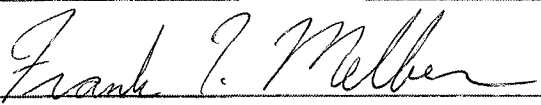


ERRATA SHEET

I declare under penalty of perjury that I have read the foregoing 1 - 73 pages of my testimony, taken on 14 JAN 2016 (date) at San Diego (city), CA (state), and that the same is a true record of the testimony given by me at the time and place herein above set forth, with the following exceptions:

<u>Page</u>	<u>Line</u>	<u>Should read:</u>	<u>Reason for Change:**</u> (See below before completion)
<u>10</u>	<u>23</u>	<u>Furthermore, I observe sediment</u>	<u></u>
<u>19</u>	<u>11</u>	<u>time, looking at the City of Lemon</u>	<u></u>
<u>21</u>	<u>4</u>	<u>compliance with the effluent</u>	<u></u>
<u>26</u>	<u>3</u>	<u>discharged sediment laden water</u>	<u></u>
<u>35</u>	<u>4</u>	<u>southeast of site. Effective?</u>	<u></u>
<u>66</u>	<u>21</u>	<u>analysis states, "Chollas Creek</u>	<u></u>
<u>67</u>	<u>5</u>	<u>impaired waters of Chollas Creek."</u>	<u></u>
<u> </u>	<u> </u>	<u> </u>	<u> </u>
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Date: 21 JAN 2016


Signature of Witness

Frank T. Melbourn
Name Typed or Printed

** THE "REASON FOR CHANGE" COLUMN SHOULD ONLY BE COMPLETED FOR FEDERAL DISTRICT OR BANKRUPTCY COURT MATTERS (FRCP RULE 30(e)). THIS COLUMN SHOULD NOT BE COMPLETED FOR STATE COURT ACTIONS.

Job No.

Rev. 3/15/14

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD

SAN DIEGO REGION

IN THE MATTER OF:)
)
Administrative Civil Liability)
Complaint No. R9-2015-0110)
Against San Altos-Lemon Grove, LLC)
_____)

DEPOSITION OF FRANK MELBOURN, a witness herein,
noticed by Oppen & Varco LLP, taken at
225 Broadway, San Diego, California, at
12:06 p.m., on Thursday, January 14, 2016, before
Diane M. Lytle, CSR 8606.

Hutchings Number 600593



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I N D E X

WITNESS: FRANK MELBOURN

EXAMINATION:

PAGE

MS. BERESFORD

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MR. BOYERS

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E X H I B I T S

Exhibit identification within the transcript is flagged with "(EXHIBIT)" as an identifier.

EXHIBIT	DESCRIPTION	IDENTIFIED	MARKED
6	Weather History for KSEE - November, 2014 (EXHIBIT 6)	12	73
7	Attachment D, pages 7 and 8 (EXHIBIT 7)	42	73

FRANK MELBOURN,

a witness herein, having been sworn, testifies as follows:

-EXAMINATION-

BY MS. BERESFORD:

Q. Good afternoon, Mr. Melbourn. Thank you for coming back today.

12:06 Today is the second-day continuation of your deposition from yesterday. You were just resworn. The ground rules that we covered yesterday, I would ask you to please keep in mind today.

Do we need to review those at all?

12:07 A. No.

Q. Okay.

And I do have to ask, is there any reason today -- are you taking any medication or any other reason today why you can't give your best testimony?

12:07 A. No.

Q. Great.

We're going to pick up with talking about violation number 7 in ACL Complaint Number R9-2015-0110.

Do you have Exhibit Number 2 in front of you anywhere?

1 12:07 A. Yes.

2 Q. Okay.

3 No, I mean Exhibit Number 2 to the deposition, not
4 Exhibit Number 2 to the ACL.

5 12:07 MS. BERESFORD: Yes.

6 THE REPORTER: Do you want to go off?

7 MS. BERESFORD: Yes, please.

8 (A recess is taken.)

9 MS. BERESFORD:

10 12:08 Q. Do you have Exhibit Number 2 to the deposition
11 in front of you?

12 A. I do.

13 Q. Can you please state for the record what
14 alleged violation number 7 is.

15 12:08 A. Violation number 7 appears on page 13 of the
16 technical analysis to the Administrative Civil Liability
17 Complaint. Violation 7 states, "Failure to apply linear
18 sediment controls nine days pursuant to Section 8.4 in
19 Attachment D to the construction storm water permit,

20 12:09 dischargers are required to apply linear sediment
21 controls along toe of slope, face of the slope and at
22 the grade breaks of exposed slopes to comply with the
23 sheet flow lengths in accordance with table 1."

24 Q. Okay.

25 12:09 And it goes on to state the alleged dates of

1 12:09 violation on that page; is that correct?

2 A. Yes.

3 Q. Okay.

4 Can you please define for me, what is a toe of the

5 12:09 slope?

6 A. It's my understanding that the toe of slope
7 would be the bottom of the slope.

8 Q. And the face of the slope?

9 A. Would be the main part of the slope. I would
10 12:10 say that the longest length of the slope would be the
11 face.

12 Q. And are you familiar with the term "grade
13 breaks of exposed slopes"?

14 A. Yes.

15 12:10 Q. And what does that mean?

16 A. To me, grade breaks of exposed slopes would be
17 where there's a differentiation or a change in the slope
18 of -- a change in the slope of the slope.

19 Q. Are linear sediment controls required on all
20 12:10 active slopes at all times?

21 MR. BOYERS: Objection. Legal conclusion.

22 THE WITNESS: Could you repeat the question?

23 MS. BERESFORD:

24 Q. Yes.

25 12:10 Are linear sediment controls required on all active

1 12:11 slopes at all times?

2 MR. BOYERS: Same objection.

3 THE WITNESS: No.

4 MS. BERESFORD:

5 12:11 Q. So when would linear sediment controls be
6 required on active slopes?

7 A. Linear sediment controls should be applied to
8 active slopes if there's a forecasted storm event.

9 Also, based upon the scheduling with the project
10 12:11 that they should probably be placed as soon as possible
11 or practicable.

12 Q. Anything else?

13 A. No.

14 Q. Okay.

15 12:12 I would like you to look at Exhibit Number 3 to the
16 deposition, which I believe are the exhibits to the ACL.
17 And if you can please look at Exhibit Number 9 to the
18 ACL.

19 A. I have it in front of me.

20 12:12 Q. Can you please identify for me the slopes that
21 are lacking linear sediment controls on December 16?

22 A. So looking at Exhibit Number 9, which is the
23 City of Lemon Grove's December 16th, 2014 letter to
24 Tim Anderson, looking at the last page, which is a

25 12:14 map -- appears to be page 5 is a map that was attached

1 12:14 to a City of Lemon Grove inspection report produced by
2 Tad Nakatani -- N-a-k-a-t-a-n-i, Nakatani, first name
3 Tad, T-a-d -- of December 16th, 2014 for the Valencia
4 construction site.

5 12:15 On the map, the inspector has identified with
6 number 3, "Add fiber rolls on slope," and it indicates
7 on the map number 3 as being on the north side of the
8 housing pads on Tangelos Place just above Avalon Way.

9 Q. Is that the only -- Are you relying on any
10 12:15 other evidence for this alleged violation on this date?

11 A. If you note on page 1 of Tad Nakatani's
12 inspection report under perimeter protection, they also
13 note fiber rolls. I did see that it talks about
14 "Additional perimeter and slope protection still needed
15 12:16 on west side."

16 Q. Is -- Slope protection, is that slope erosion
17 or sediment control?

18 A. Could you rephrase that?

19 Q. Yes.

20 12:16 He notes it's about perimeter protection, and it
21 says, "Additional perimeter and slope protection still
22 needed."

23 Does that relate to sediment controls -- linear
24 sediment controls or erosion?

25 12:16 MR. BOYERS: Objection. Speculation.

1 12:17 THE WITNESS: When I read this, there's a section
2 on there that talks -- under the perimeter protection,
3 it does state fiber rolls.

4 In the description, the inspector has stated,
5 12:17 "Slope protection still needed." And so it's under
6 fiber rolls that that statement was noted, and it said
7 that it's not effective. So, therefore, I'm reading it
8 to be linear protection.

9 MS. BERESFORD:

10 12:17 Q. Did you talk to Mr. Nakatani about what he
11 meant by that comment?

12 A. No.

13 Q. Do you know if the slopes identified on the map
14 with the number 3 that you noted, do you know if they
15 12:17 were scheduled to have had any work done on December 16?

16 A. No.

17 Q. So let me rephrase.

18 Did you know whether that -- those slopes would be
19 active on December 16?

20 12:18 A. No.

21 Q. Do you know what the weather conditions were
22 for December 16?

23 A. From Exhibit Number 9, I do not see anything
24 that indicates weather. However, I do recall from my
25 12:19 own recollection that December of 2014 there were storms

1 12:19 every week. So I would not be surprised if there was a
2 storm event that was -- that happened within a day or
3 two of this inspection.

4 Q. Do you know if there was evidence of a
5 12:19 discharge on December 16th?

6 A. I do not.

7 Q. Let's look at May 8, so if you could please
8 refer to Exhibit Number 18 to the ACL.

9 A. I have it in front of me.

10 12:20 Q. And what is this document?

11 A. Exhibit Number 18 is a Regional Water Quality
12 Control Board inspection report for the Valencia Hills
13 site on May 8th, 2015. It was produced by myself.

14 Q. And can you identify for me the slopes that did
15 12:21 not have sufficient linear sediment controls on May 8?

16 A. The best example I can point to would be
17 photograph number 1 on page 6 of 10. In the upper
18 left-hand corner, you can see a slope, and that would be
19 one slope that I recall that did not have the linear
20 12:22 sediment control. You can see it on the section towards
21 the upper center and upper right, but it did not
22 continue through.

23 Furthermore, reserve sediment in the street that is
24 indicative of erosion and the linear sediment controls
25 12:22 help to reduce the amount of erosion that occurs or

1 12:22 helps to keep the sediment in place if any erosion does
2 occur on a slope.

3 Q. Do you know that the erosion that you saw in
4 the street were from the slopes, or could they have been
5 12:23 from other areas?

6 MR. BOYERS: Objection. Compound, speculation as
7 to the second part.

8 THE WITNESS: Could you rephrase that?

9 MS. BERESFORD:

10 12:23 Q. You were -- Please correct me if I'm misstating
11 your testimony -- indicating sediment in the street is
12 indicative of failure to have linear sediment controls
13 on the slopes; is that correct?

14 A. No.

15 12:23 Q. Okay.

16 Can you please restate what you were -- your
17 comments about the sediment in the street.

18 A. My comments about sediment in the street were
19 that I noticed in this example that the photograph
20 12:23 displays a slope that did not have the linear sediment
21 control on it, and that the linear sediment control
22 helps to reduce the traveling of sediment off of a
23 slope, and that in this case here you can see that
24 there's sediment in the street.

25 12:24 I did not identify that -- in my comment that --

1 12:24 that that sediment came off of that slope. But what I
2 would say is that there is evidence of erosion from
3 those slopes. There is evidence of sediment in the
4 street, so it is not unreasonable to make the assumption
5 12:24 that some of the sediment from the slope exited onto the
6 street.

7 Q. Do you have any other evidence to support the
8 allegation for May 8th?

9 A. Just my recollection that I recall seeing
10 12:24 several slopes.

11 Q. Okay.

12 For ease of reference for future discussion, I'm
13 going to introduce this exhibit now.

14 Can you please mark this as Exhibit 6. (EXHIBIT 6)

15 12:25 We've discussed previously that you've considered
16 weather conditions in your -- in preparing the complaint
17 and the allegations; is that correct?

18 A. Yes.

19 Q. Is this the information that you relied on when
20 12:25 evaluating the weather conditions for the alleged
21 violations?

22 A. I relied upon this information, and there were
23 times that I also looked at information from NOAA
24 online; however, I found this information to be the best
25 12:26 when it came to user-friendliness and ease of

1 12:26 understanding.

2 Q. Did you make any notes from your investigation
3 of information from NOAA, N-O-A-A?

4 A. No.

5 12:26 Q. I want to briefly go back to the May 8,
6 Exhibit 19. All right.

7 I'm sorry. Never mind.

8 Let's proceed to May 13, please, and that would be
9 Exhibit Number 19 to the ACL.

10 12:27 A. I have it in front of me.

11 Q. Can you please identify the slopes that are
12 lacking linear sediment controls on these days -- I'm
13 sorry -- on May 13.

14 A. Looking at photo 1 on page 6 of 9 on the
15 12:29 exhibit, one can see several stockpiles covered with
16 black plastic.

17 If I can recollect appropriately, this looks like
18 Seville Way to me. But there's a slope there. I know
19 it's a street. But that's the type of place where you
20 12:29 have a slope. And this was a fairly steep slope that
21 the linear sediment control installation of fiber rolls
22 can work very effectively to reduce the amount of
23 energy. Also, they do actually hold up fairly well if
24 they're driven over a few times.

25 12:30 Looking at photo 2, it's hard -- I can see several

1 12:30 slopes, but it's hard for me to see if this photo --
2 perhaps if I had the JPEG file photo in a larger format,
3 I could see better in describing what the extent of
4 those slopes are.

5 12:30 Looking at photo 6 on page 7 of 9, although that
6 may not be a super large or long slope, it does not
7 appear to have erosion control protection. Therefore,
8 adding some sort of linear sediment control protection
9 on it would be helpful, also some sort of perimeter

10 12:31 control along the curb.

11 Looking at photo 7, 8, 9, 10, 11, those are fairly
12 substantial slopes or grades. Therefore, application of
13 linear sediment controls would be very beneficial.

14 **Q. And what would your suggestion be for that --**

15 12:31 **for those areas?**

16 A. They could be some check dam chevrons, could be
17 fiber rolls, could be a combination. It's up to the QSP
18 for the site to decide.

19 **Q. Any other facts that you're relying on for this**
20 12:32 **allegation for May 13?**

21 A. The finding on page -- The finding on page 4 of
22 9, finding number 5, states, "Several slopes throughout
23 the site were observed to lack linear sediment controls
24 along the toe and grade breaks of exposed slopes." And

25 12:32 this report was produced by Wayne Chiu. I was on the

1 12:32 site during the inspection, but Wayne produced the
2 report.

3 Q. Do you know if any of these slopes were active?

4 MR. BOYERS: Objection. Vague as to the definition
5 12:33 of "active."

6 Are you referring to the construction general
7 permit definition?

8 MS. BERESFORD: Yes.

9 Q. Do you know if any of these slopes were active
10 12:33 defined by the construction general permit?

11 A. Based on my recollection of the site inspection
12 and walking the site, looking at the site, and based
13 upon my previous visits at the site, I would say some of
14 them may have been inactive and others may have been
15 12:33 active.

