

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
LAHONTAN REGION**

**ADMINISTRATIVE CIVIL LIABILITY ORDER NO. R6T-2008-(PROPOSED)**

**ADMINISTRATIVE CIVIL LIABILITY**

**NORTHSTAR MOUNTAIN PROPERTIES, LLC, FOR ALLEGED VIOLATION OF NPDES GENERAL PERMIT FOR STORM WATER DISCHARGES ASSOCIATED WITH CONSTRUCTION ACTIVITIES, STATE WATER RESOURCES CONTROL BOARD ORDER NO. 99-08-DWQ, ALLEGED VIOLATION OF WATER QUALITY CERTIFICATION ORDER DATED JUNE 9, 2006, ALLEGED VIOLATION OF PROHIBITIONS PRESCRIBED IN THE *WATER QUALITY CONTROL PLAN FOR THE LAHONTAN REGION*, AND ALLEGED VIOLATION OF CLEANUP AND ABATEMENT ORDER NO. R6T-2006-0049**

**FOR THE FOLLOWING PROJECTS:**

**NORTHSTAR VILLAGE, WDID NO. 6A31C325917  
NORTHSTAR INTERCEPT LOTS, WDID NO. 6A31C335494  
NORTHSTAR EMPLOYEE HOUSING, WDID NO. 6A31C335581  
NORTHSTAR DRIVE & BASQUE ROAD INTERSECTION, WDID NO. 6A31C329713  
NORTHSTAR HIGHLANDS DRIVE AND HWY 267 INTERCHANGE, WDID NO. 6A31C333755  
NORTHSTAR HIGHLANDS DRIVE, WDID NO. 6A31C333756  
NORTHSTAR DRIVE ROUNDABOUT, WDID NO. 6A31C333754  
NORTHSTAR HIGHLANDS RESORT HOTEL, WDID NO. 6A31C339910  
NORTHSTAR TRAILSIDE TOWNHOMES, WDID NO. 6A31C339949  
NORTHSTAR SCHAFFER'S CAMP RESTAURANT, WDID NO. 6A31C324687  
NORTHSTAR VILLAGE RUN FILL SITE, WDID NO. 6A31C342716**

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The California Regional Water Quality Control Board, Lahontan Region (Lahontan Water Board) has been presented with a proposed settlement of claims for administrative liability against Northstar Mountain Properties, LLC (hereinafter referred to as NMP). The settlement was developed during negotiations between the Lahontan Water Board's prosecution team and NMP. This Order and the attached Settlement Agreement (Attachment 4) resolve the claims listed in this Order through the payment of an administrative civil liability in the amount of \$2,750,000 (\$2,150,000 of which will be directed to the Supplemental Environmental Project (SEP) described herein).

NMP has represented and warranted that the contributions to the project that would serve as a SEP under this Order are not and were not previously being contemplated, in whole or in part, by NMP, for any purpose other than to partially satisfy NMP's obligations in this Order, and that NMP's contributions to the project that serves as a SEP would not be made in the absence of the enforcement action.

In accepting the proposed settlement, the Lahontan Water Board has considered each of the factors prescribed in California Water Code sections 13327 and 13385, as set out more fully below. The Lahontan Water Board's consideration of these factors is based upon information obtained by the Lahontan Water Board in investigating the claims or otherwise provided to the Lahontan Water Board, including the information and comments received from the public. In addition to these factors, the administrative civil liability recovers the costs incurred by the staff of the Lahontan Water Board in investigating the claims and pursuing enforcement action.

A Notice of Proposed Settlement has been published in the *Sierra Sun* and the *Reno Gazette-Journal*, papers of general circulation in the Truckee, Lake Tahoe and Reno areas, notifying the public of the review period and soliciting public comments on the terms of the settlement. The proposed settlement supports the assessment of administrative civil liability in the amount of \$2,750,000 for the full and final resolution of each of the claims and alleged violations set forth herein, and is in the public interest. The settlement and assessment of administrative civil liability provides for the release and discharge of NMP for all known and unknown storm water program claims and violations for the project areas listed in Finding No. 2, below, prior to December 31, 2007, including all alleged violations set forth in the Violation Summary, the settlement, and this ACL Order.

Having provided public notice of the proposed settlement for public comment the Lahontan Water Board finds:

1. Permit Holder

NMP is the project permit holder for all the projects listed in Finding No. 2, below. NMP is owned, in part, by NMP Holdings, LLC, East West Resort Development V, L.P., L.L.L.P., and HF Holding Corp.

NMP obtained coverage under the NPDES General Permit for Storm Water Discharges Associated with Construction Activities, State Water Resources Control Board Order No. 99-08-DWQ (General Permit) from the State Water Resources Control Board (State Water Board) on various dates for the

projects listed in Finding No. 2, below. NMP, as permit holder, is responsible for constructing all projects in compliance with the General Permit.

2. Projects

NMP is constructing numerous projects at Northstar, Placer County, California. The projects are intended to renovate existing mountain facilities and to develop additional residential areas within Northstar and to provide the necessary infrastructure to serve the same. Eleven specific projects are the subject of this Order, and collectively the eleven facilities are hereinafter referred to as the Projects.

The Projects are all part of a planned development of approximately 325 acres within the existing Northstar resort community. The Projects are located within the central portion of the Martis Valley region, approximately six miles southeast of the Town of Truckee, and approximately five miles northwest of the northern shore of Lake Tahoe.

- A. Northstar Village, WDID No. 6A31C325917. The project consists of: (1) demolishing the previously-existing activity center, gondola building, photo shop, and clock tower buildings; (2) constructing seven mixed-use buildings, two ancillary buildings, ice skating rink, roadway and circulation improvements, off-site intersection improvements, parking facilities, trail systems, and infrastructure improvements; and (3) transporting and depositing fill material in two separate areas. The project site is located on approximately 28 acres at the base of the Northstar-at-Tahoe mountain facilities (Northstar), and south of Northstar Drive and Big Springs Drive. It is located on Placer County Assessor Parcel Nos. 110-080-24, -38, and -42, and 110-250-01 through -07.
- B. Northstar Intercept Lots, WDID No. 6A31C33549. The project consists of constructing a day skier parking lot with 1,200 parking spaces. The project site is on approximately 31 acres of land located west of State Route 267, north of Northstar Drive, near the entrance to Northstar, and approximately six miles from the Town of Truckee. The land is identified by Placer County Assessor Parcel Nos. 110-030-061 and 110-080-015.
- C. Northstar Employee Housing, WDID No. 6A31C335581. The project consists of constructing three employee housing apartment buildings and associated access roads and infrastructure. The project size is six acres.
- D. Northstar Drive & Basque Road Intersection, WDID No. 6A31C329713. The project consists of utility and storm water improvements located at

the intersection of Northstar Drive and Basque Road. The project site is two acres.

- E. Northstar Highlands Drive and Hwy 267 Interchange, WDID No. 6A31C333755. The project consists of pavement widening on State Route 267, realignment, and pavement of an existing dirt road (Northstar Drive), and installation of a traffic signal. The project is located between mile posts 3.7 and 4.0 on State Route 267. The project site is 1.6 acres.
- F. Northstar Highlands Drive, WDID No. 6A31C333756. The project consists of constructing a new road from State Route 267 to the newly-developed Highlands Resort area. The project includes in-stream disturbances, which are subject to a Clean Water Act section 404 permit and Clean Water Act section 401 Water Quality Certification. The project site is 38.6 acres.
- G. Northstar Drive Roundabout, WDID No. 6A31C333754. The project consists of constructing a new roundabout on Northstar Drive located at the intersection with Sawmill Flat Road and the entrance to the Northstar Intercept Lots project. The project site is 1.2 acres.
- H. Northstar Highlands Resort Hotel (Ritz-Carlton Hotel), WDID No. 6A31C339910. The project consists of constructing a hotel structure, associated condominiums, and associated amenities. The project also includes relocation of ski and multipurpose trails. The project site is 24 acres.
- I. Northstar Trailside Townhomes, WDID No. 6A31C339949. The project consists of constructing eight new townhome duplexes and associated access roads and infrastructure. The project site is 4.7 acres.
- J. Northstar Schaffer's Camp Restaurant, WDID No. 6A31C324687. The project consists of constructing a restaurant facility and appurtenant utility installation at the top of a ski lift. The project size is five acres.
- K. Northstar Village Run Fill Site, WDID No. 6A31C342716. The project consists of depositing 150,000 cubic yards of material excavated from surrounding projects to regrade the Village Run ski trail. The ski trail extends from Highlands View Road down to the Northstar Village. The project size is 9.8 acres. It is located on Placer County Assessor Parcel Nos. 110-050-42 and -43.

3. Facts and Alleged Violations

NMP enters into the Settlement Agreement and the ACL Order without the admission or denial of any fact or the adjudication of any issue in this matter. The following represents the facts and alleged violations as they appear in the files of the Lahontan Water Board. NMP submitted Notices of Intent to comply with the terms of the General Permit for each of the listed Projects. The General Permit was adopted by the State Water Board on August 19, 1999, pursuant to Clean Water Act sections 208(b), 301, 302, 303(d), 304, 306, 307, 402, and 403. NMP was granted coverage under the General Permit on varying dates for each of the Projects, and prior to commencing construction on each of the Projects.

The General Permit requires NMP to prepare and implement a Storm Water Pollution Prevention Plan (SWPPP) for the Projects. NMP prepared separate SWPPPs for the Village, Northstar Drive and Basque Road Intersection, Northstar Highlands Drive and Hwy 267 Interchange, and Schaffer's Camp projects. NMP prepared a single SWPPP for the Northstar Intercept Lots, Northstar Employee Housing, Northstar Highlands Drive, and Northstar Drive Roundabout projects. NMP also prepared a single SWPPP for the Northstar Highlands Resort Hotel, Northstar Trailside Townhomes, and Northstar Village Run Fill Site projects.

The Lahontan Water Board issued a Clean Water Act section 401 Water Quality Certification (Water Quality Certification) to NMP for the Northstar Highlands Drive project on June 9, 2006. The Northstar Highlands Drive project is also regulated under State Water Board Order No. 2003-0017-DWQ, "General Waste Discharge Requirements for Dredge and Fill Discharges that have Received State Water Quality Certification," which requires compliance with all conditions of the Water Quality Certification.

Lahontan Water Board staff inspected the Projects on June 15, 2006, July 5, 2006, August 7, 2006, October 5, 2006, and November 14, 2006. Alleged violations of the General Permit, the Water Quality Certification, and the Lahontan Water Board's *Water Quality Control Plan for the Lahontan Region* (Basin Plan) that were documented during those inspections are summarized in the alleged violations summary table provided and incorporated herein as Attachment 1 of this Order.

Lahontan Water Board staff (Eric Taxer and Harold Singer) also met with NMP's staff at the Projects on July 13, 2006, to discuss NMP's noncompliance. NMP was directed to immediately stabilize unauthorized drainage impacts and was directed to maintain adequate supplies and personnel to ensure compliance with the SWPPP and General Permit.

The Lahontan Water Board issued Notices of Violation (NOVs) to NMP on July 13, 2006, August 16, 2006, and August 24, 2006. The NOVs were issued for the General Permit and Basin Plan alleged violations observed during the June 15, 2006, July 5, 2006, and the August 7, 2006, inspections. The NOVs also documented alleged violations that were discovered during the records and file searches associated with each of the inspections. Each NOV required immediate correction of all observed alleged violations in addition to measures deemed appropriate to help ensure long-term compliance. The duration of alleged noncompliance for violations observed during the inspections and communicated to NMP through each NOV is noted in the alleged violations summary table provided as Attachment 1 of this Order.

The Lahontan Water Board issued Cleanup and Abatement Order (CAO) No. R6T-2006-0049 on November 8, 2006, to NMP for seven of the Projects. The CAO was issued to address NMP's alleged continued failure to implement appropriate storm water controls, particularly prior to a November 2-3, 2006, storm water runoff event. The CAO required NMP to clean up the effects of the discharge resulting from the precipitation event, to comply with additional provisions intended to prevent further discharges, and to monitor the potential impacts during future storm water runoff events. CAO alleged violations are also identified in the alleged violations summary table provided as Attachment 1 of this Order.

Precipitation events occurred on January 3-4, 2007 (0.65 inches of precipitation and subsequent snow), and again on February 8-10, 2007 (2.52 inches of precipitation). Alleged violations associated with these storm events are summarized in the alleged violations summary table provided in Attachment 1 of this Order.

Storm water runoff and surface water monitoring conducted during storm events documented increases in sediment and nutrient concentrations in area surface waters from the disturbed and inadequately-protected construction areas. A summary of available monitoring data of storm water runoff impacts to area surface waters from the Projects is provided and incorporated herein as Attachment 2 of this Order.

#### 4. Administrative Civil Liability Authority

The Lahontan Water Board may impose civil liability pursuant to Water Code section 13385, subdivision (a)(2) and subdivision (a)(4). Water Code section 13385, subdivision (a) states:

*Any person who violates any of the following shall be liable civilly in accordance with this section:*

\* \* \*

*(2) Any waste discharge requirements or dredged or fill material permit issued pursuant to this chapter or any water quality certification issued pursuant to Section 13160.*

\* \* \*

*(4) Any order or prohibition issued pursuant to Section 13243 or Article 1 (commencing with Section 13300) of Chapter 5, if the activity subject to the order or prohibition is subject to regulation under this chapter.*

The Lahontan Water Board may also impose civil liability pursuant to Water Code section 13268, subdivision (a)(1). Water Code section 13268, subdivision (a)(1) states:

*Any person failing or refusing to furnish technical or monitoring program reports as required by subdivision (b) of Section 13267, or failing or refusing to furnish a statement of compliance as required by subdivision (b) of Section 13399.2, or falsifying any information provided therein, is guilty of a misdemeanor and may be liable civilly in accordance with subdivision (b).*

The Lahontan Water Board alleges that NMP violated waste discharge requirements prescribed by the General Permit, violated conditions specified by CAO No. R6T-2006-0049, violated waste discharge prohibitions contained in the Lahontan Water Board's Basin Plan adopted pursuant to Water Code section 13243, violated conditions specified in a Clean Water Act section 401 Water Quality Certification, and failed to submit complete technical reports required under Water Code section 13267 as described in Attachment 1 to this Order. The Lahontan Water Board is, therefore, authorized to impose civil liability pursuant to Water Code section 13385, subdivision (a)(2) and subdivision (a)(4), and Water Code section 13268(a)(1).

5. Civil Liability – California Water Code

For the violation of requirements specified in the General Permit, CAO No. R6T-2006-0049, Basin Plan, and Clean Water Act section 401 Water Quality Certification, the Lahontan Water Board may impose civil liability in a maximum amount up to that specified by Water Code section 13385,

subdivision (c). Water Code section 13385, subdivision (c) (emphasis added), states:

*Civil liability may be imposed administratively by the state board or a regional board pursuant to Article 2.5 . . . of Chapter 5 in an amount **not to exceed** the sum of both of the following:*

*(1) Ten thousand dollars (\$10,000) for each day in which the violation occurs.*

*(2) Where there is a discharge, any portion of which is not susceptible to clean up or is not cleaned up, and the volume discharged but not cleaned up exceeds 1,000 gallons, an additional liability not to exceed ten dollars (\$10) multiplied by the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons.*

For the failure to submit technical or monitoring reports required under the authority established by Water Code section 13267, the Lahontan Water Board may impose civil liability in a maximum amount up to that specified by Water Code section 13268, subdivision (b). Water Code section 13268, subdivision (b)(1) (emphasis added), states:

*Civil liability may be administratively imposed by a regional board in accordance with Article 2.5 . . . of Chapter 5 for a violation of subdivision (a) in an amount which **shall not exceed** one thousand dollars (\$1,000) for each day in which the violation occurs.*

In this matter, the **potential maximum** civil liability is \$12,614,000 under Water Code section 13385, subdivision(c) and Water Code section 13268, subdivision (b)(1) for all the Projects listed in Finding No. 2 above for (i) the discharges and threatened discharges of wastes to a tributary of the Truckee River, (ii) failure to comply with orders of the Lahontan Water Board, and (iii) failure to submit complete technical reports as required by the Lahontan Water Board. The maximum liability amount for each project and for each type of violation incurred by that project is documented in the alleged violations summary table provided as Attachment 1 of this Order.

## 6. Factors Affecting the Amount of Civil Liability

Water Code sections 13327 and 13385, subdivision (e) require the Lahontan Water Board to consider enumerated factors when it determines the amount of civil liability pursuant to Water Code sections 13268 and

13385. The Lahontan Water Board considered those factors in determining the amount of administrative civil liability under this ACL Order.

