

**STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION**

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|---|---|---------------------------------------|
| IN THE MATTER OF: |) | AMENDED COMPLAINT NO. 00-41 |
| |) | FOR |
| TOLL BROTHERS, INC. |) | ADMINISTRATIVE CIVIL LIABILITY |
| "NOVATO CHASE" PROJECT |) | |
| NOVATO, CA; MARIN COUNTY |) | |
| VIOLATIONS OF THE CALIFORNIA |) | |
| WATER CODE AND ORDER |) | |
| NO. 92-08-DWQ NPDES NO. CAS000002) |) | |
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YOU ARE HEREBY GIVEN NOTICE THAT:

1. Toll Brothers, Inc. (discharger) has violated provisions of law for which the California Regional Water Quality Control Board, San Francisco Bay Region (Regional Board), may impose liability pursuant to Section 13385 of the California Water Code.
2. Unless waived, a hearing concerning this complaint will be held before the Regional Board on September 20, 2000, at the Elihu M. Harris State Building, First Floor Auditorium, located at 1515 Clay Street, Oakland, California. The meeting begins at 9:30 a.m. Toll Brothers, Inc. or its representative will have an opportunity to be heard and to contest the allegations in this complaint and the imposition of civil liability by the Board. An agenda for the meeting will be mailed to the discharger not less than 10 days before the hearing date. Copies of any written evidence concerning this complaint must be submitted to the Board by September 11, 2000. Any written evidence not so submitted may not be considered by the Board.
3. At the September 20, 2000 hearing, the Board will consider whether to affirm, reject, or modify the proposed administrative civil liability or whether to refer the matter to the Attorney General for recovery of judicial civil liability.

ALLEGATIONS

4. The discharger is alleged to have violated waste discharge requirements contained in Order No. 92-08-DWQ (and subsequently revised Order No. 99-08-DWQ), NPDES No. CAS000002 (General Permit), and discharge prohibitions of the San Francisco Bay Basin Water Quality Control Plan (Basin Plan). Although the discharger was adequately informed of the General Permit requirements, it failed to develop and implement an adequate Storm Water Pollution Prevention Plan (SWPPP) and Monitoring Plan, in accordance with the General Permit, which resulted in excessive sediment-laden storm water discharges to Novato Creek. Pursuant to Water Code Section 13385 (a)(1) & (2), civil liability may be imposed for the preceding violations.

5. This complaint is based on the following facts:

- a. The discharger has indicated full knowledge of the requirements of the General Permit by submitting, on May 22, 1998, a Notice of Intent (NOI) to comply with the General Permit and by submitting the 1998 and 1999 Compliance Status Reports for its project "Novato Chase", located in the City of Novato. The project's WDID number is 2 21S309077.
- b. The discharger was also notified of the General Permit requirements via the Board's October 1, 1999, preseason reminder letter that was mailed to all Region 2 permittees. This letter outlined specific minimum rainy season responsibilities (Best Management Practices) for each permittee and required implementation of all erosion and sediment controls no later than October 15, 1999.
- c. On February 22, 2000, Regional Board staff inspected the discharger's project and found that the discharger had failed to adequately protect the site from erosion during the rainy season as required by the General Permit. Although some areas were treated with erosion control measures, much of the site remained prone to erosion due to inadequate and/or ineffective practices, resulting in uncontrolled sediment-laden storm water discharges to Novato Creek. Additionally, the discharger failed to develop and implement a Storm Water Pollution Prevention Plan (SWPPP) and Monitoring/Reporting Plan, in accordance with the General Permit requirements. Staff issued a Notice to Comply (NTC) to the discharger identifying conditions that were in violation of the General Permit. The NTC included recommendations to resolve the violations; however, the discharger chose to continue without properly developing and implementing the SWPPP, nor correcting the identified deficiencies.
- d. On April 5, 2000, the Executive Officer issued a Notice of Violation (NOV) for the continued General Permit violations and lack of response to the NTC requirements.
- e. On April 18, 2000, the discharger submitted an incomplete technical report and has yet to submit a complete and adequate SWPPP and Monitoring Plan. This report indicates that additional Best Management Practices were installed from March 7th to March 30th.
- f. During most of the rainy season, the discharger failed to adequately protect the site from erosion and failed to protect Waters of the State from discharges of sediment via poorly instituted sediment control measures. Had appropriate measures been implemented, as required and requested, significant reductions of pollutants could have been achieved. At a minimum, the discharger has been in violation of the General Permit for most of the 1999-2000 rainy season (October 15, 1999 to March 30, 2000). The General Permit violations include the following:
 - Failure to develop and implement an adequate SWPPP, in accordance with General Permit Section A for 167 days (October 15, 1999 to March 30, 2000),
 - Failure to develop and implement a monitoring plan in accordance with General Permit Section B. for 167 days,