16 It was unfortunate that on that date, the site
17 representative did not meet us by the time we had
18 finished our inspection.

19 Q. Did he know you were there?

20 12:34 A. Yes.

21 Q. How did he know?

22 A. When we arrived on site, we went -- Wayne and I
23 went to the -- started walking the site. And within a
24 few minutes of us being on site, a contractor -- I don't
25 12:34 know that it was a representative of the developer, but

1 12:34 one of the contractors for the site approached us, asked
2 who we were. We explained who we were.

3 He got on the phone and called the site
4 superintendent and said that the site superintendent was
5 12:34 off site, but that he would be there shortly. By the
6 time we finished our inspection, walking the entire
7 site, he had not shown up, so we left.

8 Q. How do you know it was the site superintendent
9 that he called?

10 12:35 A. The person that called told us that it was the
11 site superintendent, and I believe the name he used was
12 Sandstrom.

13 Q. So you were just talking about some slopes are
14 active and some slopes are inactive.

15 12:35 Can you identify for me which you're alleging --
16 which slopes you're alleging are active and which slopes
17 you're alleging are inactive?

18 A. My opinion whether the slope was active or
19 inactive, it needed protection because there was a storm
20 12:36 event forecasted.

21 Q. For May 13th?

22 A. For within the next 24 to 48 hours. That's my
23 recollection. So I would have expected that they would
24 be preparing the site for a storm event.

25 12:36 Q. But for purposes of the allegations, can you

1 12:36 still identify which are active and which are inactive?

2 A. For photo 1 on page 6 of 9, that area to me
3 appears to be inactive.

4 Photo 2, that area appears to me to be inactive.

5 12:36 MR. BOYERS: Did you say "inactive"?

6 THE WITNESS: Inactive.

7 MR. BOYERS: Thank you.

8 THE WITNESS: The slope on photo 5, there is all
9 sorts of debris there. I'm not sure if it's just a area
10 12:37 where they dumped materials. But, again, to me that
11 area also looks inactive.

12 Photo 6, to me appears to be inactive.

13 Photo 8 is Seville Way looking down towards Encanto
14 Channel, and it is the reverse photo of number 1. Photo
15 12:37 1 is taken looking up Seville Way towards the
16 stockpiles. In my opinion, that area is inactive. Yes,
17 they -- looks like they drove on it. But they did not
18 need to be, in my opinion. So I would say that should
19 have been an inactive area.

20 12:38 Photo 11, looking up Tangelos Place, that exit that
21 exists on the other side of that hill was closed. I do
22 see some heavy machinery up at the top, looks like
23 probably excavating some utilities. I believe that's
24 what they were doing at the time. But, again, not a lot
25 12:38 of traffic, so to speak, on the road.

1 12:38 Some individual work on pads, housing pads, as they
2 went along. But, again, that area could have been
3 inactive. But it -- they could also consider it active.
4 But, in my opinion, that was inactive.

5 12:39 Same with photos 9 and 10, I would call those areas
6 inactive, those streets.

7 And to me, photo 7 would also be inactive. That
8 was used for some travel. But, again, I think it was
9 insufficient to bring in the definition of land
10 12:39 disturbance.

11 MS. BERESFORD:

12 **Q. Is there evidence of a discharge on May 13?**

13 A. When you say sediment discharge, do you mean to
14 the street or to the storm water conveyance system?

15 12:40 **Q. To the storm water conveyance system.**

16 A. No.

17 **Q. With the exception of the road areas that you**
18 **identified on page 8, are the linear sediment controls**
19 **that you identified -- the deficient linear sediment**
20 12:41 **controls that you identified for May 13 different than**
21 **those that you identified on May 8?**

22 A. Some were the same, some were different.

23 **Q. Which ones were the same?**

24 A. The ones that occurred on Seville Way would
25 12:42 have been the same.

1 12:42

Q. Is that it?

2

A. I believe so.

3

4

Q. Do you have any inspection reports for May 10, 11, or 12 -- I should say May 9, 10, 11, or 12?

5

12:42

A. I don't believe so.

6

7

8

Q. Excluding Seville Way, what evidence do you have that there were insufficient linear sediment controls on May 9, 10, 11, and 12?

9

10

12:43

11

12

A. I would base that opinion on the fact that there were deficiencies at the site for quite a long time, looking at the sea of Lemon Grove inspection reports, my site visits.

13

Q. Anything specific?

14

A. No.

15

12:43

Q. Okay.

16

17

And, then, let's look at September 15, please, and that would be Exhibit Number 22 to the ACL.

18

A. I have Exhibit Number 22.

19

20

12:44

21

Q. And what -- Did you rely on this document for the allegations of insufficient linear sediment controls for September 15?

22

A. I did.

23

24

Q. And what is the evidence -- What did you rely on in this document to allege that violation?

25

12:45

A. What I recall is that attached to this Exhibit

1 12:45 Number 22 is a storm water inspection report by the City
2 of Lemon Grove by Tad Nakatani on September 15th, 2015.

3 And what I recall now is that there were some
4 photographs that were taken and attached to this

5 12:45 inspection report, but I do not see them here on this
6 inspection report.

7 I recall from one of the photographs there was a
8 depiction of a fairly long slope -- when I say "fairly
9 long," at least 30 feet long -- that had erosion at the

10 12:45 toe and was lacking linear sediment control. But I
11 don't see it attached to this exhibit, as I recall.

12 Q. Is there anything else that you relied on for
13 the allegation for September 15?

14 A. Not that I recall.

15 12:46 Q. Okay.

16 Let's talk about violation number 8. If you could
17 look at -- I believe it's Exhibit 2, and state for the
18 record, what is -- what violation number 8 is, please?

19 A. Looking at Exhibit 2, which is the ACL
20 12:46 Complaint package, on page 14 of the technical analysis,
21 violation number 8 is failure to manage run-on and
22 runoff for seven days.

23 Pursuant to Section F in Attachment D to the
24 construction storm water permit, "Dischargers are
25 12:47 required to effectively manage all run-on, all runoff

1 12:47 within the site and all runoff that discharges off the
2 site. Run-on from off site shall be directed away from
3 all disturbed areas or shall collectively be in
4 compliance with the affluent limitations in this general
5 12:47 permit."

6 **Q. What is runoff within the site?**

7 A. Runoff from within the site would be either
8 storm water runoff that occurs after a precipitation
9 event on the site or if there was a non-storm water
10 12:48 discharge on the site that would create some sort of
11 runoff.

12 **Q. Can you describe to me how you have a violation**
13 **of this part of a construction permit without a rain**
14 **event?**

15 12:48 MR. BOYERS: Objection. Legal conclusion.

16 THE WITNESS: Could you rephrase that?

17 MS. BERESFORD:

18 **Q. Can there be a violation of this section of the**
19 **permit without a rain event on a dry weather day?**

20 12:48 MR. BOYERS: Same objection.

21 THE WITNESS: Yes.

22 MS. BERESFORD:

23 **Q. Can you explain to me how?**

24 A. Many of the requirements -- and I will state

25 12:49 that this one and the construction storm water permit

1 12:49 require the implementation of best management practices.
2 They are not with a site, especially even a site that's
3 a smaller site like this one, but still large area, is
4 not reasonable to expect that best management
5 12:49 practice -- best management practices can be instantly
6 installed on a site when there's a rain event.

7 So, therefore, having best management practice
8 materials available on site ready to be deployed and
9 also pre-staging or pre-installing and instituting some
10 12:50 of those BMPs ahead of time are reasonable.

11 So, therefore, I would expect that they would have
12 controls in place in crucial areas of the site to
13 protect the site from run-on and runoff issues.

14 Q. I'd like to talk about December 15, please. If
15 12:50 you could go to Exhibit Number 8 to the ACL, please.

16 A. I have it in front of me.

17 Q. Can you please identify for me the facts on
18 which you relied for this allegation for December 15?

19 A. I based the allegation using the information
20 12:51 that was provided in Exhibit Number 8, which is an
21 inspection report by the Regional Water Quality Control
22 Board by Wayne Chiu. Inspection date was December 15th,
23 2014.

24 Finding 7 on page 4 of 9 states, "Lack of effective
25 12:51 run-on and runoff controls observed within and around

1 12:51 the site which contributed to sediment discharges from
2 the site," there's a notation to see photos 4 and 14,
3 and follows with a sentence stating, "All construction
4 sites are required to effectively manage run-on, all
5 12:52 runoff within the site and all runoff that discharges
6 off the site."

7 Q. So can you tell me looking --

8 A. I'm not --

9 Q. Oh, I'm sorry.

10 12:52 A. I'm not done.

11 Q. Please.

12 A. Page 7 of 9 contains photo 4. And photo 4
13 looks to be an area where water has ponded on the site
14 after a storm event.

15 12:52 It appears -- There appears to be quite a bit of
16 erosion rills on the slopes and quite a bit of mud that
17 can be seen on the site. It appears that they did not
18 do an effective job of managing the run-on on site in
19 that photo.

20 12:53 Photo 14 and photo 13 show areas where looks like
21 runoff was leaving the site in photo 13 and caused some
22 erosion, whereas in photo 14 is an area where run-on
23 from the residential area meets and mixes with runoff
24 that flowed underneath the fencing from the site.

25 12:54 That's it.

12:54 Q. Okay.

Looking at photo 4 and the slope, can that same set of facts be identified to say that there was lack of sufficient erosion control BMPs?

12:54 A. The lack of erosion control BMPs causes or exacerbates the condition that results in additional runoff and sediment appearing in the photo. So they are separate violations. But the failure of the erosion control exacerbates the condition of the -- controlling the run-on/runoff.

Q. So they kind of go hand in hand?

A. I don't know.

Q. And you were saying there's run-on -- there's evidence of run-on in photograph number 4?

12:55 A. If I stated run-on, that would be incorrect. It's runoff from the site.

Q. Runoff from the site to somewhere else on the site?

A. Correct.

12:55 Q. Is there evidence that that left the site on December 15?

A. From this particular photo? Is that what you're asking?

Q. Yes.

12:55 A. Could you rephrase that?

1 12:55 Q. Yes.

2 Did the alleged violations for failure to manage
3 runoff within the site result in sediment leaving the
4 site?

5 12:56 A. From photo 4, I don't know.

6 Q. And looking at photo number 14, what's the
7 difference here as opposed to calling that failure to
8 implement perimeter sediment control?

9 A. Could you rephrase that?

10 12:56 Q. Sure.

11 Is photo 14 evidence of failure to implement
12 perimeter sediment control?

13 A. In photo 14, the failure to have adequate
14 perimeter control, in my opinion, exacerbated this
15 12:57 condition.

16 The citation was, in this case, talking about the
17 failure to deal with the run-on and runoff. And in this
18 case, I think the run-on was of the most significant
19 aspect to this violation, that there was quite a bit of
20 12:57 run-on from the residential area that was not adequately
21 controlled.

22 Q. Correct me if I'm wrong, but I think you
23 previously testified that you thought there was a gap in
24 the curb there where settlement was leaving the site to
25 12:57 go to Encanto Channel but -- maybe not sediment, but at

1 12:57 least there was a potential for that?

2 A. Yes. There's a gap there where flows
3 discharged sediment, latent water from the site into
4 Encanto Channel directly.

5 12:58 Q. So does that mean that some of the discharge
6 was coming from the residential area?

7 A. There was some storm water runoff flow from the
8 residential area that did go through the gap, yes.

9 Q. Okay.

10 12:59 If we could look at May 8, please, and that would
11 be Exhibit Number 18 to the ACL.

12 A. I have Exhibit 18 in front of me.

13 Q. Can you please identify -- Did you rely on this
14 document for the allegations of failure to manage run-on
15 and runoff for May 8?

16 A. Yes.

17 Q. Can you please identify for me where the lack
18 of effective run-on and runoff controls occurred?

19 A. Looking at photograph number 1 on page 6 of 10,
20 13:00 there is evidence of sediment in the street that was
21 deposited there from erosion from the site. Therefore,
22 my opinion, they failed to manage the runoff within the
23 site adequately.

24 Photograph number 2 on page 7 of 10 also shows
25 13:00 sediment in the street. Again, I would say there was a

1 13:00 failure to adequately manage run-on -- excuse me --
2 runoff within the site.

3 Number 3 on page 8 of 10 again shows sediment in
4 the street which, in my opinion, is a failure to manage
5 13:01 the runoff from within the site.

6 And just my recollection and finding number 6 on
7 page 4 of 10 stating that there was a lack of effective
8 run-on and runoff controls observed.

9 Q. Anything else for May 8?

10 13:01 A. Not that I recall.

11 Q. Okay.

12 Let's talk about May 13, and I'd like to refer you
13 to Exhibit Number 19 of the ACL.

14 A. I have Exhibit Number 19.

15 13:01 Q. And can you please identify for me those --
16 Well, first, let me ask, is this what you relied on for
17 the allegations for violation number 8 for May 13?

18 A. I relied upon this inspection report and my
19 recollection from my visit of the site at the same time,
20 13:02 as well as the photographs that Wayne took and I took of
21 the site.

22 Q. Okay.

23 Can you please identify for me the basis for your
24 allegation of failure to manage run-on and runoff for

25 13:02 May 13, please?

1 13:02 A. I first would cite page 4 of 9 of the
2 inspection report, finding 7. That states, "Lack of
3 effective run-on and runoff controls observed within and
4 around the site. See photos 7 through 14. All
5 13:03 construction sites are required to effectively manage
6 run-on, all runoff within the site and all runoff that
7 discharges off the site."

8 For the photos depicted on page 8 of 9, that would
9 be photos 7 through 12, there's a lack of erosion and
10 13:04 sediment controls in the photograph absent the use of
11 some black plastic on photo 8 and 11, and some gravel
12 bags that I see used on photo 12, and some silt fencing
13 and gravel bags used in photograph 7.

14 I see an absence of erosion and sediment controls.
15 13:04 Therefore, I would say in those photos, there's a
16 failure to effectively manage site runoff.

17 Looking at page 9 of 9, photo 13 and photo 14 show
18 the silt fence and the gravel bags that -- where gravel
19 bags are missing from a certain point which would allow
20 13:05 for discharges to occur. And so I would say that is not
21 an effective way to manage the runoff from the site or
22 run-on from coming onto the site; and, therefore, it
23 would be a violation.

24 Q. Was photo 13 and 14, was that also relied on
25 13:05 for the allegation for failure to implement perimeter

1 13:05 sediment control?

2 A. Yes.

3 Q. So if you have a failure to implement perimeter
4 sediment control, do you necessarily have a failure to

5 13:06 manage runoff?

