



California Regional Water Quality Control Board San Diego Region



Linda Adams
Secretary for
Environmental
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Arnold
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9174 Sky Park Court, Suite 100, San Diego, California 92123-4340
(858) 467-2952 • Fax (858) 571-6972
[http:// www.waterboards.ca.gov/sandiego](http://www.waterboards.ca.gov/sandiego)

Certified Mail No. 7006 2760 0000 1615 6762
(return receipt requested)

January 28, 2008

In reply, refer to:
CWU:R9-2008-0018:mporter

Mr. Jim Barbour
17215 Iron Mountain Road
Poway, CA 92064

CIWQS:	
Place	711485
Person	455371
Reg. Measure	339915

CLEANUP AND ABATEMENT ORDER NO. R9-2008-0018
BARBOUR RESIDENCE
SITE LOCATION: 17215 IRON MOUNTAIN DRIVE,
CITY OF POWAY, SAN DIEGO COUNTY

Dear Mr. Barbour:

Enclosed is Cleanup and Abatement Order (CAO) No. R9-2008-0018 of the California Regional Water Quality Control Board, San Diego Region (Regional Board) concerning unauthorized discharges of sediment and rock into an unnamed, ephemeral stream that is tributary to Poway Creek located on your property at 17215 Iron Mountain Road, Poway, San Diego County (Los Penasquitos Hydrologic Unit).

The CAO is issued pursuant to California Water Code section 13304 and directs you to cleanup the sediment and rock (waste) and abate the pollution associated with the discharges from the Project. Please note the deadlines contained within the CAO. Failure to meet the deadlines may subject you to substantial civil liability.

This Order is self-explanatory and effective immediately. Any person affected by this action of the Regional Board may petition the State Water Resources Control Board (State Board) to review the action in accordance with section 13320 of the California Water Code and Section 2050 of Title 23, California Code of Regulations. The State Board must receive the petition within 30 days of the date of the enclosed Order.

Any person affected by this action of the Regional Board may also request an evidentiary hearing before the Regional Board. To schedule a hearing at a Regional Board meeting, you must submit a written request to this office within 30 days of issuance of the CAO. Be aware that a request for a hearing does not stay any of the deadlines in the CAO.

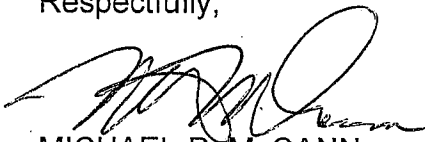
I strongly urge a prompt and complete response to each directive in the CAO. Failure to meet these deadlines may subject you to further enforcement actions by the Regional Board, including administrative or judicial proceedings for the assessment of civil liability of up to \$5,000 per day per violation; referral to the State Attorney General for injunctive relief; and referral to the District Attorney for criminal prosecution.

As indicated in the directives of the CAO and pursuant to Water Code section 13304, the Regional Board is entitled to reimbursement for all reasonable costs actually incurred to investigate unauthorized discharges of waste and to oversee cleanup of such waste, or other remedial action required under this CAO. The Regional Board will be issuing periodic invoices for the oversight of cleanup efforts on your property at a later date.

Please contact Mike Porter at (858) 467-2726 or mporter@waterboards.ca.gov if you have any questions regarding this matter.

The heading portion of this letter includes a Regional Board code number noted after "In reply refer to:" In order to assist us in the processing of your correspondence please include this code number in the heading or subject line portion of all correspondence and reports to the Regional Board pertaining to this matter.

Respectfully,



MICHAEL P. McCANN
Assistant Executive Officer

MPM:cc:mgp

Enclosure: Cleanup and Abatement Order No. R9-2008-0018.

cc:

Mr. Danis Bechter
Engineering Inspection Supervisor/NPDES Coordinator
City of Poway
13325 Civic Center Drive
Poway, CA 92064

Mr. Robert Smith
U.S. Army Corps of Engineers
San Diego Field Office
16885 West Bernardo Drive
Suite 300A
San Diego, CA 92127

Ms. Kelly Fisher
California Department of Fish and Game
South Coast Region
Habitat Conservation Planning – South
4949 Viewridge Avenue
San Diego, CA 92123

Ms. Elizabeth Goldmann
Wetlands Regulatory Office
U.S. Environmental Protection Agency, Region 9
75 Hawthorne Street
San Francisco, CA 94105

