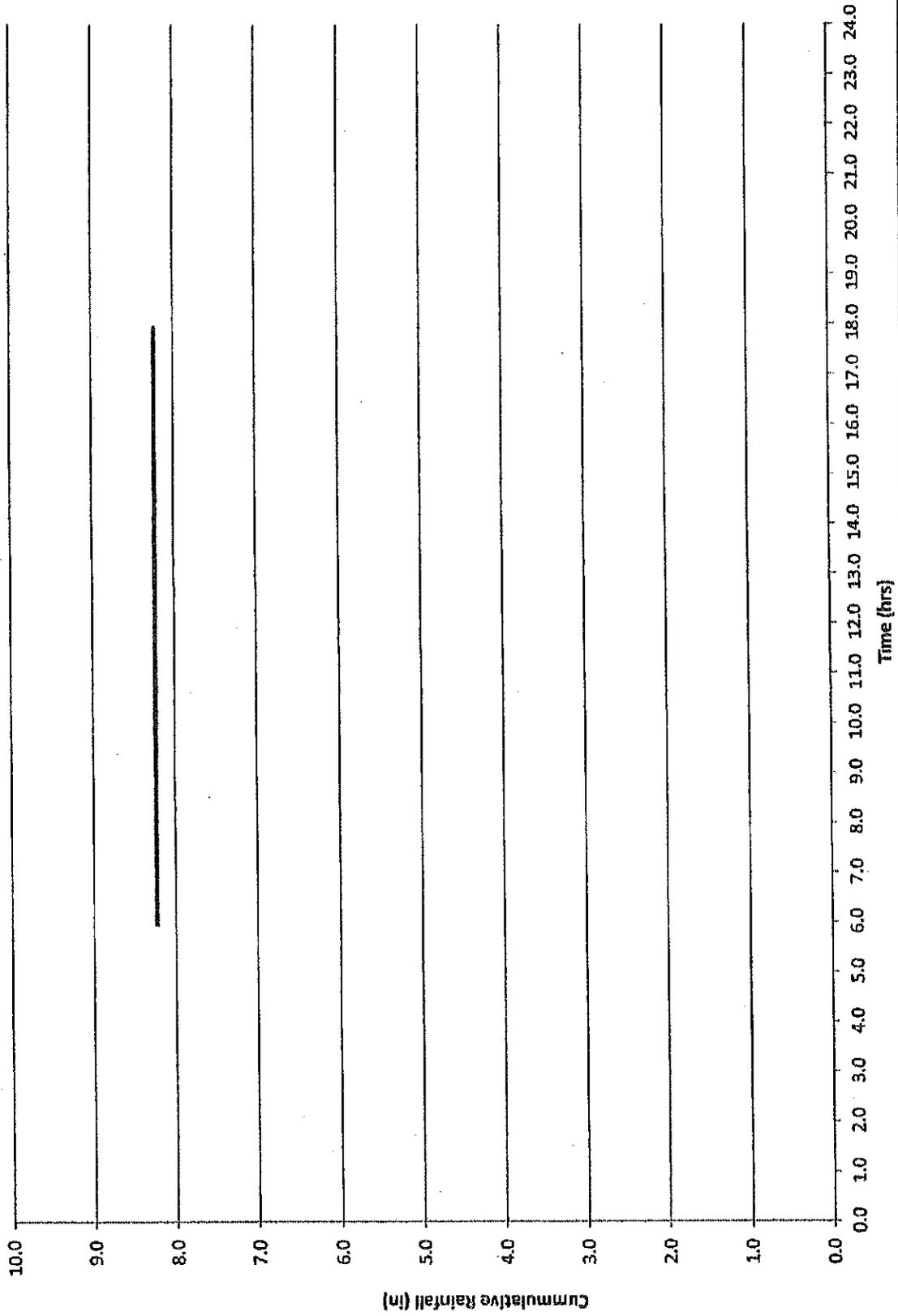
1-Dec-12



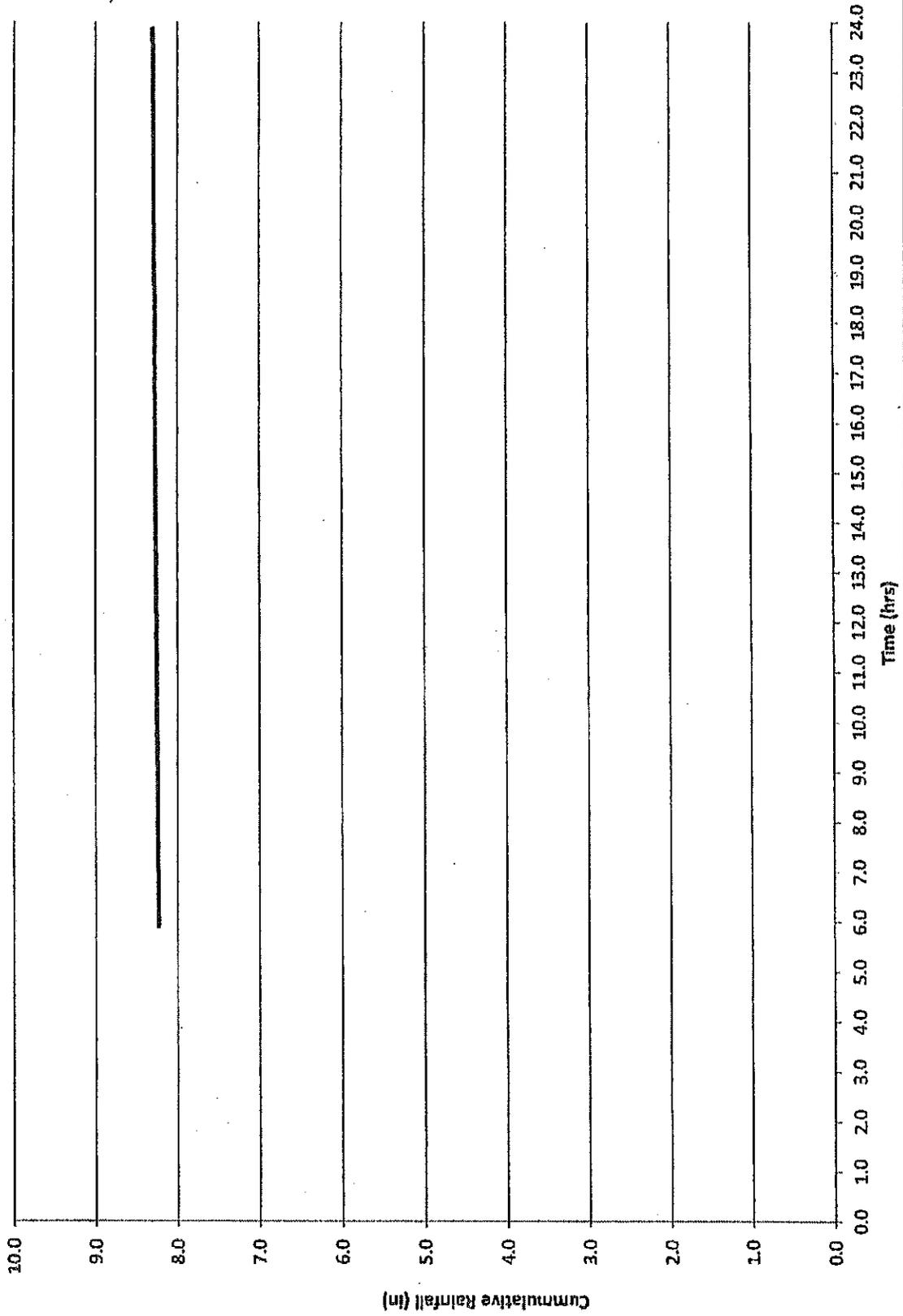
2-Dec-12



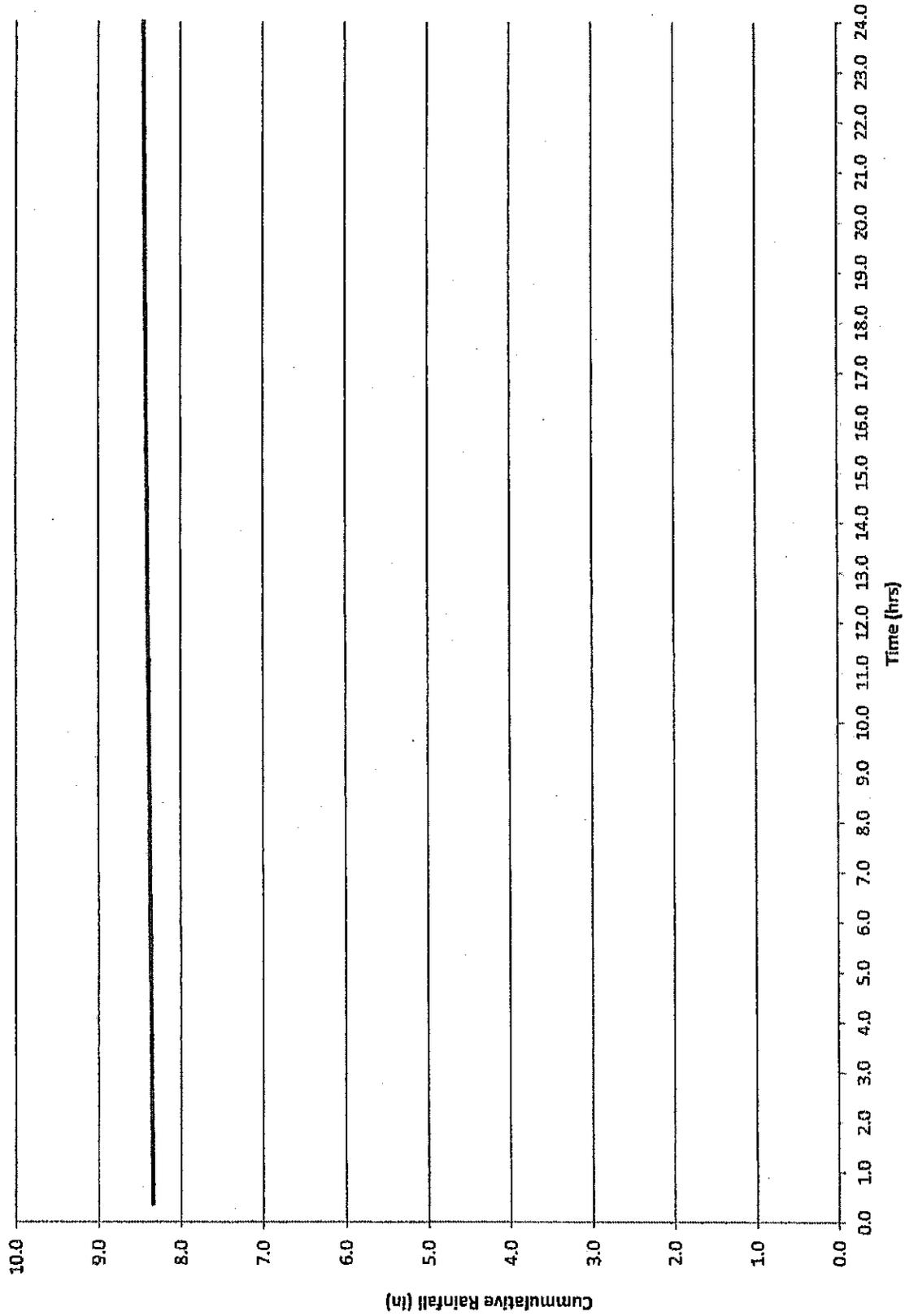
3-Dec-12



4-Dec-12



5-Dec-12

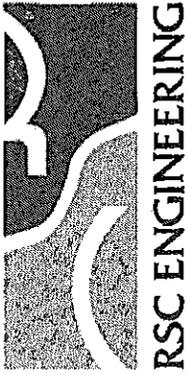


# **ATTACHMENT B**

**RESPONSE TO NOTICE OF VIOLATION**

**FOLLOW UP AND CLARIFIATION**

**RE: VOLUME ESTIMATES OF  
SEDIMENT LADEN DISCHARGE FROM  
SITE**



**Response to Notice of Violation  
Follow up and Clarification  
Re: Volume estimates of Sediment laden discharge from  
site**

For:

Rocklin Crossings WDID# 5S31C364098  
Rocklin Crossings Detention Basin WDID# 5S31C364108  
Dominguez Loop Road WDID# 5S31C364102  
Center at Secret Ravine WDID# 5S31C364105

**RSC Engineering**

February 14, 2013

RSC Engineering, Inc.  
Consulting Engineers

2250 Douglas Blvd.  
Suite 150  
Roseville, CA 95661  
916.788.2884  
Fax 916.788.4408  
rsc-engr.com

---

Response to NOV Follow up Clarification Volume Calculations  
February 14, 2013

Page: 1

Please see the responses in bold to the questions below:

### Question #3:

Paragraph 3 on Page 9 states that the earthen dike at the west end of the Dominguez Loop failed and the runoff was stopped within 1.5 hours. The NOV Response does not specifically state when the breach failure occurred, but S.D. Deacon estimated the failure to occur at 0830 hours in their 12/18/12 Summary of BMPs and other storm water control efforts submittal. S.D. Deacon staff also verbally stated on 12/12/12 at the Water Board office meeting that the Dominguez Loop Road earth dam breached around 8AM on 11/30/12, the temp basin was enlarged, and discharges off the site were stopped by "Friday night".

Water Board staff believe that the discharge of turbid storm water at the Dominguez Loop Road earth dam (aka Discharge Point #2) may have been temporarily interrupted as repair efforts were initiated. Water Board staff was on site on 11/30 from 0940 to approximately 1110 hours and turbid storm water was still discharging from Discharge Point #2 at 1100 hours when QSP Dave Claysan and Water Board staff left the Discharge Point #2 site. Water Board Photograph Na. 76, taken at 1055 hours at Discharge Point #2 is attached for your review.

Based on this information, please revise your estimate of when discharges off the construction site were stopped.

Per conversations with S.D. Deacon, the discharge was partially stopped at 10:00 a.m. when the rock berm was re-constructed as shown in the photo (1.5 hours after the berm failure); the discharge was completely stopped at 11:15 a.m. once the D-8 arrived at the discharge location.

The runoff at discharge location 2 during the time span from 10:00 a.m. to 11:15 a.m. cannot be calculated using the product of rainfall, area, and C factor as was done in the original calculations. During this time span the discharge was significantly reduced by the re-constructed crushed rock berm. A large percentage of the runoff from Area 2 was captured behind the re-constructed crushed rock berm while the remainder flowed through the re-constructed rock berm.

The volume of water discharged from 10:00 a.m. to 11:15 a.m. is calculated by estimating the flow in photo #76 taken by Marty Hartzell at 10:55 a.m. on 11/30/12 (shown below):



Using an assumed flow depth of 1 inch and an assumed flow width of 2 feet, the flow rate shown in this picture can be calculated using the sharp crested weir equation:

$$Q = \frac{2}{3} * C_d * A * \sqrt{2gh}$$

$C_d = 0.6$

$A = \text{flow depth} * \text{flow width} = 0.08' * 2'$

$Q = 0.15 \text{ cfs}$

Given the calculated flow rate and the time duration of flow the Volume of water discharged can be calculated as follows:

**Discharge Volume from Area2 from 10:00 a.m. to 11:15 a.m.**

<b>Flow rate:</b>	<b>0.15 cfs (from flow estimate above)</b>
<b>Flow time:</b>	<b>4,500 sec. (1.25 hrs. 10:00 to 11:15)</b>
<b>Volume:</b>	<b>675 cubic feet</b>
<b><u>Volume:</u></b>	<b><u>5,063 gallons</u></b>

**Question #4:**

*Appendix F provides the estimated volume of sediment laden storm water discharged from the site.*

*Figure 1 in Appendix F provides an estimate of the drainage area for Discharge Point #2 at 6.2 acres, but this area does not include storm water flowing from graded and compacted roads or areas north of the Dominguez Loop Road and Center at Secret Ravine properties. The drainage area for the Dominguez Loop Road and the Center at Secret Ravine sites is listed in SMARTS at 2.9 acres and 3.7 acres, respectively, which by itself is 6.6 acres.*

**Please see the attached exhibit which illustrates the discharge area for the 11-30-2012 storm event, the disturbed area from the Dominguez Loop SWPPP, and the disturbed area from the Center at secret Ravine SWPPP. The exhibit shows the disturbed areas from the two SWPPPs overlap. Removing the overlap area ( 1.18 ac) and the stabilized slope area that discharges directly offsite ( 0.60 ac) and comparing the sum of the two SWPPP plans ( 4.82 ac) vs the 11/30/12 discharge map ( 6.2 ac) shows that the discharge acreage is greater than the combined area of the two SWPPP documents.**

*Figure 1 includes a statement that the "Main area of site did not contribute discharge off-site", and "Effective onsite containment was in place for duration of storm." However, the 11/30/12 Daily Superintendent Report states that "Around 7:45am dike behind job trailer was overflowing causing dike to leak, water ran across Schriber way down to holding basin at Dominguez Loop." On 11/30, Water Baard staff observed storm water ponding near the construction trailer and flowing south towards Schriber Way.*

*Based on this information, please reevaluate the Area 2 drainage area.*

**The revised exhibit includes the additional drainage area that contributed to the discharge point #2 after overtopping the berm on the north side of Schriber Way between pad 15 and pad 14 directly north of the intersection with Dominguez Loop Road. In addition to the area up-stream of that berm, the area north of Schriber way and east of Sierra College Boulevard was added to the total area contributing to the discharge at discharge location #2. This area (Area 2B in the attached revised Discharge Exhibit) was covered by existing vegetation and allowed ponding in two locations prior to releasing across Schriber Way to the south.**

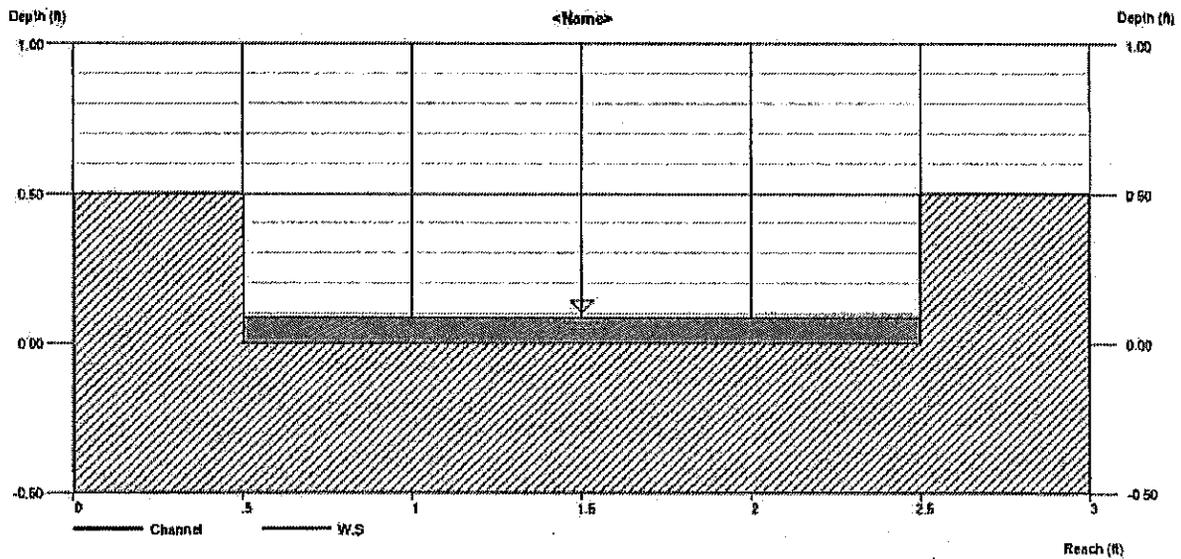
**The runoff from Area 2A was attenuated due to the ponding up-stream of the berm and the runoff from Area 2B was attenuated by the dense existing vegetative cover and the two ponding areas. The additional discharge from these areas is estimated to be the precipitation over the areas during the span of time from 8:30 a.m. to 10:00 a.m. (0.3 inches, Refer to the Appendix F from the Response to Notice of Violation dated 1-25-2013) multiplied by the area and the C coefficient of 0.2 (due to the vegetative cover and ponding).  
Volume 2A and 2B = Rainfall (ft.) \* Area (s.f.) \* C**

**Volume from Areas 2A and 2B**

Area 2A + Area 2B: 135,624 s.f. (1.1 ac. + 2.0 ac.)  
 Rainfall: 0.025 ft. (0.3 in.)  
 C: 0.2  
 Volume: 678 cubic feet  
 Volume: 5,085 gallons

**Backcheck of Volume from areas 2A and 2B**

Photo #4 from the NOV shows the discharge from areas 2A and 2B flowing across Schriber Way and into The Center at Secret Ravine. Given a total volume of 678 cf. over a 1.5 hour time span, the average flow rate is 0.13 cfs. Based on photo #4 from the NOV and given the average flow across Schriber Way the flow depth over Schriber Way is estimated using the broad crested weir equation with a bottom width of 2 feet. The Broad crested weir calculations are presented below:



Depth (ft)	Q (cfs)	Area (sqft)	Veloc (ft/s)	TopWidth (ft)	Energy (ft)
0.09	0.130	0.17	0.76	2.00	0.69

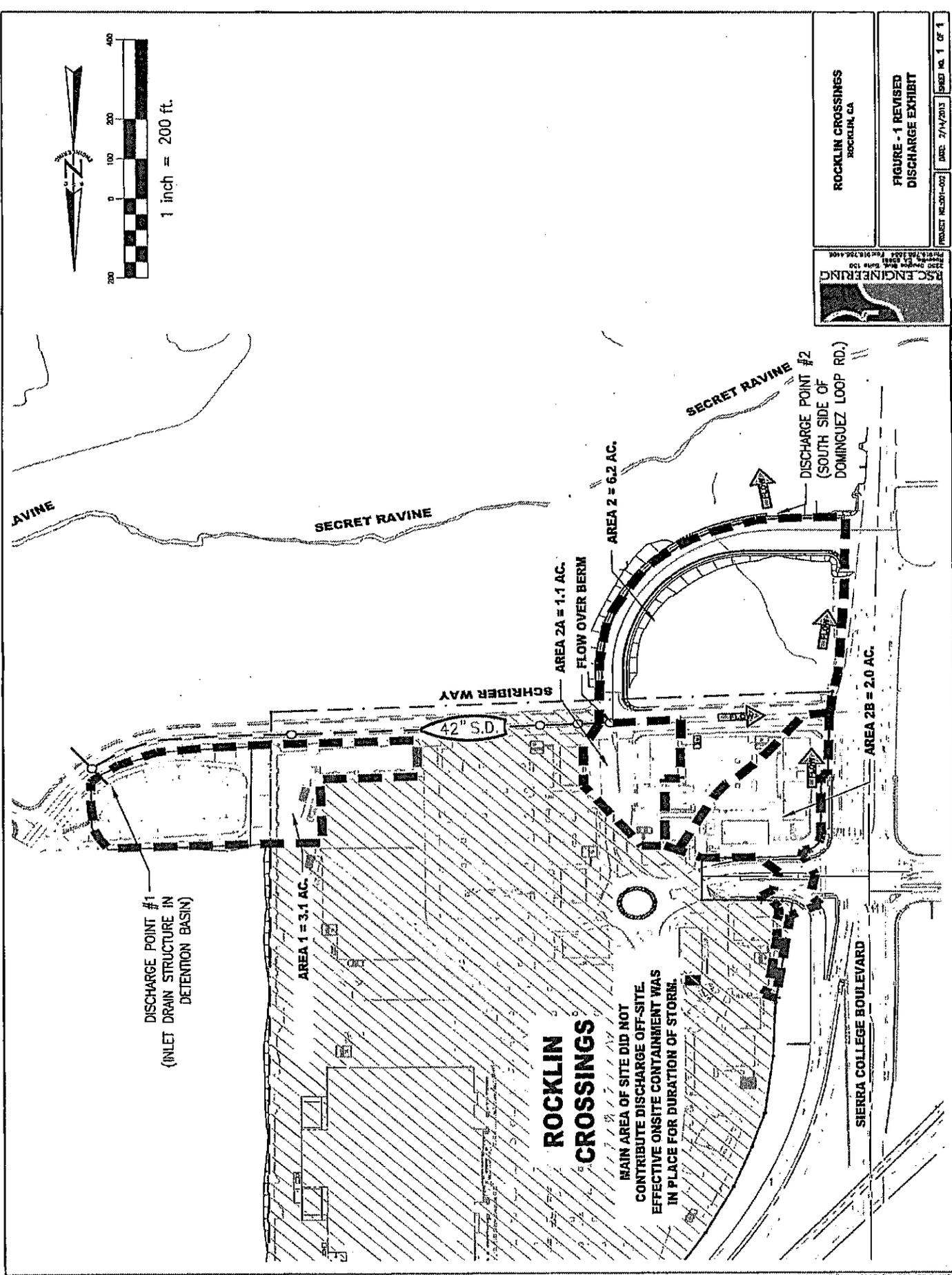
**Depth of Flow = 0.09'**

A flow depth of 0.09' above the roadway surface seems reasonable with what is shown in Photo# 4.

**Summary:**

Discharge Volume reported in 1/25/2013 Response to NOV:	51,167 gallons
Additional Volume discharged from Areas 2A and 2B north of Schriber Way:	5,085 gallons
Additional Volume discharged at discharge #2 from 10:00 a.m. to 11:15 a.m.:	5,063 gallons

**Revised Discharge Volume from Location #2: 61,315 gallons**

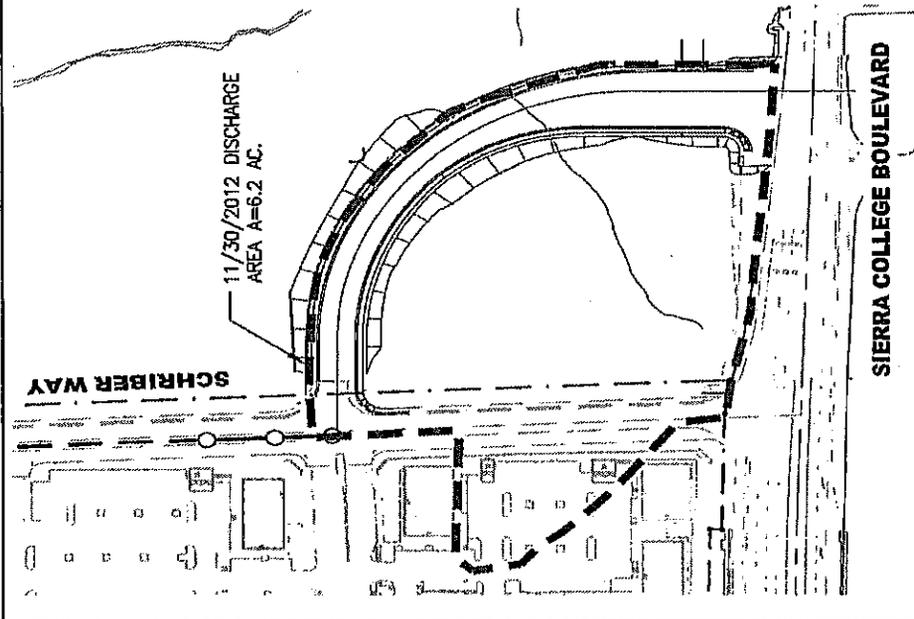


**BSC ENGINEERING**  
 2200 Dwight Way, Suite 100  
 Berkeley, CA 94704  
 PROJECT #12-01-02 | DATE: 2/14/2013 | SHEET NO. 1 OF 1

**ROCKLIN CROSSINGS**  
 ROCKLIN, CA

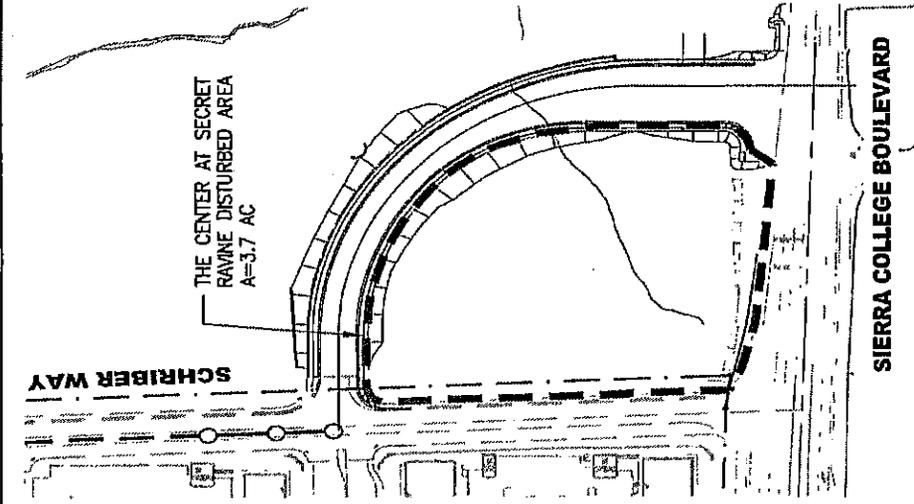
**FIGURE - 1 REVISED**  
**DISCHARGE EXHIBIT**

DRAWING: P:\01-002\Engineering\Reports\SWPP (MUL)\M\ Technical Report\001-002\Draw Up Condition (2012.02.14)\Exhibit\Figure 1-Discharge Map Response-(2013.02.12).dwg  
 USER: DMINOR  
 LAST MODIFIED: Feb 14, 2013 - 12:15 PM  
 PLOT DATE: Feb 14, 2013 - 12:24 PM



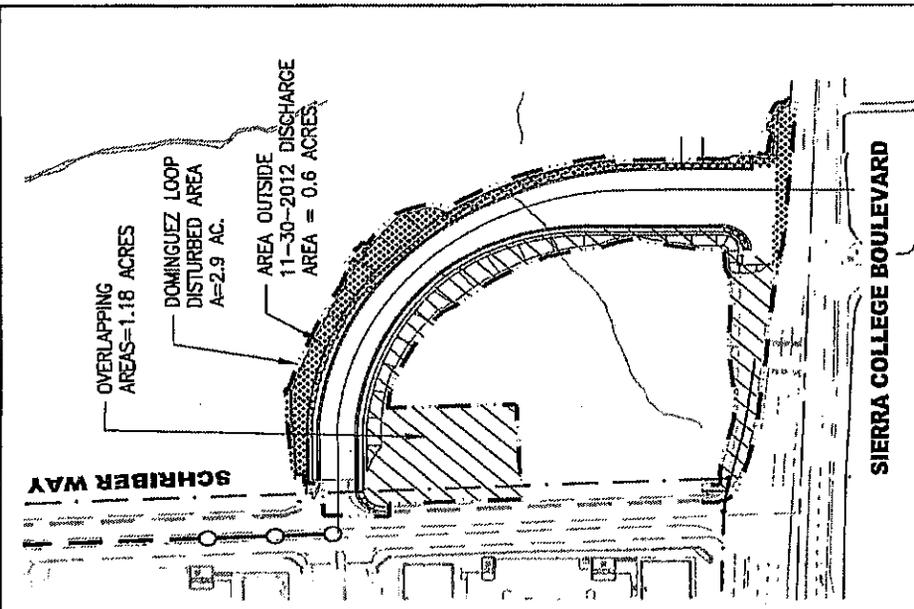
SIERRA COLLEGE BOULEVARD

**AREA-2 CONTRIBUTING TO 11-30-2012 DISCHARGE.**  
 AREA = 6.2AC



SIERRA COLLEGE BOULEVARD

**DISTURBED AREA FROM "THE CENTER AT SECRET RAVINE" SWPPP**  
 NET = 3.7AC



SIERRA COLLEGE BOULEVARD

**DISTURBED AREA FROM THE "DOMINGUEZ LOOP" SWPPP**  
 AREA = 2.9AC (SWPPP)  
 LESS: 0.8AC (AREA OUTSIDE DISCHARGE AREA)  
 LESS: 1.18AC (OVERLAP AREA)  
 NET = 1.12AC



ROCKLIN CROSSINGS  
 ROCKLIN, CA

FIGURE 1A  
 AREA EXHIBIT

PROJECT: RL-001-002 DATE: 2/14/2013 SHEET NO. 1 OF 1

# **ATTACHMENT C**

**ROCKLIN CROSSINGS COMPARISON  
OF VOLUME DISCHARGED FROM SITE  
WITH VOLUME DISCHARGED IN  
SECRET RAVINE**



2250 Douglas Blvd.  
 Suite 150  
 Roseville, CA 95661  
 916.788.7884  
 916.788.4880 (fax)  
[info@rsc-engr.com](mailto:info@rsc-engr.com)

## Rocklin Crossings

Comparison of Volume discharged from site with volume discharged in Secret Ravine.

Date: 3/29/2013  
 RSC Proj. #: 001-002

**Objective:** Compare the volume of water discharged into Secret Ravine from the Rocklin Crossings Site during the November 30, 2013 storm event with the volume of water in Secret Ravine at the Rocklin Crossings site at during the discharge event.

### Volume of water discharged from the Rocklin Crossings site:

Volume of water discharged from the Rocklin Crossings Site: **76,613 Gallons**

Based on the "Estimated volume of sediment laden water discharged from the site" by RSC Engineering dated 1-25-2013 and the "Follow up Clarification to Volume estimates of sediment laden discharge" prepared by RSC Engineering dated 2-14-2013.

### Volume of water discharged by Secret Ravine during the discharge event:

The amount of water discharged by Secret Ravine during the November 30, 2012 discharge event is estimated using the flow hydrograph\* at the City of Roseville maintained gauge station on Secret Ravine where it crosses Rocklin Road just east of Highway 80 and 1.2 miles south west of the project (Refer to Figure 1 for Hydrograph).

The flow rate in Secret Ravine at the gauge station is reduced by a factor to represent the flow at the site discharge location. The reduction factor represents the shed area upstream of the gauge station and downstream of the site discharge location. The reduction factor is the shed area between the site and the gauge station divided by the total shed area up-stream of the gauge station.

The volume of water discharged from Secret Ravine that flowed past the Rocklin Crossings discharge location was calculated by determining an average flow rate for the time span from 0815 hrs to 1015 hrs on November 30, 2012 and multiplying the average flow rate (Q) by the 2 hours ( ie: 0815 hrs to 1015 hrs).

\* Flow Hydrograph provided by Civil Engineering Solutions, Inc. based on the measured stream depth data recorded at the gauge station by the City of Roseville.

Shed area between site and gauge station:	275	Acres
Total Shed area upstream of gauge station:	9,925	Acres
<b>Flow reduction Factor:</b>	<b>0.028</b>	
Q @ 0800 hrs:	369	
Q @ 1000 hrs:	530	
Time span:	2 hrs.	
Average Q:	450 cfs	
Volume = Avg Q (cfs) * Time (s):	3,240,000	Cubic Feet
<b>Volume discharged in Secret Ravine @ gauge station:</b>	<b>24,235,200</b>	<b>Gallons</b>
Volume of water discharged from the Rocklin Crossings Site:	76,613	Gallons
Volume Discharged in Secret Ravine @ site:	24,235,200	Gallons
<b>Site Discharge percentage of Secret Ravine Discharge:</b>	<b>0.32%</b>	

**Figure 1**  
Flow Hydrograph at Gauge Station

Date / Time	Depth	Est. Flow	Date / Time	Depth	Est. Flow
11/30/2012 00:03:01	250.49	ft 176.4636	11/30/2012 11:08:33	252.17	ft 543.5828
11/30/2012 00:18:07	250.47	ft 171.678	11/30/2012 11:23:36	252.24	ft 559.9288
11/30/2012 00:33:11	250.55	ft 186.0348	11/30/2012 11:38:38	252.3	ft 592.6208
11/30/2012 00:48:15	250.59	ft 187.63	11/30/2012 11:53:41	252.36	ft 608.1324
11/30/2012 00:48:15	250.59	ft 187.63	11/30/2012 12:08:43	252.48	ft 638.7384
11/30/2012 01:03:18	250.63	ft 195.606	11/30/2012 12:23:44	252.5	ft 654.0414
11/30/2012 01:18:21	250.66	ft 203.582	11/30/2012 12:38:46	252.54	ft 654.0414
11/30/2012 01:18:21	250.66	ft 203.582	11/30/2012 12:53:48	252.52	ft 654.0414
11/30/2012 01:33:24	250.64	ft 195.606	11/30/2012 13:08:50	252.55	ft 669.3444
11/30/2012 01:48:26	250.64	ft 195.606	11/30/2012 13:23:52	252.66	ft 699.9504
11/30/2012 02:03:28	250.65	ft 201.9868	11/30/2012 13:38:53	252.65	ft 699.9504
11/30/2012 02:18:30	250.67	ft 203.582	11/30/2012 13:53:55	252.71	ft 715.2534
11/30/2012 02:33:32	250.71	ft 211.558	11/30/2012 14:08:57	252.74	ft 727.4958
11/30/2012 02:48:34	250.76	ft 219.534	11/30/2012 14:23:59	252.77	ft 730.5564
11/30/2012 02:48:34	250.76	ft 219.534	11/30/2012 14:39:00	252.75	ft 730.5564
11/30/2012 03:03:36	250.8	ft 225.9148	11/30/2012 14:54:02	252.77	ft 730.5564
11/30/2012 03:18:38	250.82	ft 227.51	11/30/2012 15:09:04	252.81	ft 745.8594
11/30/2012 03:18:38	250.82	ft 227.51	11/30/2012 15:24:06	252.85	ft 764.7072
11/30/2012 03:33:40	250.86	ft 237.609	11/30/2012 15:39:07	252.82	ft 745.8594
11/30/2012 03:48:43	250.91	ft 247.708	11/30/2012 15:54:08	252.82	ft 745.8594
11/30/2012 04:03:44	250.97	ft 259.8268	11/30/2012 16:09:09	252.78	ft 730.5564
11/30/2012 04:18:45	251	ft 265.8862	11/30/2012 16:24:11	252.79	ft 730.5564
11/30/2012 04:33:47	251.03	ft 267.906	11/30/2012 16:39:12	252.73	ft 715.2534
11/30/2012 04:48:49	251.06	ft 278.005	11/30/2012 16:54:13	252.7	ft 715.2534
11/30/2012 04:53:49	251.06	ft 278.005	11/30/2012 17:09:14	252.64	ft 684.6474
11/30/2012 05:03:50	251.14	ft 288.104	11/30/2012 17:24:15	252.54	ft 654.0414
11/30/2012 05:18:55	251.14	ft 288.104	11/30/2012 17:39:16	252.5	ft 654.0414
11/30/2012 05:34:00	251.19	ft 304.2624	11/30/2012 17:54:17	252.4	ft 623.4354
11/30/2012 05:39:01	251.19	ft 304.2624	11/30/2012 18:09:18	252.29	ft 576.2748
11/30/2012 05:54:06	251.29	ft 324.4604	11/30/2012 18:24:19	252.26	ft 576.2748
11/30/2012 06:04:09	251.41	ft 347.2074	11/30/2012 18:39:21	252.16	ft 543.5828
11/30/2012 06:19:13	251.53	ft 367.9934	11/30/2012 19:09:24	252	ft 494.5448
11/30/2012 06:34:17	251.61	ft 388.7794	11/30/2012 19:09:24	252	ft 494.5448
11/30/2012 06:49:20	251.71	ft 409.5654	11/30/2012 19:24:28	251.92	ft 461.8528
11/30/2012 07:04:21	251.61	ft 388.7794	11/30/2012 19:39:30	251.86	ft 445.5068
11/30/2012 07:19:22	251.55	ft 378.3864	11/30/2012 19:54:32	251.79	ft 419.9584
11/30/2012 07:39:24	251.54	ft 367.9934	11/30/2012 20:09:34	251.69	ft 399.1724
11/30/2012 07:54:26	251.55	ft 378.3864	11/30/2012 20:24:36	251.65	ft 399.1724
11/30/2012 07:54:26	251.55	ft 378.3864	11/30/2012 20:39:38	251.61	ft 388.7794
11/30/2012 08:24:29	251.64	ft 388.7794	11/30/2012 20:54:40	251.65	ft 399.1724
11/30/2012 08:39:31	251.69	ft 399.1724	11/30/2012 21:09:41	251.68	ft 399.1724
11/30/2012 08:54:34	251.75	ft 419.9584	11/30/2012 21:24:42	251.58	ft 378.3864
11/30/2012 09:09:37	251.84	ft 430.3514	11/30/2012 21:39:44	251.58	ft 378.3864
11/30/2012 09:24:41	251.94	ft 461.8528	11/30/2012 21:54:45	251.55	ft 378.3864
11/30/2012 09:39:43	252.03	ft 494.5448	11/30/2012 22:24:48	251.61	ft 388.7794
11/30/2012 09:53:18	252.11	ft 527.2368	11/30/2012 22:39:50	251.66	ft 399.1724
11/30/2012 09:53:18	252.11	ft 527.2368	11/30/2012 22:54:51	251.7	ft 409.5654
11/30/2012 10:08:21	252.15	ft 543.5828	11/30/2012 23:09:52	251.7	ft 409.5654
11/30/2012 10:23:23	252.14	ft 527.2368	11/30/2012 23:24:53	251.74	ft 409.5654
11/30/2012 10:38:26	252.13	ft 527.2368	11/30/2012 23:39:54	251.77	ft 419.9584
11/30/2012 10:53:30	252.13	ft 527.2368	11/30/2012 23:54:57	251.76	ft 419.9584

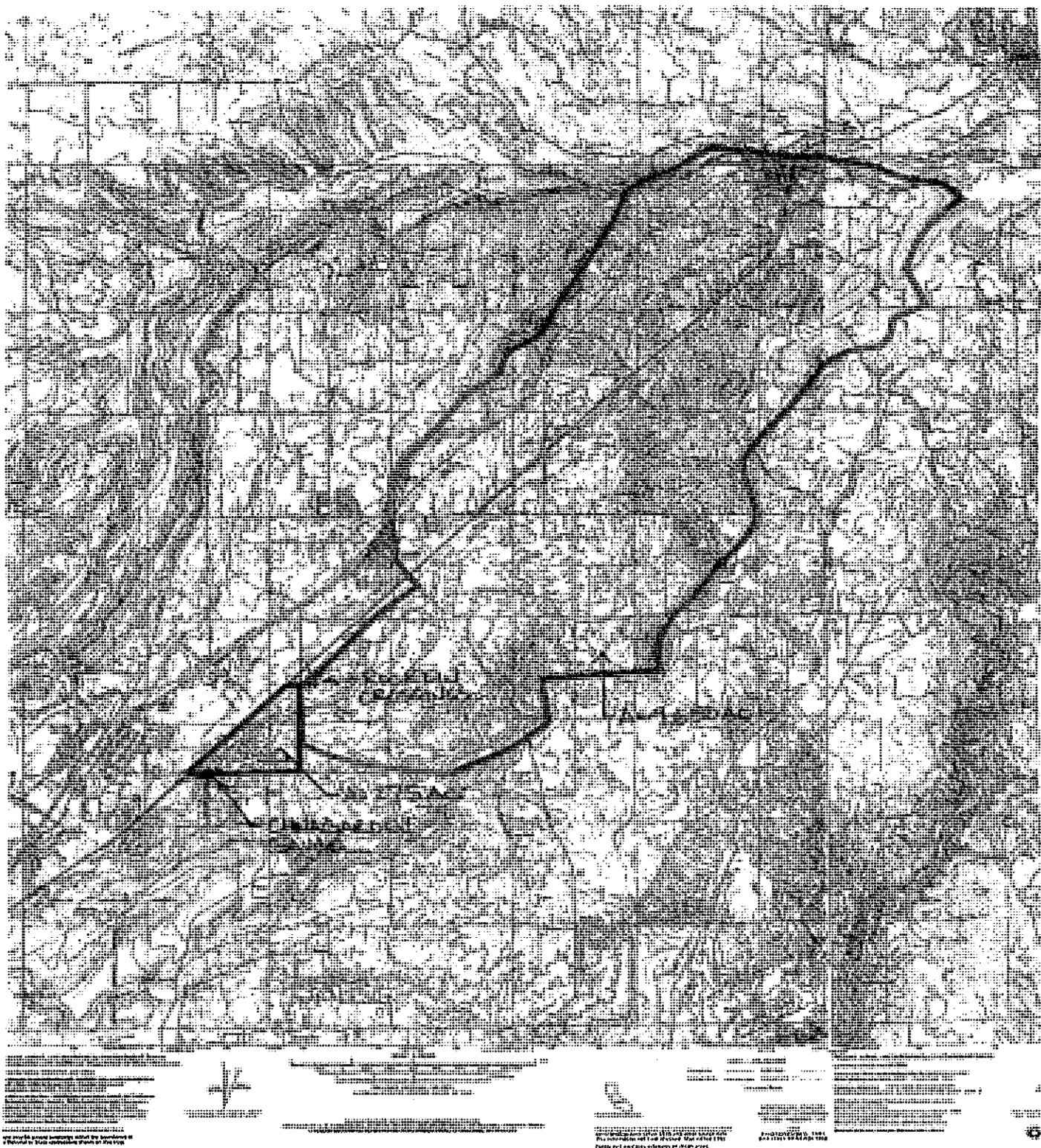
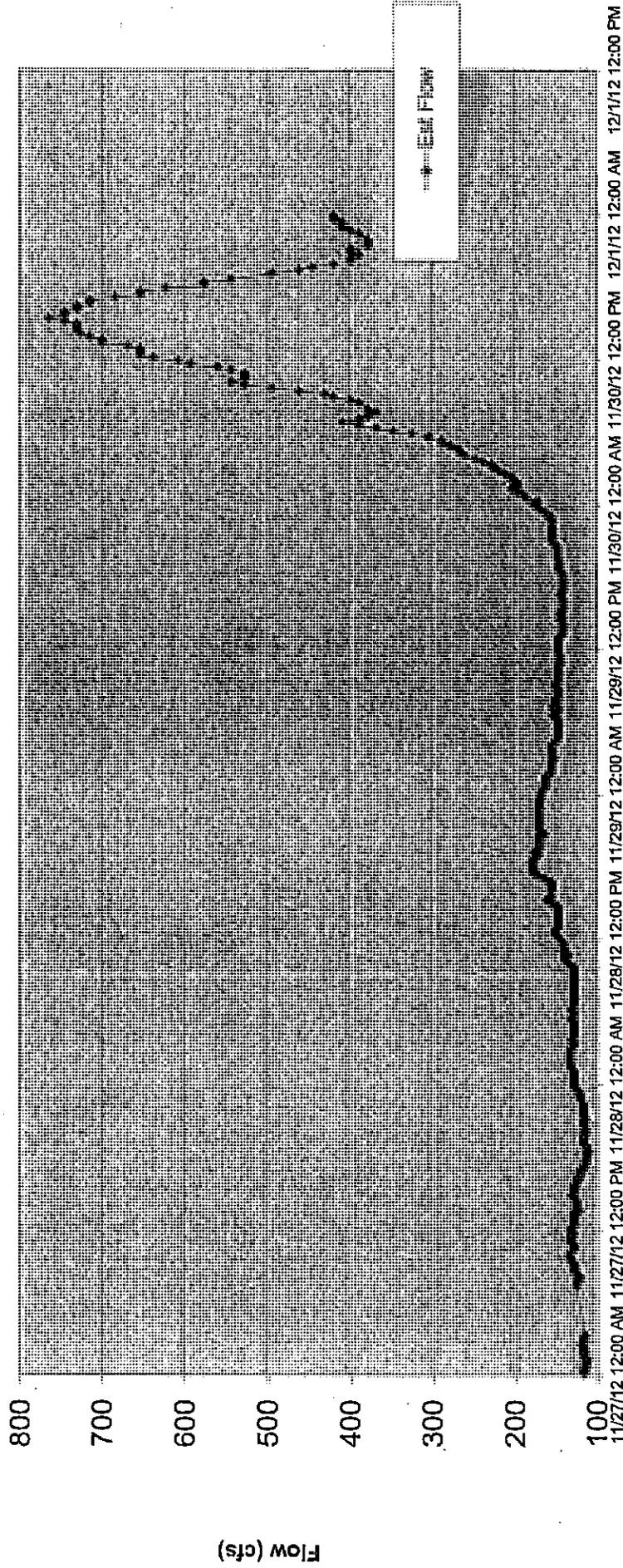


Figure 2 - Secret Ravine Shed Map

Figure 1 - Flow Hydrograph at Gauge Station  
1619:Secret @ China Garden



# **EXHIBIT L**

**RESUME OF RICHARD S. CHAVEZ**



## **Richard S. Chavez, P. E.**

President, RSC Engineering, Inc.

**EDUCATION** B.S. Civil Engineering with Honors  
University of California Berkley - 1975

**LICENSE** Registered Professional Civil Engineer  
No. C29033, California 1978

**EMPLOYMENT** 2004 – Present RSC Engineering, Inc.  
Roseville, CA  
President

1999 – 2004 Doucet & Associates  
Roseville, CA  
Managing Engineer, Vice President

1981 – 1999 Morton & Pitalo, Inc.  
Sacramento, CA  
Project Manager, Vice President

1975 – 1981 Contra Costa County  
Public Works Flood Control, Construction  
Land Development  
Martinez, CA  
Assistant Engineer

### **QUALIFICATIONS:**

Rick has more than 38 years of experience in civil engineering, 32 years of which are in the Sacramento area. He has completed hundreds of projects for both the private and public sectors. His expertise includes planning and design of a broad range of projects, including: commercial shopping centers, office complexes, warehouses, schools and parks, fire station, Regional Transit facilities, and single- and multi-family residential developments. Mr. Chavez has also worked on projects for the Army Corps of Engineers, the US Department of the Navy, and the US Postal Service, as well as major infrastructure projects including roadways, widening projects for state routes, surface and underground drainage, sewer and water facilities, and relocation of underground dry utilities.

Mr. Chavez has also been responsible for due diligence research and evaluation of title reports, ALTA surveys, geotechnical reports, preliminary site assessments, permit and development fee research and developing feasibility reports discussing site constraints. His experience includes evaluation of raw land, infrastructure needs, preparing major backbone infrastructure layouts for sewer, water, storm drain and roadways as well as preparation of opinions of probable costs for infrastructure layouts.

Mr. Chavez has worked with consultant teams and economic consultants to establish financing plans that include bonding, permit fee structures, and upfront infrastructure costs. He has also provided support services in the preparation of Project EIRs.