6 MR. BOYERS: Objection. Legal conclusion.

7 THE WITNESS: I don't know.

8 MS. BERESFORD:

9 Q. But in this case, that -- that's -- is that
10 13:06 true, failure to manage -- failure to implement
11 perimeter sediment control, and, therefore, you also
12 have failure to manage runoff?

13 A. Could you rephrase that?

14 Q. Sure.

15 13:06 Is the failure to manage runoff related to the
16 failure to implement perimeter sediment control?

17 A. Yes.

18 Q. Okay.

19 What was the basis for your allegations of failure
20 13:07 to implement perimeter -- I'm sorry -- failure to manage
21 run-on and runoff for May 9, 10, 11, and 12?

22 A. The allegation was based upon the findings and
23 evidence collected during the inspections on May 8th and
24 May 13th by the regional board, and the fact that there

25 13:07 were consistent violations for those violations;

1 13:07 therefore, it was reasonable for us to infer that those
2 violations continued in the meanwhile.

3 Q. Did you have any independent evidence of what
4 occurred on the site on those days?

5 13:07 A. Not that I recall.

6 Q. Okay.

7 Do you -- Does the level of the BMPs require the
8 failure -- Let me start over.

9 Did the BMPs required to manage run-on and runoff,
10 13:08 do those change at -- depending on whether or not it's
11 dry weather or whether there's a storm in the 48-hour
12 forecast?

13 A. Yes.

14 Q. So in dry weather, are the BMPs associated with
15 13:08 managing run-on and runoff not as stringent if you are
16 in an active area?

17 A. Based upon my understanding of the construction
18 storm water permit, there are a lot of factors that are
19 dynamic for sites and so a factor will be weather. But
20 13:09 another factor will be the amount of acreage that's
21 open, the type of construction that's occurring.

22 So there's a lot of factors that play into it. So
23 I would say on a case by case, time by time that those
24 requirements change. Not that the requirements change,
25 13:09 but the implementation of BMPs that would say those

1 13:09 requirements would change.

2 Q. Okay.

3 Let's talk about alleged violation number 9,
4 please.

5 13:10 A. I have Exhibit Number 2 to the deposition in
6 front of me. I'm looking at page 15 of the technical
7 analysis to the ACL Complaint.

8 Violation number 9 reads, "Failure to remove
9 sediment or other construction materials from roads
10 13:10 10 days. Pursuant to Section E.7 and Attachment D to
11 the construction storm water permit, dischargers are
12 required at a minimum daily when necessary and prior to
13 any rain event. The discharger shall remove any
14 sediment or other construction activity-related
15 13:10 materials that are deposited on the roads by vacuuming
16 or sweeping."

17 Q. Can you please state for me what the term
18 "daily when necessary" means?

19 A. I understand that to mean that when there is
20 13:11 sediment in the street, that the developer should sweep
21 it up, should vacuum it up, should remove it, and it
22 should be done on a daily basis.

23 Q. What facts demonstrate that there was sediment
24 in the road on December 3rd?

25 13:12 A. I base that assumption upon the fact that there

1 13:12 was sediment in the street as noted in Exhibit Number 2,
2 which was the December 2nd, 2014 stop work notice by the
3 City of Lemon Grove, and their photographs.

4 And then pictures on December 4th, 2014 in the City
5 13:12 of Lemon Grove stop work notice of sediment in the
6 street. So, therefore, I assumed that the sediment
7 remained in the street from December 2nd through
8 December 4th.

9 Q. Is it possible that they cleaned up the
10 13:12 sediment in the street on December 2nd?

11 A. I don't know.

12 Q. How about December 5, 6, and 7? What evidence
13 do you have that there was sediment in the street on
14 December 5, 6, and 7?

15 13:13 A. Based upon the continued existence of sediment
16 cited on Exhibit Number 4, which is the December 8, 2014
17 City of Lemon Grove inspection report where they make
18 the notation that they're rebuilding the entrance and
19 that the entrance needs to be swept.

20 13:14 Q. What does that say at the top of page 2 of
21 Exhibit 4?

22 A. "Entrance being rebuilt, street sweep" -- and I
23 believe it says --

24 Q. This week?

25 13:14 A. To me it looks like "TP3."

1 13:14 Q. How do you know that means there's sediment in
2 the street? Could it be just a notation that they
3 should sweep the street after they finish rebuilding?

4 A. I don't know.

5 13:14 Q. Who did this inspection?

6 A. I don't know, but the Exhibit Number 4 states
7 the inspector name that appears to be Harper.

8 Q. Did you ask him if that's what he meant by that
9 notation that there was sediment in the street?

10 13:15 A. No.

11 Q. Is it possible that they -- Let me continue.

12 Do any of the photographs show sediment in the
13 street on December 8?

14 A. None of the attached photographs to Exhibit

15 13:15 Number 4 demonstrate sediment in the street.

16 Q. Is it possible they cleaned up the sediment on
17 December 4 or December 5?

18 MR. BOYERS: Objection. Speculation.

19 THE WITNESS: I don't know.

20 13:15 MS. BERESFORD:

21 Q. Do you have any other evidence that there was
22 sediment in the street on December 5, 6, 7, or 8?

23 MR. BOYERS: I believe you have referenced 5, 6, or
24 7 before. Are we adding 8?

25 13:15 MS. BERESFORD: He was talking about Exhibit Number

13:15 4 for 8. Let's go back and clarify, then.

Q. You were looking at Exhibit Number 4, talking about December 8, and the notation says, "Entrance being rebuilt, street sweep," and I'm not sure that we've determined what those other two words are.

Do you have other evidence of sediment in the street on December 8?

A. Not that I recall.

Q. So do you have any other evidence of sediment in the street on December 5, 6, 7, or 8?

A. No.

Q. How about December 9? What's your evidence that there's sediment in the street on December 9? And I'm looking at Exhibit Number 5 to the ACL.

13:17 A. Exhibit Number 5 is a correct work notice dated December 9th, 2014 by the City of Lemon Grove. It is by Gary Harper. And the -- I see inspection photos are attached.

13:18 However, the inspection report is not attached, but it does appear in Exhibit Number 6 to the Administrative Civil Liability.

In looking at Exhibit Number 6, if you look at page 2 of the December 9th, 2014 City of Lemon Grove inspection report, under discharge locations -- under the heading, "Are the discharge locations free of

1 13:19 significant erosion or sediment transport?" the box is
2 checked "No."

3 The description states, "Large amount of sediment
4 on roadway southeast of site effective? Yes or no."

5 13:19 "No."

6 There's also at the bottom of that page, under the
7 "Recommended corrective action," it states, "Sweep road
8 outside of construction entrance."

9 **Q. Anything else for December 9?**

10 13:20 A. On the second-to-last page of the December 9th
11 inspection report, under "Construction BMP
12 Recommendations," dated December 9th, 2014, number 8 at
13 the bottom states, "Sweep road to remove sediment."

14 The following page shows a map of the site, and the
15 13:20 indication for number 8, which was to sweep the roadway,
16 indicates the western section of Akins Avenue that is
17 off of the site within the City of San Diego's
18 jurisdiction.

19 **Q. Is that where the other residential area is in**
20 13:21 **the area of number 8 circled on that map?**

21 A. Could you rephrase your question?

22 **Q. Is that where the other residential area is**
23 **that's already constructed down on Akins Avenue where**
24 **the number 8 is on that map?**

25 13:21 A. The houses that are along Akins Avenue that are

1 13:21 within the City of San Diego's jurisdiction are existing
2 single-family homes.

3 Q. That's their location by that 8; is that
4 correct?

5 13:22 A. Yes.

6 Q. Okay.

7 A. I would also add that flow from the site, in my
8 experience, having visited the site numerous times, the
9 flows coming down Seville Way exiting onto Akins Avenue,
10 13:22 that was a critical point for the site where they had
11 great difficulty controlling sediment discharges from
12 the site that then went onto Akins Avenue. And so Akins
13 Avenue was frequently the receptor of sediment from the
14 site. So it's not surprising to me that I would see an
15 13:22 indication that they needed to sweep that far down Akins
16 Avenue.

17 Q. Do you know if sediment ever came off of the
18 residential area into the Akins Avenue?

19 A. I believe there were some City of Lemon Grove
20 13:22 photographs from one of the prior inspections that the
21 city inspector showed some runoff that came from the
22 residential area.

23 However, in my opinion, after having been to the
24 site and seen the conditions, I would say the amount of
25 13:23 sediment that would have been produced from the existing

1 13:23 residential area would be insignificant compared to what
2 would have come off of the construction site.

3 Q. Is there anything in the report for December 9
4 that indicates how much sediment he's talking about?

5 13:23 A. It states on page 2 of the December 9th, 2014
6 City of Lemon Grove inspection report that there was a
7 large amount of sediment on roadway southeast of site.

8 Q. Is Akins Avenue southeast or southwest?

9 A. In my opinion -- and I don't see on this map, I
10 13:24 don't see a north arrow indicated on there, but I would
11 say that the Akins Avenue area is southwest of this
12 site, not southeast.

13 BY MR. BOYERS: Okay.

14 MS. BERESFORD: Let's go off the record.

15 13:25 (A recess is taken.)

16 MS. BERESFORD:

17 Q. I want to revisit your inspection on May 13.
18 You indicated that you and Mr. Chiu went to the site,
19 that you had spoken to somebody out there that attempted
20 13:34 to call someone that you thought was the site
21 superintendent, he didn't make it to the site before you
22 were done; is that correct?

23 A. Yes.

24 Q. Okay.

25 13:35 Did you follow up after the fact with anyone at the

1 13:35 site to discuss your findings?

2 A. I believe I transmitted -- Let's see datewise.
3 I don't recall specific date, but I visited the site on
4 May 15th and met with Tim Anderson and Tyler Sandstrom.

5 13:35 And so to coordinate that inspection meeting, I know at
6 some point I had to communicate with them. Whether it
7 was by telephone or by email, I don't recall.

8 Q. When you --

9 A. And at that point, I recall that I -- I believe
10 13:36 I -- Let me think. If I recall correctly, I believe I
11 talked with Tim Anderson by phone after I got back from
12 the inspection with Wayne Chiu on the 13th, and I
13 expressed that there were many deficiencies that were
14 noted at the site; and that there was a storm event
15 13:37 expected, I believe, sometime on the 14th or 15th; and
16 that the site really needed to get taken care of.

17 And if I can recall correctly, there was a storm
18 drain inlet that we see on figure 11 on page 16 of the
19 technical analysis that shows the unprotected storm
20 13:37 drain inlet. And I believe in the inspection that I
21 conducted on the 15th, that that was taken care of.

22 So referring to Exhibit Number 20, which is my
23 May 15th, 2015 inspection report for the site, the
24 page 8 of 8, photograph number 5 shows the same storm
25 13:37 drain inlet that now has been protected with gravel

1 13:38 bags. So that's why my -- I believe my recollection is
2 correct, because I remember there were several different
3 things that were rectified in the meantime.

4 Q. And we talked about this storm drain inlet
5 13:38 yesterday on page 16.

6 Is there any communication to you that was not
7 connected to the MS4?

8 A. No.

9 Q. Okay.

10 13:38 Do you know if that was connected to the MS4? I
11 know we talked about this yesterday.

12 A. I would have a hard time believing that it's
13 not connected, based upon the fact that this is built,
14 constructed. I have a hard time understanding that they
15 13:39 would at a later point go back and connect it. So my
16 opinion is, I would -- I would state that I think it's
17 highly likely that it is connected.

18 Q. Doesn't drain to a sediment basin?

19 A. It may drain to a sediment basin, but whether
20 13:39 it drains into a sediment basin or directly into the
21 city storm water conveyance system, failure to protect
22 that storm drain inlet is a violation because the basins
23 are designed to catch sediment, but they're not designed
24 to catch unprotected construction site sediment. So
25 13:40 it's not a sedimentation basin.

1 13:40 It's my understanding from talking with the
2 developer that that is a postconstruction best
3 management practice, meaning it's a -- it's a
4 biofiltration system, so it has active vegetative, green
5 13:40 matter growing in it.

6 So, thereby, if you expected it to function as a
7 active construction site best management practice
8 sedimentation basin, it would not because the vegetative
9 growth matter that would be in those basins would be --
10 13:40 would be smothered.

11 And so I don't believe I saw either in the SWPPP,
12 but I do remember talking with the developer that that
13 is a bioretention basin.

14 Q. Okay.

15 13:41 But whether or not it's connected to the MS4 is
16 something that --

17 A. I believe it's connected to something. Whether
18 it's the bioretention basin or to the City's MS4, I
19 strongly believe it's connected to something.

20 13:41 I don't think the developer would install that and
21 then come back later, dig up the road or dig up a trench
22 to connect it to something.

23 Q. Okay.

24 A. Does not sound reasonable.

25 13:41 Q. Okay.

1 13:41 Do you know if the permit -- the general
2 construction permit defined land disturbance activity?

3 A. I don't know.

4 Q. How would you define it?

5 13:42 A. I think I testified yesterday that a land
6 surface disturbance related to construction activity
7 would be those activities that would be such as grading;
8 installation of utilities; grubbing a site, meaning the
9 cleaning, preparation of the site.

10 13:43 Those are sort of things that come to mind when I
11 think of a land surface disturbance. I'm sure it's not
12 all-inclusive, but that's just what comes to my mind off
13 the top of my head.

14 Q. Okay.

15 13:43 Previously when we were talking about the
16 allegations relating to BMPs required to manage run-on
17 and runoff at the site, and I asked a question about
18 what was required in dry weather versus wet weather --
19 Do you recall that conversation?

20 13:43 A. Yes.

21 Q. And, again, please correct me if I'm wrong, but
22 I believe your testimony indicated that a lot of factors
23 needed to be considered and that the BMPs required would
24 depend on various factors; is that accurate?

25 13:43 A. Yes.

1 13:43 Q. Okay.

2 So who ultimately decides which BMPs are
3 appropriate for any given day?

4 A. For the Regional Water Quality Control Board,
5 13:44 we are not in the business of specifying specific best
6 management practices that must be applied.

7 So, therefore, I would say from our point of view,
8 we will assess whether they were effective and whether
9 they complied with the requirements of the permit, but
10 13:44 that it would be ultimately up to the QSP for the site
11 to decide and the developer in conjunction with the QSP
12 to decide what is best for that site and that developer.

13 Q. Okay. Thank you.

14 I want to talk about some of the weather
15 13:44 information that you collected. And if I could refer
16 you back to Exhibit -- I believe it's Exhibit 6.

17 A. I have it in front of me.

18 Q. And I believe I asked if this is what you
19 relied on for weather information, and I think you
20 13:45 indicated yes, and that in some instances, you relied on
21 NOAA for certain things; is that correct?

