SUPPORTING DOCUMENT # 4

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION

PRELIMINARY TECHNICAL ANALYSIS SUPPORTING

ADMINISTRATIVE CIVIL LIABILITY AGAINST

SAN DIEGO UNIFIED SCHOOL DISTRICT FOR FAILURE TO COMPLY WITH

ORDER NO. 99-08-DWQ WASTE DISCHARGE REQUIREMENTS FOR DISCHARGES OF STORMWATER RUNOFF ASSOCIATED WITH CONSTRUCTION ACTIVITY (WDID No. 9 37C329152)

Prepared by
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Environmental Scientist
Central Watershed Unit

INTRODUCTION

For the reasons set forth below, the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) issued Administrative Civil Liability Complaint No. R9-2007-0061 to the San Diego Unified School District for the Scripps Ranch Middle School, under the authority of Water Code Section 13385. The analysis presented herein is preliminary in that it does not include all factors addressing liability as set forth in Section 13385(e) of the Water Code. A final analysis will be completed, prior to a hearing, as needed.

BACKGROUND

This preliminary technical analysis focuses on the construction of a school that is subject to the requirements of *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 or the Construction Storm Water Permit or the Permit).

On August 4, 2004 the San Diego Unified School District (hereinafter the District) filed a Notice of Intent (NOI) for coverage under the Construction Storm Water Permit. As a school district, the District is not subject to regulation by the local municipality (i.e., the City of San Diego) and therefore, is not subject to local storm water program oversight, including regular inspections by the municipality (under Order No. 2001-01, the Municipal Storm Water Permit).

The project site (Site) is located on 36 acres of land southeast of the intersection of Pomerado Road and Avenue of Nations in the City of San Diego. Runoff from the north side of the Site is collected in a drainage channel which extends along the north property line of the Site (along the Avenue of Nations) where it runs generally westward before discharging to Carroll Canyon Creek which is located about 200 feet from the west end of the Site. Runoff from the south side of the Site enters a drainage swale (referred to as the southwest swale) that runs along the southern property line and also discharges to Carroll Canyon Creek (after flowing in a northwestern direction) at another location about 200 feet west of the western edge of the Site. The NOI proposes that about 11 acres of the 36-acre site would be disturbed by construction activities. Subsequent documents such as inspection reports indicate, however, that the entire 36 acres would be disturbed. Much of the perimeter area of the Site consists of steep slopes.

On April 12, 2005 the Regional Board issued Cleanup and Abatement Order No. R9-2005-0116 (CAO). The CAO was issued after an inspection by the Regional Board on March 18, 2005 revealed numerous BMP violations as well as discharge violations. The CAO directed the District to cleanup and abate the effects of the unauthorized discharge of waste into an unnamed tributary of Carroll Canyon Creek. The CAO also required implementation of effective erosion controls, sediment controls and pollutant source control measures including proper containment/coverage of construction materials and trash. Directive No. 6 of the CAO requires the discharger to submit Technical Reports after each rainfall event in which "1 or more inches of rain occurs from the start of precipitation to the end of precipitation, followed by three consecutive dry days." The

stated purpose of these reports is to, "demonstrate to the satisfaction of the Regional Board that the BMPs are effective in reducing sediment discharges from the Site to the BAT/BCT performance standard." The reports must include photo-documentation of BMPs and photocopies of all site inspection reports. This includes inspection reports mandated by Sections A.11 and B.3 of the Permit (self-inspections that must be performed when rainfall events occur). Two consulting firms (Soltek Pacific and URS) have performed these site inspections during the last two rainy seasons. To date, three Technical Reports, which included a total of 87 self-inspection reports, have been submitted. These Technical Reports, along with two inspection reports written by Regional Board staff, are the basis for citing reporting violations, BMP violations, and discharge violations as discussed below.

Allegation No. 1

District Prepared Incomplete Inspection Reports: Violation of Construction Storm Water Permit § A.11 and § B.3.

Between February of 2005 and March of 2007, the discharger violated the requirements of Sections A.11 and B.3 of Order No. 99-08-DWQ by failing to include required information in 42 of 87 inspection reports submitted to the Regional Board. The Permit requires that before and after storm events, as well as during storm events that last at least 24 hours, information be recorded that conveys whether or not Best Management Practices (BMPs) were adequate at the time of the inspection. BMP adequacy cannot be determined from these 42 reports because two sections of the inspection report form that convey the information necessary to determine BMP adequacy were not completed. All 42 reports failed to provide necessary information as to whether or not the Site was in compliance with the Storm Water Pollution Prevention Plan (SWPPP) or whether BMPs were installed adequately and in accordance with the SWPPP. In addition, none of the 42 reports cited were signed as required by the Permit.

Factual Basis

Sections A.11 and B.3 of Order No. 99-08-DWQ specify the conditions for inspections that are to be performed by the discharger, "before and after storm events and once during each 24-hour period during extended storm events." The Permit notes that the purpose of these self-inspections is to "identify BMP effectiveness and implement repairs or design changes as soon as feasible." The reports are, therefore integral to the goal of ensuring that BMPs are implemented and adequately maintained. Pursuant to Section A.11 of the Permit, information that must be recorded in a completed inspection checklist includes:

1. Inspection date.
2. Weather information.
3. A description of any inadequate BMPs.
4. A list of observations of all BMPs or (depending on accessibility constraints) results of visual inspection of outfalls, discharge points or "downstream location and projected required maintenance activities."
5. Corrective actions required.
6. Inspectors name, title, and signature.

Three Technical Reports (dated March 7, 2006, April 18, 2006 and February 26, 2007) contain copies of a total of 87 inspection reports required by Sections A.11 and B.3 of Order No. 99-08-DWQ. Attachments No. 1 and 2 are representative copies of inspection reports prepared by each of the two consultants (Soltek Pacific and URS) that performed the self-inspection. Forty-two of these 87 reports (each of which was prepared by Soltek Pacific) are in violation of the requirements in Sections A.11 and B.3 because they fail to indicate whether BMPs are adequate, and do not accurately represent whether BMPs were adequate or inadequate, and were not signed. The 42 incomplete reports provide evidence of 42 days of violation of Sections A.11 and B.3 of Order No. 99-08-DWQ. The specific violations are discussed below.

- Each report failed to indicate whether or not the Site was in compliance with the Storm Water Pollution Plan (SWPPP) or was not in compliance with the SWPPP. In Section 3 of the reports that are cited, the following choices are noted (see Attachment 1).

  1. SITE IS IN COMPLIANCE WITH THE SWPP. ACTION: INSPECTION REPORT IN SWPP BINDER
  2. SITE IS NOT IN COMPLAINCE WITH SWPP BUT NO RELATED DISCHARGE TO A WATER BODY OF THE STATE. ACTION: Corrective action report to be filed in the SWPP binder.

  In each of the 42 reports, neither selection was chosen. The reports, therefore, fail to indicate whether BMPs are effective and therefore whether repairs or design changes are needed.

- Each report failed to provide an answer to the first question in Section 2 of the report. The question asks, "Are BMPs installed properly and in accordance with the SWPP?". As shown in Attachment 1, an "X" was placed in between the choices "No" and N/A" (for all 42 reports) thereby providing no answer to indicate whether BMPs were effective. In addition, the possible need for any necessary repairs or design changes was not likely to be properly addressed, as required by the Permit because this question was not answered.

- Each report was not signed. Section A.11 of the Construction Storm Water Permit requires that the inspector's name, title and signature be included in each inspection report.

Taken together, these violations, which are multiple violations in each report, cause these reports to be ineffective for the purpose of evaluating BMPs "for adequacy and proper implementation and whether additional BMPs are required" (Section B.3 of the Permit).

Factors Affecting Liability (Pursuant to Water Code Section 13385)

Gravity of Violations

As discussed earlier, in this preliminary technical analysis, only a partial evaluation of the factors to be considered in assessing liability (pursuant to Section 13385(e) of the Water Code) is contained herein, pending the acquisition of additional relevant information. There is considerable gravity associated with incomplete and inaccurate reporting because the self-monitoring reports required by the Construction Storm Water Permit are intended to serve as a means of assuring compliance with the Permit, and as such, when these reports are inadequate, it can be expected that compliance will be deficient. Moreover, when the reports fail to note the inadequacy of BMPs, it should be expected that impacts to the environment will result. In fact, significant impacts to the environment did occur as a direct result of inadequate BMPs. Allegation No. 2 discusses repeated failure to adequately implement BMPs. Three reports that document discharge of highly turbid water to Carroll Canyon Creek (discussed in Allegation No. 3) demonstrate how the failure to implement and maintain adequate BMPs resulted in impairment to the quality of receiving waters and to the beneficial uses of those waters. Inadequate self-monitoring reports resulted in inadequate BMPs which, in turn, lead to discharges of sediment to receiving waters. For these reasons, the inadequate reports are judged to be a relatively significant violation.

Violations History

Liability is also enhanced to some degree by the history of violations at this site. The CAO that was issued in April of 2005 identified numerous significant BMP violations. Under these circumstances, the District should have been aware that the obviously incomplete self-monitoring reports allowed for the possibility that non-compliance with BMP requirements would continue through 2006 and 2007.

Allegation No. 2

District Failed to Implement and Maintain Best Management Practices: Violation of Construction Storm Water Permit § A.6, § A.7 and § A.8.

On March 18, 2005, February 27, 2006, February 28, 2006, April 4, 2006, April 5, 2006, February 19, 2007 and February 27, 2007 the District failed to implement effective erosion control, stabilization, and sediment control Best Management Practices (BMPs), in violation of Sections A.6, A.7 and A.8 of Order No. 99-08-DWQ. This includes two days on which Regional Board staff observed BMP violations during site inspections (March 18, 2005 and February 27, 2007) and five days for which BMP violations were documented in Technical Reports submitted by the District (February 27, 2006, February 28, 2006, April 4, 2006, April 5, 2006, and February 19, 2007).

Factual Basis

Sections A.6, A.7 and A.8 of Order No. 99-08-DWQ require implementation of effective erosion control (A.6), stabilization (A.7) and sediment control (A.8) BMPs. On March 18, 2005, Dat Quach of the Regional Board inspected the Site and observed, documented and photo-documented evidence of inadequate BMPs (inspection report provided as Attachment No. 3). The lack of effective BMPs included inadequate erosion control BMPs and inadequate sediment control BMPs. During a second inspection by Regional Board staff (Pete Peuron and Ben Neill) on February 27, 2007, numerous BMP violations were again observed, documented and photo-documented (inspection

report provided as Attachment No. 4). Both inspection reports reveal numerous BMP violations and include photographs of improper or inadequately maintained BMPs, as well as areas where BMPs were not implemented when they should have been. The Regional Board inspection reports provide evidence of two days of failure to implement adequate BMPs.

On March 7, 2006, April 20, 2006 and February 26, 2007, the District submitted Technical Reports (prepared by URS) as required under Order No. 6 of the CAO. The Technical Reports provide narrative and photographic evidence of inadequate BMPs including inadequate erosion control BMPs, inadequate stabilization and inadequate sediment control BMPs.

- Section 5 of the March 7, 2006 report summarizes BMP status and includes the following deficiencies:
  - Lack of a sediment barrier along the southwest swale.
  - Lack of stabilization of the southwest access road.
  - Lack of stabilization of the storm water conveyance on Avenue of Nations.
  - Lack of adequate containment volume of a pit that was used to capture turbid water and inefficient pumping of this pit during the storm.

- Section 5 of the April 20, 2006 Technical Report summarizes BMP status and includes the following deficiencies:
  - Continued lack of stabilization of the southwest access road.
  - Continued lack of stabilization of the storm water conveyance on Avenue of Nations.
  - Inadequate implementation of a berm and fiber rolls on the southwest access road.

- Section 6 of the February 26, 2007 Technical Report identifies two major deficiencies that contributed to the discharge of turbid water to Carroll Canyon Creek on this date. These are:
  - Lack of storm drain inlet protection on more than 30 storm drain inlets.
  - Sediment and erosion control deficiencies on vulnerable slopes including:
    - Slope along Avenue of Nations.
    - Three internal unstable slopes.
    - Portions of the southwest swale slope.

Attachment No. 5 shows two pictures of unprotected storm drain inlets from the February 26, 2007 Technical Report.

The three Technical Reports cover a total of five days of BMP violations (for February 27, 2006, February 28, 2006, April 4, 2006, April 5, 2006 and February 19, 2007). The two Regional Board inspection reports (for inspections on March 18, 2005 and February 27, 2007) provide documentation of two additional days of BMP violations for a total of seven days of BMP violations.

Factors Affecting Liability

Gravity of Violations

As with the self-monitoring report violations, the failure to maintain adequate BMPs is a relatively grave violation because it resulted in the discharge of significant amounts of sediment to Carroll Canyon Creek (discussed in Allegation No. 3). Evidence that inadequate BMPs were a direct result of such discharges includes documentation of rills on slopes, documentation of turbid water entering storm drain inlets on-site and the observed flow of turbid water in areas that drain only the construction site.