In settlement discussions, NMP set forth a different accounting of the appropriate liability under the factors discussed below, including mitigating circumstances. This accounting resulted in a substantially reduced potential liability under the factors discussed below than the liability amount considered in this Order and associated Settlement Agreement. Nonetheless, NMP has agreed to the liability established by this Order and associated Settlement Agreement.

**A. The nature, circumstances, extent, and gravity of the alleged violations.**

The liability imposed by this Order addresses the alleged violations documented in the alleged violations summary table provided as Attachment 1 of this Order. These alleged violations are associated with construction activities on approximately 325 acres of property under development by NMP over a period of four years. Generally, NMP's alleged violations relate to the control of storm water discharges and resulted from a failure to comply fully with applicable permits, water quality certifications, orders issued by the Lahontan Water Board, Basin Plan prohibitions, and orders for technical reports. The number and frequency of alleged storm water violations that occurred on the Projects were extensive and had the potential to cause significant adverse impacts to the Martis Creek watershed. However, significant adverse impacts as a result of the alleged violations, such as fish mortality, were not realized due to minimal precipitation events during the periods of alleged violation.

The Water Board considers the identified beneficial uses of the waters in question when evaluating the gravity of discharges or threatened discharges. Beneficial uses of the waters that received discharges or were threatened by discharges include water contact and non-water contact recreation, commercial and sport fishing, municipal and domestic supply, cold freshwater habitat, wildlife habitat, spawning/reproduction/development, and rare/threatened/endangered species. Increased sediment discharges to surface waters in the Martis Creek watershed have the ability to adversely affect all of these beneficial uses.

Beginning in the 2004 construction season, Lahontan Water Board staff observed and documented numerous alleged SWPPP-related violations associated with the Northstar Village project as set forth in Finding 6G below. Lahontan Water Board staff worked closely with

NMP prior to and throughout the 2005 construction season to provide education and support on means to comply with the General Permit and the SWPPP. The result was improved compliance during the 2005 construction season.

NMP significantly increased the magnitude of construction area and activity in 2006, but did not effectively implement the necessary SWPPP and General Permit compliance measures as compared to the previous two construction seasons. Non-compliance during the 2006 construction season resulted in the alleged violations documented in the alleged violations summary table provided as Attachment 1 to this Order.

The Lahontan Water Board's Executive Officer met onsite with NMP on July 13, 2006, and reiterated the findings of his staff, required immediate correction of all noted deficiencies, and required NMP to comply with all program requirements for the remainder of the construction season in order to be prepared for the onset of any possible storm water runoff events.

NMP's alleged continued ineffective performance and failure to comply with the General Permit and the CAO, including lack of proper winterization, resulted in sediment discharges into area surface waters during storm water runoff events on October 5, 2006, November 8, 2006, January 3-4, 2007, and February 8-10, 2007. These alleged unauthorized discharges also resulted in adverse in-stream impacts at several locations throughout the Projects, though no significant impacts (such as fish mortality) were realized. (See summary of monitoring data, provided as Attachment 2 of this Order.)

The unstable site conditions also resulted in creating a condition of threatened discharges during periods of snowmelt runoff, though these alleged violations were less serious than they could have been given a light snow and precipitation year during the 2006-2007 winter. In response to Lahontan Water Board's direction to come into compliance, NMP to its credit dedicated significant financial and personnel resources to implement the necessary activities to bring the construction sites into compliance as directed. According to NMP, it realized after the fact that the personnel that it originally directed to bring the construction sites into compliance lacked the experience necessary to achieve compliance.

The violation of reporting and implementation requirements of a Water Board CAO is serious because CAOs are intended to prevent future or ongoing impacts from unauthorized discharges. Again, the violation of CAO reporting and implementation requirements resulted in minimal

impacts due to relatively few precipitation events during the winter 2006-2007 and this mitigates against the potential maximum liability under the Water Code.

Following receipt of the CAO in November 2006, NMP reports that its management initiated an internal cultural change within the organization and engaged an expert SWPPP consulting team to assist with the design and implementation of this change. Through extensive training, implementation and monitoring efforts, NMP was able to achieve a zero-violation goal for 2007. This turnaround demonstrates NMP's commitment to compliance with its water quality obligations and mitigates the extent, gravity and seriousness of the alleged 2006 violations.

**B. Whether discharge is susceptible to cleanup or abatement.**

For the most part, the alleged violations represented threatened, not actual, discharges of sediments and waste materials to surface waters. The alleged violations were not completely corrected until the beginning of the 2007 construction season.

There were instances of sediment discharge to area surface waters during the October 2006, November 2006, January 2007, and February 2007 storm water runoff events. These discharges are not susceptible to cleanup, though some clean up efforts were implemented by NMP prior to some of these events in response to the November 2006 CAO.

There are four instances of unauthorized flood plain disturbance (fill material, regrading, etc.): the Intercept Lot flood plain crossing, Highlands View Drive Station 50+00 crossing of an unnamed drainage, Highlands View Drive Station 104+00 (West Martis Creek crossing), and Highlands View Drive Station 144+00 (West Fork West Martis Creek crossing). These areas are susceptible to cleanup and to abatement through efforts designed to remove excess waste earthen materials from the drainages and/or stabilize the disturbed drainage areas. Except for the Highlands View Drive Station 50+00, such activities have not been implemented. Abatement efforts are planned to be implemented at the West Martis Creek Crossing and at the West Fork West Martis Creek crossing during summer, 2008. Abatement plans have not yet been finalized for the Intercept Lot flood plain crossing.

**C. The degree of toxicity of the discharge.**

Many of the alleged violations were permit violations that, for the most part, resulted in threatened, not actual, discharges of waste and waste earthen materials to surface waters. In situations where the threatened discharges did not occur, the toxicity analysis is not applicable.

The times when an unauthorized discharge did occur, the water samples collected during the storm water runoff events were not analyzed for toxicity. Accordingly, the toxicity of the discharge is unknown.

**D. Ability to pay**

The liability imposed by this Order represents a settlement with NMP. NMP asserts that it has the ability to pay the proposed liability

**E. The effect on NMP's ability to continue its business.**

The liability imposed by this Order represents a settlement with NMP, and the proposed liability will not prevent NMP from continuing in business.

**F. Any voluntary cleanup efforts undertaken by the violator.**

In response to extensive communications with Water Board staff, NMP dedicated substantial resources to water quality compliance in 2006. However, NMP reports that inexperienced NMP staff and poor internal NMP communication reduced the effectiveness of its cleanup efforts.

**G. Prior history of violations.**

For the Northstar Village project, 11 violations were documented in 2004 (failure to obtain a permit and permit conditions), and 13 violations were documented in 2005 (permit conditions, SWPPP/BMP violations, and Basin Plan prohibitions violations). For the Northstar Schaffer's Camp project, several additional violations were observed in 2004. Enforcement actions were issued to NMP in response to documented violations relating to soil tracking, inadequate stockpile management, breach of ESA fencing and pine needle berming, inadequate personnel training regarding water quality

protection and SWPPP implementation, and failure to properly implement the SWPPP and BMPs. Initial enforcement actions consisted of verbal warnings, and subsequent enforcement actions were elevated to written notices of violation, orders for information pursuant to Water Code section 13267, and a Cleanup and Abatement Order pursuant to Water Code section 13304.

**H. Degree of culpability.**

NMP oversees all contracts for project construction and is the permit holder for the project. NMP, as permit holder, is directly responsible for project activities, including those of its contractors, and the impacts associated with such activities. NMP is responsible for its initial failures to ensure its contractors' activities protected water quality as required by the General Permit, the Water Quality Certification, and the Basin Plan. NMP is also responsible for the history of continued noncompliance in the face of escalating enforcement actions.

**I. Economic benefit or savings resulting from the alleged violations.**

The amount of economic savings resulting from the failure to implement or manage required controls is not known. Savings included, but are not limited to: costs associated with purchasing the additional stormwater management and erosion control materials necessary to provide adequate storm water runoff protection, costs of training contractors to properly implement the additional storm water runoff protection measures, and labor costs for implementing and maintaining those materials and structures. NMP expended extensive financial and personnel resources on BMPs and compliance during the 2006 season. However, these efforts were often after direction from the Water Board or were ineffective. As described above, far more effective measures were implemented in 2007. The likely cost savings from delayed implementation (measures that were implemented in 2007 that should have been implemented in 2006) are not significant and are believed to be far less than the total amount of the liability imposed by this Order.

**J. Other matters as justice may require.**

Estimated staff costs for investigation, enforcement, enforcement follow up and preparation of this Order are \$145,450.

NMP began to implement organizational changes in July 2006 to elevate the priority of its stormwater permit compliance program. The organizational changes occurred too late in the season to result in effective stormwater permit compliance prior to the onset of the 2006/2007 winter season. Additional organizational changes were implemented during the 2006/2007 winter season, and as a result NMP completed its 2007 construction season without violating permit conditions and Basin Plan prohibitions. This represents a significant turnaround from previous experience and resulting water quality impacts and is a significant factor warranting a reduction in the overall potential liability imposed in this ACL Order.

Furthermore, NMP has worked cooperatively with the Lahontan Prosecution Team to develop a comprehensive and significant and valuable supplemental environmental project primarily for the benefit of the affected watershed in the Martis Valley.

7. Supplemental Environmental Project

NMP, as a part of the Settlement Agreement, has proposed that a portion of the liability (\$2,150,000) be directed to the development and construction of the components outlined in the "Northstar Mountain Properties Supplemental Environmental Project, Waddle Ranch Watershed Improvement Program" (SEP), provided in Attachment 3, which is made a part of this Order. This SEP consists of implementing restoration efforts and watershed improvements within the Waddle Ranch property. The Waddle Ranch is located in the Martis Valley, Eastern Placer County, and was recently acquired by the Truckee Donner Land Trust to establish a conservation easement. The SEP also includes two products that will address two specific critical gaps in watershed and forestry management: (1) the "Watershed Evaluation, Treatment and Monitoring Guidance Document", and (2) the "Fuels Treatment/Water Quality Protection Guideline Program".

The aforementioned products and every report, map, study, photograph, computer model, computer disk and other documents prepared by NMP as a component or product of the SEP and provided to the Lahontan Water Board (Deliverables or Deliverable) shall be the property of the Lahontan Water Board. Discharger shall be deemed to transfer to the Lahontan Water Board all right, title and interest in the Deliverables. To the extent any Deliverable constitutes a copyrightable work; Discharger agrees that the Lahontan Water Board is the owner of all right, title and interest in the Deliverable. The Lahontan Water Board shall have the nonexclusive, royalty free, worldwide, perpetual right to use, reproduce, publish, display, broadcast, transmit, exhibit, distribute and exploit any Deliverable and to

prepare derivative and additional documents or works based on any Deliverable.

As a component of this settlement, NMP will provide \$2,150,000 to fund the SEP. To implement this requirement, NMP will establish an interest-bearing account or other impoundment account (SEP Fund) satisfactory to the Executive Officer that must include the following conditions as a requirement for a payment of funds from the account:

- a. funds must only be used by the recipient(s) for the SEP as provided in Attachment 3, or for an alternative supplemental environmental project(s) (Alternative SEP) as provided for in Order No. 3b below, and cannot be used to pay for the independent third party oversight discussed in Finding No. 9.
- b. any interest paid on the SEP Fund will be applied towards NMP's obligations for future payments to the SEP Fund under the schedule set forth in Order No. 3a below to be used towards the SEP or Alternative SEP, or paid to the State Water Board Cleanup and Abatement Account and the State Water Board Waste Discharge Permit Fund as discussed in Order Nos. 3b and 3e below.

#### 8. SEP Criteria

The SEP meets the criteria established by the State Water Board in its *Water Quality Enforcement Policy*, dated February 19, 2002, in that it (1) consists of measures that go above and beyond the current and future obligation of NMP; (2) will directly benefit surface water quality and associated beneficial uses by identifying pollutant sources through a watershed assessment for impacts associated with past development practices, and implementing corresponding public awareness projects and corresponding watershed restoration projects addressing the identified pollutant sources; (3) will not directly benefit the Water Board functions or staff; and (4) is not otherwise required of NMP.

The SEP also has a nexus with the alleged violations in that it (1) provides a watershed assessment and watershed improvements and restoration in an area immediately adjacent to and down gradient from NMP's Projects, and (2) provides a community educational element through the development of guidance documents that will assist other land managers to understand the technical nature of erosion potential.

Whenever NMP, its subsidiaries, corporate parents, affiliates, successors, heirs, assigns, officers, directors, partners, employees, representative agents, subcontractors, attorneys, or any fiscal agent holding SEP funds, publicizes the SEP or an Alternative SEP, it shall state in a prominent manner that the SEP is being undertaken as part of the settlement of an enforcement action.

9. Independent Third Party Review and Financial Audit of SEP

NMP agrees to contract with an independent third party to audit implementation of the SEP or Alternative SEP and report to the Lahontan Water Board. The independent third party will track SEP progress, verify completion and audit expenditures from the trust account or other impoundment account established to fund the SEP, and will submit the following reports to the Lahontan Water Board:

- a. quarterly SEP progress reports;
- b. annual expenditure reports;
- c. a final report certifying completion of the SEP; and
- d. a post-project accounting of all expenditures.

The costs of this third party oversight are in addition to the \$2,150,000 that NMP is required to contribute to fund the SEP and shall not be paid out of the SEP Fund or be credited toward NMP's obligation to fund the SEP.

10. NMP's Waiver of Right to Petition

NMP agrees that if the Lahontan Water Board approves this Administrative Civil Liability Order as specified herein, as part of the settlement, including attachments, NMP will not petition the State Water Board or otherwise challenge this Order. NMP understands that failure to comply with the SEP Fund distribution schedule specified below by **January 31, 2013**, or as modified by the Executive Officer of the Lahontan Water Board or the Lahontan Water Board as provided in the Settlement Agreement, will result in NMP having to pay the suspended portion (\$2,150,000) of liability imposed by this Order (less any amount that has been paid by NMP to the SEP Fund, including interest earned thereon, or directly to the State Water Resources Control Board's Cleanup and Abatement Account or the Waste Discharge Permit Fund or appropriately distributed from the SEP Fund prior to that date) to the State Water Board Cleanup and Abatement Account (80%) and the State Water Board Waste Discharge Permit Fund (20%) within 30 days of the relevant compliance date. As NMP pays into the SEP Fund or the Cleanup and Abatement Account or the Permit Fund, that

portion of the liability under this Order shall be completely discharged. The remaining liability shall remain suspended until payment by NMP into the SEP Fund or as otherwise provided in this Order.

11. Notification of Interested Parties

The Lahontan Water Board notified NMP and interested parties of its intent to consider the proposed settlement during its meeting of **July 23-24, 2008**. The Lahontan Water Board, in a public meeting, heard and considered all comments related to the proposed settlement.

12. Other Parties' Right to Petition

Any aggrieved person may petition the State Water Board to review the action in accordance with Water Code section 13320 and the State Water Board's regulations. The petition must be received by the State Water Board within 30 days of the date of this Order. Copies of the law and regulations applicable to filing petitions are available at <http://www.waterboards.ca.gov/wqpetitions/index.html> and will also be provided by the Lahontan Water Board upon request.

13. California Environmental Quality Act

This enforcement action is being taken by the Lahontan Water Board to enforce provisions of the Water Code and, as such, is exempt from the provisions of the California Environmental Quality Act (Public Resources Code section 21000 et seq.) in accordance with California Code of Regulations, Title 14, section 15321.

**IT IS HEREBY ORDERED THAT:**

1. The Lahontan Water Board imposes administrative civil liability against NMP in the amount of \$2,750,000.
2. NMP must provide payment in the amount of \$600,000 to the State Water Board to be distributed between the State Water Resources Control Board's Cleanup and Abatement Account (\$480,000) and the Waste Discharge Permit Fund (\$120,000). An initial installment of \$240,000 paid to the Cleanup and Abatement Account and \$60,000 paid to the Waste Discharge Fund must be made **within 10 calendar days** of receiving written notice from the Lahontan Water Board that the State Water Board has not received any petitions for this Order within the time provided in Water Code section

13320 (30 days) and that no judicial challenge has been made within the time provided in Water Code section 13330, or that such challenges were received, but all claims contained therein have been resolved in favor of the Lahontan Water Board such that the ACL Order remains unchanged. NMP must make additional payments of \$240,000 to the Cleanup and Abatement Account and \$60,000 to the Waste Discharge Permit Fund. This second payment is due to the Lahontan Water Board **by close of business (5:00 p.m.) one year from the time for the first payment set forth above.**

3. The remaining \$2,150,000 will be directed to the SEP as specified below in this Order.
  - a. NMP will make quarterly payments over five years in the amounts specified below by the dates set forth therein, into the SEP Fund established as described in Finding No. 7. The SEP Fund must include the success criteria described in Finding No. 7 as a condition of payment of funds from the account. The details regarding establishing the account, maintaining the account and releasing funds from the account must be agreeable to the Lahontan Water Board Executive Officer and conform to the State Water Resources Control Board's *Water Quality Enforcement Policy, 2002*. The payments are due and payable according to the following schedule:
    - i. \$200,000 total for the year 2008.
      1. \$100,000 **within 10 calendar days** of receiving written notice from the Lahontan Water Board that the State Water Board has not received any petitions for this Order within the time provided in Water Code section 13320 (30 days) and that no judicial challenge has been made within the time provided in Water Code section 13330, or that such challenges were received, but all claims contained therein have been resolved in favor of the Lahontan Water Board such that the ACL Order remains unchanged; and
      2. \$100,000 by December 31, 2008.
    - ii. \$200,000 total for the year 2009.
      1. \$50,000 by March 31, 2009;
      2. \$50,000 by June 30, 2009;
      3. \$50,000 by September 30, 2009; and
      4. \$50,000 by December 31, 2009.
    - iii. \$500,000 total for the year 2010.
      1. \$125,000 by March 31, 2010;
      2. \$125,000 by June 30, 2010;
      3. \$125,000 by September 30, 2010; and
      4. \$125,000 by December 31, 2010.