## **Partial List of Projects**

### **Retail**

- Rocklin Crossings, Rocklin, CA
- Rocklin Commons, Roseville, CA
- Capital Village, Rancho Cordova, CA
- College Square, Sacramento, CA
- Creekside South Retail Center, Roseville, CA
- Crocker Ranch Village Center, Roseville, CA
- Fairway Creek Shopping Center, Roseville, CA
- Burlington Site ADA Upgrade, Citrus Heights, CA
- Folsom Gateway Shopping Center, Folsom, CA
- Green Valley Marketplace, El Dorado Hills, CA
- Highland Reserve Market Place, Roseville, CA
- Kohl's, Vacaville, CA
- Kohl's Takeover Remodel, Santa Clara and San Jose, CA
- Laguna Gateway, Elk Grove, CA
- Lowes Home Improvement Warehouse - Citrus Heights, Folsom, Lincoln, Martell, Modesto, Roseville & San Bruno, CA
- Missouri Flat Villages, El Dorado County, CA
- Morgan Hill Retail Center, Morgan Hill, CA
- Natomas Park Retail Center, Sacramento, CA
- Park Place Plaza Phases 1 & 2, Sacramento, CA
- Renaissance Creek, Roseville, CA
- Rocklin Commons, Rocklin, CA
- Rocklin Crossings, Rocklin, CA
- Safeway Building Expansion, Lakeport, CA
- Skywest Commons, Hayward, CA
- Sterling Point Retail Center, Lincoln, CA
- Sunridge Plaza, Rancho Cordova, CA
- Sunrise Mall Food Court Remodel, Citrus Heights, CA
- Sunset West Safeway Center, Rocklin, CA

### **Office**

- 2150 Douglas Blvd, Roseville, CA
- 3300 Douglas Blvd, Roseville, CA
- Creekside Ridge Office Park, Units 5 & 6, Roseville, CA
- Johnson Ranch Professional Center, Roseville, CA
- River View Business Park, Folsom, CA
- Serna Center – School District Admin. Office, Sacramento, CA
- Summit at Douglas Ridge, Roseville, CA
- William J. Carroll Government Center, Vacaville, CA

### **Medical**

- Florin Dialysis Parking Lot Rehabilitation, Sacramento, CA
- Kaiser Medical Office Building, ADA Site Upgrades, Sacramento, CA
- Kaiser Roseville Hospital, ADA Site Upgrades, Roseville, CA
- Kaiser South Medical Office Building II, ADA Upgrades, Sacramento, CA

- Kaiser South D.B. Moore Building, ADA Upgrades, Sacramento, CA

### **Schools**

- Allison School, North Highlands, CA
- Antelope Middle School, Antelope, CA
- Buljan Intermediate School, Roseville, CA
- Foresthill High School, Foresthill, CA
- Holmes Elementary School, North Highlands, CA
- Kemble Elementary School, Sacramento, CA
- Kimball High School, Tracy, CA
- Los Banos High School, Los Banos, CA
- Madison Elementary School, North Highlands, CA
- Oroville Middle School, Oroville, CA
- Regency Park Elementary School, Sacramento, CA
- Serna Center, Sacramento, CA
- Silverado Middle School, Roseville, CA
- Tracy Middle School, Tracy, CA
- Vencil Brown Elementary School, Roseville, CA
- West Side School, Rio Linda, CA

### **Apartments**

- Adagio Apartments, Sacramento, CA
- Autumn Oaks, Units 1 & 2, Roseville, CA
- Copperstone Village, Sacramento, CA
- Copperstone Village 2 & 3, Sacramento, CA
- Deer Valley Apartments, Roseville, CA
- Metro Center Condominiums, Sacramento, CA
- Sargeant Elementary School, Roseville, CA
- Sierra View Town Homes, Roseville, CA
- Tanglewood Apartments, Davis, CA
- Unaccompanied Enlisted Personnel Housing, Beale AFB, CA
- Verner Oaks Apartments, Sacramento County, CA
- Village Faire Apartments, Fair Oaks, CA
- Vineyard Park Apartments, Roseville, CA

### **Subdivisions**

- Alder Point, Roseville, CA
- Ashley Woods, Roseville, CA
- Broadstone, Roseville, CA
- Eastridge, Roseville, CA
- Emerson Place, Roseville, CA
- Eureka Village, Roseville, CA
- Hampton Village, Roseville, CA
- Hillsborough, Roseville, CA
- Hillsborough Park, Roseville, CA
- Kentfield, Roseville, CA
- Silverwood, Roseville, CA
- Wellington, Roseville, CA

## **Roadways**

- Cochran Road Widening, Morgan Hill, CA
- Douglas Boulevard, Roseville, CA
- East Roseville Parkway, Roseville, CA
- Eureka Road, Roseville, CA
- Highway 65 Frontage Improvements, Lincoln, CA
- Hillsborough Drive, Roseville, CA
- Ingram Slough NEV Crossing Study, Lincoln, CA
- Iron Point Road Widening, Folsom, CA
- Lammers Road Widening, Tracy, CA
- Missouri Flat Road Widening, El Dorado County, CA
- North Central Specific Plan, Roseville, CA
- Old Auburn Road Extension, Roseville, CA
- Professional Drive, Roseville, CA
- Sierra College Boulevard, Roseville, CA
- Southeast Specific Plan, Roseville, CA
- Stanford Ranch Road Widening and Median Improvements, Roseville, CA
- West Stockton Boulevard, Sacramento, CA

## **Industrial**

- SMUD East Campus - Operations Center, Sacramento, CA
- DBI Warehouse and Parking Lot Rehabilitation, West Sacramento, CA
- El Dorado Fire Station, El Dorado Hills, CA
- F Street Commerce Center, West Sacramento, CA
- Hanson pipe Products, Sacramento, CA
- Main Post Office Expansion, West Sacramento, CA
- Main Post Office, Stockton, CA
- Main Post Office, West Sacramento, CA
- Main Post Office Expansion, West Sacramento, CA
- R&L Carriers, West Sacramento, CA
- Roseville Technology Park, Roseville, CA
- Royal Oaks Main Post Office Expansion, Sacramento, CA

## **Light Rail**

- 39<sup>th</sup> and 48<sup>th</sup> Street Light Rail Train Stations, Sacramento, CA
- Regional Transit Mather Field Light Rail Extension, Phase 1 & 2, Sacramento, CA
- South Sacramento Light Rail Train Corridor Study, Sacramento, CA

## **AFFILIATIONS:**

American Society of Civil Engineers  
American Council of Engineering Companies

**CERTIFICATE OF SERVICE**

I, Rachel Jackson, declare that I am over 18 years of age. I am employed in Sacramento County at 455 Capitol Mall, Suite 210, Sacramento, California 95814. My mailing address is 455 Capitol Mall, Suite 210, Sacramento, California 95814. My email address is rjackson@rmmenvirolaw.com.

On September 4, 2013, I sent the following documents:

**DECLARATION OF HOWARD F. WILKINS III IN SUPPORT OF DONAHUE SCHRIBER ASSET MANAGEMENT CORPORATION'S SUBMISSION OF EVIDENCE AND POLICY STATEMENTS AND DESIGNATION OF WITNESSES**

by electronic and regular mail to the following persons in the matter of Donahue Schriber Asset Management Corporation Administrative Civil Liability Complaint No. R5-2013-0519:

Patrick Pulupa  
Office of Chief Counsel  
State Water Resources Control Board  
1001 I Street, 22nd Floor  
Sacramento, CA 95814  
Patrick.Pulupa@waterboards.ca.gov

David Boyers  
State Water Resources Control Board  
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Sacramento, CA 95814  
David.Boyers@waterboards.ca.gov

Ken Landau  
Central Valley Regional Water Quality  
Control Board  
11020 Center Drive, Ste. 200  
Rancho Cordova, CA 95670  
Ken.Landau@waterboards.ca.gov

Mayumi Okamoto  
State Water Resources Control Board  
1001 I Street, 16<sup>th</sup> Floor  
Sacramento, CA 95814  
Mayumi.Okamoto@waterboards.ca.gov

Melissa Thorme  
Downey Brand  
621 Capitol Mall, 18th Floor  
Sacramento, CA 95814  
mthorme@downeybrand.com

I certify and declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this document was executed on September 4, 2013 at Sacramento, California.

\_\_\_\_\_  
Rachel Jackson

1 HOWARD F. WILKINS III, SBN 203083  
2 REMY MOOSE MANLEY, LLP  
3 455 Capitol Mall, Suite 210  
4 Sacramento, California 95814  
5 Telephone: (916) 443-2745  
6 Facsimile: (916) 443-9017  
7 E-Mail: hwilkins@rmmenvirolaw.com

8 BEFORE THE CALIFORNIA WATER QUALITY CONTROL BOARD  
9 CENTRAL VALLEY REGION

10 In the Matter of: ) DONAHUE SCHRIBER ASSET  
11 ) MANAGEMENT CORPORATION'S  
12 Donahue Schriber Asset Management ) SUBMISSION OF EVIDENCE AND  
13 Corporation; Rocklin Crossing, Placer County ) POLICY STATEMENTS AND  
14 Administrative Civil Liability Complaint ) DESIGNATION OF WITNESSES  
15 No. R5-2013-0519 )  
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28 )

1 Pursuant to the "Submission of Evidence and Policy Statements," in the Advisory Team's  
2 Second Revised Hearing Procedure ("Hearing Procedure") for Administrative Civil Liability Complaint  
3 R5-2013-0519 ("ACL"), Donahue Schriber hereby submits the following: (1) evidence Donahue  
4 Schriber would like the Central Valley Regional Water Quality Control Board ("Central Valley Water  
5 Board") to consider; (2) Donahue Schriber's legal and technical arguments and analysis; (3) the names  
6 of the witnesses Donahue Schriber intends to call at the hearing, the subject of each witness' proposed  
7 testimony, and the estimated time required by each witness to present direct testimony; and (4) the  
8 qualifications of Donahue Schriber's expert witnesses.

9 **I. DONAHUE SCHRIBER'S EVIDENCE LIST**

10 Donahue Schriber submits the evidence listed in Attachment "A" for consideration by the  
11 Central Valley Water Board.

12 **II. LEGAL AND TECHNICAL ANALYSIS AND ARGUMENT**

13 **A. Introduction**

14 The ACL in this matter proposes a discretionary penalty that conflicts with and is inconsistent  
15 with the State Water Resources Control Board's ("SWRCB's") Water Quality Enforcement Policy  
16 ("Enforcement Policy"), approved on November 17, 2009 (effective May 20, 2010) for at least two  
17 reasons. First, the Enforcement Policy directs the Regional Boards to use \$2.00 per gallon as the base  
18 penalty amount for assessing civil liability penalties for construction stormwater discharges unless  
19 exceptional circumstances warrant using a higher amount (up to \$10.00 per gallon) in its Penalty  
20 Calculation Methodology for ACLs. (Exhibit D, Enforcement Policy, p. 10 ["The goal of this section  
21 is to provide a consistent approach and analysis of factors to determine administrative civil liability.  
22 Where violations are standard and routine, a consistent outcome can be reasonably expected using this  
23 Policy."]; see also p. 14 [defining exceptional circumstances where more than a \$2.00 per gallon based  
24 penalty amount may be appropriate].)<sup>1</sup>

25  
26  
27 <sup>1</sup> / Donahue Schriber incorporates by reference the S.D. Deacon's Submission of Evidence and Policy  
28 Statements, including but not limited to the "Legal Background Section," filed on this same date.

1           Nonetheless, without citing any evidence to support the express exceptions in the Enforcement  
2 Policy for using a higher base penalty amount, the ACL uses the highest possible base penalty amount  
3 (\$10.00 per gallon) to calculate the proposed penalty here. (Prosecution Team Exhibit 13, ACL,  
4 Attachment A, p. 3.) Second, the ACL alleges that the potential harm to beneficial uses from the  
5 alleged discharges at issue here “was determined to be moderate (i.e. a score of 3), which is defined as  
6 a ‘moderate threat to beneficial uses (i.e., impacts are observed or reasonably expected and impacts to  
7 beneficial uses are moderate and likely to attenuate without appreciable acute or chronic effects).”  
8 (*Id.*, Attachment A, p. 1.) The ACL, however, fails to cite any evidence of observed or reasonably  
9 expected harm to beneficial uses to support this allegation. (*Ibid.*) The undisputed facts demonstrate  
10 that the harm to beneficial uses, if any, was “minor” as that term defined by Enforcement Policy.

11           For these reasons, which are explained in detail below, the proposed ACL penalty is neither fair  
12 nor consistent with the requirements of the Enforcement Policy. Such differential treatment raises  
13 issues of equal protection and fundamental fairness. As set forth in the S.D. Deacon’s Submission of  
14 Evidence and Policy Statements, principles of due process and equal protection require fundamental  
15 fairness in adjudicatory hearings, and also require that persons subject to legislation or regulation that  
16 are in the same circumstances be treated alike. (U.S. Const. amend. XIV, §1; Cal. Const. art. I, §§ 7,  
17 15.)

18           Finally, Donahue Schriber (and Designated Party S.D. Deacon) made every effort possible to  
19 resolve these issues with Water Board staff, including requesting alternative dispute resolution of this  
20 matter (which was rejected by the Prosecution Team). Despite these efforts, Water Board staff insisted  
21 on bringing this matter to a hearing before the Central Valley Water Board. Therefore, based on the  
22 evidence provided herein, Donahue Schriber respectfully requests that the Central Valley Water Board  
23 modify the proposed ACL penalty consistent with the Penalty Calculation Methodology in the 2010  
24 Enforcement Policy and statewide precedent regarding the treatment of construction stormwater  
25 discharges. A contrary ruling would create uncertainty statewide regarding application the  
26 Enforcement Policy as well as precedent that could discourage future dischargers from undertaking  
27 extraordinary efforts to stop construction stormwater discharges as addressed below.

1           **B. Factual Background**

2           Donahue Schriber incorporates the “Factual Background Section” from S.D. Deacon’s  
3 Submission of Evidence and Policy Statements, filed on this same date.<sup>2</sup>

4           **C. Use of \$10 Per Gallon to Calculate the Proposed ACL Penalty Conflicts with and is  
5 Inconsistent with the Enforcement Policy and Regional Board Precedent.**

6           The ACL states “[t]his administrative civil liability was derived from the use of the penalty  
7 methodology in the Enforcement Policy, as explained in detail in Attachment A.” (See Exhibit 13,  
8 ACL, ¶ 33.) Despite this statement, the ACL ignores express language in the Enforcement Policy  
9 regarding stormwater discharges and improperly uses a \$10.00 per gallon base liability amount to  
10 calculate the proposed penalty for the alleged discharge violations here. (See *id.*, Attachment A, p. 3.)  
11 The undisputed facts demonstrate that the use of \$10.00 per gallon to calculate base liability for the  
12 alleged discharges in this matter conflicts with and is inconsistent with the Enforcement Policy. The  
13 Enforcement Policy expressly states that a maximum amount of \$2.00 per gallon should be used to  
14 determine the per gallon penalty amount for storm water except, “where reducing these maximum  
15 amounts results in an inappropriately small penalty, such as dry weather discharges or small volume  
16 discharges that impact beneficial uses” and that, in those instances, “a higher amount, up to the  
17 maximum per gallon amount, may be used.” (See Exhibit D, Enforcement Policy, p. 14 (emphasis  
18 added).) Neither of the listed exceptions in the Enforcement Policy for using a higher base penalty  
19 amount than \$2.00 per gallon are present here. Moreover, the ACL cites no evidence or argument that  
20 using \$2.00 per gallon to determine the per gallon penalty amount for stormwater discharges would  
21 result “in an inappropriately small penalty.” Finally, the ACL’s proposed use of \$10.00 per gallon to

22 \_\_\_\_\_  
23 <sup>2</sup> / The events leading to the stormwater discharges at issue in the matter are largely uncontested. To  
24 the extent there are differences in the Prosecution Team’s and Donahue Schriber’s versions of the  
25 events that led to the discharges, they do not impact Donahue Schriber’s legal arguments or analysis in  
26 any way that Donahue Schriber can discern from the ACL served in this action. Donahue Schriber  
27 notes that the “Submission of Evidence and Policy Statements,” included in the Hearing Procedure  
28 applies to all parties (including the Prosecution Team) and that the Prosecution Team failed to provide  
any legal or technical arguments, or analysis, or policy statements, when it submitted its Evidence List  
and Witness Designation. Therefore, Donahue Schriber is limited to responding to the allegations in  
the ACL.

1 calculate the ACL penalty under the Enforcement Policy: (1) is unprecedented in construction  
2 stormwater ACLs throughout the State and inconsistent with how the Regional Board staff calculated  
3 stormwater ACL penalties in the only other ACL that alleged construction stormwater discharge  
4 violations since the Enforcement Policy was adopted; and (2) would create a perverse incentive for  
5 future stormwater dischargers not to make extraordinary efforts to limit the amount of stormwater  
6 discharges (i.e., a discharger would be better off ensuring the amount of any discharges qualified as  
7 large volume discharges), thus resulting in bad public policy.

8 ***1. No Evidence Supports the ACL's Allegations Regarding "Small Volume Discharges" and***  
9 ***Impacts to Beneficial Uses.***

10 The ACL does not allege or cite any evidence to support its conclusion that an exception to the  
11 Enforcement Policy's maximum amount of \$2.00 per gallon penalty applies here. (See Exhibit 13,  
12 ACL, Attachment "A", p. 3.) Instead, the ACL incorrectly suggests that the use of \$10.00 per gallon to  
13 compute penalties for stormwater discharges is the default under the Enforcement Policy and that only  
14 in exceptional circumstances should it be lower. (*Ibid.* ["[w]hile the Enforcement Policy states that a  
15 lower initial per-gallon value *may be used* for "high volume" discharges, for this case, Water Board  
16 staff do not recommend using less than \$10/gallon in the initial penalty calculation ..."] (emphasis  
17 added).) The ACL's interpretation of this clause stands the Enforcement Policy, and the purpose  
18 behind the Enforcement Policy's treatment of stormwater discharges, on its head. (Exhibit D,  
19 Enforcement Policy, p. 10 ["The goal of this section is to provide a consistent approach and analysis of  
20 factors to determine administrative civil liability."].) The same Enforcement Policy that the ACL cites  
21 as the basis for its conclusion clearly states that \$2.00 per gallon "should be used" to determine the per  
22 gallon penalty amount for "stormwater" discharges with the notable exceptions addressed above. (See  
23 Enforcement Policy, p. 14 (emphasis added).)

24 The ACL attempts to rationalize this departure from the Enforcement Policy stating Water  
25 Board staff recommends using \$10.00 per gallon "given the *relatively small volume of discharge* on 30  
26 November 2012 *and the beneficial uses of the receiving water.*" (See ACL, Attachment A, p.3  
27 (emphasis added).) This recommendation, however, again ignores the express language and  
28

1 requirements in the Enforcement Policy. First, the term “small volume discharges” in the Enforcement  
2 Policy is modified by the phrase “that impact beneficial uses.” (See Enforcement Policy, p. 14.) As  
3 discussed below, there is no evidence that the discharges at issue actually impacted beneficial uses.  
4 (See Exhibit I, Bryan Tech Memo.) Therefore, this exception would not apply.

5 Second, even if such evidence did exist, defining the 76,613 gallon alleged discharge at issue  
6 here as a “relatively small volume discharge” is inconsistent with the Enforcement Policy’s language  
7 and the Regional Board’s calculation of penalties in every ACL Donahue Schriber could find on file  
8 since the Enforcement Policy was adopted.

9 Third, a review of other ACLs issued since the adoption of the Enforcement Policy  
10 demonstrates that this Central Valley Water Board has proposed to use \$2.00 as the base penalty  
11 amount for a discharge that was even smaller than the discharges at issue here – i.e. Cascade Crossing  
12 (Exhibit E [Order No. R5-2013-0520] (imposing \$2 per gallon on a 37,500 gallon discharge)). In  
13 summary, the ACL’s allegation that the discharge at issue here is a small volume discharge has  
14 absolutely no support.

15 ***2. The Proposed ACL Penalty Calculation Conflicts with the Express Purpose of the***  
16 ***Enforcement Policy, Is Inconsistent with Treatment of Stormwater Discharges, and***  
17 ***Would Create Bad Public Policy.***

18 The Water Board Enforcement Policy emphasizes that:

19 Timely and consistent enforcement of these laws is critical to the success  
20 of the water quality program and to ensure that the people of the State  
21 have clean water. The goal of this Water Quality Enforcement Policy  
22 (Policy) is to protect and enhance the quality of the waters of the State by  
23 defining an enforcement process that addresses water quality problems in  
24 the most efficient, effective, and consistent manner. In adopting this  
25 Policy, the State Water Board intends to provide guidance that will  
26 enable Water Board staff to expend its limited resources in ways that  
27 openly address the greatest needs, deter harmful conduct, protect the  
28 public, and achieve maximum water quality benefits. Toward that end, it  
is the intent of the State Water Board that the Regional Water Boards’  
decisions be consistent with this Policy.

1 (Exhibit D, Enforcement Policy, p. 1 (emphasis added).) The Enforcement Policy further states that  
2 one of the goals the Policy is to establish “an administrative civil liability assessment methodology to  
3 create a fair and consistent statewide approach to liability assessment.” (*Ibid.* (emphasis added).)

4 Using the highest possible \$10.00 per gallon base amount is unprecedented in construction  
5 stormwater matters. With the exception of the ACL in this matter, Donahue Schriber has been unable to  
6 locate any ACL where any Water Board has used a base penalty amount over \$3.00, and certainly not  
7 the maximum of \$10.00 per gallon, to calculate penalties for a construction stormwater discharges since  
8 the 2010 Enforcement Policy was adopted. Moreover, in the one instance where a higher amount was  
9 used (\$3.00 as opposed to \$2.00), the ACL followed two Stop Work Orders, a Cease and Desist Order,  
10 and a Notice of Violation that did not result in corrective actions by the discharger for failing to employ  
11 effective erosion and sediment controls, effective tracking controls, perimeter controls, effective trash  
12 and waste management controls, and storm drain protection among other violations. (See Exhibit G  
13 [EI-PLA 75 LLC ACL (R8-2010-0025)].) Notably, the ACL here proposes a discharge computation  
14 that results in a total final per gallon penalty (\$3.06 per gallon) that is more than twice the amount  
15 imposed in the EI-PLA 75 LLC ACL, a case where numerous and repeated violations were  
16 demonstrated as well as intentional violations of the CGP. There are simply no parallels between that  
17 case and the facts here. Thus, even the use of a \$3.00 per gallon base amount to calculate the discharge  
18 penalty in this matter would be inconsistent with the express goals and intent of the Enforcement  
19 Policy. Given the stated purpose of the 2010 Enforcement Policy, a \$2.00 maximum per gallon base  
20 amount must be used here.

21 In addition, imposing the maximum amount in this matter would create a perverse incentive for  
22 future dischargers to ensure that any accidental discharges are large enough to clear the undefined  
23 “large volume” hurdle being inconsistently used by the Prosecution Team. For example, had the  
24 General Contractor S.D. Deacon not taken extraordinary efforts here to stop the discharges within 4  
25 hours, or had they failed to work diligently throughout the rest of the major storm event to make sure  
26 there weren’t further discharges (*see* Declaration of Andy Van Veldhuizen), the penalty here would  
27 have been substantially less because the discharge volume was greater. Such a result is not only  
28

1 inconsistent with the Enforcement Policy, but it represents bad public policy. In sum, there is simply  
2 no justification for using a base penalty amount higher than \$2.00 per gallon.

3 **D. The ACL Harm Factor Is Inconsistent with the Enforcement Policy and**  
4 **Unsupported by Evidence.**

5 The ACL alleges that the potential harm to beneficial uses from the alleged discharges at issue  
6 here “was determined to be moderate (i.e. a score of 3), which is defined as a ‘moderate threat to  
7 beneficial uses (i.e., impacts are observed or reasonably expected and impacts to beneficial uses are  
8 moderate and likely to attenuate without appreciable acute or chronic effects).” (Exhibit 13, ACL,  
9 Attachment A, p. 1.) The ACL, however, does not cite any evidence of “observed” impacts to  
10 beneficial uses or explain why impacts are “reasonably expected” from the alleged discharges in  
11 support this allegation. (Exhibit 13, ACL, Attachment 1, at p. 2; see also Michael Bryan, Ph.D.  
12 Technical Memorandum (dated September 4, 2013), Exhibit I, p. 2.) Nor does the ACL provide or cite  
13 to any scientific assessment of the potential for harm to beneficial uses from the alleged discharges.  
14 (Exhibit 13 at p. 2.) Rather, the ACL simply proclaims that the alleged discharges resulted in moderate  
15 harm to beneficial uses based on a response to comment on the Final EIR for the Rocklin Crossing  
16 project stating “that uncontrolled soil erosion generated during project construction could indirectly  
17 affect fish habitat and benthic macro-invertebrates by degrading the water quality within Secret Ravine  
18 Creek.” (Exhibit 13, ACL, Attachment 1, at p. 2.) The Final EIR, however, was not placed into  
19 evidence in this case by the Prosecution Team. (See Prosecution Team Evidence List [only listing  
20 Draft EIR].) Moreover, even the Final EIR had been timely submitted as evidence, the Final EIR does  
21 not support the ACL’s allegation that the harm (or potential for harm) to beneficial uses from the  
22 alleged discharges was “Moderate” as that term is defined in the Enforcement Policy.  
23

24 The Enforcement Policy explains how the “Harm or Potential Harm to Beneficial Uses” should  
25 be applied in calculating proposed penalties in ACLs. (Exhibit D, Enforcement Policy, p. 12.)  
26 Regarding this factor, the Enforcement Policy states:  
27  
28



1 RSC Engineering, the QSD for the Rocklin Crossings site, determined that the approximate  
2 flow rate in Secret Ravine from 8:15AM to 10:15AM on the morning of the discharge events varied  
3 from 369 cubic feet per second (cfs) to 530 cfs. Assuming a very conservative discharge duration of 2  
4 hours (as compared to the estimated 3.25 hours before the breach was repaired) between 8:15 am and  
5 10:15 am yields an average flow rate of 450 cfs or 24,235,200 gallons that flowed past the project site  
6 during the 76,613 gallon discharges to Secret Ravine. Thus, the volume of the off-site discharges  
7 amounted to less than one third of one percent of the volume of water that flowed past the site in Secret  
8 Ravine (0. 32%), or a dilution ratio of more than 300 to 1 (i.e., 1 to 316 dilution). (RSC Engineering  
9 Memorandum, Exhibit K, p. 2.)

10 As explained in the Bryan Memorandum, because the alleged discharge violation was a single  
11 3-4 hour event during a precipitation-driven high flow period as detailed in the RSC Engineering  
12 Memorandum, there are just a few potential adverse effects to Secret Ravine's aquatic life, which are  
13 limited to a short-term duration.(Bryan Memorandum, Exhibit I, p. 7.) As explained by Dr. Bryan,  
14 there is no evidence of these possible short-term effects and it is highly unlikely that such harm would  
15 have occurred based on alleged discharges at issue here. (See *id.*, pp. 7-10.) Therefore, the undisputed  
16 facts demonstrate that harm to beneficial uses, if any, was "minor" as that term is defined by the  
17 Enforcement Policy, and as explained in Dr. Bryan's testimony. (See *id.*, pp. 10-11.)<sup>3</sup>

18 For all of the above stated reasons, the ACL must be recalculated using a \$2.00 per gallon base  
19 amount and a "Minor" factor for "Potential Harm" in order to be consistent with the Enforcement  
20 Policy and fundamental principles of fairness.

### 21 **III. LIST OF WITNESSES**

22 Donahue Schriber provides the following information regarding the witnesses who will testify  
23 on its behalf at the hearing on this ACL:  
24

25  
26 \_\_\_\_\_  
27 <sup>3</sup> / This conclusion further demonstrates that the exception for "small discharges" in the Enforcement  
28 Policy does not apply here. See discussion, *infra*, at section II. C.

1           1.       Michael Bryan, Ph.D. – Dr. Michael Bryan can and will testify related to the lack of  
2 potential harm to beneficial uses from the alleged discharges at the Rocklin Crossings construction site.  
3 (10-15 minutes for direct testimony)

4           2.       Richard Chavez, P.E. – Mr. Chavez can and will testify about the estimated volume (and  
5 dilution) of alleged discharges from the Rocklin Crossings construction site. Time permitting, Mr.  
6 Chaves will also testify as to his personal knowledge of the Storm Water Pollution Prevention Plan  
7 (SWPPP) and BMPs for that site, pre-storm preparations, events during and after the 2012 rain event,  
8 and other issues raised in the ACL Complaint. (5-10 minutes for direct testimony)

9           3.       Janet L. Petersen – Ms. Petersen can and will provide testimony regarding Donahue  
10 Schriber and provide an overview of the Rocklin Crossings construction project. Time permitting, Ms.  
11 Petersen will also testify as to her personal knowledge of Rocklin Crossings construction site, the  
12 Storm Water Pollution Prevention Plan (SWPPP), BMPs for that site, pre-storm preparations, events  
13 during and after the 2012 rain events at issue in the ACL, communications with Water Board staff  
14 regarding the construction site both before and after the 2012 rain events at issue in the ACL, and other  
15 issues raised in the ACL Complaint. Ms. Petersen will also authenticate evidence provided by  
16 Donahue Schriber, if necessary. (5 minutes for direct testimony)

#### 17 **IV.    EXPERT WITNESS QUALIFICATIONS**

18           Donahue Schriber designates Richard Chavez, P.E., and Michael Bryan, Ph.D., as expert  
19 witnesses.

20           1.       **Michael Bryan, Ph.D.**'s qualifications to opine on potential harm to beneficial uses from  
21 the alleged discharges from the Rocklin Crossings construction site include over 25 years of combined  
22 consulting and research experience primarily in water quality, toxicology, and fisheries biology. Dr.  
23 Bryan has extensive expertise in data compilation and analysis, and permitting—particularly NPDES  
24 permitting. Dr. Bryan applies his expertise to assist clients with strategic planning, compliance  
25 monitoring, technical evaluations, project refinement, permitting, and implementation, and, when  
26 needed, expert witness testimony. Recent work is focused on assessing the effects of effluent  
27  
28

1 discharges on aquatic habitats, and resultant impacts to aquatic resources and other beneficial uses.  
2 Currently, Dr. Bryan is working with the Central Valley Regional Water Quality Control Board staff to  
3 develop and process region-wide amendments to the Central Valley Water Quality Control Plan (Basin  
4 Plan) for pH and turbidity. Dr. Bryan's CV is attached as Exhibit J.

5 2. **Richard Chavez, P.E.**'s qualifications to opine about the estimated volume (and dilution)  
6 of alleged discharges from the Rocklin Crossings construction site include 35 years of experience in  
7 civil engineering. Mr. Chavez received a B.S. Civil Engineering from University of California,  
8 Berkley in 1975 and is a Registered Professional Civil Engineer (No. 29033). Mr. Chavez has  
9 extensive expertise in the planning and design of a broad range of projects. Mr. Chavez has worked on  
10 projects for the Army Corps of Engineers, the US Department of the Navy, and the US Postal Service,  
11 as well as major infrastructure projects including roadways, widening projects for state routes, surface  
12 and underground drainage, sewer and water facilities. Mr. Chavez's CV is attached as Exhibit L.

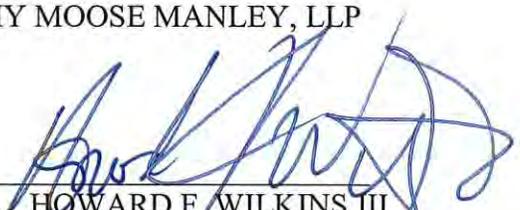
13 **V. CONCLUSION**

14 For the reasons set forth above, Donahue Schriber requests that the Regional Board adjust the  
15 proposed ACL penalty consistent with the language and intent of the 2010 Enforcement Policy and  
16 other ACLs issued thereunder around the State by (1) using \$2.00 per gallon as the based penalty  
17 amount; and (2) using a Harm Factor of "Minor."

18  
19 Respectfully submitted,

20  
21  
22 Dated: September 4, 2013

REMY MOOSE MANLEY, LLP

23  
24  
25 By: 

HOWARD F. WILKINS III  
Attorneys for Donahue Schriber Asset  
Management Corporation

# **Attachment A**

**DONAHUE SCHRIBER EVIDENCE LIST**

**September 4, 2013**

**Attachment "A" to DONAHUE SCHRIBER ASSET MANAGEMENT CORPORATION'S  
SUBMISSION OF EVIDENCE AND POLICY STATEMENTS FOR  
ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R5-2013-0519**

**(DONAHUE SCHRIBER EVIDENCE LIST - September 4, 2013)**

Pursuant to the Hearing Procedures governing this matter, California Code of Regulations, title 23, section 648.3, and the 1 August 2013 Ruling on Objections to the Hearing Procedures, Donahue Schriber hereby submits the following Exhibits.\*

<b>Exhibit Number</b>	<b>DATE</b>	<b>DOCUMENT</b>
A	N/A	Site map delineating the pre-incident SWPPP map into several sub-shed areas.
B	11/26/2012-11/29/2012	Copies of the Rain Event Action Plans (REAPs) prepared by TSM on November 26-29, 2012 in preparation for the storm event discussed in the ACL Complaint.
C	11/01/2009-12/10/2012	Rain Gauge Log Sheet for the Rocklin Crossings site for November 1, 2012 to December 5, 2012 and other rainfall information.
D	11/17/2009	Water Quality Enforcement Policy, dated/adopted November 17, 2009 & approved by Office of Administrative Law on May 20, 2010 <a href="http://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/enf_policy_final111709.pdf">http://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/enf_policy_final111709.pdf</a>
E	3/04/2013	ACL Complaint No. R5-2013-0520 ACL issued by the Central Valley Regional Water Quality Control Board to HBT of Saddle Ridge LLC for the Cascade Crossing construction site on March 4, 2013 which was downloaded from the site: <a href="http://www.swrcb.ca.gov/.../cascade_crossing/r5-2013-0520_enf.pdf">www.swrcb.ca.gov/.../cascade_crossing/r5-2013-0520_enf.pdf</a> and Attachment A from downloaded from the site: <a href="http://www.swrcb.ca.gov/rwqcb5/board_decisions/tentative_orders/cascade_crossing/r5-2013-0520_att_a.pdf">http://www.swrcb.ca.gov/rwqcb5/board_decisions/tentative_orders/cascade_crossing/r5-2013-0520_att_a.pdf</a>
F	6/10/2010	ACL Complaint No. R8-2010-0024 issued to the Placentia-Yorba Linda Unified School District on June 10, 2010, which was downloaded from the following website: <a href="http://www.swrcb.ca.gov/rwqcb8/board_decisions/adopted_orders/orders/2010/10_024_ACLC_Placentia-Yorba_Linda_USD.pdf">http://www.swrcb.ca.gov/rwqcb8/board_decisions/adopted_orders/orders/2010/10_024_ACLC_Placentia-Yorba_Linda_USD.pdf</a>
G	5/27/2010	Administrative Civil Liability Complaint (R8-2010-0025) for EI-PLA 75 LLC, including Attachment A. Also available at: <a href="http://www.waterboards.ca.gov/rwqcb8/board_decisions/adopted_orders/orders/2010/10_025_ACLC_EI-PLA75LLC.pdf">http://www.waterboards.ca.gov/rwqcb8/board_decisions/adopted_orders/orders/2010/10_025_ACLC_EI-PLA75LLC.pdf</a>
H	N/A	SWRCB Order No. 2009-0009-DWQ, amended by 2010-0014-DWQ & 2012-0006-DWQ, located from <a href="http://www.waterboards.ca.gov/water_issues/programs/stormwater/docs/constpermits/wqo_2009_0009_complete.pdf">http://www.waterboards.ca.gov/water_issues/programs/stormwater/docs/constpermits/wqo_2009_0009_complete.pdf</a>
I	9/4/2013	Michael Bryan, Ph.D. Technical Memorandum
J	undated	Michael Bryan, Ph.D. CV
K	9/4/2013	RSC Engineering, Inc. Memorandum with attachments A, B, and C.

<b>Exhibit Number</b>	<b>DATE</b>	<b>DOCUMENT</b>
L	undated	Richard Chavez, P.E.

\* Exhibits A-H are submitted by S.D. Deacon as attachments to the Declaration of Andy Van Veldhuizen in support of S.D. Deacon's Submission of Evidence and Policy Statements and Designation of Witnesses. Exhibits I-L are submitted by Donahue Schriber Asset Management Corporation as attachments to the Declaration of Howard F. Wilkins III in support of Donahue Schriber's Submission of Evidence and Policy Statements and Designation of Witnesses.

**CERTIFICATE OF SERVICE**

I, Rachel Jackson, declare that I am over 18 years of age. I am employed in Sacramento County at 455 Capitol Mall, Suite 210, Sacramento, California 95814. My mailing address is 455 Capitol Mall, Suite 210, Sacramento, California 95814. My email address is rjackson@rmmenvirolaw.com.

On September 4, 2013, I sent the following documents:

**DONAHUE SCHRIBER ASSET MANAGEMENT CORPORATION'S  
SUBMISSION OF EVIDENCE AND POLICY STATEMENTS**

by electronic and regular mail to the following persons in the matter of Donahue Schriber Asset Management Corporation Administrative Civil Liability Complaint No. R5-2013-0519:

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Mayumi Okamoto  
State Water Resources Control Board  
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Sacramento, CA 95814  
Mayumi.Okamoto@waterboards.ca.gov

Melissa Thorme  
Downey Brand  
621 Capitol Mall, 18th Floor  
Sacramento, CA 95814  
mthorme@downeybrand.com

I certify and declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this document was executed on September 4, 2013 at Sacramento, California.

\_\_\_\_\_  
Rachel Jackson

NORTH

# ROCKLIN CROSSINGS

HYDRO MULCH SOIL STABILIZATION 11-7-12

DETECTION BASIN - ROUGHGRADED - APPLIED HYDRO MULCH SOIL STABILIZER ON 11-7-12 - REAPPLIED ADDITIONAL HYDRO MULCH STABILIZER WITH SEED ON 11-13-12. - ROCK CHECK DAMS ADDED 11-26-12

PUMP LOCATION C

TREE GRINDINGS ON SLOPES 10-30-12

High Ground  
TEMP SILT BASIN A HYDROSEEDED 10-19-12

**SLED-C 1.1 AC.**  
**27.5 ACRES**

PUMP LOCATION A

**SUBSHED B-2 1.1 AC**

- CENTER AT SECRET RAVINE
- ROUGHGRADE
- HYDRO MULCH SOIL STABILIZATION 11-7-12
- GEO WALL INSTALLATION 60% COMPLETE
- GRADING CONTINUING IN CONJUNCTION WITH GEO WALL.
- COMPACTION TRACKING & CURLEX BLANKETS IN PLACE BEFORE NEXT RAIN EVENT
- ROCKERY WALLS AT SLOPES & WETLANDS IN PLANCE 11-14-12.
- TREE GRINDING ON SLOPES 11-13-12

**SLED-A 26.7 ACRES**

TEMP HAUL ROADS

LOW

HYDRO MULCH STABILIZER WITH SEED

TREE GRINDINGS / MULCH STABILIZATION

PARKING LOTS TO CONTAIN ALL STORM WATER IN LOW SPOTS. PUMP STORED WATER TO SILT BASIN A

WINTERIZED FOR TRAILER AND PARKING

STABILIZED CONSTRUCTION ENTRANCE AND AUTO WHEEL WASH

WINTERIZED FOR CONSTRUCTION PARKING

SILT FENCE

11-26-12

**SUBSHED B-5 5.5 AC.**

ROCK CHECK DAMS ADDED 11-26-12 BETWEEN HEAD WALL & HEAVY VEGETATION

PUMP LOCATION B

DOMINGUE Loop

INSTALLED DRAINAGE STRUCTURE 11-12-12

CLEAN WATER DIVERSION OF WATER FROM WEST SIDE OF SIERRA COLLEGE THRU DRAINAGE SYSTEM. - PLUGGED CULVERTS TO CONTAIN ON SITE WATER

**SUBSHED B-3 2.2 ACRES**

EARTH BERMS

APPLIED HYDRO MULCH SOIL STABILIZER ON 11-7-12 - REAPPLIED ADDITIONAL HYDRO MULCH STABILIZER WITH SEED ON 11-13-12.

**SLED-B 27.5 ACRES**

**STORAGE**

**SUBSHED B-4 1.1 ACRES**

**SUBSHED B-3 2.2 ACRES**

**2.0**

# Rain Event Action Plan (REAP)

Date: 11/26/12 WQID Number: 5531C364102

Date Rain Predicted to Occur: 11/27/12 Predicted % chance of rain: 80%

Site Information:  
DOMINQUEZ LOOP RD Rocklin I-80 & SCRBLV  
 Site Name, City and Zip Code Project Risk Level:  Risk Level 2  Risk Level 3

Site Stormwater Manager Information:  
DAN LEITHEISER / SD DEACON / 916 997-0916  
 Name, Company, Emergency Phone Number (24/7)

Erosion and Sediment Control Contractor - Labor Force contracted for the site:  
DAVE CLAYSON / TSM / 916 826-0154  
 Name, Company, Emergency Phone Number (24/7)

Stormwater Sampling Agent:  
SAME  
 Name, Company, Emergency Phone Number (24/7)

Current Phase of Construction  
 Check ALL the boxes below that apply to your site.

<input checked="" type="checkbox"/> Grading and Land Development	<input type="checkbox"/> Vertical Construction	<input type="checkbox"/> Inactive Site
<input type="checkbox"/> Streets and Utilities	<input type="checkbox"/> Final Landscaping and Site Stabilization	<input type="checkbox"/> Other:

Activities Associated with Current Phase(s)  
 Check ALL the boxes below that apply to your site (some apply to all Phases).

Grading and Land Development:

<input type="checkbox"/> Demolition	<input type="checkbox"/> Vegetation Removal	<input type="checkbox"/> Vegetation Salvage-Harvest
<input checked="" type="checkbox"/> Rough Grade	<input type="checkbox"/> Finish Grade	<input type="checkbox"/> Blasting
<input type="checkbox"/> Soil Amendment(s):	<input checked="" type="checkbox"/> Excavation (____ ft)	<input checked="" type="checkbox"/> Soils Testing
<input checked="" type="checkbox"/> Rock Crushing	<input checked="" type="checkbox"/> Erosion and Sediment Control	<input checked="" type="checkbox"/> Surveying
<input type="checkbox"/> Equip. Maintenance/Fueling	<input checked="" type="checkbox"/> Material Delivery and Storage	<input type="checkbox"/> Other:

Streets and Utilities:

<input type="checkbox"/> Finish Grade	<input type="checkbox"/> Utility Install: water-sewer-gas	<input type="checkbox"/> Paving Operations
<input type="checkbox"/> Equip. Maintenance/Fueling	<input type="checkbox"/> Storm Drain Installation	<input type="checkbox"/> Material Delivery & Storage
<input type="checkbox"/> Curb and Gutter/Concrete Pour	<input type="checkbox"/> Masonry	<input type="checkbox"/> Other:

Vertical Construction:

<input type="checkbox"/> Framing	<input type="checkbox"/> Carpentry	<input type="checkbox"/> Concrete/Forms/Foundation
<input type="checkbox"/> Masonry	<input type="checkbox"/> Electrical	<input type="checkbox"/> Painting
<input type="checkbox"/> Drywall/Interior Walls	<input type="checkbox"/> Plumbing	<input type="checkbox"/> Stucco
<input type="checkbox"/> Equip. Maintenance/Fueling	<input type="checkbox"/> HVAC	<input type="checkbox"/> Tile
<input type="checkbox"/> Exterior Siding	<input type="checkbox"/> Insulation	<input type="checkbox"/> Landscaping & Irrigation
<input type="checkbox"/> Flooring	<input type="checkbox"/> Roofing	<input type="checkbox"/> Other:

Final Landscaping & Site Stabilization:

<input type="checkbox"/> Stabilization	<input type="checkbox"/> Vegetation Establishment	<input type="checkbox"/> E&S Control BMP Removal
<input type="checkbox"/> Finish Grade	<input type="checkbox"/> Storage Yard/ Material Removal	<input type="checkbox"/> Landscape Installation
<input type="checkbox"/> Painting and Touch-Up	<input type="checkbox"/> Irrigation System Testing	<input type="checkbox"/> Other:
<input type="checkbox"/> Drainage Inlet Stencils	<input type="checkbox"/> Inlet Filtration	<input type="checkbox"/> Perm. Water Quality Ponds
<input type="checkbox"/> Other:	<input type="checkbox"/> Other:	<input type="checkbox"/> Other:

Inactive Construction Site:

<input type="checkbox"/> E & S Control Device Installation	<input type="checkbox"/> Routine Site Inspection	<input type="checkbox"/> Trash Removal
<input type="checkbox"/> E & S Control Device Maintenance	<input type="checkbox"/> Street Sweeping	<input type="checkbox"/> Other:

# Rain Event Action Plan (REAP)

<b>Date:</b>	11/26/12	<b>WDID Number:</b>	5531C364102
<b>Trades Active on Site during Current Phase(s)</b> <i>Check ALL the boxes below that apply to your site</i>			
<input type="checkbox"/> Storm Drain Improvement <input type="checkbox"/> Street Improvements <input type="checkbox"/> Material Delivery <input type="checkbox"/> Trenching <input type="checkbox"/> Concrete Pouring <input type="checkbox"/> Foundation <input type="checkbox"/> Demolition <input type="checkbox"/> Material Delivery <input type="checkbox"/> Tile Work- Flooring <input type="checkbox"/> Drywall <input type="checkbox"/> HVAC installers <input type="checkbox"/> Exterior Siding <input type="checkbox"/> Insulation <input type="checkbox"/> Fireproofing <input type="checkbox"/> Steel Systems	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> Grading Contractor <input type="checkbox"/> Water Pipe Installation <input type="checkbox"/> Sewer Pipe Installation <input type="checkbox"/> Gas Pipe Installation <input type="checkbox"/> Electrical Installation <input type="checkbox"/> Communication Installation <input type="checkbox"/> Erosion and Sediment Control <input type="checkbox"/> Equipment Fueling/Maintenance Utilities, e.g., Sewer, Electric <input type="checkbox"/> Roofers <input type="checkbox"/> Stucco <input type="checkbox"/> Masons <input type="checkbox"/> Landscapers <input type="checkbox"/> Riggers <input type="checkbox"/> Utility Line Testers	<input type="checkbox"/> Surveyor- Soil Technician <input type="checkbox"/> Sanitary Station Provider <input type="checkbox"/> Electrical <input type="checkbox"/> Carpentry <input type="checkbox"/> Plumbing <input type="checkbox"/> Masonry <input type="checkbox"/> Water, Sewer, Electric Utilities <input type="checkbox"/> Rock Products <input type="checkbox"/> Painters <input type="checkbox"/> Carpenters <input type="checkbox"/> Pest Control: e.g., termite prevention <input type="checkbox"/> Water Feature Installation <input type="checkbox"/> Utility Line Testers <input type="checkbox"/> Irrigation System Installation <input type="checkbox"/> Other:
<b>Trade Contractor Information Provided</b> <i>Check ALL the boxes below that apply to your site.</i>			
<input type="checkbox"/> Educational Material Handout <input checked="" type="checkbox"/> Contractual Language <input type="checkbox"/> Other:	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> Tailgate Meetings <input type="checkbox"/> Fines and Penalties <input type="checkbox"/> Other:	<input type="checkbox"/> Training Workshop <input type="checkbox"/> Signage <input type="checkbox"/> Other:
<i>Continued on next page.</i>			

# Rain Event Action Plan (REAP)

Date of REAP	11/26/12	WDID Number:	5531C364102
Date Rain Predicted to Occur:	11/27/12	Predicted % chance of rain:	80%

### Predicted Rain Event Triggered Actions

Below is a list of suggested actions and items to review for this project. Each active Trade should check all material storage areas, stockpiles, waste management areas, vehicle and equipment storage and maintenance, areas of active soil disturbance, and areas of active work to ensure the proper implementation of BMPs. Project-wide BMPs should be checked and cross-referenced to the BMP progress map.

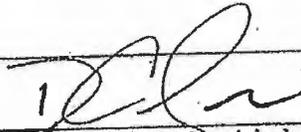
Trade or Activity	Suggested action(s) to perform / item(s) to review prior to rain event
<input checked="" type="checkbox"/> Information & Scheduling	<input checked="" type="checkbox"/> Inform trade supervisors of predicted rain <input checked="" type="checkbox"/> Check scheduled activities and reschedule as needed <input checked="" type="checkbox"/> Alert erosion/sediment control provider <input checked="" type="checkbox"/> Alert sample collection contractor (if applicable) <input type="checkbox"/> Schedule staff for extended rain inspections (including weekends & holidays) <input checked="" type="checkbox"/> Check Erosion and Sediment Control (ESC) material stock <input checked="" type="checkbox"/> Review BMP progress map <input type="checkbox"/> Other: _____ <input type="checkbox"/> _____ <input type="checkbox"/> _____
<input checked="" type="checkbox"/> Material storage areas	<input type="checkbox"/> Material under cover or in sheds (ex: treated woods and metals) <input checked="" type="checkbox"/> Perimeter control around stockpiles <input type="checkbox"/> Other: _____ <input type="checkbox"/> _____ <input type="checkbox"/> _____
<input checked="" type="checkbox"/> Waste management areas	<input checked="" type="checkbox"/> Dumpsters closed <input type="checkbox"/> Drain holes plugged <input type="checkbox"/> Recycling bins covered <input type="checkbox"/> Sanitary stations bermed and protected from tipping <input type="checkbox"/> Other: _____ <input type="checkbox"/> _____ <input type="checkbox"/> _____
<input checked="" type="checkbox"/> Trade operations	<input checked="" type="checkbox"/> Exterior operations shut down for event (e.g., no concrete pours or paving) <input checked="" type="checkbox"/> Soil treatments (e.g., fertilizer) ceased within 24 hours of event <input checked="" type="checkbox"/> Materials and equipment (ex: tools) properly stored and covered <input type="checkbox"/> Waste and debris disposed in covered dumpsters or removed from site <input type="checkbox"/> Trenches and excavations protected <input checked="" type="checkbox"/> Perimeter controls around disturbed areas <input type="checkbox"/> Fueling and repair areas covered and bermed <input type="checkbox"/> Other: <u>STOCKPILES COVERED</u> <input type="checkbox"/> _____ <input type="checkbox"/> _____
<input checked="" type="checkbox"/> Site ESC BMPs	<input checked="" type="checkbox"/> Adequate capacity in sediment basins and traps <input checked="" type="checkbox"/> Site perimeter controls in place <input checked="" type="checkbox"/> Catch basin and drop inlet protection in place and cleaned <input checked="" type="checkbox"/> Temporary erosion controls deployed <input checked="" type="checkbox"/> Temporary perimeter controls deployed around disturbed areas and stockpiles <input checked="" type="checkbox"/> Roads swept; site ingress and egress points stabilized <input type="checkbox"/> Other: _____ <input type="checkbox"/> _____ <input type="checkbox"/> _____
<input checked="" type="checkbox"/> Concrete rinse out area	<input type="checkbox"/> Adequate capacity for rain <input checked="" type="checkbox"/> Wash-out bins covered <input type="checkbox"/> Other: _____ <input type="checkbox"/> _____ <input type="checkbox"/> _____
<input checked="" type="checkbox"/> Spill and drips	<input checked="" type="checkbox"/> All incident spills and drips, including paint, stucco, fuel, and oil cleaned <input checked="" type="checkbox"/> Drip pans emptied <input type="checkbox"/> Other: _____ <input type="checkbox"/> _____ <input type="checkbox"/> _____

Other / Discussion /  
Diagrams

PUMP WATER FROM LOW  
AREAS TO DETENTION BASIN  
TO CREATE ROOM IN HOLDING  
AREAS.