U.S. Department of the Interior
Fish and Wildlife Service
6010 Hidden Valley Road
Carlsbad, CA 92011

Rebecca Lafreniere
Solid Waste Local Enforcement Agency
County of San Diego
9325 Hazard Way, San Diego 92123

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION

CLEANUP AND ABATEMENT ORDER NO. R9-2008-0018

FOR

JIM BARBOUR
17215 IRON MOUNTAIN DRIVE
POWAY, CA 92064

The California Regional Water Quality Control Board, San Diego Region (hereinafter Regional Board), finds that:

1. This Cleanup and Abatement Order is based on (1) Section 13267 and Chapter 5, Enforcement and Implementation commencing with Section 13300, of the Porter-Cologne Water Quality Control Act (Division 7 of the Water Code, commencing with Section 13000); (2) applicable state and federal regulations; (3) all applicable provisions of statewide Water Quality Control Plans adopted by the State Water Resources Control Board and the *Water Quality Control Plan for the San Diego Basin* (Basin Plan) adopted by the Regional Board including beneficial uses, water quality objectives, and implementation plans; (4) State Water Board policies, including State Water Board Resolution No. 68-16 (*Statement of Policy with Respect to Maintaining High Quality of Waters in California*) and Resolution No. 92-49 (*Policies and Procedures for Investigation and Cleanup and Abatement of Discharges Under Water Code Section 13304*); and (5) relevant standards, criteria, and advisories adopted by other state and federal agencies.
2. Section 13260(a) of the California Water Code (Water Code) requires that any person discharging waste or proposing to discharge waste within any region, other than to a community sewer system, which could affect the quality of the waters of the State, shall file a report of waste discharge (ROWD). The discharge of dredged or fill material may constitute a discharge of waste that could affect the quality of waters of the State.
3. Mr. Jim Barbour is the owner and resident of a single family residential home located at 17215 Iron Mountain Drive, in Poway, California (APN # 322-041-36).
4. On or before December 2007, Mr. Barbour discharged waste (from unknown locations) which consists of sand, silt, clay, or other earthen materials into an unnamed, ephemeral stream that is tributary to Poway Creek in violation of the Water Code. Attachment No. 1 includes a Facility Inspection Report and photographs taken on December 28, 2007 documenting site conditions and the discharge, as observed by Regional Board.

5. Existing beneficial uses of inland surface waters designated in the Basin Plan for Poway Creek and its tributaries include, Agricultural Supply (AGR), Contact Water Recreation (REC 1), Non-contact Water Recreation (REC 2), Warm Freshwater Habitat (WARM), Cold Freshwater Habitat (COLD), and Wildlife Habitat (WILD).
6. The discharge of waste at this site causes and threatens to cause a condition of pollution by directly affecting waters used for beneficial uses.
7. The discharge of waste at this site is a violation of Waste Discharge Prohibition Nos. 1, 3, and 14 of the Basin Plan. These prohibitions read as follows:
 - "1. The discharge of waste to waters of the state in a manner causing, or threatening to cause a condition of pollution, contamination or nuisance as defined in California Water Code Section 13050, is prohibited;"
 - "3. The discharge of pollutants or dredged or fill material to waters of the United States except as authorized by an NPDES permit or a dredged or fill material permit (subject to the exemption described in California Water Code Section 13376) is prohibited;" and
 - "14. The discharge of sand, silt, clay, or other earthen materials from any activity, including land grading and construction, in quantities which cause deleterious bottom deposits, turbidity or discoloration in waters of the state or which unreasonably affect, or threaten to affect, beneficial uses of such waters is prohibited."
8. Cleanup and abatement required by this Order is necessary to ensure that the unauthorized discharges from your filling activities cease to cause and threaten to cause conditions of pollution and that beneficial uses are restored. Because cleanup and abatement activity will occur within the creek, best management measures (erosion and sediment control) are necessary to prevent further conditions that threaten beneficial uses of the creek.
9. Pursuant to Water Code Section 13304, the Regional Board is entitled to, and may seek reimbursement for, all reasonable costs it actually incurs to investigate unauthorized discharges of waste and to oversee cleanup of such waste, abatement of the effects thereof, or other remedial action, required by this Order.
10. This enforcement action is being taken for the protection of the environment and, as such, is exempt from the provisions of the California Environmental Quality Act (Public Resources Code, Section 2100 Et seq.) in accordance with Section 15321 (Enforcement Actions by Regulatory Agencies), Chapter 3, Title 14 of the California Code of Regulations.