History of Violations and Culpability

Once again, the fact that numerous BMP violations were identified in the CAO and that both the self-monitoring and technical reports continued to identify numerous violations over a period of about a year-and-a-half (from September of 2005 to late February of 2007) indicates a history of violations that must be considered in determining the District's culpability. Culpability may be offset somewhat by the lack of local storm water regulation. Regular inspections by the municipality (had they been required by the Construction Storm Water Permit) would likely have resulted in a more timely regulatory response and would likely have caused corrective actions to have been implemented sooner. Similarly, culpability is offset to a degree by the lack of a more timely response by the Regional Board to the March 7, 2006 and April 18, 2006 Technical Reports which identified numerous BMP violations. However, it should be noted that these reports contained many self-monitoring reports which, as discussed earlier, did not adequately describe the state of BMPs at the Site and therefore, contributed to a lack of an appropriate response by all involved parties. Nevertheless, it is the District's responsibility to comply with the Construction Storm Water Permit and to ensure its own compliance through self-monitoring inspections. Regulating agencies do not have the resources, or in some cases the necessary authority to compel compliance with the Permit through enforcement actions alone. Hence, the District is responsible and therefore liable or all violations listed herein.

Economic Benefit to District

Failure to implement adequate BMPs has thus far resulted in an economic benefit to the extent that funds were not expended to implement adequate BMPs. While the amount of this benefit cannot be determined at this time, given the relatively large size of the Site (apparently 36 acres of disturbed area, as updated in recent documents) and the widespread nature of the BMP violations, it appears that the economic benefit of not implementing BMPs was significant, especially since the lack of compliance covers at least two rainy seasons.

Allegation No. 3

District Discharged Sediment to Waters of the State: Violation of Construction Storm Water Permit Discharge Prohibition A.2.

For at least three days, on March 18, 2005, February 19, 2007 and February 27, 2007, the District discharged sediment-laden water either into an unnamed tributary to Carroll Canyon Creek, or directly into Carroll Canyon Creek, in violation of Discharge Prohibition A.2 of Order No. 99-08-DWQ.

Factual Basis

Discharges of a significant quantity of turbid water either directly to Carroll Canyon Creek, or to a tributary to Carroll Canyon Creek, were observed, documented and photo-documented by Regional Board staff during the March 18, 2005 and February 27, 2007 inspections (Attachments No. 3 and 4). In addition, a Technical Report dated February 26, 2007 documents descriptively and photographically, a discharge of turbid storm water to Carroll Canyon Creek that occurred on February 19, 2007. Two photographs from this report showing highly turbid water entering Carroll Canyon Creek are shown in Attachment No. 6. Such discharges are violations of Discharge Prohibition A.2 of Order No. 99-08-DWQ. These reports provide evidence of a minimum of three days of discharge violations.

Factors Affecting Liability

Gravity of Violations

Discharges to receiving waters are generally of significant gravity because they constitute direct impacts to the environment. The Water Quality Control Plan for the San Diego Basin (9) (Basin Plan), contains a water quality objective for sediment which concludes that the suspended sediment load and suspended sediment discharge rate of surface waters shall not be altered in such a manner as to cause nuisance or adversely affect beneficial uses.

The Scripps Ranch Middle School construction site lies within the Penasquitos Hydrologic Unit, Miramar Reservoir Hydrologic Area (9.06.10), which has the following beneficial uses:

a. Industrial Process Supply (IND)
b. Agricultural Supply (AGR)
c. Contact Water Recreation (REC-1)
d. Non-Contact Water Recreation (REC-2)
e. Warm Freshwater Habitat (WARM)
f. Wildlife Habitat (WILD)
g. Rare, Threatened, or Endangered Species (RARE)

As stated above, sediment is a pollutant that can have substantial biological and physical effects on receiving waters. These include increased turbidity (loss of clarity) and resulting decreased light transmittance, biological productivity, and aesthetic value; and physical suffocation of bottom dwelling (benthic) organisms. Sediment can also physically clog gills causing fish mortality; reduce reproduction; impair commercial and recreational fishing resources; increase water temperature, and fill in lagoons and wetlands converting them from aquatic to terrestrial habitat. It should be noted that these water quality impacts occur both during sediment transport and sediment deposition. In addition to the problems associated with "clean" sediment, sediment is also an excellent transport mechanism for toxics (i.e., metals and synthetic organics), which bind to sediment particles. Based on the above considerations, discharges of sediment to Carroll Canyon Creek, and to tributaries of Carroll Canyon Creek constitute significant environmental impacts. There is a high degree of gravity associated with these actual, documented environmental impacts.

ATTACHMENT 1
Soltek Pacific Inspection Report

INSPECTION REPORT

Project: SRMS

SECTION 1.	GENERAL	
Inspection type (check one)	X Routine	During storm event
	X Prior to Storm Event.	After storm Event

Date and time of inspection: 12/01/05 10:00 am. Current weather conditions: Clear

Start of storm event: Rainfall amount: ..

End of Storm Event: Time since last event: N/A

SECTION 2	REVIEW OF BMP'S	
Yes	No	N/A
	X	Are BMP's installed properly and in accordance with the SWPP?
X		Are BMP's in good condition and maintained in functional order
X		Does the SWPP (Including wall map exhibit) accurately reflect current site conditions?

If any boxes in this section have been marked No. Describe in writing corrective actions that will or have now been taken in order to provide for an affirmative response to each review

SECTION 3 INSPECTION OBSERVATIONS

All BMP's in place Site is now more likely to contain water then dispurse it. At A-1 wall fixed to where Catch basin will help remove water. Set bags in front of 8" pipie to act at headwall for rain storm predicted.

1. SITE IS IN COMPLIANCE WITH THE SWPP. ACTION: INSPECTION REPORT IN SWPP BINDER
2. SITE IS NOT IN COMPLIANCE WITH SWPP BUT NO RELATED DISCHARGE TO A WATER BODY OF THE STATE. ACTION: Corrective action report to be filed in the SWPP binder.

NOTE:
If inspection observations indicate the possibility of an exceedance of a quality objective, the owner or the owners designated representative should be contacted immediately.

SECTION 5. CERTIFICATION

I HAVE BEEN TRAINED IN THE PROPER INSTALLATION AND MAINTENANCE OF BMP's and the implementing and monitoring of SWPPP, I have performed this inspection on the date indicated.

Inspected By Matt McPherson/ John Robbins Signature
Title: Supervision Company: Soltek Pacific.

*Note: Must be in compliance with section C.9. Signatory Requirements of the NPDES General construction permit No. CAS000002.

ATTACHMENT 2
URS Inspection Report

Attachment A
SDCS SWPPP/BMP INSPECTION FORM

PROJECT INFORMATION

School Site: Scripps Ranch Middle School	Site Inspector: Greg Smith
Contract No.: C-	Site Construction Manager: Carl Schneider
SDCS BMP Inspector(s): Jerome Pitt	SDCS Site Phone: 858.566.6326
Date: 12/1/05	Contractor Representative: John Robbins
Time: 1330	Contractor Phone: -

Inspection Type: Initial ☐ Routine (weekly – wet season) ☒ Routine (biweekly – dry season) ☐ Pre-Storm ☐ Post-Storm ☐

Inspection Participant(s): ☐ SDCS Construction Manager ☒ SDCS Inspector (GS) ☐ Contractor

Project Compliance Rating

☐ **1 General Compliance:** The project has no significant deficiencies that require correction.

☐ **2 Minor Deficiencies:** The project has minor deficiencies and no major deficiencies were observed.

☒ **3 Major Deficiencies and/or Minor Deficiencies:** Excessive minor deficiencies and/or major deficiencies encountered.

☐ **4 Critical Deficiencies:** There are critical deficiencies that would likely result in a violation of the permit if a storm event were to occur.

☐ **5 Uncontrolled Discharge:** Notify inspector and construction manager.

Notice of Non-Compliance Recommended: ☒ **Yes*** ☐ **No**

Deficiencies shall be corrected within 48 hours or prior to the next storm event, whichever occurs first.

Date of last BMP/SWPPP Inspection conducted by Contractor personnel. 12/1/05 (pre-storm)

Date of last BMP/SWPPP Inspection conducted by SDCS BMP inspector 11/17/05

Est. Size of Disturbed Area: 36.6 **acres**

Will Revisit Site within: One week ☒ Two Weeks ☐ **Anticipated Date:** _____

Jerome Pitt December 1, 2005 Jerome L. Pitt 12/1/05

Inspector Signature

* Site still does not meet requirements of the GCP predominantly because of 1) unstabilized status of SW access road leading to pit and 2) incomplete plan and stabilization of conveyance along Ave. of Nations (including anticipated runon).

Recommendations: SRMS 12/1/05

There is a 40% chance of rain (NWS) for tomorrow. The current QPFs (NWS) indicate as much as 0.6 inches. Preparation measures should be implemented for potential storm.

The restoration of the SW swale area appears to have been completed for the predominant downgradient area of concern. It appears that the appropriate turf reinforcement mat was used and installed correctly. The modified (approved change in mix because of seed availability) seed mix appears to have also been applied correctly.

The site conditions have changes considerably in regard to slopes and elevation, which typically will help compartmentalize areas for containing water.

There are two major areas of concern that still have not been effectively addressed and deem the site as not meeting requirements of the General Construction Permit. These two areas of concern are: 1) the stabilization of the SW access road particularly at the pit; and 2) adequately addressing potential flows within the conveyance along Avenue of Nations with a completed fortified channel and addressing offsite runon into the conveyance. Both of these areas of concern will be subject to excessive erosion and subsequent sedimentation during storms that could be considerably reduced with the installation of effective measures.

Improve stockpile management. Effective covering or perimeter controls on stockpiles were not observed at time of visit.

Maintain proper waste and material storage. Ensure that materials that could influence stormwater runoff are appropriately contained. This is a significant concern as construction advances and more subcontractors and their material enter the site.

ATTACHMENT 3
Regional Board Inspection Report
March 18, 2005

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD - SAN DIEGO REGION
WATERSHED MANAGEMENT PROGRAM

FACILITY INSPECTION REPORT

INSPECTION DATE: March 18, 2005 TIME: 1:30 PM WDID: 9 37C329152

FACILITY REPRESENTATIVE(S) PRESENT DURING INSPECTION: Greg Smith of the san Diego City Schools

San Diego Unified School District NAME OF OWNER, AGENCY OR PARTY RESPONSIBLE FOR DISCHARGE	Greg Smith (858) 637 6266 OWNER CONTACT NAME AND PHONE #
San Diego Unified School District FACILITY OR DEVELOPER NAME (if different from owner)	Same as above FACILITY OR DEVELOPER CONTACT NAME AND PHONE #
Southeast of Pomerado Road and Willow Creek Road FACILITY STREET ADDRESS	San Diego, CA 92131 FACILITY CITY AND STATE

APPLICABLE WATER QUALITY LICENSING REQUIREMENTS

- ☐ MS4 URBAN RUNOFF REQUIREMENTS NPDES NOS. CAS0108758, CAS0108740 or CAS0108766
- ☒ GENERAL PERMIT ORDER NO. 99-08-DWQ, NPDES NO. CAS000002 – CONSTRUCTION
- ☐ GENERAL PERMIT ORDER NO. 99-06-DWQ, NPDES NO. CAS000003 - CALTRANS
- ☐ GENERAL OR INDIVIDUAL WASTE DISCHARGE REQUIREMENTS
- ☐ GENERAL OR INDIVIDUAL WAIVER OF WASTE DISCHARGE REQUIREMENTS
- ☐ SECTION 401 WATER QUALITY CERTIFICATION
- ☐ CWC SECTION 13264

INSPECTION TYPE (Check One)

A1 ____ "A" type compliance--Comprehensive Inspection in which samples are taken. (EPA Type S)

B1 ____ "B" type compliance--A routine nonsampling inspection. (EPA Type C)

02 ____ Noncompliance follow-up--Inspection made to verify correction of a previously identified violation.

03 ____ Enforcement follow-up--Inspection made to verify that conditions of an enforcement action are being met.

04 ✓ Complaint--Inspection made in response to a complaint.

05 ____ Pre-requirement--Inspection made to gather info. relative to preparing, modifying, or rescinding requirements.

06 ____ No Exposure Certification (NEC) - verification that there is no exposure of industrial activities to storm water.

07 ____ Notice of termination request for industrial facilities or construction sites - verification that the facility or construction site is not subject to permit requirements (Type, NOT I or NOT C - circle one).

08 ____ Compliance Assistance Inspection - Outreach inspection due to discharger's request for compliance assistance.

INSPECTION FINDINGS

Y Were violations noted during this inspection? (Yes/No/Pending Sample Results)

N Were samples taken? (N=no) If YES then, G= grab or C= Composite and attach a copy of the sample results/chain of custody form

I. COMPLIANCE HISTORY:
No violation found in SWIM

FACILITY: Scripps Ranch Middle School (WDID) 937C329152 INSPECTION DATE: 03/18/2005

II. FINDINGS

Inspection was performed in response to complaint.

GENERAL PERMIT ORDER NO. 99-08-DWQ, NPDES NO. CAS000002 – CONSTRUCTION

There was a forecast of more than 50% chance of rain in the next 24 hours.

1. No erosion BMPs for the eastern and northern slopes.
2. No erosion BMPs for all dirt piles on the construction site.
3. Sediment control is insufficient. Desiltation basin at the northeast corner is too small, filled with sediment, and not maintained. Sediment BMPs such as gravel bags and silt screens installed in waters of the state of CA. These BMPs filled with sediment and not been maintained.
4. Sediment discharged to an unnamed tributary to the Carroll Canyon.
5. Continued working on slopes.
6. No sign of working on erosion and sediment BMPs.