- Failure to train construction staff regarding the General Permit requirements for 167 days,
 - Failure to prevent the discharge of sediment and other pollutants during storms using BCT/BAT for 15 days (number of significant storms between 10/15/99 and 3/30/00), and
 - Failure to implement BMPs for the prevention of non-storm water discharges including dewatering muddy water from construction area to the storm drain for 1 day.
- g. The extent of environmental damage due to the site's sediment discharges to Novato Creek is difficult to assess; however, silt deposition in waterbodies can cause significant adverse impacts to water quality and fishery habitats.
- h. From October 15, 1999 to March 30, 2000, the discharger operated while in violation of General Permit issued pursuant to California Water Code Section 13377. Also during this time, the discharger violated Basin Plan prohibitions by allowing uncontrolled sediment-laden storm water discharges to Waters of the State. Pursuant to Water Code Section 13385(a)(1) & (2), civil liability can be assessed administratively for violations of any waste discharge requirements (permits) and/or Basin Plan prohibition.

PROPOSED CIVIL LIABILITY

6. As provided by Water Code Section 13385(c)(1) &(2), the Board can administratively assess a liability of \$10,000 for each day in which a violation occurs, and \$10 per gallon for volume discharges not cleaned-up that exceeds 1,000 gallons.
7. The discharger is alleged to have violated five major provisions and /or discharge prohibitions of the General Permit. Three of these violations occurred for 167 days each (from 10/15/99 to 3/30/00), one violation occurred for 15 days, and one violation occurred for 1 day. Based on a total of 517 days, the total maximum liability is \$5,170,000.
8. Pursuant to Water Code Section 13385(e), the Regional Board must consider the following factors in determining the amount of civil liability (described in attached staff report): the nature, circumstances, extent, and gravity of the violation, and, with respect to the violator, the ability to pay, any prior history of violations, the degree of culpability, economic benefit or savings, if any, resulting from the violation, and other matters that justice may require.
9. After consideration of the above factors, the Executive Officer proposes civil liability be imposed on the discharger in the amount of \$65,600 for the violations cited above. This includes \$40,000 as an assessment for the violations, \$5600 for staff costs, and \$20,000 as a realized economic benefit. \$15,600 of this civil liability is payable by October 31, 2000, and shall be made payable to the State Cleanup and Abatement Account.
10. Board staff recommends that \$50,000 be suspended provided that complete payment of this amount goes towards a Supplemental Environmental Project (SEP). The discharger must submit a proposal, subject to approval of the Executive Officer, for such an SEP by October 13, 2000. If the proposed SEP is not acceptable, the discharger has 30 days from receipt of

notice of rejection of that submittal, to either submit a new or revised proposal or make payment for the balance of \$50,000 to the State Cleanup and Abatement Account. The accepted SEP must be completed by October 13, 2001. Regular reports on the accepted SEP shall be provided to the Regional Board according to a schedule to be determined. A final report shall be submitted to the Regional Board within 60 days of project completion. Any money not used by that date must be submitted to the Regional Board and made payable to the State Cleanup and Abatement Account or directed toward an alternative project acceptable to the Executive Officer.

11. In the event that the discharger fails to make payment as specified, the Regional Board is authorized to refer this matter to the State of California Attorney General to petition the superior courts to impose the liability.
12. Issuance of this Complaint is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 21000, et. Seq.), in accordance with Section 15321(a)(2), Title 14, of the California Code of Regulations.
13. You may waive your right to a hearing. If you choose to do so, an authorized person must sign and date the attached "Waiver of Hearing" form and submit it to the Regional Board at 1515 Clay Street, Suite 1400, Oakland, CA, 94612, by **September 13, 2000**. Payment is due within 60 days from the date this Complaint was issued. Any waiver will not be effective until 30 days from the date this Complaint was issued, to allow other interested persons to comment on this action. If you should have any questions, please contact Bruce Wolfe at (510) 622-2443 or the Regional Board Counsel at (916) 657-2406.

