

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION**

TECHNICAL ANALYSIS

**Proposed Administrative Civil Liability
Contained in Complaint No. R9-2005-0264
City of Carlsbad
Municipal Golf Course
San Diego County
WDID No. 9 37C337203**

**Noncompliance with
California Water Code § 13376
and
Order No. 99-08-DWQ
National Pollutant Discharge Elimination System (NPDES)
General Permit for
Storm Water Discharges Associated With
Construction Activity**

February 10, 2006

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EXECUTIVE SUMMARY

This technical analysis provides a summary of factual and analytical evidence supporting administrative assessment of civil liability in the amount of **\$23,900** against the City of Carlsbad (City) pursuant to Water Code section 13385 for violations of section 13376, and California State Water Resources Control Board (State Board) Order No. 99-08-DWQ, *National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated With Construction Activity* (Permit). The alleged violations occurred during September and October 2005 at the City's Municipal Golf Course Project located at 5800 Hidden Valley Road, Carlsbad, California.

Complaint No. R9-2005-0264 (Complaint) issued on October 20, 2005, details two violations: 1) failure to file a Notice of Intent (NOI) for the Permit for 39 days; and 2) failure to implement a Storm Water Pollution Prevention Plan (i.e., failure to implement adequate Best Management Practices [BMPs]) for 20 days as required by the Permit. This technical analysis reviews the applicable legal requirements of the Water Code, and takes into account each of the required factors of Water Code section 13385 in determining the recommended amount of civil liability. Overall, since issuance of the Complaint, the City has made every effort to bring the site into compliance, currently maintains the site in compliance, and has cooperated with the Regional Board. However the City cannot escape liability because it failed to have Permit coverage when it initiated construction activity, and it failed to install the necessary BMPs on site to prevent and reduce pollution.

It was unreasonable for the City to overlook having coverage on the largest and most important municipal project in the City, and it was also unreasonable for the City to wait so long to install adequate BMPs on site. Therefore this technical analysis supports a recommended total civil liability of \$23,900 against the City:

- ◆ \$20,000 liability (\$1,000 per day for 20 days) for failing to implement an adequate SWPPP; and
- ◆ \$3,900 liability (\$100 per day for 39 days) for failing to file a NOI.

The Regional Board will hold a public hearing on March 8, 2005 to consider the validity of the allegations and if upheld, will consider the assessment of civil liability up to a maximum of \$590,000.

1. INTRODUCTION

This technical analysis provides a summary of factual and analytical evidence supporting administrative assessment of civil liability in the amount of \$23,900 against the City of Carlsbad (City) pursuant to Water Code section 13385 for violation of section 13376, and California State Water Resources Control Board (State Board) *Order No. 99-08-DWQ, NPDES General Permit No. CAS000002, Waste Discharge Requirements for Discharges of Storm Water Runoff Associated with Construction Activity* as alleged in Complaint No. R9-2005-0264 (Complaint). See Exhibit 1, *Complaint*.

On November 16, 1990 the US Environmental Protection Agency (USEPA) issued regulations for storm water discharges (40 CFR Parts 122, 123, and 124). The regulations require operators of specific categories of facilities where discharges of storm water associated with *industrial activity*¹ occur to obtain a National Pollutant Discharge Elimination System (NPDES) permit and to implement Best Available Technology Economically Achievable and Best Conventional Pollutant Control Technology (BAT/BCT)² to eliminate industrial storm water pollution. The State Board adopted *Order No. 99-08-DWQ, NPDES General Permit No. CAS000002, Waste Discharge Requirements for Discharges of Storm Water Runoff Associated with Construction Activity* (Permit) on August 19, 1999. See Exhibit 2, *Permit*.

The current Permit replaced the initial permit adopted in 1992 by the State Board to implement the federal regulations. The Permit authorizes the discharge of storm water associated with construction activity. Construction activity is subject to the Permit, if there is clearing, grading, or disturbances to the ground (such as stockpiling or excavation) that results in soil disturbances of one acre or more of total land area. Property owners or developers engaged in construction activity subject to the Permit must file a Notice of Intent (NOI) with the State Board and prepare a site specific Storm Water Pollution Prevention Plan (SWPPP)³ prior to the start of construction activity.