22 A. Yes.

23 Q. I'm going to ask you to take a look at this,
24 please. Let's mark this as Exhibit 7. (EXHIBIT 7)

25 13:46 Do you know what Exhibit 7 is?

1 13:46 A. Exhibit 7 is a -- of the deposition appears to
2 be page 7, 8 --

3 Q. Oops. Did I give you --

4 MR. BOYERS: 31 and 32.

5 13:46 THE WITNESS: Did you want those also?

6 MS. BERESFORD: No, no.

7 THE WITNESS: Appears to be pages 7 and 8 of
8 Attachment D to the construction storm water permit.

9 MS. BERESFORD:

10 13:46 Q. Does this identify where a QSP is supposed to
11 look for weather information?

12 A. Yes.

13 Q. Where are they supposed to obtain that
14 information?

15 13:46 A. States that they can obtain precipitation
16 forecast information from the National Weather Service
17 Forecast Office, example, by entering the ZIP code of
18 the project's location at <http://srh.noaa.gov/forecast>.

19 Q. Does it say the discharger can get that
20 13:47 information from NOAA or that the discharger shall get
21 that information from NOAA?

22 A. It states "shall."

23 Q. So would you say the majority of the weather
24 information that you relied on came from this Weather
25 13:47 Underground site?

1 13:47 A. Yes.

2 Q. What is Weather Underground?

3 A. It is a web site that collects weather
4 information from various weather stations throughout the
5 13:48 nation.

6 Q. Why did you not use NOAA data?

7 A. The NOAA data does not present itself in a
8 format that is easily read and understood by a
9 layperson.

10 13:48 Q. So does that mean it's okay to use data from
11 somewhere other than NOAA under the permit?

12 A. For this case, I felt that using this weather
13 station was a good approximation of the weather that was
14 occurring at the site sufficient for me to know whether
15 13:48 there was a storm event or not during the time period.

16 Q. Do you know if there are any other locations
17 that collect weather data that's closer to the site than
18 the site that you relied on from the Weather
19 Underground?

20 13:49 A. I don't know.

21 Q. For about how many times did you look at the
22 NOAA data?

23 A. I would say two times or less.

24 Q. Do you know which site you referred to -- and
25 13:49 correct me if I'm wrong, my understanding is that NOAA

1 13:49 data is identified by latitude and longitude, do you
2 know which NOAA station you collected that information
3 from?

4 A. I do not.

5 13:50 Q. I would like to talk about December 16. I am
6 currently searching for which exhibit that might be.

7 MR. BOYERS: 9.

8 MS. BERESFORD:

9 Q. My colleague indicates Exhibit 9 to the ACL,
10 13:50 information about December 16.

11 A. I have Exhibit Number 9 in front of me.

12 Q. Unfortunately, I'm thinking of the wrong date.
13 I would like to talk about December 17.

14 MR. BOYERS: 10.

15 13:51 MS. BERESFORD:

16 Q. December 17 is the memo from Brian Nemerow, or
17 does it contain the memo from Brian Nemerow?

18 A. Exhibit Number 10 is a D-Max, Incorporated,
19 memo dated December 17th, 2014, from Brian Nemerow to

20 13:51 Malik Tamimi.

21 Q. When we were discussing some alleged violations
22 involving activity on December 16 yesterday, I recall
23 you indicating that you thought there had been rainfall
24 earlier in the day.

25 13:51 And my question to you is, did you track rainfall

1 13:52 times for any specific day?

2 A. I don't recall.

3 MR. BOYERS: I'm sorry. When you refer to "any
4 specific day," are you talking about any day of any time
5 13:52 or just December 17th?

6 MS. BERESFORD: Can you please restate my question,
7 or at least repeat it and that will --

8 (The record is read by the reporter.)

9 MS. BERESFORD: So let's start over.

10 13:53 Q. Let's talk specifically about December 17.

11 Did you track rainfall times for December 17?

12 A. No.

13 Q. Did you track rainfall times for any other day?

14 A. Could you define for me "rainfall times."

15 13:53 Q. Sure.

16 A. I'm unsure what you mean.

17 Q. Yes.

18 Did you track in any way when you estimated
19 rainfall began at the site and when it may have ended at
20 13:53 the site for any particular day?

21 A. I don't recall for a specific day, but we did
22 look -- I did look at the reports that were provided for
23 information if it's stated about when a storm event may
24 have begun and when it ended. So I looked at that.

25 13:54 And I would say particularly with regards to

1 13:54 Exhibit Number 10, what I relied upon is the
2 statement -- the very first sentence of the memo. It
3 states, "Per the City's request, D-Max visited the
4 Valencia construction site on the morning of
5 13:54 December 17th, 2014 following a storm earlier in the
6 morning."

7 So I take that to mean that the storm event
8 occurred sometime between 12:01, December 17th, to the
9 time they arrived on site. The photographs on the site
10 13:54 show approximately 10:00 a.m. that they were there. So
11 I assume that the storm event happened sometime between
12 12:01 a.m. and 10:00 a.m.

13 Q. Could the storm event have started at
14 8:00 a.m.?

15 13:55 A. It could.

16 Q. Do you know how heavy the rainfall was on
17 December 17?

18 A. Off the top of my head, I don't recall.

19 Q. Do you evaluate how heavy the rainfall is and
20 13:55 how long it might take for water to leave the site --
21 Let me rephrase.

22 For December 17, and the allegation specific to
23 December 17, did you consider how heavy the rainfall was
24 and how long water may have taken to leave the site?

25 13:55 A. I don't recall.

1 13:55 Q. With respect to alleged violation number 2,
2 which is failure to implement material stockpile BMPs,
3 for days when it is not raining and no rain is
4 predicted, can you please state potential harm to the
5 13:56 beneficial use of Encanto Channel or Choice Creek from
6 those alleged violations?

7 A. I'm unclear what you're asking me.
8 Could you provide me some more information or
9 details as to what you're asking me?

10 13:56 Q. Sure.

11 In calculating -- or in evaluating penalties, it's
12 my understanding that one of the things you consider are
13 potential or actual harm to beneficial uses of the water
14 bodies; is that correct?

15 13:57 A. Yes.

16 Q. So I'm trying to understand, for violation
17 number 2, failure to implement material stockpile BMPs,
18 on days where there's no rain and there's no rain
19 forecast, what is the potential harm to Encanto Channel
20 13:57 or Choice Creek from that alleged violation?

21 A. So as far as a potential harm, when you have a
22 stockpile of, say, soil exposed, if there is a non-storm
23 water discharge or if there's a storm event, that
24 material then could end up in the receiving water and
25 13:57 thereby cause damage to the beneficial uses.

1 13:57 Q. Right.

2 And I was asking on days where there is no storm
3 event.

4 A. Right.

5 13:57 So there still is a potential because there could
6 be a storm event. Also, there could be a non-storm
7 water discharge.

8 Q. And for days where it's not raining and no rain
9 is predicted, what is the actual harm to beneficial uses
10 13:58 of Encanto Channel or Choice Creek from that alleged
11 violation?

12 MR. BOYERS: Objection. Hypothetical, calls for
13 speculation.

14 MS. BERESFORD: Isn't that what the permit asks him
15 13:58 to do in calculating the penalties?

16 MR. BOYERS: Well, we can argue over it. We can --

17 MS. BERESFORD: I mean, if you want to agree that
18 that's speculative --

19 MR. BOYERS: I don't know if this is the forum for
20 13:58 that argument. So I'll make my objection.

21 Frank, you can answer the question.

22 THE WITNESS: I don't understand your question.

23 MS. BERESFORD:

24 Q. It's the same thing. It's my understanding
25 13:58 that as part of the policy, one of the things you

1 13:58 consider is what is the actual harm from the alleged
2 violation.

3 And so I'm trying to understand what the actual
4 harm was you thought occurred for violation number 2 for
5 13:58 a -- particularly on days where it was not raining and
6 there was no storm event forecast.

7 A. I don't believe that I am alleging actual harm
8 in this technical analysis or this ACL Complaint for a
9 condition where there is not a discharge and there is an
10 13:59 exposed stockpile.

11 Q. And for days when it's not raining and no storm
12 is forecasted, what is the alleged harm to receptors for
13 notice of violation number 2?

14 A. Again, I'm going to answer that I do not
15 13:59 believe that I'm alleging an actual harm.

16 Q. Okay.

17 So please bear with me. I'm going to ask a series
18 of questions for the violations. If you feel like
19 there's a better way to answer, then we don't have to go
20 14:00 through individually, I'm open to that.

21 For violation number 3, failure to implement
22 vehicle fluid leak BMPs, for days where it is not
23 raining and there's no storm event forecast, are you
24 alleging actual harm to beneficial uses of Encanto
25 14:00 Channel or Choice Creek or receptors? I know it's

1 14:00 compound.

2 MR. BOYERS: Can I offer a suggestion?

3 MS. BERESFORD: Please.

4 MR. BOYERS: How about -- How about we do this:

5 14:00 For all nondischarge violations, which includes
6 violations 2 through 13, my understanding is that
7 there's not an allegation of actual harm.

8 The analysis in the enforcement policy calls for an
9 analysis for the potential for harm. All right. So the
10 14:01 only violation where there's a discharge and the
11 potential for actual harm is violation 1 where it talks
12 about receptors and toxicity and all that sort of stuff.

13 So with respect to 2 through 13, perhaps we can
14 dispatch with the actual harm if you can testify that
15 14:01 you did not look or analyze for actual harm for
16 beneficial uses for nondischarge violations.

17 THE WITNESS: Yes, I would be willing to do that.

18 MR. BOYERS: Does that take care of that?

19 MS. BERESFORD: Yes, that takes care of that.

20 14:01 MR. BOYERS: Perfect. Awesome. All right.

21 MS. BERESFORD:

22 Q. I do want to ask the question about potential
23 harm for nonrainy days, so let's go back to notice of
24 violation 4 -- I'm sorry, notice of violation 3, failure
25 14:02 to implement vehicle fluid leak BMPs.

1 14:02 Can you articulate the potential harm to beneficial
2 uses of Encanto Channel or Choice Creek from that
3 alleged violation?

4 A. So violation number 3 states, "Failure to
5 14:02 implement vehicle fluid leak BMPs," states, "Pursuant to
6 Section B.3.A in Attachment D to the construction storm
7 water permit, dischargers are required to prevent oil,
8 grease, or fuel to leak to the ground, storm drains or
9 surface waters."

10 14:03 So on a day where an inspector observed a vehicle
11 that did not have -- that was parked and did not have
12 some sort of collection basin to prevent the discharge
13 of oil, grease, or fuel to leak to the ground, then
14 there is the opportunity or potential that oil, grease,
15 14:03 or fuel could leak to the ground, stay on the ground and
16 then when there's a subsequent storm event, for that
17 material, those pollutants to then be discharged into
18 the receiving waters.

19 Q. Specifically for violation number 3, which
20 14:03 alleges those violations on December 15, 2014 and
21 May 13, 2015, do you know if there was any actual
22 discharge to the ground?

23 A. Could you repeat your question, please?

24 Q. Yes.

25 14:04 For notice of violation number 3, it alleged

1 14:04 failure to implement vehicle fluid leak BMPs.

2 Do you know if there was an actual discharge to the
3 ground on December 15?

4 MR. BOYERS: Can we clarify, we're talking about

5 14:04 the discharge of oil, grease, or fuel?

6 MS. BERESFORD: Yes.

7 MR. BOYERS: Okay.

8 THE WITNESS: So specifically in regards to
9 December 15th, 2014, I did not conduct that inspection;

10 14:06 Wayne Chiu did.

11 Looking at the photographs that were provided in
12 Exhibit Number 8, they do not specifically show a
13 discharge to the ground that I can observe.

14 In his inspection report, it does not state whether
15 14:06 he observed discharge of oil, grease, or fuel to the
16 ground, but I will note that the requirement states that
17 they -- construction equipment needs to have appropriate
18 BMPs to prevent the discharge of oil, grease, or fuel
19 into the ground, storm drains or surface waters.

20 14:06 MS. BERESFORD:

21 Q. Sure.

22 A. So I believe that based upon the information
23 provided, that he did document a violation of the
24 permit.

25 14:07 Q. I understand.

1 14:07 My question was whether there was an actual
2 discharge into the ground noted on that date.

3 A. It is not.

4 Q. For notice of violation number 4, "Failure to
5 14:07 implement erosion controlled BMPs in active areas," can
6 you please state for days when it is not raining, what
7 is the potential harm to beneficial uses of Encanto
8 Channel or Choice Creek from that alleged violation?

9 A. The potential for harm for inactive areas that
10 14:07 do not have erosion control BMPs, on a dry day, there is
11 still a potential for there to be harm based upon either
12 storm events or non-storm water discharges on the site.

13 Q. And what would that harm be?

14 A. To the beneficial uses?

15 14:08 Q. Yes.

16 A. Potential harm from sediment. It can smother
17 the invertebrates in the receiving water. It causes
18 increases in turbidity; therefore, the animals in the
19 water and the environment are unable to find food.

20 14:08 So they also have decreased reproduction rates.
21 Not only can their environment be smothered, but there
22 are other pollutants that are transported with sediment,
23 including metals, pesticides, fertilizers, and those
24 constituents can be toxic to the wildlife.

25 14:09 Q. Do you have any lab data that those additional

1 14:09 constituents were in the sediment on this site?

2 A. I don't know.

3 Q. For the sake of efficiency, I will note that
4 violation number 5 is failure to implement perimeter

5 14:09 sediment control BMPs.

6 Violation number 6 is failure to implement erosion
7 control BMPs in active areas.

8 Number 7 is failure to apply linear sediment
9 controls at the site.

10 14:10 Violation number 8 is failure to effectively manage
11 run-on and runoff.

12 Violation number 9 is failure to remove sediment or
13 other construction materials from the roads.

14 Violation number 10 is the failure to protect storm
15 14:10 drain inlets.

16 Violation number 11 is failure to contain and
17 securely protect stockpile waste materials from wind and
18 rain.

19 Is your response of days where it's not raining is
20 14:10 the potential harm to beneficial uses of Encanto Channel
21 or Choice Creek the same for those violations that I
22 have just stated as your response for violation number
23 4?

24 A. Boy, that's a lot.

25 14:10 Q. I know.

1 14:10 MR. BOYERS: Can we, actually, take -- I think we
2 were on -- Let's see. We did number 4. 5 through 10
3 all have the same moderate potential for harm in the
4 technical analysis.

5 14:11 11, though, is different. It's minor, according to
6 my notes. So maybe we can carve that out.

