

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
SAN DIEGO REGION

Item 8  
Doc. 2

***Tentative*** ORDER NO. R9-2008-0068  
ADMINISTRATIVE ASSESSMENT OF CIVIL LIABILITY  
AGAINST  
NORTH COUNTY TRANSIT DISTRICT  
SPRINTER RAIL PROJECT  
FOR  
NONCOMPLIANCE WITH WATER CODE § 13376  
AND  
STATE BOARD ORDER NO. 99-08-DWQ

The California Regional Water Quality Control Board, San Diego Region (Regional Board), having held a public hearing on June 11, 2008, to hear evidence and comments on the issuance of liability against North County Transit District (NCTD) regarding violations alleged in Complaint No. R9-2008-0021, dated March 4, 2008, (Complaint), Technical Report supporting the Complaint, having provided public notice thereof and not less than thirty (30) days for public comment, and on the recommendation for administrative assessment of Civil Liability in the amount of \$685,000 finds as follows:

1. The State Water Resources Control Board (State Board) issued updated statewide general waste discharge requirements for discharges of storm water runoff associated with construction activities involving disturbance of one acre of soil, or more entitled *Order No. 99-08-DWQ, NPDES General Permit No. CAS000002, Waste Discharge Requirements for Discharges of Storm Water Runoff Associated with Construction Activity* (Order No. 99-08-DWQ).
2. The NCTD owns and operates the Sprinter Rail construction site (Site) located along the 22-mile long rail corridor between the Cities of Escondido and Oceanside. The Site transects the jurisdiction of the Cities of Escondido, Oceanside, San Marcos, and Vista, and the County of San Diego. The Site is regulated by the Regional Board in accordance with Order No. 99-08-DWQ. On August 7, 2003, NCTD filed a Notice of Intent (NOI) to comply with Order No. 99-08-DWQ with the State Board for the Site, and was issued Waste Discharge Identification (WDID) No. 9 37C322900.
3. The NCTD failed to implement its Storm Water Pollution Prevention Plan (SWPPP) by failing to install and maintain adequate Best Management Practices (BMPs) in violation of Order No. 99-08-DWQ section C.2 on at least 112 days, October 5, 2007 through January 25, 2008. The failure to install and maintain adequate BMPs resulted in 25 unauthorized discharges of sediment to waters of the United States in violation of Water Code section 13376 and section A.2 of Order No. 99-08-DWQ on the following days and locations:

On November 30, 2007:

1. Into storm drain inlet along the east side of the tracks that parallel Tremont Street near the Oceanside Transit Center Station in the City of Oceanside. Drainage from this inlet discharges into Loma Alta Creek.

2. Into storm drain inlet in drainage channel along the east side of tracks near the Coast Highway Station in Oceanside. This drainage discharges into Loma Alta Creek.
3. Into storm drain inlet in drainage channel across from the Coast Highway Station in Oceanside. Drainage from this inlet discharges into Loma Alta Creek.
4. Into storm drain inlet along the south side of the tracks east of the Coast Highway Station in Oceanside. This drainage discharges into Loma Alta Creek.
5. Directly into Loma Alta Creek, near the Crouch Street Station in Oceanside.
6. Into storm drain inlet near Rancho Del Oro Station in Oceanside. This drainage discharges into Loma Alta Creek which traverses through this site.
7. Into storm drain inlet in the parking lot of the Escondido Avenue Station in Vista. This storm drain discharges into Buena Vista Creek and ultimately into Buena Vista Lagoon.
8. Into storm drain inlet at the Escondido Avenue Station in Vista. This storm drain discharges into Buena Vista Creek and ultimately into Buena Vista Lagoon.
9. Into storm drain inlet near the north boundary of the Mar Vista storage yard. This drainage discharges into Buena Vista Creek and ultimately into Buena Vista Lagoon.
10. Into storm drain inlet at the northwestern corner of the Mar Vista storage yard. This storm drain discharges into Buena Vista Creek and downstream into Buena Vista Lagoon.
11. Into drainage channel along the south side of Palomar Station in San Marcos. This drainage discharges into a storm drain and then into San Marcos Creek and further downstream to Lake San Marcos.
12. Into storm drain inlet near the tracks at Barham Lane in San Marcos. The storm drain discharges into San Marcos Creek and further downstream to Lake San Marcos.
13. Into drainage channel along the south side of Barham Lane tracks. This drainage discharges into San Marcos Creek and further downstream to Lake San Marcos.
14. Into storm drain inlet near the Barham Lane construction area (again discharging to San Marcos Creek and further downstream to Lake San Marcos).
15. Into storm drain inlet near Shelley Circle in San Marcos. The storm drain discharges to San Marcos Creek and further downstream to Lake San Marcos.
16. From Nordahl Road discharging to an unprotected MS4 inlet in Escondido. Discharge is to San Marcos Creek and further downstream to Lake San Marcos.

On December 7, 2007:

17. Into storm drain inlet on the northeast corner of the Vista Transit Center Station. Drainage discharges into Buena Vista Creek.

On December 19, 2007:

18. Into storm drain inlet near Shelley Circle in San Marcos and further downstream to Lake San Marcos. The drainage discharges into San Marcos Creek. This is the same inlet where discharges were observed on November 30, 2007 (listed as No. 14, above).

On January 7, 2008:

19. Into storm drain inlet in the northwest corner of the Mar Vista storage yard. This storm drain discharges into Buena Vista Creek and ultimately into Buena Vista Lagoon.
  20. Into storm drain inlet at the Escondido Avenue Station in Vista. This drainage discharges into Buena Vista Creek and ultimately into Buena Vista Lagoon.
  21. Into drainage channel at Melrose Station in Vista that discharges into Loma Alta Creek.
  22. Directly into Loma Alta Creek at Melrose Station in Vista.
  23. Directly into Loma Alta Creek on the north bank at Crouch Street Station in Oceanside.
  24. Directly into Loma Alta Creek on the south bank at Crouch Street Station in Oceanside.
  25. Into a storm drain inlet on the north side of the tracks at the Coast Highway Station in Oceanside. The storm drain discharges into Loma Alta Creek.
4. On March 4, 2008, the Executive Officer issued Administrative Civil Liability Complaint No. R9-2008-0021 to NCTD proposing the imposition of \$685,000 in liability for the above violations.
  5. Liability in the amount of \$685,000 is based on consideration of the factors prescribed in subdivision (e) of Water Code section 13385 as applied to the allegations contained in Complaint No. R9-2008-0021 and described in greater detail in the Complaint's Technical Report. The liability is as follows:
    - \$5,000 per day for failing to implement a Storm Water Pollution Prevention Plan for 112 days of violation of Order No. 99-08-DWQ section C.2. for a total of \$560,000; and
    - \$5,000 per discharge for 25 discharges of sediment to waters of the United States in violation of Water Code section 13376 and Order No. 99-08-DWQ section A.2. for a total of \$125,000.

6. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code section 21000 et seq.) in accordance with section 15321, Chapter 3, Title 14, California Code of Regulations.
7. The Regional Board incurred costs totaling \$41,860, which includes investigation, preparation of enforcement documents, and communication with NCTD regarding the enforcement action.

**IT IS HEREBY ORDERED**, that pursuant to section 13385 of the Water Code, that civil liability be imposed on the North County Transit District in the amount of \$685,000.

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 June 11, 2008.

TENTATIVE

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JOHN H. ROBERTUS  
Executive Officer