

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

**CLEANUP AND ABATEMENT ORDER NO. R9-2003-0230
FOR**

**CALIFORNIA DEPARTMENT OF TRANSPORTATION
(CALTRANS)
I-5 AND I-805 WIDENING
SAN DIEGO, CA**

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

1. Caltrans owns and operates the Interstates 5 and 805 widening construction project (5/805 Widening Project) between La Jolla Village Dr. and Via De La Valle in San Diego, CA. The site is located in the Penasquitos Hydrologic Area (906.00) as described in the "Water Quality Control Plan, San Diego Basin (9)" (hereafter Basin Plan).
2. Caltrans is permitted to discharge stormwater from the 5/805 Widening Project and all of its construction projects by State Water Resources Control Board (SWRCB) Order No. 99-06-DWQ, National Pollutant Discharge Elimination System (NPDES) Permit No. CAS000003, National Pollutant Discharge Elimination System Permit, Statewide Storm Water Permit, and Waste Discharge Requirements (WDRs) for State of California, Department of Transportation (Caltrans).

Discharge Specification H.2 of Order No. 99-06 directs Caltrans to comply with all requirements of the State Water Resources Control Board (SWRCB) General Waste Discharge Requirements (WDRs) for Statewide Storm Water Permit Construction Activities (Construction General Permit), with exception of the administrative process of filing Notice of Intent and/or Terminations. The current State Board NPDES permit regulating Stormwater from Construction projects is Order No. 99-08-DWQ, National Pollutant Discharge Elimination System (NPDES) No. CAS000002.

3. The 5/805 Widening Project crosses Soledad Canyon Creek, Los Penasquitos Creek, and Carmel Valley Creek. The Basin Plan has designated the following beneficial uses for the three creeks: Agricultural Supply (AGR), Industrial Supply (IND), Potential Contact Water Recreation (REC1), Non-Contact Water Recreation (REC2), Warm Freshwater Habitat (WARM), Cold Freshwater Habitat (COLD), and Wildlife Habitat (WILD).
4. Water from Soledad Canyon Creek, Los Penasquitos Creek, and Carmel Valley Creek discharge into the Los Penasquitos Lagoon, portions of which are

deisgnated by the State Board on the Clean Water Act Section 303(d) list of Impaired Waters for sedimentation/siltation.

5. Between March 1, 2002 and April 21, 2003, Caltrans discharged sediment, gravel and sediment-laden water into Soledad Canyon Creek and Los Penasquitos Creek in violation of Orders 99-06 and 99-08. Discharges of sediment, gravel, and sediment-laden water caused and threatened to cause a condition of pollution or nuisance in Soledad Canyon Creek, Los Penasquitos Creek and Los Penasquitos Lagoon. Discharges also threatened to impair the beneficial uses of Soledad Canyon Creek, Los Penasquitos Creek and Los Penasquitos Lagoon.
6. On at least eleven occasions between March 1, 2002 and April 21, 2003, Caltrans violated SWRCB Order No. 99-08-DWQ, construction stormwater permit by not implementing Best Management Practices (BMPs); implementing inappropriate BMPs; and/or by not adequately maintaining BMPs designed to control erosion and reduce sediment discharges form the 5/805 Widening Project to the Best Available Technology standard.
7. Caltrans' discharges of sediment, gravel and sediment laden water threatened to exceed the water quality objectives for Sediment and for Suspended and Settleable Solids, established by the Regional Water Quality Control Plan for the San Diego (Basin Plan).
8. The discharge of sediment, gravel, and sediment-laden water is a violation of Waste Discharge Prohibition Nos. 1, 8, 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.
 8. Any discharge to a storm water conveyance system that is not composed entirely of “storm water” is prohibited unless authorized by the Regional Board.
 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.”
9. Unless Caltrans immediately implements an adequate management plan at the 5/805 Widening Project (including designing, implementing and maintaining appropriate BMPs) discharges of sediment, gravel and sediment-laden water will continue to occur. These discharges cause and/or threaten to cause a condition of nuisance and pollution in Soledad Canyon Creek, Los Penasquitos Creek, and Carmel Valley Creek, and the likelihood of further exacerbating the sediment impairment conditions in Los Penasquitos Lagoon.