IT IS HEREBY ORDERED that, pursuant to Section 13304 and Section 13267 of Division 7 of the California Water Code, Mr. Barbour shall:

1. By February 29, 2008 cleanup and abate existing and threatened pollution associated with the unauthorized discharge of waste on your property by removing the sand, silt, clay, or other earthen materials that was discharged to Waters of the State, or to land where it threatens to discharge to Waters of the State.
2. Implement all necessary management measures (sediment and erosion control best management practices) during cleanup activities, to prevent additional discharge of wastes that threaten beneficial uses to Poway Creek and tributaries thereto.
3. Dispose of all sand, silt, clay, or other earthen materials that are to be removed from the property (17215 Iron Mountain Drive) in compliance with this Order at a licensed waste disposal site approved for such wastes, and in accordance with all federal, state, and local laws, regulations, orders, resolutions, and ordinances.
4. By March 14, 2008, submit a Cleanup and Abatement Report that documents that the required on-site cleanup and abatement actions have been taken and that the creek is returned to pre-project conditions. The report shall include an estimation of the volume and aerial extent of the discharge and photographs of the remedial activities and completed cleanup conditions.

Reporting Requirements

1. **Signatory Requirements.** All reports required under this Cleanup and Abatement Order shall be signed and certified by the Discharger(s) or by a duly authorized representative of the Discharger(s) and submitted to the Regional Board. *Duly Authorized Representative.* A person is a duly authorized representative only if: 1) The authorization is made in writing by the Discharger; and 2) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.).
2. **Certification.** Include the following signed certification with all reports submitted pursuant to this Order:

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, 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.

3. **Electronic and Paper Media Reporting Requirements.** The Discharger shall submit both electronic and paper copies of all workplans, technical reports, and monitoring reports required under this Cleanup and Abatement Order. Electronic submission shall be in PDF format, and include the signed transmittal letter and professional certification.
4. **Report Submittals.** All monitoring and technical reports required under this Cleanup and Abatement Order shall be submitted to:

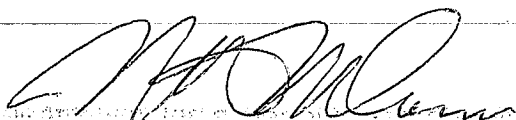
Assistant Executive Officer
California Regional Water Quality Control Board
San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123-4340

NOTIFICATIONS

1. **Enforceability.** The Regional Board reserves its right to take any enforcement action authorized by law for violations of the terms and conditions of this Cleanup and Abatement Order.
2. **Applicability.** Requirements established pursuant to Water Code Sections 13304 and 13267(b) are enforceable when signed by the Executive Officer of the Regional Board.
3. **Potential Liability.** Pursuant to California Water Code section 13350, any person who intentionally or negligently violates a cleanup and abatement order may be liable civilly in an amount which shall not exceed five thousand dollars (\$5,000), but shall not be less than five hundred dollars (\$500), for each day in which the cleanup and abatement order is violated.

Pursuant to California Water Code section 13268, any person failing or refusing to furnish technical or monitoring program reports as required by Section 13267, or falsifying any information provided therein, is guilty of a misdemeanor, and may be liable civilly in an amount which shall not exceed one thousand dollars (\$1,000) for each day in which the violation occurs.

4. **Cost Reimbursement.** The Discharger shall reimburse the State of California for all reasonable costs actually incurred by the Regional Board to investigate unauthorized discharges of waste and to oversee cleanup of such waste, abatement of the effects thereof, or other remedial action, required by this Cleanup and Abatement Order, according to billing statements prepared from time to time by the State Water Resources Control Board.
5. **Waste Management.** The Discharger shall properly manage, store, treat, and dispose of contaminated soils and ground water in accordance with applicable federal, state, and local laws and regulations. The storage, handling, treatment, or disposal of soil containing waste constituents and polluted groundwater shall not create conditions of pollution, contamination or nuisance as defined in California Water Code section 13050(m). The Discharger shall, obtain, or apply for coverage under waste discharge requirements or a conditional waiver of waste discharge requirements for any discharge of the waste to (a) land for treatment, storage, or disposal or (b) waters of the state.
6. **Duty to Use Qualified Professionals.** The Discharger(s) shall provide documentation that plans and reports required under this Cleanup and Abatement Order are prepared under the direction of appropriately qualified professionals. California Business and Professions Code Sections 6735, 7835 and 7835.1 require that engineering and geologic evaluations and judgments be performed by or under the direction of registered professionals. The Discharger(s) shall include a statement of qualifications and registration numbers, if applicable, of the responsible lead professionals in all plans and reports required under this Cleanup and Abatement Order. The lead professional shall sign and affix their registration stamp, as applicable, to the report, plan, or document