Attach a printout of the weather forecast from the NOAA website to the REAP.

I certify under penalty of law that this Rain Event Action Plan (REAP) will be performed in accordance with the General Permit by me or under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

 Date: 11/26/12  
Qualified SWPPP Practitioner (Use ink please)

Local forecast by  
 "City, St" or ZIP code

Enter location ...

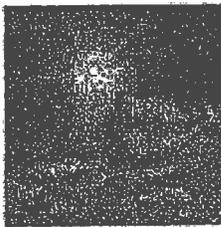
[Location Help](#)

**Severe Weather Possible for Parts of Southern Plains and Lower Miss. V**

The NWS Storm Prediction Center is forecasting a risk of severe thunderstorms for M the southern Plains and lower Mississippi Valley, from northeast Texas across northe western Mississippi. The main threats will be large hail and damaging winds, but the t out.

[Read More...](#)

**3 MILES WSW LOOMIS CA**

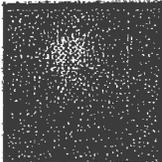
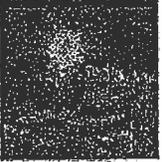
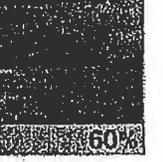


Fair  
**54°F**  
 12°C

Humidity 67%  
 Wind Speed calm  
 Barometer 30.07 in  
 Dewpoint 43°F (6°C)  
 Visibility 10.00 mi  
 Last Update on 28 Nov 9:55 am PST

Cum  
 Lin  
 Lat:

[Mor](#)

TODAY	TONIGHT	TUESDAY	TUESDAY NIGHT	WEDNESDAY	WEDNESDAY NIGHT
					
Sunny High: 65 °F FRIDAY	Mostly Clear Low: 43 °F	Mostly Sunny High: 66 °F	Rain Low: 50 °F	Showers High: 59 °F	Showers Likely Low: 50 °F
					
Rain High: 61 °F					

**HAZARDOUS WEATHER CONDITIONS**

[Special Weather Statement](#)

Now	Weekend	Extended	Month	
< October 2012		View:	November 2012	
High	Low	precip	SnowForecast	
			Avg. HI Avg. Lo	
Thu 11/1/2012	64° 48°	0.75 in	0 in	68° 48°
Fri 11/2/2012	49° 48°	0 in	0 in	68° 47°
Sat 11/3/2012	70° 46°	0 in	0 in	67° 47°
Sun 11/4/2012	72° 54°	0 in	0 in	67° 47°
Mon 11/5/2012	75° 55°	0 in	0 in	66° 47°
Tue 11/6/2012	79° 57°	0 in	0 in	66° 46°
Wed 11/7/2012	73° 57°	0 in	0 in	66° 46°
Thu 11/8/2012	55° 41°	0.27 in	0 in	65° 46°
Fri 11/9/2012	48° 37°	0.08 in	0 in	65° 45°
Sat 11/10/2012	50° 39°	0 in	0 in	64° 45°
Sun 11/11/2012	54° 36°	0 in	0 in	64° 45°
Mon 11/12/2012	57° 39°	0 in	0 in	63° 45°
Tue 11/13/2012	64° 43°	0 in	0 in	63° 44°
Wed 11/14/2012	66° 48°	0 in	0 in	62° 44°
Thu 11/15/2012	66° 48°	0 in	0 in	62° 44°
Fri 11/16/2012	57° 50°	0.24 in	0 in	62° 43°
Sat 11/17/2012	55° 52°	1.02 in	0 in	61° 43°
Sun 11/18/2012	55° 48°	1.15 in	0 in	61° 43°
Mon 11/19/2012	63° 48°	0 in	0 in	60° 43°
Tue 11/20/2012	61° 52°	0 in	0 in	60° 42°
Wed 11/21/2012	57° 52°	1.37 in	0 in	60° 42°
Thu 11/22/2012	63° 41°	0 in	0 in	59° 42°
Fri 11/23/2012	64° 48°	0 in	0 in	59° 42°
Sat 11/24/2012	64° 43°	0 in	0 in	59° 41°
Sun 11/25/2012	63° 43°	0 in	0 in	58° 41°
Mon 11/26/2012	63° 39°	0 in	0 in	58° 41°
Tue 11/27/2012	63° 45°	0 in	0 in	58° 41°
Wed 11/28/2012	57° 49°	1.1 in	0 in	57° 40°
Thu 11/29/2012	60° 52°	0.9 in	0 in	57° 40°
Fri 11/30/2012	61° 49°	0.1 in	0 in	57° 40°

 Sunny much of the time

 Partly sunny

 Breezy with rain

 Rain and drizzle possible

 Cloudy, rain possible; breezy

Risk Level						
Visual Inspection Data Log Sheet						
Date and Time of Inspection:			3:00	Report Date:		
11/28/12				11/28/12		
Inspection Type:	<input type="checkbox"/> Weekly	<input type="checkbox"/> Before predicted rain	<input checked="" type="checkbox"/> During rain event	<input type="checkbox"/> Following qualifying rain event	<input type="checkbox"/> Contained stormwater release	<input type="checkbox"/> Quarterly non-stormwater
	Site Information					
Construction Site Name:			DOMINGUEZ LOOP RD		ROCKLIN	
Construction stage and completed activities:			GRADING / R-WALL		Approximate area of exposed site: 3AC	
Weather and Observations						
Date Rain Predicted to Occur:			Predicted % chance of rain:			
11/28/12			100%			
Estimate storm beginning:	Estimate storm duration:	Estimate time since last storm:	Rain gauge reading:			
11/28/12 A.M. (date and time)	6 DAYS (hours)	11/16-21 (days or hours)	3.78" (inches)			
Observations: If yes identify location			11/16-21 3.78"			
Odors	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>				
Floating material	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>				
Suspended Material	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>				
Sheen	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>				
Discolorations	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>				
Turbidity	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	STANDING WATER AREAS ON SITE			
Inspections						
Outfalls or BMPs Evaluated			Deficiencies Noted			
(add additional sheets or attached detailed BMP Inspection Checklists)						
Pg 3						
Photos Taken:			Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Photo Reference IDs:	
Corrective Action: (If applicable, list SWAPR or other corrective actions)						
Pg 4						
Inspector Information						
Inspector Name:			Inspector Title:			
DAVE CLAYSON			CESSWI / QSP			
Signature:			Date:		11/28/12	

Effluent Sampling Field Log Sheets																																																																																
Construction Site Name: <b>DOMINGUEZ LOOP RD</b>	Date: <b>11/28/12</b>	Time Start: <b>3:15</b>																																																																														
Sampler: <b>DAVE CLAYSON</b>																																																																																
Sampling Event Type:	<input checked="" type="checkbox"/> Stormwater	<input type="checkbox"/> Non-stormwater	<input type="checkbox"/> Non-visible pollutant																																																																													
pH Meter ID No./Desc.: Calibration Date/Time:	<b>PH 30</b> <b>11/27/12 10AM</b>	Turbidity Meter ID No./Desc.: Calibration Date/Time:	<b>2020E</b> <b>11/27/12 10AM</b>																																																																													
<table border="1"> <thead> <tr> <th>Station</th> <th>Location</th> <th>Flow</th> <th>Temp</th> <th>pH</th> <th>Turbidity</th> <th>Time</th> </tr> </thead> <tbody> <tr><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td></tr> </tbody> </table>				Station	Location	Flow	Temp	pH	Turbidity	Time																																																																						
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Additional Sampling Notes: <b>WATER SAMPLE LOOKS VERY CLEAN, NO WATER FROM THIS JOB SITE ENTERS THIS PIPE AT THIS TIME. ONLY RUN ON WATER FROM A VEGETATED FIELD ACROSS ST.</b>																																																																																
Time End: <b>3:50</b>																																																																																

TSM  
SWPPP Inspection Form

Site-specific BMPs Evaluated	Descriptions of BMPs (erosion, sediment, chemical/waste, and non-storm water controls)
SILT FENCE, BARK	
GRINDINGS, BLANKETS	ALL IN GOOD SHAPE,
	BMPs FUNCTIONING AS
	DESIGNED.

Notes

NO RAIN @ TIME OF INSPECTION.

Inspector:	Inspector Title:
Signature: <i>DAVE CLAYSON</i>	<i>CESSWI/QSP</i>
<i>[Signature]</i>	Date: <i>11/28/12</i>



Mon 11/5/2012	75°	55°	0 in	0 in	66°	47°
Tue 11/6/2012	79°	57°	0 in	0 in	66°	46°
Wed 11/7/2012	73°	57°	0 in	0 in	66°	46°
Thu 11/8/2012	55°	41°	0.27 in	0 in	65°	46°
Fri 11/9/2012	48°	37°	0.08 in	0 in	65°	45°
Sat 11/10/2012	50°	39°	0 in	0 in	64°	45°
Sun 11/11/2012	54°	36°	0 in	0 in	64°	45°
Mon 11/12/2012	57°	39°	0 in	0 in	63°	45°
Tue 11/13/2012	64°	43°	0 in	0 in	63°	44°
Wed 11/14/2012	66°	48°	0 in	0 in	62°	44°
Thu 11/15/2012	66°	48°	0 in	0 in	62°	44°
Fri 11/16/2012	57°	50°	0.24 in	0 in	62°	43°
Sat 11/17/2012	55°	52°	1.02 in	0 in	61°	43°
Sun 11/18/2012	55°	48°	1.15 in	0 in	61°	43°
Mon 11/19/2012	63°	48°	0 in	0 in	60°	43°
Tue 11/20/2012	61°	52°	0 in	0 in	60°	42°
Wed 11/21/2012	57°	52°	1.37 in	0 in	60°	42°
Thu 11/22/2012	63°	41°	0 in	0 in	59°	42°
Fri 11/23/2012	64°	48°	0 in	0 in	59°	42°
Sat 11/24/2012	64°	43°	0 in	0 in	59°	41°
Sun 11/25/2012	63°	43°	0 in	0 in	58°	41°
Mon 11/26/2012	64°	46°	0 in	0 in	58°	41°
Tue 11/27/2012	61°	48°	0 in	0 in	58°	41°
Wed 11/28/2012	55°	48°	0.8 in	0 in	57°	40°
Thu 11/29/2012	62°	51°	1.4 in	0 in	57°	40°
Fri 11/30/2012	58°	50°	1 in	0 in	57°	40°

EVENT  
3.78"

 Breezy and cooler with rain  
 Mostly cloudy with a shower  
 Windy with rain



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**ABOUT**

Local forecast by  
City, ST or ZIP code

Enter location ...

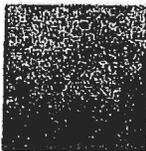
[Location Help](#)

**Series of Strong Storms Will Bring Prolonged Period of Rain to Parts of West Coast**

Parts of the West Coast will experience a very prolonged wet period beginning on Wednesday, as a series of strong storms bring rain and mountain snow to the region, particularly northern California and southern Oregon, through the weekend. Rainfall amounts of 6-12 inches are forecast, along with wind gusts as high as 70 mph along the coast. Flooding is possible across the region. [Read More...](#)

**3 MILES WSW LOOMIS CA**

[En Español](#)



Overcast  
**46°F**  
8°C

Humidity 93%  
Wind Speed E 3 MPH  
Barometer 29.94 in  
Dewpoint 45°F (7°C)  
Visibility 4.00 mi

Last Update on 26 Nov 8:55 am PST

Current conditions at  
Lincoln Regional Karl Harder Field (KLHM)  
Lat: 38.9092 Lon: -121.3513 Elev: 121ft

[More Local Wx](#) | [3 Day History](#) | [Mobile Weather](#)

Share |

TODAY	TONIGHT	THURSDAY	THURSDAY NIGHT	FRIDAY	FRIDAY NIGHT	SATURDAY	SATURDAY NIGHT	SUNDAY
High: 68 °F	Low: 49 °F	High: 63 °F	Low: 64 °F	High: 69 °F	Low: 52 °F	High: 61 °F	Low: 54 °F	High: 60 °F

**HAZARDOUS WEATHER CONDITIONS**

[Wind Advisory](#)

[Flood Watch](#)

[Hazardous Weather Outlook](#)

**7-DAY FORECAST**

- Today** Showers. High near 68. Breezy, with a south southeast wind 17 to 22 mph, with gusts as high as 33 mph. Chance of precipitation is 100%. New precipitation amounts between a quarter and half of an inch possible.
- Tonight** A 60 percent chance of showers. Mostly cloudy, with a low around 49. South southeast wind 11 to 14 mph, with gusts as high as 21 mph. New precipitation amounts of less than a tenth of an inch possible.
- Thursday** Rain likely, mainly after 10am. Mostly cloudy, with a high near 63. South southeast wind 18 to 21 mph, with gusts as high as 31 mph. Chance of precipitation is 60%. New precipitation amounts between a tenth and quarter of an inch possible.
- Thursday Night** Rain. Low around 64. Breezy, with a south southeast wind 20 to 22 mph, with gusts as high as 33 mph. Chance of precipitation is 100%. New precipitation amounts between three quarters and one inch possible.
- Friday** Rain. High near 69. Windy, with a south southeast wind 26 to 32 mph, with gusts as high as 48 mph. Chance of precipitation is 100%.
- Friday Night** Rain. Low around 52. Breezy. Chance of precipitation is 80%.
- Saturday** Rain. High near 61. Breezy. Chance of precipitation is 100%.
- Saturday Night** Rain. Cloudy, with a low around 54. Breezy.
- Sunday** Rain. Cloudy, with a high near 60.

Risk Level: <u>Low</u>						
Visual Inspection Field Log Sheet						
Date and Time of Inspection: <u>11/29/12 3:00</u>				Report Date: <u>11/29/12</u>		
Inspection Type:	<input type="checkbox"/> Weekly	<input type="checkbox"/> Before predicted rain	<input checked="" type="checkbox"/> During rain event	<input type="checkbox"/> Following qualifying rain event	<input type="checkbox"/> Contained stormwater release	<input type="checkbox"/> Quarterly non-stormwater
Site Information						
Construction Site Name: <u>DOMINGUEZ LOOP RD</u>				<u>ROCKLIN</u>		
Construction stage and completed activities: <u>GRADING</u>				Approximate area of exposed site: <u>3AC</u>		
Weather and Observations						
Date Rain Predicted to Occur: <u>11/29/12</u>				Predicted % chance of rain: <u>80-100%</u>		
Estimate storm beginning: <u>11/28/12 AM</u> (date and time)		Estimate storm duration: <u>5 DAYS</u> (hours)		Estimate time since last storm: <u>11/16-21</u> (days or hours)		Rain gauge reading: <u>3.78"</u> (inches)
Observations: If yes identify location						
Odors	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>				
Floating material	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>				
Suspended Material	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>				
Sheen	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>				
Discolorations	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>				
Turbidity	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/> <u>WITHIN STANDING WATER AREAS.</u>				
Inspections						
Outfalls or BMPs Evaluated				Deficiencies Noted		
(add additional sheets or attached detailed BMP Inspection Checklists)						
<u>PG 3</u>						
Photos Taken:	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>		Photo Reference IDs:		
Corrective Action - determine if BMP/PP/RAI changes needed						
<u>PG 4</u>						
Inspector Information						
Inspector Name: <u>DAVE CLAYSON</u>				Inspector Title: <u>CESSWI/QSP</u>		
Signature: <u>[Signature]</u>				Date: <u>11/29/12</u>		

N/A 11/29/12

Field Sampling Location Details			
Construction Site Name:		Date:	Time Start:
Sampler:			
Sampling Event Type:	<input type="checkbox"/> Stormwater	<input type="checkbox"/> Non-stormwater	<input type="checkbox"/> Non-visible pollutant
Field Meter Calibration			
pH Meter ID No./Desc.:		Turbidity Meter ID No./Desc.:	
Calibration Date/Time:		Calibration Date/Time:	
Field pH and Turbidity Measurements			
Discharge Location Description	pH	Turbidity	Time
Samples Collected			
Discharge Location Description	Sample Type	Time	
Additional Sampling Notes:			
Time End:			

TSM  
SWPPP Inspection Form

Site-specific BMPs Evaluated	Descriptions of BMPs (erosion, sediment, chemical/waste, and non-storm water controls)
SILT FENCE, BLANKETS,	
BARK GRINDINGS, WATTLE,	ALL BMPS IN PLACE
ROCK BAGS, E.S.A. FENCING	& IN GOOD SHAPE.

Notes

RAIN JUST STARTING.  
HOLDING AREAS BEING DEWATERED TO MAKE ROOM FOR RAIN EVENT.

Inspector: [Signature]	
Inspector: DAVE CLAYSON	Inspector Title: CESSWI/QSP
Signature: [Signature]	Date: 11/29/12





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Local forecast by  
\*City, ST or ZIP code  
Enter location ...

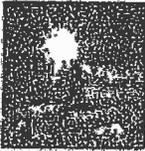
[Location Help](#)

**Series of Storms Continues to Batter Parts of West Coast**

Prolonged periods of rain and heavy mountain snow along with high winds continue to affect parts of the West Coast, as a series of strong storms moves onshore. Rainfall amounts of 2-5 inches are expected on Thursday, with the heaviest amounts in northern California and southern Oregon. Additional rainfall totals of 12-16 inches are likely through early next week across the region.  
[Read More...](#)

**3 MILES WSW LOOMIS CA**

[En Español](#)



Feel  
**61°F**  
16°C

Humidity 72%  
Wind Speed SSE 21 G 25 MPH  
Barometer 30.01 in  
Dewpoint 52°F (11°C)  
Visibility 10.00 mi  
Last Update on 29 Nov 10:35 am PST

Current conditions at  
Lincoln Regional Karl Harder Field (KLHM)  
Lat: 38.9092 Lon: -121.3613 Elev: 121ft.

[More Local Wx](#) | [3 Day History](#) | [Mobile Weather](#)

[Share](#) |

TODAY	TONIGHT	FRIDAY	FRIDAY NIGHT	SATURDAY	SATURDAY NIGHT	SUNDAY	SUNDAY NIGHT	MONDAY
Rain	Rain	Rain	Rain	Rain	Heavy Rain	Rain	Chance Showers	Partly Sunny
High: 64 °F	Low: 53 °F	High: 58 °F	Low: 52 °F	High: 60 °F	Low: 53 °F	High: 61 °F	Low: 44 °F	High: 61 °F

**HAZARDOUS WEATHER CONDITIONS**

[Wind Advisory](#)   [Flood Watch](#)   [Special Weather Statement](#)  
[Hazardous Weather Outlook](#)

**7-DAY FORECAST**

<b>Today</b>	Rain, mainly after 4pm. High near 64. Breezy, with a south southeast wind around 22 mph, with gusts as high as 33 mph. Chance of precipitation is 80%. New precipitation amounts of less than a tenth of an inch possible.
<b>Tonight</b>	Rain. Low around 53. Breezy, with a south southeast wind around 24 mph, with gusts as high as 37 mph. Chance of precipitation is 100%. New precipitation amounts between three quarters and one inch possible.
<b>Friday</b>	Rain. High near 58. Windy, with a south southeast wind 29 to 32 mph, with gusts as high as 48 mph. Chance of precipitation is 100%. New precipitation amounts between 1 and 2 inches possible.
<b>Friday Night</b>	Rain. Low around 52. Breezy, with a south wind 21 to 23 mph, with gusts as high as 34 mph. Chance of precipitation is 90%. New precipitation amounts between a quarter and half of an inch possible.
<b>Saturday</b>	Rain. High near 60. Breezy, with a south southeast wind around 22 mph, with gusts as high as 33 mph. Chance of precipitation is 100%.
<b>Saturday Night</b>	Rain. The rain could be heavy at times. Low around 53. Breezy. Chance of precipitation is 100%.
<b>Sunday</b>	Rain. High near 61. Breezy. Chance of precipitation is 100%.
<b>Sunday Night</b>	A chance of showers. Mostly cloudy, with a low around 44.
<b>Monday</b>	Partly sunny, with a high near 61.

Rocklin Month Weather - AccuWeather Forecast for CA 95677

Mon 11/5/2012	75°	55°	0 in	0 in		66°	47°
Tue 11/6/2012	79°	57°	0 in	0 in		66°	48°
Wed 11/7/2012	73°	57°	0 in	0 in		66°	46°
Thu 11/8/2012	55°	41°	0.27 in	0 in		65°	46°
Fri 11/9/2012	48°	37°	0.08 in	0 in		65°	45°
Sat 11/10/2012	50°	39°	0 in	0 in		64°	45°
Sun 11/11/2012	54°	35°	0 in	0 in		64°	45°
Mon 11/12/2012	57°	39°	0 in	0 in		63°	45°
Tue 11/13/2012	64°	43°	0 in	0 in		63°	44°
Wed 11/14/2012	66°	48°	0 in	0 in		62°	44°
Thu 11/15/2012	66°	48°	0 in	0 in		62°	44°
Fri 11/16/2012	57°	50°	0.24 in	0 in		62°	43°
Sat 11/17/2012	55°	52°	1.02 in	0 in		61°	43°
Sun 11/18/2012	55°	48°	1.15 in	0 in		61°	43°
Mon 11/19/2012	63°	48°	0 in	0 in		60°	43°
Tue 11/20/2012	61°	52°	0 in	0 in		60°	42°
Wed 11/21/2012	57°	52°	1.37 in	0 in		60°	42°
Thu 11/22/2012	63°	41°	0 in	0 in		59°	42°
Fri 11/23/2012	64°	48°	0 in	0 in		59°	42°
Sat 11/24/2012	64°	43°	0 in	0 in		59°	41°
Sun 11/25/2012	63°	43°	0 in	0 in		58°	41°
Mon 11/26/2012	64°	46°	0 in	0 in		58°	41°
Tue 11/27/2012	61°	48°	0 in	0 in		58°	41°
Wed 11/28/2012	54°	52°	0.81 in	0 in		57°	40°
Thu 11/29/2012	62°	54°	1.7 in	0 in	Increasingly Windy	57°	40°
Fri 11/30/2012	56°	52°	1.4 in	0 in	Windy with pouring rain	57°	40°

Rain Gauge Log Sheet

Construction Site Name:

Rocklin Crossing

JOB # 992

WDID #:

Date (mm/dd/yy)	Time (24-hr)	Initials	Rainfall Depth (Inches)	Notes:
NOV 1.12	9AM	BA	1/2	RAIN FALL From 8:30 <sup>pm</sup> 9AM measured 10/31 - 11/1
11/8/12	5:30 AM	D	1/4	RAIN 1:30 PM - 5:30 AM 11/8 - 11/9
11/29/12	8:00 A.M. - 7:00 AM	D	3/4"	RAIN FALL From 8:00 A.M. - 7:AM 11/28 - 11/29
12/2/12		BA	6 1/4"	RAIN FALL FROM 5PM - 7AM 11/30 12/2
12/5/12		D	7/8"	RAIN FALL FROM 11:00AM 4:00 P.M. 12/5 12/5

7" rainfall  
for 11/28 - 12/2/12  
5mm exact.

Table 5-A-1  
 Depth-Duration-Frequency Coefficients

150 - 3000 feet elevation  
 West of Sierra Nevada Crest

Depths in inches at 150 feet

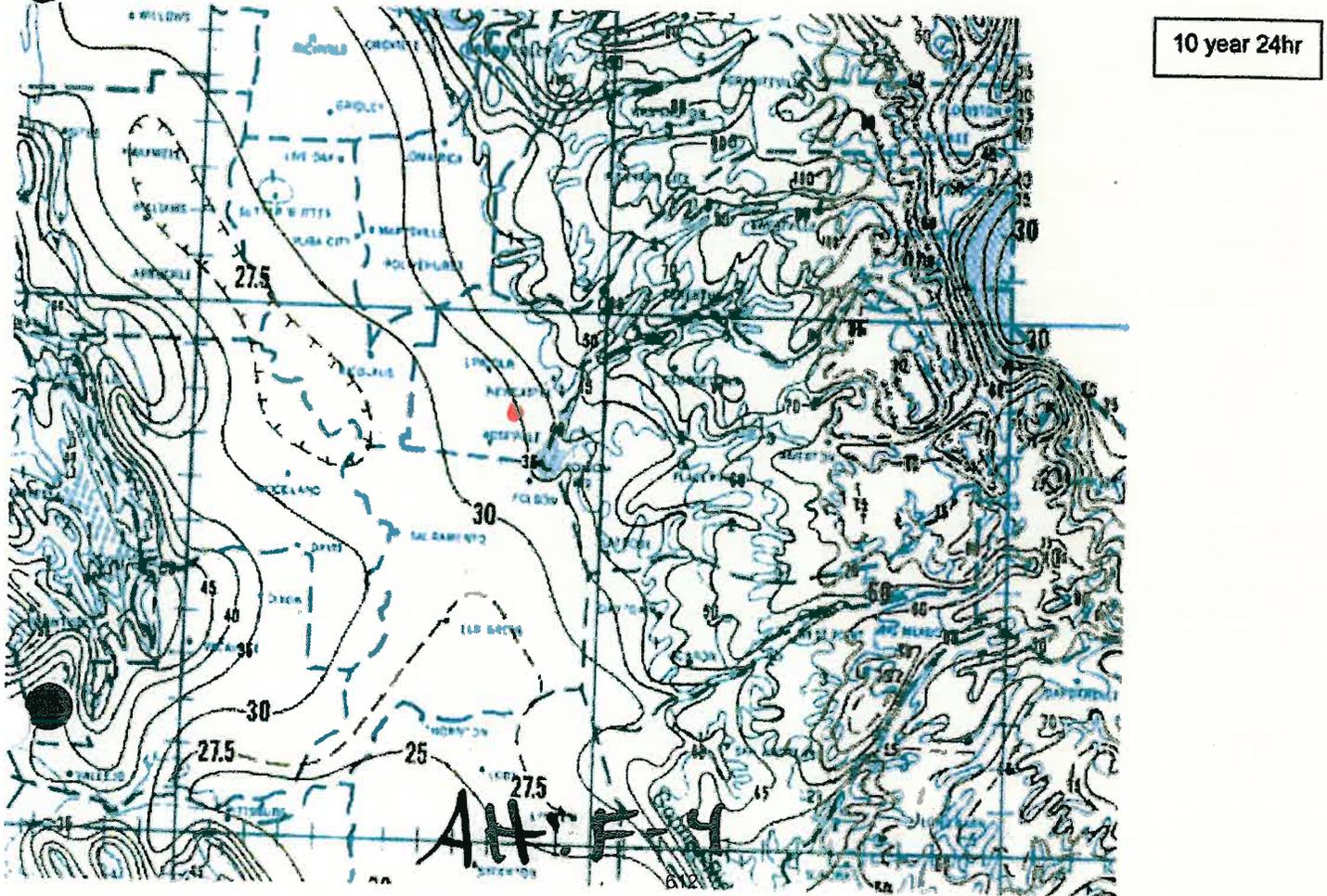
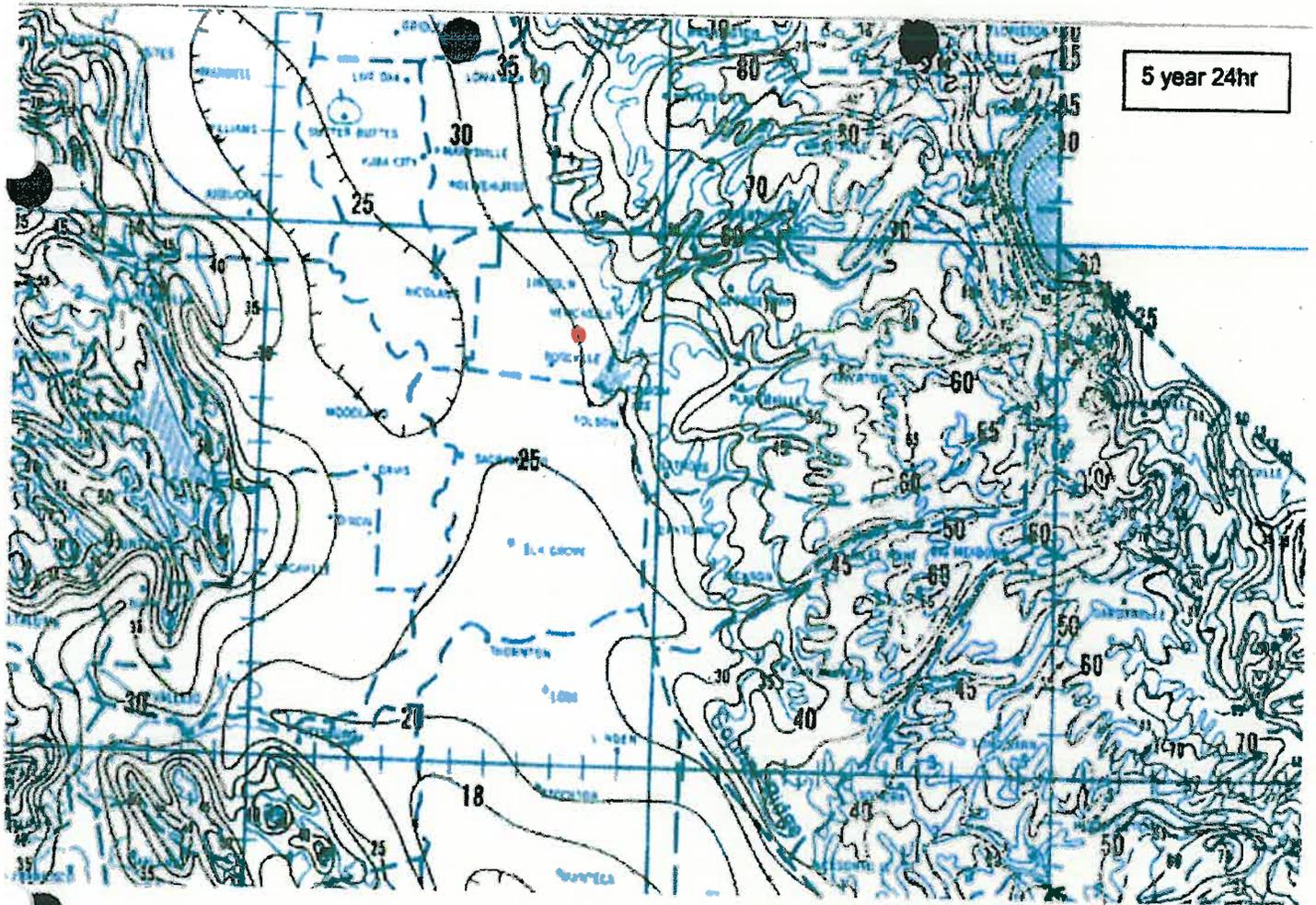
Duration	2yr	5yr	10yr	25yr	50yr	100yr	200yr	500yr
5m	0.13	0.20	0.25	0.32	0.38	0.44	0.49	0.58
10m	0.19	0.29	0.36	0.46	0.54	0.62	0.70	0.82
15m	0.23	0.35	0.43	0.55	0.64	0.73	0.82	0.96
30m	0.32	0.47	0.57	0.72	0.83	0.94	1.04	1.22
1h	0.45	0.64	0.77	0.94	1.07	1.21	1.33	1.53
2h	0.64	0.88	1.04	1.26	1.42	1.59	1.76	2.00
3h	0.77	1.04	1.23	1.47	1.66	1.85	2.03	2.31
6h	1.06	1.40	1.65	1.95	2.22	2.23	2.75	3.10
12h	1.43	1.91	2.24	2.67	3.00	3.30	3.60	4.00
1d	1.90	2.50	2.98	3.46	3.85	4.25	4.60	5.20
2d	2.51	3.40	3.95	4.65	5.15	5.70	6.20	7.00
3d	3.00	4.07	4.65	5.50	6.20	6.80	7.50	8.40
5d	3.61	4.91	5.76	6.85	7.63	8.42	9.20	10.29
10d	4.73	6.44	7.54	8.96	9.97	11.01	11.95	13.45

total for 3day period  
 per rain gauge measurement  
 beginning Nov 30 and  
 ending Dec 2<sup>nd</sup>

total for rain event  
 per rain gauge measurements  
 beginning Nov 28 and ending  
 Dec 2<sup>nd</sup>

Change in depth, inches per 1000 feet

Duration	2yr	5yr	10yr	25yr	50yr	100yr	200yr	500yr
5m	0.007	0.000	-0.003	-0.007	-0.017	-0.023	-0.027	-0.037
10m	0.007	0.003	0.000	-0.010	-0.020	-0.027	-0.037	-0.050
15m	0.017	0.013	0.013	0.003	0.000	-0.007	-0.013	-0.027
30m	0.030	0.040	0.040	0.040	0.040	0.040	0.040	0.030
1h	0.063	0.087	0.100	0.120	0.133	0.137	0.157	0.173
2h	0.107	0.157	0.193	0.230	0.260	0.287	0.313	0.350
3h	0.143	0.220	0.263	0.327	0.373	0.413	0.457	0.513
6h	0.230	0.357	0.433	0.540	0.593	0.733	0.757	0.850
12h	0.453	0.663	0.820	0.977	1.127	1.250	1.400	1.600
1d	0.700	1.037	1.240	1.547	1.783	1.983	2.200	2.500
2d	1.163	1.667	2.017	2.483	2.850	3.167	3.533	4.000
3d	1.647	2.343	2.850	3.500	3.933	4.383	4.833	5.533
5d	2.287	3.230	3.913	4.717	5.390	5.960	6.600	7.570
10d	3.490	4.920	5.987	7.180	8.177	8.997	10.350	11.683



CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2013-0520

IN THE MATTER OF

HBT OF SADDLE RIDGE LLC  
CASCADE CROSSING  
NEVADA COUNTY

This Complaint is issued to HBT of Saddle Ridge LLC (hereafter Discharger) pursuant to Water Code 13385, which authorizes the imposition of Administrative Civil Liability, and Water Code section 13323, which authorizes the Executive Officer to issue this Complaint. This Complaint is based on evidence that the Discharger violated provisions of the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities, Order No. 2009-0009-DWQ (NPDES No. CAS000002).

The Executive Officer of the Central Valley Regional Water Quality Control Board (Central Valley Water Board or Board) alleges the following:

**Background**

1. HBT of Saddle Ridge LLC is the property owner and developer of the Cascade Crossing development (Site), located at 10400 Combie Road in Lake of the Pines, California. The 30.89 acre site is currently under construction, and when completed, will include 80 single-family homes, a 2-acre public park, and two storm water retention basins.
2. On 2 September 2009, the State Water Resources Control Board adopted the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities, Order No. 2009-0009-DWQ (NPDES No. CAS000002) (General Permit). This Order became effective on 1 July 2010.
3. Among other items, the General Permit requires:
  - (a) the implementation of best management practices (BMPs), using best available technology economically achievable (BAT) and best conventional control technology (BCT) to reduce pollution from storm water runoff from construction sites (General Permit, Section V.A.2);
  - (b) that a State-certified Qualified SWPPP Developer (QSD) prepare a site specific Storm Water Pollution Prevention Plan (SWPPP) and identify the Risk Level prior to construction (General Permit, Sections XIV.A and VII); and
  - (c) that Risk Level 2 and 3 dischargers develop and implement a Rain Event Action Plan (REAP) designed to protect all exposed portions of a site within 48 hours prior to any likely precipitation event. A REAP must be developed when there is a forecast of 50% or greater probability of precipitation in the project area (General Permit, Attachment D, Section H.1).
4. On 7 September 2012, HBT of Saddle Ridge LLC applied for permit coverage under the General Permit for the Cascade Crossing construction site by filing an on-line Notice of Intent on the Water Board's SMARTS (Storm Water Multiple Application and Tracking System) data management system. HBT of Saddle Ridge LLC determined the project was a Risk Level 2 site based on Project Sediment Risk and Receiving Water Risk under the terms of the General Permit.

5. On 12 September 2012, HBT of Saddle Ridge LLC's Notice of Intent was approved and the Cascade Crossing construction site was assigned Waste Discharge Identification Number 5S29C364552. HBT of Saddle Ridge LLC is listed as the legally responsible person (LRP) for the Site, and is, therefore, responsible for complying with all elements of the General Permit. This Complaint is being issued to HBT of Saddle Ridge because of its status as the LRP for the Cascade Crossing site.
6. The Discharger completed a site-specific SWPPP for the Cascade Crossing site and uploaded the SWPPP to the SMARTS data management system on 7 September 2012. As listed in SMARTS, construction began on 17 September 2012. According to the updated SWPPP submitted to SMARTS, construction is scheduled to be completed on 15 December 2013.

### Chronology

7. On 3 October 2012, Board staff conducted an inspection and observed that grading work had begun, a construction entrance was installed, and that sediment control BMPs were in place around the perimeter of the site. No violations or concerns were noted during this inspection.
8. On 22 October 2012, Board staff conducted an inspection following a minor precipitation event and observed that the disturbed areas near Ragsdale Creek had been covered with straw. Board staff also observed sediment control BMPs installed around the perimeter of the Site and some ponding on the dirt roadway. No discharge to the creek was observed. No violations were noted during this inspection.
9. On 28 November 2012, Board staff conducted an inspection following approximately three hours of precipitation which produced approximately a quarter of an inch of rain. Board staff observed minimal erosion controls consisting mainly of a sparse covering of straw on disturbed soils. Also, large puddles of turbid water had formed on both sides of the Ragsdale Creek crossing; however, no discharge was observed during the inspection. Board staff observed erosion in areas that had not been stabilized including the roadway northeast of the creek crossing. The on-site retention ponds were beginning to fill with storm water and a filtration bag treatment system had been installed by the Discharger in case the ponds reached capacity. At the time of the inspection, the filtration bag was not in use. Board staff was concerned that the erosion and sediment controls at the Site would not be adequate for an upcoming storm event that was forecast to produce six to eight inches of additional precipitation. Board staff contacted the Discharger and requested a meeting to discuss the site. Board staff met with the Discharger on 30 November 2012 at the site.
10. On 30 November 2012, Board staff conducted an inspection following approximately three inches of rain overnight. During the inspection, Board staff observed storm water from one of the retention basins being pumped through a filtration bag and discharged into Ragsdale Creek at a rate of approximately 450 gallons per minute. Board staff expressed concern that the bag was being used beyond capacity and the Discharger slowed the pumping rate to approximately 400 gallons per minute which appeared to increase effectiveness of the filtration. The partially treated water being discharged from the filter bag appeared clearer than the water in the retention ponds. Board staff also observed turbid discharge from one of the on-site storm water retention basins into Ragsdale Creek. Approximately half of the 30-acre site had been disturbed and ineffective erosion controls consisting mainly of a sparse covering of straw were the main erosion control BMPs in place. Also, the straw covering used for erosion control on the roads had washed away and storm water flows had created gullies along the roads in areas where

storm water flow had concentrated. Large amounts of sediment had been transported into the retention ponds, some of which was discharged from the Site into Ragsdale Creek.

11. Based on the 28 November 2012 and 30 November 2012 inspections, Board staff identified that the Site did not have effective erosion or sediment control BMPs which led to the discharge of turbid storm water from the site. The inadequate BMPs are a violation of Attachment D, Provision E.3 of the General Permit which requires Risk Level 2 dischargers to implement appropriate erosion control BMPs. The observed discharge violated section V.A.2, Narrative Effluent Limitations, of the General Permit, which requires implementation of Best Conventional Pollutant Control Technologies (BCT) to reduce or eliminate conventional pollutants, including turbidity, from storm water runoff.
12. According to an email sent by the Discharger to Board staff, the Discharger installed and started operating an active treatment system (ATS) on 4 December 2012 to filter storm water prior to discharge and to prevent overtopping of the retention ponds.
13. On 20 December 2012, Board staff issued a Notice of Violation (NOV) to the Discharger for the General Permit violations observed on 28 November 2012 and 30 November 2012. The NOV required a response by 3 January 2013.
14. On 24 December 2012, Board staff conducted an inspection following a storm event which produced approximately three inches of precipitation. Board staff observed the active treatment system in operation. At the time of the inspection, the treatment system was discharging approximately 600 gallons per minute with a turbidity of less than 10 NTU. This discharge met the turbidity requirements of the General Permit for active treatment systems. In addition, erosion control BMPs had been installed for all disturbed soil areas. The erosion control BMPs consisted of hydro-seeding disturbed soils and rock lining ditches along future roads which lead to the retention basins.
15. On 26 December, the Discharger requested an extension to respond to the NOV. Board staff granted the extension to 11 January 2013.
16. On 11 January 2013, the Discharger submitted a response to the NOV describing site stabilization work completed to comply with the General Permit. This letter included a narrative explanation of how erosion and sediment control BMPs were installed between 30 November 2012 and 14 December 2012, an updated SWPPP map, copies of weekly, pre-storm, post-storm, and REAP reports, and photographs of the completed work. Water Board staff reviewed the violation response letter and determined that as of 5 December 2012, when the rain event ended, the Discharger was in compliance with General Permit requirements for erosion controls.
17. According to the Discharger, approximately 193,500 gallons of turbid storm water discharged from the retention basin for approximately three hours and 45 minutes on 30 November 2012 until the pump supplying the filter bags was able to lower the retention pond volume enough to stop the overflow. According to sample results submitted by the Discharger, the turbidity of this discharge was greater than 1,000 NTU.

The Discharger also stated that approximately 37,500 gallons of turbid storm water discharged from the retention pond for approximately one hour and fifteen minutes on 2 December 2012. According to sample results submitted by the Discharger, the turbidity of this discharge was approximately 750 NTU.

According to Discharger's calculations, in total, approximately 231,000 gallons of turbid storm water overflowed and discharged from the retention basin between 30 November 2012 and 2 December 2012. Board staff reviewed the calculations and agrees that the estimated discharge volume from the retention pond is reasonable.

Using information submitted by the Discharger, Water Board staff calculated that approximately four million gallons of storm water was partially treated prior to discharge using the filtration bags between 30 November 2012 and 4 December 2012. According to sample results submitted by the Discharger, turbidity concentrations of the effluent of the filtration bags were measured as 249 NTU and 125 NTU on 1 December 2012 and 2 December 2012, respectively. This is similar to the turbidity in Ragsdale Creek during this time period.

### **Violations at the Cascade Crossing Construction Site**

18. General Permit Section V.A.2, Effluent Standards, Narrative Effluent Limitations, states, in part: *2. Dischargers shall minimize or prevent pollutants in storm water discharges and authorized non-storm water discharges through the use of controls, structures, and management practices that achieve BAT for toxic and non-conventional pollutants and BCT for conventional pollutants.*

Violation 1: The Discharger is alleged to have violated this requirement of the General Permit by discharging 231,000 gallons to Ragsdale Creek for a period of two days (30 November 2012 and 2 December 2012).

19. General Permit Attachment D, Provision E.3. Sediment Controls, states in part: *Additional Risk Level 2 Requirement: Risk Level 2 dischargers shall implement appropriate erosion control BMPs (runoff control and soil stabilization) in conjunction with sediment control BMPs for areas under active construction.*

Violation 2: The Discharger is alleged to have violated this requirement of the General Permit for a period of six days prior to installation of the ATS (28 November 2012 through 3 December 2012) for failure to implement appropriate erosion control BMPs for areas under active construction.

Violation 3: The Discharger is alleged to have violated this requirement of the General Permit for a period of two days following installation of the ATS (4 December 2012 through 5 December 2012) for failure to implement appropriate erosion control BMPs for areas under active construction.

### **Surface Water Beneficial Uses**

20. The *Water Quality Control Plan for the Sacramento River and San Joaquin River Basins, Fourth Edition* (hereafter Basin Plan) designates beneficial uses, establishes water quality objectives, contains implementation plans and policies for protecting waters of the basin, and incorporates by reference plans and policies adopted by the State Water Resources Control Board.
21. Surface water drainage from the Cascade Crossings construction site flows to Ragsdale Creek which flows to Wolf Creek, tributary to the Bear River.
22. The beneficial uses of the Bear River as stated in the Basin Plan are: municipal and domestic supply; agricultural supply, including stock watering; hydropower generation; water contact recreation, including canoeing and rafting; non-contact water recreation, including aesthetic

enjoyment; commercial and sport fishing; aquaculture; warm migration of aquatic organisms; cold migration of aquatic organisms; warm spawning, reproduction, and/or early development; cold spawning, reproduction, and /or early development warm freshwater habitat; cold freshwater habitat; and wildlife habitat.

### Calculation of Penalties Under Water Code Section 13385

23. Water Code section 13385 states, in relevant part:

*(a) Any person who violates any of the following shall be liable civilly in accordance with this section:*

*(2) A waste discharge requirement ... issued pursuant to this chapter... (5) Any requirements of Section 301, 302, 306, 307, 308, 318, 401, or 405 of the Clean Water Act, as amended.*

24. The General Permit was adopted by the State Water Board on 2 September 2009, pursuant to Clean Water Act sections 201, 208(b), 302, 303(b), 304, 306, 307, 402, and 403. Section IV(A)(1) of the General Permit, states in part:

*Any permit noncompliance constitutes a violation of the Clean Water Act (CWA) and the Porter-Cologne Water Quality Control Act and is grounds for enforcement action and/or removal from General Permit coverage.*

25. The Discharger's failure to implement the elements of the General Permit described above violated the General Permit and therefore, violated the Clean Water Act and the Porter-Cologne Water Quality Control Act. Water Code section 13385 authorizes the imposition of administrative civil liability for such violations.

26. Water Code section 13385 states, in relevant part:

*(c) Civil liability may be imposed administratively by the state board or a regional board pursuant to Article 2.5 (commencing with Section 13323) of Chapter 5 in an amount not to exceed the sum of both of the following:*

*(1) Ten thousand dollars (\$10,000) for each day in which the violation occurs.*

*(2) Where there is a discharge, any portion of which is not susceptible to cleanup or is not cleaned up, and the volume discharged but not cleaned up exceeds 1,000 gallons, an additional liability not to exceed ten dollars (\$10) multiplied by the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons.*

*(e) ...At a minimum, liability shall be assessed at a level that recovers the economic benefits, if any, derived from the acts that constitute the violation.*

27. **Maximum Civil Liability under Water Code Section 13385:** Pursuant to Water Code section 13385(c), each violation of the General Permit identified above is subject to penalties not to exceed \$10,000 per day and \$10 per gallon of discharge exceeding 1,000 gallons.

- The Discharger failed to comply with Sediment Control Provision E.3 from 28 November 2012 through 5 December 2012, a period of eight days. Therefore, the maximum penalty for these violations is \$10,000 X 8 days, or \$80,000.

- A total of 193,500 gallons of turbid water discharged from the retention basin on 30 November 2012 in violation of Section V.A.2. The maximum penalty for this discharge is (193,500 – 1,000) gallons X \$10 per gallon plus 1 day X \$10,000 per day, or \$1,935,000.
- A total of 37,500 gallons of turbid water discharged from the retention basin on 2 December 2012 in violation of Section V.A.2. The maximum penalty for this discharge is (37,500 – 1,000) gallons X \$10 per gallon plus 1 day X \$10,000 per day, or \$375,000.

The maximum liability for these violations is **two million three hundred ninety thousand dollars (\$2,390,000)**.

28. **Minimum Civil Liability Under Water Code Section 13385:** Pursuant to Water Code section 13385(e), at a minimum, civil liability must be assessed at a level that recovers the economic benefits, if any, derived from the acts that constitute the violation. The violations of the General Permit were due to failure to implement appropriate erosion and sediment control BMPs as listed in the site specific SWPPP. Board staff estimates the cost to stabilize construction sites ranges from \$2,000 to \$5,000 per acre depending on the slope and soil type. The economic benefit received by the Discharger by not installing and maintaining appropriate erosion and sediment control BMPs at this site is estimated to be \$4,000 per acre, based on the slope and soil type of disturbed areas. Also, the roadways had been graded and were concentrating flows, necessitating additional BMP protection. Based on information submitted by the Discharger as part of the Notice of Violation response, Board staff calculated that approximately 15 acres of disturbed area was not adequately protected with BMPs. Therefore, the cost to stabilize this construction site is estimated to be \$60,000. The economic benefit incurred by the Discharger is the failure to spend \$60,000 for a period of eight days; the value can be calculated as the interest on a loan to complete the work. Using the US EPA's BEN model, the economic benefit gained by non-compliance is calculated to be approximately **sixty one dollars (\$61)**, which becomes the minimum civil liability which must be assessed pursuant to section 13385.

#### **Proposed Administrative Civil Liability**

29. Pursuant to Water Code section 13385(e), in determining the amount of any civil liability imposed under Water Code section 13385(c), the Board is required to take into account the nature, circumstances, extent, and gravity of the violations, whether the discharges are susceptible to cleanup or abatement, the degree of toxicity of the discharges, and, with respect to the violator, the ability to pay, the effect on its ability to continue its business, any voluntary cleanup efforts undertaken, any prior history of violations, the degree of culpability, economic benefit or savings, if any, resulting from the violations, and other matters that justice may require.
30. On 17 November 2010, the State Water Board adopted Resolution No. 2009-0083 amending the Water Quality Enforcement Policy (Enforcement Policy). The Enforcement Policy was approved by the Office of Administrative Law and became effective on 20 May 2010. The Enforcement Policy establishes a methodology for assessing administrative civil liability. The use of this methodology addresses the factors that are required to be considered when imposing a civil liability as outlined in Water Code section 13385(e).
31. This administrative civil liability was derived from the use of the penalty methodology in the Enforcement Policy, as explained in detail in Attachment A. The proposed civil liability takes into account such factors as the Discharger's culpability, history of violations, ability to pay and continue in business, and other factors as justice may require.

32. As described above, the maximum penalty for the violations is \$2,390,000. The Enforcement Policy requires that the minimum liability imposed be at least 10% higher than the estimated economic benefit of \$61, so that liabilities are not construed as the cost of doing business and that the assessed liability provides a meaningful deterrent to future violations. In this case, the economic benefit amount, plus 10%, is \$67. Based on consideration of the above facts and after applying the penalty methodology and allowing for staff costs pursuant to the Enforcement Policy, the Executive Officer of the Central Valley Water Board proposes that civil liability be imposed administratively on the Discharger in the amount of **\$124,557**. The specific factors considered in this penalty are detailed in Attachment A.

### **Regulatory Considerations**

33. Notwithstanding the issuance of this Complaint, the Central Valley Water Board retains the authority to assess additional penalties for violations of the requirements of the General Permit for which penalties have not yet been assessed or for violations that may subsequently occur.
34. An administrative civil liability may be imposed pursuant to the procedures described in Water Code section 13323. An administrative civil liability complaint alleges the act or failure to act that constitutes a violation of law, the provision of law authorizing administrative civil liability to be imposed, and the proposed administrative civil liability.
35. Issuance of this Administrative Civil Liability Complaint to enforce Water Code Division 7, Chapter 5.5 is exempt from the provisions of the California Environmental Quality Act (Pub. Resources Code § 21000 et seq.), in accordance with California Code of Regulations, title 14, section 15321(a)(2).