- iv. \$600,000 total for the year 2011.
  - 1. \$150,000 by March 31, 2011;
  - 2. \$150,000 by June 30, 2011;
  - 3. \$150,000 by September 30, 2011; and
  - 4. \$150,000 by December 31, 2011.
  
- v. \$650,000 total by December 31, 2012.
  - 1. \$162,500 by March 31, 2012;
  - 2. \$162,500 by June 30, 2012;
  - 3. \$162,500 by September 30, 2012; and
  - 4. \$162,500 by December 31, 2012.

NMP agrees to make quarterly payments into the SEP Fund. NMP may, in its sole discretion, make pre-payments into the SEP Fund provided that the total payments into the SEP Fund meet or exceed the total payment required by the dates noted above. NMP must submit to the Lahontan Water Board's South Lake Tahoe office, written documentation that the above-referenced payments have been made by **January 15th** for the payments for the previous year. The Lahontan Water Board acknowledges that NMP has spent money allocated towards the SEP in the Spring of 2008 to capture peak stream flows at the top and the bottom of the proposed SEP site in the Martis Valley, which was necessary to set a baseline water quality measurement for 2008. The Lahontan Water Board recognizes that this early 2008 peak flow monitoring was essential to the SEP because it establishes a means to measure the effectiveness of the SEP. Lahontan agrees that NMP shall be reimbursed from the SEP Fund, not to exceed \$15,000, upon submission of invoices for said work, once NMP makes its initial 2008 payment to the SEP Fund. NMP shall also have the right, exercisable within its sole discretion, to contract for services due under the SEP on a time and materials basis or a fixed fee.

- b. If the Lahontan Water Board's Executive Officer, or his delegate, and NMP agree that the SEP will not proceed for reasons beyond NMP's control, they shall meet and confer to agree upon an alternative supplemental environmental project(s) for recommendation to the Lahontan Water Board for acceptance. Funds deposited into the SEP Fund per the schedule above will be devoted to the Alternative SEP. In the event that no Alternative SEP can be agreed upon by the parties and/or accepted by the Lahontan Water Board within one (1) year of the parties agreeing that the SEP is not viable, then funds in the SEP Fund and any remaining amount required to bring the total ACL payment to \$2,750,000 will be deposited into the State Water Board Cleanup and Abatement Account (80%) and the State Water Board Waste Discharge Permit Fund (20%) within 30 days of written notice by the Executive Officer to NMP of impasse. All payments under the ACL Order,

including payments to the SEP Fund and cash payments to the Cleanup and Abatement Account and the Permit Fund, shall be considered towards the \$2,750,000 payment. In no event shall NMP's total payments exceed \$2,750,000 with no more than \$2,150,000 allocated towards the SEP Fund and no more than \$600,000 to the Cleanup and Abatement Account and the Permit Fund.

- c. If NMP fails to perform the SEP in accordance with the specific terms and conditions, including the time schedule, detailed in Attachment 3 for any reason within the reasonable control of NMP or its agents then the remaining balance due under the Administrative Civil Liability amount of \$2,750,000 will become due and payable by NMP to the State Water Board Cleanup and Abatement Account (80%) and the State Water Board Waste Discharge Permit Fund (20%) (or other fund(s) that the applicable California Water Codes directs payment to at the time) within 30 days of the relevant compliance date, unless the Lahontan Water Board Executive Officer finds that NMP's failure to comply within SEP compliance dates was for good cause. The Lahontan Water Board shall provide notice to NMP and a reasonable opportunity to cure (no less than 60 days) any perceived violation of this ACL Order or the Settlement. Upon written request from NMP, the Executive Officer may approve a reasonable extension of time to comply with the specific terms and conditions of the SEP, which approval shall not be unreasonably withheld. Any payments by NMP under the ACL Order towards the SEP Fund or the Cleanup and Abatement Account and the Permit Fund shall discharge the suspended portion of the ACL Order liability to the extent of the payment and shall reduce the total suspended portion of ACL liability by the amount of the payment. In no event shall NMP's total payments under this ACL Order exceed \$2,750,000 with no more than \$2,150,000 allocated towards the SEP Fund and no more than \$600,000 allocated towards the Cleanup and Abatement Account and the Permit Fund.
- d. All SEP Fund monies shall be distributed before January 31, 2013, unless the schedule for the SEP is extended as provided below. Any funds remaining in the SEP Fund as of January 31, 2013, or the time for completion of the SEP as extended below, will be paid to the State Water Board's Cleanup and Abatement Account (80%) and the State Water Board's Waste Discharge Permit Fund (20%) (or other fund(s) that the applicable California Water Codes directs payment to at the time) within sixty days. NMP may make a written request to the Executive Director to extend any SEP deadline by up to one year for good cause. The Executive Director may approve extensions of the SEP of up to one year, which approval shall not be unreasonably withheld. The Lahontan Water Board may in its discretion approve an

extension of more than one year for implementation of the SEP, if requested in writing by NMP.

- e. Any interest paid into the SEP Fund will be allocated to the SEP, Alternative SEP, or otherwise allocated to the State Water Board Cleanup and Abatement Account and the State Water Board Waste Discharge Permit Fund as specified in Order Nos. 3b or 3c, above and shall be applied towards NMP's payments owing to the SEP Fund and shall decrease NMP's future payments owing to the SEP Fund.
4. This Order settles all claims and liability for the alleged violations documented in the violations summary table provided in Attachment 1 of this Order and all unsuspected or unknown storm water program claims or violations for the project sites listed in Finding No. 2 of this Order that exist or may exist as of December 31, 2007. The Order does not settle any claims that the Lahontan Water Board may have for unknown non-storm water program violations prior to December 31, 2007, and the Lahontan Water Board retains authority to enforce any and all prospective violations.
  5. If NMP fails to provide liability or SEP payments by the dates specified in Order Nos. 2 and/or 3a through 3c, then any remaining amount required to bring the total Administrative Civil Liability amount to \$2,750,000 will become due and payable by NMP to the State Water Board Cleanup and Abatement Account (80%) and the State Water Board Waste Discharge Permit Fund (20%) (or other fund(s) that the applicable California Water Codes directs payment to at the time) within 30 days of the relevant compliance date, unless NMP is relieved from the relevant compliance date in writing by the Lahontan Water Board Executive Officer based on a finding that NMP's failure to comply within the prescribed timeframe was for good cause. NMP may make a written request to the Executive Officer to extend any SEP deadline by up to one year to accommodate minor changes or good cause for delay, which request shall not be unreasonably withheld. The Lahontan Water Board may in its discretion approve an extension of more than one year for a SEP deadline or major changes to the SEP, if requested in writing by NMP. The Lahontan Water Board shall provide notice to NMP and a reasonable opportunity to cure (no less than 60 days) any perceived violation of this ACL Order or the Settlement. NMP shall receive credit for any payments made to the SEP Fund or otherwise in payment of the liability hereunder towards the Cleanup and Abatement Account or the Permit Fund. In no event shall NMP's total payment exceed \$2,750,000 with no more than \$2,150,000 allocated towards the SEP Fund and no more than \$600,000 allocated towards the Cleanup and Abatement Account and the Permit Fund.

6. If NMP fails to make the specified payments to the State Water Board Cleanup and Abatement Account, the State Water Board Waste Discharge Permit Fund, or to the approved SEP Fund within the time limits specified in this Order, the Lahontan Water Board may enforce this Order as it sees fit, including application for a judgment pursuant to Water Code section 13328. The Lahontan Water Board's Executive Officer is hereby authorized to pursue a judgment pursuant to Water Code section 13328 if the criteria specified in this paragraph are satisfied, or to take whatever action he or she deems necessary. Provided, however, that the Lahontan Water Board shall provide notice to NMP and a reasonable opportunity to cure (no less than 60 days) any perceived violation of this ACL Order or the Settlement before taking any enforcement action hereunder.

I, Harold J. Singer, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Lahontan Region, on July 23, 2008.

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HAROLD J. SINGER  
EXECUTIVE OFFICER

Attachment 1: Alleged Violations and Penalty Summary Table

Attachment 2: Monitoring Data of Projects Storm Water Runoff Impacts to Area Surface Waters

Attachment 3: Supplemental Environmental Project Proposal

Attachment 4: Settlement Agreement

## **ATTACHMENT 1**

### **Alleged Violations and Penalty Summary Table**

| ALLEGED PERMIT VIOLATIONS  |   |   |   |  |   |
|--|---|---|---|--|---|
| Failure to install and maintain BMPs. Maximum penalty of \$10,000 per day, WC Section 13385  | Failure to conduct and record daily site inspections and pre-storm inspections. Maximum penalty of \$10,000 per day, WC Section 13385   | Failure to conduct storm water sampling. Maximum penalty of \$10,000 per day, WC Section 13385  | Discharge of sediment laden storm water to surface waters (Order No. A3 of the General Permit, pollution or threatened pollution). Maximum penalty of \$10,000 per day, WC Section 13385  | Creating a condition of Pollution or Threatened Pollution. Maximum penalty of \$10,000 per day, WC Section 13385 |   |
| VILLAGE AT NORTHSTAR - WDID NO. 6A31C325917  |   |   |   |  |   |
| DAYS:  | 11  | 61  | 1   | 3  | 0 |
| <p><b>June 15-17, 2006 (3 days).</b> Failure to install adequate drop inlet protection pursuant to section XI.F of the SWPPP. Reference: Water Board's June 15, 2006, inspection report.</p> <p><b>August 8-10, &amp; 21-23, 2006 (6 days).</b> Failure to correct identified BMP deficiencies within 24 hours pursuant to Amendment 8 of the SWPPP. Reference: (1) Discharger's August 7 &amp; 8, 2006, self inspection reports note drop inlet BMP delays in H Plaza and Upper H Plaza. (2) Discharger's August 19, 2006, self inspection report documents delays installing silt fence at teh Phase III entrance, protecting stockpiles below the gondola and above the work site, installing filter fabric in all 6-inch drains, and reinstalling wattles around the grand staircase.</p> <p><b>November 1-2, 2006 (2 days).</b> Failure to correct BMP deficiencies prior to storm events, pursuant to Amendment 8 of the SWPPP. Reference: Discharger's November 1 and 2, 2006, self inspection reports provide to its contractors 24-hours to implement site cleanup, change fabric in drains, and install plastic and berm around a mixing station. However the Discharger's November 10, 2006, electronic mail to Water Board staff documents total rainfall of 1.28 inches during this period, with rainfall predicted to occur on November 1 and 2, 2006.</p> | <p><b>May 4 through July 16, 2006, excluding days noted below (61 days).</b> Failure to conduct and record daily site inspections pursuant to Section IX.D of the SWPPP (inspections prior, after, and 24-hour intervals during storm events), pursuant to Amendment No. 19 of the SWPPP (requires daily site inspections), and pursuant to Amendment No. 26 to the SWPPP (requires daily BMP inspections in the form of daily notes). Reference: (1) Discharger's July 16, 2006 letter documents inspections conducted only on May 3, 8, 25, and June 15, 2006 (<b>40 days</b>). (2) Discharger's August 2, 2006 letter documents failure to document (and possibly failure to conduct) self inspections from June 16 through (and including) July 18, 2006 (<b>33 days</b>). Includes failure to conduct pre-storm inspections for storms predicted the week of June 5, and on June 14, 2006. (3) Discharger's November 6, 2007 submittal documents inspections completed on May 3,8,25,26, June 15,16,26,27,28, and July 12, 17, 18, 2007. Submittal documents inspections not needed on June 18, July 2, and July 4 due to no work conducted.</p> | <p><b>November 1-3, 2006, storm event (1 day).</b> Failure to conduct storm water runoff water quality monitoring for a single runoff event that produced 1.28 inches of rainfall, pursuant to Section IX.B of the SWPPP. Reference: Discharger's November 10, 2006 electronic mail to Water Board staff documenting the precipitation event.</p> | <p><b>January 4, February 9 &amp;10, 2007 (3 days).</b> Discharge of sediment and nutrient-laden storm water runoff into the West Fork West Martis Creek from the project site. Reference: (1) Discharger's water quality data collected January 4, 2007, between 11:40 a.m. and 12:05 p.m. (data collected approximately 18 hours after storm commenced on January 3, 2007); (2) Discharger's water quality data collected February 9, 2007, between 3:15 p.m. and 3:45 p.m.; (3) Discharger's water quality data collected February 10, 2007, between 11:15 a.m. and 11:45 a.m.; and (4) Discharger's water quality data collected February 10, 2007, between 3:45 p.m. and 4:15 p.m.</p> | This violation is already noted in the discharge of sediment-laden storm water discharge section.                |   |

| ALLEGED 401 WQC VIOLATIONS   | ALLEGED BASIN PLAN VIOLATIONS  |  |
|--|--|--|
| Failure to comply with 401 Conditions. Maximum penalty of \$10,000 per day, WC Section 13385 | Discharge of wastes to surface waters of the Truckee River HU. Maximum penalty of \$10,000 per day, WC Section 13385 | Discharge (or threatened) of waste to lands within the 100-year floodplain of the Truckee River and tributaries. Maximum penalty of \$10,000 per day, WC Section 13385 |
| <b>VILLAGE AT NORTHSTAR - WDID NO. 6A31C325917</b>   |  |  |
| 0  | 0  | 0  |
|  | Sediment and nutrient-laden discharges already considered in permit violations section.                              | Failure to adequately install an maintain BMPs creates a threatened discharge, but are already considered in permit violation section.                                 |

| ALLEGED CLEANUP AND ABATEMENT ORDER VIOLATIONS  |  |  |   | PENALTY    |                  |
|---|--|--|---|------------|------------------|
| Violation of terms of Order No. 1: Failure to designate a single qualified individual. Maximum penalty of \$10,000 per day, WC Section 13385  | Violation of terms of Order No. 2: Failure to winterize by November 9, 2006. Maximum penalty of \$10,000 per day, WC Section 13385 | Violation of terms of Order No. 3: Failure to document winterization activities. Maximum penalty of \$1000 per day, WC Section 13268   | Violation of terms of Order No. 4: Failure to submit an adequate site monitoring plan. Maximum penalty of \$1000 per day, WC Section 13268  | TOTAL DAYS | PENALTY PER SITE |
| <b>VILLAGE AT NORTHSTAR - WDID NO. 6A31C325917</b>  |  |  |   |            |                  |
| 13  | 0  | 42   | 35  | 166        | \$967,000.00     |
| November 8, 2006 CAO required immediate response. Discharger submitted inadequate response on November 22, 2006 identifying 9 individuals instead of one individual. Water Board staff deemed the response inadequate in a letter dated February 26, 2007. Adequate response was not submitted until March 13, 2007 - 124 days after the CAO was issued. <b>Days of violation are 13 days, assuming a corrected response should have been submitted immediately by February 28th.</b> | The Discharger submitted information on November 6, 2007, verifying the site was fully winterized by the due date.                 | The Discharger submitted a deficient report on November 14, 2006. The report was deficient because it did not fully document winterization measures installed in all disturbed areas, it did not provide a chronology of BMPs installed after October 28th, and it identified several disturbed areas to be mulched in the spring of 2007 without specifying the temporary winterization measures to be installed for the interim period. Water Board did not identify the report as deficient until March 7, 2007. The Discharger never re-submitted the report. Assuming a reasonable re-submittal date of March 21, and assuming a May 1st date when such a report no longer is necessary, the violation period would be 42 days. | The Discharger submitted a monitoring plan on time on November 17, 2006, but it was deficient. Water Board staff declared it was deficient in a letter dated February 22, 2007, because no monitoring points for storm water run-on into the Village Core area were identified, nor were any monitoring points identified for storm water run-on into the existing parking area where construction staging existed. The Discharger submitted a revised and adequate plan on April 12, 2007. Assume that the Discharger should have been able to resubmit a revised plan 2 weeks from the date of the Water Board letter, violation period from March 8 until April 12 is 35 days. |            |                  |

| ALLEGED PERMIT VIOLATIONS   |   |  |  |  |
|---|---|--|--|--|
| Failure to install and maintain BMPs. Maximum penalty of \$10,000 per day, WC Section 13385 | Failure to conduct and record daily site inspections and pre-storm inspections. Maximum penalty of \$10,000 per day, WC Section 13385 | Failure to conduct storm water sampling. Maximum penalty of \$10,000 per day, WC Section 13385 | Discharge of sediment laden storm water to surface waters (Order No. A3 of the General Permit, pollution or threatened pollution). Maximum penalty of \$10,000 per day, WC Section 13385 | Creating a condition of Pollution or Threatened Pollution. Maximum penalty of \$10,000 per day, WC Section 13385 |

