

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

IN THE MATTER OF:

NORTH COUNTY TRANSIT DISTRICT
SPRINTER RAIL PROJECT

NONCOMPLIANCE WITH STATE BOARD
ORDER NO. 99-08-DWQ

COMPLAINT NO. R9-2007-0093
FOR
ADMINISTRATIVE CIVIL LIABILITY

August 31, 2007

NORTH COUNTY TRANSIT DISTRICT IS HEREBY GIVEN NOTICE THAT:

1. North County Transit District (hereinafter NCTD) is alleged to have violated provisions of law for which the California Regional Water Quality Control Board, San Diego Region (Regional Board) may impose civil liability under section 13385 of the California Water Code.
2. The NCTD owns and operates the Sprinter Rail construction site (hereinafter site) located along the rail corridor between the cities of Oceanside and Escondido. The site has been regulated by the Regional Board in accordance with State Board Order No. 99-08-DWQ, *NPDES General Permit No. CAS000002, Waste Discharge Requirements for Discharges of Storm Water Runoff Associated with Construction Activity* (Order No. 99-08-DWQ) since August 7, 2004 when the Notice of Intent (NOI) to comply with the terms of Order No. 99-08-DWQ was submitted. The project was issued WDID # 9 37C322900

ALLEGATIONS

3. **Failure to Implement Best Management Practices:**
The NCTD failed to implement and maintain adequate Best Management Practices (BMPs) at the site in violation of Order No. 99-08-DWQ Special Provision C.2 and section A.1.c on at least two days: February 20; and March 21, 2007.
4. **Failure to conduct adequate site inspections:**
On February 19, 20, and March 20 and 21, 2007, NCTD violated the requirements of Special Provisions C.2 and C.4 and sections A.11 and B.3 of Order No. 99-08-DWQ by inaccurately assessing the condition and effectiveness of implemented BMPs in a total of four inspection reports.

Order No. 99-08-DWQ requires that before and after storm events, as well as during storm events that last as least 24 hours, information be provided which conveys whether or not BMPs were adequate at the time of the inspection.

5. Discharge of Sediment to MS4 and Waters of the United States:

The NCTD discharged sediment to a Municipal Separate Storm Sewer System (MS4) and navigable waters of the United States in the San Diego Region in violation of State Board Order No. 99-08-DWQ, Discharge Prohibition A.2. NCTD discharged sediment from the site on the following dates and locations:

On February 20, 2007:

1. MS4 inlet east of Escondido Avenue in the City of Vista which discharges into Buena Vista Creek and downstream into Buena Vista lagoon.
2. MS4 inlet at the Mar Vista storage yard in the City of Vista which discharges into Buena Vista Creek and downstream into Buena Vista lagoon.
3. MS4 inlet at the Armorlite storage yard in the City of San Marcos which discharges into San Marcos Creek and downstream into Lake San Marcos.
4. MS4 inlet, south of Barham Lane, west of Wilkinson Drive, within the City of San Marcos which discharges into San Marcos Creek and downstream into Lake San Marcos.
5. MS4 inlet, south of Barham Lane, east of Wilkinson Drive, within the City of San Marcos which discharges into San Marcos Creek and downstream into Lake San Marcos.
6. MS4 inlet, north of Barham Lane, south of the tracks, within the City of San Marcos which discharges into San Marcos Creek and downstream into Lake San Marcos.
7. MS4 inlet, west of Shelley Drive, south of tracks, within the City of San Marcos which discharges into San Marcos Creek and downstream into Lake San Marcos.
8. MS4 inlet, east of Shelley Drive, north of tracks, within the City of San Marcos which discharges into San Marcos Creek and downstream into Lake San Marcos.
9. MS4 inlet, east of Shelley Drive, south of tracks, within the City of San Marcos which discharges into San Marcos Creek and downstream into Lake San Marcos.

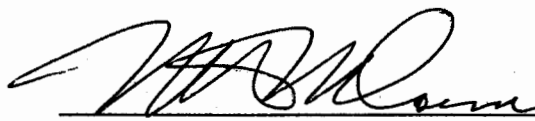
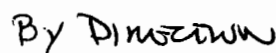
On March 21, 2007:

10. Loma Alta Creek, near the El Camino Real bridge in the City of Oceanside.

PROPOSED CIVIL LIABILITY

6. Based on consideration of the factors listed in section 13385 of the California Water Code, civil liability should be imposed on NCTD in the amount of \$160,000 for all violations, as follows:
- a. The NCTD failed to implement adequate BMPs on at least two days which the Regional Board staff observed. The maximum liability for failure to implement and maintain effective BMPs is \$10,000 per day. Civil liability should be imposed at a rate of \$10,000 per day for a total liability of \$20,000.
 - b. The NCTD failed to perform adequate inspections in violation of Sections C.2 and C.4 of State Board Order No. 99-08-DWQ in a total of four inspection reports. The maximum liability for violating the inspection requirements is \$10,000 per violation per day. Civil liability should be imposed at a rate of \$10,000 per violation for a total liability of \$40,000.
 - c. The NCTD discharged sediment and sediment-laden water into the MS4 and waters of the United States on at least ten instances. Pursuant to Water Code Section 13385, the maximum liability is \$10,000 per violation per day plus up to \$10 per gallon discharged. Civil liability for these unregulated discharges should be imposed at \$10,000 per violation for a total liability of \$100,000.

Dated this 31st day of August 2007


By 
JOHN H. ROBERTUS
Executive Officer