MICHAEL P. McCANN
Assistant Executive Officer

1/28/08
Date

Attachment: Facility Inspection Form and Photographs of Site Conditions on December 28, 2007

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD - SAN DIEGO REGION
WATERSHED MANAGEMENT PROGRAM

FACILITY INSPECTION REPORT

INSPECTION DATE: 12/28/07 TIME: 0930 WDID: 9000558N08

FACILITY REPRESENTATIVE(S) PRESENT DURING INSPECTION: None. Met with Danis Bechter, City of Poway.

Jim Barbour
NAME OF OWNER, AGENCY OR PARTY RESPONSIBLE FOR DISCHARGE

858-248-6531
OWNER CONTACT NAME AND PHONE #

residence
FACILITY OR DEVELOPER NAME (if different from owner)

FACILITY OR DEVELOPER CONTACT NAME AND PHONE #

17215 Iron Mountain Dr.
FACILITY STREET ADDRESS

Poway, CA
FACILITY CITY AND STATE

APPLICABLE WATER QUALITY LICENSING REQUIREMENTS

- MS4 URBAN RUNOFF REQUIREMENTS NPDES NOS. CAS0108758, CAS0108740 or CAS0108766
- GENERAL PERMIT ORDER NO. 99-08-DWQ, NPDES NO. CAS000002 - CONSTRUCTION
- GENERAL PERMIT ORDER NO. 99-06-DWQ, NPDES NO. CAS000003 - CALTRANS
- GENERAL OR INDIVIDUAL WASTE DISCHARGE REQUIREMENTS
- GENERAL OR INDIVIDUAL WAIVER OF WASTE DISCHARGE REQUIREMENTS
- SECTION 401 WATER QUALITY CERTIFICATION
- CWC SECTION 13264

INSPECTION TYPE (Check One)

- A1 _____ "A" type compliance--Comprehensive inspection in which samples are taken. (EPA Type S)
- B1 X "B" type compliance--A routine nonsampling inspection. (EPA Type C)
- 02 _____ Noncompliance follow-up--Inspection made to verify correction of a previously identified violation.
- 03 _____ Enforcement follow-up--Inspection made to verify that conditions of an enforcement action are being met.
- 04 _____ Complaint--Inspection made in response to a complaint.
- 05 _____ Pre-requirement--Inspection made to gather info. relative to preparing, modifying, or rescinding requirements.
- 06 _____ No Exposure Certification (NEC) - verification that there is no exposure of industrial activities to storm water.
- 07 _____ Notice of termination request for industrial facilities or construction sites - verification that the facility or construction site is not subject to permit requirements (Type, NOT I or NOT C - circle one).
- 08 _____ Compliance Assistance Inspection - Outreach inspection due to discharger's request for compliance assistance.