**INTERCEPT LOTS - WDID NO. 6A31C335494**

| DAYS:   | 148   | 39  | 1   | 1   | 0 |
|---|---|---|---|---|---|
| <p><b>June 15-July 5, 2006 (21 days).</b> (1) Failure to install BMPs and then installing inappropriate BMPs to protect the Class III drainage pursuant to the SWPPP (2) Failure to install adequate silt fence protection BMPs pursuant to the SWPPP. References: (1) Water Board's report of its June 15, 2006, site inspection; (2) Discharger's June 17 and 20, 2006, electronic mails to Water Board staff documenting completed work; (3) Water Board's report of its July 5, 2006, site inspection; (4) Discharger's August 31, 2006, electronic mail to Water Board staff documenting additional completed work.</p> <p><b>May 17 through July 5, 2006 (29 additional days from what is noted above).</b> Failure to install protective fencing for environmentally-sensitive areas as required by the SWPPP. References are the same as noted above.</p> <p><b>June 15, and June 29 through July 5, and August 5 through 7, 2006 (3 additional days from what is noted above).</b> Failure to install adequate stockpile protection as required by the SWPPP. References: (1) same as those noted above;</p> <p>(2) Water Board's report of its August 7, 2006 inspection; (3) Discharger's August 25, 2006, electronic mail to Water Board staff documenting that stockpiles were unprotected on August 5th; (4) Discharger's August 31, 2006 response to Water Board's NOV; (5) Discharger's September 8, 2006 electronic mail to Water Board staff documenting completed items.</p> <p><b>June 15 and 20, and July 15, 2006 (no additional days than noted above).</b> Failure to adequately install fiber foll BMPs in accordance with the SWPPP. Reference: (1) Water Board's reports for June 15 and July 5, 2006, inspections; (2) Discharger's June 20, 2006 self inspection report submitted on July 6, 2006.</p> <p><b>June 20 and July 5, 2006 (no additional days than noted above).</b> Failure to install adequate drain inlet protection pursuant to the SWPPP. References: (1) Discharger's June 20, 2006 self inspection report submitted on July 6, 2006; (2) Water Board's report of its July 5, 2006, site inspection.</p> <p><b>August 7, 2006 (no additional days than noted above).</b> Failure to install internall controls in accordance with the SWPPP, as amended. Reference: Water Board's report of its August 7, 2006 inspection.</p> <p><b>November 1 through 3, 2006 (3 additional days of violation).</b> Failure to repair deficient BMPs prior to, and during, a forecasted rain event. Reference: Discharger's November 1, 2, and 3, 2006, self inspection reports that were submitted to the Water Board on November 8, 2006. The reports indicate continued winterization tasks (tackifier, wattle placement, repairing silt fences, stabilization of unprotected slopes, outlet protection, stabilization of unpaved parking areas) being completed. It is noted that the SWPPP requires tackifier to be placed a minimum of 24 hours prior to rainfall, not during.</p> <p><b>August 7 through November 11, 2006 (92 additional days of violation).</b> Failure to schedule appropriate quantities of earth-moving activities as required by Appendix D.18 of the SWPPP. The Discharger initiated Phase II of the parking lot and was unable to stabilize the area prior to onset of winter. References: During the August 7, 2006 Water Board staff inspection, the Discharger's representative noted that both Phases I and II were under construction, that the Notice of Intent (NOI) that had been filed for coverage under the general permit was just for Phase I, and an amended NOI was submitted the week prior to incorporate Phase II. The representative confirmed that all bare slopes will be revegetated by August 15, 2006, and that the entire area will be paved by October 15, 2006. The Discharger's November 3, 2006 self inspection report noted that the parking lot area had not been paved and remained unstabilized. The Discharger's November 10-11, 2006 self inspection report claims the area was stabilized by November 11, 2006.</p> | <p><b>May 19-25, and June 5, 6, 13, and 14, 2006 (10 days).</b> Failure to conduct and record pre and post storm inspections. References (all were included in Discharger's June 19, 2006 submittal package): (1) May 18, 2006 self inspection report states that thunderstorms were predicted for the entire week, but there are no further daily pre-storm self inspection reports; (2) rainstorms were also predicted and occurred the week of June 5th and again on June 13th, and there are no records of adequate pre and post inspection reports.</p> <p><b>June 16, 17, 19, 21-26, 28, and 30, and July 1, 3, and 5, 2006 (14 additional days).</b> Failure to record daily inspections of installed BMPs. Reference: Discharger's July 6, 2006, and November 6, 2007, submittals of all self-inspection reports for the period of June 15 through July 5, 2006. Reports are missing for the days noted, presumably because the daily inspections required by the SWPPP did not occur.</p> <p><b>June 20, 27, and 29, 2006 (3 additional days).</b> Failure to document corrections to identified BMP deficiencies. References (all submitted July 6, 2006): (1) June 20, 2006 self inspection report documents inappropriate strow wattle drain inlet protection on pavement, incorrect wattle installations, silt fence installations perpendicular to the contour, incorrectly installed silt fences in the northwest corner and upper site sections of the project site, and lack of silt fence in a critical area on the north end of the project, but the report does not confirm when, or if, corrective measures were taken; (2) the June 27, 2006 self inspection pre-storm report documents sediment accumulation on the temporary crossing over the ephemeral drainage crossing, and the report recommended sediment removal from the crossing, filter fabric replacement in a drain inlet, silt fence stabilization with wattles, but the report does not confirm when, or if, corrective measures were taken; (3) the June 29, 2006 self inspection post storm report documented a large open area with many unprotected stockpiles, placement of a stockpile in a drainage, and the need for additional wattles, drainage protection, and sediment tracking control, but it does not document when, or if, corrective measures were taken.</p> <p><b>November 2-4, 2006 (3 additional days).</b> Failure to record rainfall quantities during an extended storm event, as required by the SWPPP. References: Discharger's self inspection reports for the noted days submitted to Water Board staff on November 8, 2006. The reports note light rain, but provide no quantities. (Rainfall during this period was measured as 1.28 inches at a nearby project site.)</p> <p><b>January 2-5, 2007 (4 additional days).</b> Failure to conduct and record pre and post storm inspections. Reference: January 18, 2007 electronic mail from Discharger to Water Board documenting the storm occurrence January 3-4, 2007, with no documentation or other proof of pre, post, and 24-hour duration inspections. (Hydromulch BMP implementation requires post inspection for re-application needs).</p> <p><b>February 7-11, 2007 (5 additional days).</b> Failure to record pre and post storm inspections. Reference: IERS March 9, 2007 storm water sampling report documents storm occurrence February 8-10, 2007, and there is no documentation of required pre, post, and daily inspections.</p> | <p><b>January 2, 2007 (1 day of violation).</b> Failure to conduct storm water sampling for a storm event that occurred January 2-4, 2007, as required by Section IX.B of the SWPPP. Reference: Discharger's January 18, 2007 email to Water Board staff documenting the storm and submitting runoff results for a nearby site.</p> | <p><b>February 10, 2007 (1 day of violation).</b> Discharge of sediment and nutrient laden storm water runoff from the project site. Runoff was discharged to wetland areas (surface waters) and to lands that, eventually, drain into area surface water channels. Reference: IERS March 9, 2007 report containing a summary of runoff monitoring data for samples collected on February 10, 2007.</p> | <p>Already considered under basin plan prohibition and under the discharge of sediment laden storm water.</p> |   |

| ALLEGED 401 WQC VIOLATIONS   | ALLEGED BASIN PLAN VIOLATIONS   |  |
|--|---|--|
| Failure to comply with 401 Conditions. Maximum penalty of \$10,000 per day, WC Section 13385 | Discharge of wastes to surface waters of the Truckee River HU. Maximum penalty of \$10,000 per day, WC Section 13385  | Discharge (or threatened) of waste to lands within the 100-year floodplain of the Truckee River and tributaries. Maximum penalty of \$10,000 per day, WC Section 13385 |
| <b>INTERCEPT LOTS - WDID NO. 6A31C335494</b>   |   |  |
| 0  | 10  | 0  |
|  | <p><b>June 15 &amp; 16, 2006 (2 days of violation).</b> Discharging waste earthen material into the identified Class III drainage. References: (1) Water Board's report of its June 15, 2006, inspection; (2) Discharger's June 20, 2006 electronic mail to Water Board staff noting placement of unauthorized rip rap material in the drainage.</p> <p><b>July 5, 2006 (1 additional day).</b> Discharge of additional rock and sediment (from a tree stump removal and sloughing from the drainage crossing), and construction of a silt fence across the flow line within the drainage. Reference: Water Board's report of its July 5, 2006 site inspection.</p> <p><b>August 7, 2006 (1 additional day).</b> Discharge of topsoil material within the drainage. Reference: Water Board's report of its August 7, 2006 site inspection.</p> <p><b>September 21-26, 2006 (6 additional days).</b> Discharge of waste earthen materials while constructing an arched culvert within the flood plain boundaries of the Class III drainage. Reference: Construction period is documented by the Discharger's self inspection reports for the period September 19-25, and September 26-October 2, 2006. Water Board staff report of its November 14, 2006, inspection documents a 3 to 4-foot span over the drainage, not the required 7-foot span.</p> | Flood plain impacts occurred, but days of violation are already considered under the previous column.  |

| ALLEGED CLEANUP AND ABATEMENT ORDER VIOLATIONS   |   |  |  | PENALTY    |                  |
|--|---|--|--|------------|------------------|
| Violation of terms of Order No. 1: Failure to designate a single qualified individual. Maximum penalty of \$10,000 per day, WC Section 13385 | Violation of terms of Order No. 2: Failure to winterize by November 9, 2006. Maximum penalty of \$10,000 per day, WC Section 13385  | Violation of terms of Order No. 3: Failure to document winterization activities. Maximum penalty of \$1000 per day, WC Section 13268 | Violation of terms of Order No. 4: Failure to submit an adequate site monitoring plan. Maximum penalty of \$1000 per day, WC Section 13268 | TOTAL DAYS | PENALTY PER SITE |
| <b>INTERCEPT LOTS - WDID NO. 6A31C335494</b>   |   |  |  |            |                  |
| 0  | 17  | 0  | 0  | 216        | \$2,160,000.00   |
| Only one report needed, considered in the penalty calculation for the Village.   | <b>November 11-27, 2006 (17 days).</b> The Discharger initially submitted documentation that the site was stabilized one day late on November 10, 2006 (Discharger's self inspection reports for the period November 7-11, 2006). However, the Discharger's November 14, 2006, technical report identified four items that were not completed as part of winterization: (1) identifying and implementing interim measures intended to temporarily stabilize the areas where sufficient revegetation growth has not been established; (2) paving or otherwise stabilizing unpaved roadways and parking lot (3) installing alternative erosion control measures on slopes where tackifier/hydromulch was inappropriately applied during rain events; and (4) installing wattles and fiber mats in accordance with SWPPP requirements. The Water Board's report of its November 14, 2006, inspection identified failure to implement source control BMPs on slopes, stockpiles, drainage channels, and roads. Snowfall on November 27th prevented implementing winterization. The project site remained without adequate winterization measures until May 1, 2007. | Only one report needed, considered in the penalty calculation for the Village.   | Only one report needed, considered in the penalty calculation for the Village.   |            |                  |

| ALLEGED PERMIT VIOLATIONS   |  |  |  |  |
|---|--|--|--|--|
| Failure to install and maintain BMPs. Maximum penalty of \$10,000 per day, WC Section 13385   | Failure to conduct and record daily site inspections and pre-storm inspections. Maximum penalty of \$10,000 per day, WC Section 13385  | Failure to conduct storm water sampling. Maximum penalty of \$10,000 per day, WC Section 13385 | Discharge of sediment laden storm water to surface waters (Order No. A3 of the General Permit, pollution or threatened pollution). Maximum penalty of \$10,000 per day, WC Section 13385 | Creating a condition of Pollution or Threatened Pollution. Maximum penalty of \$10,000 per day, WC Section 13385 |
| EMPLOYEE HOUSING/SAWMILL HEIGHTS - WDD NO. 6A31C335581  |  |  |  |  |
| <b>DAYS:</b>  | 19   | 17   | 0  | 0  |
| <p><b>June 15 &amp; 16, 2006 (2 days of violation).</b> Failure to install and maintain adequate drain inlet BMPs as required by the SWPPP (page 17 and Appendix E.6) - lack of wattle and inlet filter. Failure to install and maintain erosion and sediment control BMPs for an unpaved construction road. References: (1) Water Board report of June 15, 2006 inspection; (2) Discharger's June 20, 2006, electronic mail to Water Board staff documenting installation of BMPs; (3) Discharger's July 31, 2006 correspondence to Water Board staff.</p> <p><b>June 20 - 26, 2006 (7 additional days).</b> Failure to install and maintain adequate stockpile management BMPs in accordance with the SWPPP, Appendix E.24. (A precipitation event occurred June 26th). Reference: Discharger's June 20, 23, and 26, 2006, self inspection reports.</p> <p><b>July 27, 2006 (1 additional day).</b> Failure to install and maintain drain inlet protection at south end, after BMP inspector required its installation. Reference: Discharger's July 27 and 28, 2006, self inspection reports.</p> <p><b>July 28, 2006 (1 additional day).</b> Failure to maintain adequate stockpile of BMP materials as required by VIII.D.1 of the SWPPP (page 17). Reference: Discharger's July 28, 2006, self inspection report.</p> <p><b>August 4, 2006 (1 additional day).</b> Failure to maintain adequate concrete washout facility in accordance with SWPPP requirements - concrete washout occurred outside of designated facility. Reference: Discharger's August 4, 2006, self inspection report.</p> <p><b>October 2 - 5, 2006 (4 additional days).</b> Failure to maintain BMPs (sediment remained in drainages, v-ditches, etc.) prior to predictions of rain on October 2nd - 5th. Failure to install slope protection prior to predictions of rainfall (tackifier placed October 4th, but rain was predicted that day, and tackifier needs 12 to 24-hours to cure, Amendment No. 23 to the SWPPP). References: Discharger's self inspection reports for the period.</p> <p><b>November 1-3, 2006 (3 additional days).</b> Failure to stabilize two slope areas prior to rain event on November 2nd and 3rd, in violation of SWPPP requirements for slope stabilization and scheduling BMPs. The BMP inspector noted need for slope stabilization for 2 weeks prior to rain event. References: Discharger's self inspection reports from October 14 - November 3, 2006.</p> | <p><b>May 19-21, June 5, 6, 13, and 14, 2006 (7 days of violation).</b> Failure to conduct and record pre and post storm inspections prior to predictions of rainfall events. References: (1) Northstar CSD Inspection Reports of its TH-2 Water Facilities project documenting predictions for precipitation at a neighboring project; (2) Discharger's July 16, 2006, submittal of all inspection reports conducted and documented from May 2 through June 15, 2006, which do not include the necessary pre and post storm inspections for the noted events.</p> <p><b>August 3, 2006 (1 additional day).</b> Failure to conduct inspection on August 2nd prior to a precipitation event that evening. References: (1) Discharger's August 2, 2006 self inspection form noting no inspection conducted; (2) Discharger's August 3, 2006 self inspection report noting precipitation overnight.</p> <p><b>January 2-5, 2007 (4 additional days).</b> Failure to conduct and record inspections prior to, during, and after a storm event that occurred January 3-4, 2007.</p> <p><b>February 7-11, 2007 (5 additional days).</b> Failure to conduct and record inspections prior to, during, and after a storm event that occurred February 8-10, 2007.</p> |  |  |  |

| ALLEGED 401 WQC VIOLATIONS   | ALLEGED BASIN PLAN VIOLATIONS  |  |
|--|--|--|
| Failure to comply with 401 Conditions. Maximum penalty of \$10,000 per day, WC Section 13385 | Discharge of wastes to surface waters of the Truckee River HU. Maximum penalty of \$10,000 per day, WC Section 13385 | Discharge (or threatened) of waste to lands within the 100-year floodplain of the Truckee River and tributaries. Maximum penalty of \$10,000 per day, WC Section 13385 |