The focus of this technical analysis is the construction of the City's Municipal Golf Course. The project site (Site) encompasses approximately 400 acres and is located southeast of Aqua Hedionda Creek

¹ Construction activity falls under the federal definition of "industrial activity." See 40 CFR 122.26(b)(14)(x).

² BAT/BCT as defined in sections 301 and 402 of the federal Clean Water Act.

³ A SWPPP "specifies Best Management Practices (BMPs) that will prevent all construction pollutants from contacting storm water and with the intent of keeping all products of erosion from moving off site into receiving waters." (Permit, Fact Sheet, page 1) See also page 6 of the Fact Sheet for greater SWPPP details.

in the City of Carlsbad. The Site is bounded on the south by Palomar Airport Road, on the west by Hidden Valley Road, and on the east by the Palomar Airport and surrounding business parks. College Avenue bisects the property in a northeast/southwest direction. The primary component of the proposed project is the development of an 18-hole championship golf course, which will cover 180 acres. The Site will also include a 1.7 acre clubhouse, a 3.75 acre parking lot, a 2.0 acre conference center, a 1.6 acre maintenance facility, and a 9.2 acre driving range. The Site will also include two industrial sites and necessitate the relocation of an existing shooting range.

Figure 1, shows the location of the Site within the San Diego Region.



Figure 1. Site Location Map

The NOI filed by the City on October 17, 2005 indicates that construction activity began on the 400 acre (of which 200 acres are to be disturbed) Site on September 8, 2005. Dudek & Associates, Inc. (Dudek) and Heinbuch Golf, LLC (Heinbuch) manage the Site for the City, and oversee the work of the developer, SEMA Construction, Inc. (SEMA). SEMA and its subcontractor Marina Landscape, Inc. (Marina) were responsible for implementing the Site's SWPPP. South Coast Erosion Control, Inc. replaced Marina in late October 2005.

2. ALLEGATIONS

The following allegations against the City are the basis for assessing administrative civil liability pursuant to Water Code section 13385, and also appear in the Complaint.

2.1. City Failed to Implement a SWPPP; Violation of Permit § C.2.

The City failed to implement its SWPPP by failing to implement and or maintain adequate Best Management Practices (BMPs)⁴ in violation of Permit section C.2 on at least 20 days: October 1, 2005 through October 20, 2005.

2.2. City Failed to File a NOI; Violation of Water Code § 13376 and Permit § C.1.

The City failed to file a NOI for coverage under the Permit, prior to the commencement of construction activity at the Site on September 8, 2005 as required by Water Code Section 13376, and Order No. 99-08-DWQ Section C.1. The State Board received a NOI for the Site (WDID No. 9 37C337203) on October 17, 2005, 39 days late. See Exhibit 3, *NOI*. On November 9, 2005, the City notified the State Board that the correct "Property Owner" is Carlsbad Public Financing Authority and not the City when it filed a Change of Information (COI) to its NOI. See Exhibit 4, *COI*.

3. DETERMINATION OF ADMINISTRATIVE CIVIL LIABILITY

Pursuant to the relevant portions of Water Code section 13385 (a),

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

1. Section 13375 or 13376.
2. Any waste discharge requirements or dredged and fill material permit.

⁴ BMPs "means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of 'waters of the United States.' BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage." (40 CFR § 122.2)

3. Any requirements established pursuant to Section 13383.

Furthermore, Water Code section 13385 (c) provides that

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.

Water Code section 13385(e) requires the Regional Board to consider several factors when determining the amount of civil liability to impose. These factors include: "...the nature, circumstances, extent, and gravity of the violation or violations, 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 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 violation, and other matters that justice may require. 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."

3.1. Failure to Implement SWPPP

The City failed to implement its SWPPP by failing to implement and or maintain adequate BMPs in violation of Permit section C.2 on at least 20 days: October 1, 2005 through October 20, 2005.

3.1.1. Nature, Circumstances, Extent, and Gravity of the Violation

The Permit requires the development and implementation of a SWPPP. The goal of the SWPPP is to prevent storm water pollution and to reduce the pollution that it cannot

prevent to the BAT/BCT performance standard. The goal is accomplished by implementing an effective combination of erosion and sediment control BMPs on site.