INSPECTION FINDINGS

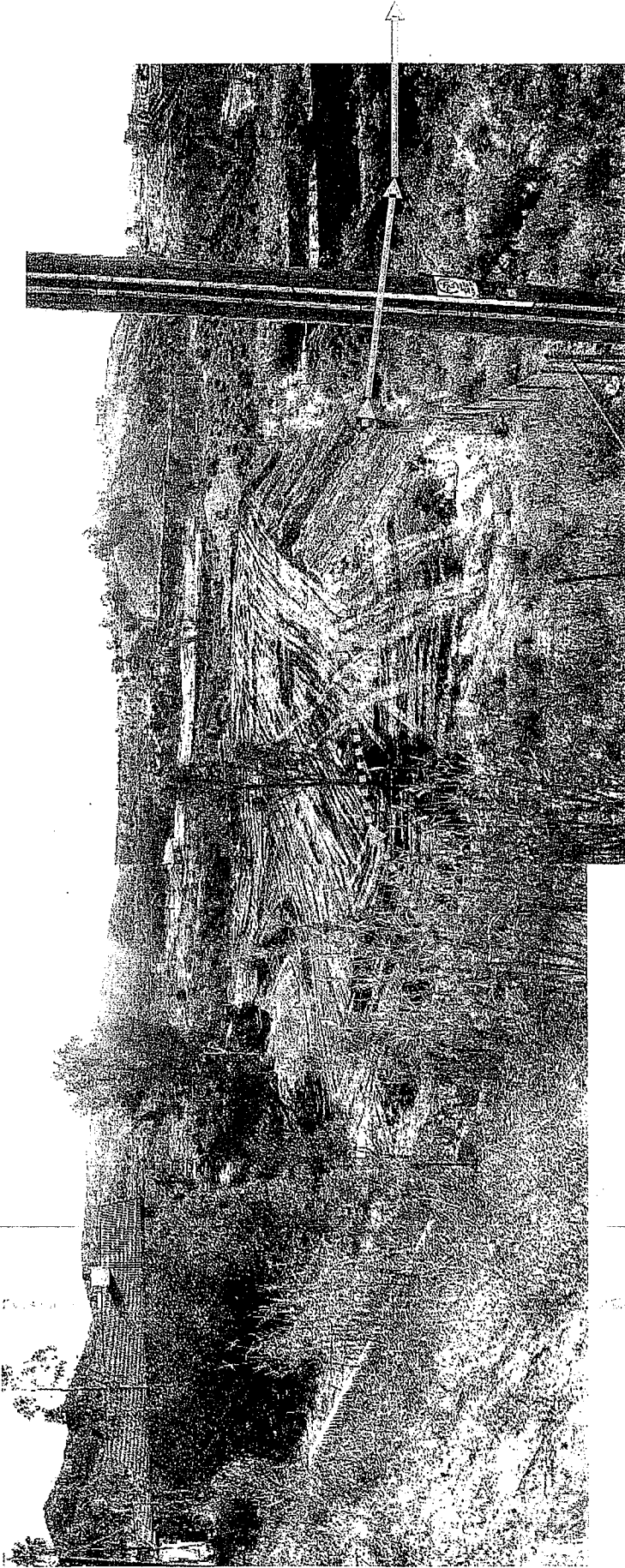
Y Were violations noted during this inspection? (Yes/No/Pending Sample Results)

_____ Were samples taken? (N=no) If YES then, G= grab or C= Composite and attach a copy of the sample results/chain of custody form

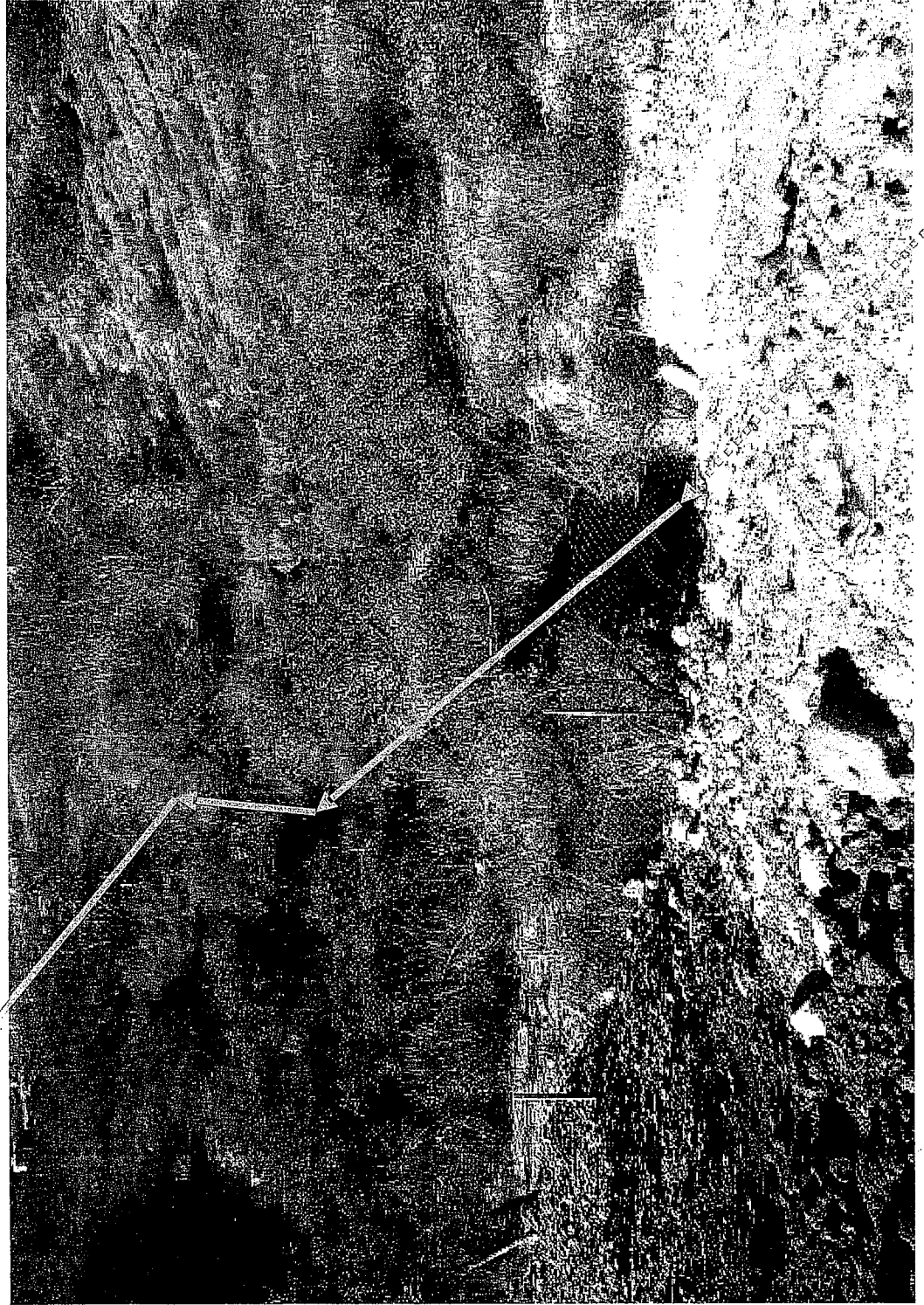
I. COMPLIANCE HISTORY:

No prior site history. Side does not show up in database of Order. No. 99-08-DWQ enrollees.

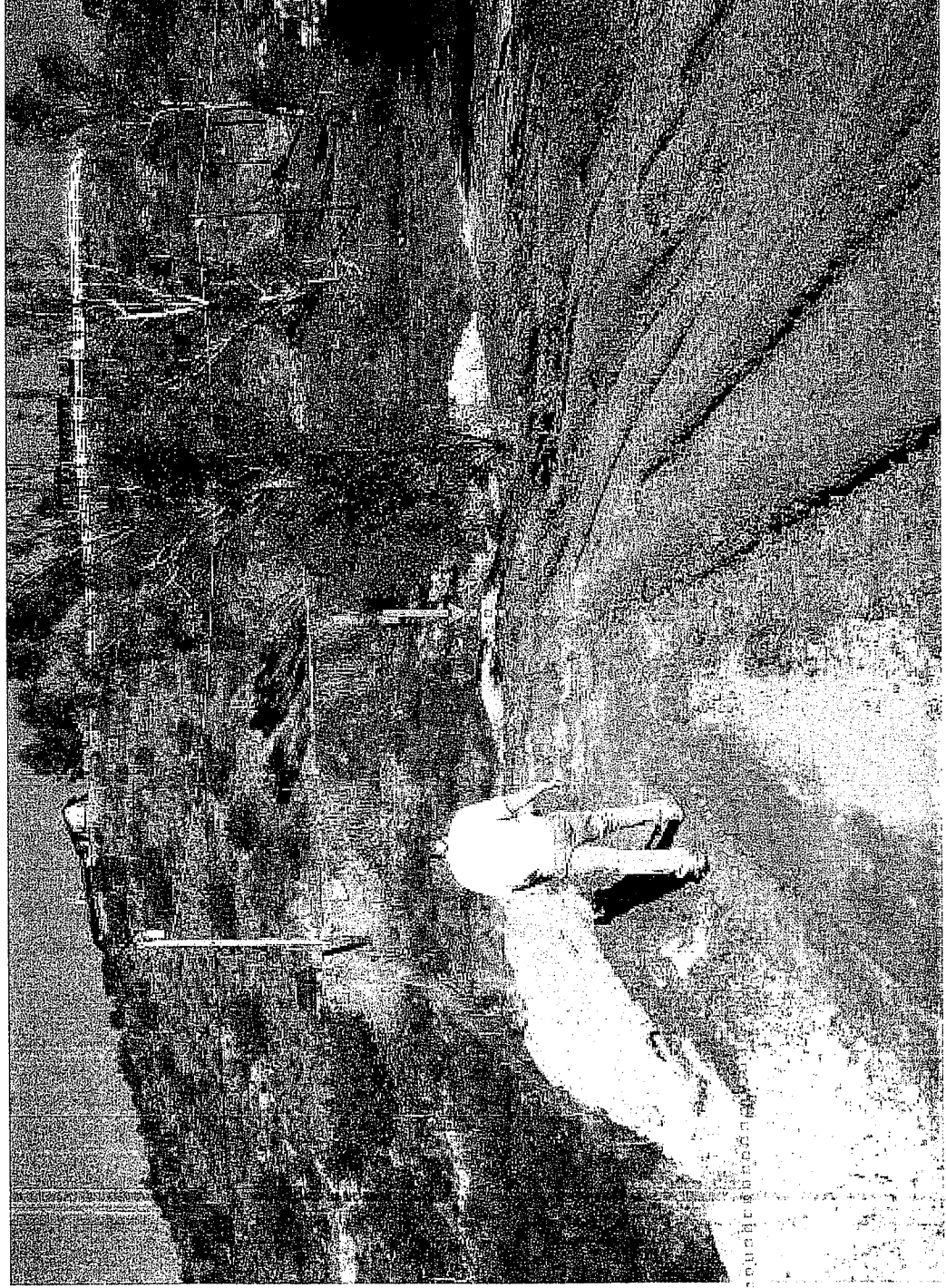
12-28-2007 Image Nos. 1947 & 1948 Mike Porter, RWQCB-SD
Site: Barbour Residence Illegal Fill Investigation
Location: 17215 Iron Mountain Drive, Poway
Image shows: Illegal grading and filling of ephemeral, unnamed tributary to Poway
Creek. Solid aqua blue is undisturbed ephemeral creek; dotted aqua blue line
shows where fill was placed over creek. Fill site lacks any sediment or erosion
control BMPs.