III. SIGNATURE SECTION

STAFF INSPECTOR	SIGNATURE	INSPECTION DATE
Dat Quach	[signature]	3/18/05

IV. (For internal use only)

Reviewed by Supervisor: [signature] Date 4/11/05

cc: Jeremy Johnstone (EPA), John Norton (SWRCB), City Storm Drain Enforcer

Inter-office Referral: 1) ________ 2) ________ 3) ________ 4) ________ 5) ________

C:\My Documents\Forms\Inspection Report.doc(vrs. 04/30/01)
LIS

Image IMG P0683 WDID #9 37C329152;
Taken by Dat Quach, RWQCB-SD, between 1400 and 1500 on 03-18-2005
Site: Scripps Ranch Middle School
Location: South of Pomerado Road, San Diego City
Image shows: BMPs installed in the water of state. BMPs not maintained. Sediment discharged to Carrol Canyon downstream.

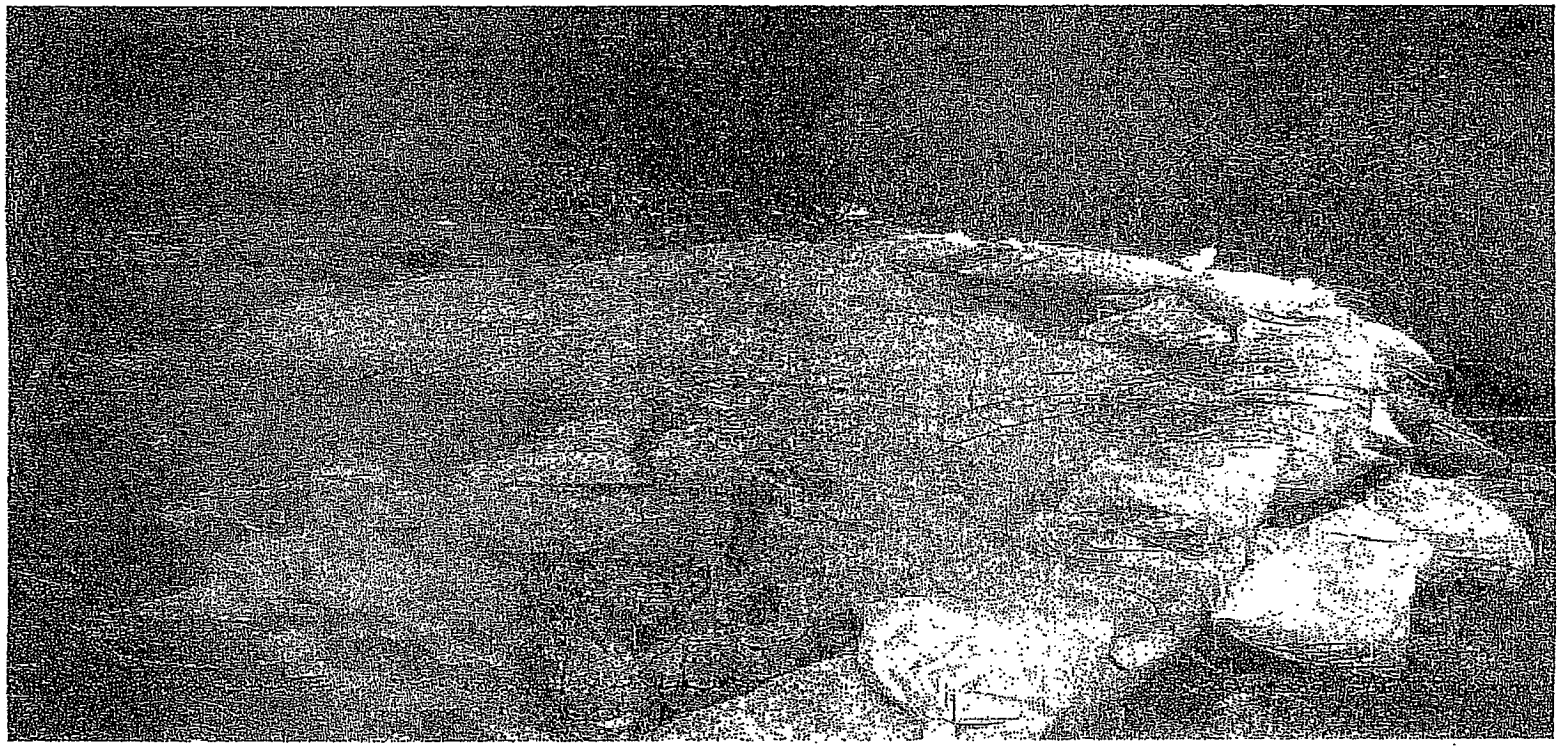


Image IMG P0685 WDID #9 37C329152;
Taken by Dat Quach, RWQCB-SD, between 1400 and 1500 on 03-18-2005
Site: Scripps Ranch Middle School
Location: South of Pomerado Road, San Diego City
Image shows: BMPs installed in the water of state. BMPs not maintained. Sediment discharged to Carrol Canyon downstream.

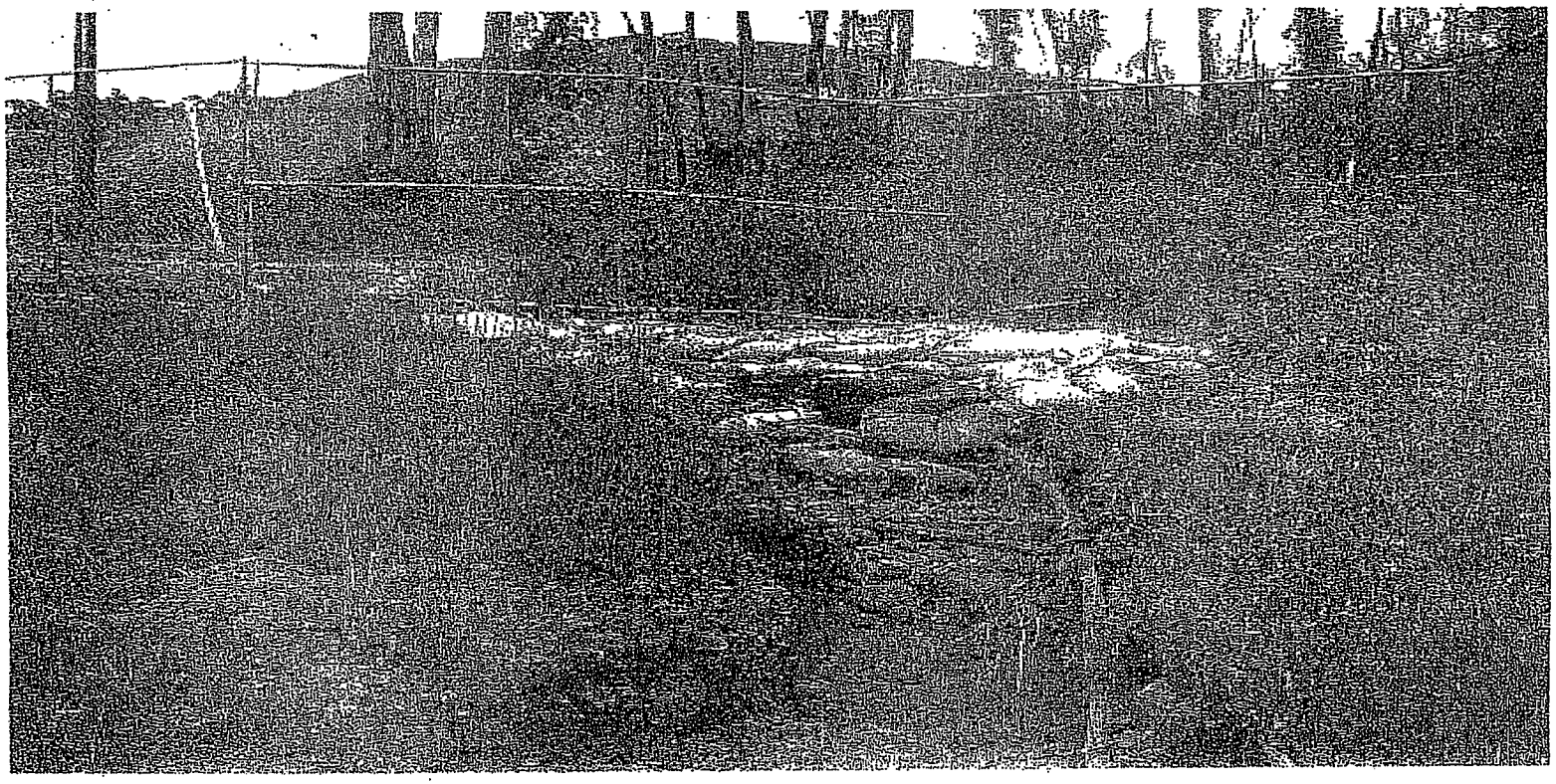


Image IMG P0688 WDID #9 37C329152;
Taken by Dat Quach, RWQCB-SD, between 1400 and 1500 on 03-18-2005
Site: Scripps Ranch Middle School
Location: South of Pomerado Road, San Diego City
Image shows: BMPs installed in the water of state. BMPs not maintained. Sediment discharged to Carrol Canyon downstream.

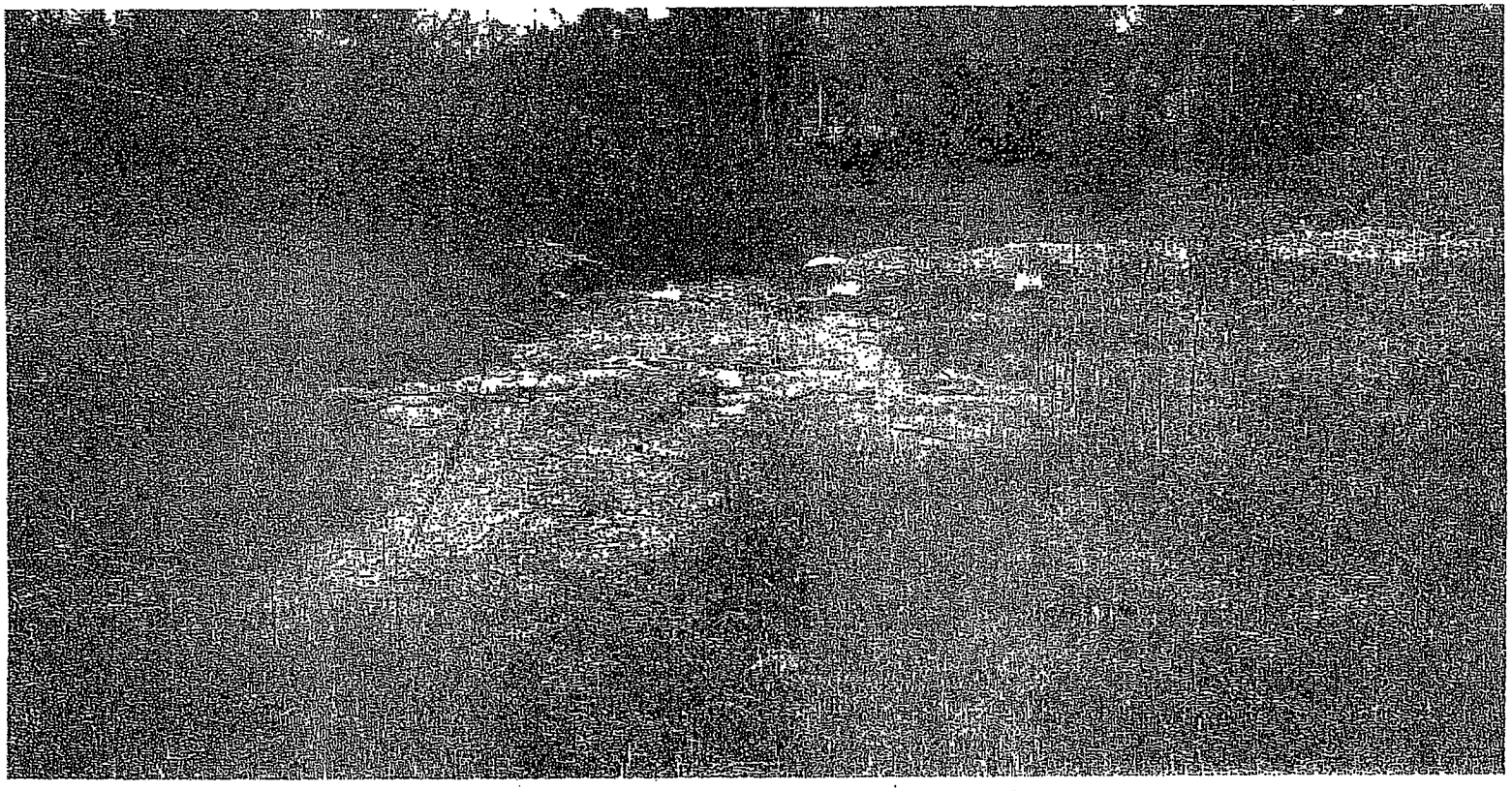


Image IMG P0690, WDID #9 37C329152;
Taken by Dat Quach, RWQCB-SD, between 1400 and 1500 on 03-18-2005
Site: Scripps Ranch Middle School
Location: South of Pomerado Road, San Diego City
Image shows: No BMPs for erosion and sediment control for mass grading and dirt piles when there was more than 50 percent of chances of rain.