### **HBT OF SADDLE RIDGE LLC IS HEREBY GIVEN NOTICE THAT:**

1. The Executive Officer of the Central Valley Water Board proposes an administrative civil liability in the amount of **one hundred twenty-four thousand five hundred fifty-seven dollars (\$124,557)**. The amount of the proposed liability is based upon a review of the factors cited in Water Code section 13385, as well as the State Water Resources Control Board's 2010 Water Quality Enforcement Policy, and includes consideration of the economic benefit or savings resulting from the violations.
2. A hearing on this matter will be conducted at the Central Valley Water Board meeting scheduled on **30/31 May 2013**, unless one of the following options occurs by **29 March 2013**:
  - a) The Discharger waives the hearing by completing the attached form (checking off the box next to Option #1) and returning it to the Central Valley Water Board, along with payment for the proposed civil liability of one hundred twenty-four thousand five hundred fifty-seven dollars (\$124,557); or
  - b) The Central Valley Water Board agrees to postpone any necessary hearing after the Discharger requests to engage in settlement discussions by checking off the box next to Option #2 on the attached form, and returns it to the Board along with a letter describing the issues to be discussed; or

- c) The Central Valley Water Board agrees to postpone any necessary hearing after the Discharger requests a delay by checking off the box next to Option #3 on the attached form, and returns it to the Board along with a letter describing the issues to be discussed.
- 3. If a hearing is held, the Central Valley Water Board will consider whether to affirm, reject, or modify the proposed Administrative Civil Liability, or whether to refer the matter to the Attorney General for recovery of judicial civil liability.

*Original Signed By Andrew Altevogt for*

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PAMELA C. CREEDON, Executive Officer

4 March 2013

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Date

Waiver Form  
Attachment A: Specific Factors Considered for Civil Liability

MAF/SER/WSW: 27-Feb-13

**WAIVER FORM  
FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT**

By signing this waiver, I affirm and acknowledge the following:

I am duly authorized to represent HBT of Saddle Ridge LLC (hereafter Discharger) in connection with Administrative Civil Liability Complaint R5-2013-0520 (hereafter Complaint). I am informed that California Water Code section 13323, subdivision (b), states that, "a hearing before the regional board shall be conducted within 90 days after the party has been served. The person who has been issued a complaint may waive the right to a hearing."

**(OPTION 1: Check here if the Discharger waives the hearing requirement and will pay in full.)**

- a. I hereby waive any right the Discharger may have to a hearing before the Central Valley Water Board.
- b. I certify that the Discharger will remit payment for the proposed civil liability in the full amount of **one hundred twenty-four thousand five hundred fifty-seven dollars (\$124,557)** by check that references "ACL Complaint R5-2013-0520" made payable to the *State Water Pollution Cleanup and Abatement Account*. Payment must be received by the Central Valley Water Board by **29 March 2013**.
- c. I understand the payment of the above amount constitutes a proposed settlement of the Complaint, and that any settlement will not become final until after a 30-day public notice and comment period. Should the Central Valley Water Board receive significant new information or comments during this comment period, the Central Valley Water Board's Executive Officer may withdraw the complaint, return payment, and issue a new complaint. I also understand that approval of the settlement will result in the Discharger having waived the right to contest the allegations in the Complaint and the imposition of civil liability.
- d. I understand that payment of the above amount is not a substitute for compliance with applicable laws and that continuing violations of the type alleged in the Complaint may subject the Discharger to further enforcement, including additional civil liability.

**(OPTION 2: Check here if the Discharger waives the 90-day hearing requirement in order to engage in settlement discussions.)** I hereby waive any right the Discharger may have to a hearing before the Central Valley Water Board within 90 days after service of the Complaint, but I reserve the ability to request a hearing in the future. I certify that the Discharger will promptly engage the Central Valley Water Board Prosecution Team in settlement discussions to attempt to resolve the outstanding violation(s). By checking this box, the Discharger requests that the Central Valley Water Board delay the hearing so that the Discharger and the Prosecution Team can discuss settlement. It remains within the discretion of the Central Valley Water Board to agree to delay the hearing. Any proposed settlement is subject to the conditions described above under "Option 1."

**(OPTION 3: Check here if the Discharger waives the 90-day hearing requirement in order to extend the hearing date and/or hearing deadlines. Attach a separate sheet with the amount of additional time requested and the rationale.)** I hereby waive any right the Discharger may have to a hearing before the Central Valley Water Board within 90 days after service of the Complaint. By checking this box, the Discharger requests that the Central Valley Water Board delay the hearing and/or hearing deadlines so that the Discharger may have additional time to prepare for the hearing. It remains within the discretion of the Central Valley Water Board to approve the extension.

\_\_\_\_\_  
(Print Name and Title)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

**ATTACHMENT A to ACL Complaint R5-2013-0520:  
Specific Factors Considered for Civil Liability  
Cascade Crossing, Nevada County**

The State Water Board's *Water Quality Enforcement Policy* (Enforcement Policy) establishes a methodology for determining administrative civil liability by addressing the factors that are required to be considered under California Water Code (CWC) section 13385(e). Each factor of the nine-step approach is discussed below, as is the basis for assessing the corresponding score. The Enforcement Policy can be found at:

[http://www.waterboards.ca.gov/water\\_issues/programs/enforcement/docs/enf\\_policy\\_final111709.pdf](http://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/enf_policy_final111709.pdf).

**Violation #1: Discharges of turbid water from the retention basins on 30 November 2012 and 2 December 2012.**

**Step 1 – Potential for Harm for Discharge Violations**

The “potential harm to beneficial uses” factor considers the harm to beneficial uses that may result from exposure to the pollutants in the discharge, while evaluating the nature, circumstances, extent, and gravity of the violation(s). A three-factor scoring system is used for each violation or group of violations: (1) the potential to harm to beneficial uses; (2) the degree of toxicity of the discharge; and (3) whether the discharge is susceptible to cleanup or abatement.

**Factor 1: Harm or Potential Harm to Beneficial Uses**

A score between 0 and 5 is assigned based on a determination of whether the harm or potential for harm to beneficial uses is negligible (0) to major (5). In this case the potential harm to beneficial uses was determined to be **moderate** (i.e. a score of 3), which is defined as a “moderate threat to beneficial uses (i.e., impacts are observed or reasonably expected and impacts to beneficial uses are moderate and likely to attenuate without appreciable acute or chronic effects)”. Temporary erosion controls such as straw and tack or bonded fiber matrix cover disturbed soils and protect soil particles from detaching. This helps lock the soil particles in place and reduces turbidity in storm water runoff. Discharges of sediment to surface waters can cloud the receiving water, thereby reducing the amount of sunlight reaching aquatic plants, clog fish gills, smother aquatic habitat and spawning areas, and impede navigation. Sediment can also transport other materials such as nutrients, metals, and oils and grease. The discharge of sediment negatively impacts aquatic organisms; however, the discharges took place during a time of high flow in Ragsdale Creek, and therefore were expected to attenuate without appreciable effects. In addition, Ragsdale Creek was also turbid due to upstream discharges.

Ragsdale Creek flows to Wolf Creek, tributary to Bear River. The beneficial uses for Bear River include municipal and domestic supply; agricultural supply, including stock watering; hydropower generation; water contact recreation, including canoeing and rafting; non-contact water recreation, including aesthetic enjoyment; commercial and sport fishing; aquaculture; warm migration of aquatic organisms; cold migration of aquatic organisms; warm spawning, reproduction, and/or early development; cold spawning, reproduction, and /or early development warm freshwater habitat; cold freshwater habitat; and wildlife habitat.

**Factor 2: The Physical, Chemical, Biological, or Thermal Characteristics of the Discharge**

A score between 0 and 4 is assigned based on a determination of the risk or threat of the discharged material. In this case, a score of **2** was assigned. A score of 2 means that the chemical and/or physical characteristics of the discharged material poses moderate risk or threat to potential receptors (i.e. chemical and/or physical characteristics of the discharged material have some level of toxicity or

pose a moderate level of concern regarding receptor protection). Discharges of sediment can cloud the receiving water, which reduces the amount of sunlight reaching aquatic plants, clog fish gills, smother aquatic habitat and spawning areas, and impede navigation. Sediment can also transport other materials such as nutrients, metals, and oils and grease.

### Factor 3: Susceptibility to Cleanup or Abatement

A score of 0 is assigned for this factor if 50% or more of the discharge is susceptible to cleanup or abatement. A score of 1 is assigned if less than 50% of the discharge is susceptible to cleanup or abatement. This factor is evaluated regardless of whether the discharge was actually cleaned up or abated by the discharger. In this case, sediment discharged into Ragsdale Creek was dispersed by storm water over a long distance and cleanup or abatement would not be possible. Therefore, a factor of 1 is assigned.

### Final Score – “Potential for Harm”

The scores of the three factors are added to provide a Potential for Harm score for each violation or group of violations. In this case, a final score of 6 was calculated. The total score is then used in Step 2 below.

### Step 2 – Assessment for Discharge Violations

This step addresses penalties based on both a per-gallon and a per-day basis for discharge violations.

#### Per Gallon Assessments for Discharge Violations

When there is a discharge, the Central Valley Water Board is to determine the initial liability amount on a per gallon basis using the Potential for Harm score from Step 1 and the extent of Deviation from Requirement of the violation. The Potential for Harm score from Step 1 is 6 and the extent of Deviation from Requirements is considered **Major** because the requirement was rendered ineffective based on the lack of effective erosion control BMPs which caused large amounts of eroded sediment to be transported to the retention pond and a portion of this sediment eventually discharged to Ragsdale Creek. Table 1 of the Enforcement Policy (p. 14) is used to determine a “per gallon factor” based on the total score from Step 1 and the level of Deviation from Requirement. For this particular case, the factor is 0.22. This value is multiplied by the volume of discharge and the per gallon civil liability, as described below.

A total of 231,000 gallons was discharged over two days. The maximum civil liability allowed under Water Code section 13385 is \$10 per gallon for discharges. Because of the volume of the discharge, it is considered a “high volume discharge” under the Enforcement Policy. For high volume discharges, the Enforcement Policy allows a civil liability value of either \$2 per gallon (for sewage) or \$1 per gallon (for recycled water) instead of the maximum civil liability of \$10 per gallon allowed under Water Code section 13385. In this case, it is appropriate to use the \$2 per gallon value in calculating the liability because of the high volume.

Water Code section 13385(c)(2) states that the civil liability amount is to be based on the number of gallons discharged but not cleaned up, over 1,000 gallons for each spill event. As shown in the table below, there were two spill events. The first occurred on 30 November 2012 and was 193,500 gallons. The second took place on 2 December 2012 and was 37,500 gallons. The Per Gallon Assessment is calculated as (factor from Table 1) x (spill volume-1,000) x (\$2 per gallon).

Per Day Assessments for Discharge Violations

When there is a discharge, the Central Valley Water Board is to determine the initial liability amount on a per day basis using the same Potential for Harm score from Step 1 and the same Extent of Deviation from Requirements used in the per-gallon analysis. The Potential for Harm score from Step 1 is **6** and the Extent of Deviation from Requirements is considered to be **Major**. Therefore the “per day” factor is **0.22** (as determined from Table 2 in the Enforcement Policy). The Per Day Assessment is calculated as (factor from Table 2) x (number of days) x \$10,000 per day.

**Violation #1 – Initial Liability Amount**

The initial liability amount for the discharge violations are as follows:

Per Gallon Liability:

1. 30 November 2012:  $\$2 \times (193,500 - 1,000) \times 0.22 = \$84,700$
2. 2 December 2012:  $\$2 \times (37,500 - 1,000) \times 0.22 = \$16,060$

Per Day Liability:

3. 30 November 2012:  $\$10,000 \times 0.22 \times 1 \text{ day} = \$2,200$
4. 2 December 2012:  $\$10,000 \times 0.22 \times 1 \text{ day} = \$2,200$

Total Initial Liability = **\$105,160**

**Step 3 – Per Day Assessment for Non-Discharge Violations**

In this case, this factor does not apply because Violation #1 is related to a discharge and the liability was determined in Step 2.

**Step 4 – Adjustment Factors**

There are three additional factors to be considered for modification of the amount of initial liability: the violator’s culpability, efforts to cleanup or cooperate with regulatory authority, and the violator’s compliance history.

Culpability

Higher liabilities should result from intentional or negligent violations as opposed to accidental violations. A multiplier between 0.5 and 1.5 is to be used, with a higher multiplier for negligent behavior. The Discharger was given a multiplier value of **1.1** because of the Discharger’s failure to implement appropriate BMPs prior to a forecasted multi-day storm event. This failure to implement BMPs led to the discharges of turbid water which could have been avoided had appropriate BMPs been in place prior to the forecasted storm event. The Discharger did not anticipate what a reasonable person would have and did not implement appropriate measures to avoid the violations.

Cleanup and Cooperation

This factor reflects the extent to which a discharger voluntarily cooperated in returning to compliance and correcting environmental damage. A multiplier between 0.75 and 1.5 is to be used, with a higher multiplier when there is a lack of cooperation. The Discharger was given a multiplier value of **0.75** because of the cooperation exhibited by the Discharger to return into compliance. Immediately upon recognizing that the pond was overflowing, the Discharger worked over the weekend and took actions to minimize the potential for harm by partially treating the water in the retention ponds using a filtration

bag, and then operating the filtration bag for 24-hours per day for four days until an active treatment system was installed and operational.

History of Violations

This factor is to be used when there is a history of repeat violations. A minimum multiplier of 1.1 is to be used, and is to be increased as necessary. In this case, a multiplier of **1** was used because there have been no previous discharge violations other than the alleged violations currently at issue in this Complaint.

**Step 5 - Determination of Total Base Liability Amount**

The Total Base Liability is determined by applying the adjustment factors from Step 4 to the Total Initial Liability Amount determined in Step 2.

<b><u>Violation #1 – Total Base Liability Amount</u></b>
Initial Liability x Culpability Multiplier x Cleanup and Cooperation Multiplier x History of Violations Multiplier = Total Base Liability
$\$105,160 \times 1.1 \times 0.75 \times 1 = \$86,757$
Total Base Liability = <b>\$86,757</b>

**Violation #2: Failure to Implement Appropriate BMPs Prior to Installation of the Active Treatment System**

The General Permit requires Risk Level 2 dischargers to implement appropriate erosion and sediment control BMPs. The Cascade Crossing site is Risk Level 2.

Board staff considered the Discharger to be in violation of the erosion control BMP requirements only on the days when rain occurred at the site because the General Permit distinguishes between active and inactive construction areas. Active construction areas are defined in the General Permit as: “areas undergoing land surface disturbance. This includes construction activity during the preliminary stage, mass grading stage, streets and utilities stage and the vertical construction stage.” Active areas must have appropriate erosion and sediment controls installed prior to rainfall but not between rain events. The General Permit defines inactive areas of construction as “areas of construction activity that have been disturbed and are not scheduled to be re-disturbed for at least 14 days.” Inactive areas must have effective soil cover during the entire period of inactivity, regardless of rainfall.

For the Cascade Crossing site, Board staff understands that the Discharger was conducting mass grading and utility installation activities, and returned to work as soon as possible following the rain events. Therefore, staff considered the requirements for installation of erosion control BMPs at active construction areas, rather than inactive areas, when determining the violations in this case.

During the 28 November 2012 through 5 December 2012 storm event, inadequate erosion control BMPs caused sediment to be mobilized into the retention basins. Violation #2 is for the period of 28 November 2012 through 3 December 2012, the period during the storm event prior to the installation of the Active Treatment System which occurred on 4 December 2012, when the Discharger failed to have inadequate erosion and sediment control BMPs installed at the site.

**Step 1 – Potential for Harm for Discharge Violations**

This step is not applicable because the violation is a not a discharge violation.

**Step 2 – Assessment for Discharge Violations**

This step is not applicable because the violation is a not a discharge violation.

**Step 3 – Per Day Assessment for Non-Discharge Violations**

The “per day” factor is calculated for each non-discharge violation or group of violations considering the 1) potential for harm and 2) the extent of the deviation from the applicable requirements.

Potential for Harm: The characteristics of the violation present either a minor, moderate, or major potential for harm or threat to beneficial uses. In this case, a lack of appropriate BMPs has the potential to impact beneficial uses. During the 28 November through 3 December 2012 period prior to installation of the active treatment system, the Discharger partially mitigated the potential for harm by pumping stormwater through a filter bag. The filter bag treatment lowered the turbidity of the stormwater from > 1000 NTU to between 125 NTU and 249 NTU, reducing the potential for harm. The portion of the stormwater that was not captured or partially treated represents a small portion of the total discharge and had the potential to impact beneficial uses. Therefore, the potential for harm to beneficial uses is determined to be **Moderate**, which is defined as “The characteristics of the violation present a substantial threat to beneficial uses and/or the circumstances of the violation indicate a substantial potential for harm. Most incidents would be considered to present a moderate potential for harm.”

Deviation from Requirement: The violation represents either a minor, moderate, or major deviation from the applicable requirements. The implementation of the filtration bags partially mitigated the potential for harm and brought the Discharger closer to the intent of the Order requirements. Due to the size of the forecast storm event, failure to implement adequate erosion controls, and implementation of the filtration bag, the deviation from applicable requirements is determined to be **Moderate**, which is defined as “The intended effectiveness of the requirement has been partially compromised (e.g., the requirement was not met, and the effectiveness of the requirement is only partially achieved.”

Using Table 3 in the Enforcement Policy, the Per Day Factor of **0.35** is assigned. This value is to be multiplied by the days of violation and the maximum per day penalty, as shown below.

**Violation #2 - Initial Liability Amount**

The initial liability amounts for the violations calculated on a per-day basis, are as follows:

28 November 2012 through 3 December 2012 = 6 days x \$10,000 X 0.35 = \$21,000

Total Initial Liability = **\$21,000**

**Step 4 – Adjustment Factors**

There are three additional factors to be considered for modification of the amount of initial liability: the violator’s culpability, efforts to cleanup or cooperate with regulatory authority, and the violator’s compliance history.

Culpability

Higher liabilities should result from intentional or negligent violations as opposed to accidental violations. A multiplier between 0.5 and 1.5 is to be used, with a higher multiplier for negligent behavior. The Discharger was given a multiplier value of **1.1** because of the Discharger's failure to implement appropriate BMPs prior to a forecasted multi-day storm event. This failure to implement BMPs led to the discharges of turbid water which could have been avoided had appropriate BMPs been in place prior to the forecasted storm event. The Discharger did not anticipate what a reasonable person would have and did not implement appropriate measures to avoid the violations.

Cleanup and Cooperation

This factor reflects the extent to which a discharger voluntarily cooperated in returning to compliance and correcting environmental damage. A multiplier between 0.75 and 1.5 is to be used, with a higher multiplier when there is a lack of cooperation. The Discharger was given a multiplier value of **0.75** because of the cooperation exhibited by the Discharger to return into compliance. Immediately upon recognizing that the pond was overflowing, the Discharger worked over the weekend and took actions to minimize the potential for harm by partially treating the water in the retention ponds using a filtration bag, and then operating the filtration bag for 24-hours per day for four days until an active treatment system was installed and operational.

History of Violations

The same History of Violations factor as Violation #1 of **1.0** was used.

**Step 5 - Determination of Total Base Liability Amount**

The Total Base Liability is determined by applying the adjustment factors from Step 4 to the Total Initial Liability Amount determined in Step 3.

<p style="text-align: center;"><b><u>Violation #2 - Total Base Liability Amount</u></b></p> <p style="text-align: center;">Total Initial Liability x Culpability Multiplier x Cleanup and Cooperation Multiplier x History of Violations Multiplier = Total Base Liability</p> <p style="text-align: center;"><math>\\$21,000 \times 1.1 \times 0.75 \times 1.0 = 17,325</math></p> <p style="text-align: right;">Total Base Liability = <b>\$17,325</b></p>
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**Violation #3: Failure to Implement Appropriate BMPs Following Installation of the Active Treatment System until the end of the Storm Event**

The General Order requires Risk Level 2 dischargers to implement appropriate erosion and sediment control BMPs. During the 28 November 2012 through 5 December 2012 storm event, inadequate erosion control BMPs caused sediment to be mobilized into the retention basins.

Violation 3 is for the period of 4 December 2012 through 5 December 2012, the period during the storm event after installation of the Active Treatment System, when the Discharger failed to have appropriate erosion control BMPs installed. Again, Board staff considered the requirements for installation of erosion control BMPs at active construction areas in determining these violations.

**Step 1 – Potential for Harm for Discharge Violations**

This step is not applicable because the violation is a not a discharge violation.

### **Step 2 – Assessment for Discharge Violations**

This step is not applicable because the violation is a not a discharge violation.

### **Step 3 – Per Day Assessment for Non-Discharge Violations**

The “per day” factor is calculated for each non-discharge violation or group of violations considering the 1) potential for harm and 2) the extent of the deviation from the applicable requirements.

Potential for Harm: The characteristics of the violation present either a minor, moderate, or major potential for harm or threat to beneficial uses. In this case, the lack of appropriate BMPs has the potential to impact beneficial uses. Following installation of the Active Treatment System on 4 December 2012, the Discharger substantially mitigated the potential for harm during the 4 December 2012 through 5 December 2012 period by operating the Active Treatment System. However, operating the Active Treatment System does not negate the requirement to implement appropriate BMPs. Therefore, the potential for harm to beneficial uses for failing to have appropriate BMPs in place after installation of the Active Treatment System is determined to be **Minor**.

Deviation from Requirement: The violation represents either a minor, moderate, or major deviation from the applicable requirements. Operation of the Active Treatment System partially mitigated the lack of appropriate erosion control BMPs; therefore, the deviation from applicable requirements to install an effective combination of erosion and sediment control BMPs is determined to be **Minor**.

Using Table 3 in the Enforcement Policy, the Per Day Factor of **0.15** is assigned. This value is to be multiplied by the days of violation and the maximum per day penalty, as shown below.

#### **Violation #3 - Initial Liability Amount**

The initial liability amounts for the violations calculated on a per-day basis, are as follows:

4 December 2012 through 5 December 2012 = 2 days x 10,000 X 0.15 = \$3,000

Total Initial Liability = **\$3,000**

### **Step 4 – Adjustment Factors**

There are three additional factors to be considered for modification of the amount of initial liability: the violator’s culpability, efforts to cleanup or cooperate with regulatory authority, and the violator’s compliance history.

#### **Culpability**

Higher liabilities should result from intentional or negligent violations as opposed to accidental violations. A multiplier between 0.5 and 1.5 is to be used, with a higher multiplier for negligent behavior. The Discharger was given a multiplier value of **1.1** because of the Discharger’s failure to implement appropriate BMPs prior to a forecasted multi-day storm event. The installation of the Active Treatment System does not negate the requirement to install BMPs prior to a storm event. The Discharger did not anticipate what a reasonable person would have and did not implement appropriate measures to avoid the violations.

Cleanup and Cooperation

This factor reflects the extent to which a discharger voluntarily cooperated in returning to compliance and correcting environmental damage. A multiplier between 0.75 and 1.5 is to be used, with a higher multiplier when there is a lack of cooperation. The Discharger was given a multiplier value of **0.75** because of the cooperation exhibited by the Discharger to return into compliance. Immediately upon recognizing that the pond was overflowing, the Discharger worked over the weekend and took actions to minimize the potential for harm by partially treating the water in the retention ponds using a filtration bag, and then operating the filtration bag for 24-hours per day for four days until an active treatment system was installed and operational.

History of Violations

The same History of Violations factor as Violation #1 of **1.0** was used.

**Step 5 - Determination of Total Base Liability Amount**

The Total Base Liability is determined by applying the adjustment factors from Step 4 to the Total Initial Liability Amount determined in Step 3.

<p><b><u>Violation #3 - Total Base Liability Amount</u></b></p> <p>Total Initial Liability x Culpability Multiplier x Cleanup and Cooperation Multiplier x History of Violations Multiplier = Total Base Liability</p> <p><math>\\$3,000 \times 1.1 \times 0.75 \times 1.0 = \\$2,475</math></p> <p style="text-align: right;">Total Base Liability = <b>\$2,475</b></p>
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**COMBINED TOTAL BASE LIABILITY AND FACTORS APPLIED TO ALL VIOLATIONS**

The combined Total Base Liability Amount for the three violations is **\$106,557** (\$86,757 + \$17,325 + \$2,475).

The following factors apply to the combined Total Base Liability Amounts for all of the violations discussed above.

**STEP 6 – Ability to Pay and Continue in Business**

The ability to pay and to continue in business factor must be considered when assessing administrative civil liabilities. HBT at Saddle Creek LLC is the property owner and developer for the Cascade Crossing housing development. When completed, this community will have 84 single-family homes ranging between 2,000 and 2,800 square feet. HBT at Saddle Creek LLC is one of many property developers in the Homes By Towne brand of Zilber Ltd. that specializes in residential real estate development in California, Arizona, Texas, and Wisconsin. Given this information, the discharger has the ability to pay the combined Total Base Liability Amount.

**STEP 7 – Other Factors as Justice May Require**

The costs of investigation and enforcement are “other factors as justice may require”, and should be added to the liability amount. The Central Valley Water Board has incurred \$18,000 in staff costs associated with the investigation and enforcement of the violations alleged herein. This represents approximately 120 hours of staff time devoted to investigating and drafting the complaint at \$150 an

hour. In accordance with the Enforcement Policy, this amount is added to the Combined Total Base Liability Amount.

### **STEP 8 – Economic Benefit**

Pursuant to CWC section 13385(e), civil liability, at a minimum, must be assessed at a level that recovers the economic benefits, if any, derived from the acts that constitute the violation.

The violations of the General Permit were due to failure to implement appropriate erosion and sediment control BMPs as listed in the site specific SWPPP. The California Stormwater Quality Association (CASQA) estimates installation and maintenance of straw mulch at \$1,823 to \$4,802 (July 2007 data), and this is generally dependent on the slope and soil type. The economic benefit received by the Discharger by not fully installing erosion control BMPs is estimated by Board staff to be \$3,000 per acre. In addition, the roadways had been graded and were concentrating flows, necessitating additional BMP protection, estimated by Board staff to be \$1,000 per acre. The total economic benefit received by the Discharger for not installing and maintaining appropriate erosion and sediment control BMPs is estimated by Board staff to be \$4,000 per acre, based on the slope and soil type of disturbed areas. Based on information submitted by the Discharger as part of the Notice of Violation response, Board staff calculated that approximately 15 acres of disturbed area was not adequately protected with BMPs. Therefore, the cost to stabilize this construction site is estimated to be \$60,000. The economic benefit is the savings incurred by the Discharger in not spending \$60,000 prior to the 28 November 2012 storm event. However, the site was stabilized by 14 December 2012. Therefore, the economic benefit can be calculated as the interest saved by not spending \$60,000 for a period of 17 days. Water Board Senior Economist staff used the US EPA's BEN model to determine the economic benefit, as required by the Enforcement Policy. The estimated value is \$61.

The Enforcement Policy states (p. 21) that the total liability shall be at least 10% higher than the economic benefit, "so that liabilities are not construed as the cost of doing business and the assessed liability provides a meaningful deterrent to future violations." The economic benefit plus 10% is \$69.

### **STEP 9 – Maximum and Minimum Liability Amounts**

a) Minimum Liability Amount: Economic Benefit plus 10%: **\$69**

Discussion: The Enforcement Policy requires that the minimum liability amount imposed not be below the economic benefit plus ten percent. As discussed above, the Central Valley Water Board Prosecution Team's estimate of the Discharger's economic benefit obtained from the violations cited in this Complaint is \$61. Therefore, the minimum liability amount pursuant to the Enforcement Policy is \$69.

b) Total Maximum Liability Amount: **\$2,390,000**

- i. Maximum per gallon liability amount for Violation #1, 30 November 2012:  $(193,500 - 1,000) \text{ gallons} \times \$10/\text{gallon} = \$1,925,000$
- ii. Maximum per gallon liability amount for Violation #1, 2 December 2012:  $(37,500 - 1,000) \text{ gallons} \times \$10/\text{gallon} = \$365,000$
- iii. Maximum per day liability amount for Violation #1:  $(2 \text{ days} \times \$10,000/\text{day}) = \$20,000$
- iv. Maximum per day liability amount for Violation #2:  $(6 \text{ days} \times \$10,000/\text{day}) = \$60,000$
- v. Maximum per day liability amount for Violation #3:  $(2 \text{ days} \times \$10,000/\text{day}) = \$20,000$

Discussion: The maximum administrative liability amount is the maximum amount allowed by CWC section 13385. Without the benefit of the alternative approach for calculating liability for

multiday violations under the Enforcement Policy, the Discharger could be assessed up to \$2,390,000 in administrative civil liabilities for the alleged violations.

The proposed liability falls within these maximum and minimum liability amounts.

**STEP 10 – Final Liability Amount**

Based on the foregoing analysis, and consistent with the Enforcement Policy, the final liability amount proposed for the alleged violations is **\$124,557**.

**STATE OF CALIFORNIA  
REGIONAL WATER QUALITY CONTROL BOARD  
SANTA ANA REGION**

**In the Matter of:**

**Placentia-Yorba Linda Unified School District  
1301 E. Orangethorpe Avenue  
Placentia, CA 92870**

**Attn: Mike Bailey**

**COMPLAINT NO. R8-2010-0024  
for  
ADMINISTRATIVE CIVIL LIABILITY**

**YOU ARE HEREBY GIVEN NOTICE THAT:**

1. Placentia-Yorba Linda Unified School District (hereinafter the Discharger) is alleged to have violated provisions of law for which the California Regional Water Quality Control Board, Santa Ana Region (hereinafter Regional Board), may impose administrative civil liability under California Water Code (hereinafter "CWC") §13385(c).
2. A hearing concerning this Complaint may be held before the Regional Board within ninety (90) days of the date of issuance of this Complaint, unless, pursuant to CWC §13323, the Discharger waives its right to a hearing. The waiver procedures are specified in the attached Waiver Form. The hearing in this matter is scheduled for the Regional Board's regular meeting on July 23, 2010, at the Loma Linda City Council Chambers, 25541 Barton Road, City of Loma Linda, California. The Discharger or its designated representative will have an opportunity to appear and be heard, and to contest the allegations in this Complaint and the imposition of civil liability by the Regional Board. An agenda for the meeting and the staff report relating to this item will be mailed to you not less than 10 days prior to the hearing date.
3. If a hearing is held on this matter, the Regional Board will consider whether to affirm, reject, or modify the proposed administrative civil liability or whether to refer the matter to the Attorney General for recovery of judicial civil liability. If this matter proceeds to hearing, the Prosecution Team reserves the right to seek an increase in the civil liability amount to cover the costs of enforcement incurred subsequent to the issuance of this Complaint through hearing.
4. The Discharger is alleged to have violated the following sections of the General Permit for Storm Water Discharges Associated with Construction Activity, Order No. 99-08-DWQ (General Permit):

A) Discharge Prohibition, Provision A.3:

"Storm water discharges shall not cause or threaten to cause pollution, contamination, or nuisance."

B) Special Provision C.2:

"All dischargers shall develop and implement a [Storm Water Pollution Prevention Plan] SWPPP in accordance with Section A: Storm Water Pollution Prevention Plan. The discharger shall implement controls to reduce pollutants in storm water discharges from their construction sites to the BAT/BCT<sup>1</sup> performance standard."

C) Section A.6:

"At a minimum, the discharger/operator must implement an effective combination of erosion and sediment control on all disturbed areas during the rainy season..."

5. THIS COMPLAINT IS BASED ON THE FOLLOWING FACTS:

- a. The General Permit regulates storm water discharges from construction activities of one acre or greater to waters of the United States. The Discharger is a public school district with headquarters at 1301 East Orangethorpe Avenue in Placentia, California. On May 24, 2007, the Discharger filed a Notice of Intent for coverage of its construction activities at the Yorba Linda High School site under the General Permit. Yorba Linda High School is located at 4175 Fairmont Boulevard in Yorba Linda, California. The NOI indicated that the construction activities would disturb 53 acres. Storm water runoff from the construction site is regulated under the State's General Permit, Waste Discharge Identification (WDID) No. 8 30C347137. Runoff from the site drains via the City's municipal storm drain system to Carbon Canyon Creek, which confluences with Reach 2 of the Santa Ana River.
- b. On March 24, 2009, Board staff conducted a routine inspection of the construction site. Staff observed that there was an ineffective combination of erosion and sediment controls throughout the site, perimeter sediment controls were inadequate, soil stockpiles were not adequately protected, trash and construction wastes were not adequately contained; the Storm Water Pollution Prevention Plan (SWPPP) was incomplete, and on-site storm drain inlets were inundated with sediment from sediment-laden storm water discharges.
- c. On April 3, 2009, the Discharger was issued a Notice of Violation (NOV) via certified mail that cited its inadequate implementation of pollution control measures and incomplete Storm Water Pollution Prevention Plan. The letter required that the Discharger to submit a response to the Regional Board office citing the actions that had been taken to come into compliance.
- d. On April 17, 2009, the Discharger responded to the NOV. The response stated pollution control measures had been improved and the Storm Water Pollution Prevention Plan had been updated.

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<sup>1</sup> BAT is the acronym for Best Available Technology; BCT is the acronym for Best Conventional Technology.

- e. On November 18, 2009, Board staff conducted an inspection of the construction site. Staff observed that there was an ineffective combination of erosion and sediment controls throughout the site, soil stockpiles were not adequately protected, and construction materials and waste were not adequately contained. Board staff walked the site with Mr. Shrader (Construction Manager) and Mr. Schoeneman (Assistant Supervisor) and explained the deficiencies that were noted in the site's BMP implementation.
- f. On December 7, 2009, Board staff re-inspected the site during a rain event. Staff observed ineffective erosion and sediment control measures. Soil stockpiles were without adequate erosion and sediment controls and the southern slope lacked adequate erosion and sediment controls. Staff observed the discharge of sediment-laden storm water from the site to the municipal separate storm sewer system due to inadequate BMP implementation.
- g. On December 8, 2009, the Discharger was issued a second Notice of Violation (NOV) via certified mail for violations observed during the November 18, 2009 inspection (these items had been orally conveyed to site personnel during the inspection). The letter cited inadequate implementation of pollution control measures. The letter required that the Discharger take immediate steps to come into compliance and required the Discharger to explain discrepancies between the post-construction BMPs identified in the SWPPP and what was observed on-site. The certified return receipt showed that the letter was received by the Discharger on December 9, 2009. The Discharger did not provide a written response to this NOV.
- h. On January 7, 2010, the Discharger was issued a third Notice of Violation (NOV) via certified mail for violations which included observations during the December 7, 2009 inspection. The letter cited an inadequate implementation of pollution control measures and incomplete SWPPP. The letter required that the Discharger submit a response to the Regional Board office by January 18, 2010, citing the actions that had been taken to come into compliance and a copy of the site SWPPP. The certified return receipt showed that the letter was received by the Discharger on January 8, 2010. The Discharger neither responded to the NOV nor submitted the site SWPPP by the deadline.
- i. On January 21, 2010, Board staff re-inspected the site during a rain event. Staff observed erosion and sediment controls had not been improved and degraded BMPs had not been maintained. Soil stockpiles were still without adequate erosion and sediment controls, there were ineffective erosion and sediment controls at the proposed playing fields, the southern slope was still unprotected and the soil stockpiles adjacent to a v-ditch were not contained by adequate erosion and sediment controls. Once again staff observed the discharge of sediment-laden storm water from the site to the municipal separate storm sewer system due to a lack of adequate BMPs.

- j. On February 11, 2010, the Discharger was issued a fourth Notice of Violation (NOV) via certified mail that cited its inadequate implementation of erosion and sediment control measures. The letter required that the Discharger submit a response to the Regional Board office citing the actions that had been taken to come into compliance and a copy of the Storm Water Pollution Prevention Plan. The certified return receipt showed that the letter was received by the Discharger on February 12, 2010. A response date of February 18, 2010 was set in the NOV.
  - k. On February 18, 2010, the Discharger submitted a response letter that partially addressed the violations that had been listed in the previous four NOVs. A copy of the site SWPPP was still not submitted to the Regional Board office as per the previous three NOVs.
  - l. On March 18, 2010, the Discharger submitted a copy of the site SWPPP, 71 days after the initial request.
6. The Discharger violated the General Permit by discharging storm water containing pollutants to waters of the United States from the construction site and by causing or threatening to cause a condition of pollution or nuisance. The Discharger also violated the General Permit by failing to develop and properly implement an effective SWPPP and by failing to maintain adequate pollution control measures. Pursuant to Water Code Section 13385(a)(2), civil liability may be imposed for the preceding violations.
  7. Pursuant to CWC §13385(c), the Regional Board may impose civil liability administratively for the above violations on a daily basis at a maximum of ten thousand dollars (\$10,000) for each day in which the violation occurs in accordance with CWC §13385(c)(1); or where there is a discharge, any portion of which is not susceptible to cleanup or is not cleaned up, and the volume discharged but not cleaned up exceeds 1,000 gallons, an additional liability not to exceed ten dollars (\$10) multiplied by the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons in accordance with CWC §13385(c)(2); or both.
  8. Pursuant to Section 13385(c), the total maximum assessment for which the Discharger is civilly liable is \$1,807,880 [40,000 for 4 days of violation that staff observed @ \$10,000/day; \$558,870 for the December 7, 2009 discharge [(56,887 gallons – first 1,000 gallons) @ \$10/gallon]; and \$1,209,010 for the January 21, 2010 discharge [(121,901 gallons - first 1,000 gallons) @ \$10/gallon]] for the violations cited in Paragraph 5, above.
  9. CWC §13385(e) specifies factors that the Regional Board shall consider in establishing the amount of civil liability. The Water Quality Enforcement Policy (Policy) adopted by the State Water Resources Control Board on November 19, 2009, establishes a methodology for assessing administrative civil liability pursuant to this statute. Use of methodology addresses the factors in CWC section 13385. The policy can be found at: [http://www.waterboards.ca.gov/water\\_issues/programs/enforcement/docs/enf\\_policy\\_fina111709.pdf](http://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/enf_policy_fina111709.pdf).

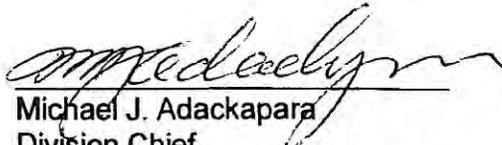
10. Attachment A presents the administrative civil liability derived from the use of the penalty methodology in the Policy. In summary, this penalty assessment is based on a consideration of the potential for harm from the discharge of sediment-laden storm water and the repeated failure to implement adequate control measures in a timely manner. After use of the penalty methodology, the Division Chief proposes that civil liability be imposed administratively on the Discharger in the amount of one hundred nine thousand dollars (\$109,000) for the violations cited above. This amount includes: (1) \$15,000 for 4 days of violation; (2) \$24,344 for the December 7, 2009 discharge of 55,887 gallons at \$0.44 per gallon (adjusted for culpability, cleanup, cooperation and history of violations); (3) \$52,664 for the January 21, 2010 discharge of 120,901 gallons at \$0.44 per gallon (adjusted for culpability, cleanup, cooperation, and history of violations); and (4) staff costs of \$17,100 (the total assessment of \$109,048 was adjusted to the nearest thousand).

#### WAIVER OF HEARING

The Discharger may waive its right to a hearing. If the Discharger chooses to do so, please sign the attached waiver form and return it, together with a check for \$109,000 payable to the State Water Pollution Cleanup and Abatement Account, in the enclosed preprinted envelope. If you waive your right to a hearing and pay the assessed amount, the Regional Board may not hold a hearing regarding this Complaint.

If you have any questions, please contact Mary Bartholomew at (951) 321-4586, Mark Smythe at (951) 782-4998, or me at (951) 782-3238. Legal questions should be directed to Reed Sato at (916) 341-5889.

6/10/2010  
Date

  
Michael J. Adackapara  
Division Chief  
Regional Board Prosecution Team



Linda S. Adams  
Secretary for  
Environmental Protection

# California Regional Water Quality Control Board Santa Ana Region

3737 Main Street, Suite 500, Riverside, California 92501-3348  
Phone (951) 782-4130 • FAX (951) 781-6288 • TDD (951) 782-3221  
www.waterboards.ca.gov/santaana



Arnold Schwarzenegger  
Governor

## WAIVER FORM FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT

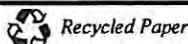
By signing this waiver, I affirm and acknowledge the following:

I am duly authorized to represent Placentia-Yorba Linda Unified School District (hereinafter "Discharger") in connection with Administrative Civil Liability Complaint No. R8-2010-0024 (hereinafter the "Complaint"). I am informed that California Water Code Section 13323, subdivision (b), states that, "a hearing before the regional board shall be conducted within 90 days after the party has been served [with the Complaint]. The person who has been issued a complaint may waive the right to a hearing."

(**OPTION 1: Check here if the Discharger waives the hearing requirement and will pay the liability in full.**)

- a. I hereby waive any right the Discharger may have to a hearing before the Regional Board.
- b. I certify that the Discharger will remit payment for the proposed civil liability in the full amount of one hundred nine thousand dollars (\$109,000) by check that references "Complaint No. R8-2010-0024" made payable to the State Water Pollution Cleanup and Abatement Account. Payment must be received by the Regional Board office no later than **June 23, 2010** or the Regional Board may adopt an Order requiring payment.
- c. I understand the payment of the above amount constitutes a proposed settlement of the Complaint, and that any settlement will not become final until after the 30-day public notice and comment period. Should the Regional Board receive significant new information or comments from any source (excluding the Regional Board's Prosecution Team) during this comment period, the Regional Board's Division Chief may withdraw the Complaint, return payment, and issue a new Complaint. I understand that this proposed settlement is subject to approval by the Executive Officer of the Regional Board, and that the Regional Board may consider this proposed settlement in a public meeting or hearing. I also understand that approval of the settlement will result in the Discharger having waived the right to contest the allegations in the Complaint and the imposition of civil liability.
- d. I understand that payment of the above amount is not a substitute for compliance with applicable laws and that continuing violations of the type alleged in the Complaint may subject the Discharger to further enforcement, including additional civil liability.

*California Environmental Protection Agency*



(**OPTION 2: Check here if the Discharger waives the 90-day hearing requirement in order to engage in settlement discussions.**) I hereby waive any right the Discharger may have to a hearing before the Regional Board within 90 days after service of the Complaint, but I reserve the ability to request a hearing in the future. I certify that the Discharger will promptly engage the Regional Board Prosecution Team in settlement discussions to attempt to resolve the outstanding violation(s). By checking this box, the Discharger requests that the Regional Board delay the hearing so that the Discharger and the Prosecution Team can discuss settlement. It remains within the discretion of the Regional Board to agree to delay the hearing. Any proposed settlement is subject to the conditions described above under "Option 1."

(**OPTION 3: Check here if the Discharger waives the 90-day hearing requirement in order to extend the hearing date and/or hearing deadlines. Attach a separate sheet with the amount of additional time requested and the rationale.**) I hereby waive any right the Discharger may have to a hearing before the Regional Board within 90 days after service of the Complaint. By checking this box, the Discharger requests that the Regional Board delay the hearing and/or hearing deadlines so that the Discharger may have additional time to prepare for the hearing. It remains within the discretion of the Regional Board to approve the extension.

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(Print Name and Title)

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(Signature)

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(Date)



# California Regional Water Quality Control Board Santa Ana Region



Linda S. Adams  
Secretary for  
Environmental Protection

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Arnold Schwarzenegger  
Governor

## HEARING PROCEDURE FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R8-2010-0024

ISSUED TO  
Placentia-Yorba Linda Unified School District  
1301 E. Orangethorpe Avenue  
Placentia, CA 92870  
Orange County

SCHEDULED FOR JULY 23, 2010

PLEASE READ THIS HEARING PROCEDURE CAREFULLY. FAILURE TO COMPLY WITH THE DEADLINES AND OTHER REQUIREMENTS CONTAINED HEREIN MAY RESULT IN THE EXCLUSION OF YOUR DOCUMENTS AND/OR TESTIMONY.

### **Background**

The Division Chief has issued an Administrative Civil Liability Complaint (hereinafter "Complaint") pursuant to California Water Code Section 13323 against Placentia-Yorba Linda Unified School District (hereinafter "Discharger") alleging that it has violated the General Permit for Storm Water Discharges Associated with Construction Activity, Order No. 99-08-DWQ, by discharging pollutants to waters of the United States associated with its construction activity. The Complaint proposes that administrative civil liability in the amount of one hundred nine thousand dollars (\$109,000) be imposed as authorized by Water Code Section 13385(c). A hearing is currently scheduled to be held before the Regional Board during its July 23, 2010 meeting.

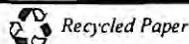
### **Purpose of Hearing**

The purpose of the hearing is to consider relevant evidence and testimony regarding the Complaint. At the hearing, the Regional Board will consider whether to issue an administrative civil liability order assessing the proposed liability, or a higher or lower amount, or reject the proposed liability. The public hearing on July 23, 2010 will commence at 9:00 a.m. or as soon thereafter as practicable, or as announced in the Regional Board meeting agenda. The meeting will be held at the Loma Linda City Council Chambers, 25541 Barton Road, City of Loma Linda, California. An agenda for the meeting will be issued at least ten days before the meeting and be posted on the Regional Board's web page at:

[http://www.waterboards.ca.gov/santaana/board\\_info/agendas/index.shtml](http://www.waterboards.ca.gov/santaana/board_info/agendas/index.shtml).

The agenda will include the final hearing date and location, and the start time for the meeting. Since the exact start time for this item is unpredictable, all interested parties are urged to be present from the start of the Board meeting.

*California Environmental Protection Agency*



### **Hearing Procedures**

The hearing will be conducted in accordance with this hearing procedure. This hearing procedure has been pre-approved by the Regional Board's Advisory Team in model format, but the Advisory Team may modify the procedure on its own or at the request of any party. A copy of the general procedures governing adjudicatory hearings before the Regional Board may be found at Title 23 of the California Code of Regulations, Section 648 et seq., and is available at <http://www.waterboards.ca.gov> or upon request. In accordance with Section 648, subdivision (d), any procedure not provided by this Hearing Procedure is deemed waived. Except as provided in Section 648 and herein, subdivision (b), Chapter 5 of the Administrative Procedures Act (commencing with Section 11500 of the Government Code) does not apply to this hearing.

**THE PROCEDURES AND DEADLINES HEREIN MAY BE AMENDED BY THE ADVISORY TEAM AT ITS DISCRETION. ANY OBJECTIONS TO THE HEARING PROCEDURE MUST BE RECEIVED BY THE REGIONAL BOARD'S ADVISORY TEAM BY JUNE 23, 2010 OR THEY WILL BE WAIVED. FAILURE TO COMPLY WITH THE DEADLINES AND REQUIREMENTS CONTAINED HEREIN MAY RESULT IN THE EXCLUSION OF DOCUMENTS AND/OR TESTIMONY.**

### **Hearing Participants**

Participants in this proceeding are designated as either "parties" or "interested persons." Designated parties to the hearing may present evidence and cross-examine witnesses and are subject to cross-examination. Interested persons generally may not submit evidence, cross-examine witnesses, or be subject to cross-examination, but may present policy statements. Policy statements may include comments on any aspect of the proceeding, but may not include evidence (e.g., photographs, eye-witness testimony, monitoring data). Interested persons who would like to submit evidence may do so if the evidence is submitted in accordance with the procedures and deadlines for submitting evidence described below. Interested persons who present evidence may be subject to cross-examination. Both designated parties and interested persons may be asked to respond to clarifying questions from the Regional Board, staff or others, at the discretion of the Regional Board.

The following participants are hereby designated as parties in this proceeding:

- (1) Regional Board Prosecution Team
- (2) Placentia-Yorba Linda Unified School District, also referred to as the Discharger

### **Requesting Designated Party Status**

Persons who wish to participate in the hearing as a designated party must request party status by submitting a request in writing (with copies to the existing designated parties) so that it is received by 5 p.m. on June 16, 2010 by Advisory Team Attorney David Rice, [davidrice@waterboards.ca.gov](mailto:davidrice@waterboards.ca.gov). The request shall include an explanation of the basis for status as a designated party (e.g., how the issues to be addressed in the hearing and the potential actions by the Regional Board affect the person), the information required of designated parties as provided below, and a statement explaining why the party or parties designated above do not adequately represent the person's interest. Any opposition to the request must be received by the Advisory Team, the person requesting party status, and all parties by 5 p.m. on June 23, 2010. The parties will be notified by 5 p.m. on June 28, 2010 in writing whether the request has been granted or denied.

*California Environmental Protection Agency*



### **Primary Contacts**

**Advisory Team:** **David Rice (email: [Davidrice@waterboards.ca.gov](mailto:Davidrice@waterboards.ca.gov))**  
**Phone: 916-341-5182**  
State Water Resources Control Board  
P.O. Box 100  
Sacramento, CA 95812-0100

**Prosecution Team:** **Reed Sato (email: [rsato@waterboards.ca.gov](mailto:rsato@waterboards.ca.gov))**  
**Phone: 916-341-5889**

**Shannon Chambers (email: [SChambers@waterboards.ca.gov](mailto:SChambers@waterboards.ca.gov))**  
**Phone: 916-324-6681**  
State Water Resources Control Board  
P.O. Box 100  
Sacramento, CA 95812-0100

**Discharger:** **Mike Bailey**  
**Email: (currently not available)**  
**Phone: 714-985-8770**  
Placentia-Yorba Linda Unified School District  
1301 East Orangethorpe Avenue  
Placentia, CA 92870-5302

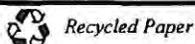
### **Separation of Functions**

To help ensure the fairness and impartiality of this proceeding, the functions of those who will act in a prosecutorial role by presenting evidence for consideration by the Regional Board (Prosecution Team) have been separated from those who will provide advice to the Regional Board (Advisory Team). Members of the Advisory Team are: David Rice, Staff Counsel, State Water Resources Control Board and Kurt Berchtold, Assistant Executive Officer, Santa Ana Regional Water Quality Control Board. Members of the Prosecution Team are: Reed Sato, Shannon Chambers, Office of Enforcement, State Water Resources Control Board; Michael Adackapara, Division Chief, Santa Ana Regional Water Quality Control Board; Mark Smythe, Coastal Storm Water Unit Chief, Santa Ana Regional Water Quality Control Board; Michael Kashak, Environmental Scientist, Santa Ana Regional Water Quality Control Board; and Mary Bartholomew, Environmental Scientist, Santa Ana Regional Water Quality Control Board. Any members of the Advisory Team who normally supervise any members of the Prosecution Team are not acting as their supervisors in this proceeding, and vice versa. Members of the Prosecution Team may have acted as advisors to the Regional Board in other, unrelated matters, but they are not advising the Regional Board in this proceeding. Members of the Prosecution Team have not had any ex parte communications with the members of the Regional Board or the Advisory Team regarding this proceeding.