12-28-2007 Image No. 003 Mike Porter, RWQCB-SD
Site: Barbour Residence Illegal Fill Investigation
Location: 17215 Iron Mountain Drive, Poway
Image shows: Solid aqua blue is undisturbed creek; dotted aqua blue line shows where fill was placed over ephemeral creek. Tamarisk, willow, and cottonwood vegetation is present 100-150 ft downstream from fill area.



12-28-2007 Image No. 1949 Mike Porter, RWQCB-SD
Site: Barbour Residence Illegal Fill Investigation
Location: 17215 Iron Mountain Drive, Poway
Image shows: Fill placed over ephemeral creek. Solid aqua blue is undisturbed
creek; dotted aqua blue line shows where fill was placed over creek. Fill site lacks
any sediment or erosion control BMPs.

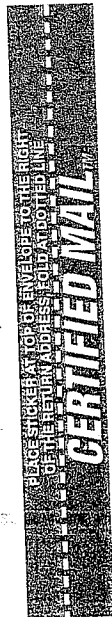


SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature <input type="checkbox"/> Agent <input type="checkbox"/> Addressee X</p> <p>B. Received by (<i>Printed Name</i>) C. Date of Delivery</p>
<p>1. Article Addressed to:</p> <p>Mr. Jim Barbour 17215 Iron Mnt. Rd. Poway, CA 92064</p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p> <p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (<i>Extra Fee</i>) <input type="checkbox"/> Yes</p>
<p>2. Article Number (<i>Transfer from service label</i>)</p>	<p>7006 2760 0000 1615 6762</p>

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540



7006 2760 0000 1615 6762
7006 2760 0000 1615 6762
7006 2760 0000 1615 6762

U.S. Postal Service™ CERTIFIED MAIL™ RECEIPT (Domestic Mail Only; No Insurance Coverage Provided)	
For delivery information visit our website at www.usps.com	
OFFICIAL USE	
Postage	\$ 75
Certified Fee	2.65
Return Receipt Fee (Endorsement Required)	2.15
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 5.55
<p>Sent To Mr. Jim Barbour Street, Apt. No., or PO Box No. 17215 Iron Mnt. Rd. City, State, ZIP+4 Poway CA 92064</p>	
PS Form 3800, August 2006	See Reverse for Instructions

8002/82/1