7 MS. BERESFORD: Sure.

8 MR. BOYERS: So to the extent you can answer 5, 6,
9 7, 8, 9, and 10.

10 14:11 MS. BERESFORD:

11 Q. Would you like her to read back your answer to
12 my question on this issue for violation number 4?

13 A. I would say that -- No. So I would -- I would
14 apply my previous response to those.

15 14:11 Q. So no, you don't want her to read back your
16 answer?

17 A. Correct.

18 Q. And your articulation of the potential harm
19 that you stated for violation number 4, you would
20 14:12 believe, is the same for violations number 5 through 10?

21 A. Yes.

22 Q. Excellent.

23 For violation number 11, can you please -- which is
24 failure to contain and securely protect stockpile waste
25 14:12 material from wind and rain, can you please articulate

1 14:12 the harm to beneficial uses of Encanto Channel or Choice
2 Creek from that alleged violation?

3 A. If I recall the materials that were discussed,
4 and those were wood scraps. So I calculated that as a
5 14:12 lesser harm. Wood scraps may have chemicals in them,
6 depending upon the type of wood scraps that they are.

7 I did not have an indication of anything other than
8 that they were wood scraps; so, therefore, I thought it
9 would be a lesser potential harm.

10 14:13 But depending on the type of application of wood,
11 if it was wood scraps, there could be either fresh
12 concrete on them, if they were used for concrete forms,
13 and so the cementitious materials could be a potential
14 threat.

15 14:13 Sometimes they use copper naphthenate on wood when
16 it's a high-strength wood. And copper is, obviously,
17 very toxic. But given that it's just stated wood scraps
18 and it was from framing, I thought that the exposure was
19 a minor potential for harm.

20 14:13 Q. Okay.

21 You just referenced cementitious material, which is
22 an excellent segue to violation number 13.

23 Can you please state the potential harm for days
24 where it is not raining and there is no storm event, the

25 14:14 potential harm to beneficial uses of Encanto Channel or

1 14:14 **Choice Creek from alleged violation number 13?**

2 A. Sure. So, again, if there was a storm event or
3 if there was a non-storm water discharge that caused
4 these materials to be discharged into the receiving

5 14:14 waters, cementitious materials, especially cementitious
6 materials that have been recently poured or combined,
7 are very basic, and so, therefore, they have a highly
8 toxic effect on the wildlife and the water. It will
9 cause the pH to get to a point where it will burn fish

10 14:15 or invertebrates.

11 Q. And as a violation relating to discharge of
12 concrete waste, does it matter if it's just to the
13 ground, or does the discharge have to be documented to
14 go into the ground?

15 14:15 MR. BOYERS: Objection. Vague as to "does it
16 matter."

17 Are we talking about is it a violation of the
18 construction general permit?

19 MS. BERESFORD: Yes.

20 14:15 Q. Is it a violation of the construction general
21 permit, do you need to make a distinction as to whether
22 there's been a discharge to the ground versus whether
23 there's been a discharge into the ground?

24 MR. BOYERS: I'm going to add, assuming there is as
25 14:15 a distinction between "to" and "into" the ground.

1 14:16 THE WITNESS: I'm unsure.

2 MS. BERESFORD:

3 Q. Okay.

4 A. I'm not sure I understand the question.

5 14:16 Q. I'm not certain. I suspect that the permit
6 might talk about discharges into the ground and the
7 notice of violation might have talked about discharges
8 to the ground.

9 So I don't know if there was a distinction in your
10 14:16 mind as to that language. Perhaps Mr. Boyers can help
11 clarify this issue for us.

12 MR. BOYERS: No, I don't feel the need to clarify.

13 MS. BERESFORD: I think I have a question pending.

14 THE WITNESS: Could you rephrase the question?

15 14:17 MR. BOYERS: It's been a while. We're all silent.

16 MS. BERESFORD:

17 Q. When alleging violation number 13, did you have
18 evidence that the concrete waste went into the ground as
19 opposed to just to the ground?

20 14:17 A. I don't believe we made that distinction. In
21 reading the permit requirement, it states that
22 discharges -- and this is pursuant to Section B.2.I in
23 Attachment D to the construction storm water permit
24 states, "Dischargers are required to ensure the
25 14:18 containment of concrete washout areas and other washout

1 14:18 areas that may contain additional pollutants so there is
2 no discharge into the underlying soil and onto the
3 surrounding areas."

4 There's an "into the underlying soil" and "onto the
5 14:18 surrounding areas." I take that as a discharge to the
6 ground.

7 Q. Okay.

8 How many times did you visit the site?

9 A. I don't recall a specific number, but I would
10 14:18 say anywhere between five to ten times.

11 Q. We've had a lot of discussion over the past
12 two days about active versus inactive areas.

13 Did you discuss the construction schedule every
14 time you went to the site?

15 14:19 A. No.

16 Q. When did you discuss the construction schedule?
17 Let me rephrase.

18 Did you ever discuss the construction schedule with
19 anyone from -- a representative of San Altos?

20 14:19 A. Yes.

21 Q. And when did you do that?

22 A. March 27th, 2015, the first time I was on the
23 site, we discussed the construction schedule.

24 On May 15th, 2015, we discussed the construction
25 14:19 schedule.

1 14:19 And it would have been either October or November
2 when I met with Attorney Rosenbaum at the site. We
3 discussed construction schedule.

4 Q. The first time, you said, you discussed the
5 14:20 construction schedule was March 27; is that correct?

6 A. I believe so.

7 Q. And did you talk about the past schedule or
8 what the schedule had been since November through March?

9 A. I know there was a discussion concerning the
10 14:20 stop work notice and the impact on some of the
11 activities, but the bulk of the scheduling conversation
12 that we had was on what was to come.

13 Q. Have you undergone any construction training?

14 MR. BOYERS: Objection. Vague as to what is
15 14:20 "construction training."

16 MS. BERESFORD:

17 Q. Have you taken any classes on construction
18 management?

19 A. I have not taken any classes on construction
20 14:21 management. I have had in my civil engineering studies
21 classes in -- in timber design, structural design,
22 foundations, soils, concrete design.

23 I don't believe I had any sort of construction
24 management classes or construction contracts training in
25 14:21 law school.

1 14:21 Q. So your last -- I'm sorry.

2 A. And then the only other thing is, I know I've
3 attended some seminars by the BIA, the Building
4 Industrial Association; AGC, Associated General
5 14:22 Contractors.

6 Q. What were those seminars on?

7 A. Projects within the community -- within the
8 region. Oftentimes -- Also, ASCE will put on seminars
9 or luncheons where they discuss different construction
10 14:22 projects throughout the region.

11 Q. So those seminars are kind of overviews of
12 those specific projects?

13 A. Sometimes they are overviews. Sometimes they
14 are site visits.

15 14:22 So, for instance, I recall one of the visits was to
16 the trolley station that was built at San Diego State
17 University. So they talked about the design of the
18 tunnels, the equipment used, and we were given a hard
19 hat tour of the facility before it was opened.

20 14:22 Q. Was it mostly constructed by that time?

21 A. Yes.

22 Q. Did you ever work in the construction industry?

23 A. I would say no, with the caveat that I did work
24 as a student engineer with the City of Chula Vista about
25 14:23 a year and a half in their public works department, and

1 14:23 I did do some project oversight of construction of a
2 fire training tower in Chula Vista.

3 Q. And when was that?

4 A. It would have been 1991 and 1992.

5 14:23 MS. BERESFORD: Okay.

6 I don't think I have any more questions at this
7 time.

8 MR. BOYERS: Shall we do a dance? We -- I have
9 some. Give me five minutes just to confer.

10 14:24 THE REPORTER: We're off?

11 MS. BERESFORD: Yes. Thank you.

12 (A recess is taken.)

13 MR. BOYERS: Back on.

14

15 14:35 -EXAMINATION-

16

17 BY MR. BOYERS:

18 Q. So I'm going to hand you -- this is the
19 construction general permit, page 28, and ask you to

20 14:35 look at Table 1.

21 Do you see that?

22 A. Yes.

23 Q. And this morning Mr. Chiu testified with
24 respect to, I guess, the values that are referenced in

25 14:35 Table 1 of 250 NTUs.

1 14:36 Do you see that?

2 A. I see that.

3 Q. And I think, as I recall, Mr. Chiu's testimony
4 was that a value of something below a 250 NTU did not
5 14:36 necessarily indicate no violation of the construction
6 general permit.

7 Is that your recollection -- Well, I shouldn't ask
8 that.

9 But do you agree with that statement?

10 14:36 A. Yes.

11 Q. Now, I'm going to go way back to yesterday when
12 we talked about violation number 1 with respect to the
13 discharge events associated with the six days.

14 Do you recall that?

15 14:36 A. Yes, I do.

16 Q. Okay.

17 So starting with -- and maybe -- Well, actually,
18 I'll start with December 4th, which is Exhibit 3.

19 And I believe your testimony yesterday was that you
20 14:37 relied on Exhibit 3 in order to determine a discharge
21 that occurred on December 4th; is that correct?

22 A. Yes.

23 Q. Did you rely on anything other than Exhibit 3
24 to determine whether a discharge occurred?

25 14:37 A. Yes. I relied upon my experience of visits to

1 14:37 the site, and my understanding of the site and the
2 schedules and the work conducted on the site.

3 I also based some of it upon my experience in
4 conducting construction inspections through my years of
5 14:37 work at the regional board, and also looking at
6 photographs and other information that was submitted by
7 the City of Lemon Grove.

8 Q. Okay.

9 Turning to Exhibits 7 and 8, which relate to the
10 14:38 violation of the discharge alleged violation on
11 December 12th, I believe you have the same testimony,
12 that you relied solely on Exhibits 7 and 8 yesterday.

13 Do you recall that?

14 A. Yes, I do.

15 14:38 Q. Did you rely on any other information to
16 determine whether there was a discharge violation on
17 December 12th?

18 A. I would respond in a similar fashion, that I
19 base my allegation of violation upon not only the
20 14:38 inspection report, but also my years of experience with
21 the regional board, and my experience of inspecting and
22 visiting the site throughout this time period, and also
23 my consultation and review of the City of Lemon Grove
24 documents and photographs.

25 14:39 Q. For the violation -- the discharge violation

1 14:39 alleged on December 17th, December 31st, May 8th, and
2 September 15th, does your answer for the prior two
3 violations apply to those violations as well?

4 A. Yes.

5 14:39 Q. Okay.

6 Now, I'm going to refer you to page 21 of -- I
7 think it's Exhibit 3, the technical analysis, which
8 refers -- or relates to your potential for harm
9 calculation for the discharge violation.

10 14:39 Do you see that?

11 A. Yes. I'm referring to Exhibit 2 of the
12 deposition, page 21 of the technical analysis.

13 Q. And my recollection from yesterday was that
14 there were certain questions related to your
15 14:40 consideration of harm from copper, lead, and zinc.

16 Do you recall that?

17 A. Yes.

18 Q. Can you read for me paragraph B down at the
19 bottom, the first sentence of that?

20 14:40 A. Yes. Paragraph B on page 21 of the technical
21 analysis states, "Choice Creek is designated as an
22 impaired waterbody for dissolved metals (copper, lead,
23 and zinc) pursuant to Clean Water Act Section 303-D."

24 Q. Can you read the next sentence.

25 14:40 A. Yes.

1 14:40 "Storm water runoff containing sediment discharged
2 from the site likely transported other pollutants, such
3 as metals; therefore, it is reasonable to state that the
4 unauthorized discharge further degraded the already
5 14:41 impaired waters of Choice Creek."

6 Q. So is it fair to say that your analysis of the
7 harm or potential for harm is broader than just copper,
8 lead, and zinc --

9 A. Yes.

10 14:41 Q. -- that it relates to all metals?

11 A. Yes.

12 Q. And that you were looking for -- Strike that.
13 Were you looking for actual harm, in addition to
14 potential for harm?

15 14:41 I should say does your analysis consider potential
16 for harm?

17 A. Yes.

18 Q. Okay.

19 I'm not sure exactly what exhibit this is to your
20 14:41 deposition, but it's a copy of the enforcement policy.
21 I'm going to ask you to look at page 18 of the
22 enforcement policy, and I'm going to ask you to look
23 over the "Multiple Day Violations" section.

24 A. Yes.

25 14:42 Q. There was a discussion yesterday as to this.

1 14:42 MS. BERESFORD: I'm sorry to interrupt you.

2 Do you have a copy of that? It is not an exhibit
3 to the deposition.

4 MR. BOYERS: Okay.

5 14:42 You can have mine. Actually, you can't have mine.
6 There's nothing there that relates to this case, all my
7 notes, but --

8 MS. CLEMENTE: I'm checking to see what exhibit it
9 was yesterday.

10 14:42 MR. BOYERS: It wasn't an exhibit yesterday.

11 MS. BERESFORD: I think we looked at it, but I
12 don't think we made it an exhibit. Thank you.

13 MR. BOYERS:

14 Q. Can you read the first sentence under the
15 14:43 heading "Multiple Day Violations"?

16 A. Yes.

17 So in front of me, I have the water quality
18 enforcement policy for the State Water Resources Control
19 Board, and I'm looking at page 18. The header states,
20 14:43 "Multiple Day Violations," "For violations that are
21 assessed a civil liability on a per-day basis, the
22 initial liability amount should be assessed for each day
23 up to 30 days."

24 Q. Okay.

25 14:43 You can read the next sentence.

1 14:43 A. "For violations that last more than 30 days,
2 the daily assessment can be less than the calculated
3 daily assessment provided that it is no less than the
4 per-day economic benefit, if any, resulting from the
5 14:43 violation."

6 Q. Thank you.

7 So I'll ask you, why didn't you collapse days of
8 violation in this case?

9 A. I did not collapse days of violations in this
10 14:44 case because there were no violations alleged that were
11 longer than 30 days.

12 Q. Okay.

13 Now, I'm going to direct your attention to
14 Exhibit 9 of the ACL complaint. This relates to
15 14:44 violation number 7 that we discussed at the beginning of
16 the day today -- beginning of the afternoon, with
17 respect to linear sediment control violations.

18 And when you testified, I believe you pointed out
19 certain portions of this exhibit that you relied on in
20 14:44 making a finding of a violation on December 16th with
21 respect to linear sediment controls.

22 Do you recall that?

23 A. Yes.

24 Q. Did you review any other material that
25 14:44 confirmed the existence of violations on December 16th?

1 14:44 A. Yes.

2 Q. Can you explain what you referred -- or what
3 you reviewed?

4 A. I reviewed the photographs that were taken by
5 14:45 the City of Lemon Grove representative on December 16th,
6 2014, and those photographs that were provided during
7 the deposition by the City of Lemon Grove. They
8 confirmed the existence of the violations alleged.