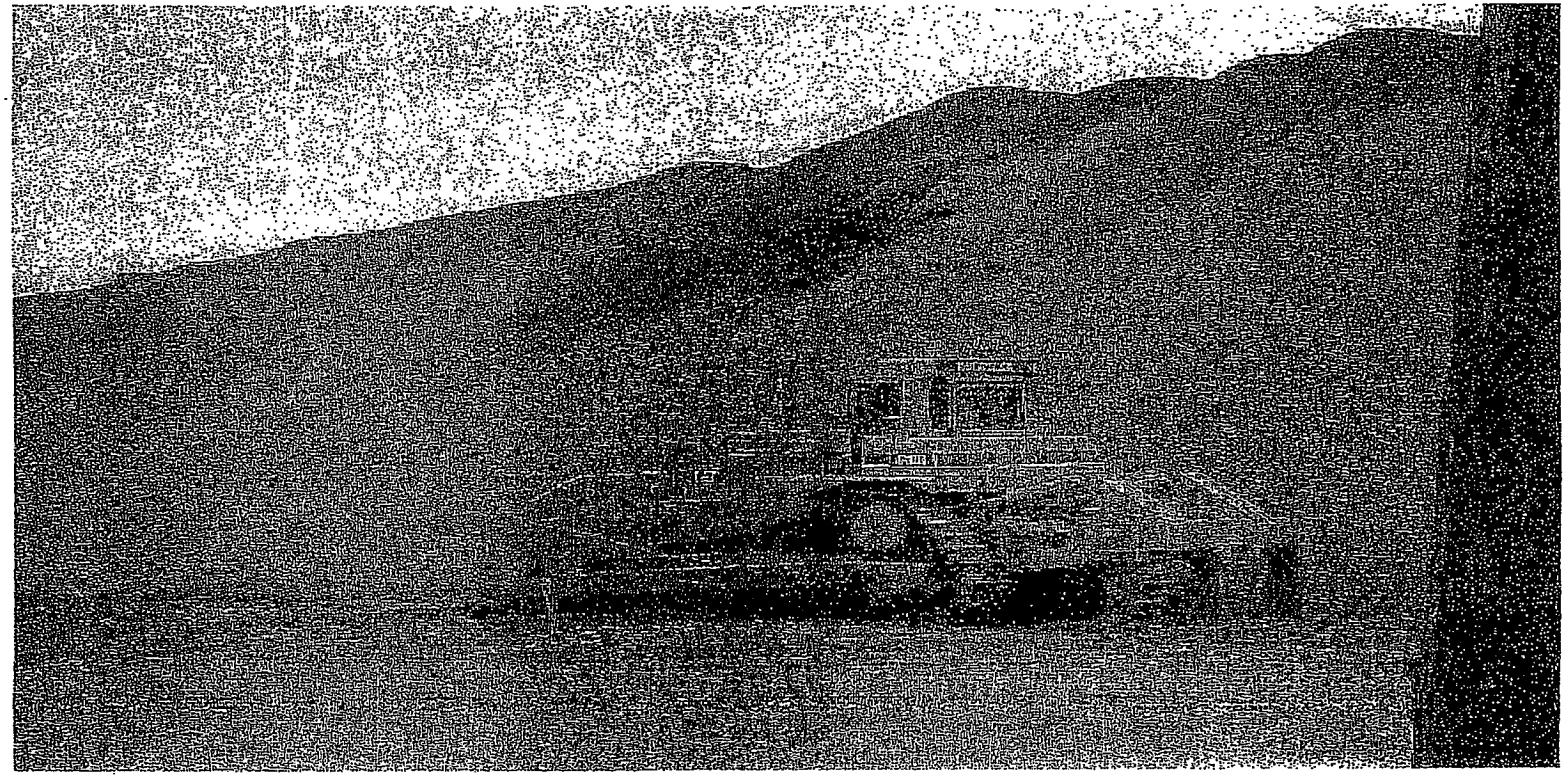


Image IMG P0693 WDID #9 37C329152;
Taken by Dat Quach, RWQCB-SD, between 1400 and 1500 on 03-18-2005
Site: Scripps Ranch Middle School
Location: South of Pomerado Road, San Diego City
Image shows: No BMPs for erosion and sediment control for mass grading and dirt piles when there was more than 50 percent of chances of rain.

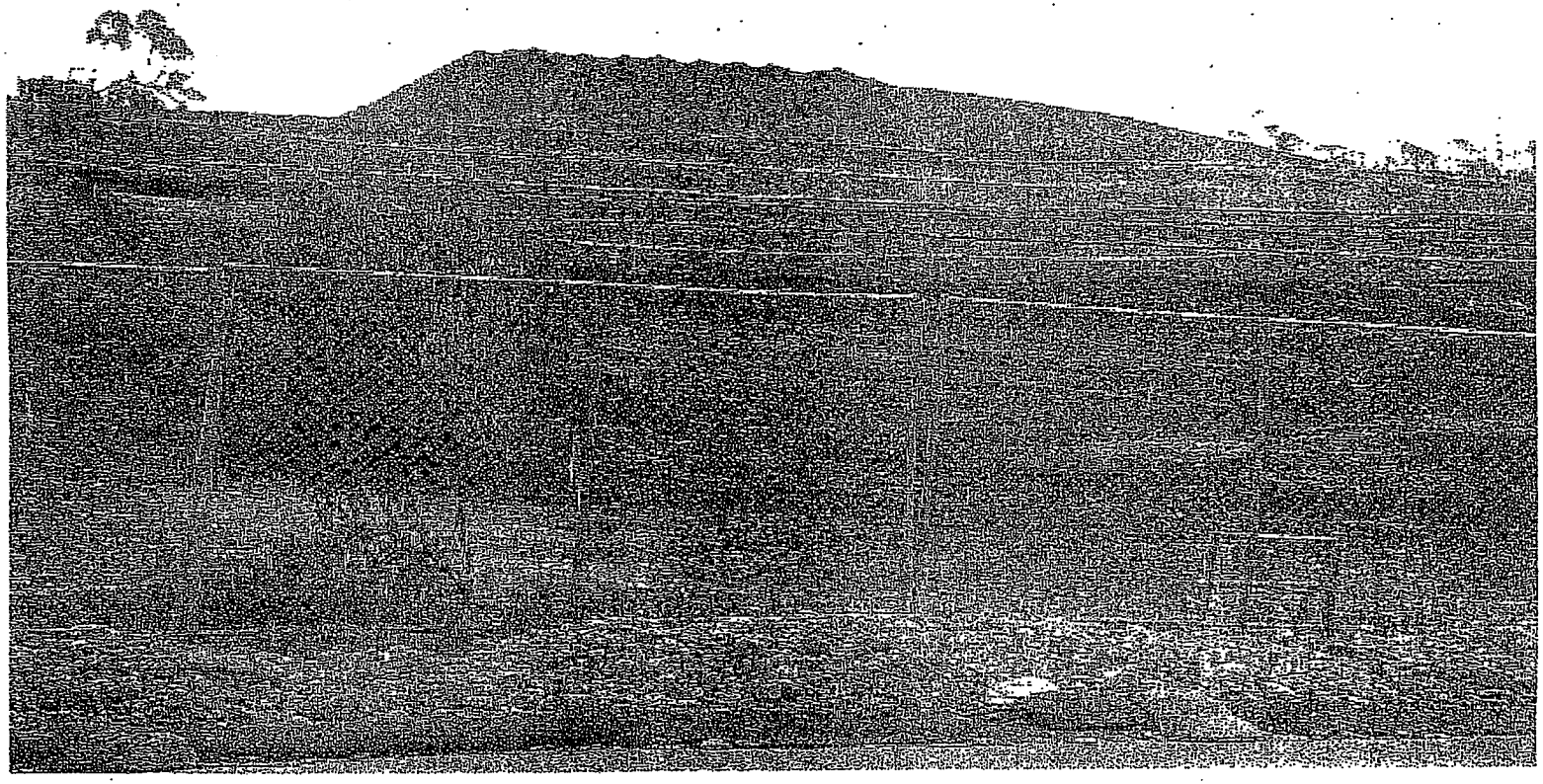
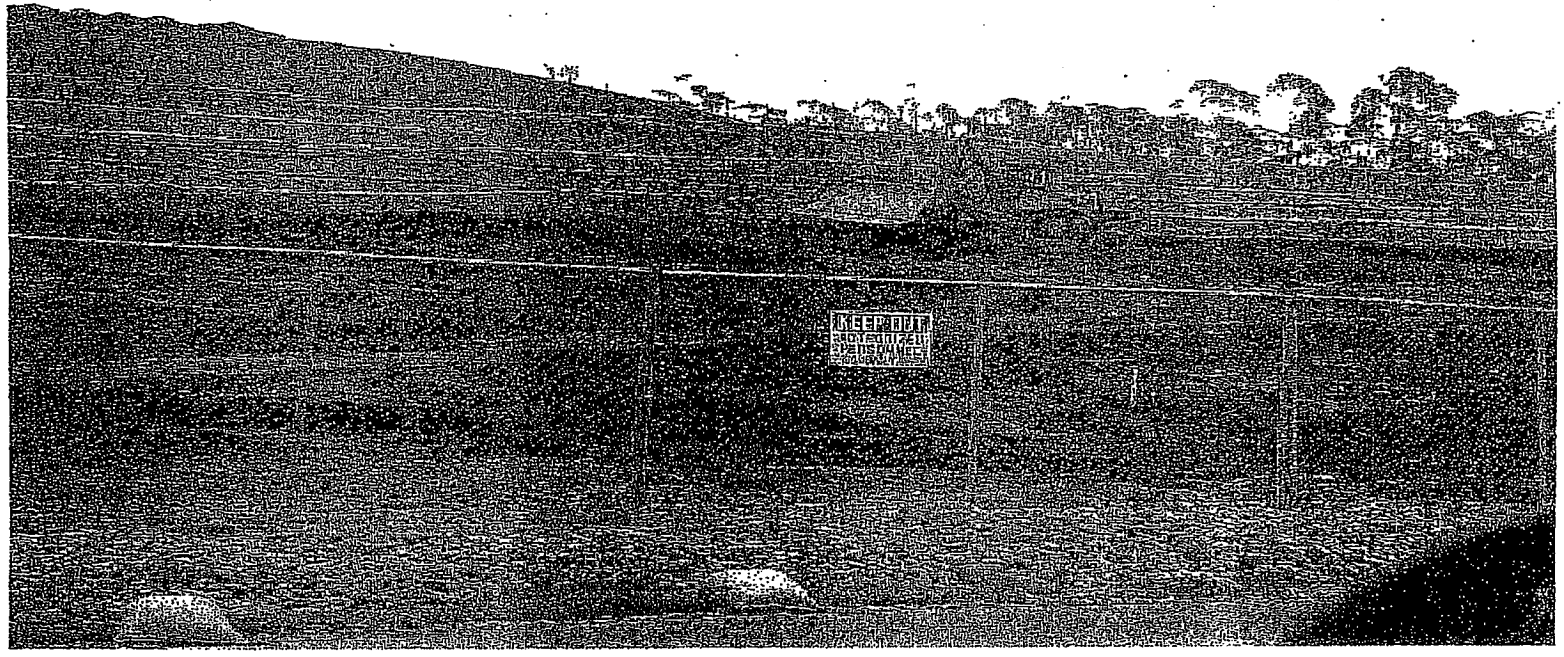


Image IMG P0696 WDID #9 37C329152;
Taken by Dat Quach, RWQCB-SD, between 1400 and 1500 on 03-18-2005
Site: Scripps Ranch Middle School
Location: South of Pomerado Road, San Diego City
Image shows: No BMPs for erosion and sediment control for mass grading and dirt piles when there was more than 50 percent of chances of rain.



ATTACHMENT 4
Regional Board Inspection Report
February 27, 2007

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD - SAN DIEGO REGION
WATERSHED MANAGEMENT PROGRAM

FACILITY INSPECTION REPORT

INSPECTION DATE: February 27, 2007 TIME: 10:30 AM WDID: 9 37C329152

FACILITY REPRESENTATIVE(S) PRESENT DURING INSPECTION: Jerry Pitt, Engineer, Water Quality Consultant, URS; Greg Smith, Construction Inspector, City of San Diego Schools; Joe Ciaccio, Superintendent, Soltek Pacific.

San Diego Unified School District NAME OF OWNER, AGENCY OR PARTY RESPONSIBLE FOR DISCHARGE	*Anthony Raso (858) 637-6222* OWNER CONTACT NAME AND PHONE #
Scripps Ranch Middle School FACILITY OR DEVELOPER NAME (if different from owner)	*John Robbins (858) 566-8565* FACILITY OR DEVELOPER CONTACT NAME AND PHONE #
Pomerado Road and Willow Creek Road FACILITY STREET ADDRESS	*San Diego, CA* FACILITY CITY AND STATE

APPLICABLE WATER QUALITY LICENSING REQUIREMENTS

- ☐ MS4 URBAN RUNOFF REQUIREMENTS NPDES NOS. CAS0108758, CAS0108740 or CAS0108766
- ☒ GENERAL PERMIT ORDER NO. 99-08-DWQ, NPDES NO. CAS000002 – CONSTRUCTION
- ☐ GENERAL PERMIT ORDER NO. 99-06-DWQ, NPDES NO. CAS000003 - CALTRANS
- ☐ GENERAL OR INDIVIDUAL WASTE DISCHARGE REQUIREMENTS
- ☐ GENERAL OR INDIVIDUAL WAIVER OF WASTE DISCHARGE REQUIREMENTS
- ☐ SECTION 401 WATER QUALITY CERTIFICATION
- ☐ CWC SECTION 13264

INSPECTION TYPE (Check One)

A1 ___ "A" type compliance--Comprehensive inspection in which samples are taken. (EPA Type S)

B1 XX "B" type compliance--A routine nonsampling inspection. (EPA Type C)

02 ___ Noncompliance follow-up--Inspection made to verify correction of a previously identified violation.

03 XX Enforcement follow-up--Inspection made to verify that conditions of an enforcement action are being met.

04 ___ Complaint--Inspection made in response to a complaint.

