

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION

ORDER NO. R9-2002-0017

ADMINISTRATIVE ASSESSMENT OF CIVIL LIABILITY
AGAINST THE
COUNTY OF SAN DIEGO
SAN MARCOS LANDFILL

The California Regional Water Quality Control Board, San Diego Region (SDRWQCB), having held a public hearing on March 13, 2002 to hear evidence and comments on the number of days for which liability should be imposed on the County of San Diego for violations at the San Marcos Sanitary Landfill pursuant to State Water Resources Control Board Order WQ 2001-01, *Remand of Administrative Civil Liability Order No. 2000-82* dated February 15, 2001, SDRWQB Technical Analysis supporting tentative Order No. R9-2002-0017, and on the recommendation for administrative assessment of Civil Liability finds as follows:

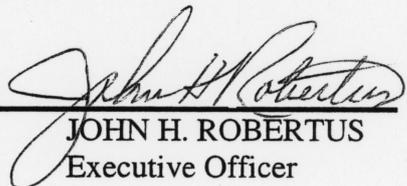
1. Cease and Desist Order (CDO) No. 98-39, Directive 3.c. requires the County of San Diego (County) to ensure that "[t]he landfill cover shall not be less than 24" thick and achieve a permeability of 3×10^{-5} cm/sec."
2. The County of San Diego failed to adequately provide/ensure the provision of at least 24 inches of cover over the entire top deck of the San Marcos Landfill. The County's violation of Directive 3.c. of CDO No. 98-39 occurred for a total of 455 days from November 10, 1998 through February 7, 2000.
3. CDO No. 98-39, Directive 3.f. requires the submittal of quarterly progress reports.
4. The County of San Diego failed to submit the October through December 1998 quarterly progress report to the SDRWQCB by the January 31, 1999 due date, and failed to take reasonable steps to correct the failure. On April 30, 1999 the County submitted the quarterly progress report for the January through March 1999 reporting period. The County's violation of Directive 3.f. of CDO No. 98-39 total 89 days from February 1, 1999 through April 30, 1999.
5. Order No. 92-02, *Waste Discharge Requirements for the County of San Diego, San Marcos Landfill*, Reporting Requirement E.11, as amended by State Water Resources Control Board Order No. WQ-93-08 requires the County of San Diego to immediately notify the SDRWQCB of any "change in site conditions which could impair the integrity of waste or leachate containment facilities or of precipitation and drainage control structures." Reporting Requirement E.7 of Order No. 92-02 requires the County to report "any noncompliance which may endanger health or the environment, such as ...a failure which threatens the

integrity of the containment features of the landfill...Any such information shall be provided verbally to the Executive Officer within 24 hours from the time the discharger becomes aware of the circumstances. A written submission shall also be provided within five days of the time the discharger becomes aware of the circumstances.”

6. The County of San Diego failed to use reasonable care to immediately notify or report in writing within five days to the SDRWQCB of the formation of a 350-foot long, one to three inch wide crack on the northern side slope of the landfill. The crack formed on or about June 29, 1999. The County's violation of its obligation to report as required by Order No. 92-02, Reporting Requirement E.7 and reporting Requirement E.11 each occurred for one day for a total of two days of violation.
7. Consideration of the factors prescribed in California Water Code §13327 and 13351 based upon information available to the SDRWQCB prior to the hearing and described in *Staff Report on the Proposed Administrative Civil Liability Contained in Complaint No. 2000-49 Against the County of San Diego for Noncompliance with Order No. 92-02, and Cease and Desist Order No. 98-39, San Marcos Landfill, 13 March 2000* and *Supplemental Technical Analysis Supporting Administrative Civil Liability Contained in Order No. R9-2002-0017 Against the County of San Diego, San Marcos Landfill for Noncompliance with Order No. 92-02 and Cease and Desist Order No. 98-39, February 11, 2002* supports assessment of civil liability pursuant to California Water Code § 13350 in the amount of \$160,750 as follows:
 - \$300 per day for 455 days of violation of CDO No. 98-39, Directive 3.c;
 - \$250 per day for 89 days of violation of CDO No. 98-39, Directive 3.f;
 - \$1,000 per day for one day of violation of Order No. 92-02, Reporting Requirement E.7; and
 - \$1,000 per day for one day of violation of Order No. 92-02, Reporting Requirement E.11.
8. The SDRWQCB incurred costs totaling \$40,480 which includes field investigations, preparation of enforcement documents, preparation for and attendance at meetings, supplemental environmental project review and ranking, and public hearings.
9. This Order supercedes Administrative Civil Liability Order No. 2000-82 adopted by this Regional Board on May 10, 2000.
10. This enforcement action is exempt from the provisions of the California Environmental Quality Act (Public Resources Code, Division 13, Chapter 3, Section 21000 et seq.) in accordance with Section 15308 of the CEQA Guidelines in Title 14 of the California Code of Regulations to ensure the protection of the environment.

IT IS HEREBY ORDERED that civil liability is imposed on the County of San Diego in the amount of one hundred sixty thousand seven hundred fifty dollars (\$160,750) and that the rationale for the assessment contained in *Staff Report on the Proposed Administrative Civil Liability Contained in Complaint No. 2000-49 Against the County of San Diego for Noncompliance with Order No. 92-02 and Cease and Desist Order No. 98-39, San Marcos Landfill, 13 March 2000 and Supplemental Technical Analysis Supporting Administrative Civil Liability Contained in Order No. R9-2002-0017 Against the County of San Diego, San Marcos Landfill, for Noncompliance with Order No. 92-02 and Cease and Desist Order No. 98-39, February 11, 2002* is hereby incorporated into this order.

I, John H. Robertus, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order imposing civil liability assessed by the California Regional Water Quality Control Board, San Diego Region on March 13, 2002.



JOHN H. ROBERTUS
Executive Officer