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| <b>EMPLOYEE HOUSING/SAWMILL HEIGHTS - WDID NO. 6A31C335581</b> |  |  |
|--|--|--|

|   |   |   |
|---|---|---|
| 0 | 0 | 0 |
|   |   |   |

| ALLEGED CLEANUP AND ABATEMENT ORDER VIOLATIONS   |  |  |  | PENALTY    |                  |
|--|--|--|--|------------|------------------|
| Violation of terms of Order No. 1: Failure to designate a single qualified individual. Maximum penalty of \$10,000 per day, WC Section 13385 | Violation of terms of Order No. 2: Failure to winterize by November 9, 2006. Maximum penalty of \$10,000 per day, WC Section 13385   | Violation of terms of Order No. 3: Failure to document winterization activities. Maximum penalty of \$1000 per day, WC Section 13268 | Violation of terms of Order No. 4: Failure to submit an adequate site monitoring plan. Maximum penalty of \$1000 per day, WC Section 13268 | TOTAL DAYS | PENALTY PER SITE |
| <b>EMPLOYEE HOUSING/SAWMILL HEIGHTS - WDID NO. 6A31C335581</b>   |  |  |  |            |                  |
| 0  | 17   | 0  | 0  | 53         | \$530,000.00     |
| Only one report needed, considered in the penalty calculation for the Village.   | <p>A site winterization plan was developed on September 28, 2006 by the Discharger's consultant, IERS (contained in Discharger's November 14, 2006 response to CAO Item No. 3). The Discharger's response notes that slopes were tackified and that drain inlets and sediment basins were cleaned out pursuant to the plan. However, there is no evidence provided to indicate other critical elements of the plan were implemented, including: cleaning out and repairing rock lined drainage ditches, installing wattles at drainage outflows, installing wattles at toe of slopes (in addition to tackifying slopes), establishing and protecting a snow storage area, and installing rock check dams. Further, there is no evidence that winterization BMPs were inspected and maintained during the winter, especially before and after precipitation events.</p> <p>Water Board's report of its November 15, 2006, inspection documents the Discharger's failure to install effective source control BMPs on disturbed slopes and stockpiles.</p> <p>Snowfall on November 27, 2006, prevented further installation of winterization BMPs for the remainder of the season. Violation existed for 17 days from November 11 through 27, 2006.</p> | Only one report needed, considered in the penalty calculation for the Village.   | Only one report needed, considered in the penalty calculation for the Village.   |            |                  |

| ALLEGED PERMIT VIOLATIONS   |   |  |  |  |
|---|---|--|--|--|
| Failure to install and maintain BMPs. Maximum penalty of \$10,000 per day, WC Section 13385   | Failure to conduct and record daily site inspections and pre-storm inspections. Maximum penalty of \$10,000 per day, WC Section 13385   | Failure to conduct storm water sampling. Maximum penalty of \$10,000 per day, WC Section 13385   | Discharge of sediment laden storm water to surface waters (Order No. A3 of the General Permit, pollution or threatened pollution). Maximum penalty of \$10,000 per day, WC Section 13385 | Creating a condition of Pollution or Threatened Pollution. Maximum penalty of \$10,000 per day, WC Section 13385 |
| HIGHLANDS VIEW DRIVE / HIGHWAY 267 INTERCHANGE - WDID NO. 6A31C333755   |   |  |  |  |
| <b>DAYS:</b>  | 135   | 20   | 0  | 5  |
| <p><b>June 5 through June 22, 2006 (17 days of violation).</b> Failure to comply with the Scheduling BMP requirement provided in Sections A.5 and A.6 of the permit and Appendix E.18 SWPPP for clearing and grading the project site without first developing and implementing a construction BMP plan for the area. References: (1) Water Board's June 15, 2006, inspection report; (2) Discharger's June 22, 2006 electronic mail to Water Board staff submitting a construction BMP plan for the site. It is noted that construction grading began June 5, 2006, per the Discharger's letter dated August 1, 2006.</p> <p><b>June 5 - June 17, 2006 (no additional days).</b> Failure to install adequate drain inlet protection pursuant to Appendix E.9 of the SWPPP. Reference: (1) Water Board's June 15, 2006, inspection report; (2) Discharger's June 17, 2006 electronic mail to Water Board staff confirming the completion of items observed.</p> <p><b>June 15-17, 2006 (no additional days).</b> Failure to install adequate stockpile protection pursuant to Appendix E.24 of the SWPPP. Reference: (1) Water Board's June 15, 2006, inspection report; (2) Discharger's June 17, 2006 electronic mail to Water Board staff confirming the completion of items observed.</p> <p><b>July 5-13, 2006 (9 additional days).</b> Failure to adequately install fiber rolls, and silt fence in accordance with Appendices E.8 and E.19, of the SWPPP. References: (1) Water Board report of its July 5, 2006, site inspection; (2) July 13, 2006, letter from Discharger documenting stating that observed deficiencies had been corrected.</p> <p><b>June 17 - July 13, 2006 (17 additional days).</b> Failure to adequately install stockpile protection in accordance with Appendix E.24 of the SWPPP. These are the same stockpiles that were observed during the June 15th inspection, and they remained unprotected on July 5th, contradicting the Discharger's claim that stockpile BMPs had been appropriately installed on these stockpiles. References: (1) Water Board report of its July 5, 2006, site inspection; (2) July 13, 2006, letter from Discharger documenting stating that observed deficiencies had been corrected.</p> <p><b>June 5 through October 14, 2006 (92 additional days).</b> Failure to install measures to prevent runoff from off-site areas (run-on) from flowing through the disturbed construction areas, as required by Section A.5.b.(1) of the Statewide General Stormwater Construction Permit. Reference: October 14, 2006 self inspection report noting the construction of a V-Ditch on the south side of the project to re-direct run-on, and failure to document installation of other appropriate BMPs prior to this date.</p> | <p><b>June 5, 6, 13, and 14, 2006 (4 days).</b> Failure to conduct and record pre and post storm inspections. References: See Highlands View Drive and Nothstar Village project inspection reports for rainfall prediction days.</p> <p><b>June 16, 17, 19, 21-26, 28, 30, and July 1, 3, and 5, 2006 (14 days of violation).</b> Failure to conduct and record daily BMP inspections pursuant to Section IX.D of the SWPPP. Reference: July 6, 2006 Discharger facsimile submitting all inspection reports conducted since June 15, 2006.</p> <p><b>June 25, 2006 (no additional days).</b> Failure to conduct a pre-storm inspection for a rain event that occurred on June 26, 2007, as required by page 39 of the SWPPP. Same references are used.</p> <p><b>June 20 and 27, 2006 (2 additional days).</b> Failure to document completion of corrective measures recommended in self inspection reports, as required by Section IX.D of the SWPPP (same references used).</p> | <p><b>October 5, 2006 (1 day of Violation).</b> Discharge of sediment-laden storm water runoff into Middle Martis Creek. Although reports do not indicate BMP deficiencies, subsequent and prior reports note that winterization was not in place, including soil stabilization. Discharger did not cut a v-ditch to prevent storm water run-on until October 14th. Reference: (1) Discharger's October 5 &amp; 14, 2006, self inspection reports. (report notes several "melted clods" in mid-south section - possibly the cause of discharge? (2) Discharger's October 26, 2006 Discharge report.</p> <p><b>November 2, 2006 (1 additional day).</b> Discharge of sediment-laden storm water runoff into Middle Martis Creek. Reference: Discharger's December 1, 2006, electronic mail submission of lab results.</p> <p><b>February 8-10, 2007 (3 additional days).</b> Discharge of sediment-laden storm water runoff into Middle Martis Creek. Reference: IERS March 9, 2007, letter submitting monitoring report and lab results.</p> |  |  |

| ALLEGED 401 WQC VIOLATIONS  | ALLEGED BASIN PLAN VIOLATIONS  |   |
|---|--|---|
| Failure to comply with 401 Conditions. Maximum penalty of \$10,000 per day, WC Section 13385  | Discharge of wastes to surface waters of the Truckee River HU. Maximum penalty of \$10,000 per day, WC Section 13385 | Discharge (or threatened) of waste to lands within the 100-year floodplain of the Truckee River and tributaries. Maximum penalty of \$10,000 per day, WC Section 13385  |
| <b>HIGHLANDS VIEW DRIVE / HIGHWAY 267 INTERCHANGE - WDD NO. 6A31C333755</b>   |  |   |
| 65  | 0  | 27  |
| <p><b>May 6 - June 21, 2006 (47 days).</b> Failure to submit a completed SWPPP (&amp; BMP Plan) 30 days prior to the commencement of construction, and ensuring the SWPPP includes information to demonstrate that appropriate measures are incorporated into the final design, as required by Additional Condition No. 2 of the WQC. References: (1) June 9, 2006 WQC; (2) Discharger's June 22, 2006 electronic mail to Water Board staff submitting a construction BMP plan for the site and documenting that site construction commenced June 5, 2006.</p> <p><b>October 15 - November 1 (18 additional days).</b> Failure to winterize site, and failure to halt site soil-disturbing activities, between October 15 and May 1, as required by Additional Condition No. 2 (referencing Enclosure C) of the 401 WQC. Soil grading, erosion control mat installation, tub grinding placement, and spraying tackifier are described during the noted period. Reference: (1) June 9, 2006, 401 WQC, (2) October 17-November 1, 2006, Discharger Self Inspection Reports.</p> <p><i>It is noted that all permit and basin plan violations are also violations of the conditions of a 401 WQC, but the violations will not be duplicated here.</i></p> |  | <p><b>July 5-13, 2006 (9 additional days).</b> Failure to adequately install check dams in accordance with Section 3 of the California Stormwater BMP Handbook, resulting in a threatened discharge of waste earthen material to lands within the 100 year flood plain of Middle Martis Creek. References: (1) Water Board report of its July 5, 2006, site inspection; (2) July 13, 2006, letter from Discharger documenting stating that observed deficiencies had been corrected.</p> <p><b>July 23-24, 2006 (2 additional days).</b> Failure to correct BMP deficiencies (rock on silt fence, additional fiber rolls, additional gravel bag check dams) identified in July 22, 2006 self inspection until July 24th, creating a condition of threatened discharge. Reference: July 22 and 24, 2006, self inspection reports.</p> <p><b>July 29-August 1, 2006 (4 additional days).</b> Failure to protect a stockpile that exceeded its original limits for 3 days, creating a condition of threatened discharge. The deficiency was reported July 28th, and was not corrected until August 1st. Reference: July 28, 29, 31, and August 1, 2006, self inspection reports.</p> <p><b>August 4-7, 2006 (4 additional days).</b> Failure to correct BMP deficiencies (lack of soil stabilization, break in a silt fence) prior to a prediction for possible precipitation on August 4th, creating a threatened discharge. (Failing to stabilize site prior to a possible rain event is also a permit violation, but will be noted here instead). Reference: August 4 &amp; 7, 2006, self inspection reports.</p> <p><b>August 8-15, 2006 (8 additional days).</b> Failure to stabilize/revegetate a disturbed area. The disturbance was observed August 7th, and it was not stabilized until the 15th, creating a condition that threatens a discharge. Reference: August 7-15, 2006, self inspection reports.</p> |

| ALLEGED CLEANUP AND ABATEMENT ORDER VIOLATIONS   |  |  |  | PENALTY    |                  |
|--|--|--|--|------------|------------------|
| Violation of terms of Order No. 1: Failure to designate a single qualified individual. Maximum penalty of \$10,000 per day, WC Section 13385 | Violation of terms of Order No. 2: Failure to winterize by November 9, 2006. Maximum penalty of \$10,000 per day, WC Section 13385 | Violation of terms of Order No. 3: Failure to document winterization activities. Maximum penalty of \$1000 per day, WC Section 13268 | Violation of terms of Order No. 4: Failure to submit an adequate site monitoring plan. Maximum penalty of \$1000 per day, WC Section 13268 | TOTAL DAYS | PENALTY PER SITE |
| <b>HIGHLANDS VIEW DRIVE / HIGHWAY 267 INTERCHANGE - WDID NO. 6A31C333755</b>   |  |  |  |            |                  |
| 0  | 0  | 0  | 0  | 252        | \$2,520,000.00   |
| Only one report needed, considered in the penalty calculation for the Village.   |  | Only one report needed, considered in the penalty calculation for the Village.   | Only one report needed, considered in the penalty calculation for the Village.   |            |                  |