05 ___ Pre-requirement--Inspection made to gather info. relative to preparing, modifying, or rescinding requirements.

06 ___ No Exposure Certification (NEC) - verification that there is no exposure of industrial activities to storm water.

07 ___ Notice of termination request for industrial facilities or construction sites - verification that the facility or construction site is not subject to permit requirements (Type, NOT I or NOT C - circle one).

08 ___ Compliance Assistance Inspection - Outreach inspection due to discharger's request for compliance assistance.

INSPECTION FINDINGS

Y Were violations noted during this inspection? (Yes/No/Pending Sample Results)

N Were samples taken? (N=no) If YES then, G= grab or C= Composite and attach a copy of the sample results/chain of custody form

I. COMPLIANCE HISTORY:

CAO R9-2005-0116 was issued on April 12, 2005 for unauthorized discharge of fill to waters of the State, sediment discharges, and inadequate construction site BMPs.

II. FINDINGS

On Tuesday, February 27, 2007, Ben Neill, Water Resource Control Engineer (reporting), and Pete Peuron, Environmental Scientist, both of the Central Watershed Unit conducted an unannounced construction inspection of the San Diego Unified School District's Thurgood Marshall (Scripps Ranch) Middle School, (TMMS). TMMS is located at 9700 Avenue of Nations, south of Pomerado Rd., and east of I-15. North of Pomerado Rd., the Avenue of Nations is called Willow Creek Road. Major grading has been completed at the project. Construction has been ongoing for the several school buildings on site. Sports fields to the east have been currently used for stockpiles. The Avenue of Nations' culvert crossing of Carroll Canyon Creek has been completed.

The site has an active Cleanup and Abatement Order (CAO) No. R9-2005-0116. The CAO was issued for several reasons. The site operator discharged fill to waters of the State without Waste Discharge Requirements or waiver of requirements by a Clean Water Act (CWA) §401 Water Quality Certification. The construction site operator violated the statewide General Construction Permit. Violations included inadequate erosion controls, inadequate sediment controls, inadequate sediment basins, best management practices (BMPs) in water of the State, and an unauthorized discharge of sediment. The ongoing requirements of the CAO include compliance with the construction permit, BMPS to prevent the discharge of sediment, gravel and sediment-laden water to unnamed tributaries to Carroll Canyon River (Creek) and post rainfall reporting requirements.

The site discharges directly to Carroll Canyon Creek. Carroll Canyon Creek is not on the 2006 CWA section 303d list of water quality limited segments. The downstream receiving water, Los Penasquitos Lagoon, is on the list for sediment/siltation. On the day of the inspection, the weather was rainy. The National Weather Service's Miramar rain gauge reports 0.19 inches of rainfall that day. The site's rain gauge read 0.18 inches of rain.

We started the inspection along the south side of Avenue of Nations behind the orange cones. We walked to the discharge points to Carroll Canyon Creek. The site was discharging sediment and sediment-laden water to Carroll Canyon Creek. The water was extremely turbid and looked like chocolate milk (Photos 149, 150, 151, 196). The creek's water upstream of the construction site discharge was crystal clear (Photo 207). Downstream, the creek's water was cloudy on the south bank which is the side of the construction site discharge. The creek's water was clear along the north bank away from the construction site discharge (Photos 205, 206).

We traced the sediment source upstream to a storm drain inlet across Avenue of Nations at the North West corner of the construction site (Photo 152). The inlet had filter fabric and gravel bags protection but this was not enough to prevent sediment-laden water from discharging. This inlet received runoff from the east along a plastic lined ditch and also from the surrounding dirt areas (Photos 153 and 154). The dirt was not stabilized and did not have erosion controls such as straw blankets or bonded fiber matrix. A few fiber rolls were laid across the flow line but were ineffective because they were not trenched and staked in.

We traveled east on Avenue of Nations following the plastic lined ditch. The plastic lined ditch had sediment and sediment laden water flowing in it (Photo 157). At various points along the slope above the ditch, we saw slope failures and sediment laden runoff discharges to the plastic lined ditch (Photos 156 and 159). The plastic lined ditch ended at a storm drain outlet at the east end of the construction project (Photo 160). Joe Ciaccio, superintendent for Soltek Pacific, stopped on the street to speak with us. We told him that we would go meet with him at the construction trailer. We entered the school site but could not find the construction trailer. We walked around the school's front paved entrance. A storm drain inlet was overwhelmed with sediment and sediment-laden water at the paved entrance to the school (Photo 163). The medians in the parking lot did not have sediment controls on the perimeter and sediment-laden water was flowing off them (Photo 164). Sediment tracking was observed and no perimeter sediment controls were implemented behind the curb (Photo 166). Gasoline cans were stored outside without cover or containment to minimize exposure to storm water (Photo 167).

We asked where the construction trailer was and were directed to the playing fields (under construction) at the south east corner of the site. At the trailer we met with Greg Smith, San Diego City Schools inspector; Joe Ciaccio, superintendent for Soltek Pacific; Matt McPherson, another superintendent for Soltek Pacific; and Jerry Pitt; engineer for URS consulting. A review of the Storm Water Pollution Prevention Plan found no signed annual certification; training logs were not up to date, and the last SWPPP inspection was on February 19, 2007. Jerry Pitt accompanied us on the remainder of the inspection. In discussing with site personnel, we learned that the project did not initially budget for storm water compliance expenses. A change order was needed to accommodate those expenses.

FACILITY: *Scripps Ranch Middle School* (WDID) *9 37C329152* INSPECTION DATE: *February 27, 2007*

The rain stopped by the time we were through reviewing the SWPPP. We left the trailer and walked around the playing fields along the east side of the project. The fields were still bare. The field farthest north was being used for stockpiles; but the silt fence was damaged and missing in places around the stockpile (Photo 174). A portion of the runoff on the dirt access road and east of the ball fields drained towards the drain inlet at the school's main entrance that was overwhelmed with sediment (Photo 176). The dirt access road did not have gravel bags on the road and runoff was flowing down the road (Photo 179). Gravel bags were implemented at the sides of the road. A slope fronting the east side of the ball fields did not have sediment controls along the concrete v-ditch (Photo 178). The inlet had sediment-laden water entering it (Photo 177). From the playing fields, we could see in the school yard below, a large material wash water spill by a mixer (Photo 173). We returned to the trailer to drive to the main school buildings. Before we left we saw a bag of concrete mix broken and left out in the rain (Photo 181).

We drove to the main school entrance and parked our cars. We then walked around the school buildings. No landscaping has been done yet. Bags of lime and construction materials were left out in the rain even though plastic sheets were available to cover those bags (Photos 182 and 183). Inlets either were missing inlet protection or had inadequate sediment controls (Photos 185, 186, and 187). Slopes and rough cut access roads usually did not have any sediment controls (Photos 188, 189, 192, 200, and 201). Dirt from a trenching job was stored on pavement without any BMPs to cover or contain the dirt and minimize exposure to storm runoff (Photo 193). Excessive sediment tracking was observed onto the paved access road on the southwest side of the project (Photo 198). A large material spill was on the ground near a mixer with no BMPs to minimize contact with storm water runoff (Photo 199). Trash containment was not covered (Photo 204).

After walking around the school buildings, we went back to the discharge point into Carroll Canyon Creek. Dirt stockpiles near the creek were not covered (Photo 210). The discharge flow rate had lessened but the water was still sediment-laden. Throughout the inspection we informed Mr. Pitt of the violations.

III. SIGNATURE SECTION

Ben Neill — STAFF INSPECTOR

SIGNATURE

2/27/07 — INSPECTION DATE

IV. (For internal use only)

Reviewed by Supervisor: Date 3/5/07

cc: Jeremy Johnstone (EPA), John Norton (SWRCB), City Storm Drain Enforcer

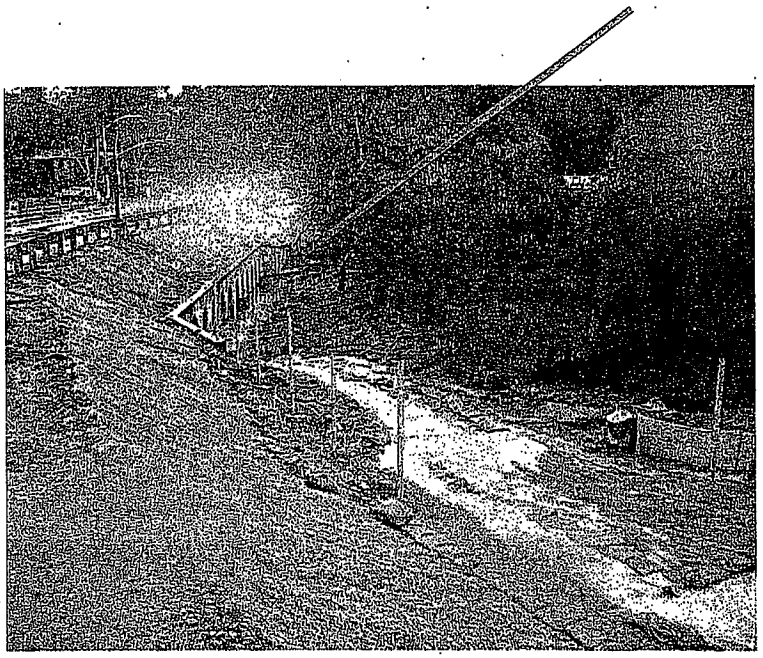
Inter-office Referral: 1) 2) 3) 4) 5)

D:\Construction\Scripps Ranch Middle School\02-27-07\FIR.doc

CIWQS: 771284

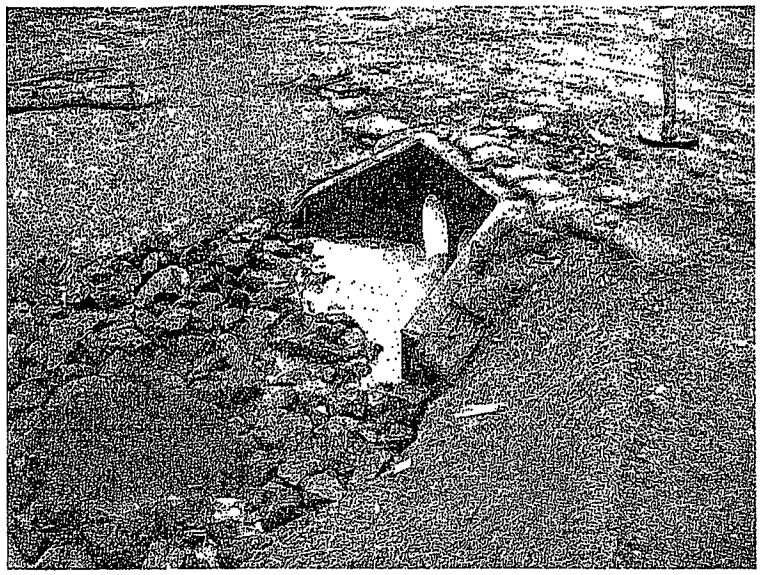
Scripps Ranch Middle School
WDID # 9 37C329152
February 27, 2007

All photos taken by Ben Neill, Water Resource Control Engineer, of the San Diego Regional Board's Central Watershed Unit accompanied by Pete Peuron, Environmental Scientist. Not all photos taken are included in this report. Blurred spots on the photos are raindrops. All photo file names are of the form "IMGP1XXX.JPG". For ease or reporting only the final 3 numbers, XXX, reference the photo number. Photos are not in numerical order.



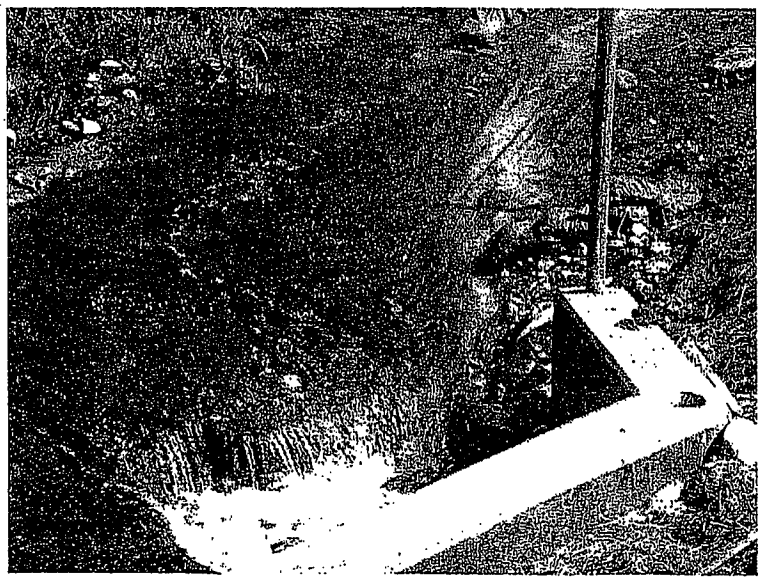
149.Sediment and sediment-laden water entering Carroll Canyon Creek. Arrow points to the culverts for Carroll Canyon Creek going under Avenue of Nations.

150. Photo is looking upstream of the discharge in photo 149. Sediment-laden runoff is flowing from a storm drain culvert outlet pointed out by the arrow.



