STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SANTA ANA REGION

In the matter of:	)	Order No. R8-2006-0044
	)	for
Robertson's Ready Mix	)	Administrative Civil Liability
200 South Main Street, Suite 200	)	
Corona, CA 92882	)	
Attention: Mr. Craig Phillips	)	

The California Regional Water Quality Control Board, Santa Ana Region (hereinafter Regional Board), held a hearing on August 26, 2005 and May 19, 2006 to receive testimony and take evidence on the allegations contained in Complaint No. R8-2005-0073, dated May 23, 2005, and on the recommendation for the imposition of administrative civil liability pursuant to Water Code Section 13385. The Regional Board finds as follows:

1. On April 17, 1997, the State Water Resources Control Board (SWRCB) adopted Waste Discharge Requirements, Order No. 97-03-DWQ, (NPDES No. CAS000001), General Permit for Storm Water Discharges Associated with Industrial Activities Excluding Construction Activities (Permit). Robertson's Ready Mix (Robertson's) is authorized to discharge storm water from its Star Rock Plant, located at 24000 Santa Ana Canyon Road in the City of Anaheim (facility), under the Permit, WDID 830S011160. The Permit requires Robertson's to develop and implement a Storm Water Pollution Prevention Plan (SWPPP) and a monitoring program/reporting plan. The SWPPP must identify best management practices (BMPs) to reduce or prevent pollutants in storm water and authorized non-storm water discharges. For conventional pollutants, these BMPs must meet the Best Conventional Pollutant Control Technology (BCT) and for non-conventional and toxic pollutants, the BMPS must meet the Best Available Technology (BAT) standard.

2. On February 11, 15, 18 and 23, Regional Board staff conducted inspections of the facility and observed a lack of erosion controls, improperly sized detention basins and a lack of maintenance of the BMPs. During the storm events of February 11th-13th and 19th-24th a large amount of sediment and unauthorized non-storm water were discharged to Gypsum Creek and the Santa Ana River.

3. The allegations in Complaint No. R8-2005-0073 are incorporated herein.

4. Water Code Section 13385(a)(2) provides that any person who violates waste discharge requirements shall be civilly liable. Section 13385(c) provides that civil liability may be administratively imposed by a regional board in an amount not to exceed ten thousand dollars ($10,000) for each day of violation. Additional liability, not to exceed $10 per gallon, may be imposed for each gallon discharged in

excess of 1,000 gallons. Based on the violations cited above, Robertson's is civilly liable for a maximum amount of $220,000,000.

5. On May 23, 2005, after consideration of the factors specified in Section 13385(e) of the Water Code, the Executive Officer issued Administrative Civil Liability Complaint No. R8-2005-0073 to Robertson's, proposing that the Regional Board impose civil liability in the amount of $691,846 on Robertson's, for the violations cited above.

6. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 21100 et seq.) in accordance with Section 15321, Chapter 3, Title 14, California Code of Regulations.

7. On August 26, 2005, the Regional Board adopted Order No. R8-2005-0091 (Order) assessing a penalty of $493,856. This assessment included an assessment of $374,996 for economic savings. Robertson's filed a timely petition with the State Water Resources Control Board (State Board) for a review of the Regional Board's order. Subsequently, Robertson's provided additional information to Regional Board staff, which indicated that the actual economic savings from not implementing the proper control measures at the site were $230,108. Based on this new information, Robertson's and the Regional Board Executive Officer entered into a Stipulation and a Settlement Agreement that requested the State Board to remand the Order to the Regional Board to amend the economic savings portion of the Order. On May 15, 2006, the State Board remanded the Order to the Regional Board to amend the economic savings portion and other related parts of the order.

IT IS HEREBY ORDERED that, pursuant to California Water Code Section 13385, administrative civil liability shall be imposed on Robertson's in the amount of $348,968 for the violations cited in Complaint No. R8-2005-0073. This assessment consists of: (1) A penalty of $112,000; (2) An assessment of $6,860 in Regional Board staff time; and (3) An economic savings assessment of $230,108. The total assessment must be paid by June 19, 2006 as set forth below. (Items 2 and 3, below represent supplemental environmental projects in which Robertson's agreed to participate.)

1. A check for $236,968 payable to the State Water Resources Control Board. This amount will be deposited into the Cleanup and Abatement Account.

2. A second check for $100,000 payable to the Orange County Water District. This amount will be used for the restoration of the groundwater recharge basins in Orange County.

3. A third check for $12,000 payable to the Tides Center/Marine Education Project. This amount will be used for Upper Newport Bay restoration activities.

All three checks should be mailed to the Regional Board office.

4. The Executive Officer is authorized to refer this matter to the Attorney General for enforcement.

5. Order No. R8-2005-0091, adopted by the Regional Board on August 26, 2005, is hereby rescinded.

I, Gerard J. Thibeault, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an order adopted by the California Regional Water Quality Control Board, Santa Ana Region, on May 19, 2006.

for Gerard J. Thibeault
Executive Officer