| ALLEGED PERMIT VIOLATIONS   |  |  |  |  |
|---|--|--|--|--|
| Failure to install and maintain BMPs. Maximum penalty of \$10,000 per day, WC Section 13385   | Failure to conduct and record daily site inspections and pre-storm inspections. Maximum penalty of \$10,000 per day, WC Section 13385  | Failure to conduct storm water sampling. Maximum penalty of \$10,000 per day, WC Section 13385   | Discharge of sediment laden storm water to surface waters (Order No. A3 of the General Permit, pollution or threatened pollution). Maximum penalty of \$10,000 per day, WC Section 13385   | Creating a condition of Pollution or Threatened Pollution. Maximum penalty of \$10,000 per day, WC Section 13385   |
| HIGHLANDS VIEW DRIVE - WDID NO. 6A31C333756   |  |  |  |  |
| <b>DAYS:</b>  | 99   | 10   | 3  | 9  |
| <p><b>May 16-18, 2006 (3 days of violation).</b> Failure to correct deficient BMPs (stockpiles, drain inlets and outlets, silt fence) on days with forecasted precipitation, pursuant to section IX.D of the SWPPP. Reference: Discharger's May 16 - 18, and 22, 2006, self inspection reports.</p> <p><b>June 12-14, 2006 (2 additional days).</b> Failure to repair deficient BMPs and clogged drainages prior to and during predicted rain event, pursuant to section IX.D of the SWPPP. Reference: Discharger's June 12-13, 2006, self inspection Reports.</p> <p><b>May 16 - June 17, 2006 (27 additional days).</b> Failure to stabilize eroding slopes that were previously revegetated and maintain the BMPs that were installed (eroded slopes due to winter season, first inspection of site was May 16th, but didn't note eroded slopes). Failure to install adequate drop inlet protection. Reference: (1) Water Board's June 15, 2006, inspection report; (2) Discharger's June 17, 2006, electronic mail stating that all items discussed during inspection have been completed; (3) Discharger's May 16, 2006, self inspection report.</p> <p><b>July 5 - 13, 2006 (9 additional days).</b> Failure to comply with SWPPP requirements for adequate BMPs due to the failure to protect stockpiles and inappropriate placement of stockpiles within a flowline (see SWPPP Appendix E.24), locating a temporary sanitary facility within a flowline (see SWPPP Appendix E.17), failure to install and maintain adequate drain inlet protection (SWPPP Appendix E.9), failure to adequately install and maintain silt fences (SWPPP Appendix E.19), failure to install and maintain adequate drain outlet protection (SWPPP Appendix E.14), failure to stockpile adequate quantities of BMP materials pursuant to page 17 of the SWPPP. References: (1) Water Board's report of its July 5, 2006 site inspection; (2) Discharger's July 13, 2006, letter verifying correction of identified deficiencies.</p> <p><b>June 15 - July 13, 2006 (17 additional days from June 18 - July 4).</b> Failure to revegetate eroded slopes. The slope failures were identified on June 15th, and Water Board staff issued a verbal warning to correct deficiency by June 16th, but no later than the next storm. The next storm was predicted to occur on June 28, 2006. The Discharger submitted an e-mail on June 17 (and additional information dated June 22, 2006) that the slope areas had been corrected. However, the same slope areas were still unstable during the Water Board's July 5, 2006 inspection. Reference: see above-two entries.</p> <p><b>May 16 - July 13, 2006 (no additional days).</b> Failure to limit grading activities to areas that can be completed and stabilized prior to anticipated storm events pursuant to page 16 and to Appendix E.18 of the SWPPP. Reference: Water Board's report of its July 5, 2006 site inspection.</p> <p><b>June 23, 26, 27, and 29, 2006 (no additional days).</b> Failure to document implementation of corrective action measures identified in Discharger's self inspection reports to correct noted BMP deficiencies. Reference: July 6, 2006 Discharger facsimile submitting all all inspection reports conducted since June 15, 2006.</p> <p><b>August 4-11, 2006 (8 additional days of violation).</b> Failure to install and maintain BMPs for a utility box installation in violation of Sections A.5 and A.6 of the permit. References: (1) Water Board staff report of its August 7, 2006, inspection; (2) Discharger's August 25 2006 electronic mail verifying the area was stabilized August 11.</p> <p><b>August 7-19, 2006 (7 additional days).</b> Failure to comply with Water Board verbal warning issued on the 7th to install sediment tracking controls at a utility materials staging area, located at Station 33+00. References: (1) Water Board staff report of its August 7, 2006 inspection; (2) Discharger's August 19, 2006 self inspection report.</p> <p><b>August 20-24, 2006 (5 additional days).</b> Failure to maintain adequate drain inlet BMPs at Station 51+68 in accordance with the SWPPP. The Discharger's August 22 self inspection report requires compliance by August 24th. References: (1) Discharger's August 19, 20, 21, and 22 self inspection reports.</p> <p><b>August 29 - September 8, 2006 (11 additional days).</b> Failure to adhere to SWPPP requirements by placing (and failing to remove) a stockpile within a flowline. This issue was raised to the Discharger during the July 5th inspection. References: (1) Discharger's self inspection reports dated August 29, 30, and September 8, 2006.</p> <p><b>September 14-15, 2006 (2 additional days).</b> Failure to adequately maintain drain inlet BMPs in accordance with SWPPP requirements. References: (1) Discharger's September 13, 14, and 15, 2006, self inspection reports.</p> <p><b>October 4 - 6, 11-13, 16-17, 2006 (8 additional days).</b> Failure to install BMPs within time frame noted by inspector, and/or prior to storm event, pursuant to SWPPP requirements. Multiple sites with BMP deficiencies are recorded on any single day. References: (1) Dischargers October 4, 5, 6, 7, 10-13, 16-17, 2006, self inspection reports; (2) Water Board's February 22, 2007, NOV.</p> | <p><b>June 17, 19, 21, 22, 24, 25, 28, 30, and July 1, 3, and 5, 2006 (10 days of violation).</b> Failure to conduct and record daily BMP inspections pursuant to Section IX.D of the SWPPP. Reference: July 6, 2006 Discharger facsimile submitting all inspection reports conducted since June 15, 2006.</p> | <p><b>February 8 - 10, 2007 (3 days of violation).</b> Failure to conduct storm water runoff sampling within West Martis Creek, Station 104+00. Reference: (1) IERS March 29, 2007 letter.</p> | <p><b>October 5, 2006 (1 day of Violation).</b> Discharge of sediment-laden storm water runoff into West Martis Creek (station 104+00). Reports also indicate BMP deficiencies. Reference: Discharger's October 5, 2006, self inspection report.</p> <p><b>November 2-3, 2006 (2 additional days of violation).</b> Discharge of sediment-laden storm water runoff into West Martis Creek (Station 104+00). Placer County Inspection Report notes significant BMP deficiencies. Reference: (1) Discharger's December 1, 2006, electronic mail submitting laboratory date for November 2nd; (2) Placer County's November 6, 2006, electronic mail submitting its inspection reports and photodocumentation of discharges occurring November 3rd; (3) Psomas's November 7, 2006 electronic mail submitting photo logs for photodocumentation of its November 3, 2006, inspection.</p> <p><b>November 2-3, 2006 (2 additional days of violation).</b> Discharge of sediment-laden storm water runoff into West Fork West Martis Creek (Station 144+00). Placer County Inspection Report notes significant BMP deficiencies. Reference: (1) Discharger's December 1, 2006, electronic mail submitting laboratory date for November 2nd; (2) Placer County's November 6, 2006, electronic mail submitting its inspection reports and photodocumentation of discharges occurring November 3rd; (3) Psomas's November 7, 2006 electronic mail submitting photo logs for photodocumentation of its November 3, 2006, inspection.</p> <p><b>January 4, 2007 (1 additional day).</b> Discharge of sediment-laden storm water runoff into West Fork West Martis Creek at Station 144+00. References: (1) Discharger's January 18, 2007 electronic mail with laboratory results of collected samples.</p> <p><b>February 8-10, 2007 (3 additional days).</b> Discharge of sediment-laden storm water runoff into West Fork West Martis Creek at Station 144+00. References: (1) IERS March 9, 2007 discharge report.</p> | <p><b>October 10, 2006 (1 day of violation, but use 2.1 in above list of total days to account for volume of discharge at \$10 per gallon).</b> Discharge of sediment laden water into West Fork West Martis Creek. Contractor hit a water line, and directed the water into a DI that drains directly into the creek instead of onto vegetated overland areas. 2100 gallons discharged. Further, the area was not stabilized with mulch as required by BMP inspector. References: (1) October 10, 2006, Discharger self inspection report; (2) Discharger's October 31, 2006 spill report letter.</p> |

| ALLEGED 401 WQC VIOLATIONS   | ALLEGED BASIN PLAN VIOLATIONS  |  |
|--|--|--|
| Failure to comply with 401 Conditions. Maximum penalty of \$10,000 per day, WC Section 13385   | Discharge of wastes to surface waters of the Truckee River HU. Maximum penalty of \$10,000 per day, WC Section 13385   | Discharge (or threatened) of waste to lands within the 100-year floodplain of the Truckee River and tributaries. Maximum penalty of \$10,000 per day, WC Section 13385 |
| <b>HIGHLANDS VIEW DRIVE - WDID NO. 6A31C333756</b>   |  |  |
| 170.6  | 4  | 0  |
| <p><b>October 27 - November 30, 2005 and May 1 - August 2, 2006 (128 days of violation).</b> Failure to install gravel bag check dams in unimproved temporary or unstabilized drainage ditches and swales, minimum spacing required is every 200 feet, pursuant to Additional Condition No. 2, CEQA Mitigation Measures MM 4.7.3d and RBMM-2 Reference: (1) June 9, 2006 401 WQC, Enclosure C; (2) Discharger's June 20, 2006 email with photodocumentation from October, 2005, showing a lack of required check dams; (3) Water Board staff inspection report of June 15, 2006, inspection; (4) Water Board staff inspection report of July 5, 2006, inspection; (5) Discharger's letter dated August 2, 2006, documenting completion of deficient BMPs; (6) Discharger's November ???, 2007, submittal documenting onset of winter conditions that would have prevented further implementation of winterization BMPs for the season.</p> <p><b>July 20 - August 11, 2006 (23 additional days).</b> Failure to comply with Standard Condition No. 5 by grading/disturbing the stream bed of West Martis Creek inconsistent with the details provided in Page 6 of the Report of Waste Discharge. Also, there was no appropriate stream diversion BMP installed prior to and during the unauthorized construction activities within the West Martis Creek channel. Finally, the Discharger has not provided any mitigation for the additional impacts that have occurred. It is noted that a precipitation event was predicted for August 4, 2006. References: (1) Discharger's July 20, 2006 self inspection report; (2) Water Board staff report of its August 7, 2006, inspection; (3) Discharger's August 12, 2006, self inspection report indicating stream construction activities were completed on the 11th. (4) EDAW's March 15, 2006, Report of Waste Discharge.</p> <p><b>July 31 - October 24, 2006 (85 additional days, at \$1000 per day for reporting, use 8.5 days).</b> Failure to submit Monitoring Site Selection Report, due on July 31st pursuant to Additional Condition No. 1, Page 7 of Enclosure B to the WQC. References: (1) Dale Payne's January 24, 2007, electronic mail outlining reporting violations).</p> <p><b>November 1, 2006 (1 day, at \$1000 per day for reporting, use 0.1).</b> Submittal of insufficient quarterly monitoring report, pursuant to Additional Condition No. 1, Page 6 of Enclosure B to the WQC. References: (1) Dale Payne's January 24, 2007, electronic mail outlining reporting violations).</p> <p><b>November 1 - November 11, 2006 (11 additional days).</b> Failure to winterize site, and failure to halt site soil-disturbing activities, between November 1 (extended October 15th date) and May 1, as required by Additional Condition No. 2 (referencing Enclosure C) of the 401 WQC. Soil grading, erosion control mat installation, tub grinding placement, and spraying tackifier are described during the noted period. Reference: (1) June 9, 2006, 401 WQC, (2) November complete as of November 11th, but that more detailed work and maintenance work is still needed.</p> <p><b>(Failure to install BMPs prior to a storm is also a permit violation, but will just be listed here.)</b></p> <p><i>It is noted that all permit and basin plan violations are also violations of the conditions of a 401 WQC, but the violations will not be duplicated here.</i></p> | <p><b>July 5, 2006 (1 day of violation).</b> Placement of a stockpile within portions of an ephemeral drainage at Station 50+00. Reference: Water Board staff report of its July 5, 2006, inspection.</p> <p><b>August 7, 2006 (1 additional day).</b> Additional placement of fill material was observed in the same and in an adjacent drainage, resulting in an overall increase in impacts to the ephemeral drainage (and associated floodplain). But, the stockpile had been removed. Location is at Station 50+00. Reference: Water Board staff report of its August 7, 2006, inspection.</p> <p><b>October, 2006 (2 additional days).</b> Discharge of waste earthen materials. Discharger placed gravel bag check dams within West Martis and within West Fork West Martis Creek without prior authorization/permits. Gravel bags inhibit habitat passage, and collect sediments which could later be discharged in a slug when bags are removed. References: (1) Discharger's and Water Board's January 15, and 22 electronic mail exchanges.</p> |  |

| ALLEGED CLEANUP AND ABATEMENT ORDER VIOLATIONS   |   |  |  | PENALTY    |                  |
|--|---|--|--|------------|------------------|
| Violation of terms of Order No. 1: Failure to designate a single qualified individual. Maximum penalty of \$10,000 per day, WC Section 13385 | Violation of terms of Order No. 2: Failure to winterize by November 9, 2006. Maximum penalty of \$10,000 per day, WC Section 13385  | Violation of terms of Order No. 3: Failure to document winterization activities. Maximum penalty of \$1000 per day, WC Section 13268 | Violation of terms of Order No. 4: Failure to submit an adequate site monitoring plan. Maximum penalty of \$1000 per day, WC Section 13268 | TOTAL DAYS | PENALTY PER SITE |
| <b>HIGHLANDS VIEW DRIVE - WDDID NO. 6A31C333756</b>  |   |  |  |            |                  |
| 0  | 17  | 0  | 0  | 314.7      | \$3,147,000.00   |
| Only one report needed, considered in the penalty calculation for the Village.   | <p>The Discharger initially submitted documentation that the site was stabilized one day late on November 10, 2006 (Discharger's self inspection reports for the period November 7-11, 2006). However, the November 11, 2006, inspection report by Psomas for Placer County indicates that as of November 11, 2006, there remained areas still in need of winterization. Further, the Discharger's November 14, 2006, technical report contained the following deficiencies as part of winterization: (1) interim measures were not installed on newly-revegetated sites that did not have sufficient plant growth; (2) filter fabrics were removed from drain inlets without alternative equal measures installed; (3) fiber rolls and wattles were installed inappropriately on slopes parallel to runoff direction instead of perpendicular to runoff flows; (4) tackified slopes did not have redundant sediment and erosion control BMPs in place, especially for those slopes greater than 10 feet in length (5) previously tackified areas that had been driven on were not addressed no alternative and additional BMPs were noted.</p> <p>The Water Board staff report of its November 14-15, 2006, inspections documents the Discharger's failure to install effective source control BMPs and to stabilize disturbed rough-graded roadways, disturbed slopes, disturbed landings/parking areas, and drop-inlet areas throughout the project site.</p> <p>The project site remained without adequate winterization measures until May 1, 2007, but snowfall on November 27, 2006, prevented further installation of winterization BMPs for the remainder of the season.</p> <p>Violation existed for 17 days from November 11 through 27, 2006.</p> | Only one report needed, considered in the penalty calculation for the Village.   | Only one report needed, considered in the penalty calculation for the Village.   |            |                  |

| ALLEGED PERMIT VIOLATIONS   |  |  |  |  |
|---|--|--|--|--|
| Failure to install and maintain BMPs. Maximum penalty of \$10,000 per day, WC Section 13385   | Failure to conduct and record daily site inspections and pre-storm inspections. Maximum penalty of \$10,000 per day, WC Section 13385  | Failure to conduct storm water sampling. Maximum penalty of \$10,000 per day, WC Section 13385 | Discharge of sediment laden storm water to surface waters (Order No. A3 of the General Permit, pollution or threatened pollution). Maximum penalty of \$10,000 per day, WC Section 13385 | Creating a condition of Pollution or Threatened Pollution. Maximum penalty of \$10,000 per day, WC Section 13385 |
| NORTHSTAR DRIVE ROUNDABOUT -WDID #6A31C333754   |  |  |  |  |
| <b>DAYS:</b>  | 14   | 18   | N/A  | N/A  |
| <p><b>August 7, 2006 (1 day of violation).</b> Failure to install adequate stockpile protection pursuant to Appendix E.24 of the SWPPP. Reference: Water Board's report of its August 7, 2006, inspection.</p> <p><b>August 7, 2006 (no additional days of violation).</b> Failure to implement adequate dust suppression pursuant to Appendix E.34 of the SWPPP. Reference: Water Board's report of its August 7, 2006, inspection.</p> <p><b>July 25 - August 7, 2006 (13 additional days of violation).</b> Failure to install and maintain sediment track-off control prior to and throughout construction. References: (1) Water Board's report of its August 7, 2006, inspection; (2) Discharger's statement that construction commenced on or about July 25, 2006.</p> | <p><b>December 12-20, 2006 (9 additional days).</b> Failure to conduct and record pre and post storm inspections, and inspections at 24-hour intervals during a protracted precipitation event, pursuant to Section IX.D of the SWPPP. Reference: Discharger's December 19, 2006, electronic mail documenting a week-long storm event, but there is no documentation of the required inspections.</p> <p><b>January 2-5, 2007, and February 7-11, 2007 (9 additional days violation).</b> Failure to conduct and record pre and post storm inspections, and inspections at 24-hour intervals during a protracted precipitation event, pursuant to Section IX.D of the SWPPP. Reference: (1) January 18, 2007, e-mail documenting storm occurrence January 3 through 4, 2007; and (2) IERS March 9, 2007, storm water sampling report documenting sotrm occurrence February 8-10, 2007.</p> |  |  |  |

| ALLEGED 401 WQC VIOLATIONS   | ALLEGED BASIN PLAN VIOLATIONS  |  |
|--|--|--|
| Failure to comply with 401 Conditions. Maximum penalty of \$10,000 per day, WC Section 13385 | Discharge of wastes to surface waters of the Truckee River HU. Maximum penalty of \$10,000 per day, WC Section 13385 | Discharge (or threatened) of waste to lands within the 100-year floodplain of the Truckee River and tributaries. Maximum penalty of \$10,000 per day, WC Section 13385 |
| <b>NORTHSTAR DRIVE ROUNDABOUT -WDID #6A31C333754</b>   |  |  |
|  |  |  |
|  |  |  |

| ALLEGED CLEANUP AND ABATEMENT ORDER VIOLATIONS   |  |  |  | PENALTY    |                  |
|--|--|--|--|------------|------------------|
| Violation of terms of Order No. 1: Failure to designate a single qualified individual. Maximum penalty of \$10,000 per day, WC Section 13385 | Violation of terms of Order No. 2: Failure to winterize by November 9, 2006. Maximum penalty of \$10,000 per day, WC Section 13385 | Violation of terms of Order No. 3: Failure to document winterization activities. Maximum penalty of \$1000 per day, WC Section 13268 | Violation of terms of Order No. 4: Failure to submit an adequate site monitoring plan. Maximum penalty of \$1000 per day, WC Section 13268 | TOTAL DAYS | PENALTY PER SITE |
| <b>NORTHSTAR DRIVE ROUNDABOUT -WDID #6A31C333754</b>   |  |  |  |            |                  |
| 0  | 0  | 0  | 0  | 32         | \$320,000.00     |
| Only one report needed, considered in the penalty calculation for the Village.   |  | Only one report needed, considered in the penalty calculation for the Village.   | Only one report needed, considered in the penalty calculation for the Village.   |            |                  |