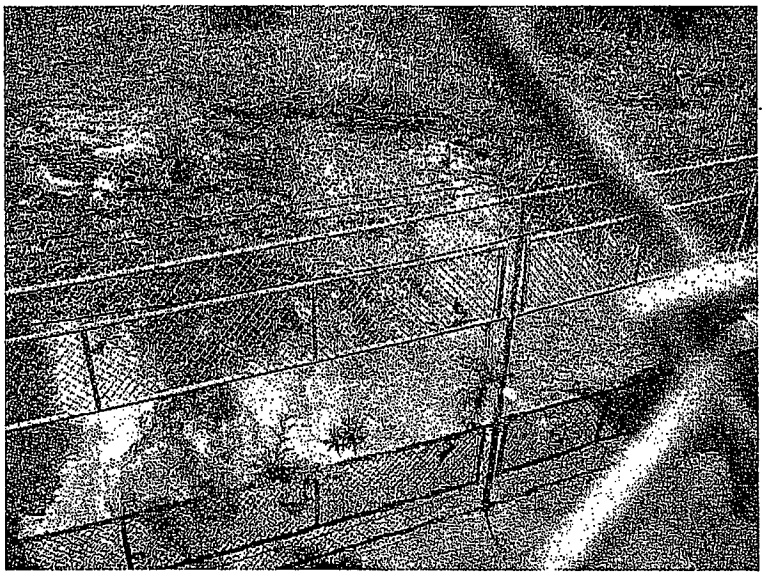
151. A closer look at the storm drain culvert discharging the sediment-laden runoff.

196. Photo taken later in the day after the rain has stopped. This photo was taken from above at the school site shows an overview of the discharge.



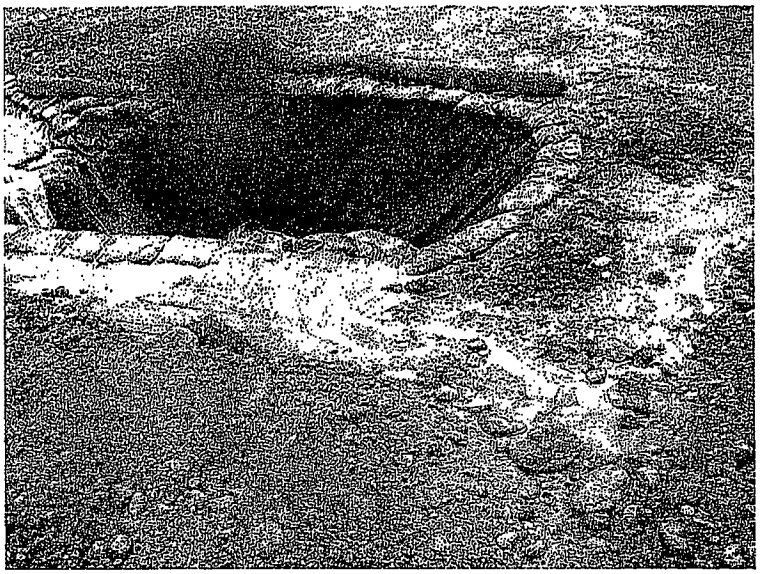
207. The point where the sediment-laden runoff enters the clean stream. This photo was taken after the rain has stopped and sediment-laden runoff flow rates were less than during the rainstorm.

205. Downstream of the Avenue of Nations culverts crossing Carroll Canyon Creek, the creek water is very turbid along the south bank where the construction site discharges.

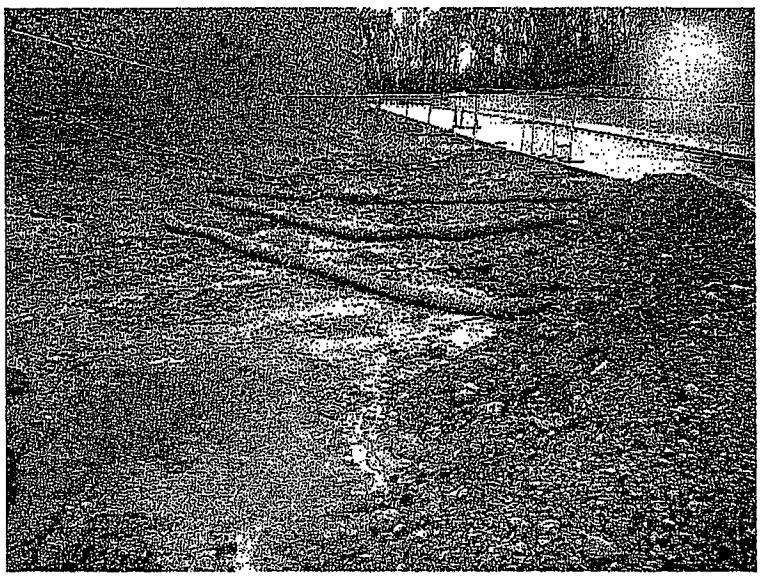


206. Downstream of the Avenue of Nations culverts crossing Carroll Canyon Creek, the creek water is clear along the northern bank not receiving construction site discharges.

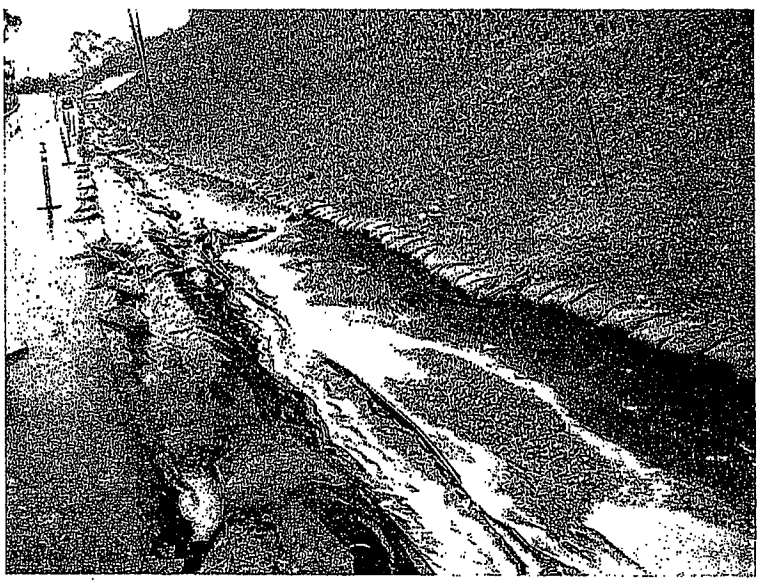
152. This is the culvert entrance to photo 151 on the south side of Avenue of Nations receiving sediment-laden runoff.



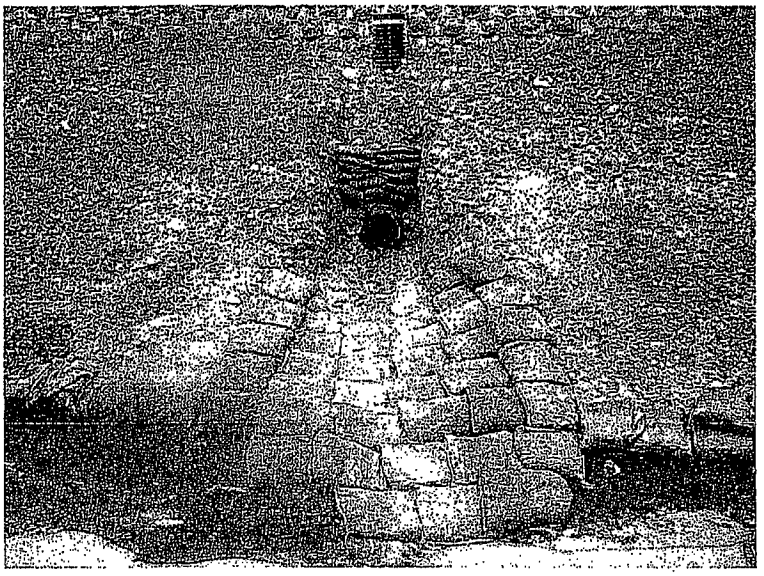
153. Another view of the culvert entrance on the south side of Avenue of Nations, shows sediment and sediment-laden water entering the storm drain culvert from another side.



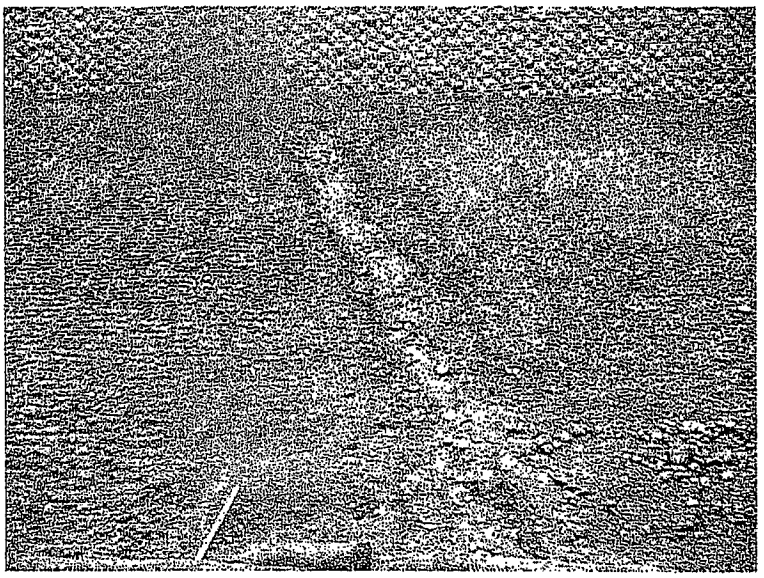
154. Upstream of the culvert entrance on the western side, no erosion controls have been implemented. Fiber rolls have not been trenched in and staked therefore they are doing little to stop the sediment flows.



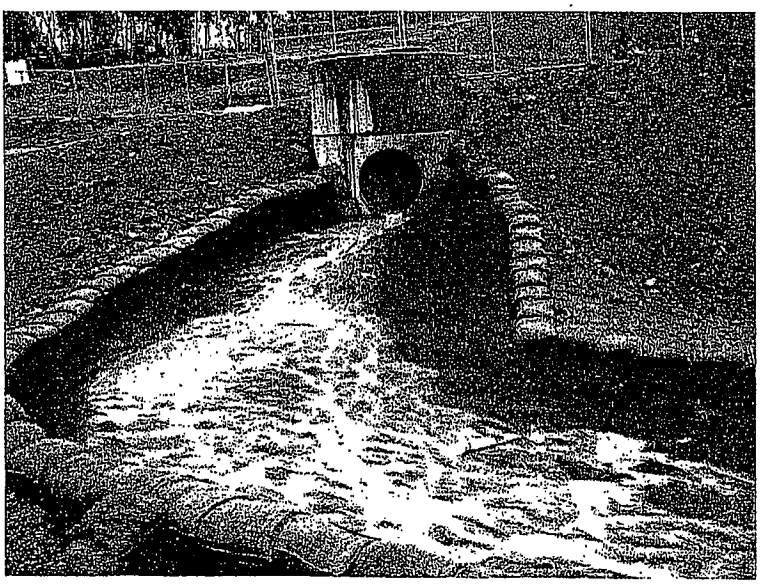
157. This plastic lined ditch is along the south side of the Avenue of Nations. The ditch terminates at the culvert in photo 153. Inadequate sediment controls along the face of the slope and the toe of the slope. Sediment laden water and sediment in the ditch.



156. A runoff discharge point upstream to the east of the culvert in photo 153. Sediment-laden runoff flows out of the pipe across the gravel bags and into the plastic lined ditch.

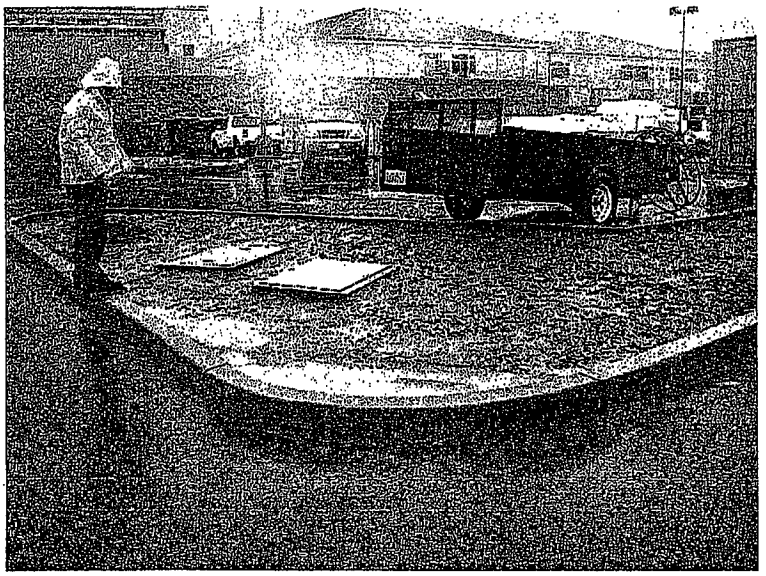


159. Slope failure is causing a discharge of sediment and sediment laden water. Slope face has no fiber rolls.



160. Storm drain outfall to the plastic lined ditch along the south side of Avenue of Nations.

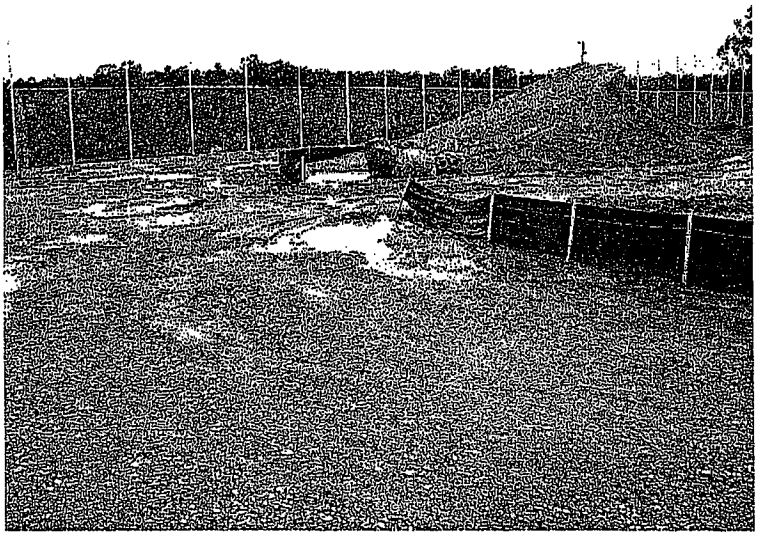
163. A storm drain inlet that goes to the discharge point in photo 160. The inlet is overwhelmed with sediment and sediment-laden water.