9 Q. Do you recall specifically what the photographs
10 14:45 showed?

11 A. The photographs showed slopes that did not have
12 linear sediment BMPs.

13 MR. BOYERS: Okay.

14 That's all I have.

15 14:45 MS. BERESFORD: I have one question.

16
17 -EXAMINATION-

18
19 BY MS. BERESFORD:

20 14:45 Q. The photographs that you were just referring
21 to, are they included in the technical report for the
22 ACL?

23 A. No.

24 Q. Did you produce them as part of the documents
25 14:46 that the water board produced in response to the

1 14:46 subpoena?

2 A. No.

3 MS. BERESFORD: May we get those?

4 MR. BOYERS: Yeah. They're produced. They were
5 14:46 produced by the City.

6 THE WITNESS: We obtained them during the
7 depositions.

8 MS. BERESFORD: Okay.

9 Q. If you obtained them during the depositions,
10 14:46 then how did you rely on them for the ACL?

11 A. I did not rely upon them for the issuance of
12 this ACL Complaint.

13 Q. I see. I must have misunderstood.

14 MR. BOYERS: My question was, did you review
15 14:46 anything else that confirmed that there was a violation
16 on the 16th?

17 MS. BERESFORD: Thank you for clarifying.

18 MR. BOYERS: Uh-huh.

19 MS. BERESFORD: We will stipulate that the original
20 14:46 transcript will come to the offices of Oppen & Varco.
21 We're going to request that by Friday. The original
22 will go to Mr. Melbourn by next Tuesday for his review.

23 May we mail it to him directly?

24 MR. BOYERS: Are you going to be in the office?

25 14:47 THE WITNESS: Yes.

1 14:47 MR. BOYERS: Mail it there.

2 MS. BERESFORD: We will ask Mr. Melbourn to provide
3 us with his verification and any potential changes by
4 the following Tuesday.

5 14:47 THE WITNESS: Let's see what my calendar looks
6 like.

7 MR. BOYERS: His is going to be long and in two
8 volumes, as I understand it.

9 MS. BERESFORD: We'll go off the record while we
10 14:47 work out the date.

11 (A recess is taken.)

12 MS. BERESFORD: Back on.

13 Original transcript is going to go --
14 Back off.

15 14:48 (A recess is taken.)

16 MS. BERESFORD: Back on.

17 Original transcript is going to come to the offices
18 of Opper & Varco by midafternoon Tuesday, January 19.

19 Opper & Varco will deliver it to the water board
20 14:50 offices by close of business on Tuesday, January 19.

21 Mr. Melbourn will provide us with his verification
22 and changes, if any, by the following Tuesday,
23 January 26, at which time he will also return the
24 original transcript to Opper & Varco.

25 14:50 We will retain custody of the original.

1 14:50 To the extent the original -- If the original is
2 lost, the water board agrees that we can use a copy in
3 place.

4 MR. BOYERS: Yes.

5 14:51 MS. BERESFORD: Anything else?

6 MR. BOYERS: I want a copy.

7 MS. BERESFORD: I think we're done.

8 (Whereupon the documents referred to are marked by
9 the reporter as Exhibits 6 and 7 for identification.)

10 (The proceedings concluded at 2:51 p.m.)

11 ***

12
13 I declare under penalty of perjury under the laws
14 of the State of California that the foregoing is true
15 and correct.

16
17 Executed at SAN DIEGO, California,
18 on 21 JAN 2016.

19
20 
21 FRANK MELBOURN

22

23

24

25

1 STATE OF CALIFORNIA) ss

2

3 I, Diane Lytle, CSR 8606, do hereby declare:

4

5 That, prior to being examined, the witness named in
6 the foregoing deposition was by me duly sworn pursuant
7 to Section 2093(b) and 2094 of the Code of Civil
8 Procedure;

9

10 That said deposition was taken down by me in
11 shorthand at the time and place therein named and
12 thereafter reduced to text under my direction.

13

14 I further declare that I have no interest in the
15 event of the action.

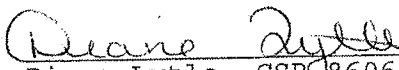
16

17 I declare under penalty of perjury under the laws
18 of the State of California that the foregoing is true
19 and correct.

20

21 WITNESS my hand this 18th day of
22 January, 2016.

23

24 
Diane Lytle, CSR 8606

25



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EXHIBITS

Melbourn, Frank



Litigation
SERVICES

Job: 600593

Exhibit: 00007



3. Upon identifying failures or other shortcomings, as directed by the QSP, Risk Level 2 dischargers shall begin implementing repairs or design changes to BMPs within 72 hours of identification and complete the changes as soon as possible.
4. For each inspection required, Risk Level 2 dischargers shall complete an inspection checklist, using a form provided by the State Water Board or Regional Water Board or in an alternative format.
5. Risk Level 2 dischargers shall ensure that checklists shall remain onsite with the SWPPP and at a minimum, shall include:
 - a. Inspection date and date the inspection report was written.
 - b. Weather information, including presence or absence of precipitation, estimate of beginning of qualifying storm event, duration of event, time elapsed since last storm, and approximate amount of rainfall in inches.
 - c. Site information, including stage of construction, activities completed, and approximate area of the site exposed.
 - d. A description of any BMPs evaluated and any deficiencies noted.
 - e. If the construction site is safely accessible during inclement weather, list the observations of all BMPs: erosion controls, sediment controls, chemical and waste controls, and non-storm water controls. Otherwise, list the results of visual inspections at all relevant outfalls, discharge points, downstream locations and any projected maintenance activities.
 - f. Report the presence of noticeable odors or of any visible sheen on the surface of any discharges.
 - g. Any corrective actions required, including any necessary changes to the SWPPP and the associated implementation dates.
 - h. Photographs taken during the inspection, if any.
 - i. Inspector's name, title, and signature.

H. Rain Event Action Plan

1. **Additional Risk Level 2 Requirement:** The discharger shall ensure a QSP develop a Rain Event Action Plan (REAP) 48 hours prior to any

likely precipitation event. A likely precipitation event is any weather pattern that is forecast to have a 50% or greater probability of producing precipitation in the project area. The discharger shall ensure a QSP obtain a printed copy of precipitation forecast information from the National Weather Service Forecast Office (e.g., by entering the zip code of the project's location at <http://www.srh.noaa.gov/forecast>).

2. **Additional Risk Level 2 Requirement:** The discharger shall ensure a QSP develop the REAPs for all phases of construction (i.e., Grading and Land Development, Streets and Utilities, Vertical Construction, Final Landscaping and Site Stabilization).
3. **Additional Risk Level 2 Requirement:** The discharger shall ensure a QSP ensure that the REAP include, at a minimum, the following site information:
 - a. Site Address
 - b. Calculated Risk Level (2 or 3)
 - c. Site Storm Water Manager Information including the name, company, and 24-hour emergency telephone number
 - d. Erosion and Sediment Control Provider information including the name, company, and 24-hour emergency telephone number
 - e. Storm Water Sampling Agent information including the name, company, and 24-hour emergency telephone number
4. **Additional Risk Level 2 Requirement:** The discharger shall ensure a QSP include in the REAP, at a minimum, the following project phase information:
 - a. Activities associated with each construction phase
 - b. Trades active on the construction site during each construction phase
 - c. Trade contractor information
 - d. Suggested actions for each project phase
5. **Additional Risk Level 2 Requirement:** The discharger shall ensure a QSP develop additional REAPs for project sites where construction activities are indefinitely halted or postponed (Inactive Construction). At a minimum, Inactive Construction REAPs must include:
 - a. Site Address
 - b. Calculated Risk Level (2 or 3)
 - c. Site Storm Water Manager Information including the name, company, and 24-hour emergency telephone number

Melbourn, Frank



Litigation
SERVICES

Job: 600593

Exhibit: 00006



Weather History for KSEE - November, 2014

 Today
  Forecast

November Precip Stats: Actual Month Total: 1.23 in | Average Month Total: 1.23 in

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
						 1 Actual: 68° 53° Average: 0.28 in 76° 50° 0.03 in
2  Actual: 69° 51° Average: 0.05 in 76° 50° 0.02 in	3  Actual: 75° 44° Average: 0.00 in 75° 50° 0.02 in	4  Actual: 84° 42° Average: 0.00 in 75° 49° 0.03 in	5  Actual: 89° 42° Average: 0.00 in 75° 49° 0.03 in	6  Actual: 93° 46° Average: 0.00 in 75° 49° 0.04 in	7  Actual: 93° 46° Average: 0.00 in 75° 49° 0.04 in	8  Actual: 89° 48° Average: 0.00 in 75° 48° 0.05 in
9  Actual: 84° 48° Average: 0.00 in 75° 48° 0.05 in	10  Actual: 73° 57° Average: 0.00 in 75° 47° 0.04 in	11  Actual: 68° 62° Average: 0.00 in 75° 47° 0.04 in	12  Actual: 71° 55° Average: 0.00 in 75° 47° 0.04 in	13  Actual: 73° 55° Average: 0.00 in 75° 46° 0.03 in	14  Actual: 73° 53° Average: 0.00 in 75° 46° 0.02 in	15  Actual: 73° 51° Average: 0.00 in 75° 46° 0.02 in
16  Actual: 78° 48° Average: 0.00 in 75° 45° 0.03 in	17  Actual: 78° 41° Average: 0.00 in 75° 45° 0.03 in	18  Actual: 82° 39° Average: 0.71 in 75° 45° 0.03 in	19  Actual: 78° 41° Average: 0.00 in 74° 45° 0.03 in	20  Actual: 73° 42° Average: 0.00 in 74° 44° 0.04 in	21  Actual: 71° 51° Average: 0.19 in 74° 44° 0.04 in	22  Actual: 75° 46° Average: 0.00 in 73° 44° 0.05 in
23  Actual: 80° 46° Average: 0.00 in 73° 44° 0.05 in	24  Actual: 84° 39° Average: 0.00 in 73° 43° 0.05 in	25  Actual: 80° 39° Average: 0.00 in 72° 43° 0.07 in	26  Actual: 91° 42° Average: 0.00 in 72° 42° 0.07 in	27  Actual: 93° 44° Average: 0.00 in 72° 42° 0.06 in	28  Actual: 86° 42° Average: 0.00 in 71° 42° 0.06 in	29  Actual: 80° 41° Average: 0.00 in 71° 41° 0.06 in
30  Actual: 73° 48° Average: 0.00 in 71° 41° 0.06 in	EXHIBIT <u>6</u> REPORTER <u>D. Lyle</u> WITNESS <u>F. Melbourn</u> DATE <u>1-14-16</u>					

Weather History for KSEE - December, 2014

 Today
  Forecast

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	1 Actual: 73° 48° Average: - - - in	2 Actual: 68° 57° Average: - - - in	3 Actual: 66° 59° Average: - - - in	4 Actual: 71° 53° Average: - - - in	5 Actual: 69° 51° Average: - - - in	6 Actual: 73° 55° Average: - - - in
7 Actual: 80° 50° Average: - - - in	8 Actual: 78° 51° Average: - - - in	9 Actual: 80° 46° Average: - - - in	10 Actual: 73° 46° Average: - - - in	11 Actual: 69° 55° Average: - - - in	12 Actual: 62° 51° Average: - - - in	13 Actual: 64° 46° Average: - - - in
14 Actual: 66° 41° Average: - - - in	15 Actual: 66° 42° Average: - - - in	16 Actual: 60° 46° Average: - - - in	17 Actual: 64° 48° Average: - - - in	18 Actual: 64° 46° Average: - - - in	19 Actual: 69° 42° Average: - - - in	20 Actual: 66° 42° Average: - - - in
21 Actual: 71° 46° Average: - - - in	22 Actual: 82° 44° Average: - - - in	23 Actual: 84° 44° Average: - - - in	24 Actual: 78° 42° Average: - - - in	25 Actual: 66° 41° Average: - - - in	26 Actual: 64° 33° Average: - - - in	27 Actual: 64° 33° Average: - - - in
28 Actual: 62° 32° Average: - - - in	29 Actual: 66° 33° Average: - - - in	30 Actual: 57° 42° Average: - - - in	31 Actual: 50° 32° Average: - - - in			

Calendar Legend

Weather History for KSEE - January, 2015

 Today
  Forecast

January Precip Stats: Actual Month Total: 0.99 in | Average Month Total: 2.89 in

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
				1 Actual: 59° 30° Average: 70° 39° 0.08 in	2 Actual: 60° 32° Average: 70° 39° 0.10 in	3 Actual: 64° 33° Average: 70° 39° 0.10 in
4 Actual: 73° 35° Average: 70° 39° 0.11 in	5 Actual: 84° 37° Average: 70° 39° 0.12 in	6 Actual: 89° 39° Average: 70° 39° 0.13 in	7 Actual: 82° 39° Average: 70° 39° 0.12 in	8 Actual: 73° 48° Average: 70° 39° 0.12 in	9 Actual: 68° 48° Average: 70° 39° 0.12 in	10 Actual: 73° 42° Average: 70° 39° 0.11 in
11 Actual: 59° 53° Average: 70° 39° 0.11 in	12 Actual: 69° 55° Average: 71° 39° 0.10 in	13 Actual: 69° 46° Average: 71° 39° 0.10 in	14 Actual: 73° 39° Average: 71° 40° 0.10 in	15 Actual: 75° 39° Average: 71° 40° 0.09 in	16 Actual: 75° 37° Average: 70° 40° 0.09 in	17 Actual: 80° 39° Average: 70° 40° 0.08 in
18 Actual: 78° 39° Average: 70° 40° 0.07 in	19 Actual: 77° 41° Average: 70° 41° 0.06 in	20 Actual: 66° 48° Average: 69° 41° 0.06 in	21 Actual: 73° 48° Average: 69° 41° 0.07 in	22 Actual: 78° 37° Average: 69° 41° 0.07 in	23 Actual: 77° 39° Average: 69° 41° 0.07 in	24 Actual: 82° 39° Average: 69° 41° 0.09 in
25 Actual: 80° 44° Average: 69° 40° 0.09 in	26 Actual: 73° 51° Average: 69° 40° 0.09 in	27 Actual: 75° 46° Average: 69° 40° 0.09 in	28 Actual: 78° 44° Average: 69° 40° 0.09 in	29 Actual: 71° 53° Average: 69° 40° 0.09 in	30 Actual: 62° 51° Average: 69° 40° 0.09 in	31 Actual: 69° 50° Average: 69° 40° 0.08 in

Calendar Legend

Weather History for KSEE - February, 2015

 Today
  Forecast

February Precip Stats: Actual Month Total: 0.65 in | Average Month Total: 3.32 in