9/13/2000
Date


Lawrence P. Kolb
Acting Executive Officer

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WAIVER OF HEARING

I agree to waive my right to a hearing before the San Francisco Bay Regional Water Quality Control Board with regard to violations alleged in Complaint No. 00-41, and to remit payment for the civil liability imposed, including a proposal for supplemental environmental projects as mitigation for the amount of liability suspended. I agree to remit payment by October 31, 2000. I understand that I am giving up my right to be heard and to argue against allegations made by the Executive Officer in this complaint, and against the imposition of the civil liability proposed.

Date

Signature of Discharger Representative

Printed Name

Title

**STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION**

BOARD STAFF REPORT

To: Lawrence P. Kolb
Acting Executive Officer

From: Laurie M. Taul, ESIII

Date: June 19, 2000

Subject: **ACL Complaint No. 00-041; Toll Brothers, Inc.; "Novato Chase" Project, Novato, Marin County; Non-Compliance with California General Storm Water Permit for Construction Activity, Order No. 99-08-DWQ**

SUMMARY

Toll Brothers, Inc. (hereafter the discharger), is the owner of a 58-acre hillside construction project, located adjacent to an unnamed tributary to Novato Creek at 5555 Novato Boulevard in the City of Novato. Although the discharger was adequately informed of the General Permit requirements, it failed to develop and implement an adequate Storm Water Pollution Prevention Plan (SWPPP) and Monitoring Plan, which resulted in excessive sediment-laden storm water discharges to Novato Creek. Based on the following discussion, Board staff recommends issuance of Administrative Civil Liability Compliant No. 00-41 for the amount of \$65,600.

DISCUSSION

The discharger, a nationwide luxury homebuilder, obtained coverage under the California General Storm Water Permit for Construction Activity (General Permit) on May 22, 1998, and received a grading permit from the City of Novato on August 24, 1998. Its hillside project, Novato Chase, is located adjacent to an unnamed tributary of Novato Creek and includes approximately 69 single-detached homes, averaging 3400 square feet in size.

In addition to submitting a Notice of Intent (NOI) for the General Permit, the discharger has indicated full knowledge of General Permit requirements by its submittal of the 1998 and 1999 Compliance Status Reports. The 1999 report, signed by Land Development Manager Bill Morrison, indicates that a Storm Water Pollution Prevention Plan (SWPPP) was implemented and updated on April 1, 1999, all construction wastes are properly managed, required monitoring is conducted and certifies that the site is in compliance with General Permit requirements.

The discharger was also notified of the General Permit requirements via our October 1, 1999, pre-season reminder letter that was mailed to all Region 2 permittees. This letter outlined specific minimum rainy season responsibilities (Best Management Practices) for each permittee and required implementation of all erosion and sediment controls no later than October 15, 1999.

On February 22, 2000, during a heavy rainstorm (3-5 inches predicted locally), Board staff inspected the Novato Chase project to evaluate compliance with the General Permit. When Board staff requested to review the SWPPP and monitoring records, the Project Manager, Eric

Shaw, indicated that both were not on-site and appeared not to know of the General Permit or what it requires. Upon inspecting the site, Board staff observed inadequate erosion and sediment control measures resulting in muddy storm water discharges entering the storm drains and a tributary to Novato Creek. Some areas of the project had been hydroseeded; however, Best Management Practices (BMPs) within the graded and active construction areas consisted only of inadequate sediment controls such as silt fences, gravel bags and fiber rolls. These BMPs were ineffective, not maintained, improperly installed in most areas and used inconsistently throughout the project. Mr. Shaw stated that the existing erosion and sediment control measures were installed prior to the rainy season, indicating that sediment-laden storm water was most likely discharged throughout the rainy season.

Board staff issued a Notice to Comply (NTC) stipulating compliance with the General Permit, including the development of a SWPPP and monitoring program, implementation of additional erosion and sediment control measures, and submittal of a compliance report by February 28, 2000. The discharger did not respond to the NTC by this deadline.

On March 6, 2000, Board staff conducted an inspection and found only slight improvements to the inlet control measures. In addition, erosion control, materials/waste control, and effective sediment control measures were not implemented. Board staff observed stucco and/or grouting wastewater in the gutter, dewatering of muddy water to the gutter, improperly installed silt fencing (allowing sediment to flow under untrenched fence) and silt-laden storm water entering the storm drains. Additionally, a complete SWPPP was not prepared and/or on-site. The new project manager, Jerry Brown (Mr. Shaw had since been fired), indicated that he was in the process of contracting an erosion control specialist for preparation and implementation of the SWPPP.