On October 14, 2005, Christopher Means, Regional Board inspected the Site and produced an inspection report specifically noting that violations had been observed. Mr. Means toured the Site with John Przybyszewski, Heinbuch Senior Project Manager, who estimated that 200 of the 400 acres have been graded. Mr. Means noted that the only observed BMPs were silt fences (a sediment control BMP) that surrounded the Site. Upon completion of the tour, Mr. Means reviewed the SWPPP, dated February 2005, located in the Site's construction trailer noting that the SWPPP "seemed to be fairly generic and not detailed enough for a construction site of this size (400 acres)." In addition, Mr. Means noted that the SWPPP and its associated plans detailed a series of sediment basins, however the basins had not yet been completed according to Mr. Przybyszewski. In general, Mr. Means found that the "site did not seem ready for the upcoming rain event due to a lack of adequate erosion and sediment control BMPs being in place." See Exhibit 5, *Inspection Report, October 14, 2005*.

Four days later on October 18, 2005, Regional Board Inspector Eric Becker returned to document any progress that was made. Mr. Becker toured the Site with Skip Hammann, Deputy City Engineer and Mr. Przybyszewski, and completed an inspection report identifying violations. See Exhibit 6, *Inspection Report October 18, 2005*. Mr. Becker noted the complete lack of erosion control BMPs at the Site, specifically that there were "uncovered, exterior slopes throughout the project." As an example, Mr. Becker took the photograph in figure 2 that depicts the exterior slope while standing on Palomar Airport Road looking east toward College Boulevard.

Absence of erosion control BMPs (i.e., mats, soil binders, or hydroseeding) on exterior slopes.



Figure 2. Looking east along Palomar Airport Road from College Boulevard. Note the absence of erosion control BMPs on the exterior slope. *IMG0933.JPG*

Another example of an exposed exterior slope was observed along the south side of College Avenue. As seen in figure 3, Mr. Becker noted that there was evidence that sediment was discharged off the Site and into the City's storm water conveyance system, however he was unable to quantify how much sediment was discharged.

