





# City of Carlsbad

## Public Works – Engineering

May 24, 2006

John Minan, Chair, and Members,  
California Regional Water Quality Control Board-San Diego Region  
9174 Sky Park Court, Suite 100  
San Diego, CA 92123

**Re: Agenda of June 14, 2006, Issuance of Administrative Civil Liability (ACL) Order against the City of Carlsbad (tentative Order No. R9-2006-0009) for alleged violations at the Municipal Golf Course Construction Site (5800 Hidden Valley Road, Carlsbad, CA 92009) pursuant To § 13385 of the Water Code**

Dear Chair Minan and Members of the Board:

The City of Carlsbad respectfully submits the following responses to comments, dated 1/24/2006, to the RWQCB regarding the complaint filed against the City by the RWQCB.

The second paragraph states:

*"This of particular concern due to the vast areas of the city that are being developed simultaneously, exposing the creeks, lagoons, and coastal ocean to potentially large amounts of unchecked pollutants."*

While it is true that there is a large amount of development occurring in Carlsbad at this time; however, there is no evidence of any discharges of "large amounts of unchecked pollutants." The City respectfully points out that the matters at issue are those referred to in the complaint on this ACL, not growth and development in a general sense.

The third paragraph states:

*"I hope the Board will look beyond the surface of the matter to the intrinsic problems that led to this incident: a lack of leadership within the city to set high standards for surface water protection; a lack of oversight by city engineers in carrying out the construction project; and an administration that does not have a means to ensure that such projects have all the necessary paperwork in place before construction proceeds."*



The City is committed to maintaining high standards in protecting surface waters. There has been no lack of oversight by the City Council, the City Manager, the Director of Public Works, or by the City's engineers. The current City Engineer has been involved personally in the oversight of this project. The City has taken responsible measures to protect the watershed as demonstrated by the success of this project. There is no evidence of any impacts to water quality from the development of this project. After a review of the City's administrative procedures that resulted in the NOI oversight, several changes, in both engineering and legal review, were implemented to double-check issuance of NOIs. The Engineering-Construction Management & Inspections Division (CM&I) no longer relies on third-party consultants for the verification of the NOI. CM&I now requires a copy of the NOI. The City Attorney's Office, in its legal review of contracts, has incorporated a check for NOIs, as a double-check. The City is not aware of any other project in Carlsbad for which a NOI was required, that did not have one.

In response to numbered suggestions:

1) "Levy a fine that is large enough to be taken seriously under the circumstances, at least \$0.5 Million."

The City recommends, and agrees to the sanction originally recommended by Board Staff. There are no intervening facts in the record of this matter which would provide a basis for imposing an increased fine. The matter is already considered to be very serious.

2) "Require measures to better integrate the storm water prevention program into the planning and engineering departments."

Additional measures are now integrated into Carlsbad's procedures to implement storm water protection requirements. The failure in this instance properly to have obtained the required NOI has led to the additional procedures, as stated above.

3) "Strongly recommend to the City that they implement an educational program regarding surface water protection that includes all relevant decision-makers, planners, engineers, and administrators."

As explained in the letter from the City of Carlsbad's Director of Public Works, Mr. Purim, the City provides ongoing training regarding surface water protection and willing to implement any additional training that could be effective to any and all.

4) "Strongly encourage the City to propose that the fine be met, at least in part, through SEPs to be carried out locally to benefit the watersheds of the creeks that will bear the brunt of the impacts from the golf course construction, i.e. the Aqua Hedionda and Encinas Creeks."

While City Council approval for such a resolution would be a procedural requirement, the City staff would be amenable to the suggestion that this project

participate in a Separate Environmental Project (SEP) if the RWQCB is agreeable. The City would point out that the City's Golf Course project will provide a substantial amount of mitigation and environmental enhancements, such as the City's Habitat Management Plan and other significant mitigation onsite.