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1 Actual: 78° 44° Average: 69° 40° 0.08 in	2 Actual: 80° 42° Average: 68° 40° 0.09 in	3 Actual: 82° 42° Average: 68° 40° 0.09 in	4 Actual: 82° 44° Average: 68° 40° 0.09 in	5 Actual: 86° 42° Average: 67° 40° 0.09 in	6 Actual: 84° 44° Average: 67° 40° 0.10 in	7 Actual: 78° 39° Average: 67° 40° 0.11 in
8 Actual: 80° 50° Average: 67° 40° 0.11 in	9 Actual: 78° 48° Average: 67° 41° 0.12 in	10 Actual: 80° 42° Average: 67° 41° 0.13 in	11 Actual: 89° 44° Average: 67° 41° 0.14 in	12 Actual: 87° 44° Average: 67° 41° 0.14 in	13 Actual: 89° 44° Average: 67° 42° 0.14 in	14 Actual: 89° 48° Average: 67° 42° 0.14 in
15 Actual: 84° 46° Average: 66° 42° 0.13 in	16 Actual: 75° 44° Average: 66° 42° 0.13 in	17 Actual: 75° 50° Average: 66° 42° 0.13 in	18 Actual: 78° 48° Average: 66° 43° 0.13 in	19 Actual: 75° 50° Average: 66° 43° 0.13 in	20 Actual: 73° 55° Average: 65° 43° 0.13 in	21 Actual: 69° 57° Average: 65° 43° 0.13 in
22 Actual: 62° 53° Average: 65° 43° 0.12 in	23 Actual: 66° 46° Average: 65° 43° 0.13 in	24 Actual: 66° 41° Average: 65° 43° 0.12 in	25 Actual: 75° 39° Average: 65° 43° 0.12 in	26 Actual: 73° 42° Average: 65° 43° 0.12 in	27 Actual: 66° 48° Average: 65° 43° 0.12 in	28 Actual: 64° 53° Average: 66° 43° 0.11 in

Calendar Legend



Weather History for KSEE - March, 2015

 Today
  Forecast

March Precip Stats: Actual Month Total: 0.90 in | Average Month Total: 2.53 in

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1 Actual: 53° 50° Average: 66° 43° 0.12 in	2 Actual: 62° 46° Average: 67° 43° 0.11 in	3 Actual: 66° 42° Average: 67° 43° 0.10 in	4 Actual: 71° 39° Average: 68° 44° 0.09 in	5 Actual: 78° 37° Average: 69° 44° 0.09 in	6 Actual: 84° 37° Average: 69° 44° 0.09 in	7 Actual: 86° 41° Average: 69° 45° 0.08 in
8 Actual: 78° 42° Average: 69° 45° 0.08 in	9 Actual: 75° 46° Average: 70° 45° 0.08 in	10 Actual: 84° 44° Average: 70° 46° 0.08 in	11 Actual: 82° 53° Average: 70° 46° 0.08 in	12 Actual: 84° 50° Average: 70° 46° 0.07 in	13 Actual: 91° 51° Average: 71° 46° 0.08 in	14 Actual: 93° 51° Average: 71° 47° 0.08 in
15 Actual: 93° 55° Average: 71° 47° 0.08 in	16 Actual: 91° 53° Average: 72° 47° 0.09 in	17 Actual: 84° 51° Average: 72° 47° 0.08 in	18 Actual: 73° 59° Average: 72° 48° 0.08 in	19 Actual: 78° 57° Average: 71° 48° 0.08 in	20 Actual: 87° 53° Average: 71° 48° 0.07 in	21 Actual: 78° 55° Average: 71° 48° 0.08 in
22 Actual: 77° 51° Average: 71° 49° 0.08 in	23 Actual: 73° 48° Average: 70° 49° 0.08 in	24 Actual: 77° 46° Average: 70° 49° 0.09 in	25 Actual: 87° 50° Average: 70° 49° 0.08 in	26 Actual: 93° 50° Average: 69° 49° 0.08 in	27 Actual: 93° 51° Average: 69° 49° 0.08 in	28 Actual: 91° 48° Average: 68° 49° 0.07 in
29 Actual: 84° 55° Average: 68° 48° 0.06 in	30 Actual: 84° 51° Average: 67° 48° 0.06 in	31 Actual: 80° 55° Average: 67° 48° 0.06 in				

Calendar Legend

Weather History for KSEE - April, 2015

 Today
  Forecast

April Precip Stats: Actual Month Total: 0.09 in | Average Month Total: 0.96 in

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
			1  Actual: 78° 57° Average: 67° 47° 0.05 in	2  Actual: 75° 53° Average: 66° 47° 0.05 in	3  Actual: 89° 48° Average: 66° 47° 0.04 in	4  Actual: 86° 48° Average: 67° 47° 0.04 in
5  Actual: 71° 55° Average: 67° 47° 0.03 in	6  Actual: 69° 48° Average: 67° 47° 0.03 in	7  Actual: 69° 50° Average: 67° 47° 0.03 in	8  Actual: 69° 50° Average: 68° 47° 0.02 in	9  Actual: 75° 46° Average: 69° 47° 0.02 in	10  Actual: 75° 48° Average: 69° 47° 0.03 in	11  Actual: 75° 46° Average: 70° 47° 0.03 in
12  Actual: 78° 48° Average: 70° 47° 0.03 in	13  Actual: 80° 55° Average: 71° 47° 0.03 in	14  Actual: 80° 55° Average: 71° 47° 0.04 in	15  Actual: 84° 48° Average: 71° 47° 0.04 in	16  Actual: 84° 48° Average: 71° 48° 0.04 in	17  Actual: 86° 46° Average: 72° 48° 0.04 in	18  Actual: 84° 44° Average: 72° 48° 0.04 in
19  Actual: 80° 48° Average: 72° 48° 0.04 in	20  Actual: 73° 55° Average: 72° 49° 0.04 in	21  Actual: 71° 57° Average: 72° 49° 0.03 in	22  Actual: 69° 53° Average: 72° 49° 0.03 in	23  Actual: 66° 51° Average: 72° 49° 0.03 in	24  Actual: 64° 55° Average: 72° 50° 0.03 in	25  Actual: 68° 55° Average: 72° 50° 0.03 in
26  Actual: 73° 53° Average: 72° 50° 0.02 in	27  Actual: 86° 48° Average: 72° 50° 0.02 in	28  Actual: 95° 50° Average: 72° 51° 0.02 in	29  Actual: 98° 53° Average: 73° 51° 0.02 in	30  Actual: 95° 55° Average: 73° 51° 0.02 in		

Calendar Legend

Weather History for KSEE - May, 2015

 Today
  Forecast

May Precip Stats: Actual Month Total: 1.42 in | Average Month Total: 0.43 in

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
					1  Actual: 96° 57° Average: 73° 51° 0.00 in	2  Actual: 80° 55° Average: 73° 52° 0.00 in
3  Actual: 75° 60° Average: 73° 52° 0.00 in	4  Actual: 73° 59° Average: 73° 52° 0.00 in	5  Actual: 71° 55° Average: 73° 53° 0.00 in	6  Actual: 69° 57° Average: 73° 53° 0.00 in	7  Actual: 68° 55° Average: 73° 53° 0.00 in	8  Actual: 60° 48° Average: 73° 53° 0.00 in	9  Actual: 68° 55° Average: 73° 53° 0.00 in
10  Actual: 75° 51° Average: 73° 53° 0.00 in	11  Actual: 80° 53° Average: 73° 53° 0.00 in	12  Actual: 71° 55° Average: 73° 53° 0.00 in	13  Actual: 71° 55° Average: 73° 53° 0.00 in	14  Actual: 68° 55° Average: 73° 53° 0.00 in	15  Actual: 64° 53° Average: 73° 53° 0.00 in	16  Actual: 69° 55° Average: 73° 53° 0.00 in
17  Actual: 73° 53° Average: 73° 53° 0.00 in	18  Actual: 71° 57° Average: 73° 54° 0.00 in	19  Actual: 73° 55° Average: 73° 54° 0.00 in	20  Actual: 71° 55° Average: 73° 54° 0.00 in	21  Actual: 68° 57° Average: 73° 54° 0.00 in	22  Actual: 69° 55° Average: 73° 55° 0.00 in	23  Actual: 68° 55° Average: 73° 55° 0.00 in
24  Actual: 69° 57° Average: 73° 55° 0.00 in	25  Actual: 66° 57° Average: 74° 55° 0.00 in	26  Actual: 71° 60° Average: 74° 55° 0.00 in	27  Actual: 73° 57° Average: 74° 56° 0.00 in	28  Actual: 80° 57° Average: 74° 56° 0.00 in	29  Actual: 82° 57° Average: 73° 56° 0.00 in	30  Actual: 82° 55° Average: 73° 56° 0.00 in
31  Actual: 78° 60° Average: 73° 56° 0.00 in						

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Weather History for KSEE - June, 2015

 Today  Forecast

June Precip Stats: Actual Month Total: 0.14 in | Average Month Total: 0.19 in

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	1  Actual: 82° 59° 0.00 in Average: 73° 56° 0.01 in	2  Actual: 80° 53° 0.00 in Average: 72° 56° 0.01 in	3  Actual: 77° 60° 0.00 in Average: 72° 56° 0.01 in	4  Actual: 71° 59° 0.00 in Average: 72° 56° 0.01 in	5  Actual: 73° 57° 0.00 in Average: 72° 56° 0.01 in	6  Actual: 78° 57° 0.00 in Average: 72° 56° 0.01 in
7  Actual: 84° 57° 0.00 in Average: 72° 56° 0.01 in	8  Actual: 96° 57° 0.00 in Average: 73° 56° 0.01 in	9  Actual: 91° 66° 0.00 in Average: 73° 56° 0.01 in	10  Actual: 78° 64° 0.00 in Average: 73° 56° 0.01 in	11  Actual: 75° 64° 0.00 in Average: 74° 56° 0.01 in	12  Actual: 75° 62° 0.00 in Average: 74° 56° 0.01 in	13  Actual: 80° 60° 0.00 in Average: 74° 56° 0.01 in
14  Actual: 82° 64° 0.00 in Average: 74° 57° 0.01 in	15  Actual: 89° 62° 0.00 in Average: 75° 57° 0.01 in	16  Actual: 84° 62° 0.00 in Average: 75° 57° 0.01 in	17  Actual: 86° 57° 0.00 in Average: 75° 57° 0.00 in	18  Actual: 89° 59° 0.04 in Average: 76° 57° 0.00 in	19  Actual: 96° 57° 0.00 in Average: 76° 58° 0.00 in	20  Actual: 89° 61° 0.00 in Average: 77° 58° 0.00 in
21  Actual: 86° 60° 0.00 in Average: 77° 58° 0.00 in	22  Actual: 89° 60° 0.00 in Average: 78° 58° 0.00 in	23  Actual: 91° 59° 0.00 in Average: 78° 58° 0.00 in	24  Actual: 87° 60° 0.00 in Average: 79° 58° 0.00 in	25  Actual: 89° 62° 0.00 in Average: 79° 58° 0.00 in	26  Actual: 89° 62° 0.00 in Average: 79° 58° 0.00 in	27  Actual: 82° 62° 0.00 in Average: 80° 59° 0.00 in
28  Actual: 91° 69° 0.00 in Average: 80° 59° 0.01 in	29  Actual: 89° 66° 0.00 in Average: 80° 59° 0.01 in	30  Actual: 91° 64° 0.10 in Average: 80° 59° 0.01 in				

Calendar Legend

Sunny
Clear

Mostly Cloudy



Partly Cloudy



Cloudy



Rain



Snow



Hail Flurries



Thunderstorms

Hazy
Fog

Sleet

'?' denotes
'chance of'

Unknown

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Weather History for KSEE - July, 2015

 Today  Forecast

July Precip Stats: Actual Month Total: 1.17 in | Average Month Total: 0.58 in

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
			1  Actual: 89° 69° 0.00 in Average: 80° 59° 0.01 in	2  Actual: 91° 66° 0.00 in Average: 80° 60° 0.01 in	3  Actual: 89° 62° 0.00 in Average: 80° 60° 0.01 in	4  Actual: 82° 64° 0.00 in Average: 80° 60° 0.01 in
5  Actual: 80° 64° 0.00 in Average: 80° 60° 0.01 in	6  Actual: 78° 64° 0.00 in Average: 81° 60° 0.01 in	7  Actual: 82° 64° 0.00 in Average: 81° 60° 0.01 in	8  Actual: 78° 64° 0.00 in Average: 81° 61° 0.01 in	9  Actual: 77° 64° 0.00 in Average: 81° 61° 0.01 in	10  Actual: 80° 62° 0.00 in Average: 82° 61° 0.01 in	11  Actual: 82° 55° 0.00 in Average: 82° 61° 0.02 in
12  Actual: 86° 60° 0.00 in Average: 82° 61° 0.02 in	13  Actual: 87° 59° 0.00 in Average: 82° 61° 0.02 in	14  Actual: 82° 64° 0.00 in Average: 82° 61° 0.03 in	15  Actual: 82° 62° 0.00 in Average: 83° 61° 0.03 in	16  Actual: 86° 64° 0.00 in Average: 83° 61° 0.03 in	17  Actual: 91° 62° 0.00 in Average: 83° 61° 0.03 in	18  Actual: 80° 61° 0.79 in Average: 83° 61° 0.03 in
19  Actual: 91° 69° 0.38 in Average: 83° 61° 0.03 in	20  Actual: 84° 71° 0.00 in Average: 83° 61° 0.02 in	21  Actual: 82° 69° 0.00 in Average: 83° 61° 0.02 in	22  Actual: 84° 69° 0.00 in Average: 83° 61° 0.02 in	23  Actual: 87° 68° 0.00 in Average: 83° 61° 0.02 in	24  Actual: 91° 68° 0.00 in Average: 83° 61° 0.02 in	25  Actual: 95° 64° 0.00 in Average: 83° 61° 0.02 in
26  Actual: 89° 64° 0.00 in Average: 84° 61° 0.02 in	27  Actual: 84° 64° 0.00 in Average: 84° 61° 0.02 in	28  Actual: 87° 60° 0.00 in Average: 84° 61° 0.02 in	29  Actual: 87° 66° 0.00 in Average: 84° 61° 0.02 in	30  Actual: 91° 68° 0.00 in Average: 84° 61° 0.02 in	31  Actual: 93° 68° 0.00 in Average: 85° 61° 0.02 in	

Calendar Legend

Sunny
Clear

Mostly Cloudy



Partly Cloudy



Cloudy



Rain



Snow



Hail Flurries



Thunderstorms

Hazy
Fog

Sleet

'?' denotes
'chance of'

Unknown

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Weather History for KSEE - August, 2015