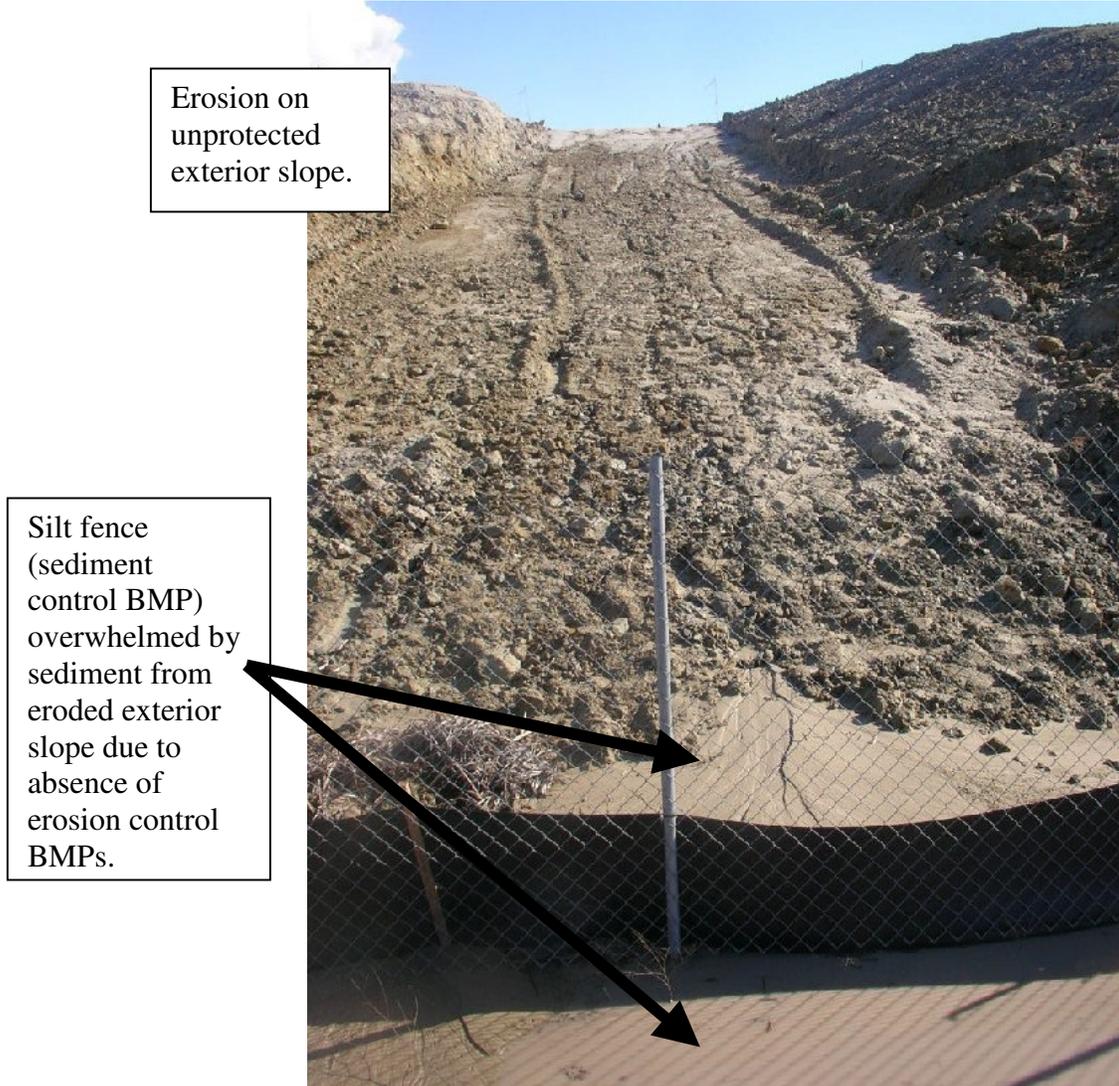


Figure 3. Looking south from College Boulevard at erosion on exterior slope that was deposited on the sidewalk. IMG0937.JPG

Mr. Becker further noted that the Site's silt fences were incorrectly installed because they were not keyed-in a minimum of 12 inches (i.e., that the bottom portion of the fabric was not buried under the ground enough to anchor the fence), thus diminishing their effectiveness. The City's SWPPP cites the California Stormwater Quality Association (CASQA) California Stormwater BMP Handbook's silt fence installation guidelines that state that the "bottom of the silt fence should be keyed-in a minimum of 12 inches." See Exhibit 7, *California Stormwater BMP Handbook, Construction, January 2003 at SE-1*. Finally,

Mr. Becker again voiced the Regional Board's concern to City representatives that not all sediment basins noted on the SWPPP were installed, and he also questioned whether they were properly sized.

It is hard to imagine how a city of such means as Carlsbad, so close to so many valuable water resources, and with the knowledge and experience of having participated in the Storm Water Program since its inception more than 15 years ago could fail to be in compliance with the Permit, specifically the program's core element, preventing and reducing pollution at its source through the implementation of BMPs. Furthermore, the potential pollution in storm water runoff from construction activities is well known.

Suspended sediment in surface waters can cause harm to aquatic organisms by abrasion of surface membranes, interference with respiration, and sensory perception in aquatic fauna. Suspended sediment can reduce photosynthesis in and survival of aquatic flora by limiting the transmittance of light. The Water Quality Control Plan for the San Diego Basin (9) (Basin Plan), contains a water quality objective for sediment which concludes that the suspended sediment load and suspended sediment discharge rate of surface waters shall not be altered in such a manner as to cause nuisance or adversely affect beneficial uses. The Site lies within the Carlsbad Hydrologic Unit, Encina Hydrologic Area (9.04.04), which has the following beneficial uses:

- a. Contact Water Recreation (REC-1)
- b. Non-Contact Water Recreation (REC-2)
- c. Warm Freshwater Habitat (WARM)
- d. Wildlife Habitat (WILD)

As stated above, sediment is a pollutant that can have substantial biological, chemical, and physical effects on receiving waters. These include (1) increased turbidity (loss of clarity) and resulting decreased light transmittance, biological productivity, and aesthetic value; and (2) physical suffocation of bottom dwelling (benthic) organisms. Sediment can also physically clog gills causing fish mortality; reduce reproduction; impair commercial and recreational fishing resources; increase water temperature,

and fill in lagoons and wetlands converting them from aquatic to terrestrial habitat. It should be noted that these water quality impacts occur both during sediment transport and sediment deposition. In addition to the problems associated with “clean” sediment, sediment is also an excellent transport mechanism for toxics (i.e., metals and synthetic organics), which bind to sediment particles.

