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California Regional Water Quality Control Board San Diego Region

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December 19, 2008

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
7008 0150 0003 7457 7868

Mr. Paul Malone
City Manager
City of San Marcos
1 Civic Center Drive
San Marcos, CA 92069-2949

In Reply Refer to:
GWB:ORCU:agrove

Dear Mr. Malone:

SUBJECT: ADOPTION OF ADMINISTRATIVE CIVIL LIABILITY ORDER NO. R9-2008-0155 AGAINST THE CITY OF SAN MARCOS, BRADLEY PARK LANDFILL, SAN MARCOS, CA

Enclosed is Administrative Civil Liability Order No. R9-2008-0155, adopted on December 10, 2008, by the California Regional Water Quality Control Board, San Diego Region (Regional Board) against the City of San Marcos, assessing mandatory and discretionary penalties in the amount of \$119,950.

Payment of \$119,950 is due by January 12, 2008. Payment to the State Water Resources Control Board (SWRCB) must be submitted to the Regional Board by that date. Failure to make any required payments may result in the referral to a collection agency or the State of California Attorney General's office for further enforcement.

You have thirty days to appeal the Regional Board's decision to the SWRCB. Information on the appeal process can be obtained at the following website: www.waterboards.ca.gov. If you choose to appeal, your payment may be delayed until the SWRCB has made a determination on the matter.

The heading portion of this letter includes a Regional Board code number noted after "In Reply Refer to." In Order to assist us in the processing of your correspondence, please include this code number in the heading or subject line portion of all correspondence and reports to the Regional Board pertaining to this matter.

California Environmental Protection Agency

Mr. Paul Malone
City of San Marcos
ACL Order No. R9-2008-0155

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December 19, 2008

If you have any questions regarding this matter, please contact Ms. Amy Grove at (858) 637-7136, or via email at agrove@waterboards.ca.gov, or Mr. Bob Morris at (858) 467-2962, or via e-mail at bmorris@waterboards.ca.gov.

Respectfully,



JOHN H. ROBERTUS
Executive Officer

JHR:jc:alg

Enclosure: Administrative Civil Liability Order No. R9-2008-0155

cc: Mr. Richard Opper, Esq. Opper and Varco, LLP 225 Broadway, Suite 1900, San Diego, CA 92101

Mr. Garth Koller, City of San Marcos, 1 Civic Center Drive, San Marcos, CA 92069-2949

Ms. Rebecca Lafreniere, County of San Diego, Local Enforcement Agency, 9325 Hazard Way, San Diego, CA 92123

Mr. James O'Day, Esq. County of San Diego, County Administration Center, 1600 Pacific Highway, Room 355, San Diego, CA 92101

Ms. Vicki Gallagher, County of San Diego, Department of Public Works, 5201 Ruffin Road, Suite D, San Diego, CA 92123

Mr. David Boyers, Senior Staff Counsel, State Water Resources Control Board Office of Enforcement, 1001 I Street, 16th Floor, Sacramento, CA 95814



CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION

ORDER NO. R9-2008-0155

ADMINISTRATIVE ASSESSMENT OF CIVIL LIABILITY AGAINST
THE CITY OF SAN MARCOS BRADLEY PARK LANDFILL
SAN DIEGO COUNTY FOR VIOLATIONS OF
CALIFORNIA WATER CODE SECTION 13267

The California Regional Water Quality Control Board, San Diego Region (Regional Board), having held a public hearing on December 10, 2008, to hear evidence and comments on the allegations contained in Complaint No. R9-2008-0080, dated September 26, 2008, and deliberating on the evidence presented at the public hearing and in the record on December 10, 2008, after determining the allegation contained in the Complaint to be true, and on the recommendation for administrative assessment of Civil Liability in the amount of \$119,950 finds as follows:

1. The City of San Marcos owns the Bradley Park Landfill, located at the intersection of Rancho Santa Fe Road and Linda Vista Road in the City of San Marcos, California. This site is subject to the requirements of Waste Discharge Requirements Order No. 97-11, general waste discharge requirements for inactive landfills.
2. On April 17, 2006 the Regional Board issued Water Quality Investigative Order No. R9-2006-0044 to the City of San Marcos. Order No. R9-2006-0044, as amended, required the City of San Marcos to submit a Report of Waste Discharge to the Regional Board by May 18, 2007.
3. The City of San Marcos failed to submit an adequate Report of Waste Discharge that satisfied the requirements of the Investigative Order. As of December 10, 2008 the Report is 566 days late.
4. Under the authority of Water Code section 13268, any person failing to furnish a technical report required by Water Code section 13267 (b) is guilty of a misdemeanor and may be liable civilly.
5. On September 26, 2008 the Regional Board issued Administrative Civil Liability Complaint No. R9-2008-0080 to the City of San Marcos for failure to submit an adequate Report of Waste Discharge.
6. Consideration of the factors prescribed in Water Code section 13327, and information available to the Regional Board prior to the hearing and described in greater detail in the technical report *California Regional*

Water Quality Control Board, San Diego Region, Technical Report for the Proposed Administrative Civil Liability Contained in Complaint No. R9-2008-0080, City of San Marcos, Bradley Park / Old Linda Vista Landfill, September 26, 2008, and deliberations by the Regional Board at the hearing support the assessment of civil liability in the amount of \$119,950 as follows:

An average of \$243.80 per day for 492 days of violation of Water Code section 13267 for a total of \$119,950; which includes staff costs of \$12,270.

7. This enforcement action is exempt from the provisions of the California Environmental Quality Act (Public Resources Code, Division 13, Chapter 3, section 21000 et seq.) in accordance with the California Code of Regulations, Chapter 3, Title 14, section 15308.

IT IS HEREBY ORDERED, that civil liability is imposed on the City of San Marcos in the amount of one hundred nineteen thousand, nine hundred fifty dollars (\$119,950).

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 December 10, 2008.



JOHN H. ROBERTUS
Executive Officer