Today

Forecast

August Precip Stats: Actual Month Total: 0.06 in | Average Month Total: 0.96 in

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
						1 Actual: 87° 66° 0.00 in Average: 85° 61° 0.02 in
2 Actual: 87° 66° 0.00 in Average: 85° 61° 0.02 in	3 Actual: 91° 66° 0.00 in Average: 85° 61° 0.02 in	4 Actual: 95° 62° 0.00 in Average: 85° 61° 0.03 in	5 Actual: 98° 64° 0.00 in Average: 85° 62° 0.03 in	6 Actual: 91° 66° 0.00 in Average: 86° 62° 0.03 in	7 Actual: 84° 66° 0.00 in Average: 86° 62° 0.03 in	8 Actual: 84° 64° 0.00 in Average: 86° 62° 0.03 in
9 Actual: 82° 62° 0.00 in Average: 86° 62° 0.04 in	10 Actual: 82° 64° 0.00 in Average: 86° 62° 0.04 in	11 Actual: 84° 64° 0.00 in Average: 86° 62° 0.04 in	12 Actual: 91° 60° 0.06 in Average: 86° 62° 0.05 in	13 Actual: 98° 66° 0.00 in Average: 86° 62° 0.06 in	14 Actual: 100° 66° 0.00 in Average: 86° 62° 0.06 in	15 Actual: 104° 66° 0.00 in Average: 86° 62° 0.05 in
16 Actual: 102° 69° 0.00 in Average: 86° 62° 0.05 in	17 Actual: 87° 68° 0.00 in Average: 86° 62° 0.04 in	18 Actual: 89° 69° 0.00 in Average: 86° 62° 0.03 in	19 Actual: 87° 66° 0.00 in Average: 86° 62° 0.03 in	20 Actual: 84° 66° 0.00 in Average: 86° 62° 0.03 in	21 Actual: 86° 66° 0.00 in Average: 86° 62° 0.03 in	22 Actual: 86° 66° 0.00 in Average: 86° 62° 0.03 in
23 Actual: 89° 64° 0.00 in Average: 86° 62° 0.03 in	24 Actual: 91° 64° 0.00 in Average: 87° 62° 0.02 in	25 Actual: 87° 69° 0.00 in Average: 87° 62° 0.02 in	26 Actual: 96° 69° 0.00 in Average: 87° 62° 0.02 in	27 Actual: 100° 69° 0.00 in Average: 87° 62° 0.02 in	28 Actual: 105° 69° 0.00 in Average: 87° 62° 0.02 in	29 Actual: 100° 69° 0.00 in Average: 87° 62° 0.01 in
30 Actual: 91° 68° 0.00 in Average: 87° 62° 0.02 in	31 Actual: 84° 64° 0.00 in Average: 86° 62° 0.01 in					

Calendar Legend

Sunny Clear

Mostly Cloudy

Partly Cloudy

Cloudy

Rain

Snow

Hail Flurries

Thunderstorms

Hazy Fog

Sleet

'?' denotes 'chance of'

Unknown

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Weather History for KSEE - September, 2015

 Today  Forecast

September Precip Stats: Actual Month Total: 1.10 in | Average Month Total: 0.51 in

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
		1  Actual: 84° 66° 0.00 in Average: 86° 62° 0.01 in	2  Actual: 84° 64° 0.00 in Average: 86° 61° 0.02 in	3  Actual: 84° 60° 0.00 in Average: 86° 61° 0.02 in	4  Actual: 82° 66° 0.00 in Average: 86° 61° 0.02 in	5  Actual: 87° 64° 0.00 in Average: 86° 61° 0.02 in
6  Actual: 93° 62° 0.00 in Average: 86° 61° 0.01 in	7  Actual: 100° 69° 0.00 in Average: 85° 61° 0.01 in	8  Actual: 100° 71° 0.00 in Average: 85° 61° 0.01 in	9  Actual: 105° 75° 0.00 in Average: 85° 60° 0.01 in	10  Actual: 98° 75° 0.00 in Average: 85° 60° 0.01 in	11  Actual: 96° 75° 0.00 in Average: 85° 60° 0.01 in	12  Actual: 96° 75° 0.00 in Average: 84° 60° 0.01 in
13  Actual: 91° 69° 0.00 in Average: 84° 60° 0.01 in	14  Actual: 87° 68° 0.00 in Average: 84° 59° 0.01 in	15  Actual: 78° 66° 1.09 in Average: 84° 59° 0.01 in	16  Actual: 80° 64° 0.01 in Average: 84° 59° 0.01 in	17  Actual: 84° 62° 0.00 in Average: 84° 59° 0.01 in	18  Actual: 87° 60° 0.00 in Average: 84° 59° 0.02 in	19  Actual: 91° 6 0.00 in Average: 83° 58° 0.02 in
20  Actual: 105° 69° 0.00 in Average: 83° 58° 0.03 in	21  Actual: 80° 69° 0.00 in Average: 83° 58° 0.03 in	22  Actual: 87° 66° 0.00 in Average: 83° 58° 0.03 in	23  Actual: 91° 64° 0.00 in Average: 82° 58° 0.03 in	24  Actual: 96° 66° 0.00 in Average: 82° 58° 0.03 in	25  Actual: 98° 66° 0.00 in Average: 82° 58° 0.03 in	26  Actual: 96° 66° 0.00 in Average: 81° 57° 0.02 in
27  Actual: 102° 66° 0.00 in Average: 81° 57° 0.02 in	28  Actual: 95° 64° 0.00 in Average: 81° 57° 0.02 in	29  Actual: 91° 62° 0.00 in Average: 81° 57° 0.01 in	30  Actual: 93° 59° 0.00 in Average: 80° 57° 0.01 in			

Calendar Legend

Sunny
Clear

Mostly Cloudy



Partly Cloudy



Cloudy



Rain



Snow



Hail Flurries



Thunderstorms

Hazy
Fog

Sleet

'?' denotes
'chance of'

Unknown

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Weather History for KSEE - October, 2015

 Today  Forecast

October Precip Stats: Actual Month Total: 0.29 in | Average Month Total: 0.75 in

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
				1  Actual: 89° 62° 0.00 in Average: 80° 56° 0.01 in	2  Actual: 84° 62° 0.00 in Average: 80° 56° 0.01 in	3  Actual: 82° 60° 0.00 in Average: 80° 56° 0.01 in
4  Actual: 71° 62° 0.06 in Average: 80° 55° 0.01 in	5  Actual: 68° 60° 0.23 in Average: 80° 55° 0.02 in	6  Actual: 78° 55° 0.00 in Average: 80° 55° 0.02 in	7  Actual: 82° 57° 0.00 in Average: 80° 54° 0.02 in	8  Actual: 91° 60° 0.00 in Average: 80° 54° 0.02 in	9  Actual: 105° 62° 0.00 in Average: 80° 54° 0.02 in	10  Actual: 102° 66° 0.00 in Average: 80° 53° 0.02 in
11  Actual: 102° 64° 0.00 in Average: 80° 53° 0.01 in	12  Actual: 100° 68° 0.00 in Average: 80° 53° 0.02 in	13  Actual: 91° 69° 0.00 in Average: 80° 53° 0.02 in	14  Actual: 93° 69° 0.00 in Average: 80° 53° 0.02 in	15  Actual: 86° 71° 0.00 in Average: 80° 53° 0.03 in	16  Actual: 75° 69° 0.00 in Average: 80° 53° 0.03 in	17  Actual: 82° 69° 0.00 in Average: 80° 53° 0.03 in
18  Actual: 78° 66° 0.00 in Average: 79° 53° 0.03 in	19  Actual: 75° 60° 0.00 in Average: 79° 53° 0.03 in	20  Actual: 78° 59° 0.00 in Average: 79° 53° 0.03 in	21  Actual: 84° 57° 0.00 in Average: 78° 52° 0.03 in	22  Actual: 82° 57° 0.00 in Average: 78° 52° 0.03 in	23  Actual: 87° 57° 0.00 in Average: 77° 52° 0.03 in	24  Actual: 95° 53° 0.00 in Average: 77° 52° 0.03 in
25  Actual: 84° 57° 0.00 in Average: 77° 52° 0.03 in	26  Actual: 91° 53° 0.00 in Average: 77° 51° 0.03 in	27  Actual: 91° 51° 0.00 in Average: 77° 51° 0.04 in	28  Actual: 82° 57° 0.00 in Average: 77° 51° 0.03 in	29  Actual: 82° 59° 0.00 in Average: 76° 51° 0.03 in	30  Actual: 87° 50° 0.00 in Average: 76° 50° 0.03 in	31  Actual: 93° 50° 0.00 in Average: 76° 50° 0.03 in

Calendar Legend

Sunny
Clear

Mostly Cloudy



Partly Cloudy



Cloudy



Rain



Snow



Hail Flurries



Thunderstorms

Hazy
Fog

Sleet

'?' denotes
'chance of'

Unknown

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Weather History for KSEE - November, 2015

 Today  Forecast

November Precip Stats: Actual Month Total: 1.03 in | Average Month Total: 1.23 in

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1  Actual: 91° 50° 0.00 in Average: 76° 50° 0.03 in	2  Actual: 78° 48° 0.09 in Average: 76° 50° 0.02 in	3  Actual: 69° 51° 0.59 in Average: 75° 50° 0.02 in	4  Actual: 68° 48° 0.05 in Average: 75° 49° 0.03 in	5  Actual: 73° 44° 0.00 in Average: 75° 49° 0.03 in	6  Actual: 77° 42° 0.00 in Average: 75° 49° 0.04 in	7  Actual: 82° 41° 0.00 in Average: 75° 49° 0.04 in
8  Actual: 78° 42° 0.00 in Average: 75° 48° 0.05 in	9  Actual: 71° 46° 0.01 in Average: 75° 48° 0.05 in	10  Actual: 66° 46° 0.05 in Average: 75° 47° 0.04 in	11  Actual: 78° 39° 0.00 in Average: 75° 47° 0.04 in	12  Actual: 78° 35° 0.00 in Average: 75° 47° 0.04 in	13  Actual: 82° 35° 0.00 in Average: 75° 46° 0.03 in	14  Actual: 82° 37° 0.00 in Average: 75° 46° 0.02 in
15  Actual: 71° 44° 0.06 in Average: 75° 46° 0.02 in	16  Actual: 62° 42° 0.00 in Average: 75° 45° 0.03 in	17  Actual: 73° 35° 0.00 in Average: 75° 45° 0.03 in	18  Actual: 82° 39° 0.04 in Average: 75° 45° 0.03 in	19  Actual: 84° 42° 0.00 in Average: 74° 45° 0.03 in	20  Actual: 87° 42° 0.00 in Average: 74° 44° 0.04 in	21  Actual: 93° 41° 0.00 in Average: 74° 44° 0.04 in
22  Actual: 89° 46° 0.00 in Average: 73° 44° 0.05 in	23  Actual: 82° 44° 0.00 in Average: 73° 44° 0.05 in	24  Actual: 73° 42° 0.00 in Average: 73° 43° 0.05 in	25  Actual: 64° 51° 0.03 in Average: 72° 43° 0.07 in	26  Actual: 64° 46° 0.01 in Average: 72° 42° 0.07 in	27  Actual: 62° 44° 0.10 in Average: 72° 42° 0.06 in	28  Actual: 68° 39° 0.00 in Average: 71° 42° 0.06 in
29  Actual: 69° 37° 0.00 in Average: 71° 41° 0.06 in	30  Actual: 69° 35° 0.00 in Average: 71° 41° 0.06 in					

Calendar Legend

Sunny
Clear

Mostly Cloudy



Partly Cloudy



Cloudy



Rain



Snow



Hail Flurries



Thunderstorms

Hazy
Fog

Sleet

'?' denotes
'chance of'

Unknown

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Weather History for KSEE - December, 2015

Today Forecast

December Precip Stats: Actual Month to Date: 0.29 in | Average Month to Date: 0.78 in | Average Month Total: 1.84 in

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
		1  Actual: 73° 35° 0.00 in Average: 71° 41° 0.06 in	2  Actual: 82° 35° 0.00 in Average: 70° 41° 0.06 in	3  Actual: 82° 39° 0.00 in Average: 70° 41° 0.06 in	4  Actual: 69° 39° 0.00 in Average: 70° 41° 0.06 in	5  Actual: 80° 39° 0.00 in Average: 70° 41° 0.07 in
6  Actual: 82° 39° 0.00 in Average: 70° 41° 0.06 in	7  Actual: 82° 39° 0.00 in Average: 70° 40° 0.06 in	8  Actual: 86° 42° 0.00 in Average: 70° 40° 0.05 in	9  Actual: 80° 44° 0.00 in Average: 70° 40° 0.05 in	10  Actual: 71° 42° 0.00 in Average: 71° 40° 0.05 in	11  Actual: 62° 44° 0.19 in Average: 71° 39° 0.05 in	12  Actual: 64° 37° 0.00 in Average: 71° 39° 0.05 in
13  Actual: 66° 37° 0.10 in Average: 71° 39° 0.05 in	14  Forecast: 57° 34° 0.0 in Average: 71° 39° 0.05 in	15  Forecast: 62° 33° 0.0 in Average: 71° 38° 0.06 in	16  Forecast: 62° 34° 0.0 in Average: 71° 38° 0.06 in	17  Forecast: 66° 39° 0.0 in Average: 70° 38° 0.06 in	18  Forecast: 72° 41° 0.0 in Average: 70° 38° 0.06 in	19  Forecast: 69° 37° 0.01 in Average: 70° 37° 0.05 in
20  Forecast: 63° 42° 0.34 in Average: 70° 37° 0.06 in	21  Forecast: 64° 42° 0.22 in Average: 70° 37° 0.06 in	22  Forecast: 63° 39° 0.3 in Average: 70° 37° 0.05 in	23  Forecast: 62° 40° 0.2 in Average: 70° 37° 0.06 in	24  Record: 84° 30° 0.00 in Average: 70° 37° 0.06 in	25  Record: 87° 25° 0.76 in Average: 70° 37° 0.07 in	26  Record: 82° 26° 0.24 in Average: 70° 38° 0.06 in
27  Record: 84° 28° 1.05 in Average: 70° 38° 0.06 in	28  Record: 86° 28° 0.96 in Average: 70° 38° 0.07 in	29  Record: 88° 31° 0.25 in Average: 70° 38° 0.07 in	30  Record: 91° 28° 0.59 in Average: 70° 38° 0.07 in	31  Record: 89° 31° 0.19 in Average: 70° 38° 0.08 in		

Calendar Legend

Sunny
Clear

Mostly Cloudy



Partly Cloudy



Cloudy



Rain



Snow



Hail Flurries



Thunderstorms

Hazy
Fog

Sleet

'?' denotes
'chance of'

Unknown

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