### **Ex Parte Communications**

The designated parties and interested persons are forbidden from engaging in ex parte communications regarding this matter with members of the Advisory Team or members of the Regional Board. An ex parte contact is any written or verbal communication pertaining to the investigation, preparation, or prosecution of the Complaint between a member of a designated

***California Environmental Protection Agency***



party or interested person on the one hand, and a Regional Board member or an Advisory Team member on the other hand, unless the communication is copied to all other designated parties (if written) or made in a manner open to all other designated parties (if verbal). Communications regarding non-controversial procedural matters are not ex parte contacts and are not restricted. Communications among one or more designated parties and interested persons themselves are not ex parte contacts.

### **Hearing Time Limits**

To ensure that all participants have an opportunity to participate in the hearing, the following time limits shall apply: Each designated party shall have a combined 20 minutes to present evidence, cross-examine witnesses (if warranted), and provide a closing statement; and each interested person shall have 3 minutes to present a non-evidentiary policy statement. Participants with similar interests or comments are requested to make joint presentations, and participants are requested to avoid redundant comments. Participants who would like additional time must submit their request to the Advisory Team so that it is received no later than July 14, 2010. Additional time may be provided at the discretion of the Advisory Team (prior to the hearing) or the Regional Board Chair (at the hearing) upon a showing that additional time is necessary.

### **Submission of Evidence and Policy Statements**

The following information must be submitted in advance of the hearing:

1. All evidence (other than witness testimony to be presented orally at the hearing) that the Designated Party would like the Regional Board to consider. Evidence and exhibits already in the public files of the Regional Board may be submitted by reference as long as the exhibits and their location are clearly identified in accordance with Title 23, CCR, Section 648.3.
2. All legal and technical arguments or analysis.
3. The name of each witness, if any, whom the designated party intends to call at the hearing, the subject of each witness' proposed testimony, and the estimated time required by each witness to present direct testimony.
4. The qualifications of each expert witness, if any.
5. If the Discharger intends to argue an inability to pay the civil liability proposed in the Complaint (or an increased or decreased amount as may be imposed by the Regional Board), the Discharger should submit supporting evidence as set forth in the "ACL Fact Sheet" under "Factors that must be considered by the Board."

The Prosecution Team shall submit 15 hard copies of its information and one electronic copy of the information to Advisory Team Attorney David Rice so that it is received by 5 p.m. on July 8, 2010.

The remaining designated parties and interested persons who would like to submit evidence shall submit 15 hard copies of their information and one electronic copy of the information to Advisory Team Attorney David Rice so that they are received by 5 p.m. on July 8, 2010.

Any designated party that would like to submit information that rebuts the information previously submitted by other designated parties shall submit 15 hard copies of their rebuttal information and one electronic copy of the information to Advisory Team Attorney David Rice so that they are received by 5 p.m. on July 08, 2010. Rebuttal information shall be limited to the scope of the information previously submitted by the other designated parties. Rebuttal information that

is not responsive to information previously submitted by other designated parties may be excluded.

If the total amount of information submitted by any party is less than 15 pages, that party may submit the information by email, rather than in writing. In addition to the foregoing, each designated party shall submit (1) one copy of the above information to each of the other designated parties so that it is received by 5 p.m. on the deadline specified above.

Interested persons who would like to submit written non-evidentiary policy statements are encouraged to submit them to the Advisory Team as early as possible, but no later than July 8, 2010. Interested persons do not need to submit written non-evidentiary policy statements in order to speak at the hearing.

In accordance with Title 23, California Code of Regulations, Section 648.4, the Regional Board endeavors to avoid surprise testimony or evidence. Absent a showing of good cause and lack of prejudice to the parties, the Regional Board may exclude evidence and testimony that is not submitted in accordance with this hearing procedure. Excluded evidence and testimony will not be considered by the Regional Board and will not be included in the administrative record for this proceeding. Power Point and other visual presentations may be used at the hearing, but their content may not exceed the scope of other submitted written material. A copy of such material intended to be presented at the hearing must be submitted to the Advisory Team by July 15, 2010 for inclusion in the administrative record. Additionally, any witness who has submitted written testimony for the hearing shall appear at the hearing and affirm that the written testimony is true and correct, and shall be available for cross-examination.

#### **Request for Pre-hearing Conference**

A designated party may request that a pre-hearing conference be held before the hearing in accordance with Water Code Section 13228.15. A pre-hearing conference may address any of the matters described in subdivision (b) of Government Code Section 11511.5. Requests must contain a description of the issues proposed to be discussed during that conference, and must be submitted to the Advisory Team, with a copy to all other designated parties, as early as practicable.

#### **Evidentiary Objections**

Any designated party objecting to written evidence or exhibits submitted by another designated party must submit a written objection to the Advisory Team and all other designated parties so that it is received by 5 p.m. on July 14, 2010. The Advisory Team will notify the parties about further action to be taken on such objections and when that action will be taken.

#### **Evidentiary Documents and File**

The Complaint and related evidentiary documents are on file and may be inspected or copied at the Regional Board office at 3737 Main Street, Suite 500, Riverside, CA 92501 by contacting August Lucas (email: [alucas@waterboards.ca.gov](mailto:alucas@waterboards.ca.gov); phone: 951-782-7961). This file shall be considered part of the official administrative record for this hearing. Other submittals received for this proceeding will be added to this file and will become a part of the administrative record absent a contrary ruling by the Regional Board Chair. Many of these documents are also posted on-line at:  
[http://www.waterboards.ca.gov/santaana/public\\_notices/enforcement\\_actions.shtml](http://www.waterboards.ca.gov/santaana/public_notices/enforcement_actions.shtml).

Although the web page is updated regularly, to assure access to the latest information, you may contact Reed Sato ([rsato@waterboards.ca.gov](mailto:rsato@waterboards.ca.gov)) or Shannon Chambers ([SChambers@waterboards.ca.gov](mailto:SChambers@waterboards.ca.gov)).

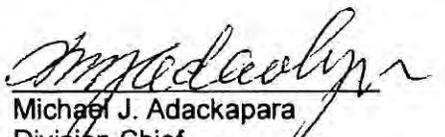
**Questions**

Questions concerning this hearing procedure may be addressed to the Advisory Team Attorney David Rice ([davidrice@waterboards.ca.gov](mailto:davidrice@waterboards.ca.gov)).

**IMPORTANT DEADLINES**

(Note: the Regional Board is required to provide a hearing within 90 days of issuance of the Complaint (Water Code Section 13323). The Advisory Team will generally adhere to this schedule unless the discharger waives that requirement.)

June 10, 2010	Prosecution Team issues Complaint to Discharger and Advisory Team, sends Hearing Procedure to Discharger and Advisory Team, and publishes Public Notice.
June 16, 2010	Deadline for requests for designated party status
June 23, 2010	Deadline for oppositions to requests for designated party status
June 23, 2010	Deadline for objections, if any, to proposed Hearing Procedure
June 23, 2010	Discharger's deadline for waiving right to hearing
June 28, 2010	Advisory Team issues decision on requests for designated party status, if any
July 08, 2010	Prosecution Team's deadline for all information required under "Submission of Evidence and Policy Statements"
July 08, 2010	Remaining Designated Parties' Deadline for all information required under "Submission of Evidence and Policy Statements"
July 08, 2010	Interested Persons' deadline for written non-evidentiary policy statements
July 14, 2010	All Designated Parties' deadline for rebuttal information and evidentiary objections, if any
July 14, 2010	Deadline for requests of additional time
July 15, 2010	Deadline for submission of hearing presentation material
July 23, 2010	Public Hearing

  
Michael J. Adackapara  
Division Chief  
Regional Board Prosecution Team

6/10/2010  
Date

# Order No. R8-2010-0024 Attachment A

Factors Used in Calculating Discharge Violation Penalties	
Potential Harm to Beneficial Uses	2 - Below moderate risk
Characteristics of Discharge	2 - Discharged material poses moderate risk
Susceptibility for Cleanup	1 - <50% of discharge susceptible to cleanup
Potential Harm Factor	5
Deviation from Permit Requirements	Major

Discharger Name/ID: 8 30C347137 - YLHS		Inadequate BMPs - no discharge	Inadequate BMPs - with discharge - Dec 7, 2009	Inadequate BMPs - with discharge - Jan 21, 2010
Step 1 Step 2 Discharge Violations	Potential Harm Factor			
	Per Gallon Factor			
	Gallons	55,887		120,901
Step 3 Non-Discharge Violations	Statutory / Adjusted Max per Gallon (\$)			
	Per Day Factor			
	Days	1		
Step 4 Additional Factors	Statutory Max per Day			
	Per Day Factor	0.4		
	Days	2		
Step 5 Total Base Liability Amount	Statutory Max per Day	10,000	10,000.00	10,000.00
	Total			
	Initial Amount of the ACL	\$ 8,000.00	\$ 8,000.00	\$ 8,000.00
Step 6 Ability to Pay & to Continue in Business	Culpability	1.2	1.2	1.2
	Cleanup and Cooperation	1	1.1	1.1
	History of Violations	1.1	1.1	1.1
Step 7 Other Factors as Justice May Require	Total Base Liability Amount	\$ 91,924.85	\$ 91,924.85	\$ 91,924.85
	Staff Costs	\$ 17,100	\$ 109,024.85	\$ 109,024.85
	Economic Benefit	\$ 39,218	\$ 109,024.85	\$ 109,024.85
Step 8 Minimum Liability Amount	Minimum Liability Amount	\$ 1,807,880		
	Maximum Liability Amount			
	Final Liability Amount	\$ 109,024.85	\$ 109,024.85	\$ 109,024.85
		Final (rounded to the nearest thousand)=\$109,000		

# Order No. R8-2010-0024 Attachment A

Factors Used in Calculating Discharge Violation Penalties	
Potential Harm to Beneficial Uses	2 - Below moderate risk
Characteristics of Discharge	2 - Discharged material poses moderate risk
Susceptibility for Cleanup	1 - <50% of discharge susceptible to cleanup
Potential Harm Factor	5
Deviation from Permit Requirements	Major

Discharger Name/ID:	8 30C347137 - YLHS		
	Inadequate BMPs - no discharge	Inadequate BMPs - with discharge - Dec 7, 2009	Inadequate BMPs - with discharge - Jan 21, 2010
<b>Step 1</b>	Potential Harm Factor	5	5
<b>Step 2</b>	Per Gallon Factor	0.15	0.15
	Gallons	55,887	120,801
	Statutory / Adjusted Max per Gallon (\$)	2.00	2.00
	Total	\$ 1,117.74	\$ 2,416.02
<b>Step 3</b>	Per Day Factor	0.15	0.15
	Days	1	1
	Statutory Max per Day	10000.00	10000.00
	Total	\$ 1,500.00	\$ 1,500.00
<b>Step 4</b>	Per Day Factor	0.4	0.4
	Days	2	2
	Statutory Max per Day	10,000	10,000
	Total	\$ 8,000.00	\$ 8,000.00
<b>Step 5</b>	Initial Amount of the ACL	\$ 9,600.00	\$ 18,266.10
<b>Step 6</b>	Culpability	1.2	1.2
<b>Step 7</b>	Cleanup and Cooperation	1	1
<b>Step 8</b>	History of Violations	1.1	1.1
<b>Step 9</b>	Total Base Liability Amount	\$ 91,924.85	\$ 37,770.30
<b>Step 10</b>	Ability to Pay & to Continue in Business	1	1
	Other Factors as Justice May Require	1	1
	Staff Costs	\$ 17,100	\$ 21,919.32
	Economic Benefit	\$ 39,218	\$ 24,111.25
	Minimum Liability Amount	\$ 1,807,880	\$ 28,522.38
	Maximum Liability Amount	\$ 109,024.85	\$ 49,856.80
	Final Liability Amount	\$ 109,024.85	\$ 54,842.48

Final (rounded to the nearest thousand)=\$109,000

**STATE OF CALIFORNIA  
REGIONAL WATER QUALITY CONTROL BOARD  
SANTA ANA REGION**

**In the Matter of:**

**EI-PLA 75, LLC  
9952 South Santa Monica Blvd., Suite 200  
Beverly Hills, CA 90212**

**Attn: Roger Hatch**

**COMPLAINT NO. R8-2010-0025  
for  
ADMINISTRATIVE CIVIL LIABILITY**

**YOU ARE HEREBY GIVEN NOTICE THAT:**

1. EI-PLA 75, LLC (hereinafter the Discharger) is alleged to have violated provisions of law for which the California Regional Water Quality Control Board, Santa Ana Region (hereinafter Regional Board) may impose administrative civil liability under California Water Code (hereinafter "CWC") §13385(c).
2. A hearing concerning this Complaint may be held before the Regional Board within ninety (90) days of the date of issuance of this Complaint, unless, pursuant to CWC §13323, the Discharger waives its right to a hearing. The waiver procedures are specified in the attached Waiver Form. The hearing in this matter is scheduled for the Regional Board's regular meeting on July 23, 2010, at the City Council Chambers of Loma Linda, 25541 Barton Road, City of Loma Linda, California. The Discharger or its designated representative will have an opportunity to appear and be heard, and to contest the allegations in this Complaint and the imposition of civil liability by the Regional Board. An agenda for the meeting and the staff report relating to this item will be mailed to you not less than 10 days prior to the hearing date.
3. If a hearing is held on this matter, the Regional Board will consider whether to affirm, reject, or modify the proposed administrative civil liability or whether to refer the matter to the Attorney General for recovery of judicial civil liability. If this matter proceeds to hearing, the Prosecution Team reserves the right to seek an increase in the civil liability amount to cover the costs of enforcement incurred subsequent to the issuance of this Complaint through hearing.
4. The Discharger is alleged to have violated the following sections of the General Permit for Storm Water Discharges Associated with Construction Activity, Order No. 99-08-DWQ (General Permit):
  - A) Discharge Prohibition (Provision) A.3:

"Storm water discharges shall not cause or threaten to cause pollution, contamination, or nuisance."

C) Special Provision C.2:

"All dischargers shall develop and implement a SWPPP<sup>1</sup> in accordance with Section A: Storm Water Pollution Prevention Plan. The discharger shall implement controls to reduce pollutants in storm water discharges from their construction sites to the BAT/BCT<sup>2</sup> performance standard."

D) Section A.6:

"At a minimum, the discharger/operator must implement an effective combination of erosion and sediment control on all disturbed areas during the rainy season..."

5. THIS COMPLAINT IS BASED ON THE FOLLOWING FACTS:

- a) The General Permit regulates storm water discharges from construction activities of one acre or greater to waters of the United States. The Discharger is a land developer with headquarters located at 9952 South Santa Monica Blvd., Suite 200 in Beverly Hills, California. According to the Notice of Intent, filed by the Discharger, construction on the 11.4-acre Crescent Heights development, located on the northeast corner of Richfield Road and Orchard Drive in the city of Placentia, California, began on June 1, 2006. Runoff from the site is regulated under the State's General Permit, WDID No. 8 30C341422. Runoff from the site drains via the City's municipal storm drain system to Atwood Channel which is tributary to the Santa Ana River.
- b) The City of Placentia took a number of enforcement actions against the Discharger for violations of its requirements related to the construction activities at the site. Documentation provided by the City of Placentia included an Administrative Compliance Order issued by the City on October 2, 2008 for ineffective erosion controls and tracking of sediment onto City streets. This was followed by two Stop Work Orders, a Cease and Desist Order, a violation notice, a \$100 citation and finally a \$200 citation on March 4, 2009.
- c) On March 10, 2009, Board staff conducted an inspection of the construction site in response to a complaint from the City of Placentia. Staff noted that the Discharger failed to employ the following: an effective combination of erosion and sediment controls, effective tracking controls, perimeter controls, effective trash and waste management, and storm drain protection. Additionally, the SWPPP was incomplete, and there was an active discharge from a fire hydrant that was being used to supply the site with water. The discharge was mobilizing sediment that had been tracked onto the street.

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<sup>1</sup> SWPPP=Storm Water Pollution Prevention Plan

<sup>2</sup> BAT is the acronym for Best Available Technology; BCT is the acronym for Best Conventional Technology.

- d) On March 17, 2009, the Discharger was issued a Notice of Violation (NOV) by Board staff, via certified mail that cited the violations observed during the March 10, 2009 inspection. The letter required the Discharger to submit a letter to the Regional Board citing the actions that had been taken to come into compliance and provide a certified updated copy of the site SWPPP. A response date of March 31, 2009 was set in the NOV. No response to the NOV was received by Board staff, nor was a SWPPP submitted as required by the NOV.
- e) On March 23, 2009, Board staff received a phone complaint from another developer, stating that the Discharger was "not following runoff/erosion controls" and that sediment-laden discharges were flowing down the street during the previous weekend rains.
- f) On March 26, 2009, Board staff conducted a second inspection of the construction site in response to the March 23, 2009 complaint. During the inspection, Board staff noted that site's erosion and sediment control BMPs, entrance and exit tracking BMPs, perimeter BMPs, housekeeping, and inlet protection BMPs were severely inadequate. Further, the City of Placentia advised Board staff that the contractor had washed concrete onto soils since the last inspection, rather than using a concrete washout containment BMP. Site personnel were instructed to use proper concrete washout BMPs for cementitious wastes and to implement adequate site BMPs to control the discharge of sediment and other pollutants from the site.
- g) On April 1, 2009, Board staff conducted a third inspection of the site. No improvement to the site's erosion and sediment control BMPs, entrance/exit tracking BMPs, perimeter BMPs, housekeeping, and inlet protection BMPs had been implemented. Further, Board staff had been informed that the site personnel had washed concrete onto the ground after they were instructed by Board staff and the City not to do so. The use of a proper concrete washout was again discussed with the Discharger. The Discharger had not updated the SWPPP as was required by the March 17, 2009 NOV.
- h) On April 9, 2009, Board Staff conducted a fourth inspection of the site. While some improvement had been made to the erosion and sediment control BMPs, as well as the perimeter and inlet protection BMPs, the entrance/exit tracking BMPs were still inadequate, as evidenced by sediment tracking onto City streets and housekeeping (trash) continued to be a problem. Finally, the site SWPPP had not been revised, as was required by the March 17, 2009 NOV.
- i) On May 5, 2009, Board Staff conducted a fifth inspection of the site with the new site superintendent. Housekeeping had been improved, but tracking remained an issue. Stucco operations were taking place with inadequate BMPs. Stucco waste and water were discharged directly to soils. A worker was observed washing his tools directly onto the soils. The site superintendent agreed to address these concerns and provided an emailed response to Board staff regarding improved BMP implementation.

- j) On December 29, 2009, Board staff conducted a compliance inspection of the site. While the northern 3 acres of the site consisted of occupied housing, active construction (grading) was taking place on the southern 7-8 acres. Erosion controls applied during the 2008-9 rainy season had been disturbed or degraded and were no longer functional. Perimeter controls, where installed, were generally not installed properly or were not maintained. There was evidence that sediment had flowed over the retaining wall and left the site. On-site storm drain inlets were not adequately protected. Tracking controls were not implemented. Stained soil was observed around several open buckets and five-gallon pails which were filled with used paint, form oil, stain and used motor oil. There was evidence of paint rinsing on to unprotected soil. The SWPPP was not available on site.
  - k) On January 7, 2010, the Discharger was issued an NOV via certified mail that cited the violations observed during the December 29, 2009 inspection. The letter required the Discharger to submit a letter to Regional Board staff citing the actions that had been taken to come into compliance with the General Permit and to provide a copy of the SWPPP. A response date of January 19, 2010 was set in the NOV.
  - l) On January 19, 2010, Board staff conducted an inspection of the construction site during a rain event. Sediment-laden water was observed cascading over the site's retaining wall and entering an unprotected storm drain inlet at the street level. Sediment and debris flowed from the site at several discharge points and entered unprotected storm drain inlets. Sediment-laden water was entering an unprotected drop inlet on site. Perimeter controls, where applied, were failing throughout the site and no erosion controls were observed on site. Material and buckets of fluids were stored on unprotected soil. There was evidence of concrete washing directly on to soil. Mr. Rick Leyva, site superintendent, arrived during the inspection and took no corrective actions while Board staff were present.
  - m) On January 21, 2010, an email was received from the Discharger stating that on January 4, 2010, the Discharger's field staff had addressed all of the concerns listed in the January 7, 2010 NOV. However the copy of the site SWPPP was not provided as requested in the NOV.
  - n) On March 11, 2010, after 17 email correspondence, a copy of the site SWPPP was received by Board staff, 51 days after the date required by the January 7 NOV.
6. The Discharger violated the General Permit by discharging storm water containing pollutants to waters of the United States from the construction site and by causing or threatening to cause a condition of pollution or nuisance. The Discharger also violated the General Permit by failing to develop and properly implement an effective SWPPP and by failing to maintain adequate pollution control measures. Pursuant to Water Code Section 13385(a)(2), civil liability may be imposed for the preceding violations.

7. Pursuant to CWC §13385(c), the Regional Board may impose civil liability administratively for the above violations on a daily basis at a maximum of ten thousand dollars (\$10,000) for each day in which the violation occurs in accordance with CWC §13385(c)(1); or where there is a discharge, any portion of which is not susceptible to cleanup or is not cleaned up, and the volume discharged but not cleaned up exceeds 1,000 gallons, an additional liability not to exceed ten dollars (\$10) multiplied by the number of gallons by which the volume discharge but not cleaned up exceeds 1,000 gallons in accordance with CWC §13385(c)(2); or both.
8. Pursuant to Section 13385(c), the total maximum assessment for which the Discharger is civilly liable is \$1,086,310 [\$70,000 for 7 days of violation that staff observed @ \$10,000/day; and, \$1,016,310 for the January 19, 2010 discharge [102,631 gallons – first 1,000 gallons) x \$10/gallon]] for the violations cited in Paragraph 5, above.
9. CWC §13385(e) specifies factors that the Regional Board shall consider in establishing the amount of civil liability. The Water Quality Enforcement Policy (Policy) adopted by the State Water Resources Control Board on November 19, 2009, establishes a methodology for assessing administrative civil liability pursuant to this statute. Use of methodology addresses the factors in CWC section 13385. The policy can be found at: [http://www.waterboards.ca.gov/water\\_issues/programs/enforcement/docs/enf\\_policy\\_fina1111709.pdf](http://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/enf_policy_fina1111709.pdf)
10. Attachment A presents the administrative civil liability derived from the use of the penalty methodology in the Policy. In summary this penalty assessment is based on a consideration of the potential for harm from the excessive discharge of sediment-laden storm water and the repeated failure to implement adequate control measures in a timely manner. After use of the penalty methodology, the Division Chief proposes that civil liability be imposed administratively on the Discharger in the amount of one hundred ninety-seven thousand dollars (\$197,000) for the violations cited above. This amount includes: (1) \$37,000 for seven days of violations at \$5,290 per day; (2) \$142,000 for the discharge of 101,631 gallons at approximately \$1.40 per gallon; and (3) staff costs of \$18,000.

#### WAIVER OF HEARING

The Discharger may waive its right to a hearing. If the Discharger chooses to do so, please sign the attached waiver form and return it, together with a check for \$197,000 payable to the State Water Pollution Cleanup and Abatement Account, in the enclosed preprinted envelope. If you waive your right to a hearing and pay the assessed amount, the Regional Board may not hold a hearing regarding this Complaint.

If you have any questions, please contact Mike Kashak at (951) 782-4469, Mark Smythe at (951) 782-4998, or me at (951) 782-3238.

*May 27, 2010*  
Date

  
Michael J. Adackapara  
Division Chief  
Regional Board Prosecution Team

# ORDER NO. R8-2010-0023 ATTACHMENT A

## Potential Harm Factor

- 3 = Moderate
- 2 = Discharged material poses moderate risk
- < 50% of Discharge Susceptible to Cleanup or Abatement
- Major

Discharger Name/ID:	B 30C341422 - EL-PLA 75, LLC (Crescent Heights, Placentia)		Inadequate BMPs - no discharge	Inadequate BMPs - with discharge - Jan 19, 2010
<b>Step 1</b>	Potential Harm Factor (Generated from Burton)			
<b>Step 2</b>	Per Gallon Factor (Generated from Burton)			
	Gallons		101,831	
	Statutory / Adjusted Max per Gallon (\$)		3.00	
	<b>Total</b>			\$ 67,076
	Per Day Factor (Generated from Burton)		0.22	
	Days		1	
	Statutory Max per Day		10,000.00	
	<b>Total</b>			\$ 2,200
<b>Step 3</b>	Per Day Factor	0.4		
	Days	6		
	Statutory Max per Day	\$ 10,000		
	<b>Total</b>			\$ 24,000.00
	<b>Initial Amount of the ACL</b>			\$ 24,000.00
<b>Step 4</b>	Culpability	1.35		
	Cleanup and Cooperation	1		
	History of Violations	1.2		
	<b>Total Base Liability Amount</b>			\$ 179,216.74
<b>Step 5</b>	Ability to Pay & to Continue in Business	1		
<b>Step 6</b>	Other Factors as Justice May Require	1		
	Staff Costs	\$ 18,150		
	Economic Benefit	\$ 26,235		
<b>Step 7</b>	Minimum Liability Amount			
<b>Step 8</b>	Maximum Liability Amount	\$ 4,987,890		
<b>Step 9</b>	<b>Final Liability Amount</b>			\$ 197,366.74
<b>Step 10</b>				\$ 197,366.74

Final (rounded to the nearest thousand)=\$197,000

1 DAVID M. BOYERS, Supervising Senior Staff Counsel (SBN 199934)  
2 MAYUMI E. OKAMOTO, Staff Counsel (SBN 253243)  
3 Office of Enforcement  
4 State Water Resources Control Board  
5 1001 I Street, 16<sup>th</sup> Floor  
6 Sacramento, California 95814  
7 Telephone: 916-341-5276  
8 Fax: 916-341-5896  
9 E-mail: david.boyers@waterboards.ca.gov

10 Attorneys for Prosecution Team

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BEFORE THE CALIFORNIA WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

11 In the Matter of: )  
12 )  
13 Donahue Schriber Asset Management ) **Prosecution Team Rebuttal to**  
14 Corporation; Rocklin Crossings, Placer ) **Evidence and Argument Submitted**  
15 County ) **by Donahue Schriber Corporation**  
16 ) **and S.D. Deacon**  
17 Administrative Civil Liability Complaint )  
18 No. R5-2013-0519 )

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19 The Prosecution Team submits the following rebuttal to the evidence and argument  
20 submitted by Donahue Schriber Asset Management Corporation (Donahue Schriber) and S.D.  
21 Deacon (Collectively "Dischargers"). This rebuttal responds to the two main contentions made by  
22 the Dischargers in their evidence and argument submittals: (1) that the use of \$10 per gallon to  
23 calculate the base liability amount proposed in the Administrative Civil Liability (ACL) Complaint is  
24 inequitable and inconsistent with the State Water Resources Control Board's (State Water Board)  
25 Water Quality Enforcement Policy, as amended by State Water Board Resolution No. 2009-0083  
26 and made effective May 20, 2010 (Enforcement Policy); and (2) that the discharge resulted in  
27 only minor harm or potential for harm to beneficial uses.

28

I. **THE USE OF \$10.00 PER GALLON IS APPROPRIATE TO DETERMINE THE**  
**BASE LIABILITY AMOUNT FOR THE DISCHARGE VIOLATION**

1 Water Code section 13385 subdivision (c) states, in relevant part, that civil liability may be  
2 imposed administratively by the regional board in an amount not to exceed the sum of ten  
3 thousand dollars (\$10,000) for each day in which the violation occurs and ten dollars (\$10)  
4 multiplied by the number of gallons by which the volume discharged but not cleaned up exceeds  
5 1,000 gallons.<sup>1</sup> Subdivision (e) of Water Code section 13385 specifies a number of factors that  
6 the regional board shall consider in determining the appropriate amount of liability, including the  
7 nature, circumstances, extent, and gravity of the violation(s), whether the discharge is susceptible  
8 to cleanup or abatement, the degree of toxicity of the discharge, and with respect to the violator,  
9 the ability to pay, the effect on the violator's ability to continue in business, any voluntary cleanup  
10 efforts undertaken, any prior history of violations, the degree of culpability, economic benefit or  
11 savings, if any, resulting from the violation, and any other matters that justice may require. The  
12 Enforcement Policy establishes a methodology for assessing administrative civil liability using the  
13 factors outlined in Water Code section 13385(e).

14 **A. The use of \$10.00 per gallon to calculate the initial liability amount in the ACL**  
15 **Complaint is consistent with the plain language in the Enforcement Policy**

16 The Dischargers both vehemently contend that the Enforcement Policy *mandates* that the  
17 Central Valley Regional Water Quality Control Board (Central Valley Water Board) calculate the  
18 base liability amount for the stormwater discharge violation alleged in ACL Complaint No. 2013-  
19 0519 using a maximum of \$2.00 per gallon rather than the statutory maximum penalty of \$10.00  
20 per gallon. More generally, the Dischargers contend that, regardless of volume, *all* discharges of  
21 sewage and stormwater are subject to a maximum liability of \$2.00 per gallon and that the per  
22 gallon liability may not be increased unless the discharge was a dry weather sewage discharge or  
23 the discharge resulted in a measurable impact to beneficial uses. These contentions are without  
24 merit.

25  
26 \_\_\_\_\_  
27 <sup>1</sup> The regional board may also request that the Attorney General seek civil liability imposed judicially in an amount not to  
28 exceed \$25,000 for each day in which the violation occurs and \$25 multiplied by the number of gallons by which the  
volume discharged but not cleaned up exceeds 1,000 gallons. (Wat. Code, § 13385, subd. (b).)

1           The plain language of the Enforcement Policy provides that the default maximum liability  
2 that should be applied when determining the base liability amount for any discharge violations is  
3 \$10.00 per gallon. The exception cited by the Dischargers applies *only if* the discharge is  
4 determined to be “high volume.” Where the plain language of the Policy is clear and  
5 unambiguous, it must be followed. (See Barnhart v. Walton (2002) 535 U.S. 212; Witt Home  
6 Ranch Inc. v, County of Sonoma (2008) 165 Cal.App.4<sup>th</sup> 543.)

7           The Enforcement Policy states, “[e]xcept for certain high-volume discharges discussed  
8 below, the per gallon assessment would then be the Per Gallon Factor multiplied by the number of  
9 gallons [discharged] subject to penalty multiplied by *the maximum per gallon penalty amount*  
10 *allowed under the California Water Code.*” (Exhibit 87, p. 13, emphasis added.) Using the  
11 maximum per gallon penalty of \$10.00 as the default base volume liability assessment is  
12 reiterated later in the Enforcement Policy; “[t]he Water Boards *shall* apply the above per gallon  
13 factor to the *maximum per gallon amounts allowed under the statute for the violations involved.*”  
14 (Id., at 14, emphasis added.) Again, the exception to this general rule is where the discharge is  
15 “high volume.” The State Water Board provided for this exception in a section of the Enforcement  
16 Policy it entitled, “High Volume Discharges.” That section provides in its entirety:

17  
18           ***High Volume Discharges***

19           The Water Boards shall apply the above per gallon factor to the maximum per  
20 gallon amounts allowed under the statute for the violations involved. Since the  
21 volume of sewage spills and releases of stormwater from construction sites and  
22 municipalities can be very large for sewage spills and releases of municipal  
23 stormwater or stormwater from construction sites, a maximum amount of \$2.00  
24 per gallon should be used with the above factor to determine the per gallon  
amount for sewage spills and stormwater. Similarly, for releases of recycled  
water that has been treated for reuse, a maximum of \$1.00 per gallon should be  
used with the above factor. Where reducing these maximum amounts results in  
an inappropriately small penalty, such as dry weather discharges or small volume  
discharges that impact beneficial uses, a higher amount, up to the maximum per  
gallon amount may be used. (Id.)

25  
26           The phrase, “[s]ince the volume of sewage spills and releases of stormwater from  
27 construction sites and municipalities *can be very large* [..]” clearly recognizes that, in some  
28 instances, sewage spills and releases of stormwater from construction sites and municipalities

1 *may not be* very large. Only in those cases where the discharge *is* very large, i.e. where the  
2 discharge is considered “high volume”, should the base liability be calculated using a maximum of  
3 \$2.00 per gallon. If the discharge is not determined to be “high volume” then the base liability  
4 amount should be calculated using \$10.00 per gallon.<sup>2</sup> This interpretation is consistent with  
5 previous language cited above which assigns “*the maximum per gallon penalty amount allowed*  
6 *under the California Water Code*” for discharges “*except for certain high-volume discharges*”  
7 discussed in the “High Volume Discharges” section.

8 The Discharger’s interpretation impermissibly ignores critical qualifying language in the  
9 Enforcement Policy, and turns the entire meaning of the “Per Gallon Assessments for Discharge  
10 Violations” and the “High Volume Discharge” sections of the Enforcement Policy on their heads by  
11 suggesting that penalties for *all* discharges of sewage and stormwater that give rise to  
12 administrative civil liability should be calculated using a reduced maximum of \$2.00 per gallon  
13 regardless of volume. If the State Water Board had intended that *all* sewage spills and stormwater  
14 discharges be calculated using \$2.00 per gallon, regardless of size, it could have easily provided  
15 for that in the Enforcement Policy. It did not. It created a section whereby liability for “high  
16 volume” discharges only is calculated using a maximum of \$2.00 per gallon.

17 **B. The use of \$10.00 per gallon is consistent with the manner in which the Central**  
18 **Valley Regional Board and other Regional Water Boards have applied the**  
19 **Enforcement Policy.**

20 Since the Enforcement Policy became effective on May 20, 2010, the Prosecution Team  
21 identified only twelve ACL Complaints or Stipulated ACL Orders that have been issued throughout  
22 the state where liability has been proposed for construction stormwater violations.<sup>3</sup> Of these, only  
23

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24 <sup>2</sup> The Enforcement Policy does not define “high volume” so the Regional Board may use its discretion in deciding  
25 whether a discharge volume qualifies as a high volume discharge. The Prosecution Team recommends that the board  
26 find that the amount discharged in this case, 76,613 gallons, was not a high volume discharge.

27 <sup>3</sup> (1) ACL Complaint No R8-2010-0024 (S.D. Deacon Exhibit F);

28 (2) ACL Complaint No. R8-2010-0025 (S.D. Deacon Exhibit G);

(3) ACL Complaint No R2-2010-0094 (Exhibit 88);

(4) ACL Complaint No. R2-2010-0071 (Exhibit 89);

[Footnote continued on next page.]

1 four (not including the ACL Complaint issued in this case) alleged discharges of sediment laden  
2 stormwater where liability was proposed on a per gallon basis. Thus, the pool of analogous cases  
3 from which the Central Valley may draw from for guidance in this matter is extremely small. Each  
4 of the four analogous cases is discussed below.

5 In its brief, S.D. Deacon contends that “[e]very construction stormwater ACL penalty found  
6 in California that was imposed after adoption of the 2010 Enforcement Policy, except one [in the  
7 Santa Ana Region], has used \$2.00 per gallon as the starting point for calculating base liability.”  
8 (S.D. Deacon’s Submission of Evidence & Argument, p. 13.) This statement is simply false. On 3  
9 May 2011, the San Francisco Regional Water Quality Control Board adopted Order No. R2-2011-  
10 0071, imposing \$381,450 in liability against the California Department of Transportation  
11 (CalTrans) for construction stormwater violations, including discharge violations similar to those at  
12 issue here where the base liability amount was calculated using \$10.00 per gallon discharged.  
13 (Exhibit 89.) In that case, the ACL Complaint alleged that CalTrans had failed to implement  
14 appropriate BMPs, failed to timely prepare and submit a required SWPPP amendment, and  
15 discharged 64,000 gallons of turbid water and sediment. To calculate the base liability for the

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16  
17 (5) ACL Complaint No. R9-2010-0084 (Accessed from  
[http://www.waterboards.ca.gov/rwqcb9/board\\_info/agendas/2011/Oct/item8/Supporting\\_Doc\\_2.pdf](http://www.waterboards.ca.gov/rwqcb9/board_info/agendas/2011/Oct/item8/Supporting_Doc_2.pdf) and for which the  
Prosecution Team request official notice be taken);

18 (6) ACL Complaint No. R8-2010-0050 (Accessed from  
[http://www.waterboards.ca.gov/rwqcb8/board\\_decisions/adopted\\_orders/orders/2010/10\\_050\\_ACLC\\_CALTRANS\\_MC\\_MCONSTRUCTION\\_SKANSKAUSA.pdf](http://www.waterboards.ca.gov/rwqcb8/board_decisions/adopted_orders/orders/2010/10_050_ACLC_CALTRANS_MC_MCONSTRUCTION_SKANSKAUSA.pdf) and for which the Prosecution Team request official notice be taken);

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20 (7) ACL Complaint No. R4-2011-0188 (Accessed from  
[http://www.waterboards.ca.gov/losangeles/water\\_issues/programs/enforcement/acl\\_docs/2011/Complaint%20No.%20R4-2011-0188.pdf](http://www.waterboards.ca.gov/losangeles/water_issues/programs/enforcement/acl_docs/2011/Complaint%20No.%20R4-2011-0188.pdf) and for which the Prosecution Team request official notice be taken);

21  
22 (8) ACL Complaint No. R5-2012-0500 (Accessed from  
[http://www.swrcb.ca.gov/rwqcb5/board\\_decisions/adopted\\_orders/nevada/r5-2012-0500\\_aclc.pdf](http://www.swrcb.ca.gov/rwqcb5/board_decisions/adopted_orders/nevada/r5-2012-0500_aclc.pdf) and for which the  
Prosecution Team request official notice be taken);

23 (9) ACL Complaint No. R6V-2012-0049 (Accessed from  
[http://www.waterboards.ca.gov/rwqcb6/board\\_decisions/adopted\\_orders/2012/docs/r6v\\_2012\\_0049.pdf](http://www.waterboards.ca.gov/rwqcb6/board_decisions/adopted_orders/2012/docs/r6v_2012_0049.pdf) and for which  
the Prosecution Team request official notice be taken);

24  
25 (10) Stipulated ACL Order No. R2-2011-0054 (Accessed from  
[http://www.swrcb.ca.gov/rwqcb2/board\\_decisions/adopted\\_orders/2011/R2-2011-0054.pdf](http://www.swrcb.ca.gov/rwqcb2/board_decisions/adopted_orders/2011/R2-2011-0054.pdf) and for which the  
Prosecution Team request official notice be taken);

26 (11) ACL Complaint No. R5-2013-0521 (Accessed from  
[http://www.swrcb.ca.gov/rwqcb5/board\\_decisions/adopted\\_orders/placer/r5-2013-0521\\_enf.pdf](http://www.swrcb.ca.gov/rwqcb5/board_decisions/adopted_orders/placer/r5-2013-0521_enf.pdf) and for which the  
Prosecution Team request official notice be taken); and

27  
28 (12) ACL Complaint No. R5-2013-0520 (S.D. Deacon Exhibit E)

1 64,000 gallon discharge, a maximum per gallon liability amount of \$10.00 was used. The volume  
2 discharged in that case, as in this case, is relatively low; therefore, the liability was assessed using  
3 the maximum per gallon amount of \$10.00 rather than the \$2.00 per gallon amount for high  
4 volume discharges.

5 The Dischargers also contend that the ACL Complaint issued in this matter is inconsistent  
6 with ACL Complaint No. R5-2013-0520 issued to HBT of Saddle Ridge, LLC for discharges of  
7 stormwater associated with construction activity at the Cascade Crossing construction site.  
8 Specifically, the Dischargers claim that Central Valley Water Board calculated the base liability  
9 amount using \$2.00 per gallon for a discharge of 37,500 gallons. The Dischargers are mistaken.  
10 In the ACL Complaint issued for the Cascade Crossing site, there were two discharges that  
11 occurred which gave rise to liability. The first discharge of 193,500 gallons occurred on 30  
12 November 2012; the second discharge of 37,500 gallons occurred on 2 December 2012. Both  
13 discharges occurred during a single qualifying rain event, which is defined in the Construction  
14 General Permit as “any event that produces 0.5 inches or more precipitation with a 48 hour or  
15 greater period between rain events.” Because the discharges occurred during a single qualifying  
16 rain event, the amounts discharged were added and the cumulative amount of 230,500 gallons  
17 was considered a “high volume” discharge that qualified for the reduced base liability amount of  
18 \$2.00 per gallon in the Enforcement Policy. The discharge at the Cascade Crossing construction  
19 site was over three times higher in volume than the discharge at issue in this case, which is much  
20 closer in volume to the 64,000 gallons that was not considered high volume in the CalTrans case.

21 Finally, the Dischargers cite to two construction stormwater enforcement actions from the  
22 Santa Ana Regional Water Quality Control Board (Santa Ana Water Board) to support their  
23 contention that using \$10.00 per gallon to calculate the base liability amount for construction  
24 stormwater discharges is unprecedented. In the first case, an ACL Complaint was issued to ELI-  
25 PLA proposing a liability amount of \$3.00 per gallon for a discharge of 101,631 gallons of  
26 sediment laden stormwater. No analysis was provided by the Santa Ana Water Board as to  
27 whether the discharge event was considered high volume or not. It is reasonable, however, to  
28 assume that, given the language in the Enforcement Policy, the Santa Ana Region determined

1 that the 101,631 gallon discharge was a high volume discharge but that imposing liability based  
2 on a per gallon assessment of \$2.00 per gallon would have resulted in an inappropriately small  
3 penalty. Thus, the per gallon liability was raised to \$3.00. Because the Santa Ana Water Board  
4 did not outline its rationale for using a base liability amount of \$3.00 per gallon, the case is of  
5 limited value. In any event, the ELI-PLA case is not inconsistent with the Prosecution Team's  
6 reading of the Enforcement Policy.

7 The other Santa Ana Water Board case that the Dischargers rely on also does not provide  
8 any substantive analysis regarding the language at issue in the Enforcement Policy and cannot be  
9 relied on to serve as meaningful guidance in this case. In that case, an ACL Complaint was  
10 issued to the Placentia-Yorba Linda Unified School District proposing that administrative civil  
11 liability be imposed for, among other things, the discharge of 55,887 gallons of sediment laden  
12 stormwater at a construction site using a maximum per gallon liability amount of \$2.00. The ACL  
13 Complaint failed to provide any rationale for the determination that using \$2.00 per gallon as the  
14 maximum per gallon base liability amount was appropriate under the Enforcement Policy. As with  
15 the ELI-PLA case, the Placentia-Yorba Linda case is of limited value and it does not bind the  
16 Central Valley Regional Board, or any other Regional Water Board, in its consideration of the  
17 appropriate interpretation of the High Volume section in the Enforcement Policy.

18 Each of the cases discussed above may be considered by the Central Valley Water Board  
19 in its analysis of the Enforcement Policy; however, the cases are not precedential. It is important  
20 to remember that Central Valley Water Board has broad discretion to use the per gallon liability  
21 amount, as well as all of the other factors outlined in the Enforcement Policy, in its determination  
22 of what the ultimate appropriate liability should be.

23 **C. The Prosecution Team's interpretation of the Enforcement Policy will not create**  
24 **an incentive For Dischargers to allow spills and releases to continue**

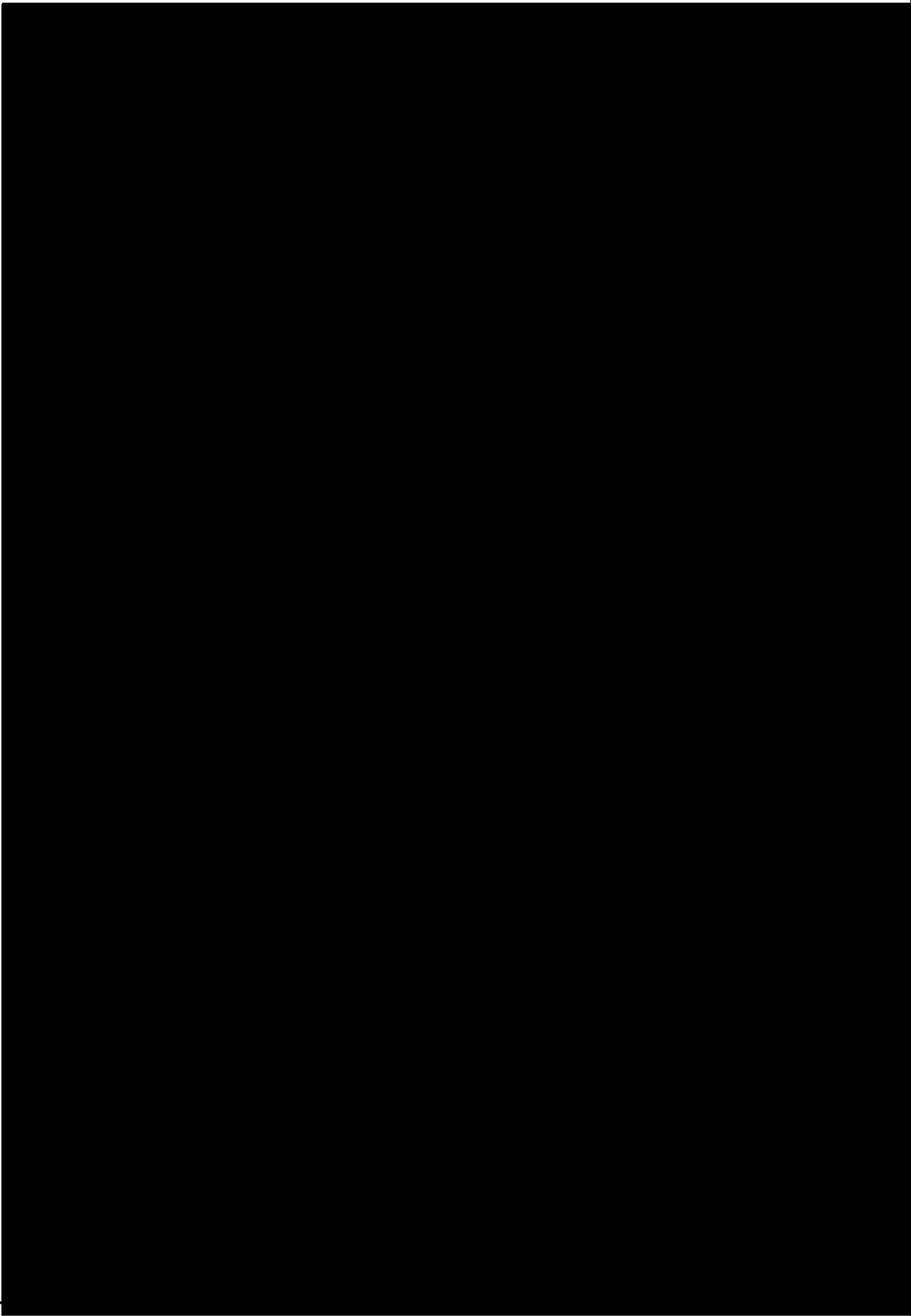
25 Donahue Schriber contends that the Prosecution Team's interpretation of the High Volume  
26 provisions of the Enforcement Policy create an "incentive for future dischargers to ensure that any  
27 accidental discharges are large enough to clear the undefined 'large volume' hurdle..." (Donahue  
28 Schriber's Submission of Evidence & Argument, p. 6.) To make its point, Donahue Schriber

1 argues that had it not worked diligently to minimize the discharge, the penalty proposed would  
2 have been less because the volume discharged would have been greater. This assumption is  
3 grossly simplistic and ignores the fact that there are a number of factors in the Enforcement Policy  
4 which take into account the conduct of the discharger, such as culpability, in establishing an  
5 appropriate liability. If it were discovered that a discharger acted in a manner to allow a discharge  
6 to continue in order to benefit from the high volume reduction, this conduct would be a factor the  
7 Central Valley Water Board could consider in assessing a higher liability amount under the factors  
8 that evaluate the discharger's specific actions in relation to the alleged violation.

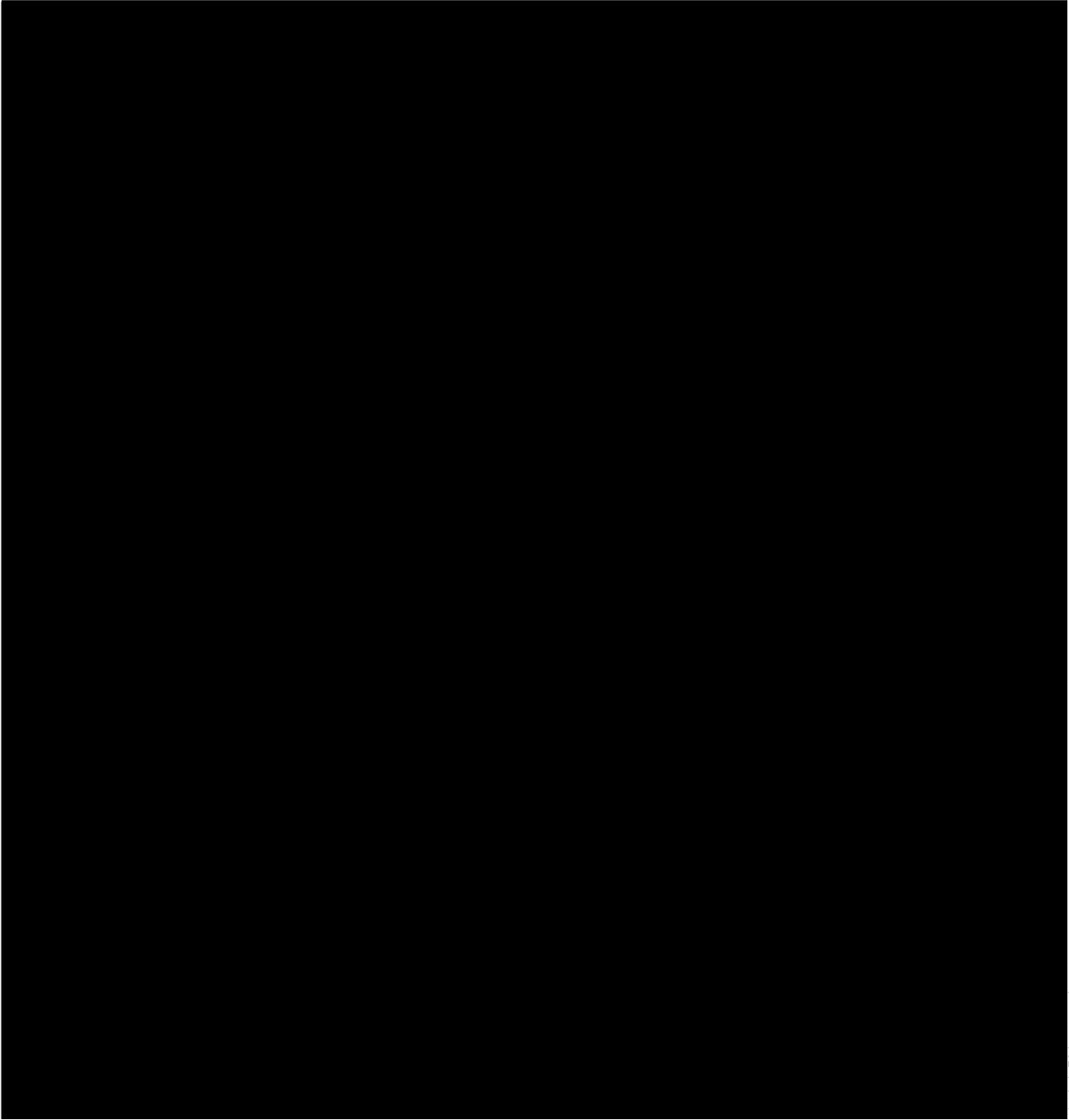
9 The Enforcement Policy allows the Water Boards to increase the base liability by a factor  
10 of up to 1.5 for culpability if it was determined that the discharger acted intentionally or even  
11 negligently in allowing a discharge to continue for an illicit purpose. (Exhibit 87, p. 17.) Moreover if  
12 it were known that a discharger acted to allow a discharge to continue in order to benefit from the  
13 high volume reduction, this conduct would be a factor the board could consider in assessing a  
14 higher liability amount under the very section the discharger contends would mandate a lesser  
15 penalty. The High Volume provisions of the Enforcement Policy allow the Water Boards to adjust  
16 the per gallon liability assessed from \$2.00 up to \$10.00 if calculating the liability at \$2.00 per  
17 gallon results in an "inappropriately small penalty." (Id. at 14) The Water Boards have the  
18 discretion to find that a discharger who *allows* a violation to continue should not benefit from the  
19 high volume reduction. Finally, the Water Boards have the discretion using "other factors as  
20 justice may require" to adjust the proposed penalty, either up or down, based on other factors  
21 which may not fit neatly into one of the enumerated factors and/or multipliers in the Enforcement  
22 Policy's Penalty Calculation Methodology. (Id. at 19.)

