

State of California
Regional Water Quality Control Board
San Diego Region

ENFORCEMENT SUMMARY REPORT
September 14, 2011

- ITEM: 5
- SUBJECT: Settlement Agreement and Stipulation for Entry of Administrative Civil Liability Order, Roripaugh Valley Restoration, LLC, Roripaugh Ranch Residential Subdivision, Temecula, Riverside County. Settlement of outstanding administrative civil liability for Order No. R9-2007-0221 and chronic violations of Clean Water Act section 401 Water Quality Certification No. 01C-091 and the General NPDES Permit for Discharges of Storm Water Associated with Construction Activity (Order Nos. 99-08-DWQ and 2009-0009-DWQ). As proposed, Roripaugh Valley Restoration, LLC would submit full payment of the balance outstanding from ACL Order No. R9-2007-0221 (\$388,150), implement corrective actions, and pay staff costs incurred since adoption of ACL Order No. R9-2007-0221. (Tentative Order No. R9-2011-0056) (*Bruce Posthumus*)
- PURPOSE: The San Diego Water Board will consider accepting a settlement agreement by adopting Tentative Order No. R9-2011-0056 (Supporting Document No. 2) to resolve, by consent, certain alleged violations set forth in Order No. R9-2007-0221 and subsequent related alleged violations associated with the Roripaugh Ranch Residential Development Project. If the San Diego Water Board decides not to accept the settlement agreement, the matter may be rescheduled to a future public hearing at which time the San Diego Water Board will receive evidence and testimony and consider assessment of liability.
- PUBLIC NOTICE: A notice of the Proposed Settlement, the San Diego Water Board's planned consideration of the Tentative Order, the amount of the proposed settlement, and the opportunity for public comment was posted on the San Diego Water Board's website and sent to known

interested parties on July 1, 2011.

DISCUSSION:

Background

On December 11, 2002, The San Diego Water Board issued Clean Water Act section 401 Water Quality Certification No. 01C-091 (401 Certification) to Ashby USA, LLC for the Roripaugh Ranch project in Temecula in Riverside County for proposed discharges of dredged and/or fill materials that would impact waters of the United States.

On December 12, 2007, the San Diego Water Board adopted Order No. R9-2007-0221 (Supporting Document No. 3) imposing administrative civil liability on Ashby USA, LLC in the amount of \$434,561 for alleged violations of the 401 Certification. \$46,411 of this amount was due and was paid by January 12, 2008. The balance of \$388,150 balance was due on August 30, 2008 but was not paid. On November 9, 2009, the Superior Court of the State of California issued a judgment for the State Water Board to recover the unpaid balance; that judgment serves as a lien on approximately 360.6 acres of the Roripaugh Ranch property

Since adoption of Order No. R9-2007-0221, additional alleged violations of the 401 Certification and the statewide general NPDES permit for construction activity have occurred on those 360.6 acres of the Roripaugh Ranch property.

In May 2011, those 360.6 acres of the Roripaugh Ranch property were acquired by another entity and then conveyed to Roripaugh Valley Restoration, LLC. On June 10, 2011, the outstanding administrative civil liability balance of \$388,150 was paid on behalf of Roripaugh Valley Restoration, LLC.

Today's Issue

If adopted, Tentative Order No. R9-2011-0056 would resolve, by consent and without further administrative proceedings, the alleged violations outlined above.

Under the terms of the proposed settlement:

- Roripaugh Valley Restoration, LLC would:

- Agree to pay the unpaid portion of the administrative civil liability (this was done on June 10, 2011, as indicated above);
- Agree to pay an additional \$30,000 for staff costs;
- Have a compliant storm water pollution prevention plan in place;
- Be diligently taking steps to achieve full compliance with the statewide general NPDES permit for construction activity; and
- Meet the requirements of the 401 Certification, as amended, for the Roripaugh Ranch Project; and.
- The San Diego Water Board would:
 - Request the California Attorney General to release the lien on the property associated with the unpaid administrative civil liability; and
 - Waive any additional administrative civil liability resulting from violations of the general NPDES permit for construction activity or the 401 Certification at the Roripaugh Ranch property acquired by Roripaugh Valley Restoration, LLC during an ownership transition period from June 1, 2011 to September 14, 2011.

LEGAL CONCERNS: None

SUPPORTING
DOCUMENTS:

1. Location Map
2. Tentative Order No. R9-2011-0056, Settlement Agreement and Stipulation for Entry of Administrative Civil Liability Order, Roripaugh Valley Restoration, LLC
3. Administrative Civil Liability Order No. R9-2007-0221

RECOMMENDATION: The Advisory Team will be available to answer questions and may provide a recommendation to the San Diego Water Board for action on Tentative Order No. R9-2011-0056.