

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

ORDER NO. R9-2003-0302

**ADMINISTRATIVE ASSESSMENT OF CIVIL LIABILITY
AGAINST
ASHBY USA, LLC.
NONCOMPLIANCE WITH
STATE WATER RESOURCES CONTROL BOARD
ORDER NO. 99-08-DWQ**

The California Regional Water Quality Control Board, San Diego Region (hereinafter Regional Board), having received an offer by Ashby USA, LLC (Ashby) to waive its right to a hearing regarding violations alleged in Complaint No. R9-2003-0227 dated May 30, 2003, (Complaint) and settle its civil liability for any violations alleged therein by paying Civil Liability in the amount of \$51,000 (instead of the \$84,500 recommended in the Complaint), and having provided public notice thereof and not less than 30 days for public comment on the settlement offer, and having received no comments objecting to the settlement, and having considered the settlement offer, finds as follows:

1. The State Water Resources Control Board (hereafter State Board) has issued updated statewide general waste discharge requirements for discharges of storm water runoff associate with construction activities involving disturbance of 5 acres of soil, or more. [*Order No. 99-08-DWQ, NPDES No. CAS000002 (Order).*]
2. Ashby owns 804 acres of land known as Roripaugh Ranch located near Murrietta Hot Springs Road and Butterfield Stage Road in Temecula, Riverside County and began construction activity at the Roripaugh Ranch construction site on March 10, 2003.
3. Ashby discharged sediment to a Municipal Separate Storm Sewer System and waters of the United States in violation of State Board Order No. 99-08-DWQ section A.2. Sediment was discharged from the Roripaugh Ranch site to Santa Gertrudis Creek on at least two days: March 16, 2003 and April 14, 2003.
4. Ashby failed to implement its Storm Water Pollution Prevention Plan (SWPPP) by failing to implement and or maintain Best Management Practices (BMPs) in violation of State Board Order No. 99-08-DWQ section C.2 on at least 43 days: March 10, 2003 through April 22, 2003.
5. Consideration of the factors prescribed in California Water Code section 13385(e) based upon information available to the Regional Board prior to the hearing and described in greater detail in *California Regional Water Quality Control Board, San Diego Region, Technical Analysis, Proposed Administrative Civil Liability Contained*

in Complaint No. R9-2003-0227, Ashby USA, LLC, May 30, 2003 supports assessment of civil liability in the amount of \$84,500 as follows:

- a. \$10,000 per day for discharging sediment to waters of the United States for two days for a total of \$20,000; and
 - b. \$1,500 per day for failing to implement an adequate Storm Water Pollution Prevention Plan (SWPPP) for 43 days for a total of \$64,500;
6. By accepting the settlement offer tendered by Ashby, involving payment of less than the recommended civil liability without the need for a hearing, the Regional Board will conserve valuable staff resources that would have been allocated to preparation for the hearing and responding to any administrative or judicial review requested by Ashby; in addition, Ashby has brought the Roripaugh Ranch site into compliance with the State Board Order and has agreed to ensure full compliance with the Order at all other current and future sites owned by Ashby within the San Diego region. Furthermore, the reduced amount of liability tendered by Ashby is sufficient to deter Ashby from future non-compliance, and should act as a deterrent to non-compliance by other developers.
 7. 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.
 8. The Regional Board incurred costs totaling \$13,140, which includes investigation, preparation of enforcement documents, and communication with the discharger and interested parties regarding the enforcement action.

IT IS HEREBY ORDERED that civil liability is imposed on Ashby USA, LLC in the amount of fifty-one thousand dollars (\$51,000)

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 November 12, 2003.


JOHN H. ROBERTUS
Executive Officer