23 In summary, the Water Boards have broad discretion, supported by various provisions in  
24 the Enforcement Policy, to assess a significant liability against a discharger who intentionally puts  
25 beneficial uses at risk and allows a discharge to continue for the sole purpose of qualifying for the  
26 reduced maximum of \$2.00 per gallon base liability amount provided for in the High Volume  
27 section of the Enforcement Policy.

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**E. Interpreting the Enforcement Policy in the manner suggested by the Prosecution Team would not result in a violation of the Equal Protection clause of the U.S. Constitution**

Without providing any authority other than a general citation to the Fourteenth Amendment to the U.S. Constitution, the Dischargers claim that the imposition of the liability proposed based on the Prosecution Team’s interpretation of the Enforcement Policy would violate principles of due process and equal protection. The failure to plead a cognizable due process and equal protection

1 claim makes it impossible for the Prosecution Team to provide adequate rebuttal and the  
2 Discharger's claims in this regard should therefore be ignored.

3  
4 **II. THE CENTRAL VALLEY WATER BOARD SHOULD FIND THAT THE**  
5 **DISCHARGE VIOLATION RESULTED IN A MODERATE POTENTIAL FOR**  
6 **HARM TO BENEFICIAL USES**

7 Surface water drainage from the Rocklin Crossings construction site flows to Secret  
8 Ravine, a tributary to Miner's Ravine, which is tributary to Dry Creek, and ultimately flows to the  
9 Sacramento River between Colusa Drain and the I Street Bridge. Out of the existing and potential  
10 beneficial uses listed in the Water Quality Control Plan for the Sacramento River and San Joaquin  
11 River Basins, Fourth Edition (Basin Plan), warm and cold freshwater aquatic habitat, warm and  
12 cold fish migration habitat, warm and cold spawning habitat, and wildlife habitat are the beneficial  
13 uses that are particularly threatened by the discharge of sediment-laden stormwater that occurred  
14 from the Rocklin Crossings construction site.

15 Pursuant to the Enforcement Policy, an evaluation of the "Potential for Harm" is the first  
16 step to determine an appropriate liability amount for discharge violations. This step requires  
17 consideration of three factors, but for purposes of this rebuttal brief, the discussion will focus on  
18 "Factor 1: Harm or Potential Harm to Beneficial Uses." The Enforcement Policy states, in relevant  
19 part, "[t]he potential harm to beneficial uses factor considers the harm that may result from  
20 exposure to the pollutants or contaminants in the illegal discharge." (Exhibit 87, p. 12.) Further,  
21 this factor "evaluates direct or indirect harm or *potential for harm* from the violation." (*Id.*, emphasis  
22 added.) A "moderate" threat to beneficial may be assigned where "impacts are observed or  
23 *reasonably expected* and impacts to beneficial uses are moderate and likely to attenuate without  
24 appreciable acute or chronic effects." (*Id.*, emphasis added.)

25 The particular pollutants of concern in the sediment-laden stormwater discharge that  
26 occurred at the Rocklin Crossings construction site are turbidity, pH, settleable solids, and  
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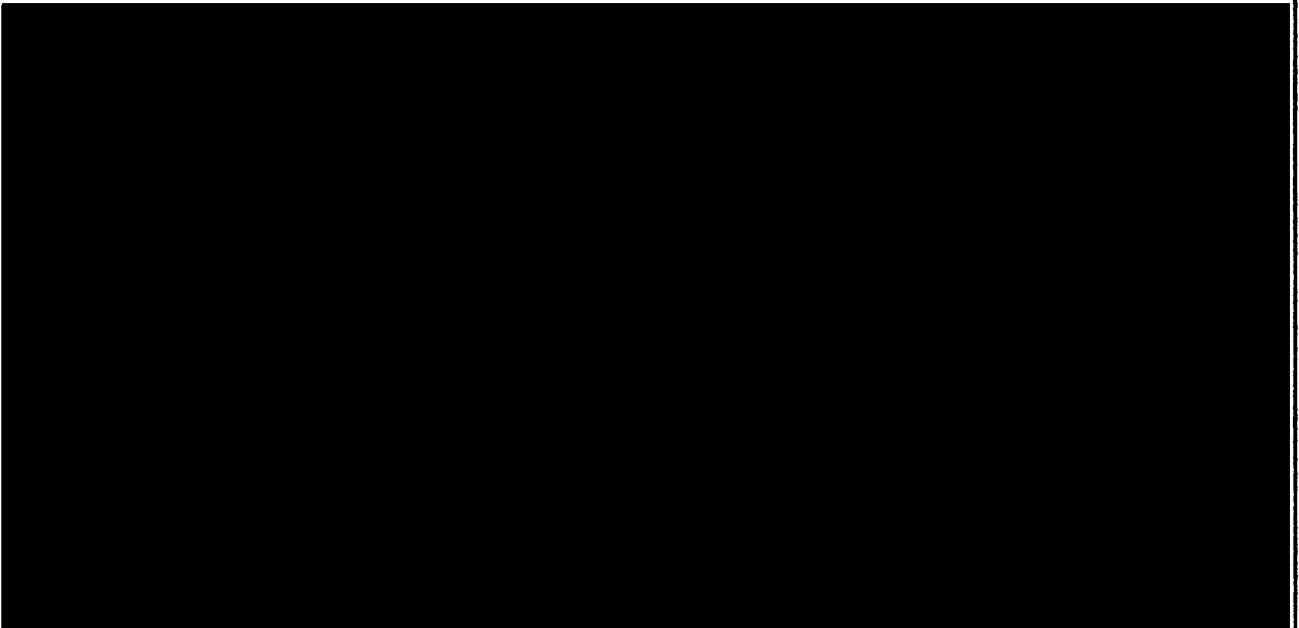
1 suspended solids. In the Discharger's own Final Environmental Impact Report<sup>4</sup> (EIR) for this  
2 project, potential impacts to beneficial uses in Secret Ravine were noted, "[u]ncontrolled soil  
3 erosion generated during project construction could indirectly affect fish habitat and benthic  
4 macroinvertebrates by degrading water quality within Secret Ravine Creek." (Exhibit 92, Appendix  
5 A, p. 13.) Additionally, the Draft EIR's in depth analysis on the project's "Potential for Short-Tem  
6 Construction-Related Water Quality Degradation" in Impact 4.10-2 states, "[f]urther, areas of  
7 exposed or stockpiled soils could be subject to sheet erosion during rain events. This impact  
8 would be considered potentially significant." (Exhibit 21, p. 4.10-14.) To minimize or eliminate this  
9 potential harm to beneficial uses, both the Draft EIR and Final EIR suggest preparing and  
10 implementing an erosion control plan and Stormwater Pollution Prevention Plan (SWPPP) and  
11 installing appropriate sediment and erosion control best management practices (BMPs) as the  
12 identified mitigation measure 4.10-2. However, because the Discharger failed to implement  
13 appropriate erosion control BMPs prior to the 28 November to 5 December 2012 rain event, and  
14 given the Prosecution Staff's professional experience observing numerous sediment-laden  
15 stormwater discharges in the field, the Prosecution Staff reasonably expected potential moderate  
16 impacts to beneficial uses given that the Discharger's own Draft and Final EIR anticipated  
17 "potentially significant" environmental impacts from exposed soils without adequate erosion and  
18 sediment control BMPs in place.

19 The Discharger's expert witness, Mr. Michael Bryan, contends that the harm or potential  
20 for harm to the aquatic life beneficial uses of Secret Ravine that may have resulted from sediment-  
21 laden stormwater discharges was "minor" pursuant to the Enforcement Policy. A particularly  
22 alarming component of this conclusion is the discussion relating to the current water quality  
23 condition of Secret Ravine. Mr. Bryan implies that the additional contribution of sand and silt from  
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25 <sup>4</sup> Despite the Discharger's contention that the Final EIR for the Rocklin Crossings project was not "placed into evidence  
26 by the Prosecution Team," it should be noted that the citation and electronic path to this publicly available document was  
27 provided in Attachment A to the ACL Complaint prior to the deadline for the submission of evidence and policy  
28 statements. For convenience and ease of reference, this item will be referred to as Exhibit 92.  
[http://www.rocklin.ca.us/depts/develop/planning/publications\\_n\\_maps/rocklin\\_crossings\\_environmental\\_impact\\_report/final.asp](http://www.rocklin.ca.us/depts/develop/planning/publications_n_maps/rocklin_crossings_environmental_impact_report/final.asp)

1 the stormwater discharge represents a negligible load to the creek particularly when the  
2 discharges occurred at a reach of Secret Ravine that is already dominated by sand substrates.  
3 Mr. Bryan argues that this discharge of sediment-laden stormwater would not result any  
4 appreciable harm given that the watershed and the creek already have preexisting sand and  
5 siltation issues. However, the Prosecution Team argues that additional loading of sand and silt,  
6 particularly to a habitat that is of "poor to moderate quality" already (see Exhibit 92, Appendix A, p.  
7 2) is precisely what the Construction General Permit seeks to avoid. Logic dictates that increased  
8 loading of sand and silt to a biologically sensitive reach with preexisting sand and siltation issues  
9 would increase the potential for harm to beneficial uses, not lower the potential for harm to  
10 beneficial uses.



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21 **III. CONCLUSION**

22 The Discharger's argument that the Central Valley Water Board is required to use \$2.00  
23 per gallon to determine the base liability amount for the discharge violations is not supported by  
24 the plain language in the Enforcement Policy and impermissibly highlights language helpful to its  
25 case, while ignoring other important provisions. Use of \$10.00 per gallon to calculate the base  
26 liability amount for the discharge violation in this case would not result in an inconsistency with  
27 other construction stormwater enforcement cases brought in the Central Valley Region or other  
28 Regions and would not create an incentive for dischargers to allow a higher volume of discharge.

1 Even if the Central Valley Water Board accepts the Dischargers' argument that use of \$2.00 per  
2 gallon is appropriate to determine the base liability amount for the discharge violation, other  
3 factors and evidence and the discretion provided in the Enforcement Policy warrant a finding that  
4 the proposed liability amount of \$211,038 is appropriate. Furthermore, the Prosecution Team  
5 recommends that the Central Valley Water Board find that the discharges of sediment-laden  
6 stormwater to Secret Ravine had a moderate potential for harm to beneficial uses. This  
7 recommendation is based on the comprehensive analysis of anticipated environmental impacts  
8 conducted in the Draft and Final EIR for the construction project, the staff's reasonable  
9 expectation for a moderate potential for harm, [REDACTED]

10 [REDACTED]  
11 [REDACTED] For the foregoing reasons, the Prosecution Team respectfully requests that the Central  
12 Valley Regional Board impose the proposed administrative civil liability amount of \$221,038 for the  
13 violations cited in the ACL Complaint.

14  
15 Executed this 12<sup>th</sup> day of September, 2013, at Sacramento, California.

16  
17  
18 David Boyers  
19 David M. Boyers  
20 SUPERVISING SENIOR STAFF COUNSEL  
21 OFFICE OF ENFORCEMENT  
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**PROSECUTION TEAM REBUTTAL EVIDENCE LIST**

**DONAHUE SCHRIBER ASSET MANAGEMENT CORPORATION  
ROCKLIN CROSSINGS CONSTRUCTION SITE  
12 September 2013**

<b>Exhibit Number</b>	<b>DATE</b>	<b>DOCUMENT</b>
1-86	8/9/13	Previously submitted Exhibits 1-86
87	11/17/09	Excerpts on "Step 1 – Potential for Harm for Discharge Violations" and "Step 2 – Assessments for Discharge Violations" from <i>State Water Resources Control Water Quality Enforcement Policy</i> , Effective May 20, 2010
88	7/15/10	Administrative Civil Liability Complaint No. R2-2010-0094 In the Matter of HSR, Inc.
89	7/15/10	Administrative Civil Liability Complaint No. R2-2010-0071 In the Matter of the California Department of Transportation
90	Undated	Alternate Penalty Calculation Methodology for illustrative purposes
█	█	█ <i>Removed per 25 September 2013 Board Chair Ruling</i>
92	4/2008	Previous citation and electronic path to Rocklin Crossing Final Environmental Impact Report <a href="http://www.rocklin.ca.us/depts/develop/planning/publications_n_maps/rocklin_crossings_environmental_impact_report/final.asp">http://www.rocklin.ca.us/depts/develop/planning/publications_n_maps/rocklin_crossings_environmental_impact_report/final.asp</a>  Appendix A <a href="http://www.rocklin.ca.us/civica/filebank/blobload.asp?BlobID=10011">http://www.rocklin.ca.us/civica/filebank/blobload.asp?BlobID=10011</a>

**Documents located on the internet for which the Prosecution Team requests official notice be taken:**

93	Administrative Civil Liability Complaint No. R9-2010-0084 Accessed from <a href="http://www.waterboards.ca.gov/rwqcb9/board_info/agendas/2011/Oct/item8/Supporting_Doc_2.pdf">http://www.waterboards.ca.gov/rwqcb9/board_info/agendas/2011/Oct/item8/Supporting_Doc_2.pdf</a> and for which the Prosecution Team request official notice be taken
94	Administrative Civil Liability Complaint No. R8-2010-0050 Accessed from <a href="http://www.waterboards.ca.gov/rwqcb8/board_decisions/adopted_orders/orders/2010/10_050_A_CLC_CALTRANS_MCMCONSTRUCTION_SKANSKAUSA.pdf">http://www.waterboards.ca.gov/rwqcb8/board_decisions/adopted_orders/orders/2010/10_050_A_CLC_CALTRANS_MCMCONSTRUCTION_SKANSKAUSA.pdf</a> and for which the Prosecution Team request official notice be taken
95	Administrative Civil Liability Complaint No. R4-2011-0188 Accessed from <a href="http://www.waterboards.ca.gov/losangeles/water_issues/programs/enforcement/acl_docs/2011/Complaint%20No.%20R4-2011-0188.pdf">http://www.waterboards.ca.gov/losangeles/water_issues/programs/enforcement/acl_docs/2011/Complaint%20No.%20R4-2011-0188.pdf</a> and for which the Prosecution Team request official notice be taken
96	Administrative Civil Liability Complaint No. R5-2012-0500 Accessed from <a href="http://www.swrcb.ca.gov/rwqcb5/board_decisions/adopted_orders/nevada/r5-2012-0500_aclc.pdf">http://www.swrcb.ca.gov/rwqcb5/board_decisions/adopted_orders/nevada/r5-2012-0500_aclc.pdf</a> and for which the Prosecution Team request official notice be taken
97	Administrative Civil Liability Complaint No. R6V-2012-0049 Accessed from <a href="http://www.waterboards.ca.gov/rwqcb6/board_decisions/adopted_orders/2012/docs/r6v_2012_0049.pdf">http://www.waterboards.ca.gov/rwqcb6/board_decisions/adopted_orders/2012/docs/r6v_2012_0049.pdf</a> and for which the Prosecution Team request official notice be taken
98	Stipulated Administrative Civil Liability Order No. R2-2011-0054 Accessed from <a href="http://www.swrcb.ca.gov/rwqcb2/board_decisions/adopted_orders/2011/R2-2011-0054.pdf">http://www.swrcb.ca.gov/rwqcb2/board_decisions/adopted_orders/2011/R2-2011-0054.pdf</a> and for which the Prosecution Team request official notice be taken
99	Administrative Civil Liability Complaint No. R5-2013-0521 Accessed from <a href="http://www.swrcb.ca.gov/rwqcb5/board_decisions/adopted_orders/placer/r5-2013-0521_enf.pdf">http://www.swrcb.ca.gov/rwqcb5/board_decisions/adopted_orders/placer/r5-2013-0521_enf.pdf</a>

**PROSECUTION TEAM REBUTTAL EVIDENCE LIST**

**DONAHUE SCHRIBER ASSET MANAGEMENT CORPORATION  
ROCKLIN CROSSINGS CONSTRUCTION SITE  
12 September 2013**

	and for which the Prosecution Team request official notice be taken
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# EXHIBIT 87

**STATE WATER RESOURCES CONTROL BOARD**

**WATER QUALITY  
ENFORCEMENT POLICY**

Effective May 20, 2010

**CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY**

**Step 2.** *Per Gallon and Per Day Assessments for Discharge Violations* – For discharges resulting in violations, use Table 1 and/or Table 2 to determine Per Gallon and/or Per Day Assessments. Depending on the particular language of the ACL statute being used, either or both tables may be used. Multiply these factors by per gallon and/or per day amounts as described below. Where allowed by code, both amounts should be determined and added together. This becomes the initial amount of the ACL for the discharge violations.

**Step 3.** *Per Day Assessments for non-Discharge Violations* – For non-discharge violations, use Table 3 to determine per day assessments. Multiply these factors by the per day amount as described below. Where allowed by the California Water Code, amounts for these violations should be added to amounts (if any) for discharge violations from Step 2, above. This becomes the initial amount of the ACL for the non-discharge violations.

**Step 4.** *Adjustment Factors* – Adjust the initial amounts for each violation by factors addressing the violator's conduct, multiple instances of the same violation, and multiple day violations.

**Step 5.** *Total Base Liability Amount* – Add the adjusted amounts for each violation from Step 4.

Thereafter, the Total Base Liability amount may be adjusted, based on consideration of the following:

**Step 6.** *Ability to Pay and Ability to Continue in Business* – If the ACL exceeds these amounts, it may be adjusted downward provided express findings are made to justify this.

**Step 7.** *Other Factors as Justice May Require* – Determine if there are additional factors that should be considered that would justify an increase or a reduction in the Total Base Liability amount. These factors must be documented in the ACL Complaint. One of these factors is the staff costs of investigating the violations and issuing the ACL. The staff costs should be added to the amount of the ACL.

**Step 8.** *Economic Benefit* – The economic benefit of the violations must be determined based on the best available information, and the amount of the ACL should exceed this amount. (Note that the Economic Benefit is a statutory minimum for ACLs issued pursuant to California Water Code section 13385.)

**Step 9.** *Maximum and Minimum Liability Amounts* - Determine the statutory maximum and minimum amounts of the ACL, if any. Adjust the ACL to ensure it is within these limits.

**Step 10.** *Final Liability Amount* – The final liability amount will be assessed after consideration of the above factors. The final liability amount and significant considerations regarding the liability amount must be discussed in the ACL Complaint and in any order imposing liability.

### **STEP 1 - Potential for Harm for Discharge Violations**

Calculating this factor is the initial step for discharge violations. Begin by determining the actual or threatened impact to beneficial uses caused by the violation using a three-factor scoring

system to quantify: (1) the potential for harm to beneficial uses; (2) the degree of toxicity of the discharge; and (3) the discharge's susceptibility to cleanup or abatement for each violation or group of violations.

***Factor 1: Harm or Potential Harm to Beneficial Uses***

The evaluation of the potential harm to beneficial uses factor considers the harm that may result from exposure to the pollutants or contaminants in the illegal discharge, in light of the statutory factors of the nature, circumstances, extent and gravity of the violation or violations. The score evaluates direct or indirect harm or potential for harm from the violation. A score between 0 and 5 is assigned based on a determination of whether the harm or potential for harm is negligible (0), minor (1), below moderate (2), moderate (3), above moderate (4), or major (5).

0 = Negligible - no actual or potential harm to beneficial uses.

1 = Minor - low threat to beneficial uses (i.e., no observed impacts but potential impacts to beneficial uses with no appreciable harm).

2 = Below moderate – less than moderate threat to beneficial uses (i.e., impacts are observed or reasonably expected, harm to beneficial uses is minor).

3 = Moderate - moderate threat to beneficial uses (i.e., impacts are observed or reasonably expected and impacts to beneficial uses are moderate and likely to attenuate without appreciable acute or chronic effects).

4 = Above moderate – more than moderate threat to beneficial uses (i.e., impacts are observed or likely substantial, temporary restrictions on beneficial uses (e.g., less than 5 days), and human or ecological health concerns).

5 = Major - high threat to beneficial uses (i.e., significant impacts to aquatic life or human health, long term restrictions on beneficial uses (e.g., more than five days), high potential for chronic effects to human or ecological health).

***Factor 2: The Physical, Chemical, Biological or Thermal Characteristics of the Discharge***

The characteristics of this discharge factor are scored based on the physical, chemical, biological, and/or thermal nature of the discharge, waste, fill, or material involved in the violation or violations. A score between 0 and 4 is assigned based on a determination of the risk or threat of the discharged material, as outlined below. For purposes of this Policy, "potential receptors" are those identified considering human, environmental and ecosystem health exposure pathways.

0 = Discharged material poses a negligible risk or threat to potential receptors (i.e., the chemical and/or physical characteristics of the discharged material are benign and will not impact potential receptors).

1 = Discharged material poses only minor risk or threat to potential receptors (i.e., the chemical and/or physical characteristics of the discharged material are relatively benign or are not likely to harm potential receptors).

- 2 = Discharged material poses a moderate risk or threat to potential receptors (i.e., the chemical and/or physical characteristics of the discharged material have some level of toxicity or pose a moderate level of concern regarding receptor protection).
- 3 = Discharged material poses an above-moderate risk or a direct threat to potential receptors (i.e., the chemical and/or physical characteristics of the discharged material exceed known risk factors and /or there is substantial concern regarding receptor protection).
- 4 = Discharged material poses a significant risk or threat to potential receptors (i.e., the chemical and/or physical characteristics of the discharged material far exceed risk factors or receptor harm is considered imminent).

***Factor 3: Susceptibility to Cleanup or Abatement***

A score of 0 is assigned for this factor if 50% or more of the discharge is susceptible to cleanup or abatement. A score of 1 is assigned for this factor if less than 50% of the discharge is susceptible to cleanup or abatement. This factor is evaluated regardless of whether the discharge was actually cleaned up or abated by the violator.

***Final Score – “Potential for Harm”***

The scores for the factors are then added to provide a Potential for Harm score for each violation or group of violations. The total score is used in the “Potential for Harm” axis for the Penalty Factor in Tables 1 and 2. The maximum score is 10 and the minimum score is 0.

**STEP 2 - Assessments for Discharge Violations**

For violations of NPDES permit effluent limitations, the base liability should be established by calculating the mandatory penalty required under Water Code section 13385(h) and (i). The mandatory penalty should be adjusted upward where the facts and circumstances of the violation warrant a higher liability.

This step addresses per gallon and per day assessments for discharge violations. Generally, it is intended that effluent limit violations be addressed on a per day basis only. Where deemed appropriate, such as for a large scale spill or release, both per gallon and per day assessments may be considered.

***Per Gallon Assessments for Discharge Violations***

Where there is a discharge, the Water Boards shall determine an initial liability amount on a per gallon basis using on the Potential for Harm score and the extent of Deviation from Requirement of the violation. These factors will be used in Table 1 below to determine a Per Gallon Factor for the discharge. Except for certain high-volume discharges discussed below, the per gallon assessment would then be the Per Gallon Factor multiplied by the number of gallons subject to penalty multiplied by the maximum per gallon penalty amount allowed under the California Water Code.

**TABLE 1 - Per Gallon Factor for Discharges**

Deviation from Requirement	Potential for Harm									
	1	2	3	4	5	6	7	8	9	10
Minor	0.005	0.007	0.009	0.011	0.060	0.080	0.100	0.250	0.300	0.350
Moderate	0.007	0.010	0.013	0.016	0.100	0.150	0.200	0.400	0.500	0.600
Major	0.010	0.015	0.020	0.025	0.150	0.220	0.310	0.600	0.800	1.000

The Deviation from Requirement reflects the extent to which the violation deviates from the specific requirement (effluent limitation, prohibition, monitoring requirement, construction deadline, etc.) that was violated. The categories for **Deviation from Requirement** in Table 1 are defined as follows:

**Minor** – The intended effectiveness of the requirement remains generally intact (e.g., while the requirement was not met, there is general intent by the discharger to follow the requirement).

**Moderate** – The intended effectiveness of the requirement has been partially compromised (e.g., the requirement was not met, and the effectiveness of the requirement is only partially achieved).

**Major** – The requirement has been rendered ineffective (e.g., discharger disregards the requirement, and/or the requirement is rendered ineffective in its essential functions).

For requirements with more than one part, the Water Boards shall consider the extent of the violation in terms of its adverse impact on the effectiveness of the most significant requirement.

### ***High Volume Discharges***

The Water Boards shall apply the above per gallon factor to the maximum per gallon amounts allowed under statute for the violations involved. Since the volume of sewage spills and releases of stormwater from construction sites and municipalities can be very large for sewage spills and releases of municipal stormwater or stormwater from construction sites, a maximum amount of \$2.00 per gallon should be used with the above factor to determine the per gallon amount for sewage spills and stormwater. Similarly, for releases of recycled water that has been treated for reuse, a maximum amount of \$1.00 per gallon should be used with the above factor. Where reducing these maximum amounts results in an inappropriately small penalty, such as dry weather discharges or small volume discharges that impact beneficial uses, a higher amount, up to the maximum per gallon amount, may be used.

### ***Per Day Assessments for Discharge Violations***

Where there is a discharge, the Water Boards shall determine an initial liability factor per day based on the Potential for Harm score and the extent of Deviation from Requirement of the violation. These factors will be used in Table 2, below, to determine a Per Day Factor for the violation. The per day assessment would then be the Per Day Factor multiplied by the maximum per day amount allowed under the California Water Code. Generally, it is intended that effluent limit violations be addressed on a per day basis. Where deemed appropriate, such

# EXHIBIT 88

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
SAN FRANCISCO BAY REGION**

**IN THE MATTER OF:**

**COMPLAINT NO. R2-2010-0094**

HSR, Inc. )  
530 Aldo Ave )  
Santa Clara, CA 95054 )  
Re: Landfill 8 and Landfill 10 )  
Presidio, San Francisco )

for  
ADMINISTRATIVE  
CIVIL LIABILITY

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This Administrative Civil Liability Complaint (Complaint) is issued to HSR, Inc. for three alleged discharges at two construction sites at Landfill 8 and Landfill 10 in the Presidio, San Francisco. A penalty of \$118,085 is proposed against HSR, Inc. based on the violations cited and penalty factors discussed in this Complaint.

**YOU ARE HEREBY GIVEN NOTICE THAT:**

1. HSR, Inc. is alleged to have violated provisions of law for which the California Regional Water Quality Control Board, San Francisco Bay Region (hereinafter Regional Water Board) may impose civil liability under California Water Code (hereinafter CWC) section 13385.
2. HSR, Inc. is alleged to have violated the following:
  - a) General Permit for Storm Water Discharges Associated with Construction Activity, Order No. 99-08-DWQ (hereinafter General Permit): Discharge Prohibition A.3; Receiving Water Limitation B.2; Special Provision C.2; and Sections A.5(b)(1) and A.6; and
  - b) Prohibition No. 9 of the San Francisco Bay Basin Water Quality Control Plan (Basin Plan).
3. A hearing concerning this Complaint may be held before the Regional Water Board within ninety (90) days of the date of issuance of this Complaint, unless, pursuant to CWC section 13323, HSR, Inc. waives its right to a hearing. The waiver procedures are specified in the attached Waiver Form. The hearing in this matter is scheduled for the Regional Water Board's regular meeting on October 13, 2010, at the Elihu M. Harris State Building, First Floor Auditorium, 1515 Clay Street, Oakland. HSR, Inc. or its representative will have an opportunity to be heard and contest the allegations in this Complaint and the imposition of the civil liability. An agenda for the meeting will be mailed to you not less than 10 days prior to the hearing date.
4. If a hearing is held on this matter, the Regional Water Board will consider whether to affirm, reject, or modify the proposed civil liability, or refer the matter to the Attorney General for recovery of judicial liability. If the matter proceeds to hearing, the Prosecution Team reserves the right to seek an increase in the civil liability

amount to cover the costs of enforcement incurred subsequent to the issuance of this Complaint through hearing.

#### **RESPONSIBLE PARTY**

5. HSR. Inc. is a general engineering services contractor with expertise in storm water pollution control who is covered by the General Permit and the Storm Water Prevention Pollution Plan (hereinafter SWPPP) for the Landfill 8 and Landfill 10 construction sites.
  - a) In June 2009, HSR. Inc. signed and certified a "Notice of Intent" to obtain coverage under the General Permit and prepared and certified a SWPPP for the Landfill 8 and Landfill 10 construction sites.
  - b) HSR. Inc. included a certificate of training in the SWPPP for the Landfill 8 and Landfill 10 construction sites from a SWPPP training course offered by Shasta College on May 16, 2008.
  - c) HSR. Inc. is designated as the "SWPPP Manager" for the Landfill 8 and Landfill 10 construction sites. As stated in the SWPPP (Section 300.5), the SWPPP Manager has "primary responsibility and significant authority for the implementation, maintenance, inspection and amendments to the approved SWPPP." Specific responsibilities listed for the SWPPP Manager position include: ensuring full compliance with the SWPPP and the Permit; conducting pre-storm, storm, and post-storm inspections; and implementing prompt and effective erosion and sediment control measures.
6. HSR. Inc. was contracted by the Presidio Trust to perform SWPPP services at the Landfill 8 and Landfill 10 construction sites. Several representatives of HSR. Inc. were working at the Landfill 8 and Landfill 10 construction sites each day during the week of October 12 through 18, 2009 ("Presidio Weekly Progress Report #19) for the October 13th and 19th, 2009 rain events. Notes in the weekly report show that Presidio Trust authorized work change requests and agreed to pay premium wages for weekend work so that HSR. Inc. could perform SWPPP services.

#### **ALLEGED DISCHARGE – LANDFILL 8 CONSTRUCTION SITE**

7. Problems with the Landfill 8 SWPPP were noted during storm events on October 13th and 19th, 2009. According to an "Erosion and Corrective Action" report dated January 26, 2010, surface ponds were present at the site, water was flowing from the surface ponds into the Landfill 8 construction zone, and erosion gullies formed within fill material placed during construction activities. Erosion that occurred during the rain events violated Section A.5(b)(1) and Section A.6 of the General Permit:
  - a) "...Runoff from off-site areas should be prevented from flowing through areas that have been disturbed by construction unless appropriate conveyance systems are in place..." [General Permit, A.5(b)(1)]
  - b) "At a minimum, the discharger/operator must implement an effective combination of erosion and sediment control on all disturbed areas during the rainy season..." [General Permit, Section A.6]

8. HSR. Inc. took corrective measures to address SWPPP issues at the Landfill 8 construction site, which included constructing three surface impoundments to retain storm water running on to the site and to prevent further erosion of the fill material. The surface impounds were constructed within the Landfill 8 construction zone over boundaries of the underlying landfill.
  - a) Corrective action did not prevent off-site runoff from entering the construction zone and did not address the violation of Section A.5(b)(1) of the General Permit (Allegation 7).
  - b) The construction of surface impoundments over a landfill violates Chapter 15, section 2546(f) of the CWC.

“Cover materials shall be graded to divert precipitation from the waste management unit, to prevent ponding of surface water over wastes, and to resist erosion as a result of precipitation with the return frequency specified in Table 4.1 of this article.”
9. Regional Water Board staff were not notified about problems with the Landfill 8 SWPPP or consulted about the corrective actions taken to address surface ponding and erosion at the construction site.
10. A storm water discharge occurred at the site during a rain event on January 18, 2010 after surface impoundments constructed over Landfill 8 failed. Failure of the surface impoundments released a large volume of water, which caused a massive sediment discharge at the landfill site. Storm water and sediment (in the range of 900 to 1500 cubic yards of material) were discharged from the Landfill 8 construction site leaving an erosion channel within the cover material approximately 600 feet in length, up to 60 feet wide, and up to 12 feet deep.
11. Sediment-laden storm water discharged from the Landfill 8 construction site on January 18, 2010 to Presidio Buildings 1809 and 1910 and to the storm drain system along Wyman Avenue. As shown in the January 26, 2010 Erosion and Corrective Action Plan, the discharge crossed Wyman Avenue and may have impacted receptors further downgradient (the storm drain system for Park Presidio and Mounfain Lake). Sediment deposition around Presidio Buildings 1809 and discharges to the storm drain system for Wyman Avenue caused a nuisance condition and caused or threatened to cause pollution in violation of Discharge Prohibition A.3 of the General Permit:

“Storm water discharges shall not cause or threaten to cause pollution, contamination, or nuisance.”

#### **ALLEGED DISCHARGES – LANDFILL 10 CONSTRUCTION SITE**

12. HSR. Inc. failed to implement an adequate SWPPP at the Landfill 10 construction site during rain events on October 13 and 19, 2009. Inadequate implementation of Best Management Practices (hereinafter BMPs) under the SWPPP did not control and abate storm water discharges from the site resulting in violations of Section A.6 and Special Provision C.2 of the General Permit.

a) Rain events on October 13th and 19th were significant (2.49 inches on October 13th and between 0.63 and 0.74 inches over a 15- to 20-minute period on October 19th) and were predicted in weather forecasts with sufficient time to reinforce erosion and sediment controls as needed.

b) The intent of SWPPPs for construction sites is to have adequate protection from storm water discharges for all seasons. As stated in the General Permit Fact Sheet:

“The requirements of the General Permit are intended to be implemented on a year-round basis, not just during the part of the year when there is a high probability of a precipitation event which results in storm water runoff. The permit should be implemented at the appropriate level and in a proactive manner during all seasons while construction is ongoing.”

c) HSR, Inc. violated General Permit Section A.6 and Special Provision C.2 by not having adequate BMPs for source (erosion) control and sediment retention to prevent sediment-laden discharges from the site on October 13 and 19, 2009. Photographs taken of the Landfill 10 construction site on October 12, 2009 show no erosion controls and limited sediment retention measures to control storm water discharges from a 2.4-acre area graded to a 1.75:1 (30 degree) slope.

- Under Section A.6 of the General Permit:

“At a minimum, the discharger/operator must implement an effective combination of erosion and sediment control on all disturbed areas during the rainy season...”

- Under Special Provision C.2 of the General Permit:

“All Dischargers shall develop and implement a SWPPP in accordance with Section A: Storm Water Pollution Prevention Plan. The Discharger shall implement controls to reduce pollutants in storm water discharges from their construction sites to the Best Available Technology/Best Conventional Technology performance standard.”

13. An estimated 41,827 gallons of sediment-laden storm water discharged from the construction site due to failure of BMPs at Landfill 10 during the October 13 and 19, 2009 rain events, This estimate is based on storm water discharging from a 1.75:1 (30 degree) graded slope of approximately 2.4 acres. The estimate does not consider gallons of sediment-laden storm water which also discharged along the perimeter and top of the sloped area.

14. Sediment-laden storm water was discharged from the Landfill 10 construction site to storm drains, protected environmental habitat, and a source of drinking water in violation of the General Permit (Discharge Prohibition A.3 and Receiving Water Limitation B.1). This also is a violation of Prohibition No. 9 of the Basin Plan

a) Sediment-laden discharges overwhelmed sediment retention measures installed adjacent to 15th Avenue and discharged to storm drains along this roadway in violation of Discharge Prohibition A.3:

“Storm water discharges shall not cause or threaten to cause pollution, contamination, or nuisance.”

- b) Sedimentation associated with the discharges impacted environmental habitats at the base of the graded slope and along the creek and riparian corridor of Lobos Creek. Habitat for protected fauna (*Lessingia germanorum*) was impacted at the base of the slope. The extent of impacts to this and other habitats along Lobos Creek is being evaluated by the Presidio Trust.
- c) Turbidity in Lobos Creek was significantly elevated due to sediment releases from Landfill 10 during the October 13th and 19th rain events requiring a water treatment plant to cease operation from October 13 through 23, 2009. The water treatment plant uses water from Lobos Creek as a source of drinking water. This beneficial use impact violates Receiving Water Limitation B.1 of the General Permit and also violates Prohibition No. 9 of the Basin Plan.

- Receiving Water Limitation B.2

“The Storm Water Pollution Prevention Plan (SWPPP) “developed for the construction activity covered by this General Permit shall be designed and implemented such that storm water discharges and authorized nonstorm water discharges shall not cause or contribute to an exceedance of any applicable water quality standards contained in a Statewide Water Quality Control Plan and/or the applicable Regional Water Board’s Basin Plan.”

- The following discharge is prohibited under the Basin Plan (Prohibition 9):

“Silt, sand, clay, or other earthen materials from any activity in quantities sufficient to cause deleterious bottom deposits, turbidity, or discoloration in surface water or to unreasonably affect or threaten to affect beneficial uses.”

- 15. Regional Water Board staff inspected the Landfill 10 construction site on October 22 and November 4, 2009 and issued a Notice of Violation to HSR, Inc. and the property owner (the Presidio Trust) on November 12, 2009. This document cited BMP failures, SWPPP inadequacies, and unauthorized discharge of sediment to Lobos Creek.

## **PROPOSED CIVIL LIABILITY**

- 16. Pursuant to CWC Section 13385(c)(1) and (c)(2), the Regional Water Board can administratively assess a liability of \$10,000 for each day in which a violation occurs, and \$10 per gallon for volume discharges that are not cleaned-up and exceed 1,000 gallons. The maximum civil liability that may be imposed for violations cited in this Complaint is \$438,270.
  - a) The maximum civil liability for one day of discharge from the Landfill 8 construction site is \$10,000. Gallons of discharge were not considered for this maximum penalty determination because of cleanup of the sediment discharge by Presidio Trust and HSR, Inc.
  - b) The maximum civil liability for 2 days (\$20,000) and 40,827 gallons (\$408,270) of discharge from the Landfill 10 construction site is \$428,270.

17. The Regional Water Board's Prosecution Team recommends imposing civil liability on HSR. Inc. in the amount of \$118,085 for the alleged discharges from the Landfill 8 and Landfill 10 construction sites. In determining the amount of civil liability to be assessed against HSR. Inc., the Regional Water Board must take into consideration the factors described in CWC section 13385(e) as discussed in the Water Quality Enforcement Policy<sup>1</sup>. These factors are discussed in the "Administrative Civil Liability Assessment" attached to this Complaint.

#### **CEQA EXEMPTION**

18. This action is an enforcement action and is, therefore, exempt for the California Environmental Quality Act (CEQA), pursuant to Title 14, California Code of Regulations, Section 15321.



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Thomas Mumley  
Assistant Executive Officer

July 15, 2010  
Date

Attachments:      Waiver Form  
                         Administrative Civil Liability Assessment

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<sup>1</sup> On November 17, 2009, the State Water Resources Control Board (State Water Board) adopted Resolution No. 2009-00 amending the Water Quality Enforcement Policy (Enforcement Policy). The Enforcement Policy was approved by the Office of Administrative Law and became effective on May 20, 2010. The Enforcement Policy establishes a methodology for assessing administrative civil liability. Use of the methodology addresses the factors in CWC section 13385(e). The policy can be found at: [http://www.waterboards.ca.gov/water\\_issues/programs/enforcement/docs/enf\\_policy\\_final111709.pdf](http://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/enf_policy_final111709.pdf)

**ADMINISTRATIVE CIVIL LIABILITY ASSESSMENT  
COMPLAINT NO. R2-2010-0094**

The Regional Water Board's Prosecution Team proposes administrative civil liability against HSR, Inc in the amount of \$118,085. This proposed liability is based on an assessment of the following factors in accordance with the violations alleged in Complaint No. R2-2010-0094, requirements of CWC section 13385(e), and the penalty calculation methodology described in the Water Quality Enforcement Policy (Enforcement Policy), dated November 17, 2009.

- **CWC section 13385(e)**

This statute requires consideration of the following factors for administrative civil liability assessments: the nature, circumstances, extent, and gravity of the violation or violations; susceptibility of the discharge to cleanup or abatement; degree of toxicity of the discharge; ability of the violator to pay and the effect on the violator's ability to continue its business; any voluntary cleanup efforts undertaken; any prior history of violations; the degree of culpability; economic benefit or savings, if any, resulting from the violation; and other matters that justice may require.

- **Enforcement Policy**

The State Water Resources Control Board amended the Enforcement Policy on November 17, 2009 with the adoption of Resolution No. 2009-00. The policy became effective on May 20, 2010 upon approval by the Office of Administrative Law.

The amended policy addresses factors required by statute (above), and it provides a statewide methodology for calculating administrative civil liabilities. The methodology considers duration of the violation and volume of discharge (if applicable), and it allows for quantitative assessments of the following: 1) potential for harm to beneficial uses; 2) physical, chemical, biological or thermal characteristics of the discharged material; 3) susceptibility of the discharge to cleanup; 4) deviation from regulatory requirements; 5) culpability; 6) cleanup and cooperation; 7) history of violations; 8) ability to pay; 9) economic benefit; and (10) other factors as justice may require.

The Enforcement Policy should be used as a companion document in conjunction with this administrative civil liability assessment since the penalty calculation methodology and definition of terms that are in the policy are not replicated herein. A copy of the Enforcement Policy can be found at:

[http://www.waterboards.ca.gov/water\\_issues/programs/enforcement/docs/enf\\_policy\\_final111709.pdf](http://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/enf_policy_final111709.pdf)

The remainder of this document discusses how the various factors that are required to be considered in the assessment of administrative civil liabilities for alleged discharges from the Landfill 8 and Landfill 10 construction sites were assessed. In most cases, the factors are addressed separately for each construction site under the LANDFILL 8 and LANDFILL 10 headings. Where there is only one discussion, the circumstances around the factor for both construction sites were similar and are therefore discussed collectively.

**ADMINISTRATIVE CIVIL LIABILITY ASSESSMENT  
COMPLAINT NO. R2-2010-0094**

**LANDFILL 8**

**Alleged Violations**

Discharge violation assessed for 1 day, volume of the discharge not assessed.

**Potential for Harm to Beneficial Uses**

Threats to beneficial uses are moderate. The discharge, which mobilized in the range of 900 to 1500 cubic yards of material, was not a minor event, but the sediment-laden discharges to storm drain systems and sedimentation in buildings and in the vicinity of protected "Lessingia germanorum" habitat would not likely cause appreciable acute or chronic effects.

**Characteristics of the Discharge**

Sediment-laden discharges, which occurred at both the Landfill 9 and Landfill 10 construction sites, pose a moderate threat to receptors. Sediment-laden water that is transported to surface waters via overland flow or through storm drain systems can have deleterious effects on aquatic environments and a variety of aquatic organisms. Some of the most significant impacts from increased turbidity and sedimentation in surface waters include: (1) reduction of light penetration and decreased rates of photosynthesis (food generation) within the food chain; (2) reduction in the respiratory capacity and feeding efficiency of fish; and (3) smothering of aquatic habitats decreased survival rates of hatchlings and juvenile species.

**Susceptibility to Cleanup and Abatement**

Much of the discharged material was sand fill and more than 50% of the solid material in the discharge was not transported far from the construction site and was subject to cleanup.

**Deviation from Requirement**

There was a major deviation from storm water pollution prevention requirements. Significant runoff onto the construction site during storm events in October 2009 required changes to Best Management Practices (BMPs). HSR, Inc. addressed the issue by creating surface water impoundments over a landfill (in violation of landfill regulations). These activities were not reported to Regional Water Board staff or addressed in an amended SWPPP, and failure of the

**LANDFILL 10**

Discharge violation assessed for 2 days at a volume of 40,827 gallons

The threat to beneficial uses is above moderate due to impacts to Lobos Creek which include causing temporary restrictions on the use of a drinking water source.

More than 50% of the storm water discharge exited the construction site and is not susceptible to cleanup or abatement.

There was moderate deviation from storm water pollution prevention requirements. There was a SWPPP for the construction project but it was determined to be inadequate upon regulatory review. There were some sediment controls installed at the site but other controls, such as mitigating storm water runoff onto the construction site and installing erosion control on a 2.4-acre, 1.75:1 (30 degree) graded slope, were not met.

**ADMINISTRATIVE CIVIL LIABILITY ASSESSMENT  
COMPLAINT NO. R2-2010-0094**

**LANDFILL 8 (cont'd)**

**LANDFILL 10 (cont'd)**

**Deviation from Requirement (cont'd)**

surface impoundments during a January storm event caused significant storm water discharge (channelized erosion approximately 600 feet long, up to 60 feet wide, and up to 12 feet deep) at the construction site.

**Culpability**

HSR, Inc. was negligent in adequately protecting the Landfill 8 (liability increased by 1.3 multiplier) and Landfill 10 (liability increased by 1.2 multiplier) construction sites to prevent pollution from storm water runoff. HSR Inc. is a professional company providing general engineering services with adequate training in storm water pollution prevention. HSR, Inc. submitted a Notice of Intent to gain coverage by and comply with the General Permit for Storm Water Discharges Associated with Construction Activity, Order No. 99-08-DWQ, and it prepared and certified the SWPPP for the Landfill 8 and Landfill 10 construction sites. HSR, Inc. is designated as the SWPPP Manager, and it had primary responsibility for preventing storm water pollution from the construction sites. Culpability associated with Landfill 8 is higher due to actions and behavior associated with BMPs that were implemented to address runoff onto the Landfill 8 construction site.

**Cleanup and Cooperation**

HSR, Inc. was cooperative and responsive but not necessarily timely to comply with regulatory requirements following the discharge events. Based on cleanup and cooperation effort, no adjustment was made to the administrative civil liability.

**History of Violations**

HSR, Inc. prepared a single SWPPP for multiple construction projects at the Presidio including Landfills 8 and 10. HSR, Inc. received a Notice of Violation from Regional Water Board staff on November 12, 2009 for its work at the Presidio following a review of its SWPPP and after discharges and inspections of the Landfill 10 construction site. This history of violations preceded the discharge from Landfill 8 in January 2010 (liability increased by 1.1 multiplier).

No liability adjustment was made based on a history of violations.

**Ability to Pay**

HSR, Inc. is an engineering contractor operating out of a single facility in Santa Clara. HSR, Inc. has approximately 13 employees and makes approximately \$1,200,000 in annual sales (ref. manta.com website). The facility includes an equipment storage yard with about 36 pieces of heavy construction equipment (trucks, excavators, trailers, tanks,

**ADMINISTRATIVE CIVIL LIABILITY ASSESSMENT  
COMPLAINT NO. R2-2010-0094**

grading equipment, etc. based on aerial photography) considered to be company assets.

**LANDFILL 8 (cont'd)**

**LANDFILL 10 (cont'd)**

**Economic Benefit or Savings**

HSR, Inc. benefited in time and materials by not adequately protecting the Landfill 8 and Landfill 10 construction sites for rain events. For construction activity in California, approximately \$2,000 to \$6,000 per acre<sup>1</sup> is needed to provide the necessary erosion and sediment control measures for construction sites depending on the slope and soil type.

The Landfill 8 and Landfill 10 construction sites are about 2.6 and 3.4 acres in size, respectively. The total cost for SWPPP BMPs to protect 6 acres of construction sites is in the range of \$12,000 to \$36,000.

Some protective measures were installed at both the Landfill 8 and Landfill 10 construction sites when the discharges occurred. The Landfill 8 construction site required construction of a runoff conveyance system to prevent storm water from entering the construction zone. Savings include the design and construction of this protective measure. The Landfill 10 construction site also required control of runoff into the construction zone and more effective erosion controls, particularly for the 2.4-acre graded slope that was unprotected. The savings from the latter is in the range of \$4,800 to \$14,000 and probably at the higher end due to slope and soil type.

Some additional BMPs were installed after the discharge events rendering the economic benefit as a delayed instead of actual savings. Considering this, the economic benefit is estimated to be no more than \$10,000 to \$15,000.

**Other Matters As Justice May Require**

Staff time to investigate the incident and prepare the Complaint and supporting evidence is estimated to be 88 hours. Based on an average cost to the State of \$150 per hour, the total cost is \$13,200.

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<sup>1</sup> Soil Stabilization BMP Research for Erosion and Sediment Controls; Cost Survey Technical Memorandum; California Department of Transportation; July 2007.

# EXHIBIT 89

**STATE OF CALIFORNIA  
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
SAN FRANCISCO BAY REGION**

COMPLAINT NO. R2-2010-0071

**ADMINISTRATIVE CIVIL LIABILITY  
IN THE MATTER OF  
FAILURE TO COMPLY WITH NPDES MUNICIPAL STORMWATER PERMIT ORDER NO.  
99-06-DWQ AND CLEAN WATER ACT SECTION 401 WATER QUALITY  
CERTIFICATION  
INTERSTATE 680 SUNOL/FREMONT ROADWAY REHABILITATION PROJECT  
CALIFORNIA DEPARTMENT OF TRANSPORTATION  
111 GRAND AVENUE  
OAKLAND, ALAMEDA COUNTY**

This Complaint is issued to the California Department of Transportation (the Discharger or Caltrans) to assess administrative civil liability pursuant to California Water Code (CWC) Section 13385. The Complaint alleges; (1) Caltrans failed at its Interstate 680 Sunol/Fremont Roadway Rehabilitation Project (Project) to implement appropriate stormwater BMPs; (2) Caltrans discharged turbid water and sediment to waters of the State; and (3) Caltrans failed to timely prepare and submit a stormwater pollution prevention plan (SWPPP) amendment. These activities are required by the State Water Resources Control Board's (State Water Board's) Water Quality Order No. 99-06-DWQ, National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000003, Statewide Stormwater Permit, Waste Discharge Requirements for State of California Department of Transportation (Department's Permit); the State Water Board's Water Quality Order No. 99-08-DWQ, Waste Discharge Requirements for Discharges of Storm Water Associated with Construction Activities (Construction Stormwater Permit); and the April 16, 2008, Clean Water Act (CWA) Section 401 Water Quality Certification issued for the Project. The violations cited herein occurred from October 7, 2009, through March 3, 2010.