5) "Require the City of Carlsbad to develop and implement a public information system that clearly illustrates the immediate and cumulative effects of land use changes and specific developments on each of the watersheds within its jurisdiction, i.e. a useful tool for the public to assess cumulative impacts on water quality of the development within their city."

The City of Carlsbad's compliance with a myriad of land use planning requirements, in addition to compliance with the California Environmental Quality Act, the National Environmental Policy Act, the Clean Water Act and the Endangered Species Act, among others, already provide numerous avenues for the public to become aware of, and participate in the assessment of "cumulative impacts on water quality of the development within their city." However, the City would welcome suggestions on additional effective methods to develop a public information system to evaluate the impacts to a watershed.

Closing remarks ["I hope your actions will send a clear message that it does not pay to skirt the requirements of the Clean Water Act and the NPDES permit."]

There was no effort to skirt the requirements of the Clean Water Act, the GCASP or any other permit.

Respectfully,



CONRAD "SKIP" HAMMANN, PE  
City Engineer

c: John H. Robertus, Executive Officer  
Frank Melbourn, Water Resource Control Engineer  
Raymond Patchett, City Manager  
Ron Ball, City Attorney  
Glenn Pruum, Public Works Director

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# City of Carlsbad

Public Works – Engineering

May 19, 2006

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California Regional Water Quality Control Board-San Diego Region  
9174 Sky Park Court, Suite 100  
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Closing remarks ["I hope your actions will send a clear message that it does not pay to skirt the requirements of the Clean Water Act and the NPDES permit."]

There was no effort to skirt the requirements of the Clean Water Act, the General Construction or any other permit.

Respectfully,

  
CONRAD "SKIP" HAMMANN, PE  
City Engineer

c: John H. Robertus, Executive Officer  
Frank Melbourn, Water Resource Control Engineer  
Raymond Patchett, City Manager  
Ron Ball, City Attorney  
Glenn Pruiam, Public Works Director



**3 - C**

**From:** Skip Hammann  
**To:** bmester@invoiceconnection.com  
**Date:** 04/12/2006 1:46:50 PM  
**Subject:** Carlsbad Golf Course

Mr. Mester;

I am responding to your concerns you sent to the RWQCB dated 4/11/2006 regarding the golf course construction which was forwarded to me by the RWQCB. I can assure you that the City is not ignoring the utilization of BMPs on this project or any other project in Carlsbad.

Due to the nature of this particular project, it was required to haul a significant amount of dirt from one side of College Blvd. to the other side to grade the project as designed, requiring the use of large earth moving equipment. This type of operation doesn't lend itself to what I will call a "typical" construction entrance due to the fact other types of BMP's are needed to address more than debris from the tires of pick up trucks leaving the site. There are a number of "typical" controlled construction entrances for construction site access; however, the area on College Blvd. that you are describing was actually a construction "haul road". A different set of BMPs were required to handle this site specific condition, such as, continuous street sweeping using a street sweeping service and hand sweeping during normal operating hours, followed with a final clean up at the end of each day. Prior to any storm event the haul road access was blocked with earth berms, gravel bags, silt fence, and other appropriate BMP measures in accordance with the storm water action plan.

The ingress and egress areas were approved for the haul roads as part of the project along with the required traffic control needed to perform the operation. The hauling operation is complete and the grading contractor is in the process of completing the minor remaining grading contract work which will include restoring the crossing area back to its previous condition (sidewalk, pavement, and median). There may be the need for the grading contractor to cross College with an occasional piece of earth moving equipment as he finishes the project, but this is anticipated to be only once or twice a day, if at all. The contractor is being required to sweep the street when this happens. The implementation of BMPs are a daily requirement for this project, as well as others, to maintain the BMPs is an ongoing effort.

Please contact me if you would like to discuss the matter in more detail or have any other concerns. The City is in compliance with all of the permit requirements for this project, including storm water requirements.

Sincerely,

Skip Hammann  
Deputy City Engineer  
Construction Management & Inspections  
760-602-2780 x7321

Shamm@ci.carlsbad.ca.us