On April 5, 2000, the Executive Officer issued a Notice of Violation (NOV) for the continued General Permit violations and lack of response to the NTC requirements. The NOV required the immediate installation of a combination of adequate erosion and sediment controls to all disturbed areas (including active work areas), with storm drain sediment control measures used as a secondary defense behind good erosion control measures. The discharger was required to submit a technical report by April 21, 2000, identifying the specific measures taken or planned to effectively control storm water and non-storm water discharges. The report was to include a copy of the complete SWPPP, developed in accordance with Section A. of the General Permit and certified by a practicing professional engineer, with expertise in the area of sediment and erosion control.

On April 18, 2000, the discharger submitted an incomplete technical report consisting only of an inadequate BMP map, BMP implementation logs from March 6, 2000 to March 30, 2000, SWPPP Site Inspection logs from April 3, 2000 to April 14, 2000, and a copy of the erosion control specialist contract. The BMP logs indicate that additional BMPs (i.e., straw mulch, fiber rolls, silt fences, haybale check dams and gravel bags) were installed from March 7th to March 30th and then monitored/repared starting April 3rd. *A complete and adequate SWPPP and Monitoring Plan have not been submitted to date.*

At a minimum, the discharger has been in violation of the General Permit for most of the 1999-2000 rainy season (October 15, 1999 to March 30, 2000), and most likely since the start of the project in August of 1998. The General Permit violations include the following:

- 1) Failure to develop and implement an adequate SWPPP, in accordance with General Permit Section A., including an effective combination of erosion and sediment controls, and to make it available onsite (at least from October 15th to March 30th; adequate SWPPP not submitted to date) *Provision C.2. and Section A.*,
- 2) Failure to develop and implement a monitoring plan in accordance with General Permit Section B, including maintenance, inspection and repair of BMPs, and maintenance of monitoring logs (at least from October 15th to March 30th) *Provision C.4., Section A.11., and Section B.*,
- 3) Failure to train construction staff regarding the General Permit requirements (at least from October 15th to March 30th) *Section A.12.*,
- 4) Failure to prevent the discharge of sediment and other pollutants during storms using BCT/BAT (at least from October 15th to March 30th) *Discharge Prohibition A.3. and Provision C.2.*, and
- 5) Failure to implement BMPs for the prevention of non-storm water discharges including dewatering muddy water from construction area to the storm drain (observed March 6, 2000) *Discharge Prohibition A.2., Provision C.3. and Section A.9.*

According to local precipitation records, there were 15 significant storm events (equal or greater than .4 inches) during the 1999-2000 rainy season, which most likely resulted in uncontrolled sediment discharges from the "Novato Chase" project to Novato Creek. Prior notice of the General Permit requirements was given to the discharger. In addition, these requirements apply to all statewide construction projects 5 acres and larger, and have been in effect since 1992. By not complying with the General Permit, the discharger has realized an economic savings and unfair business advantage at the expense of the environment.

Imposition of civil liability for the above-referenced violations does not preclude the Regional Board from taking enforcement action against the "Novato Chase" project for ongoing and/or future permit violations.

REGULATORY FRAMEWORK

Storm Water General Permit – The General Permit is a Waste Discharge Requirement (WDR) Order implementing a National Pollutant Discharge Elimination System (NPDES) Permit covering discharges of storm water associated with construction activities that result in the disturbance of 5 or more acres. Property owners proposing to conduct construction activities subject to this General Permit must file a NOI (indicating intention to comply with terms of the General Permit) prior to the commencement of construction activity. The General Permit also requires that a site-specific SWPPP and monitoring plan be developed and implemented prior to the start of construction. The SWPPP must include an effective combination of erosion and sediment controls and waste/chemical controls that utilize best available technology (BAT) and best conventional pollutant control technology (BCT). The General Permit requires the SWPPP and inspection records to be kept on site during the construction activity and made available upon request of a representative of the Regional Board and/or local agency.

California Water Code - Non-compliance with the General Permit conditions constitutes a violation of the Clean Water Act and the Water Code. Water Code Section 13385(a)(2) provides that any person who violates any waste discharge requirements (permits) shall be civilly liable.