The Assistant Executive Officer of the California Regional Water Quality Control Board, San Francisco Bay Region (Regional Water Board) hereby gives notice that:

1. The Discharger is alleged to have violated provisions of the law for which the Regional Water Board may impose civil liability pursuant to CWC Section 13385. This Complaint proposes to assess \$664,400 in administrative civil liability for the violations cited based on the considerations described herein.
2. Issuance of this Complaint is exempt from the provisions of the California Environmental Quality Act (Public Resources Code 21000 et seq.) in accordance with Section 15321 of Title 14, California Code of Regulations.

**STATEMENT OF PROHIBITIONS, PROVISIONS, AND REQUIREMENTS  
APPLICABLE TO THE DISCHARGER**

The Discharger is required to comply with the following:

3. The Department's Permit, Provision H.2, requires compliance with the Construction Stormwater Permit.
4. The Construction Stormwater Permit, Discharge Prohibition No. 3, requires that storm water discharges shall not cause or threaten to cause pollution, contamination, or nuisance.
5. The Construction Stormwater Permit, Special Provisions for Construction Activity, No. 2, requires that all dischargers develop and implement a SWPPP in accordance with Section A: Under Section A, dischargers are required to implement controls to reduce pollutants in storm water discharges from their construction sites to the performance standard of best available technology economically achievable and best conventional pollutant control technology.
6. The Construction Stormwater Permit, Section A, Stormwater Pollution Prevention Plan, No. 6 – Erosion Control, Second Paragraph, requires that, at a minimum, the discharger/operator must implement an effective combination of erosion and sediment control on all disturbed areas during the rainy season.
7. CWA Section 401 Water Quality Certification, Conditional Acceptance of Stormwater Pollution Prevention Plan, issued April 16, 2008, required the submittal of an acceptable SWPPP amendment by September 15, 2009.

**ALLEGED VIOLATIONS OF PROHIBITIONS, PROVISIONS, AND REQUIREMENTS  
APPLICABLE TO THE DISCHARGER**

8. **Violation No. 1:** The Discharger failed to implement complete and appropriate construction stormwater best management practices (BMPs) from October 13, 2009, through March 3, 2010, for a period of 141 days, in violation of the Department's Permit.
9. **Violation No. 2:** On March 3, 2010, Caltrans discharged about 64,000 gallons of turbid water and sediment in violation of the Department's Permit. The discharge first entered an unnamed tributary that provides habitat for rainbow trout, the California Red-Legged Frog (*Rana aurora draytonii*), and the California Tiger Salamander (*Ambystoma californiense*).<sup>1</sup> The unnamed tributary flows for about ¾ of a mile before joining Alameda Creek, which is

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<sup>1</sup> Both the California Red-Legged Frog and the California Tiger Salamander are listed as threatened under the Federal Endangered Species Act.

habitat for the fauna mentioned above and also for the threatened Central California Coast Steelhead.<sup>2</sup>

10. **Violation No. 3:** The Discharger failed to timely prepare and submit the required SWPPP amendment, due September 15, 2009, for the October 2009-to-April 2010 winter work window. The amendment was submitted December 1, 2009, seventy-seven days late, in violation of the Project's April 16, 2008, CWA Section 401 Water Quality Certification. The SWPPP amendment was not acceptable as submitted, as it did not present an acceptable plan to minimize erosion or sediment transport. In addition, the Discharger did not implement an effective combination of erosion and sediment controls before or after the SWPPP amendment was completed and submitted.

### **FACTUAL BASIS FOR THE ALLEGED VIOLATIONS**

The following evidence supports the alleged violations described above:

11. The United States Environmental Protection Agency's (US EPA's) October 7, 2009, inspection report and photos support alleged Violation No. 1. The US EPA report notes that adequate BMPs had not been implemented, including construction roadway stabilization, erosion and sediment controls for disturbed areas, and proper drainage for access roads. The report also documents areas where failed sediment control BMPs had not been repaired and noted that effective vehicle tracking controls had not been implemented. The report includes inspection reports completed by Caltrans' own stormwater inspectors that document similar compliance issues as early as September 9, 2009. However Caltrans' inspection reports characterized the issues as "minor or insignificant deficiencies that did not require prompt attention." This characterization meant that Caltrans did not require its contractor to promptly respond to the noted deficiencies.
12. The Regional Water Board's October 7, 2009, inspection report and photos further support alleged Violation No. 1. The report notes that the site did not have any erosion controls and sediment controls were not installed in many likely discharge areas where stormwater filtration would be required (e.g., discharge points downstream of unstabilized soils). Dirt tracking on roadways immediately adjacent to the Project's access points was ubiquitous because Caltrans had not rocked any of the construction ingresses or egresses.
13. The Regional Water Board's October 13, 2009, inspection report, photos, and video support alleged Violation Nos. 1 and 2. Staff noted on this rainy day large areas of the Project, including slopes with exposed soil, with either absent or inadequate erosion and sediment controls. Staff found that turbid water was discharging from a number of discharge points and was likely to discharge from two of the open footing excavations that were collecting

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<sup>2</sup> This steelhead species (*Oncorhynchus mykiss*) is listed by the Federal Fish and Wildlife Service as either endangered or threatened status throughout much of California. In addition, Alameda Creek still supports native stream fishes including Rainbow Trout, Pacific Lamprey, California Roach, Hitch, Sacramento Blackfish, Hardhead, Sacramento Pikeminnow, Sacramento sucker, Threespine Stickleback, Sacramento Perch, Prickly Sculpin, and Tule Perch .

turbid rain water. No contractor or Caltrans employees were working onsite to implement appropriate BMPs or to maintain the limited BMPs that were on-site, and about 95% of the Project's graded soil was exposed and improperly protected.

14. The Regional Water Board's November 12, 2009, inspection report and photos support alleged Violation No. 1. Staff observed that Caltrans had completed some erosion control and perimeter filtration in response to the October inspection, but much of the site, including the site's construction yard, had been left unstabilized. Trench spoils had been placed in areas likely to be in the path of stormwater runoff and many of the BMPs were inappropriately installed. Staff observed that the site would likely discharge significant volumes of sediment and turbid water in a rain event.
15. The Regional Water Board's December 1, 2009, inspection report and photos support alleged Violation No. 1. Caltrans and its contractor completed some BMP installation in response to the Regional Water Board's November 12, 2009, inspection, but still left large areas with insufficient erosion and sediment controls.
16. The Regional Water Board's December 17, 2009, inspection report and photos support alleged Violation No. 1. Caltrans did stabilize some of the site areas discussed during the Regional Water Board December 1, 2009, inspection, but did not address all of the Project areas that had inadequate controls. Project areas that had not been explicitly discussed during the December 1 inspection were left with inadequate erosion and sediment controls.
17. The Regional Water Board's March 3, 2010, inspection report, photos and video support alleged Violation Nos. 1 and 2. During the March inspection, Caltrans staff stated they had left most of the site without erosion and sediment controls because they thought that the lower part of the site was not connected to either newly built or pre-Project drop inlets and thus would not discharge during a rainstorm. However, at least one of the pre-Project inlets was connected, allowing the inadequately protected Project area to drain to the immediately adjacent unnamed tributary/drainage ditch and subsequently to Alameda Creek.
18. The Regional Water Board's November 10, 2009, Notice of Violation (NOV) to Caltrans documents the October 2009 turbid discharge, BMP implementation failure, and late SWPPP amendment—alleged Violation Nos. 1, 2 and 3.
19. The July 6, 2009, July 20, 2009, August 3, 2009, August 17, 2009, September 14, 2009, and September 28, 2009, Caltrans stormwater inspection reports support alleged Violation No. 1 because they document Caltrans inspectors noting significant stormwater BMP violations but score the inspection with a green or yellow "flag," which allows the Project to move forward without requiring that the violations be corrected in a timely fashion. The August 25, 2009, and October 26, 2009, reports document Caltrans noting in their inspection reports that significant violations existed and needed immediate attention. However, the violations were not corrected, which indicates that Caltrans was not able to enforce its own requirements.

20. Substantive email correspondence and phone call notes between the Discharger and Regional Water Board staff support alleged Violation Nos. 1, 2 and 3. In particular, on October 23, 2009, the Regional Water Board's Assistant Executive Officer contacted senior Caltrans managers via both email and telephone to alert them of the violations and to encourage Caltrans to bring the Project into compliance.

**STATEMENT OF WATER CODE SECTIONS UPON WHICH LIABILITY IS BEING ASSESSED DUE TO NONCOMPLIANCE WITH APPLICABLE REQUIREMENTS**

21. Pursuant to CWC section 13385(a), any person who violates any waste discharge requirements or dredged or fill material permit issued pursuant to this chapter or any water quality certification issued pursuant to Section 13160 is subject to administrative civil liability pursuant to CWC section 13385(c), in an amount not to exceed the sum of both of the following: (1) ten thousand dollars (\$10,000) for each day in which the violation occurs; and (2) where there is a discharge, any portion of which is not susceptible to cleanup or is not cleaned up exceeds 1,000 gallons, an additional liability not to exceed ten dollars (\$10) multiplied by the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons.

**FACTORS CONSIDERED IN DETERMINING ADMINISTRATIVE CIVIL LIABILITY**

22. On November 17, 2010, the State Water Board adopted Resolution No. 2009-0083 amending the Water Quality Enforcement Policy (Enforcement Policy). The Enforcement Policy was approved by the Office of Administrative Law and became effective on May 20, 2010. The Enforcement Policy establishes a methodology for assessing administrative civil liability. The use of this methodology addresses the factors that are required to be considered when imposing a civil liability as outlined in CWC section 13385(e). The entire Enforcement Policy can be found at:

[http://www.waterboards.ca.gov/water\\_issues/programs/enforcement/docs/enf\\_policy\\_final11709.pdf](http://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/enf_policy_final11709.pdf)

The specific required factors in CWC section 13385(e) are the nature, circumstances, extent, and gravity of the violation or violations, whether the discharge is susceptible to cleanup or abatement, and the degree of toxicity of the discharge. With respect to the violator, the required factors are the ability to pay, the effect on the violator's ability to continue its business, any voluntary cleanup efforts undertaken, any prior history of violations, the degree of culpability, economic benefit or savings, if any, resulting from the violation, and other matters that justice may require.

The specific factors required by the Enforcement Policy are: the potential harm to beneficial uses; the physical, chemical, biological or thermal characteristics of the discharge; the discharge's susceptibility to cleanup; the violation's deviation from requirements; the discharger's culpability; cleanup and the discharger's cooperation; the history of violations; the discharger's ability to pay; other factors as justice may require; and economic benefit from the avoidance or delay of implementing requirements. These factors address the

statute-required factors and also are used to calculate penalties consistent with both the CWC and the Enforcement Policy.

Each factor of the enforcement policy incorporated into this administrative civil liability and its corresponding category or adjustment score for each violation are included as Attachment – A below.

**PROPOSED ADMINISTRATIVE CIVIL LIABILITY**

- 23. Based on the consideration of the above facts, the Assistant Executive Officer of the Regional Water Board proposes that an administrative civil liability be imposed in the amount of \$664,400. This amount is the economic benefit plus 10% from the avoided and delayed costs associated with the violations noted, \$635,000, and \$29,400 for the recovery of staff costs.
- 24. Further failure to comply with the Department’s Permit, the Project’s 401 Water Quality Certification, or amendments thereof beyond the date of this Complaint may subject the Discharger to further administrative civil liability, and/or other appropriate enforcement action(s), including referral to the Attorney General.



\_\_\_\_\_  
Thomas Mumley  
Assistant Executive Officer

July 15, 2010

\_\_\_\_\_  
Date

Attachment: A - Specific Factors Considered – Civil Liability

**Attachment – A**

**Specific Factors Considered – Civil Liability**

Attachment A - Complaint No. R2-2010-0071  
Specific Factors Considered - Civil Liability  
State of California Department of Transportation

Each factor of the Enforcement Policy and its corresponding score for each violation are presented below:

1. **Violation One (this is a non-discharge violation):** The Discharger failed to implement complete and appropriate construction stormwater best management practices (BMPs) from October 13, 2009, through March 3, 2010, for a period of 141 days, in violation of the Department's Permit.

- a) **Specific Factor:** Potential Harm to Beneficial Uses

**Category:** Moderate

**Discussion:** Due to the lack of an effective combination of erosion and sediment controls, the Discharger potentially discharged large volumes of sediment-laden stormwater directly to tributaries that provide habitat for rainbow trout, California Red-Legged Frog, and the California Tiger Salamander, and potentially discharged into tributaries that eventually discharge to Alameda Creek, which is habitat for the above fauna in addition to the threatened Central California Coast Steelhead.

- b) **Specific Factor:** Deviation from Requirement

**Category:** Moderate

**Discussion:** The Discharger implemented some BMPs. However, many areas were left untreated during the period of violation and many of the BMPs were installed incorrectly.

- c) **Specific Factor:** Alternative Approach – Multiple Day Violations

**Days Violated:** 141

**Alternative Days Violated:** 28

**Discussion:** The Enforcement Policy allows for a reduction in violation days when it can be determined that the ongoing violation is not causing daily detrimental impacts to the environment or the regulatory program. This determination is appropriate for this non-discharge violation for the following reason: while this is a non-discharge violation for inadequate or non-implementation of BMPs, the violation's effects were most significant during periods when the inadequate BMPs likely led to discharges of turbid, sediment-laden runoff. During the period of violation, there were approximately 28 days of rain that equaled or exceeded one tenth of an inch and likely resulted in discharges of turbid stormwater<sup>3</sup>

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<sup>3</sup> This estimate is based on rain gauge data for Livermore, Fremont, and Sunol. The data was provided by the Department of Commerce National Climatic Data Center and the California Department of Water Resources California Data Exchange Center.

- d) **Civil Liability:** Initial Amount of Administrative Civil Liability for this violation

**Amount:** \$98,000

**Adjustments to Determination of Initial Liability for this Violation**

- e) **Specific Factor:** Culpability

**Adjustment:** 1.3

**Discussion:** The Discharger's culpability is high due to the repeated and negligent nature of its behavior. In addition, the Discharger had the opportunity to come into compliance after each of six compliance inspections conducted by the Regional Water Board and US EPA, but failed to do so. The Discharger was given detailed guidance by both US EPA and Regional Water Board staff regarding the Department's Permit's requirement to implement appropriate BMPs to minimize the discharge of pollutants in stormwater runoff exposed to construction activity. The Discharger still repeatedly failed to consistently implement appropriate BMPs.

- f) **Specific Factor:** Cleanup and Cooperation

**Adjustment:** 1.2

**Discussion:** The Discharger implemented some but inadequate BMPs in response to repeated regulatory inspections that revealed substandard BMPs, and formal notifications by US EPA and the Regional Water Board regarding the Discharger's violations.

- g) **Specific Factor:** History of Violations

**Adjustment:** 1.2

**Discussion:** The penalty has been raised by 20% due to repeated similar violations at this and other sites controlled by the Discharger.

- h) **Civil Liability:** Adjusted Amount of Administrative Civil Liability for this violation

**Amount:** \$166,600

2. **Violation Two (this is a discharge violation):** On March 3, 2010, Caltrans discharged about 64,000 gallons of turbid water and sediment in violation of the Department's Permit. Regional Water Board staff documented the discharge with on-site observations, including video, during a one-hour time period on March 3, 2010. According to a rain gauge on Calaveras Road, a total of 0.81 inches of rain fell during the entire day and a total of 12.11 inches fell during the period from October 1, 2009, through March 31, 2010. These precipitation records are estimates of the rainfall at the Project site, as the actual rainfall at the site may have been more or less than reported at this gauge. While the exact volume of polluted stormwater runoff discharged during the period of non-compliance from October 7,

2009, to March 3, 2010, was not calculated, it was much larger than the amount observed to have discharged during one hour of a single rainfall event on March 3, 2010.

a) *Specific Factor:* Potential Harm to Beneficial uses

*Score:* 2 - Below Moderate

*Discussion:* The beneficial uses of the unnamed tributary and Alameda Creek were likely adversely affected due to the Discharger's direct discharge of large volumes of turbid, sediment-laden water and the likely subsequent deposition of sediment in the creek beds. The unnamed tributary provides habitat for rainbow trout, California Red-Legged Frog, and the California Tiger Salamander and discharges into tributaries that eventually discharge to Alameda Creek, which is also habitat for the threatened Central California Coast Steelhead.

Excessive sediment and turbidity can have deleterious effects on aquatic environments and aquatic organisms. Some of the most significant impacts include reduced light penetration and thus decreased rates of photosynthesis within the food chain, reduction in respiratory capacity of fish gills, and smothering of gravel beds resulting in lethal effects on fish eggs, decreased juvenile fish survival rates and reduction in fish feeding efficiency.

b) *Specific Factor:* Physical, Chemical, Biological or Thermal Characteristics

*Score:* 2

*Discussion:* The impacts on receiving waters of discharged sediment-laden stormwater can be significant, as clay particles can take days or weeks to settle from the water column and therefore travel large distances during high flow rain events. Sediment pollution can be a cause of chronic and acute toxicity to aquatic species, including invertebrates and fish.

c) *Specific Factor:* Susceptibility to Cleanup

*Score:* 1

*Discussion:* Less than 50% of the discharge was susceptible to cleanup or abatement. The remediation of habitat impacted by sediment-laden stormwater is rarely undertaken and can be impracticable due to the large aerial extent of impacts and because remedial action may result in greater damage than the impacts it is intended to fix.

d) **Specific Factor:** Deviation from Requirement

**Category:** Major

**Discussion:** The requirement to minimize the generation of turbid stormwater and discharged sediment was not met during this discharge event. The disturbed project area was not appropriately stabilized and it was directly connected to the receiving water via a drop inlet, ensuring that turbid, sediment-laden stormwater runoff would discharge directly to the unnamed tributary and subsequently to Alameda Creek.

e) **Specific Factor:** Gallons Discharged

**Amount:** 64,000 gallons

**Discussion:** The volume discharged was calculated in the field by estimating the cross-sectional area of flow in the discharge channel and timing a float's speed over a known distance. This process was memorialized using a video camera.

f) **Civil Liability:** Initial Amount of Administrative Civil Liability for this violation

**Amount:** \$97,500

**Adjustments to Determination of Initial Liability for this Violation**

g) **Specific Factor:** Culpability

**Adjustment:** 1.3

**Discussion:** The Discharger's culpability is high with regard to this discharge violation. Prior to the discharge, the discharger had received numerous clear communications from Regional Water Board staff regarding the inadequacy of the Discharger's stormwater BMPs. The Discharger should have stabilized all exposed soil and should have known that the drop inlet would discharge directly to the unnamed tributary.

h) **Specific Factor:** Cleanup and Cooperation

**Adjustment:** 1

**Discussion:** The Discharger was given the neutral score of 1, which neither increases nor decreases the fine, because they did contact Regional Water Board staff after the discharge was documented on March 3, 2010.

i) **Specific Factor:** History of Violations

**Adjustment:** 1.2

**Discussion:** This factor increases the base penalty by 20% due to the history of similar discharge violations noted most recently at the: Isabel Avenue/Interstate 580 Interchange

Improvement Project in Livermore; the SR-121 Duhig Road Widening and Realignment Project in Napa; and the San Francisco-Oakland Bay Bridge Seismic Safety Project, East Touchdown in Oakland.

j) **Civil Liability:** Adjusted Amount of Administrative Civil Liability for this Violation

**Amount:** \$146,250

3. **Violation Three (this is a non-discharge violation):** The Discharger failed to timely prepare and submit a required SWPPP amendment, due September 15, 2009, for the Project's October 2009 to April 2010 winter work window. The amendment was submitted December 1, 2009, seventy-seven days late, in violation of the CWA Section 401 Water Quality Certification.

a) **Specific Factor:** Potential Harm to Beneficial Uses

**Category:** Moderate

**Discussion:** The lack of an updated SWPPP prior to December 1, 2009, likely resulted in poor BMP implementation and the subsequent discharge of turbid stormwater to State and US waters during rain events. The substandard SWPPP amendment that was submitted would not have improved compliance, even if implemented correctly, because it did not contain the appropriately detailed information necessary to ensure implementation of BMPs to reduce the site's discharge of pollutants.

b) **Specific Factor:** Deviation from Requirement

**Category:** Moderate

c) **Discussion:** Caltrans is aware of the requirement to prepare and maintain onsite a site specific SWPPP. The Regional Board required a SWPPP amendment by September 15, 2009, in its CWA Section 401 Water Quality Certification because the original project SWPPP did not contain the required site specific details to govern effective pollution control during a rainy season. The deviation from the requirement is moderate, rather than major, because an amendment was finally submitted.

d) **Specific Factor:** Alternative Approach – Multiple Day Violations

**Days Violated:** 77

**Alternative Days Violated:** 8

**Discussion:** The Enforcement Policy allows for a reduction in violation days when it can be determined that the ongoing violation is not causing daily detrimental impacts to the environment or the regulatory program. This determination is appropriate for this non-discharge violation.

- e) **Civil Liability:** Initial Amount of Administrative Civil Liability for this Violation

**Amount:** \$28,000

**Adjustments to Determination of Initial Liability for this Violation**

- f) **Specific Factor:** Culpability

**Adjustment:** 1.3

**Discussion:** Caltrans is well aware of the requirement to maintain a site specific SWPPP as both the Department's Permit and the Construction Stormwater Permit contain this explicit requirement. In addition, Caltrans was notified in the Regional Water Board's CWA Section 401 Water Quality Certification that a SWPPP amendment would be required prior to the 2009 wet weather season. Therefore, Caltrans' culpability is high and this factor raises the civil liability by 30%.

- g) **Specific Factor:** Cleanup and Cooperation

**Adjustment:** 1

**Discussion:** A neutral score of 1 was selected for this factor because the Discharger did submit the SWPPP amendment.

- h) **Specific Factor:** History of Violations

**Adjustment:** 1.1

**Discussion:** The discharger has historically missed submittal deadlines and has received Notices of Violation and other informal enforcement actions as a result.

- i) **Civil Liability:** Adjusted Amount of Administrative Civil Liability for this Violation

**Amount:** \$39,200

**FACTORS APPLIED TO ALL THREE VIOLATIONS**

4. The following factors apply to all three of the violations discussed above.

- a) **Specific Factor:** Ability to Pay and Continue in Business

**Discussion:** The Discharger is a department of the State of California with an annual budget of approximately \$14 billion. The Project's total budget at the time of award was \$37,456,545. The Regional Water Board has no evidence that the Discharger would be unable to pay the proposed liability set forth in this Complaint or that the amount of the liability would cause undue financial hardship.

b) **Specific Factor:** Other factors as justice may require

**Discussion:** The staff time to prepare this Complaint and supporting information, complete the historical inspections, and prepare the NOV is estimated to be 196 hours. Based on an average cost to the State of \$150 per hour, and a total of 196 hours of staff time, the total staff cost is estimated to be \$29,400.

c) **Specific Factor:** Economic Benefit

**Amount:** \$577,300

**Discussion:** The Discharger has realized economic benefit by failing to implement a complete and effective combination of erosion and sediment control BMPs. The estimated economic benefit for not implementing the appropriate pollution control measures is \$577,300.<sup>4</sup> This amount includes the avoided costs for the purchase and installation of erosion and sediment controls and the economic benefit of having access to these funds. The enforcement policy requires that the civil liability cannot be less than the economic benefit plus 10%. Therefore the civil liability must not be less than \$635,000.

The liability of \$352,100 calculated by using the Enforcement policy is less than the economic benefit (plus 10%) obtained from the avoided compliance, which was \$635,000.

d) **Civil Liability:** Minimum Liability Amount

**Amount:** \$635,000

**Discussion:** The Enforcement Policy requires that the minimum liability amount imposed not be below the economic benefit plus ten percent. The above-referenced number is the Regional Water Board Prosecution Team's estimate of the Discharger's economic benefit obtained from the violations cited in this Complaint.

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<sup>4</sup> References used to estimate delayed and avoided costs: 1)California Department of Transportation, Division of Environmental Analysis, Soil Stabilization BMP Research for Erosion and Sediment Controls, Cost Survey Memorandum, July 2007; 2)California Stormwater Quality Association, California Stormwater BMP Handbook, Construction, Table F-2 Temporary Stabilization Comparison Table, November 2009; and 3)Earth Aid USA; BMP Superstore; line item costs at [www.earthaidusa.com](http://www.earthaidusa.com)

e) ***Civil Liability:*** Maximum Liability Amount

***Amount:*** \$2,820,000

***Discussion:*** The maximum liability amount is the maximum amount allowed by Water Code Section 13385: (1) ten thousand dollars (\$10,000) for each day in which the violation occurs; and (2) where there is a discharge, any portion of which is not susceptible to cleanup or is not cleaned up exceeds 1,000 gallons, an additional liability not to exceed ten dollars (\$10) multiplied by the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons.

# EXHIBIT 91

Removed Per 25 September 2013 Board Chair Ruling

Central Valley Regional Water Quality Control Board  
3/4 October 2013 Board Meeting

**Prosecution Team's  
Response to Comments**

In the Matter of  
Donahue Schriber Asset Management Corporation  
Rocklin Crossings Construction Site  
Placer County

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The following are the Central Valley Regional Water Quality Control Board (Central Valley Water Board) Prosecution Team responses to comments submitted by Interested Persons regarding the Administrative Civil Liability Complaint No, R5-2013-0519 issued to for Donahue Schriber Asset Management Corporation (Donahue Schriber). All Interested Person comments regarding the Administrative Civil Liability Complaint were due on 4 September 2013.

Timely comments were received from the following Interested Persons:

- Andrew R. Henderson, on behalf of Building Industry Legal Defense Foundation
- Thomas Holsman, on behalf of Associated General Contractors of America
- Richard Boon, Chair, California Stormwater Quality Association (CASQA)

All written comments are included in the agenda package provided to each Board member. All comments are also available for public review on the Water Board's website.

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**Comment from Andrew Henderson, Building Industry Legal Defense Fund (BILD)**

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**Summary of Comment:** Assessing a penalty of \$10.00 per gallon for the discharge violation alleged in ACL Complaint No. R5-2013-0519 would be a travesty of justice and an abuse of discretion by the Central Valley Water Board. The Enforcement Policy sets a maximum liability amount of \$2.00 per gallon for high volume discharges, including those of stormwater and the Central Valley Water Board may impose a higher amount, up to \$10.00 per gallon, only if the use of \$2.00 per gallon liability amount results in an inappropriately small penalty, such as dry weather discharges of small volume discharges that impact beneficial uses. The discharge that occurred was a typical high volume stormwater discharge and there is no unusual culpability that would justify departing from the maximum penalty of \$2.00 per gallon. If the Central Valley Water Board adhered to the \$2.00 per gallon maximum, the penalty would still be extremely large: \$153,226.

**Prosecution Team Response:** See Below.

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**Comment from Thomas Holsman, Associated General Contractors of America (AGC)**

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**Summary of Comment:** The State Water Board's Enforcement Policy clearly states that a maximum amount of \$2.00 per gallon should be used to determine the per gallon amount for stormwater, except in cases where explicit findings demonstrate that "where reducing these maximum amounts results in

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an inappropriately small penalty, such as dry weather discharges or ***small volume discharges that impact beneficial uses***” and in those instances a higher amount, up to the maximum of \$10.00 per gallon, may be used. Since the discharge at issue was not a dry weather discharge and there is no evidence that beneficial uses were actually impacted, the use of \$10.00 per gallon is inconsistent with the express language in the Enforcement Policy.

The Central Valley Water Board cannot allege that the amount released is not a high volume discharge because other relevant ACL Complaints with lower volumes used \$2.00 per gallon; the Cascade Crossing ACL Complaint No. R5-2013-0520 used \$2.00 per gallon for a discharge of 37,500 gallons that occurred during the same storm event as the discharged violation alleged against Donahue Schriber, and the Placentia Yorba Linda ACL Complaint No. R8-2010-0024 used \$2.00 per gallon for a discharge of 55,887 gallons.

The liability proposed in ACL Complaint No. R5-2013-0519 against Donahue Schriber is not consistent with the other construction stormwater ACLs and therefore fails to comply with the Enforcement Policy’s consistency requirement. Every construction stormwater ACL penalty found that was imposed since the 2010 Enforcement Policy was adopted in 2010 has used \$2.00 per gallon as the starting point, except one, for EI-PLA 75 LLC, ACL Complaint No. R8-2010-0025, which used \$3.00. The discharge volume was higher in that case (101,631 gallons), there was a higher degree of culpability, and there was a history of violations, yet the ultimate liability amount imposed, \$197,367, is less than the amount proposed against Donahue Schriber.

**Prosecution Team Response:** See Below.

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**Comment from Richard Boon, CASQA**

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**Summary of Comment:** The proposed liability for the discharge violation alleged in ACL Complaint No. R5-2013-0519 is not consistent with the Enforcement Policy, which states that a maximum amount of \$2.00 per gallon should be used to determine the per gallon penalty amount for “high volume discharges,” including stormwater. While the Enforcement Policy does not define “high volume discharge” it appears that a stormwater discharge over 1,000 gallons could be considered high volume given that the Enforcement Policy removes the first 1,000 gallons from the penalty equation.

Use of \$10.00 per gallon is not consistent with other construction stormwater ACLs and is at odds with the multiple directives in the Enforcement Policy calling for firm, fair and consistent enforcement. The Central Valley Water Board must adopt similar penalties for comparable construction stormwater discharges and must determine the penalties in a manner consistent with the goals, intent and applicable sections of the Enforcement Policy.

Construction stormwater ACL penalties adopted since the effective date of the Enforcement Policy have all used \$2.00 per gallon as the starting point, except one; EI-PLA 75 LLC, ACL No. R8-2010-0025 used \$3.00 per gallon. In that case, EI-PLA had a history of violations and other contributing factors that were considered in the determination of the penalty.

The Central Valley Water Board should classify the subject discharge as a high volume discharge subject to the maximum \$2.00 per gallon amount to be consistent with the Enforcement Policy and

with other construction stormwater ACLs, or make clear why this discharge warrants such an extraordinary exception to the clear direction provided in the Enforcement Policy.

**Prosecution Team Response:** See Below.

Because each of the Commenters raises similar issues, the Prosecution Team is providing a single combined response.

**THE USE OF \$10.00 PER GALLON IS APPROPRIATE TO DETERMINE THE BASE LIABILITY AMOUNT FOR THE DISCHARGE VIOLATION**

Water Code section 13385 subdivision (c) states, in relevant part, that civil liability may be imposed administratively by the regional board in an amount not to exceed the sum of ten thousand dollars (\$10,000) for each day in which the violation occurs and ten dollars (\$10) multiplied by the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons.<sup>1</sup> Subdivision (e) of Water Code section 13385 specifies a number of factors that the regional board shall consider in determining the appropriate amount of liability, including the nature, circumstances, extent, and gravity of the violation(s), whether the discharge is susceptible to cleanup or abatement, the degree of toxicity of the discharge, and with respect to the violator, the ability to pay, the effect on the violator's ability to continue in business, any voluntary cleanup efforts undertaken, any prior history of violations, the degree of culpability, economic benefit or savings, if any, resulting from the violation, and any other matters that justice may require. The Enforcement Policy establishes a methodology for assessing administrative civil liability using the factors outlined in Water Code section 13385(e).

**A. The use of \$10.00 per gallon to calculate the initial liability amount in the ACL Complaint is consistent with the plain language in the Enforcement Policy**

The Commenters state that the Enforcement Policy generally requires that the Central Valley Water Board calculate the base liability amount for stormwater discharge violations using a maximum of \$2.00 per gallon rather than the statutory maximum penalty of \$10.00 per gallon. AGC contends that only discharges of stormwater in excess of 1,000 gallons are subject to a maximum liability of \$2.00 per gallon and both AGC and BILD state that that the \$2.00 per gallon liability may not be increased unless imposing liability based on \$2.00 per gallon would result in an inappropriately small penalty and the discharge was a dry weather sewage discharge or the discharge resulted in an impact to beneficial uses. The Prosecution Team believes the Commenters are incorrectly interpreting the Enforcement Policy.

The plain language of the Enforcement Policy provides that the default maximum liability that should be applied when determining the base liability amount for any discharge violations is \$10.00 per gallon. The exception cited by the Commenters applies *only if* the discharge is determined to be "high volume." Where the plain language of the Policy is clear and unambiguous, it must be followed. (See *Barnhart v. Walton* (2002) 535 U.S. 212; *Witt Home Ranch Inc. v. County of Sonoma* (2008) 165 Cal.App.4<sup>th</sup> 543.)

The Enforcement Policy states, "[e]xcept for certain high-volume discharges discussed below, the per gallon assessment would then be the Per Gallon Factor multiplied by the number of gallons

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<sup>1</sup> The regional board may also request that the Attorney General seek civil liability imposed judicially in an amount not to exceed \$25,000 for each day in which the violation occurs and \$25 multiplied by the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons. (Wat. Code, § 13385, subd. (b).)

[discharged] subject to penalty multiplied by *the maximum per gallon penalty amount allowed under the California Water Code.*" (Enforcement Policy, p. 13, emphasis added.) Using the maximum per gallon penalty of \$10.00 as the default base volume liability assessment is reiterated later in the Enforcement Policy; "[t]he Water Boards *shall* apply the above per gallon factor to the *maximum per gallon amounts allowed under the statute for the violations involved.*" (*Id.*, at p. 14, emphasis added.) Again, the exception to this general rule is where the discharge is "high volume." The State Water Board provided for this exception in a section of the Enforcement Policy it entitled, "High Volume Discharges." That section provides in its entirety:

### ***High Volume Discharges***

The Water Boards shall apply the above per gallon factor to the maximum per gallon amounts allowed under the statute for the violations involved. Since the volume of sewage spills and releases of stormwater from construction sites and municipalities can be very large for sewage spills and releases of municipal stormwater or stormwater from construction sites, a maximum amount of \$2.00 per gallon should be used with the above factor to determine the per gallon amount for sewage spills and stormwater. Similarly, for releases of recycled water that has been treated for reuse, a maximum of \$1.00 per gallon should be used with the above factor. Where reducing these maximum amounts results in an inappropriately small penalty, such as dry weather discharges or small volume discharges that impact beneficial uses, a higher amount, up to the maximum per gallon amount may be used. (*Id.*)

The phrase, "[s]ince the volume of sewage spills and releases of stormwater from construction sites and municipalities *can be very large* [...]" clearly recognizes that, in some instances, sewage spills and releases of stormwater from construction sites and municipalities *may not be* very large. Only in those cases where the discharge *is* very large, i.e. where the discharge is considered "high volume", should the base liability be calculated using a maximum of \$2.00 per gallon. If the discharge is not determined to be "high volume" then the base liability amount should be calculated using \$10.00 per gallon.<sup>2</sup> This interpretation is consistent with previous language cited above which assigns "*the maximum per gallon penalty amount allowed under the California Water Code*" for discharges "*except for certain high-volume discharges*" discussed in the "High Volume Discharges" section.

The Prosecution Team also disagrees with BILD and AGC's suggestion that if the Central Valley Water Board uses \$2.00 per gallon to determine the base liability amount, there are only two considerations which allow the Board to readjust the per gallon base liability amount back up to \$10.00 per gallon. The Comments' argument is based on the language in the Enforcement Policy which provides, "where reducing these maximum amounts results in an inappropriately small penalty, such as dry weather discharges or small volume discharges that impact beneficial uses, a higher amount, up to the maximum per gallon amount, may be used." (Enforcement Policy, p. 14.) The two examples provided in the Enforcement Policy, however, are not the only circumstances where the Central Valley Water Board may use its discretion to increase the per gallon liability amount to \$10.00. The phrase "such as" is not a phrase of strict limitation, but is a phrase of general similarity indicating that there are other matters of the same kind which are not specifically enumerated. (Shaddox v. Bertani (2003) 110 Cal.App.4th 1406, 1414.)

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<sup>2</sup> The Enforcement Policy does not define "high volume" so the Regional Board may use its discretion in deciding whether a discharge volume qualifies as a high volume discharge. The Prosecution Team recommends that the board find that the amount discharged in this case, 76,613 gallons, was not a high volume discharge.

**B. The use of \$10.00 per gallon is consistent with the manner in which the Central Valley Regional Board and other Regional Water Boards have applied the Enforcement Policy.**

Since the Enforcement Policy became effective on May 20, 2010, the Prosecution Team identified only twelve ACL Complaints or Stipulated ACL Orders that have been issued throughout the state where liability has been proposed for construction stormwater violations.<sup>3</sup> Of these, only four (not including the ACL Complaint issued in this case) alleged discharges of sediment laden stormwater where liability was proposed on a per gallon basis. Thus, the pool of analogous cases from which the Central Valley Water Board may draw from for guidance in this matter is extremely small. Each of the four analogous cases is discussed below.

AGC and CASQA state that every construction stormwater ACL penalty found in California that was imposed after adoption of the 2010 Enforcement Policy, except one [in the Santa Ana Region], has used \$2.00 per gallon as the starting point for calculating base liability. This statement is simply false. On 3 May 2011, the San Francisco Regional Water Quality Control Board adopted Order No. R2-2011-0071, imposing \$381,450 in liability against the California Department of Transportation (CalTrans) for construction stormwater violations, including discharge violations similar to those at issue here where the base liability amount was calculated using \$10.00 per gallon discharged. In that case, the ACL Complaint alleged that CalTrans had failed to implement appropriate BMPs, failed to timely prepare and submit a required SWPPP amendment, and discharged 64,000 gallons of turbid water and sediment. To calculate the base liability for the 64,000 gallon discharge, a maximum per gallon liability amount of \$10.00 was used. The volume discharged in that case, as in this case, is relatively low; therefore, the liability was assessed using the maximum per gallon amount of \$10.00 rather than the \$2.00 per gallon amount for high volume discharges.

AGC and CASQA also state that the ACL Complaint issued in this matter is inconsistent with ACL Complaint No. R5-2013-0520 issued to HBT of Saddle Ridge, LLC for discharges of stormwater associated with construction activity at the Cascade Crossing construction site. Specifically, the Commenters claim that Central Valley Water Board calculated the base liability amount using \$2.00 per gallon for a discharge of 37,500 gallons. The Commenters are mistaken. In the ACL Complaint issued for the Cascade Crossing site, there were two discharges that occurred which gave rise to liability. The first discharge of 193,500 gallons occurred on 30 November 2012; the second discharge of 37,500 gallons occurred on 2 December 2012. Both discharges occurred during a single qualifying rain event, which is defined in the Construction General Permit as “any event that produces 0.5 inches or more precipitation with a 48 hour or greater period between rain events.” Because the discharges occurred during a single qualifying rain event, the amounts discharged were added and the

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<sup>3</sup> (1) ACL Complaint No R8-2010-0024;  
(2) ACL Complaint No. R8-2010-0025;  
(3) ACL Complaint No R2-2010-0094;  
(4) ACL Complaint No. R2-2010-0071;  
(5) ACL Complaint No. R9-2010-0084;  
(6) ACL Complaint No. R8-2010-0050;  
(7) ACL Complaint No. R4-2011-0188;  
(8) ACL Complaint No. R5-2012-0500;  
(9) ACL Complaint No. R6V-2012-0049;  
(10) Stipulated ACL Order No. R2-2011-0054;  
(11) ACL Complaint No. R5-2013-0521; and  
(12) ACL Complaint No. R5-2013-0520.

cumulative amount of 230,500 gallons was considered a “high volume” discharge that qualified for the reduced base liability amount of \$2.00 per gallon in the Enforcement Policy. The discharge at the Cascade Crossing construction site was over three times higher in volume than the discharge at issue in this case, which is much closer in volume to the 64,000 gallons that was not considered high volume in the CalTrans case.

Finally, AGC and CASQA refer to two construction stormwater enforcement action from the Santa Ana Regional Water Quality Control Board (Santa Ana Water Board) to support their contention that using \$10.00 per gallon to calculate the base liability amount for construction stormwater discharges is unprecedented. In the first case, an ACL Complaint was issued to ELI-PLA proposing a liability amount of \$3.00 per gallon for a discharge of 101,631 gallons of sediment laden stormwater. No analysis was provided by the Santa Ana Water Board as to whether the discharge event was considered high volume or not. It is reasonable, however, to assume that, given the language in the Enforcement Policy, the Santa Ana Region determined that the 101,631 gallon discharge was a high volume discharge but that imposing liability based on a per gallon assessment of \$2.00 per gallon would have resulted in an inappropriately small penalty. Thus, the per gallon liability was raised to \$3.00. Because the Santa Ana Water Board did not outline its rationale for using a base liability amount of \$3.00 per gallon, the case is of limited value. In any event, the ELI-PLA case is not inconsistent with the Prosecution Team’s reading of the Enforcement Policy.

The other Santa Ana Water Board case that the Commenters refer to also does not provide any substantive analysis regarding the language at issue in the Enforcement Policy and cannot be relied on to serve as meaningful guidance in this case. In that case, an ACL Complaint was issued to the Placentia-Yorba Linda Unified School District proposing that administrative civil liability be imposed for, among other things, the discharge of 55,887 gallons of sediment laden stormwater at a construction site using a maximum per gallon liability amount of \$2.00. The ACL Complaint failed to provide any rationale for the determination that using \$2.00 per gallon as the maximum per gallon base liability amount was appropriate under the Enforcement Policy. As with the ELI-PLA case, the Placentia-Yorba Linda case is of limited value and it does not bind the Central Valley Regional Board, or any other Regional Water Board, in its consideration of the appropriate interpretation of the High Volume section in the Enforcement Policy.

Each of the cases discussed above may be considered by the Central Valley Water Board in its analysis of the Enforcement Policy; however, the cases are not precedential. It is important to remember that Central Valley Water Board has broad discretion to use the per gallon liability amount, as well as all of the other factors outlined in the Enforcement Policy, in its determination of what the ultimate appropriate liability should be.

**C. Even if the Central Valley Water Board uses a \$2.00 per gallon to determine the base liability amount for the discharge violation, other factors support the imposition of \$211,038 as an appropriate liability.**

If the Central Valley Water Board accepts the Commenters’ contention that the Enforcement Policy requires that the base liability for the stormwater discharge at issue using the reduced maximum of \$2.00 per gallon instead of the maximum per gallon amount of \$10.00 per gallon, it nevertheless has the discretion to readjust the per gallon amount back up to the statutory maximum and impose the liability amount of \$211,038 proposed in the ACL Complaint. The Prosecution Team believes that imposing a liability amount based on \$2.00 per gallon versus \$10.00 per gallon would result in an inappropriately small penalty.

As discussed above, BILD and AGC state that if the Central Valley Water Board uses \$2.00 per gallon to determine the base liability amount, there are only two considerations which allow the Central Valley Water Board to readjust the per gallon base liability amount back up to \$10.00 per gallon. This contention is based on the language in the Enforcement Policy which provides, "where reducing these maximum amounts results in an inappropriately small penalty, such as dry weather discharges or small volume discharges that impact beneficial uses, a higher amount, up to the maximum per gallon amount, may be used." (Enforcement Policy, p. 14.) The two examples provided in the Enforcement Policy, however, are not the only circumstances where the Regional Board may use its discretion to increase the per gallon liability amount to \$10.00 gallon. The phrase "such as" is not a phrase of strict limitation, but is a phrase of general similarity indicating that there are other matters of the same kind which are not specifically enumerated. (Shaddox v. Bertani (2003) 110 Cal.App.4th 1406, 1414.)

[REDACTED]

[REDACTED]

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CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2013-0519

IN THE MATTER OF

DONAHUE SCHRIBER ASSET MANAGEMENT CORPORATION  
FOR  
ROCKLIN CROSSINGS  
PLACER COUNTY

This Complaint is issued to Donahue Schriber Asset Management Corporation (hereafter Discharger) pursuant to Water Code 13385, which authorizes the imposition of Administrative Civil Liability, and Water Code section 13323, which authorizes the Executive Officer to issue this Complaint. This Complaint is based on evidence that the Discharger violated provisions of the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities, Order No. 2009-0009-DWQ (NPDES No. CAS000002).

The Executive Officer of the Central Valley Regional Water Quality Control Board (Central Valley Water Board or Board) alleges the following:

**Background**

1. Rocklin Crossings, LLC and Rocklin Holdings, LLC are the property owners of Rocklin Crossings and Rocklin Crossings Detention Basin construction sites, and Donahue Schriber Asset Management Corporation (Donahue Schriber) is the property owner of the Dominguez Loop Road and Center at Secret Ravine construction sites. Collectively, all four construction sites will be referred to as the Rocklin Crossings construction sites, or Site(s) in this Complaint.
2. All four Sites are contiguous and are located southeast of the intersection of Interstate 80 and Sierra College Boulevard in Placer County. The Sites cover 59.4 acres and are being developed for two anchor tenants (Walmart and Home Depot), multiple smaller retail stores and restaurants, parking lots, and a two-acre storm water detention basin.
3. S.D. Deacon Corporation of California (S.D. Deacon) is the general contractor and is responsible for all phases of construction under contract to Donahue Schriber.
4. On 2 September 2009, the State Water Resources Control Board adopted the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities, Order No. 2009-0009-DWQ (NPDES No. CAS000002) (General Permit). This Order became effective on 1 July 2010.
5. On 16 July 2012, Donahue Schriber, acting as the property owners' representative, applied for permit coverage under the General Permit for the Rocklin Crossings construction sites by filing four Notice of Intent applications on the Water Board's SMARTS (Storm Water Multiple Application and Tracking System) data management system. Donahue Schriber determined that all four projects are Risk Level 2 sites based on Project Sediment Risk and Receiving Water Risk under the terms of the General Permit. Janet Petersen, Vice President of Development Services with Donahue Schriber, is listed as the legally responsible person (LRP) for the Rocklin Crossing construction sites, and Donahue Schriber is responsible for complying with all elements of the General Permit at all four Sites. This Complaint is being issued to Donahue Schriber, only, because of its status as the LRP for the Sites.

6. On 18 July 2012, the Notices of Intent for the four Rocklin Crossings construction sites were approved and the Sites were assigned the following Waste Discharge Identification Numbers (WDID #).

Site Name	WDID #
Rocklin Crossings	5S31C364098
Rocklin Crossings Detention Basin	5S31C364108
Dominguez Loop Road	5S31C364102
Center at Secret Ravine	5S31C364105

7. Among other items, the General Permit requires that:
- (a) Dischargers shall minimize or prevent pollutants in storm water discharges and authorized non-storm water discharges through the use of controls, structures, and management practices that achieve BAT (best available technology economically achievable) for toxic and non-conventional pollutants and BCT (best conventional control technology) for conventional pollutants. (General Permit, Section V.A.2);
  - (b) Risk Level 2 dischargers shall implement appropriate erosion control BMPs (runoff and soil stabilization) in conjunction with sediment control BMPs for areas under active construction (General Permit, Attachment D, Section E);
  - (c) A State-certified Qualified SWPPP Developer (QSD) shall prepare a site-specific Storm Water Pollution Prevention Plan (SWPPP) and dischargers identify the Risk Level prior to construction (General Permit, Sections XIV, A. and VIII); and
  - (d) Risk Level 2 dischargers shall ensure a Qualified SWPPP Practitioner (QSP) develops a Rain Event Action Plan (REAP), a written document specific for each rain event, that when implemented is designed to protect all exposed portions of a site within 48 hours prior to any likely precipitation event. A REAP must be developed when there is a forecast of 50% or greater probability of precipitation in the project area (General Permit, Attachment D, Section H) and is to be implemented no later than 24 hours prior to the likely precipitation event
8. The Discharger completed site-specific SWPPPs for all four Rocklin Crossings sites and uploaded the SWPPPs to the SMARTS data management system between 12 July and 13 July 2012. As listed in SMARTS, construction activities for all four Sites were scheduled to begin on 25 July 2012 and are to be completed by 15 October 2013.
9. Section 3 of the site-specific SWPPP for the Rocklin Crossings construction sites states that the entire site will be disturbed during the rough grading phase, and that straw mulch will be applied to all disturbed soils prior to any forecast rain event. The SWPPP states that straw mulch will be applied as a temporary erosion control BMP and shall be applied in conformance with the CASQA (California Stormwater Quality Association) BMP Factsheet EC-6. However, as described below, the Discharger did not follow its SWPPP because it failed to apply straw mulch to disturbed soils prior to a rain event and failed to implement appropriate erosion and sediment control BMPs.

### Chronology

10. On 22 October 2012, Water Board staff conducted an inspection at the Site following an approximate one inch rain event in the Rocklin area. No construction activity was observed from the construction entrance at Sierra College Boulevard. Ponding was observed on graded lots,

and staff observed that no erosion controls were installed on active construction areas visible from the construction entrance. The lack of erosion control BMPs on a Risk Level 2 site prior to a rain event is a violation of the General Permit. Staff contacted Janet Petersen on 25 October 2012 and arranged a site meeting for 31 October 2012.

11. On 31 October 2012, Water Board staff met with Janet Petersen and S.D. Deacon staff and completed a thorough inspection of the four Sites. Staff observed that perimeter sediment controls were in place and appeared to be working; however, no erosion control best management practices (BMPs) were installed across the active construction sites. The Discharger was in the process of stabilizing completed building pads with tree mulch, and covering some perimeter slopes with tree mulch. Following the inspection, staff discussed stabilizing all active construction areas prior to rain events as required by the General Permit.
12. Starting on 2 November 2012 and continuing weekly to 18 February 2013, S.D. Deacon provided a weekly summary of construction activities and activities completed to stabilize the Sites. Active construction through November 2012 included drilling and blasting granite outcrops and using the rock and soil to fill portions of the Center at Secret Ravine and the Dominguez Loop Road sites. As of 26 November 2012, S.D. Deacon reported in its weekly summary that multiple areas were stabilized with rock, tree mulch, or hydro-mulch, and that future parking lot areas had not been graded and would contain all storm water in low spots. As documented in later weekly summary reports, between 26 and 28 November 2012, three earthen berms were added to the temporary haul roads in the parking lot areas, and an area at the southwest end of the Dominguez Loop Road site was excavated for temporary water storage during the forecasted rain events.
13. Temporary water storage was not addressed in the SWPPP, although updated SWPPP maps provided in weekly summaries showed the water storage features described above. However, Board staff did not find documentation in the record that the temporary storage basin or the earthen berms were designed with consideration of the size of the impending storm event or that they were equipped with overflow protection such as a rocked spillway to protect the structures from failure. The installation of temporary water storage areas, if engineered and designed correctly, is considered a BMP. However, the General Permit requires that *both* erosion control and sediment control BMPs be installed. The Discharger did not install the appropriate combination of BMPs.
14. From 28 November 2012 through 5 December 2012, multiple rainfall events occurred throughout northern and central California. In the Rocklin area, the heaviest rainfall occurred on 30 November (Friday) and 2 December (Sunday). This storm was forecast by NOAA (National Oceanic and Atmospheric Administration) National Weather Service a minimum of five days prior to the first rainfall on 28 November. As stated above, the General Permit requires that Risk Level 2 dischargers develop and implement a Rain Event Action Plan (REAP) to protect all exposed portions of a site within 48 hours prior to a precipitation event when there is a forecast of 50% or greater probability of precipitation in the project area. The Discharger's REAPs completed for the four construction Sites on 26 November 2012 stated that site erosion and sediment control BMPs were deployed at each of the four construction Sites. However, as noted below, the Water Board staff inspection on 30 November 2012 found that BMPs were not adequately deployed across the southern portion of the Rocklin Crossing site, the Center at Secret Ravine site, and the Dominguez Loop Road site.
15. On 30 November 2012, Water Board staff completed a site inspection during a heavy rain event. The rain event started on 28 November 2012 and produced approximately 0.75 inches of rainfall within the first two days, and then 2.25 inches of rainfall within the first 11 hours on 30 November. Water Board staff subsequently determined that the 30 November to 2 December storm event

was approximately equivalent to a 25 year recurrence interval as provided by NOAA Precipitation Frequency Data Server.<sup>1</sup>

During the inspection, staff observed turbid storm water discharging from two locations at the Site. First, from the Dominguez Loop Road site where an earthen berm, constructed for perimeter control, had breached allowing stored storm water to flow to Secret Ravine. Staff collected a grab sample of turbid storm water below the Dominguez Loop Road discharge point and a grab sample from Secret Ravine upstream of the discharge point. Both samples were analyzed for turbidity using a portable turbidimeter. The Dominguez Loop Road sample result was greater than 1,000 NTU, and the Secret Ravine sample result was 153 NTU.