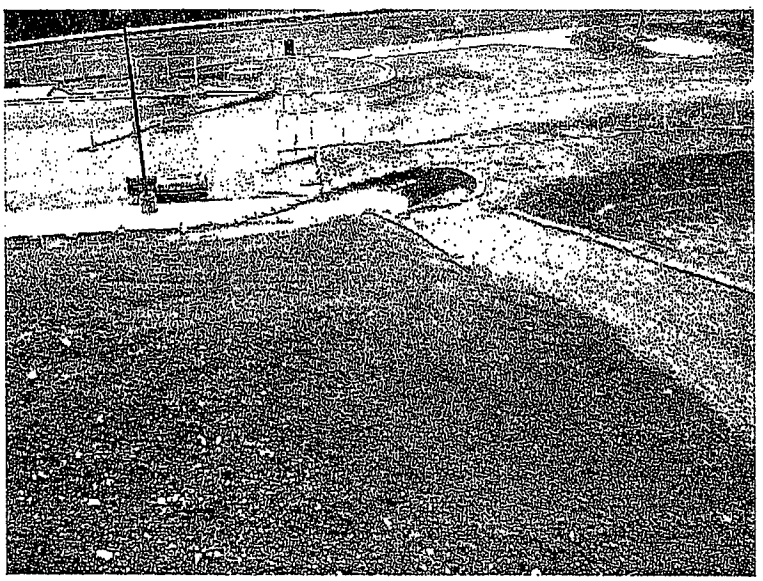
164. Medians in the school parking lot did not have any sediment controls.

166. Sediment is tracked onto the street. No sediment controls have been implemented behind the curb.

167. Gasoline storage has inadequate cover or containment to minimize storm water exposure.



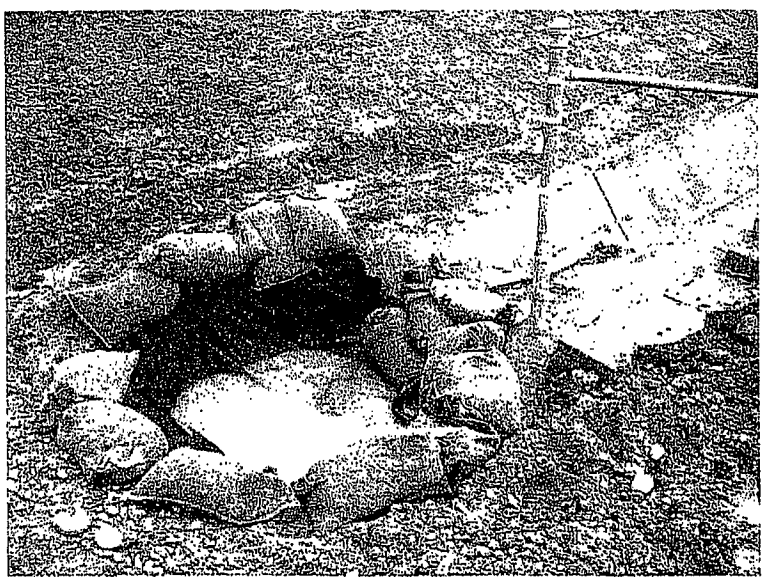
174. Silt fence around a stockpile is damaged and missing.



176. Looking downhill from the south towards the inlet in photo 163. Inadequate sediment and erosion controls are on the hill.

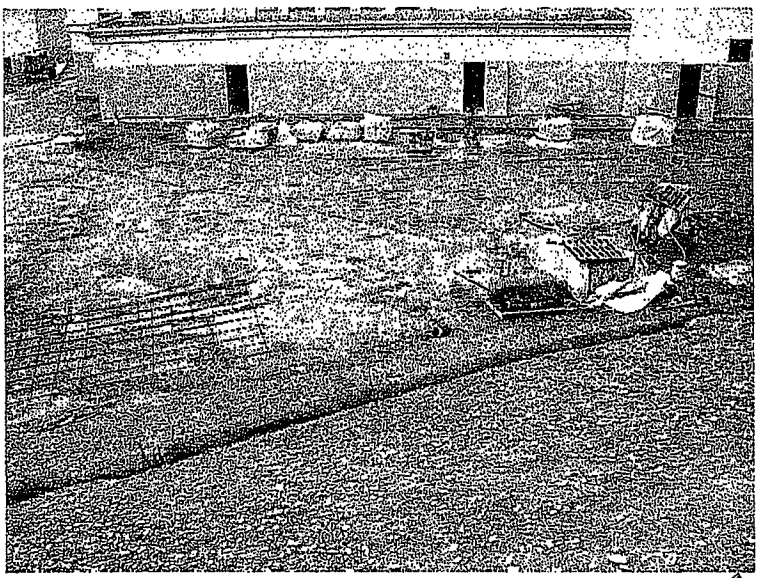
179. Farther uphill than photo 176, but also looking down towards the inlet in photo 163. The arrow points to 2 small rivulets of sediment-laden water running down the access road.

178. Upstream of the inlet in photo 177, the slope has no sediment controls along the toe of slope or in the concrete v-ditch.



177. A storm drain inlet with sediment laden water.

175. Looking uphill to the south from photo 179.

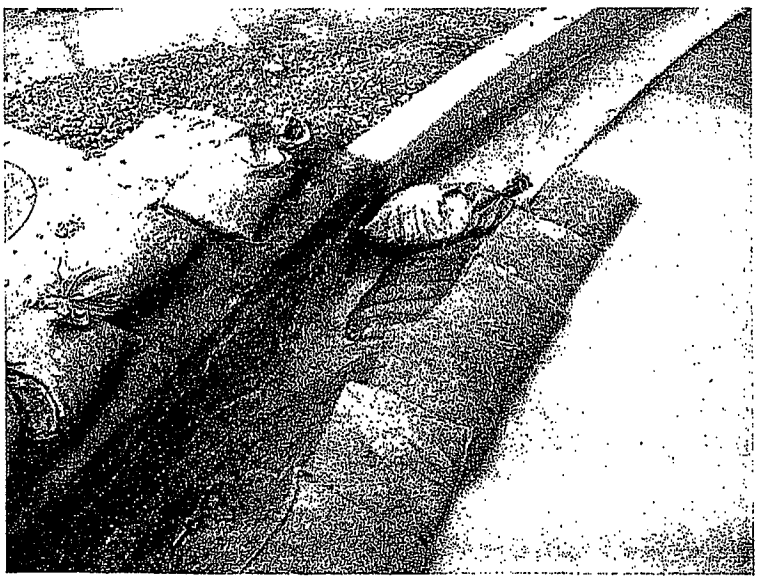


173. Material wash water spills are on the ground.

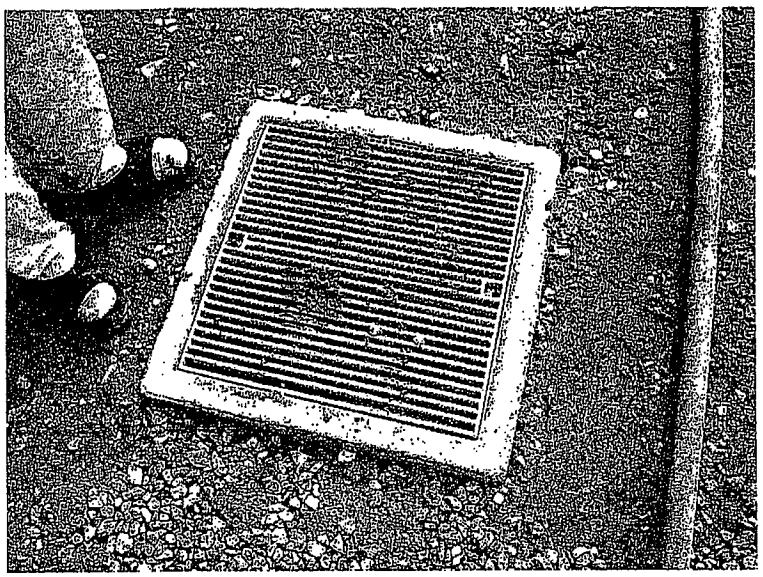
181. The arrow points to an open bag of concrete mix left out in the rain.

182. Bags of lime left out in the rain without cover.

183. More material bags left out in the rain.



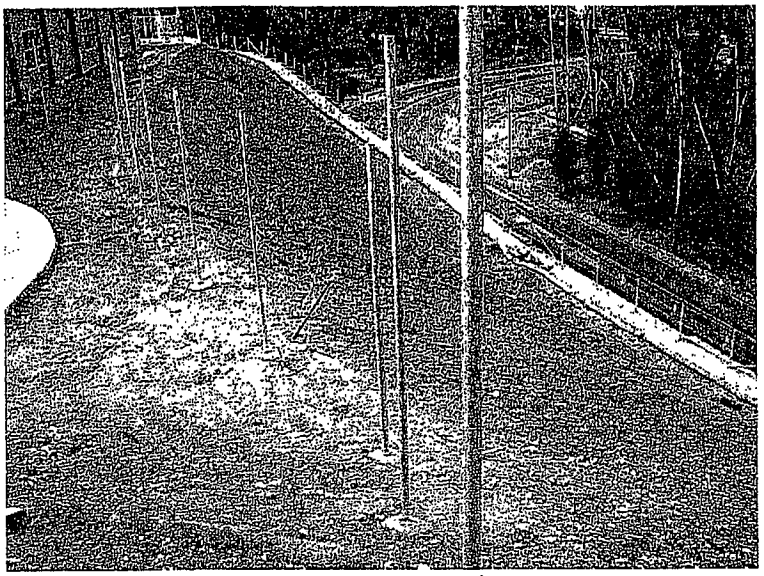
185. Sediment laden water entering a storm drain inlet with inadequate protection.



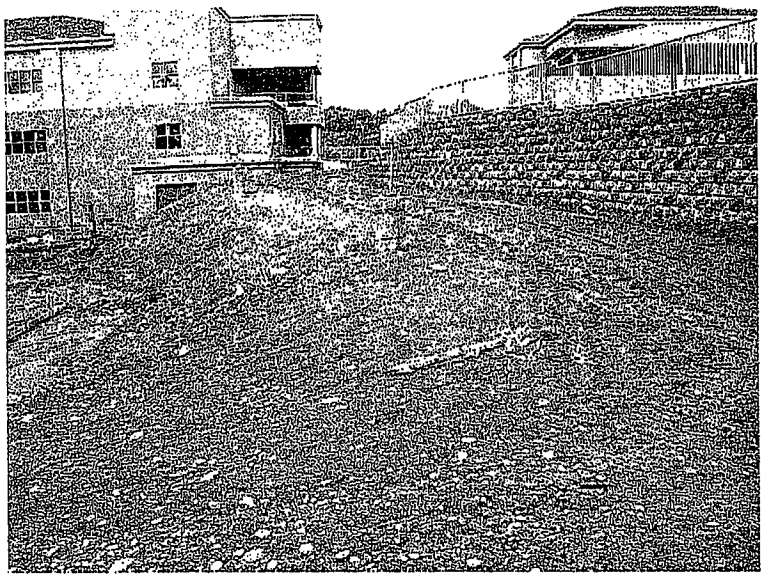
186. Storm drain inlet has no sediment protections.

187. Storm drain inlet that is covered with filter fabric and gravel bags has been overwhelmed by sediment flows.

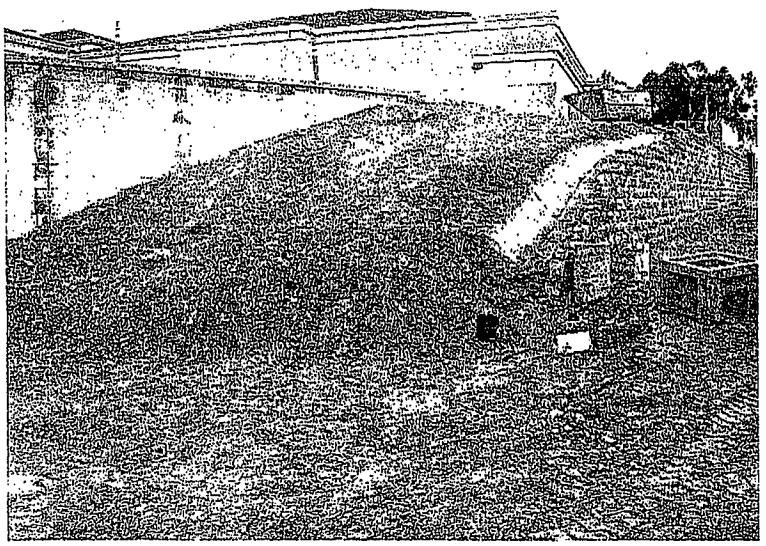
188. A slope with inadequate sediment controls. The fiber roll has failed. An erosion gully is running along the slope next to the wall.



