

**STATE OF CALIFORNIA  
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL COAST REGION**

**STAFF REPORT FOR REGULAR MEETING OF July 7, 2005**

Prepared on June 15, 2005

**ITEM: 6**

**SUBJECT: Administrative Civil Liability Order No. R3-2005-0012; Coast Unified School District, Cambria Elementary School**

**KEY INFORMATION**

Discharger: Coast Unified School District  
Location: 3223 Main Street, Cambria, San Luis Obispo County  
Discharge Type: Construction Storm Water  
Existing Order: Order No. 99-08-DWQ, NPDES General Permit No. CAS000002

**SUMMARY**

This item proposes a settlement agreement between the Water Board and the Cambria Unified School District for alleged violations of the NPDES General Permit for Storm Water Discharges Associated with Construction Activity. The amount of the proposed settlement agreement is three hundred thousand dollars (\$300,000), with two hundred ninety-one thousand four hundred and fifty dollars (\$291,450) designated for a high priority fish passage barrier removal project on Santa Rosa Creek in Cambria, and the remainder designated for Water Board staff cost recovery.

This enforcement action and settlement agreement helps accomplish two primary goals of the Central Coast Water Board—to take meaningful enforcement action when necessary as a deterrent to future violations, and to direct settlement funds toward the protection and restoration of critical habitat (riparian corridor habitat).

**DISCUSSION**

Coast Unified School District (hereafter Discharger) owns Cambria Elementary School (Site), currently under construction, located at 3223 Main Street, Cambria, San Luis Obispo County. On March 12, 2004, the Discharger filed a

Notice of Intent (NOI) to comply with the terms of the NPDES General Permit for Storm Water Discharges Associated with Construction Activity (Permit). Construction commenced in March 2004.

Storm water runoff from the 22.45-acre site flows into storm drains and drainage ways that discharge to an unnamed, blue- line stream. The stream is sometimes referred to as Fiscalini Creek or Fitzhugh Creek. The unnamed, blue-line stream is tributary to Santa Rosa Creek.

Water Board staff allege that the discharger was in violation of the Permit during 2004 and 2005. The Executive Officer issued Administrative Civil Liability Complaint No. R3-2005-0012 (Complaint) on January 12, 2005 in the amount of one hundred and fifty thousand dollars (\$150,000). The Complaint describes violations that occurred between March 17, 2004 and December 7, 2004 (attached). Additional violations, described below, occurred after the period of the Complaint.

The Discharger met with Water Board staff, Department of Fish and Game staff, and California Coastal Conservancy staff, and proposed settlement of the violations listed in the Complaint, and the violations that occurred after the period of the complaint up to February 22, 2005.

### Violations After the period of the Complaint

The following violations are not included in the Complaint:

On December 27, 2004, Water Board staff inspected the Site and observed sediment laden water leaving the Site.

On December 29, 2004, Walter Fitzhugh, a neighbor to the Site, submitted historic and current data for sediment levels in Fiscalini Creek, downstream of the Site.

On January 6, 2005, Water Board staff received a formal complaint letter from Walter Fitzhugh for the release of mud, sediment, and gravel onto his ranch property and into the creek. He requested that the Water Board require clean up of the sediment.

On January 7, 2005, Water Board staff met with Coast Unified School District representatives, DFG, and Morro Group to discuss the violations that had occurred on Site and the clean up of the sediment deposited onto Fitzhugh Ranch and into the creek. After the meeting, DFG, Morro Group and Regional Board staff inspected the Site. Samples of the discharge were taken as well as comparison samples from upstream of the discharge. Morro Group issued a Stop Work Order as a result of the discharges of sediment laden water from the Site.

On January 20, 2005, A.J. Diani (contractor) crews cleaned up sediments discharged into three drainageways. The sediments were removed by hand. Approximately one cubic yard of sediment was removed from each drainage.

On January 21, 2005, A.J. Diani crews cleaned up sediments discharged onto neighboring properties. The sediments were removed by hand. Approximately two cubic yards were removed from each drainage.

On January 24, 2005, A.J. Diani crews partially cleaned up additional sediments discharged onto neighboring properties. Clean up was halted to prepare the Site for rain.

On February 3, 2005, A.J. Diani crews cleaned up sediment discharged from the Site into Fiscalini

Creek. The sediments were removed by hand from three places within the creek. One area was 40 feet long, and 2 to 4 inches deep, other areas were a few square feet and 4 to 6 inches deep.

Newspaper articles have been published in the Telegram-Tribune, a newspaper serving the San Luis Obispo County area.

- January 20, 2005 “Silt from Cambria school site brings construction to a halt”
- January 31, 2005 “School district cited over silt”

Newspaper articles have also been published in the Cambrian, a newspaper serving the Cambria area.

- January 20, 2005 “Work at new grammar school stopped”
- January 27, 2005 “School faces fine”

February 15<sup>th</sup> through February 21<sup>st</sup>, over 5 inches of rain fell. On February 22, 2005, the Morro Group inspected the Site and determined that the BMPs effectively contained sediment runoff on-site.