3.1.2. Discharge’s Susceptibility to Cleanup and Abatement, and Degree of Toxicity

This factor is not applicable because the Regional Board did not allege any discharges of sediment. The Regional Board was unable to conclusively determine whether anything more than a *deminimis* discharge of sediment occurred due to inadequate BMPs.

3.1.3. Discharger’s Ability to Pay and Ability to Continue Its Business

According to the City Finance Department’s Financial Status Report, December 31, 2005, the City’s revenues exceed budgeted expenses by approximately \$1.65 million. Therefore, it appears that the City can pay a civil liability for the alleged violations and continue to operate.

3.1.4. Degree of Culpability and Voluntary Cleanup Efforts

It was unreasonable for the City to wait several weeks after the violation began to take the steps necessary to install adequate BMPs (i.e., to replace its erosion control contractor). The City was almost three weeks into the wet season and had experienced one storm event before it installed adequate BMPs on the site. Although the City, Dudek, and Heinbuch repeatedly informed SEMA in specific detail of its storm water duties and responsibilities, the City did not ask the critical question; “Can you complete the work by October 1, 2005?” As the October 1, 2005 deadline (the start of the wet season) approached, the City could not have blindly assumed that SEMA was going to miraculously install all of the noted uninstalled BMPs in time. Although the City displays culpability for its negligent actions, the City has undertaken every effort to correct and/or mitigate the violation after the Complaint was issued.

The following is a chronology of the City's development of the SWPPP, its unsuccessful attempts to encourage SEMA to implement the SWPPP, and finally the City's coming into and current compliance with the Permit.

In this matter the City hired P&D Consultants, Inc., an experienced engineering firm to develop the SWPPP. The SWPPP, prepared seven months prior to the beginning of construction activity adequately addressed the Site's unique characteristics and formulated a minimum plan of erosion and sediment control BMPs necessary to protect the site. However even the best-laid plans can go astray. Unfortunately, the City hired SEMA, a Colorado developer that hired Marina, a landscaping contractor that was inexperienced as an erosion control contractor. A review of communications from Dudek, Heinbuch, and the City to SEMA, evidence SEMA's mishandling and inexperience with the Permit.

The City and Dudek repeatedly informed SEMA of its failings and provided SEMA with specific instructions to remedy its failings. A September 29, 2005 Heinbuch e-mail to SEMA is a good example of the project manager's growing concerns that SEMA and Marina were not keeping up with their SWPPP duties. See Exhibit 8, *Heinbuch E-mail to SEMA*. This communication was followed up by a September 30, 2005 City letter to SEMA notifying it that not all of the required BMPs had been installed, and that the City would pass along any penalties imposed by the Regional Board for storm water noncompliance. See Exhibit 9, *City letter to SEMA*. An October 14, 2005, Dudek letter to SEMA reiterated that BMPs were still not installed at the Site and with an approaching storm event that it had no alternative but to order SEMA to cease grading and focus all of its efforts towards securing the site against the approaching storm event. See Exhibit 10, *Dudek letter to SEMA*.

By the end of October 2005, the City replaced Marina with an experienced erosion control contractor, South Coast Erosion Control, Inc. (South Coast). South Coast had the experience and the manpower to quickly install and maintain BMPs on site. An October 28, 2005 Regional Board inspection documented substantial progress,

specifically in the installation of sediment basins, correct installation of silt fences, and the installation of erosion control blankets on exterior slopes. The inspection also noted no violations at the Site. See Exhibit 11, *Inspection Report*. Another Regional Board inspection on January 3, 2006 confirmed the continued existence of an effective combination of erosion and sediment control BMPs on site, as well as BMP supplies and an action plan in the event that there is a storm event. See Exhibit 12, *January 3, 2006 Inspection Report*.

The City is ultimately responsible as the owner and developer of the project for developing and implementing a site specific SWPPP. Although the City and its project managers made sincere efforts to encourage their contractor, SEMA to install the BMPs, it was made too late to achieve compliance by October 1, 2005. Therefore, the City will be held responsible for the violation period.