10. Pursuant to CWC Section 13304, the Regional Board is entitled to, and may seek reimbursement 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 Order.
11. 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 15108, Chapter 3, Title 14, California Administrative Code.


IT IS HEREBY ORDERED that, pursuant to Section 13304 of Division 7 of the California Water Code, that Caltrans or its agents, successors, or assigns, shall:

1. Upon receipt of this Order, abate all effects of the threatened discharge of waste into Soledad Canyon Creek, Los Penasquitos Creek, Carmel Valley Creek, and Los Penasquitos Lagoon.
2. Caltrans shall immediately implement, in compliance with all requirements of the State Board Construction Storm Water Permit No. 99-08-DWQ, the following:
 - a. Implementation of an effective and appropriate combination of sediment and erosion controls on all disturbed areas.
 - b. Implementation of specific BMPs to prevent the discharge of sediment, gravel and sediment-laden water to Soledad Canyon Creek, Los Penasquitos Creek, Carmel Valley Creek and Los Penasquitos Lagoon.
 - c. Implementation of BMPs to divert on-site drainage and concentrated storm water runoff from discharging to disturbed areas.
 - d. Implementation of BMPs to eliminate the tracking of sediment onto public or private roads.
 - e. Implementation of a comprehensive maintenance program to ensure continued BMP effectiveness.
3. Caltrans shall develop and implement by June 23, 2003 a water quality sampling plan to be implemented for the duration of the construction project. At a minimum daily water quality samples shall be taken when construction activities are occurring within a creek. Samples shall also be taken during the first two hours of a rain event and after the rain event. The plan shall include, but not be limited to:
 - a. Monitoring sites upstream, downstream, and within the construction project and rationale for choosing the sites.
 - b. Sampling for Total Suspended Solids, Settleable Solids, Suspended Sediment Concentration, and Turbidity using appropriate analytical methods.
 - c. Trigger levels for the four sampling parameters.
 - d. Action plan to be implemented when a trigger level is exceeded.

4. Caltrans shall submit periodic status reports documenting the subject site's compliance with the General Construction Storm Water Permit and efforts to prevent further discharges and exceedances of water quality objectives. Reports shall be submitted on a quarterly basis until a Notice of Construction Completion has been filed for the subject site and approved by the Regional Board. The first report shall be due on June 23, 2003 and cover the months of March, April and May 2003. Subsequent reports shall be due on September 23, December 23, and March 23. The reports shall include and are not limited to:
 - a. Photo documentation of BMPs.
 - b. A narrative description of all actions, BMPs, inspections, and maintenance conducted at the subject site during the reporting period.
 - c. A description of all discharges during the reporting period including photos, estimated amount discharged, measures to prevent similar discharges and a plan to cleanup the discharge.
 - d. Water Quality monitoring data and analysis.
 - e. Site maps showing final slopes, temporary slopes, drainages, and BMP placement for the reporting period
 - f. Photocopies of all subject site inspections.
 - g. Visual assessment comparing sediment deposition patterns upstream and downstream of the construction site.
5. Upon project completion, Caltrans shall submit a final report summarizing Caltrans' actions to comply with the Order No. 99-08-DWQ Construction Storm Water Permit at the 5/805 Widening Project. The final report shall also include an analysis of the cumulative, short-term, and long-term impacts to water quality and beneficial uses due to discharges from the construction project.
6. All reports submitted pursuant to this CAO shall be signed by either a principal executive officer, executive director, or a duly authorized representative as described in provision M.10 of Order No. 99-06-DWQ. Any person signing a report submitted pursuant to this CAO shall make the following certification:

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.

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.



John H. Robertus
Executive Officer

5/28/2003
Date