| ALLEGED PERMIT VIOLATIONS  |  |  |  |  |
|--|--|--|--|--|
| Failure to install and maintain BMPs. Maximum penalty of \$10,000 per day, WC Section 13385  | Failure to conduct and record daily site inspections and pre-storm inspections. Maximum penalty of \$10,000 per day, WC Section 13385  | Failure to conduct storm water sampling. Maximum penalty of \$10,000 per day, WC Section 13385 | Discharge of sediment laden storm water to surface waters (Order No. A3 of the General Permit, pollution or threatened pollution). Maximum penalty of \$10,000 per day, WC Section 13385 | Creating a condition of Pollution or Threatened Pollution. Maximum penalty of \$10,000 per day, WC Section 13385 |
| HIGHLANDS RESORT HOTEL - WDID 6A29C339910  |  |  |  |  |
| <b>DAYS:</b>   | 103  | 19   |  |  |
| <p><b>June 15, 2006 (1 day of violation).</b> Failure to install and maintain adequate sediment, erosion, and run-on control BMPs throughout the site, in violation of permit section A.6 and in violation of the SWPPP. References: (1) Water Board staff report of its June 15, 2006, inspection; (2) Discharger's June 22, 2006 letter stating that noted violations were corrected on June 16, 2006.</p> <p><b>July 5 - 13, 2006 (8 additional days).</b> Failure to install and maintain adequate sediment, erosion, and run-on control BMPs throughout the site, in violation of permit section A.6 and in violation of the SWPPP. References: (1) Water Board staff report of its July 5, 2006, inspection; (2) Discharger's July 13, 2006, letter documenting correction of identified deficiencies.</p> <p><b>June 20, 2006 - July 13, 2006 (23 additional days).</b> Failure to install and maintain stockpile management BMPs for up to 7 waste soil stockpiles, in violation of Attachment O of the SWPPP. References: (1) Water Board staff report of its July 5, 2006, inspection; (2) Discharger's July 13, 2006, letter documenting correction of identified deficiencies.</p> <p><b>August 7, 2006 (1 additional days).</b> Failure to implement adequate BMPs for wind erosion control pursuant to Section 500.3.7 and Attachment O of the SWPPP, resulting in fugitive dust emissions; failure to implement adequate hazardous waste storage BMPs pursuant to Section 500.3.9 and Attachment O of the SWPPP, resulting in storage of hazardous waste materials on bare ground. References: (1) Water Board's staff report of its August 7, 2006, inspection.</p> <p><b>August 7-26 2006 (19 additional days from that noted above).</b> Failure to stage and install adequate erosion and sediment control BMPs prior to construction pursuant to Attachment O of the SWPPP, resulting in inadequate storm water retention and containment. References: (1) Water Board's staff report of its August 7, 2006, inspection; (2) Discharger's August 26, 2006 self inspection report.</p> <p><b>June 9 - September 9, 2006 (48 additional days from that noted above).</b> Failure to install and maintain site run-on controls prior to any construction and grading activity, as required by Attachment A, Sheet C3, of the SWPPP project plans. References: (1) Discharger's June 9, 2006, self inspection report of timber clearing activities; (2) Water Board staff inspection reports for its June 15, July 5, and August 7, 2006, inspections; (3) Discharger's September 9, 2006 self inspection report documenting completion of site run-on control BMPs.</p> <p><b>November 1-3, 2006 (3 additional days).</b> Failure to install and maintain adequate sediment and erosion controls prior to a forecasted rain event - disturbed were not tackified as required by the BMP inspectors and the SWPPP. References: Discharger's November 1-3, 2006, self inspection reports.</p> | <p><b>June 13, and 14, 2006 (2 days of violation).</b> Failure to conduct and record pre and post storm inspections prior to predictions of rainfall events. References: (1) Northstar CSD Inspection Reports of its TH-2 Water Facilities project documenting predictions for precipitation at a neighboring project; (2) Discharger's July 16, 2006, submittal of all inspection reports conducted and documented through June 15, 2006.</p> <p><b>June 26 and 27, 2006 (2 additional days).</b> Failure to inspect and record BMP site inspection prior to forecast of rain and after rain event, as required by section 500 of the SWPPP. Reference: (1) Water Board staff report of its July 5, 2006, inspection; (2) Discharger's submittal of inspection reports for the period.</p> <p><b>June 16, 17,19,22-27, 29, 30, and July 1, 3, and 5 (15 additional days).</b> Failure to conduct and record daily inspections of implemented BMPs (such as stockpile management BMPs), as required by Attachment O of the SWPPP. References: Discharger's submittal of inspection reports for the period.</p> |  |  |  |

| ALLEGED CLEANUP AND ABATEMENT ORDER VIOLATIONS   |  |  |  | PENALTY    |                  |
|--|--|--|--|------------|------------------|
| Violation of terms of Order No. 1: Failure to designate a single qualified individual. Maximum penalty of \$10,000 per day, WC Section 13385 | Violation of terms of Order No. 2: Failure to winterize by November 9, 2006. Maximum penalty of \$10,000 per day, WC Section 13385   | Violation of terms of Order No. 3: Failure to document winterization activities. Maximum penalty of \$1000 per day, WC Section 13268 | Violation of terms of Order No. 4: Failure to submit an adequate site monitoring plan. Maximum penalty of \$1000 per day, WC Section 13268 | TOTAL DAYS | PENALTY PER SITE |
| <b>HIGHLANDS RESORT HOTEL - WDID 6A29C339910</b>   |  |  |  |            |                  |
| 0  | 8  | 0  | 0  | 148        | \$1,480,000.00   |
| Only one report needed, considered in the penalty calculation for the Village.   | <p>The Discharger submitted information on November 14, 2006, claiming the site was fully winterized by the due date. However, the submittal includes a Placer County inspection report noting failing and eroding areas that had previously been winterized. The submittal included a tentative winterization plan which required shotcrete to be applied to large stockpiles. However, the Discharger did not document completion of this task. The Discharger submitted photographs of final winterization measures, but the photographs instead show large areas of disturbance with inadequate measures in place.</p> <p>Water Board's report of its November 15, 2006, inspection documented that the site was adequately winterized - 6 days after the required compliance date.</p> <p>The Discharger did not submit information that any winterization measures (especially those that relied on the use of soil binders) were inspected for the need of re-application after precipitation events in January and February, 2007 (one event each month), as required in Attachment O of the SWPPP - 2 additional days of violation.</p> | Only one report needed, considered in the penalty calculation for the Village.   | Only one report needed, considered in the penalty calculation for the Village.   |            |                  |

| ALLEGED 401 WQC VIOLATIONS  | ALLEGED BASIN PLAN VIOLATIONS  |  |
|---|--|--|
| Failure to comply with 401 Conditions.<br>Maximum penalty of \$10,000 per day, WC Section 13385 | Discharge of wastes to surface waters of the Truckee River HU. Maximum penalty of \$10,000 per day, WC Section 13385 | Discharge (or threatened) of waste to lands within the 100-year floodplain of the Truckee River and tributaries.<br>Maximum penalty of \$10,000 per day, WC Section 13385  |
| <b>HIGHLANDS RESORT HOTEL - WDID 6A29C339910</b>  |  |  |
|   |  | 18   |
|   |  | <p><b>August 2-18, 2006 (16 additional days).</b> Presence of a large stockpile (40 feet high, 100 feet long, 20 to 30 feet wide) on site, and it was protected by a single row of silt fence which would be quickly overwhelmed in the event of storm water runoff, creating a threatened discharge in the event of a storm. Reference: (1) Water Board's report of its August 7, 2006, inspection; (2) Discharger's September 8, 2006 electronic mail documenting additional erosion and sediment control protection installed on August 18th.</p> |

| ALLEGED PERMIT VIOLATIONS   |   |  |  |  |
|---|---|--|--|--|
| Failure to install and maintain BMPs. Maximum penalty of \$10,000 per day, WC Section 13385 | Failure to conduct and record daily site inspections and pre-storm inspections. Maximum penalty of \$10,000 per day, WC Section 13385 | Failure to conduct storm water sampling. Maximum penalty of \$10,000 per day, WC Section 13385 | Discharge of sediment laden storm water to surface waters (Order No. A3 of the General Permit, pollution or threatened pollution). Maximum penalty of \$10,000 per day, WC Section 13385 | Creating a condition of Pollution or Threatened Pollution. Maximum penalty of \$10,000 per day, WC Section 13385 |

**TRAILSIDE TOWNHOMES - WDID NO. 6A29C339949**

| DAYS:  | 55 | 0 | 0 | 0 | 1  |
|--|----|---|---|---|--|
| <p><b>August 7 - September 8, 2006 (32 days of violation).</b> Failure to stage and install adequate run-on, erosion, and sediment control BMPs prior to construction pursuant to Attachment O of the SWPPP, resulting in inadequate storm water retention and containment. References: (1) Water Board's staff report of its August 7, 2006, inspection; (2) Discharger's September 8, 2006 electronic mail documenting completion of required BMPs.</p> <p><b>November 1 and 2, 2006 (2 additional days).</b> Failure to install additional BMP controls at edge of pavement to control sediment-laden storm water runoff prior to and during a storm event. BMP Inspector required installation on November 2nd during a storm, and the BMP was not installed until November 3rd (the second day of the storm). SWPPP Section 500.3.5 requires sediment controls to be installed at the perimeter of disturbed soil areas prior to anticipated rain events. Reference: Discharger's self inspection reports dated November 2 and 3, 2006.</p> <p><b>August 16, 2007 (1 additional day).</b> Failure to implement required concrete washout BMPs as required by the SWPPP, resulting in a concrete mixer being washed out onto a road, and runoff entering a drain inlet. Reference: (1) Discharger's August 16, 2007, self inspection report.</p> <p><b>October 27 - November 15, 2006 (20 additional days).</b> Failure to install effective source control BMPs and stabilize disturbed slopes, road shoulders, soft bottom/bank channels in disturbed earthen materials, in violation of SWPPP requirements. Failure to install and maintain adequate silt fence in violation of the SWPPP. It is noted that the Discharger reported completion of activities on October 27th, and Water Board staff discovered the violations on November 15th. It is further noted that a rain event occurred on November 13th. Reference: Water Board staff report of its November 15, 2006 inspection.</p> |    |   |   |   | <p><b>August 13, 2004 (1 day of violation).</b> Discharge of diesel fuel to ground surface. The Discharger failed to implement BMPs (Att. O of the SWPPP) for vehicle fueling - drip pans/absorbent pads were not used during the fueling, and the fuel tank was topped off. References: (1) Discharger's August 15, 2006, letter.</p> |

**HIGHLANDS - VILLAGE RUN FILL SITE - WDID NO. 6A29C342716**

| DAYS:  | 3 | 0 | 0 | 0 | 0 |
|--|---|---|---|---|---|
| <p><b>November 1 - 3, 2006 (3 days).</b> Failure to install BMP controls/Winterization BMPs on disturbed soil areas prior to and during a storm event. SWPPP Section 500.3.5 requires sediment controls to be installed at the perimeter of disturbed soil areas prior to anticipated rain events. Reference: Discharger's self inspection reports dated November 1, 2, and 3, 2006.</p> |   |   |   |   |   |

**NORTHSTAR DRIVE/BASQUE ROAD IMPROVEMENTS - WDID NO. 6A31C329713**

| DAYS:  | 47 | 0 | 0 | 0 | 0 |
|--|----|---|---|---|---|
| <p><b>May 1 - June 16, 2007 (47 days of violation).</b> Failure to stabilize eroding slopes that were previously revegetated; and failure to maintain rock-lined drainages, rolling dips, and other sediment and erosion control BMPs that were installed (eroded slopes due to winter season) pursuant to SWPPP requirements. Reference: (1) Water Board's June 15, 2006, inspection report; (2) Discharger's June 17, 2006, electronic mail stating that all items discussed during inspection have been completed on June 16, 2006.</p> <p><b>June 12-14, 2006 (no additional days).</b> Failure to repair deficient BMPs and clogged drainages prior to and during predicted rain event, pursuant to section IX.D of the SWPPP. Reference: Discharger's June 12-13, 2006, self inspection Reports for Highlands Drive Project.</p> <p><b>June 15, 2006 (no additional days).</b> Failure adequately protect stockpiles pursuant to SWPPP requirements. References: (1) Water Board's report of its June 15, 2006 site inspection; (2) Discharger's June 17, 2006, electronic mail stating that all items discussed during inspection have been completed on June 16, 2006.</p> |    |   |   |   |   |

| ALLEGED 401 WQC VIOLATIONS   | ALLEGED BASIN PLAN VIOLATIONS  |  |
|--|--|--|
| Failure to comply with 401 Conditions. Maximum penalty of \$10,000 per day, WC Section 13385 | Discharge of wastes to surface waters of the Truckee River HU. Maximum penalty of \$10,000 per day, WC Section 13385 | Discharge (or threatened) of waste to lands within the 100-year floodplain of the Truckee River and tributaries. Maximum penalty of \$10,000 per day, WC Section 13385 |

**TRAILSIDE TOWNHOMES - WDID NO. 6A29C339949**

|   |   |   |
|---|---|---|
| 0 | 0 | 0 |
|   |   |   |

**HIGHLANDS - VILLAGE RUN FILL SITE - WDID NO. 6A29C342716**

|   |   |   |
|---|---|---|
| 0 | 0 | 0 |
|   |   |   |

**NORTHSTAR DRIVE/BASQUE ROAD IMPROVEMENTS - WDID NO. 6A31C329713**

|   |   |   |
|---|---|---|
| 0 | 0 | 0 |
|   |   |   |

| ALLEGED CLEANUP AND ABATEMENT ORDER VIOLATIONS   |  |  |  | PENALTY    |                  |
|--|--|--|--|------------|------------------|
| Violation of terms of Order No. 1: Failure to designate a single qualified individual. Maximum penalty of \$10,000 per day, WC Section 13385 | Violation of terms of Order No. 2: Failure to winterize by November 9, 2006. Maximum penalty of \$10,000 per day, WC Section 13385 | Violation of terms of Order No. 3: Failure to document winterization activities. Maximum penalty of \$1000 per day, WC Section 13268 | Violation of terms of Order No. 4: Failure to submit an adequate site monitoring plan. Maximum penalty of \$1000 per day, WC Section 13268 | TOTAL DAYS | PENALTY PER SITE |
| <b>TRAILSIDE TOWNHOMES - WDID NO. 6A29C339949</b>  |  |  |  |            |                  |
| 0  | 0  | 0  | 0  | 56         | \$560,000.00     |
| Not subject to the terms and conditions of the CAO.  | Not subject to the terms and conditions of the CAO.  | Not subject to the terms and conditions of the CAO.  | Not subject to the terms and conditions of the CAO.  |            |                  |
| <b>HIGHLANDS - VILLAGE RUN FILL SITE - WDID NO. 6A29C342716</b>  |  |  |  |            |                  |
| 0  | 0  | 0  | 0  | 3          | \$30,000.00      |
| Not subject to the terms and conditions of the CAO.  | Not subject to the terms and conditions of the CAO.  | Not subject to the terms and conditions of the CAO.  | Not subject to the terms and conditions of the CAO.  |            |                  |
| <b>NORTHSTAR DRIVE/BASQUE ROAD IMPROVEMENTS - WDID NO. 6A31C329713</b>   |  |  |  |            |                  |
| 0  | 0  | 0  | 0  | 47         | \$470,000.00     |
| Not subject to the terms and conditions of the CAO.  | Not subject to the terms and conditions of the CAO.  | Not subject to the terms and conditions of the CAO.  | Not subject to the terms and conditions of the CAO.  |            |                  |

| ALLEGED PERMIT VIOLATIONS   |   |  |  |  |
|---|---|--|--|--|
| Failure to install and maintain BMPs. Maximum penalty of \$10,000 per day, WC Section 13385   | Failure to conduct and record daily site inspections and pre-storm inspections. Maximum penalty of \$10,000 per day, WC Section 13385   | Failure to conduct storm water sampling. Maximum penalty of \$10,000 per day, WC Section 13385 | Discharge of sediment laden storm water to surface waters (Order No. A3 of the General Permit, pollution or threatened pollution). Maximum penalty of \$10,000 per day, WC Section 13385 | Creating a condition of Pollution or Threatened Pollution. Maximum penalty of \$10,000 per day, WC Section 13385 |
| SCHAFER'S CAMP RESTAURANT - WDID NO. 6A29C324687  |   |  |  |  |
| <b>DAYS:</b>  | 22  | 21   |  |  |
| <p><b>June 22, 2006 - July 13 2006 (22 days of violation).</b> Failure to adequately install appropriate BMPs to prevent the discharge of pollutants associated with concrete wastes from the project site in violation of the SWPPP, as amended on February 11, 2005. References: (1) Water Board staff report of its July 5, 2006, inspection; (2) Discharger's June 22, 26, 28, and July 5, 2006 elf inspection reports documenting the continued BMP inadequacy; (3) Discharger's July 13, 2006 letter stating that adequate BMPs have been installed.</p> <p><b>July 5 - 13, 2006 (no additional days).</b> Failure to install and maintain adequate stockpile management BMPs as required by the SWPPP, as amended on February 11, 2005. References: (1) Water Board staff report of its July 5, 2006, inspection; (3) Discharger's July 13, 2006 letter stating that adequate BMPs have been installed.</p> <p><b>July 5 - 13, 2006 (no additional days).</b> Failure to install and maintain adequate BMPs for equipment storage pursuant to the SWPPP, as amended on February 11, 2005. References: (1) Water Board staff report of its July 5, 2006, inspection; (2) Discharger's July 13, 2006, letter documenting the implementation of all required BMPs</p> | <p><b>June 8-14, 16-21, 23-25, 27, 29, 30, and July 1 and 3, 2006 (21 days violation).</b> Failure to conduct and record 23 daily BMP inspections in violation of the August 24, 2004 NOV and tin violation of the permit. References: (1) Water Board staff report of its July 5, 2006 inspection; (2) Discharger's July 6, 2006 submittal of available inspection reports; (3) Discharger's August 31, 2006, letter verifying that inspections were not conducted for the noted days.</p> |  |  |  |
|   |   |  |  |  |