3.1.5. Prior History of Violations

The Regional Board has cited the City twice for failing to ensure adequate BMPs were installed on construction sites within its jurisdiction, which are violations of the San Diego County Municipal Storm Water Permit, Order No. R9-2001-0001. Specifically, the Regional Board issued one Notice of Violation (NOV) and one Notice to Comply to the City in the last two years. The following is a chronology of the recorded violations. 1) On March 5, 2003, the Regional Board issued NOV No. R9-2003-0058 to the City for violations of its Municipal Storm Water Permit for three days of sediment discharge from a Shea Homes residential construction site without adequate BMPs. See Exhibit 13, *NOV No. R9-2003-0058*. 2) On November 6, 2003, the Regional Board issued a Notice to Comply to the City for violations of its Municipal Storm Water Permit for violations observed at four construction sites within the City's jurisdiction. See Exhibit 14, *Notice to Comply*. This was a follow-up to an October 9, 2003 Regional Board inspection noting consistent Permit violations at eight construction sites within the City's jurisdiction. See Exhibit No. 15, *October 29, 2002, Inspection Report*.

3.1.6. Economic Benefit or Savings

Pursuant to the State Board's *Guidance to Implement the Water Quality Enforcement Policy*, assessments should at a minimum take away whatever economic savings a discharger gains as a result of those violations. Compliance with the Permit has associated costs and developers that are currently in compliance are at an economic disadvantage compared to developers that are not. These costs include: annual permit fee, SWPPP development, SWPPP implementation, and compliance monitoring and reporting. In this matter, the City enjoyed economic savings by delaying costs associated with the annual permit fee and SWPPP implementation.

The City is required to be in compliance with the Permit at the time construction activity begins (i.e., develop and implement its SWPPP). The Regional Board has estimated that adequate sediment and erosion control BMPs cost roughly \$5,000 per acre per year. At 200 acres, the cost associated with the implementation of adequate BMPs at the Site is estimated to be \$1 million. The Regional Board documented through inspections that the City failed to have adequate BMPs from October 1 through 20, 2005. Therefore the City enjoyed an economic savings of \$2,427 when it delayed implementation of BMPs at the site for 20 days. See Exhibit 16, *US EPA BEN Model, SWPPP Implementation*.

3.1.7. Other Matters That Justice May Require

Over the course of trying to resolve this matter with the City, the Regional Board invested 200 hours to investigate, prepare enforcement documents, and consider this action. At an average rate of \$87 per hour, the total investment of the Regional Board is \$17,400.

3.2. Failure to File Notice of Intent

The City failed to file a NOI for coverage under the Permit prior to the commencement of construction activity as required by Water

Code Section 13376, and Permit section C.1, and 40 CFR Parts 122, 123, and 124.

3.2.1. Nature, Circumstances, Extent, and Gravity of the Violation

Water Code Section 13376 requires “any person discharging pollutants or proposing to discharge pollutants to the navigable waters of the United States within the jurisdiction of this state...shall file a report of the discharge in compliance with the procedures set forth in Section 13260,…” For construction activity, this is accomplished by filing a NOI. Section C.1. of the Permit’s waste discharge requirements states that “[a]ll dischargers shall file an NOI and pay the appropriate fee for construction activities conducted at each site as required by Attachment 2: Notice of Intent – General Instructions.” The Permit’s “General Instructions” state that “[d]ischarges of storm water associated with construction that results in the disturbance of one acre or more of land must apply for coverage under the General Construction Activities Storm Water Permit (General Permit).” Notices of Intents are required for each project. Once a project is sold to another party, the old NOI is void and the new owner must independently submit a NOI to obtain Permit coverage.

The State Board received a hand delivered NOI from the City for the Site (WDID No. 9 37S337203) on Monday October 17, 2005. According to the NOI, construction activity began on September 8, 2005. Resulting in 39 days of violation from September 8, 2005 until October 17, 2005.