Staff then met with the QSP for the site and reviewed the Rocklin Crossings Detention Basin site. Staff observed a second turbid storm water discharge from the Detention Basin site into a ditch that leads to Secret Ravine. It was later identified by the Discharger that a plug was placed in the detention basin outlet, but this plug failed, allowing turbid storm water to flow into Secret Ravine. The QSP collected a grab sample from within the ditch and identified the turbidity at 2,425 NTU. This sample represents the turbidity in storm water discharging from the Detention Basin Site into Secret Ravine. Due to the high flows in Secret Ravine, it was not safe for staff to collect an upstream or downstream sample directly from the creek. However, photographs taken at the time of the discharge show that the storm water flowing off the construction site was visibly turbid while the water upstream of the discharge point in Secret Ravine was much clearer.

16. Based on the 30 November 2012 inspection, Board staff determined that the Site did not have appropriate erosion or sediment control BMPs installed prior to the 28 November through 5 December 2012 rain events as required by the SWPPP and the General Permit. This lack of soil stabilization led to the discharge into Secret Ravine from two separate locations on the same day.
17. During the 28 November to 5 December 2012 rain events, the Discharger pumped storm water collected across the Site to both of the existing on-site detention basins to minimize potential discharges to Secret Ravine. On 18 December 2012, the Discharger started operating an on-site active treatment system (ATS) to treat suspended sediment in storm water. Treated effluent was discharged to the storm drain system on Schriber Way, which flows to Secret Ravine.
18. On 21 December 2012, Board staff issued a Notice of Violation (NOV) and Water Code section 13267 Order for the General Permit violations observed during the inspection on 30 November 2012. The Notice of Violation required a response from the Discharger by 18 January 2013, which was later extended to 25 January 2013. The NOV and 13267 Order required the Discharger to install appropriate erosion and sediment control BMPs throughout the Sites and submit a complete Numeric Action Level (NAL) Exceedance Report for the 28 November 2012 through 5 December 2012 storm events.
19. On 24 December 2012, Board staff conducted an inspection following a storm event which started on 21 December (Friday) and continued through 25 December 2012 (Tuesday) and produced approximately 2.75 inches of precipitation as of 24 December. The Center at Secret Ravine site was still actively being graded and compacted prior to the start of the storm event on 21 December 2012, and S.D. Deacon staff stated that disturbed soils across the Center at Secret Ravine site were treated with an "Earthguard" product prior to the rain event. However, the Earthguard-treated areas were not covered with mulch, straw, or fibers to prevent soil particles

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<sup>1</sup> <http://hdsc.nws.noaa.gov/hdsc/pfds/>

from detaching and becoming transported in storm water runoff, and evidence of erosion was observed across portions of the Center at Secret Ravine site. Based on the lack of soil coverage and erosion observed across the active site, it appeared to Board staff that the Earthguard product was not effective in stabilizing soils during rainfall events, and staff concluded that this application was not an appropriate erosion control and therefore a violation of the General Permit. In addition, staff reviewed the SWPPP to determine if the QSD had evaluated whether the Earthguard product was appropriate for use as a soil stabilization BMP at the Rocklin Crossings construction sites. However, this evaluation was not conducted. As presented in Finding 9 above, the site-specific SWPPP for the Rocklin Crossings construction sites stated that straw mulch, not Earthguard, would be applied to all disturbed soils prior to any forecast rain event.

Staff also observed the active treatment system in operation and the system operator reported that approximately 523,000 gallons of turbid storm water had been treated and discharged since the system became operational on 18 December 2012.

20. On 25 January 2013, the Discharger submitted a NOV Response, and on 17 February 2013, the Discharger provided additional responses following staff's initial review. The Discharger's NOV Response with additions stated that the Site received seven inches of rainfall between 28 November and 2 December 2012, and estimated that approximately 76,613 gallons of turbid storm water discharged from the Site to Secret Ravine on 30 November 2012 between 8:00 AM and 12 noon. The Discharger states that BMP repairs were completed at the two discharge points by 12 noon and the remaining volume of storm water was contained on-site in low areas, road depressions, and detention basins. Board staff reviewed the Discharger's estimates and calculations and agrees that the estimated discharge volume from the Site is reasonable.

### **Violations at Rocklin Crossings Construction Sites**

21. General Permit Section V.A.2, Effluent Standards, Narrative Effluent Limitations, states, in part:  
*2. Dischargers shall minimize or prevent pollutants in storm water discharges and authorized non-storm water discharges through the use of controls, structures, and management practices that achieve BAT for toxic and non-conventional pollutants and BCT for conventional pollutants.*

Violation 1: The Discharger is alleged to have violated this requirement of the General Permit by discharging 76,613 gallons of turbid storm water to Secret Ravine on 30 November 2012.

22. General Permit Attachment D, Provision E.3. Sediment Controls, states in part:  
*Additional Risk Level 2 Requirement: Risk Level 2 dischargers shall implement appropriate erosion control BMPs (runoff control and soil stabilization) in conjunction with sediment control BMPs for areas under active construction.*

Violation 2: The Discharger is alleged to have violated this requirement of the General Permit for a period of eight days (28 November to 5 December 2012) for failure to implement appropriate erosion control BMPs for areas under active construction.

Violation 3: The Discharger is alleged to have violated this requirement of the General Permit for a period of five days (21 December to 25 December 2012) for failure to implement appropriate erosion control BMPs for areas under active construction.

### Surface Water Beneficial Uses

23. Surface water drainage from the Rocklin Crossings construction sites flows to Secret Ravine, which is a tributary to Miners Ravine, which is tributary to Dry Creek, which is tributary to the Sacramento River between Colusa Drain and the I Street Bridge.
24. The *Water Quality Control Plan for the Sacramento River and San Joaquin River Basins, Fourth Edition* (hereafter Basin Plan) designates beneficial uses, establishes water quality objectives, contains implementation plans and policies for protecting waters of the basin, and incorporates by reference plans and policies adopted by the State Water Resources Control Board. The existing and potential beneficial uses for the Sacramento River from Colusa Basin Drain to the "I" Street Bridge, and tributary streams, are municipal and domestic supply, agricultural supply for irrigation, contact water recreation, other non-contact water recreation, warm and cold freshwater aquatic habitat, warm and cold fish migration habitat, warm and cold spawning habitat, wildlife habitat, and navigation..

### Calculation of Penalties Under Water Code Section 13385

25. Water Code section 13385 states, in relevant part:
  - (a) *Any person who violates any of the following shall be liable civilly in accordance with this section:*
    - (2) *A waste discharge requirement ... issued pursuant to this chapter...*
    - (5) *Any requirements of Section 301, 302, 306, 307, 308, 318, 401, or 405 of the Clean Water Act, as amended.*
26. The General Permit was adopted by the State Water Board on 2 September 2009, pursuant to Clean Water Act sections 201, 208(b), 302, 303(b), 304, 306, 307, 402, and 403. Section IV(A)(1) of the General Permit, states in part:

*Any permit noncompliance constitutes a violation of the Clean Water Act (CWA) and the Porter-Cologne Water Quality Control Act and is grounds for enforcement action and/or removal from General Permit coverage.*
27. The Discharger's failure to implement the elements of the General Permit described above violated the General Permit and therefore, violated the Clean Water Act and the Porter-Cologne Water Quality Control Act. Water Code section 13385 authorizes the imposition of administrative civil liability for such violations.
28. Water Code section 13385 states, in relevant part:
  - (c) Civil liability may be imposed administratively by the state board or a regional board pursuant to Article 2.5 (commencing with Section 13323) of Chapter 5 in an amount not to exceed the sum of both of the following:
    - (1) Ten thousand dollars (\$10,000) for each day in which the violation occurs.
    - (2) Where there is a discharge, any portion of which is not susceptible to cleanup or is not cleaned up, and the volume discharged but not cleaned up exceeds 1,000 gallons, an additional liability not to exceed ten dollars (\$10) multiplied by the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons.

(e) ...At a minimum, liability shall be assessed at a level that recovers the economic benefits, if any, derived from the acts that constitute the violation.

29. **Maximum Administrative Civil Liability under Water Code Section 13385:** Pursuant to Water Code section 13385(c), each violation of the General Permit identified above is subject to penalties not to exceed \$10,000 per day and \$10 per gallon of discharge exceeding 1,000 gallons.

- The Discharger failed to comply with Sediment Control Provision E.3 from 28 November through 5 December 2012, a period of 8 days, and from 21 December through 25 December 2012, a period of 5 days. Therefore, the maximum penalty is \$10,000 X 13 days, or \$130,000.
- A total of 76,613 gallons of turbid storm water discharged from the Site to Secret Ravine on 30 November 2012. The maximum penalty for this discharge is (76,613– 1,000) gallons X \$10 per gallon plus \$10,000 (for one day of violation), or \$766,130.

The maximum liability for these violations is **eight hundred ninety six thousand one hundred and thirty dollars (\$896,130)**.

30. **Minimum Administrative Civil Liability under Water Code Section 13385:** Pursuant to Water Code section 13385(e), at a minimum, civil liability must be assessed at a level that recovers the economic benefits, if any, derived from the acts that constitute the violation. The violations of the General Permit were due to failure to implement appropriate erosion and sediment control BMPs as listed in the site specific SWPPP. CASQA estimates installation and maintenance of straw mulch at \$1,823 to \$4,802 per acre (July 2007 data), and this range is generally dependent on slope and soil type. The economic benefit received by the Discharger by not installing and maintaining appropriate erosion control BMPs is estimated to be \$2,000 per acre, based on a generally flat site that can be easily accessed by wheeled vehicles. Based on information submitted by the Discharger, Board staff estimated that approximately 40 acres of disturbed area was not adequately protected with BMPs. Therefore, the cost to stabilize this construction site is estimated to be \$80,000. The economic benefit incurred by the Discharger is the failure to spend \$80,000 between 28 November and 25 December 2012; the value can be calculated as the interest on a loan to complete the work. Using the US EPA's BEN model, the economic benefit gained by non-compliance is calculated to be approximately one hundred seventeen dollars (\$117), which becomes the minimum civil liability which must be assessed pursuant to section 13385.

### **Proposed Administrative Civil Liability**

31. Pursuant to Water Code section 13385(e), in determining the amount of any civil liability imposed under Water Code section 13385(c), the Board is required to take into account the nature, circumstances, extent, and gravity of the violations, whether the discharges are susceptible to cleanup or abatement, the degree of toxicity of the discharges, and, with respect to the violator, the ability to pay, the effect on its ability to continue its business, any voluntary cleanup efforts undertaken, any prior history of violations, the degree of culpability, economic benefit or savings, if any, resulting from the violations, and other matters that justice may require.
32. On 17 November 2010, the State Water Board adopted Resolution No. 2009-0083 amending the Water Quality Enforcement Policy (Enforcement Policy). The Enforcement Policy was approved by the Office of Administrative Law and became effective on 20 May 2010. The Enforcement

Policy establishes a methodology for assessing administrative civil liability. The use of this methodology addresses the factors that are required to be considered when imposing a civil liability as outlined in Water Code section 13385(e).

33. This administrative civil liability was derived from the use of the penalty methodology in the Enforcement Policy, as explained in detail in Attachment A. The proposed civil liability takes into account such factors as the Discharger's culpability, history of violations, ability to pay and continue in business, and other factors as justice may require.
34. As described above, the maximum penalty for the violations is \$896,130. The Enforcement Policy requires that the minimum liability imposed be at least 10% higher than the estimated economic benefit of \$117, so that liabilities are not construed as the cost of doing business and that the assessed liability provides a meaningful deterrent to future violations. In this case, the economic benefit amount, plus 10%, is \$129. Based on consideration of the above facts and after applying the penalty methodology and allowing for staff costs pursuant to the Enforcement Policy, the Executive Officer of the Central Valley Water Board proposes that civil liability be imposed administratively on the Discharger in the amount of **\$211,038**. The specific factors considered in this penalty are detailed in Attachment A.

### **Regulatory Considerations**

35. Notwithstanding the issuance of this Complaint, the Central Valley Water Board retains the authority to assess additional penalties for violations of the requirements of the General Permit for which penalties have not yet been assessed or for violations that may subsequently occur.
36. An administrative civil liability may be imposed pursuant to the procedures described in Water Code section 13323. An administrative civil liability complaint alleges the act or failure to act that constitutes a violation of law, the provision of law authorizing administrative civil liability to be imposed, and the proposed administrative civil liability.
37. Issuance of this Administrative Civil Liability Complaint to enforce Water Code Division 7, Chapter 5.5 is exempt from the provisions of the California Environmental Quality Act (Pub. Resources Code § 21000 et seq.), in accordance with California Code of Regulations, title 14, section 15321(a)(2).

### **DONAHUE SCHRIBER IS HEREBY GIVEN NOTICE THAT:**

1. The Executive Officer of the Central Valley Water Board proposes an administrative civil liability in the amount of **two hundred and eleven thousand and thirty eight dollars (\$211,038)**. The amount of the proposed liability is based upon a review of the factors cited in Water Code section 13385, as well as the State Water Resources Control Board's 2010 Water Quality Enforcement Policy, and includes consideration of the economic benefit or savings resulting from the violations.
2. A hearing on this matter will be conducted at the Central Valley Water Board meeting scheduled on **3-4 October 2013**, unless the following occurs by **29 July 2013**:

The Discharger waives the hearing by completing the attached form (checking off the box next to Option #1) and returning it to the Central Valley Water Board, along with payment for the proposed civil liability of **two hundred and eleven thousand and thirty eight dollars (\$211,038)**.

3. If a hearing is held, the Central Valley Water Board will consider whether to affirm, reject, or modify the proposed Administrative Civil Liability, or whether to refer the matter to the Attorney General for recovery of judicial civil liability.

Original signed by Andrew Altevogt for

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PAMELA C. CREEDON, Executive Officer

8 July 2013

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Date

Waiver Form  
Attachment A: Specific Factors Considered for Civil Liability

WMH/SER/WSW: 8 July 2013

**WAIVER FORM  
FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT**

By signing this waiver, I affirm and acknowledge the following:

I am duly authorized to represent Donahue Schriber Asset Management Corporation (hereafter Discharger) in connection with Administrative Civil Liability Complaint R5-2013-0519 (hereafter Complaint). I am informed that Water Code section 13323, subdivision (b), states that, "a hearing before the regional board shall be conducted within 90 days after the party has been served. The person who has been issued a complaint may waive the right to a hearing."

**(OPTION 1: Check here if the Discharger waives the hearing requirement and will pay in full.)**

- a. I hereby waive any right the Discharger may have to a hearing before the Central Valley Water Board.
- b. I certify that the Discharger will remit payment for the proposed civil liability in the full amount of **two hundred and eleven thousand and thirty eight dollars (\$211,038)** by check that references "ACL Complaint R5-2013-0519" made payable to the *State Water Pollution Cleanup and Abatement Account*. Payment must be received by the Central Valley Water Board by **29 July 2013**.
- c. I understand the payment of the above amount constitutes a proposed settlement of the Complaint, and that any settlement will not become final until after a 30-day public notice and comment period. Should the Central Valley Water Board receive significant new information or comments during this comment period, the Central Valley Water Board's Executive Officer may withdraw the complaint, return payment, and issue a new complaint. I also understand that approval of the settlement will result in the Discharger having waived the right to contest the allegations in the Complaint and the imposition of civil liability.
- d. I understand that payment of the above amount is not a substitute for compliance with applicable laws and that continuing violations of the type alleged in the Complaint may subject the Discharger to further enforcement, including additional civil liability.

\_\_\_\_\_  
(Print Name and Title)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

**Attachment A to ACL Complaint R5-2013-0519:  
Specific Factors Considered for Civil Liability  
Rocklin Crossings, Placer County**

The State Water Board's *Water Quality Enforcement Policy* (Enforcement Policy) establishes a methodology for determining administrative civil liability by addressing the factors that are required to be considered under California Water Code (CWC) section 13385(e). Each factor of the nine-step approach is discussed below, as is the basis for assessing the corresponding score. The Enforcement Policy can be found at:

[http://www.waterboards.ca.gov/water\\_issues/programs/enforcement/docs/enf\\_policy\\_final111709.pdf](http://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/enf_policy_final111709.pdf).

**Violation 1: Two Separate Discharges of Turbid Water on 30 November 2012**

**Step 1 – Potential for Harm for Discharge Violations**

The “potential harm to beneficial uses” factor considers the harm to beneficial uses that may result from exposure to the pollutants in the discharge, while evaluating the nature, circumstances, extent, and gravity of the violation(s). A three-factor scoring system is used for each violation or group of violations: (1) the potential harm to beneficial uses; (2) the degree of toxicity of the discharge; and (3) whether the discharge is susceptible to cleanup or abatement.

**Factor 1: Harm or Potential Harm to Beneficial Uses**

A score between 0 and 5 is assigned based on a determination of whether the harm or potential for harm to beneficial uses is negligible (0) to major (5). In this case the potential harm to beneficial uses was determined to be **moderate** (i.e. a score of **3**), which is defined as a “moderate threat to beneficial uses (i.e., impacts are observed or reasonably expected and impacts to beneficial uses are moderate and likely to attenuate without appreciable acute or chronic effects).”

The Discharger failed to implement appropriate erosion control BMPs prior to the 28 November to 5 December 2012 (8 days) storm event(s) as required by the General Permit. This failure resulted in a sediment-laden discharge to Secret Ravine, a sensitive water body with cold, spawn, and migratory beneficial uses. Both erosion and sediment control BMPs are required to be implemented on active construction sites to prevent soil particles from detaching and to contain any soil particles that become entrained in storm water runoff. These BMPs need to be designed by the Qualified SWPPP Developer (QSD) to work in unison and prevent or reduce sediment discharging from the site. In lieu of erosion control BMPs, the Discharger implemented a strategy to contain storm water on site which was not designed for the predicted storm event and ultimately failed.

The failure to implement appropriate erosion control BMPs has the potential to impact beneficial uses in Secret Ravine. The beneficial uses of Secret Ravine, as a tributary to the Sacramento River between Colusa Drain and “I” Street Bridge via Miners Ravine and Dry Creek, include municipal and domestic supply, agricultural supply for irrigation, contact water recreation, other non-contact water recreation, warm and cold freshwater aquatic habitat, warm and cold fish migration habitat, warm and cold spawning habitat, wildlife habitat, and navigation. Discharges of sediment to surface waters can cloud the receiving water, thereby reducing the amount of sunlight reaching aquatic plants, clog fish gills, smother aquatic habitat and spawning areas, and impede navigation. Sediment can also transport other materials such as nutrients, metals, and oils and grease.

In April 2008, the consulting firm EDAW (now called AECOM – Design + Planning) completed a Final Environmental Impact Report (EIR) for the Rocklin Crossings Project<sup>2</sup>. EDAW identified that Secret Ravine Creek provides spawning and rearing habitat for the federally threatened Central Valley Steelhead and spawning habitat for the federal candidate species and state species of special concern Central Valley fall- and late fall-run Chinook Salmon. EDAW received a number of comments on the Draft EIR regarding the project's potential effect on Secret Ravine and the creek's salmon population. In response, the Final EIR states that uncontrolled soil erosion generated during project construction could indirectly affect fish habitat and benthic macro-invertebrates by degrading the water quality within Secret Ravine Creek. However, EDAW added that the project's runoff, erosion, and subsequent sedimentation issues would be minimized or eliminated through preparation and implementation of an erosion control plan and stormwater pollution prevention plan (SWPPP) and the installation of appropriate Best Management Practices (BMPs).

Section 2 of the Final EIR, Master Response on Water Quality, states the following: "The BMPs proposed to be implemented during construction include: the use of soil stabilizers, fiber rolls, inlet filters, and gravel bags to prevent pollutants from being carried off-site in stormwater generated on the project site. The erosion control plan would ensure that proper control of siltation, sedimentation, and other pollutants would be implemented per the National Pollution Discharge Elimination System (NPDES) permit requirements and City ordinance standards. Debris, soil, silt, sand, bark, slash, sawdust, cement, concrete, washings, petroleum products or other organic or earthen material would not be allowed to enter into or be placed where it may be washed by rainfall or runoff into Secret Ravine Creek."

Section 4 of the Final EIR states that construction techniques shall be identified that would reduce the potential runoff, the SWPPP shall identify the erosion and sedimentation control measures to be implemented, and BMPs identified in the SWPPP shall be used in subsequent site development activities. As discussed below, erosion and sediment control measures were identified in the SWPPP; however, erosion control measures were not implemented, and sediment controls were not effective in preventing sediment discharges from the site.

As discussed in the EIR, the discharge of sediment to surface waters can negatively impact aquatic organisms. However, the discharges took place over a four hour period during a time of high flow in Secret Ravine, and the impacts are expected to attenuate without appreciable acute or chronic effects. Therefore a moderate score of 3 was assigned to this factor.

#### Factor 2: The Physical, Chemical, Biological, or Thermal Characteristics of the Discharge

A score between 0 and 4 is assigned based on a determination of the risk or threat of the discharged material. In this case, a score of 2 was assigned, which means that the chemical and/or physical characteristics of the discharged material poses a moderate risk or threat to potential receptors (i.e. the chemical and/or physical characteristics of the discharged material have some level of toxicity or pose a moderate level of concern regarding receptor protection). Discharges of sediment can cloud the receiving water, which reduces the amount of sunlight reaching aquatic plants, clog fish gills, smother aquatic habitat and spawning areas, and impede navigation. Sediment can also transport other materials such as nutrients, metals, and oils and grease.

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<sup>2</sup>[http://www.rocklin.ca.us/depts/develop/planning/publications\\_n\\_maps/rocklin\\_crossings\\_environmental\\_impact\\_report/default.asp](http://www.rocklin.ca.us/depts/develop/planning/publications_n_maps/rocklin_crossings_environmental_impact_report/default.asp)

Factor 3: Susceptibility to Cleanup or Abatement

A score of 0 is assigned for this factor if 50% or more of the discharge is susceptible to cleanup or abatement. A score of 1 is assigned if less than 50% of the discharge is susceptible to cleanup or abatement. This factor is evaluated regardless of whether the discharge was actually cleaned up or abated by the discharger. In this case, sediment laden storm water discharged into Secret Ravine and was carried downstream with the current. Cleanup or abatement is not possible and therefore, a factor of 1 is assigned.

Final Score – “Potential for Harm”

The scores of the three factors are added to provide a Potential for Harm score for each violation or group of violations. In this case, a final score of **6** was calculated. The total score is then used in Step 2 below.

**Step 2 – Assessment for Discharge Violations**

This step addresses penalties based on both a per-gallon and a per-day basis for the discharge violation.

Per Gallon Assessments for Discharge Violations

When there is a discharge, the Central Valley Water Board is to determine the initial liability amount on a per gallon basis using the Potential Harm score from Step 1 and the Extent of Deviation from Requirement of the violation. The Potential Harm score from Step 1 is **6** and the Extent of Deviation from Requirements is considered to be **Major** because the Discharger failed to implement appropriate erosion control BMPs and rendered the requirement ineffective. General Permit requires both erosion and sediment control BMPs on active construction sites to prevent soil particles from detaching and to contain any soil particles that become entrained in storm water runoff. The installation of temporary water storage areas as done by the Discharger, if engineered and designed correctly, is considered a BMP. However, the General Permit requires that both erosion control and sediment control BMPs be installed. The Discharger did not install an appropriate combination of BMPs.

Table 1 of the Enforcement Policy (p. 14) is used to determine a “per gallon” factor based on the total score from Step 1 and the level of Deviation from Requirement. For this particular case, the per gallon factor is 0.22. This value is multiplied by the volume of discharge and the per gallon civil liability, as described below.

An estimated volume of 76,613 gallons of turbid storm water was discharged from two locations on 30 November 2012. The maximum civil liability allowed under Water Code section 13385 is \$10 per gallon for discharges. While the Enforcement Policy states that a lower initial per-gallon value may be used for “high volume” discharges, for this case, Water Board staff do not recommend using less than \$10/gallon in the initial penalty calculation, given the relatively small volume of discharge on 30 November 2012 and the beneficial uses of the receiving water.

Water Code section 13385(c)(2) states that the civil liability amount is to be based on the number of gallons discharged but not cleaned up, over 1,000 gallons for each spill or discharge event. As shown in the table below, there was one discharge event on 30 November 2012 with an estimated volume of 76,613 gallons. The Per Gallon Assessment is calculated as: (Factor from Table 1) x (discharge volume-1,000) x (\$10 per gallon).

#### Per Day Assessments for Discharge Violations

When there is a discharge, the Central Valley Water Board is to determine the initial liability amount on a per day basis using the same Potential Harm score from Step 1 and the same Extent of Deviation from Requirement used in the per-gallon analysis. The Potential Harm score from Step 1 is 6 and the Extent of Deviation from Requirements is considered to be **Major**. Therefore, the “per day” factor is **0.22** as determined from Table 2 in the Enforcement Policy. The Per Day Assessment is calculated as (factor from Table 2) x (number of days) x \$10,000 per day.

#### **Violation 1 – Per Gallon and Per Day Assessment for Discharge Violations**

The initial liability amount for the discharge violations of the General Permit, Section V., A.2.(Narrative Effluent Limitations) on 30 November 2012 is as follows:

Per Gallon Liability:

a)  $0.22 \times (76,613 \text{ gallons discharged} - 1000 \text{ gallons}) \times \$10 \text{ per gallon} = \$166,349$

Per Day Liability:

b)  $0.22 \times (1 \text{ day}) \times \$10,000 = \$2,200$

Total Initial Liability (a+b) = **\$168,549**

#### **Step 3 – Per Day Assessment for Non-Discharge Violations**

In this case, this factor does not apply because Violation 1 is related to a discharge to surface waters and the liability was determined in Step 2.

#### **Step 4 – Adjustment Factors**

There are three additional factors to be considered for modification of the amount of initial liability: the violator’s culpability, efforts to cleanup or cooperate with regulatory authority, and the violator’s compliance history.

#### Culpability

Higher liabilities should result from intentional or negligent violations as opposed to accidental violations. A multiplier between 0.5 and 1.5 is to be used, with a higher multiplier for negligent behavior. The Discharger was given a multiplier value of **1.1** because of the Discharger failed to implement erosion control BMPs as required by the Construction General Permit for a forecasted multi-day storm event. Although the Discharger utilized low areas to hold water, there is no documentation in the record that the temporary storage basins and earthen berms were designed with consideration of the size of the impending storm event or that they were equipped with overflow protection such as a rocked spillway to protect the structures from failure.

The General Permit requires that Risk Level 2 dischargers develop and implement a Rain Event Action Plan (REAP) to protect all exposed portions of a site within 48 hours prior to a precipitation event when there is a forecast of 50% or greater probability of precipitation in the project area. The Discharger’s REAPs completed for the four construction Sites on 26 November 2012 stated that site erosion and sediment control BMPs were deployed at each of the four construction Sites. However, the Water Board staff inspection on 30 November 2012 found that straw and tack erosion control BMPs were not implemented across the southern portion of the Rocklin Crossing site, the Center at Secret Ravine site, and the Dominguez Loop Road site. This failure to

implement appropriate BMPs led to the discharge of turbid water which should have been avoided based on the strength of the storm forecast. The Discharger did not anticipate what a reasonable person would have and did not implement appropriate measures to avoid the discharge.

Cleanup and Cooperation

This factor reflects the extent to which a discharger voluntarily cooperated in returning to compliance and correcting environmental damage. A multiplier between 0.75 and 1.5 is to be used, with a higher multiplier when there is a lack of cooperation. The Discharger was given a multiplier value of **0.75** because of the cooperation exhibited by the Discharger to return to compliance. Following discovery of discharges off the construction site, the Discharger deepened a failed temporary detention basin at the Center at Secret Ravine site and pumped accumulated storm water to larger on-site detention basins and stopped the discharges off the construction site within four hours.

History of Violations

This factor is to be used when there is a history of repeat violations. A minimum multiplier of 1.1 is to be used, and is to be increased as necessary. In this case, a multiplier of **1** was used because there have been no previous unauthorized discharge violations at this Site other than the alleged violations currently at issue in this Complaint.

**Step 5 - Determination of Total Base Liability Amount**

The Total Base Liability is determined by applying the adjustment factors from Step 4 to the Total Initial Liability Amount determined in Step 2.

<p><b><u>Violation 1 – Total Base Liability Amount</u></b></p> <p>Initial Liability x Culpability Multiplier x Cleanup and Cooperation Multiplier x History of Violations Multiplier = Total Base Liability</p> <p style="text-align: center;"><math>\\$168,549 \times 1.1 \times 0.75 \times 1 = \\$139,053</math></p> <p style="text-align: right;">Total Base Liability = <b>\$139,053</b></p>
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Steps 6 through 10 are applied to the combined Total Base Liability Amount for all violations and will be discussed after the Total Base Liability Amount has been determined for the remaining violations.

**Violation 2: Failure to Implement Appropriate BMPs on Active Construction Areas during a rain event prior to installation of the Active Treatment System.**

The General Permit requires Risk Level 2 dischargers to implement appropriate erosion and sediment control BMPs. The Rocklin Crossings site is Risk Level 2.

Board staff considered the Discharger to be in violation of the erosion control BMP requirements only on the days when rain occurred at the site because the General Permit distinguishes between active and inactive construction areas. Active construction areas are defined in the General Permit

as: “*areas undergoing land surface disturbance. This includes construction activity during the preliminary stage, mass grading stage, streets and utilities stage and the vertical construction stage.*” Active areas must have appropriate erosion and sediment controls installed prior to and during rain events, but not between rain events. The General Permit defines inactive areas of construction as “*areas of construction activity that have been disturbed and are not scheduled to be re-disturbed for at least 14 days.*” Inactive areas must have effective soil cover during the entire period of inactivity, regardless of rainfall.

For the Rocklin Crossings site, Board staff understands that the Discharger was conducting drilling and blasting, grading, and compaction work at the south end of the Site, and utility installation activities, and returned to work as soon as possible following the rain events. Therefore, staff considered the requirements for installation of erosion control BMPs at active construction areas, rather than inactive areas, when determining the violations in this case.

Violation 2 is for the period of 28 November through 5 December 2012 (8 days) when the Discharger failed to have appropriate erosion control BMPs installed at the site during a rain event prior to installing an Active Treatment System (ATS). The ATS began operation on 18 December 2012.

#### **Step 1 – Potential for Harm for Discharge Violations**

This step is not applicable because the violation is a not a discharge violation.

#### **Step 2 – Assessment for Discharge Violations**

This step is not applicable because the violation is a not a discharge violation.

#### **Step 3 – Per Day Assessment for Non-Discharge Violations**

The “per day” factor is calculated for each non-discharge violation or group of violations considering the 1) potential for harm and 2) the extent of the deviation from the applicable requirements.

#### **Potential for Harm**

The characteristics of the violation present either a minor, moderate, or major potential for harm or threat to beneficial uses. The Potential for Harm is considered to be **Moderate**, which is defined in the Enforcement Policy as “The characteristics of the violation present a substantial threat to beneficial uses and/or the circumstances of the violation indicate a substantial potential for harm. Most incidents would be considered to present a moderate potential for harm.”

The Discharger failed to implement appropriate erosion control BMPs prior to the 28 November to 5 December 2012 (8 days) storm event(s) as required by the General Permit. Temporary erosion controls such as straw and tack cover disturbed soils and protect soil particles from detaching, which helps lock the soil particles in place and reduces turbidity in storm water runoff. Discharges of sediment to surface waters can cloud the receiving water, thereby reducing the amount of sunlight reaching aquatic plants, clog fish gills, smother aquatic habitat and spawning areas, and impede navigation. Sediment can also transport other materials such as nutrients, metals, and oils and grease. This failure to implement appropriate erosion control BMPs has the potential to impact beneficial uses of a sensitive habitat. As described in the EIR, “*The BMPs proposed to be implemented during construction include: the use of soil stabilizers, fiber rolls, inlet filters, and gravel bags to prevent pollutants from being carried off-site in stormwater generated on the project site. The erosion control plan would ensure that proper control of siltation, sedimentation, and other*

*pollutants would be implemented per the National Pollution Discharge Elimination System (NPDES) permit requirements and City ordinance standards. Debris, soil, silt, sand, bark, slash, sawdust, cement, concrete, washings, petroleum products or other organic or earthen material would not be allowed to enter into or be placed where it may be washed by rainfall or runoff into Secret Ravine Creek.”* However, the Discharger did not follow the mitigation measures identified in the EIR or the erosion control BMPs required by the General Permit.

Deviation from Requirement

The violation represents either a minor, moderate, or major deviation from the applicable requirements. The Deviation from Requirement is considered **Major**, which is defined in the Enforcement Policy as “The requirement has been rendered ineffective (e.g., discharger disregards the requirement, and/or the requirement is rendered ineffective in its essential functions).”

General Permit requires both erosion and sediment control BMPs on active construction sites to prevent soil particles from detaching and to contain any soil particles that become entrained in storm water runoff. The installation of temporary water storage areas as done by the Discharger, if engineered and designed correctly, is considered a BMP. However, the General Permit requires that both erosion control and sediment control BMPs be installed. The Discharger did not install an appropriate combination of BMPs.

The Discharger failed to implement appropriate erosion controls as required by the General Permit and rendered the permit requirements ineffective. There was a high potential for sediment laden storm water to discharge from the construction site to Secret Ravine, and it is appropriate to select a “Major” Deviation from Requirement.

Using Table 3 in the Enforcement Policy, the range of factors for a **Moderate** Potential for Harm and a **Major** Deviation from Requirement is 0.4 to 0.7, and the middle of the range (0.55) was used for the Per Day Factor. This value is multiplied by the days of violation and the maximum per day penalty, as shown below.

**Violation 2 –Per Day Assessment for Non-Discharge Violations**

The initial liability amounts for the violations of the General Permit, Att. D., Section E.3. (Sediment Controls) calculated on a per-day basis, are as follows:

a) 28 November to 5 December 2012 (8 days):  $8 \text{ days} \times \$10,000 \text{ per day} \times 0.55 = \$44,000$

Total Initial Liability = **\$44,000**

**Step 4 – Adjustment Factors**

There are three additional factors to be considered for modification of the amount of initial liability: the violator’s culpability, efforts to cleanup or cooperate with regulatory authority, and the violator’s compliance history.

### Culpability

Higher liabilities should result from intentional or negligent violations as opposed to accidental violations. A multiplier between 0.5 and 1.5 is to be used, with a higher multiplier for negligent behavior. The Discharger was given a multiplier value of **1.1** because of the Discharger's failure to implement appropriate BMPs prior to a forecasted multi-day storm event. This failure to implement BMPs led to the discharges of turbid water which could have been avoided had appropriate BMPs been in place prior to the forecasted storm event. Again, as presented above, the General Permit requires that Risk Level 2 dischargers develop and implement a Rain Event Action Plan (REAP) to protect all exposed portions of a site within 48 hours prior to a precipitation event when there is a forecast of 50% or greater probability of precipitation in the project area. The Discharger's REAPs completed for the four construction Sites on 26 November 2012 stated that site erosion and sediment control BMPs were deployed at each of the four construction Sites. However, the Water Board staff inspection on 30 November 2012 found that straw and tack erosion control BMPs were not implemented across the southern portion of the Rocklin Crossing site, the Center at Secret Ravine site, and the Dominguez Loop Road site. This failure to implement appropriate BMPs led to the discharge of turbid water which should have been avoided based on the strength of the storm forecast. The Discharger did not anticipate what a reasonable person would have and did not implement appropriate measures to avoid the violations.

### Cleanup and Cooperation

This factor reflects the extent to which a discharger voluntarily cooperated in returning to compliance and correcting environmental damage. A multiplier between 0.75 and 1.5 is to be used, with a higher multiplier when there is a lack of cooperation. The Discharger was given a multiplier value of **0.9** because of the cooperation exhibited by the Discharger to implement structural BMPs that reduce the potential for future discharges. Following notification of turbid storm water discharging off the construction site, the Discharger deepened a failed temporary detention basin and pumped accumulated storm water to larger on-site detention basins, and discharges off the construction site were stopped within four hours. However, the Discharger did not implement appropriate erosion control BMPs on active construction areas for the eight days identified in this violation.

### History of Violations

This factor is to be used when there is a history of repeat violations. A minimum multiplier of 1.1 is to be used, and is to be increased as necessary. In this case, a multiplier of **1.0** was used because there have been no previous violations at the Site other than the alleged violations currently at issue in this Complaint.

### **Step 5 - Determination of Total Base Liability Amount**

The Total Base Liability is determined by applying the adjustment factors from Step 4 to the Total Initial Liability Amount determined in Step 3.

**Violation 2 - Total Base Liability Amount**

Total Initial Liability x Culpability Multiplier x Cleanup and Cooperation Multiplier x History of Violations Multiplier = Total Base Liability

$$\$44,000 \times 1.1 \times 0.9 \times 1.0 = \$43,560$$

Total Base Liability = **\$43,560**

Steps 6 through 10 are applied to the combined Total Base Liability Amount for all violations and will be discussed after the Total Base Liability Amount has been determined for the remaining violation.

**Violation 3: Failure to Implement Appropriate BMPs on Active Construction Areas following Installation of the Active Treatment System.**

Violation 3 is for the period of 21 December to 25 December 2012 (5 days) when the Discharger failed to have adequate erosion control BMPs installed at the site during a rain event after the Active Treatment System was installed. Again, Board staff considered the requirements for installation of erosion control BMPs on active construction areas in determining these violations.

**Step 1 – Potential for Harm for Discharge Violations**

This step is not applicable because the violation is a not a discharge violation.

**Step 2 – Assessment for Discharge Violations**

This step is not applicable because the violation is a not a discharge violation.

**Step 3 – Per Day Assessment for Non-Discharge Violations**

The “per day” factor is calculated for each non-discharge violation or group of violations considering the 1) potential for harm and 2) the extent of the deviation from the applicable requirements.

**Potential for Harm**

The characteristics of the violation present either a minor, moderate, or major potential for harm or threat to beneficial uses. The Potential for Harm is considered to be **Minor**, which is defined in the Enforcement Policy as “The characteristics of the violation present a minor threat to beneficial uses, and/or the circumstances of the violation indicate a minor potential for harm.”

The Discharger applied an Earthguard product to disturbed soils prior to the 21 December to 25 December 2012 storm event. During a 24 December 2012 site inspection, Board staff identified that the Earthguard-treated areas were not covered with mulch, straw, or fibers to prevent soil particles from detaching and becoming transported in storm water runoff, and evidence of erosion was observed across portions of the Center at Secret Ravine site. Based on the lack of soil coverage and erosion observed across the active site, it appeared to Board staff that the Earthguard product was not effective in stabilizing soils during rainfall events, and concluded that this application was not an appropriate erosion control and therefore a violation of the General

Permit.- This failure to implement appropriate erosion control BMPs has the potential to impact beneficial uses.

The Discharger substantially mitigated the potential for harm by implementing structural BMPs that reduce the potential for future discharges. Although these efforts do not negate the requirement to implement appropriate erosion control BMPs at the Sites during rain events, the effective combination of erosion and sediment control BMPs combined with a strategy to pump accumulated storm water from temporary detention basins to larger on-site basins significantly reduced the potential for discharges off the construction site. Therefore, the Potential for Harm is “minor”.

#### Deviation from Requirement

The violation represents either a minor, moderate, or major deviation from the applicable requirements. The Deviation from Requirement is considered **Minor**, which is defined in the Enforcement Policy as “The intended effectiveness of the requirement remains generally intact (e.g., while the requirement was not met, there is general intent by the discharger to follow the requirement).”

The Discharger implemented an Earthguard product to disturbed soils prior to the 21 December to 25 December 2012 storm event; however, as discussed above, Board staff determined that the Discharger failed to implement appropriate erosion control BMPs as required by the General Permit. The Discharger implemented structural BMPs that reduce the potential for future discharges, and these BMPs combined with a strategy to pump accumulated storm water from temporary detention basins to larger on-site basins significantly reduced the potential for discharges off the construction site.

Using Table 3 in the Enforcement Policy, the range of factors for a **Minor** Potential for Harm and a **Minor** Deviation from Requirement is 0.1 to 0.2, and the middle of the range (0.15) was used for the Per Day Factor. This value is multiplied by the days of violation and the maximum per day penalty, as shown below.

#### **Violation 3 –Per Day Assessment for Non-Discharge Violations**

The initial liability amounts for the violations of the General Permit, Att. D., Section E.3. (Sediment Controls) calculated on a per-day basis, are as follows:

a) 21 December to 25 December 2012 (5 days):  $5 \text{ days} \times \$10,000 \text{ per day} \times 0.15 = \$7,500$

Total Initial Liability = **\$7,500**

#### **Step 4 – Adjustment Factors**

There are three additional factors to be considered for modification of the amount of initial liability: the violator’s culpability, efforts to cleanup or cooperate with regulatory authority, and the violator’s compliance history.

#### Culpability

Higher liabilities should result from intentional or negligent violations as opposed to accidental violations. A multiplier between 0.5 and 1.5 is to be used, with a higher multiplier for negligent behavior. The Discharger was given a multiplier value of **1.1** because of the Discharger's failure to implement appropriate BMPs prior to a forecasted multi-day storm event.

The Center at Secret Ravine site was still actively being graded and compacted prior to the start of the storm event on 21 December 2012, and S.D. Deacon staff stated that disturbed soils across the Center at Secret Ravine site were treated with an "Earthguard" product prior to the rain event. However, the Earthguard-treated areas were not covered with mulch, straw, or fibers to prevent soil particles from detaching and becoming transported in storm water runoff, and evidence of erosion was observed across portions of the Center at Secret Ravine site. Based on the lack of soil coverage and erosion observed across the active site, it appeared to Board staff that the Earthguard product was not effective in stabilizing soils during rainfall events. Staff concluded that this application was not an appropriate erosion control and therefore a violation of the General Permit. In addition, staff reviewed the SWPPP to determine if the QSD had evaluated whether the Earthguard product was appropriate for use as a soil stabilization BMP at the Rocklin Crossings construction sites. Board staff found no evidence that this evaluation was conducted. Instead, the site-specific SWPPP for the Rocklin Crossings construction sites stated that straw mulch, not Earthguard, would be applied to all disturbed soils prior to any forecast rain event. The Discharger did not anticipate what a reasonable person would have and did not implement appropriate measures to avoid the violations.

#### Cleanup and Cooperation

This factor reflects the extent to which a discharger voluntarily cooperated in returning to compliance and correcting environmental damage. A multiplier between 0.75 and 1.5 is to be used, with a higher multiplier when there is a lack of cooperation. The Discharger was given a multiplier value of **0.9** because of the cooperation exhibited by the Discharger to implement additional BMPs and reduce the potential for sediment discharges to surface waters. However, the Discharger did not implement appropriate erosion control BMPs on active construction areas for the five days identified in this violation.

#### History of Violations

This factor is to be used when there is a history of repeat violations. A minimum multiplier of 1.1 is to be used, and is to be increased as necessary. In this case, a multiplier of **1.0** was used because there have been no previous violations at this Site other than the alleged violations currently at issue in this Complaint.

#### **Step 5 - Determination of Total Base Liability Amount**

The Total Base Liability is determined by applying the adjustment factors from Step 4 to the Total Initial Liability Amount determined in Step 3.

**Violation 3 - Total Base Liability Amount**

Total Initial Liability x Culpability Multiplier x Cleanup and Cooperation Multiplier x History of Violations Multiplier = Total Base Liability

$$\$7,500 \times 1.1 \times 0.9 \times 1.0 = \$7,425$$

Total Base Liability = **\$7,425**

**COMBINED TOTAL BASE LIABILITY AND FACTORS APPLIED TO ALL VIOLATIONS**

The combined Total Base Liability Amount for the two violations is **\$190,038** ( \$139,053 + \$43,560 + \$7,425).

The following factors apply to the combined Total Base Liability Amount for the violations discussed above.

**STEP 6 – Ability to Pay and Continue in Business**

The Order is only being issued to the Legally Responsible Party (LRP), Donahue Schriber, therefore Central Valley Water Board staff considered only Donahue Schriber's ability to pay and to continue in business when determining the administrative civil liability amount.

According to a March 2013 press release<sup>3</sup>, Donahue Schriber is a private Real Estate Investment Trust (REIT) operating on the West Coast. The company owns and manages 76 neighborhood, community, and power shopping centers representing over 11 million square feet of retail space. The shopping centers are located throughout California, Arizona, Nevada, Oregon, and Washington. When completed, the Crossings site will consist of approximately 544,000 square feet of new retail and restaurant space with Walmart and Home Depot as the anchor tenants.

In 2013, the company's major investors, the New York State Teacher's Retirement System and J.P. Morgan Strategic Property Fund approved an additional \$100 million in common equity for growth capital to allow the Company to "take advantage of new market opportunities". In 2012, Donahue Schriber disposed of \$250 million of non-strategic assets and acquired four shopping centers valued at over \$200 million.

Given the size of the Discharger's company and the scale of the Rocklin Crossings project, the Discharger has the ability to pay the combined Total Base Liability Amount.

Although the Order only names Donahue Schriber as the responsible party, Board staff are aware that some LRPs have contract provisions in which any civil liability is passed to the contractor. The record for this case does not include the contract between Donahue Schriber and the contractor, S.D. Deacon, but staff still completed a brief review of the contractor's ability to pay. According to its website<sup>4</sup>, S. D. Deacon is the largest retail contractor on the West Coast and fifth largest in the

<sup>3</sup> <http://www.donahueschriber.com/newsdetails.aspx?newsid=126>

<sup>4</sup> <http://www.sddeacon.com/>

U.S. The company projected \$400 million in business volume in 2012, and employs 400 people in five offices, including one in Sacramento. Given the size of the company, S.D. Deacon has the ability to pay the penalty, if it were to be passed on by Donahue Schriber by any indemnity provisions in the contract.

**STEP 7 – Other Factors as Justice May Require**

The costs of investigation and enforcement are “other factors as justice may require”, and should be added to the liability amount. The Central Valley Water Board has incurred \$21,000 in staff costs associated with the investigation and enforcement of the violations alleged herein. This represents approximately 140 hours of staff time devoted to investigating and drafting the complaint at \$150 an hour. In accordance with the Enforcement Policy, this amount is added to the Combined Total Base Liability Amount.

It should be recognized that the Discharger, Donahue Schriber, also violated the Storm Water General Permit at its Rocklin Commons construction site, which is across the freeway from Rocklin Crossings. In that matter, the Executive Officer issued an Administrative Civil Liability Complaint in the amount of \$51,550 for the failure to install appropriate erosion controls from 28 November to 5 December 2012, and for the failure to collect storm water samples. Donahue Schriber paid the liability and waived its right to a hearing before the Central Valley Water Board. Given the history of violations for this Discharger, it could be argued that a higher “history of violations” multiplier would be more appropriate than the neutral multiplier of 1 which the Prosecution Team is currently proposing.

**STEP 8 – Economic Benefit**

Pursuant to CWC section 13385(e), civil liability, at a minimum, must be assessed at a level that recovers the economic benefits, if any, derived from the acts that constitute the violation. The violations of the General Permit were due to a failure to implement appropriate erosion and sediment control BMPs as required by the General Permit and listed in the site specific SWPPP. The California Stormwater Quality Association (CASQA) estimates installation and maintenance of straw mulch at \$1,823 to \$4,802 per acre (July 2007 data), and this range is generally dependent on slope and soil type. The economic benefit received by the Discharger by not installing and maintaining appropriate erosion control BMPs is estimated to be \$2,000 per acre, based on a generally flat site that can be easily accessed by wheeled vehicles. Based on information submitted by the Discharger, Board staff calculated that approximately 40 acres of disturbed area were not adequately protected with BMPs. Therefore, the cost to stabilize this acreage is estimated to be \$80,000 (40 acres x \$2,000/acre). The Discharger realized some cost savings by not spending \$80,000 prior to the 28 November 2012 or 21 December 2012 storm events. However, the Discharger started using an active treatment system on 18 December 2012. Therefore, the economic benefit can be calculated as the interest saved by not spending \$80,000 for a period of 20 days from 28 November to 18 December 2012. Water Board Senior Economist staff used the US EPA’s BEN model to determine the economic benefit, as required by the Enforcement Policy. The estimated value is \$117.

The Enforcement Policy states (p. 21) that the total liability shall be at least 10% higher than the economic benefit, “so that liabilities are not construed as the cost of doing business and the assessed liability provides a meaningful deterrent to future violations.” The economic benefit plus \$10% is \$129.

### **STEP 9 – Maximum and Minimum Liability Amounts**

a) Minimum Liability Amount: Economic Benefit plus 10%: **\$129**

Discussion: The Enforcement Policy requires that the minimum liability amount imposed not be below the economic benefit plus ten percent. As discussed above, the Central Valley Water Board Prosecution Team's estimate of the Discharger's economic benefit obtained from the violations cited in this Complaint is \$117. Therefore, the minimum liability amount pursuant to the Enforcement Policy is \$129.

b) Total Maximum Liability Amount: **\$896,130**

- i. Maximum liability amount Violation 1: \$766,130 (76,613 gallons discharged (-1,000 gallons) x \$10 per gallon, plus 1 day x \$10,000/day)
- ii. Maximum liability amount Violation 2: \$80,000 (8 days x \$10,000/day)
- iii. Maximum liability amount Violation 3: \$50,000 (5 days x \$10,000/day)

Discussion: The maximum administrative liability amount is the maximum amount allowed by CWC section 13385. Without the benefit of the alternative approach for calculating liability for multiday violations under the Enforcement Policy, the Discharger could be assessed up to \$896,130 in administrative civil liabilities for the alleged violations.

The proposed liability falls within these maximum and minimum liability amounts.

### **STEP 10 – Final Liability Amount**

Based on the foregoing analysis, and consistent with the Enforcement Policy, the final liability amount proposed for the alleged violations is **\$211,038** (\$190,038 + \$21,000).