San Francisco Basin Plan - Pursuant to the Basin Plan, the discharge of sediment to Waters of the State, in quantities and concentrations that cause a nuisance or adversely effect beneficial uses of those waters, is prohibited (Basin Plan Table 4-1, Provision 9). The existing beneficial uses of the water downstream of the site include rare and endangered species habitat, wildlife habitat and municipal/domestic supply. The potential beneficial uses include cold freshwater habitat, warm freshwater habitat, fish migration, freshwater spawning, water contact recreation and non-contact recreation. Water Code Section 13385(a)(4) provides that any person who violates a Basin Plan prohibition shall be civilly liable.

LEGAL BASIS FOR ACTION

The discharger obtained coverage on May 22, 1998, under the California General Storm Water Permit for Construction Activity, Order No. 99-08 DWQ, NPDES General Permit No. CAS000002. The discharger violated this permit, the San Francisco Basin Plan and the California Water Code, for which the Board may impose Administrative Civil Liability pursuant to Water Code Section 13385 (a)(1). Under Section 13385 (c)(1) & (2) the Board may impose up to \$10,000 for each day in which a violation occurs, and \$10 per gallon for volume discharges not cleaned-up that exceeds 1,000 gallons.

Since Board staff only has evidence of noncompliance that occurred during the 1999-2000 rainy season (October 15, 1999 to March 30, 2000 - 167 days), liability will be calculated accordingly. Therefore, the discharger is subject to a total liability of **\$5,170,000** as outlined below:

- 1) Failure to develop and implement an adequate SWPPP, in accordance with General Permit Section A. for **167 days or \$1,670,000**,
- 2) Failure to develop and implement a monitoring plan in accordance with General Permit Section B. for **167 days or \$1,670,000**,
- 3) Failure to train construction staff regarding the General Permit requirements for **167 days or \$1,670,000**,
- 4) Failure to prevent the discharge of sediment and other pollutants during storms using BCT/BAT for **15 days (# storms between October 15th and March 30th) or \$150,000**, and
- 5) Failure to implement BMPs for the prevention of non-storm water discharges including dewatering muddy water from construction area to the storm drain for **1 day or \$10,000**.

Although discharge volume measurements were not taken, site inspections and photos document significant discharges of sediment-laden storm water during storm events. During February, the Bay Area received significant rainfall resulting in only a few dry days for the entire month. Since the discharge volumes associated with each storm event are difficult to determine, it is not practical to assess a specific per gallon penalty. Therefore, the civil liability that could be applied under Section 13385 (c)(2) is not included in this assessment.

ENFORCEMENT CONSIDERATIONS

Pursuant to Water Code Section 13385(e), the Board shall take the following into account in determining the amount of liability imposed under that section: nature, circumstances, extent and gravity of the violation, the ability of the discharger to pay the fine levied, the prior history of violations, degree of culpability, economic benefit or savings resulting from the violation and any other matters that justice may require.

Nature, Circumstances, Extent, and Gravity of the Violation

The discharger failed to control the site's sediment and pollutant discharges for most of the rainy season and has yet to submit an adequate SWPPP to the Board. Despite pre-season written notification of the General Permit requirements, early season notification by City officials of the site's erosion and sediment control inadequacies, and Board staff's February 22, 2000, NTC, the discharger failed to design and implement adequate protection measures. It was not until Board staff's second inspection on March 6, 2000 that the discharger started to implement the appropriate BMPs.

Given the site's hillside location and proximity to Novato Creek, it is understood that some low levels of earthen materials will undoubtedly be discharged from a construction site. However, this can only be considered appropriate where BMPs are fully implemented and maintained to minimize pollutant discharges. In this case the discharger's actions or inactions, described herein, lead to uncontrolled storm water discharges, resulting in a significant threat to the beneficial uses of Novato Creek. In addition, key pollution prevention planning and monitoring elements of the General Permit were not implemented. Noncompliance with the General Permit and pollutant discharges to Waters of the State are violations of the Federal Clean Water Act, State Water Code and the Region's Basin Plan, and gives the discharger an unfair economic advantage.

Ability to Pay The Proposed Assessment

The discharger describes its self as the nation's leading builder of luxury homes and boasts of receiving various homebuilder industry awards. The company's 1999 Annual Report references a 1999 net income of \$101,566,000. A company press release cites a record second quarter net income for 2000, of \$28,000,000 (up 27% over the 1999 second quarter net income). The "Novato Chase" project includes 69 single family homes offered at an average price of \$644,141 each. The discharger appears to have adequate funds to pay the assessment.

Prior History of Violations

The discharger has no prior violations within Region 2.