In response to citizen concerns over storm water pollution, the state legislature adopted the Storm Water Enforcement Act of 1998. The legislature found the following: “(a) Unregulated storm water runoff is a leading cause of contamination of the state’s surface water and groundwater. (b) Noncompliance with existing federal and state storm water regulations hinders the state’s ability to attain its water quality objectives.” The Act requires Regional Boards to undertake reasonable efforts to identify dischargers of storm water that have not obtained coverage under an appropriate storm water NPDES permit. This enforcement action is a step toward completing the legislature’s intent.

3.2.2. Discharge's Susceptibility to Cleanup and Abatement, and Degree of Toxicity

Not applicable.

3.2.3. Discharger's Ability to Pay, and Effect on Business to Continue

See section 3.1.3.

3.2.4. Degree of Culpability and Voluntary Cleanup Efforts

The City has participated in the storm water program since its inception in 1990 as a permittee under the San Diego County Municipal Storm Water Permit. The City inspects construction sites within its jurisdiction to ensure that the sites have NOIs and are implementing adequate BMPs. There is no reasonable explanation as to why the City would initiate construction activity on a large development without filing a NOI. In the City's defense, it flew the Site's NOI up to Sacramento and hand delivered it to the State Board for processing on the first business day following notification from the Regional Board that the site was not permitted.

3.2.5. Prior History of Violations

The City has not previously been cited by the Regional Board for failing to file a NOI.

3.2.6. Economic Benefit or Savings

The City enjoyed an economic savings of \$8 when it delayed paying the \$2,607 application fee due with the NOI for 39 days. See Exhibit 17, *US EPA BEN Model, Annual Fee calculation*.

3.2.7. Other Matters That Justice May Require

See section 3.1.7.

4. Maximum Civil Liability Amount

Pursuant to Water Code section 13385 the maximum civil liability that the Regional Board may assess is (a) ten thousand dollars (\$10,000) per day of violation (per violation); and (b) ten dollars (\$10) for every gallon discharged, over one thousand gallons discharged, that was not cleaned up. Section 13385(e) requires that, when pursuing civil liability under Water Code section 13385, "At a minimum, liability shall be assessed at a

level that recovers the economic benefit, if any, derived from the acts that constitute the violation.”

4.1. Failure to Implement SWPPP

The City failed to implement its SWPPP by failing to implement and or maintain adequate BMPs in violation of Order No. 99-08-DWQ section C.2 on at least 20 days, October 1 through 20, 2005. Therefore the maximum liability that the Regional Board may assess is \$200,000.

4.2. Failure to File NOI

The City began construction activity at the Site on September 8, 2005 and filed for coverage under the Permit on October 17, 2003, 39 days late. Therefore the maximum liability that the Regional Board may assess is \$390,000.

The total maximum liability that could be imposed by the Regional Board for these violations is \$590,000.

5. Proposed Civil Liability Per Violation

The proposed amount of civil liability attributed to each violation was determined by taking into consideration the factors listed in Water Code Section 13385, as well as the maximum civil liability that the Regional Board may assess. The proposed liability amounts per day are also consistent with previously adopted liabilities by the Regional Board for similar violations. See Exhibit 18, *Liability Comparison Table*.

5.1. Failure to Implement SWPPP

The proposed liability is \$1,000 per day for 20 days of violation resulting in a liability of \$20,000.

5.2. Failure to File NOI

The proposed liability is \$100 per day for 39 days of violation resulting in a liability of \$3,900.

6. Total Proposed Administrative Civil Liability

The total proposed civil liability in this matter is \$23,900.

Exhibit List
Technical Analysis
ACL Complaint No. R9-2005-0264
City of Carlsbad
Municipal Golf Course Project

1. ACL Complaint
2. Construction Storm Water Permit
3. Notice of Intent (NOI)
4. Change of Information (COI)
5. October 14, 2005 Inspection Report
6. October 18, 2005 Inspection Report
7. Stormwater BMP Handbook
8. Heinbuch E-mail to SEMA
9. City Letter to SEMA
10. Dudek Letter to SEMA
11. October 28, 2005 Inspection Report
12. January 3, 2006 Inspection Report
13. Notice of Violation (NOV)
14. Notice to Comply (NTC)
15. October 29, 2002 Inspection Report
16. US EPA BEN Model for SWPPP Implementation
17. US EPA BEN Model for Annual Fee
18. Liability Comparison Table