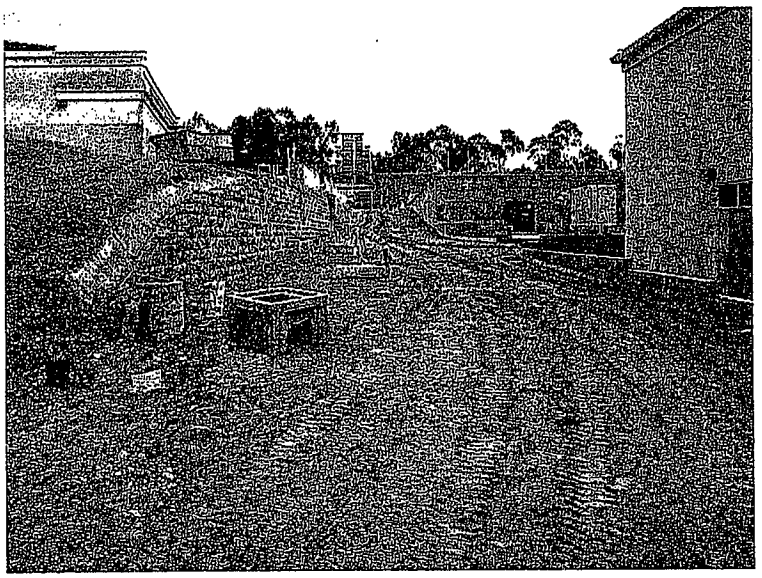
189. A large slope does not have fiber rolls along the face of the slope.



192. A slope has no erosion or sediment controls. A construction access road has no sediment controls.



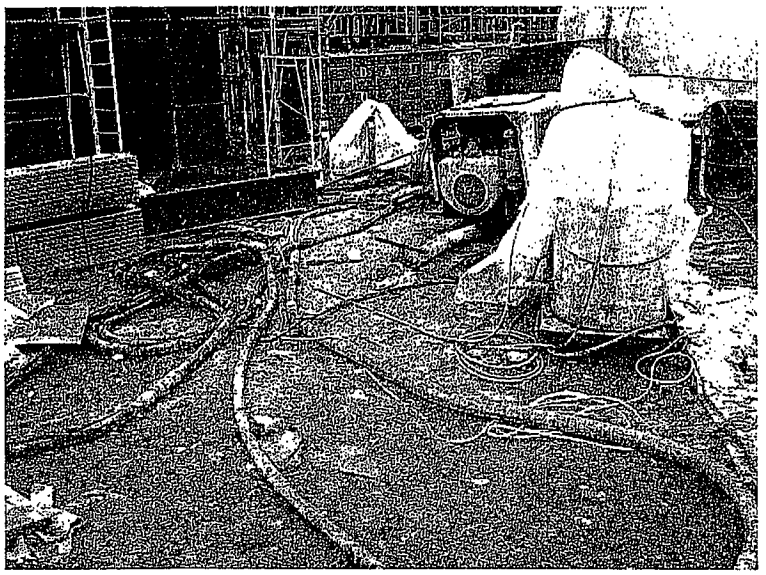
200. A slope with no erosion or sediment controls.



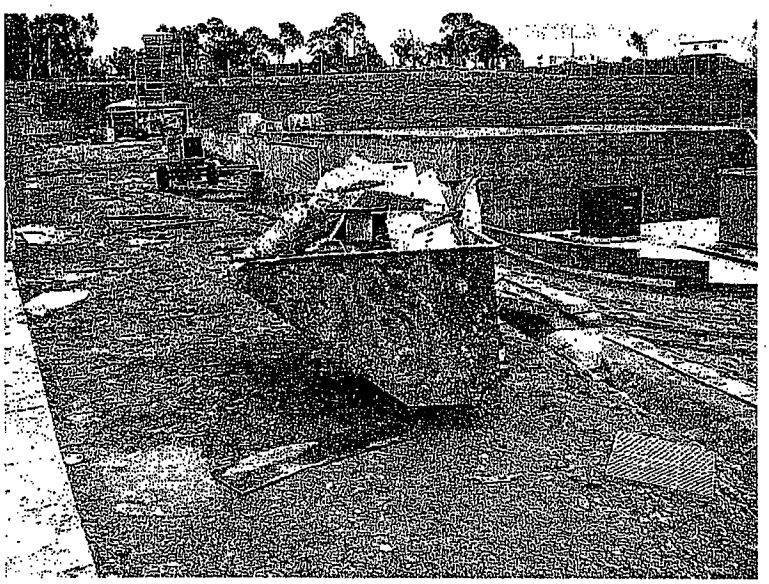
201. A construction access road with no sediment controls.

193. Dirt stockpiled on the street with no controls to minimize contact with runoff.

198. Construction exit has inadequate BMPs to prevent sediment tracking. They have one rumble plate and no gravel. Significant amounts of sediment have been tracked onto the paved surface.



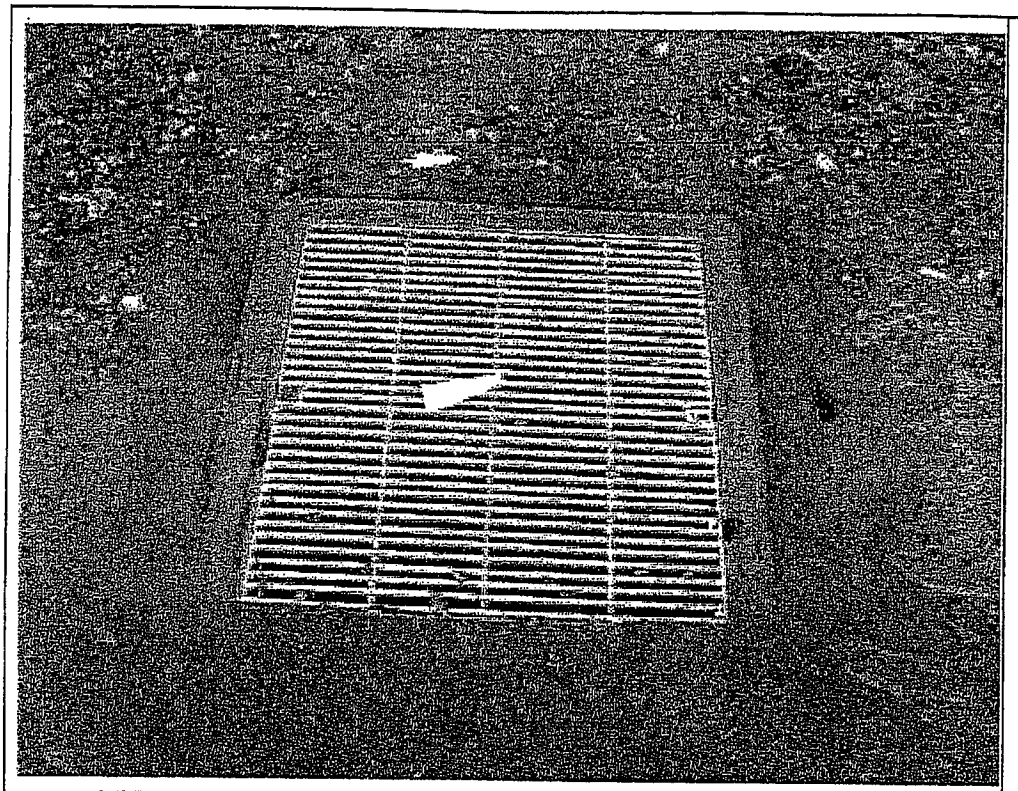
199. Material spills are on the ground with no containment to minimize contact with runoff.



204. Construction trash is not covered to minimize contact with storm water.

210. Soil stockpiles near Carroll Canyon Creek do not have cover or containment.

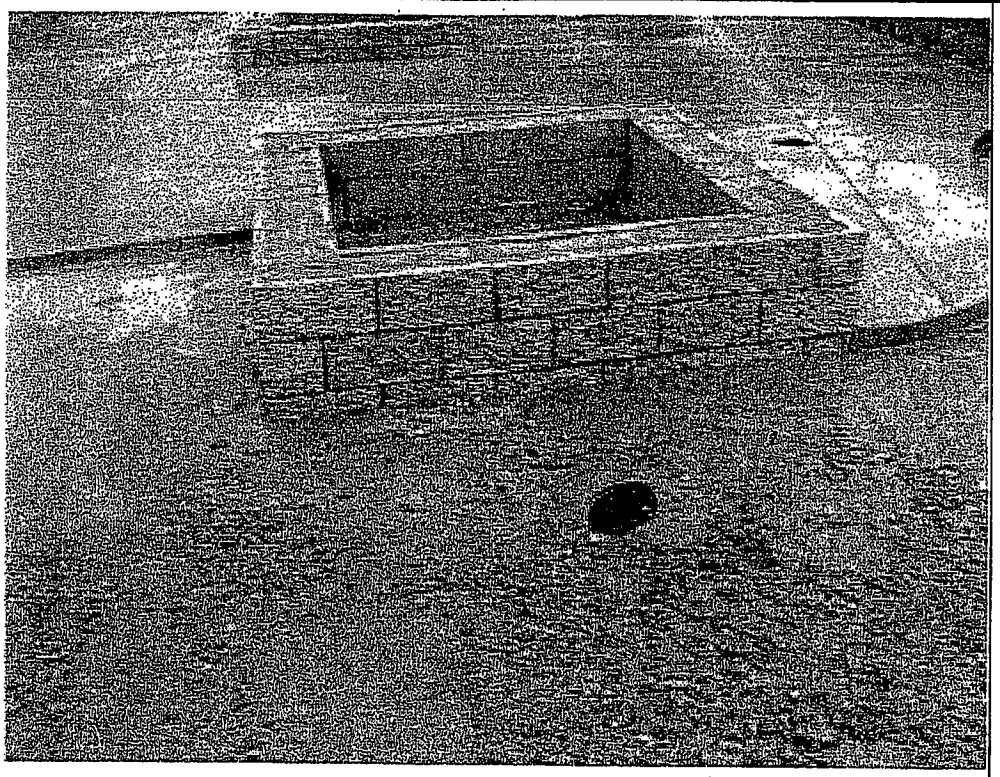
ATTACHMENT 5
Photographs of Inadequate Inlet Protection
From February 26, 2007 Technical Report



Photograph #11

Date: February 19, 2007; 12:59

Comments:
Drain inlet near building in north central portion of site with no protection.



Photograph #13

Date: February 19, 2007; 12:58

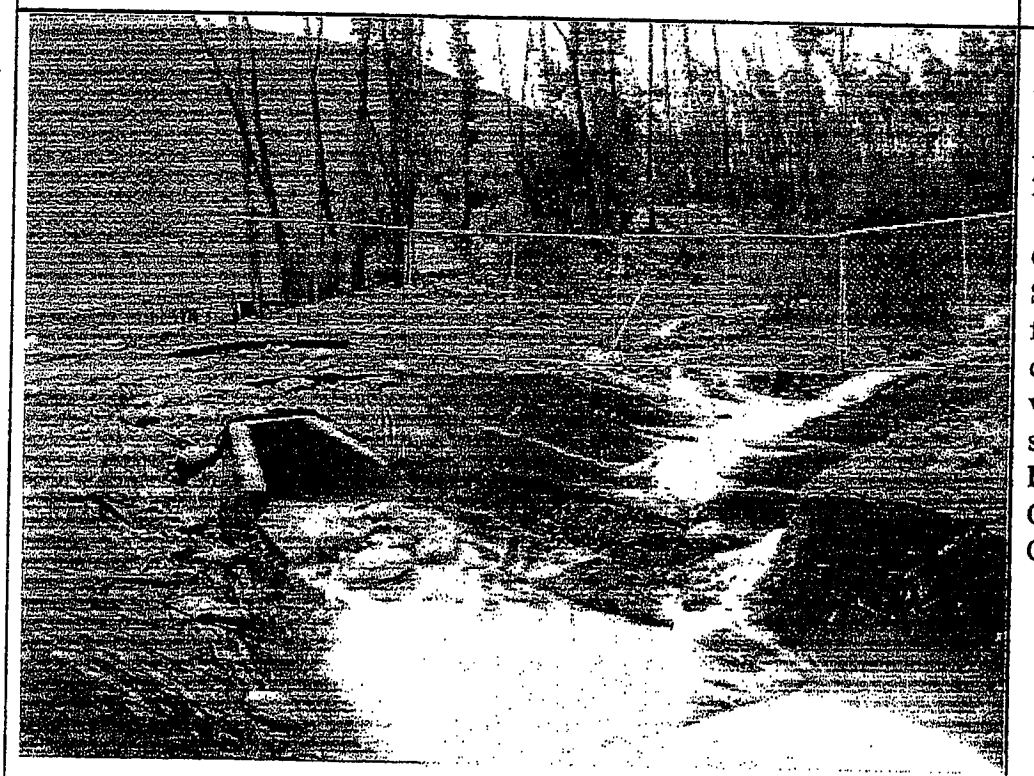
Comments:
Storm drain stub up located at grade and receiving runoff.

ATTACHMENT 6
Photographs of Discharges to Carroll Canyon Creek
From February 26, 2007 Technical Report

Photograph #5

Date: February 19, 2007; 12:08

Comments: Stormwater runoff from north of Avenue of Nations outfall commingling with Carroll Canyon Creek.



Photograph #6

Date: February 19, 2007; 12:04

Comments: Stormwater runoff from the northwest outfall commingling with flow from the southwest swale. Flows discharge to Carroll Canyon Creek.