### Supplemental Environmental Project

After the Executive Officer issued the Complaint, the Discharger contacted Water Board staff for the purpose of settling all of the violations and to discuss a Supplemental Environmental Project (SEP).

The Discharger has proposed to pay eight thousand five hundred and fifty dollars (\$8,550) in staff costs and deposit two hundred ninety-one thousand four hundred and fifty dollars (\$291,450) with San Luis Obispo County Community Foundation. These funds will be disbursed by the Foundation at the direction of the Executive Officer to funds restoration projects in the Santa Rosa Creek watershed.

Water Board staff consider the following SEPs for the Santa Rosa Creek watershed to be high priority projects:

1. Ferasci Road Fish Passage Barrier Removal Project
2. Santa Rosa Creek Watershed Enhancement Plan

3. Bank Stabilization Project at East Ranch
4. Forest Management Project

#### **Ferasci Road Fish Passage Barrier Removal Project**

The road crossing over Santa Rosa Creek at Ferasci Rd. was recently listed as the top priority fish passage barrier in Coastal San Luis Obispo County. A concrete structure with a set of culverts and a marginally functional fish passage device exist currently and the Fish Passage Task Force of the Steelhead Recovery Coalition of the South Central Coast believes that the structure is a significant barrier to migrating steelhead trout. Modification or replacement of the structure would promote increased passage of migrating steelhead trout to their native spawning grounds. Completion of the project will open up more than ten miles of streams to migrating steelhead trout.

A project design is underway, funded by a California Coastal Conservancy grant. Permits will also be secured under this grant. Funds are needed for implementation of the project. The current preferred alternative is replacement of the structure with a spanning bridge.

The current structure is owned by the County of San Luis Obispo. The estimated cost of project construction for a County-owned bridge is \$400,000.

This project is Water Board staff's preferred project.

#### **Santa Rosa Creek Watershed Enhancement Plan**

Water quality protection and healthy fisheries management in human-impacted drainage areas requires planning and prioritization. This project will characterize the quality of water and fisheries habitats of Santa Rosa Creek and make recommendations for the repair of damaged areas and protection of existing high quality areas. Fisheries survey information, water quality testing, and basic hydrologic functioning will be researched by the Land Conservancy of San Luis Obispo (LCSLO) for the Santa Rosa Creek Basin and the results will be used to determine a set of actions to assure the quality of water and habitat areas. A technical advisory committee will be established by the LCSLO to review the work of

experienced researchers and assist in the development of potential enhancement and protection projects.

Most of the larger drainage areas of Santa Rosa Creek are in private ownership. Protection and repair of damaged areas will require working cooperatively with private landowners who are interested in local resource quality. The project will be entirely voluntary. The resulting enhancement plan will list specific projects where landowners have expressed an interest in participating.

The planning process will involve collecting existing information, collecting necessary information that does not currently exist, identifying interested landowners, and development of projects.

The anticipated budget for the project is approximately \$70,000.

#### **Bank Stabilization at the East Ranch (Plan and Implement)**

The stream banks of Santa Rosa Creek are nearly vertical through much of the south bank of the East Ranch. Each year sections of the bank collapse into the stream contributing excessive sediment. Sedimentation has the potential to degrade trout spawning habitats. Banks on this property should be stabilized in the most naturally functioning way. Any project on these banks should be preceded by a complete hydraulic analysis.

This project will fund a hydraulic survey and analysis and restoration plan for the banks of Santa Rosa Creek by the LCSLO. Once planned, a project may be implemented, but the scale is as yet unknown. The benefits of a restored creek bank will be increased riparian habitat, and reduced sedimentation of the stream.

A restoration plan for this site is estimated to cost \$65,000 and will include construction-ready drawings. The plan will have a cost estimate for implementation.

#### **Forest Management Plan**

The Cambria Forest Management Plan was funded by the California Department of Forestry and Fire Protection, written by Jones & Stokes for the

Cambria Forest Committee and accepted by the Cambria Community Services District. The Cambria Forest Committee obtained funding for the plan, developed the Request for Proposal, interviewed prospective candidates, and managed the development of the plan to completion. This project will implement a forest management plan that affects critical water related issues in a rare forest habitat that drains largely into Santa Rosa Creek and to a lesser degree the Pacific Ocean. The first-year estimated start up cost is \$92,000. The two following years estimated costs are \$153,000. The grand total for three years is \$245,000.

### RECOMMENDATION

Water Board staff and the Executive Officer recommend accepting the proposed settlement of three hundred thousand dollars (\$300,000) for the violations of the permit that occurred during the period of the Complaint and the violations that occurred after the period of the Complaint up to February 22, 2005, and directing two hundred ninety-one thousand four hundred and fifty dollars (\$291,450) toward Ferasci Road Fish Passage Barrier Removal Project.

### ATTACHMENTS

1. ACL Complaint No. R3-2005-0012
2. Administrative Civil Liability Stipulated Order No. R3-2005-0012
3. Settlement Agreement
4. 2/24/05 Land Conservancy Letter
5. 4/18/05 Richard Hawley Letter
6. 5/2/05 Department of Fish and Game Letter
7. 6/1/05 San Luis Obispo County Community FireSafe Council Letter