Degree of Culpability

The discharger, owner of the above-referenced construction project, is responsible for compliance with the General Permit and is therefore fully culpable for the violations enumerated above. The discharger was notified by Board staff on three occasions of its obligation to comply with the General Permit and its lack of proper erosion control measures. By signing and filing the NOI for the General Permit, the discharger certified that the provisions of the permit, including the development and implementation of a Storm Water Pollution Prevention Plan and a Monitoring Plan, would be complied with. The discharger's 1999 Compliance Status Report also certifies that the site is in compliance with all General Permit requirements. However, site inspections

indicated that the discharger did not comply with key elements of the General Permit and was negligent in allowing pollutant discharges throughout the rainy season, which could have been minimized by implementing timely and effective BMPs.

Economic Benefit or Savings Resulting from the Violation

By failing to properly prepare and fully implement a SWPPP, and to conduct and record required monitoring activities, the discharger was able to delay or minimize expenditures that would have been necessary to comply with the General Permit for the entire rainy season. Preparation of the SWPPP requires technical evaluation of the site and engineered control measures. In March (after two Board staff inspections), the discharger contracted with an Erosion Control Specialist to conduct the site evaluation, SWPPP development and implementation, which included the deployment of erosion and sediment control measures such as straw mulch with tackifier, fiber rolls, silt fences, haybale check dams and gravel bags with filter fabric used for storm drain inlet protection. A complete SWPPP would also include procedures for monitoring, maintaining and repairing the BMPS, proper materials storage measures, personnel training and any other measures deemed necessary to insure the control of pollutants in storm water runoff.

Information within the discharger's technical report and from the Erosion Control Specialist indicates that \$24,000 was spent in March to bring the existing exposed areas into compliance with the General Permit. This amount includes approximately \$20,000 for BMP implementation and \$4000 for site evaluation, SWPPP preparation and other administrative costs. These expenses would have been required prior to October 15, 1999 in order to comply with the General Permit, but were delayed until Board staff inspected the site. Consequently, the discharger has realized additional cost-savings from October through February by not having to pay for:

- Technical SWPPP updates required for seasonal and construction phase changes and additional BMPs required for these changes
- Monitoring, maintaining, repairing, and replacing the full set of BMPs
- Conducting the required training of site personnel, and
- Labor hours related to site maintenance

It is reasonable to assume that the discharger realized an additional economic saving of at least \$20,000 attributed to the above activities.

RECOMMENDATION

I recommend the Regional Board pursue an enforcement action under Section 13385 of the California Water Code. The discharger was in violation of the General Permit and Basin Plan by not having the site in compliance with the General Permit from the start of the Bay Area's rainy season through the heavy February rains. Based on staff observations and information received during site inspections in February and March, the discharger did not provide adequate pollution prevention planning, erosion protection, nor sediment control measures which would have significantly prevented off-site discharges of sediment-laden storm water. These inactions violate provisions of the General Permit and are therefore in violation of the California Water Code.

In addition to the required enforcement considerations, an appropriate liability assessment should take into account the following: 1) The assessment imposed should be an amount high enough to assure future positive and timely actions; 2) The adverse environmental impacts of silt-laden storm water to Waters of the State is significant, but cannot be specifically evaluated; and 3) The discharger has improved its on-site management of sediment and other pollutants.

The total maximum liability is \$5,170,000. Due to the high economic impact of such an assessment, the maximum liability is not appropriate. However, given the discharger's negligent behavior, the adverse impacts to Novato Creek and the enforcement considerations discussed above, the assessment for civil liability should be at least \$65,600. This includes \$40,000 as an assessment for the violations, \$5600 for Board staff costs associated with enforcement activities (80 hours, at an average cost of \$70 per hour), and \$20,000 as an estimated economic benefit.

Concur:



M. Hossain Kazemi, Section Leader

Concur:



Bruce Wolfe, Division Chief

Attachments:

Regional Board Correspondence
Location Map
Site Photos

**ACCESSOR'S PARCEL
MAP NUMBERS**

**EXISTING
SAN MARIN UNIT-10
SINGLE FAMILY RESIDENTIAL**



(E) CENTERLINE
OF CREEK

PROPOSED 20' MIN. BICYCLE, PEDESTRIAN
AND EMERGENCY VEHICLE ACCESS
EASEMENT TO M.C.O.S.D. ALSO, TO BE
DEDICATED TO THE CITY OF NOVATO WITH
20' EASEMENTS TO ALL UTILITIES.