| ALLEGED 401 WQC VIOLATIONS   | ALLEGED BASIN PLAN VIOLATIONS  |  |
|--|--|--|
| Failure to comply with 401 Conditions. Maximum penalty of \$10,000 per day, WC Section 13385 | Discharge of wastes to surface waters of the Truckee River HU. Maximum penalty of \$10,000 per day, WC Section 13385 | Discharge (or threatened) of waste to lands within the 100-year floodplain of the Truckee River and tributaries. Maximum penalty of \$10,000 per day, WC Section 13385 |
| <b>SCHAFFER'S CAMP RESTAURANT - WDID NO. 6A29C324687</b>                                     |  |  |
|  |  | 0  |
|  |  |  |
|  |  |  |
|  |  |  |

| ALLEGED CLEANUP AND ABATEMENT ORDER VIOLATIONS   |  |  |  | PENALTY                |                  |
|--|--|--|--|------------------------|------------------|
| Violation of terms of Order No. 1: Failure to designate a single qualified individual. Maximum penalty of \$10,000 per day, WC Section 13385 | Violation of terms of Order No. 2: Failure to winterize by November 9, 2006. Maximum penalty of \$10,000 per day, WC Section 13385 | Violation of terms of Order No. 3: Failure to document winterization activities. Maximum penalty of \$1000 per day, WC Section 13268 | Violation of terms of Order No. 4: Failure to submit an adequate site monitoring plan. Maximum penalty of \$1000 per day, WC Section 13268 | TOTAL DAYS             | PENALTY PER SITE |
| <b>SCHAFFER'S CAMP RESTAURANT - WDID NO. 6A29C324687</b>   |  |  |  |                        |                  |
| 0  | 0  | 0  | 0  | 43                     | \$430,000.00     |
| Facility not subject to the Cleanup and Abatement Order.   | Facility not subject to the Cleanup and Abatement Order.   | Facility not subject to the Cleanup and Abatement Order.   | Facility not subject to the Cleanup and Abatement Order.   |                        |                  |
| <b>TOTAL MAXIMUM PENALTY:</b>  |  |  |  | <b>\$12,614,000.00</b> |                  |

## **ATTACHMENT 2**

### **Monitoring Data of Projects Storm Water Runoff Impacts to Area Surface Waters**

## NORTHSTAR VILLAGE

On November 2-3, 2006, an extended rain event created storm water runoff. The Discharger reported an accumulation of 1.28 inches of precipitation during this period. The Discharger's self-inspection reports do not contain monitoring results verifying storm water runoff monitoring was conducted within the West Fork West Martis Creek, as required by the project SWPPP.

A precipitation event occurred on January 3-4, 2007, which produced approximately 0.65 inches of rain in addition to subsequent snow.

**Table 1. West Fork West Martis Creek Monitoring Data Summary, January 4, 2007, Discharge from Village at Northstar.**

| Monitoring Station   | Turbidity (NTU) | Suspended Solids (mg/L) | Total Dissolved Solids (mg/L) | Total Phosphorus (mg/L) | Total Kjeldahl Nitrogen (mg/L)* |
|--|-----------------|-------------------------|-------------------------------|-------------------------|---------------------------------|
| Point of Storm Water Runoff Discharge into West Fork West Martis Creek (Station V6)                          | 36              | 54                      | 240                           | 0.21                    | 1.4                             |
| West Fork West Martis Creek above the point of storm water runoff discharge (Background Sample – Station V7) | 1.5             | <5                      | 110                           | <0.02                   | 0.2                             |
| West Fork West Martis Creek, Downstream from Point of Discharge (Station V5)                                 | 5.4             | 6                       | 140                           | 0.02                    | 0.4                             |

\*Nitrate Nitrogen was non-detectable in all samples; therefore, Total Nitrogen in samples consists entirely of Kjeldahl Nitrogen.

A precipitation event occurred on February 8 through 10, 2007, which produced up to 3 inches of precipitation at the Mt. Rose monitoring station and a trace at the Truckee monitoring station.

**Table 2. West Fork West Martis Creek Monitoring Data Summary, February 9, 2007, 3:15 p.m. through 3:45 p.m., Discharge from Village at Northstar.**

| Monitoring Station   | Turbidity (NTU) | Suspended Solids (mg/L) | Total Dissolved Solids (mg/L) | Total Phosphorus (mg/L) | Total Nitrogen (mg/L) |
|--|-----------------|-------------------------|-------------------------------|-------------------------|-----------------------|
| Point of Storm Water Runoff Discharge into West Fork West Martis Creek (Station V6)                          | 100             | 85                      | 280                           | 0.18                    | 2.7                   |
| West Fork West Martis Creek above the point of storm water runoff discharge (Background Sample – Station V7) | 4.1             | <5                      | 100                           | <0.02                   | 0.4                   |
| West Fork West Martis Creek, Downstream from Point of Discharge (Station V5)                                 | 16              | 9                       | 140                           | 0.03                    | 0.7                   |

**Table 3. West Fork West Martis Creek Monitoring Data Summary, February 10, 2007, 11:15 a.m. through 11:45 a.m., Discharge from Village at Northstar.**

| Monitoring Station   | Turbidity (NTU) | Suspended Solids (mg/L) | Total Dissolved Solids (mg/L) | Total Phosphorus (mg/L) | Total Nitrogen (mg/L) |
|--|-----------------|-------------------------|-------------------------------|-------------------------|-----------------------|
| Point of Storm Water Runoff Discharge into West Fork West Martis Creek (Station V6)                          | 60              | 88                      | 270                           | 0.18                    | 1.6                   |
| West Fork West Martis Creek above the point of storm water runoff discharge (Background Sample – Station V7) | 5.4             | 25                      | 110                           | 0.04                    | 0.7                   |
| West Fork West Martis Creek, Downstream from Point of Discharge (Station V5)                                 | 25              | 55                      | 180                           | 0.11                    | 1.2                   |

**Table 4. West Fork West Martis Creek Monitoring Data Summary,  
February 10, 2007, 3:45 p.m. through 4:15 p.m., Discharge from  
Village at Northstar.**

| Monitoring Station   | Turbidity<br>(NTU) | Suspended<br>Solids<br>(mg/L) | Total<br>Dissolved<br>Solids<br>(mg/L) | Total<br>Phosphorus<br>(mg/L) | Total<br>Nitrogen<br>(mg/L) |
|--|--------------------|-------------------------------|--|-------------------------------|-----------------------------|
| Point of Storm Water<br>Runoff Discharge into<br>West Fork West Martis<br>Creek (Station V6)                             | 34                 | 210                           | 250                                    | 0.20                          | 1.7                         |
| West Fork West Martis<br>Creek above the point of<br>storm water runoff<br>discharge (Background<br>Sample – Station V7) | 6.0                | 17                            | 120                                    | 0.03                          | 0.7                         |
| West Fork West Martis<br>Creek, Downstream from<br>Point of Discharge<br>(Station V5)                                    | 20                 | 23                            | 150                                    | 0.05                          | 0.9                         |

## INTERCEPT LOT

A precipitation event occurred on January 3-4, 2007, which produced approximately 0.65 inches of rain in addition to subsequent snow (**See Exhibit 14 from Northstar Village draft ACL - January 18, 2007, Electronic Mail from Vanessa Sandoval to Eric Taxer and Dale Payne, "Sample Results from Storm 1-4-07"**). The Discharger did not conduct a pre-storm inspection, inspections during the storm, nor a post-storm inspection, nor did the Discharger sample storm water run-on or run-off into wetland areas at the project site, as required by the SWPPP.

**Table 1. Intercept Lot Monitoring Data Summary, February 10, 2007, 12:00 p.m. through 12:45 p.m.**

| Monitoring Station            | Turbidity (NTU) | Suspended Solids (mg/L) | Total Dissolved Solids (mg/L) | Total Phosphorus (mg/L) | Total Nitrogen (mg/L) |
|-------------------------------|-----------------|-------------------------|-------------------------------|-------------------------|-----------------------|
| I-ED1<br>(Class III Drainage) | 21              | 14                      | 170                           | 0.80                    | 0.4                   |
| I-F3<br>(Basin F3 Outfall)    | 110             | 1700                    | 210                           | 0.60                    | 2.2                   |
| I-E3<br>(Basin E3 Outfall)    | 110             | 370                     | 100                           | 0.22                    | 1.7                   |
| I-3<br>(Basin 3 Outfall)      | 100             | 79                      | 230                           | 0.23                    | 2.6                   |

**Table 2. Intercept Lot Monitoring Data Summary, February 10, 2007, 4:20 p.m. through 4:30 p.m.**

| Monitoring Station            | Turbidity (NTU) | Suspended Solids (mg/L) | Total Dissolved Solids (mg/L) | Total Phosphorus (mg/L) | Total Nitrogen (mg/L) |
|-------------------------------|-----------------|-------------------------|-------------------------------|-------------------------|-----------------------|
| I-ED1<br>(Class III Drainage) | 70              | 76                      | 160                           | 0.19                    | 0.6                   |
| I-3<br>(Basin 3 Outfall)      | 21              | 66                      | 160                           | 0.08                    | 0.6                   |

## HIGHWAY 267/HIGHLANDS VIEW DRIVE INTERCHANGE

A rain event on October 5, 2006, produced 0.3 inches of precipitation in a 24-hour period.

**Table 1. Middle Martis Creek Monitoring Data Summary, October 5, 2006, Discharge from Middle Drain Inlet, 12:45 pm – 1:00 pm.**

| Monitoring Station   | Turbidity (NTU) | Suspended Solids (mg/L) | Total Dissolved Solids (mg/L) | Total Phosphorus (mg/L) | Total Nitrogen (mg/L) |
|--|-----------------|-------------------------|-------------------------------|-------------------------|-----------------------|
| Point of Storm Water Runoff Discharge into Middle Martis Creek (Station 267-Mid)                     | 900             | 960                     | 140                           | 0.31                    | 0.58                  |
| Middle Martis Creek above the point of storm water runoff discharge (Background Sample, Station M-4) | 8.4             | 19                      | 130                           | 0.14                    | 0.38                  |
| Middle Martis Creek, Downstream from Point of Discharge (Station M-5)                                | 17              | 30                      | 120                           | 0.17                    | 0.45                  |

A rain event on November 2-3, 2006, produced 1.28 inches of precipitation.

**Table 2. Middle Martis Creek Monitoring Data Summary, November 2, 2006, Discharge from Middle Drain Inlet. Sampled 4:45 pm – 5:30 pm**

| Monitoring Station   | Turbidity (NTU) | Settleable Solids (mg/L) | Total Dissolved Solids (mg/L) | Total Phosphorus (mg/L) | Total Nitrogen (mg/L) |
|--|-----------------|--------------------------|-------------------------------|-------------------------|-----------------------|
| Point of Storm Water Runoff Discharge into Middle Martis Creek (Station 267-Mid)                     | 190             | <4                       | 200                           | 0.32                    | 1.23                  |
| Middle Martis Creek above the point of storm water runoff discharge (Background Sample, Station M-4) | 3.8             | <4                       | 130                           | 0.06                    | 0.2                   |
| Middle Martis Creek, Downstream from Point of Discharge (Station M-5)                                | 5.7             | <4                       | 140                           | 0.07                    | 0.2                   |

Oil and Grease was sampled in the discharge (12 mg/L), and in the downstream sample (non detectable), but not analyzed in the upstream sample.

A rain event on January 3-4, 2007, produced 0.65 inches of precipitation. Site was not sampled due to chain control restrictions and safety considerations.

A rain event February 8-10, 2007, produced 2.52 inches of precipitation.

**Table 3. Middle Martis Creek Monitoring Data Summary, February 8, 2007, Discharge from Middle Drain Inlet, 10:50 am – 11:30 am.**

| Monitoring Station   | Turbidity (NTU) | Suspended Solids (mg/L) | Total Dissolved Solids (mg/L) | Total Phosphorus (mg/L) | Total Nitrogen (mg/L) |
|--|-----------------|-------------------------|-------------------------------|-------------------------|-----------------------|
| Point of Storm Water Runoff Discharge into Middle Martis Creek (Station 267-North culvert)           | 180             | 220                     | 790                           | 0.39                    | 1.2                   |
| Middle Martis Creek above the point of storm water runoff discharge (Background Sample, Station M-4) | 8.8             | 7                       | 180                           | 0.03                    | <0.3                  |
| Middle Martis Creek, Downstream from Point of Discharge (Station M-5)                                | 3.7             | 16                      | 160                           | 0.03                    | <0.4                  |

**Table 4. Middle Martis Creek Monitoring Data Summary, February 9, 2007, Discharge from Middle Drain Inlet, 10:15 am – 12:00 pm.**

| Monitoring Station   | Turbidity (NTU) | Suspended Solids (mg/L) | Total Dissolved Solids (mg/L) | Total Phosphorus (mg/L) | Total Nitrogen (mg/L) |
|--|-----------------|-------------------------|-------------------------------|-------------------------|-----------------------|
| Storm Water Runoff Discharge into Middle Martis Creek (Station 267-Middle Culvert)                   | 130             | 260                     | 340                           | 0.30                    | 0.6                   |
| Storm Water Runoff Discharge into Middle Martis Creek (Station 267-North Culvert)                    | 290             | 92                      | 220                           | 0.80                    | 1.3                   |
| Middle Martis Creek above the point of storm water runoff discharge (Background Sample, Station M-4) | 120             | 92                      | 180                           | 0.22                    | 0.7                   |
| Middle Martis Creek, Downstream from Point of Discharge (Station M-5)                                | 96              | 95                      | 220                           | 0.17                    | 0.7                   |

**Table 5. Middle Martis Creek Monitoring Data Summary, February 10, 2007, Discharge from Middle Drain Inlet, 1:15 pm – 1:55 pm.**

| Monitoring Station   | Turbidity (NTU) | Suspended Solids (mg/L) | Total Dissolved Solids (mg/L) | Total Phosphorus (mg/L) | Total Nitrogen (mg/L) |
|--|-----------------|-------------------------|-------------------------------|-------------------------|-----------------------|
| Storm Water Runoff Discharge into Middle Martis Creek (Station 267-Middle Culvert)                   | 28              | 64                      | 350                           | 0.10                    | <0.35                 |
| Storm Water Runoff Discharge into Middle Martis Creek (Station 267-North Culvert)                    | 23              | 46                      | 240                           | 0.08                    | 0.6                   |
| Middle Martis Creek above the point of storm water runoff discharge (Background Sample, Station M-4) | 26              | 64                      | 170                           | 0.10                    | 0.6                   |
| Middle Martis Creek, Downstream from Point of Discharge (Station M-5)                                | 35              | 77                      | 170                           | 0.14                    | 0.6                   |

**Table 6. Middle Martis Creek Monitoring Data Summary, February 10, 2007, Discharge from Middle Drain Inlet, 4:40 pm – 5:15 pm.**

| Monitoring Station   | Turbidity (NTU) | Suspended Solids (mg/L) | Total Dissolved Solids (mg/L) | Total Phosphorus (mg/L) | Total Nitrogen (mg/L) |
|--|-----------------|-------------------------|-------------------------------|-------------------------|-----------------------|
| Storm Water Runoff Discharge into Middle Martis Creek (Station 267-Middle Culvert)                   | 32              | 42                      | 310                           | <0.02                   | 0.4                   |
| Storm Water Runoff Discharge into Middle Martis Creek (Station 267-North Culvert)                    | 12              | 26                      | 290                           | 0.02                    | 0.7                   |
| Middle Martis Creek above the point of storm water runoff discharge (Background Sample, Station M-4) | 33              | 72                      | 190                           | 0.14                    | 0.7                   |
| Middle Martis Creek, Downstream from Point of Discharge (Station M-5)                                | 24              | 54                      | 180                           | 0.11                    | 0.6                   |

## HIGHLANDS VIEW DRIVE

A rain event on October 5, 2006, produced 0.3 inches of precipitation in a 24-hour period.

**Table 1. West Martis Creek Monitoring Data Summary, Discharge from Station 104+00, October 5, 2006, Approximately 3:00 p.m.**

| Monitoring Station                | Turbidity (NTU) | Suspended Solids (mg/L) | Total Dissolved Solids (mg/L) | Total Phosphorus (mg/L) | Total Nitrogen (mg/L) |
|-----------------------------------|-----------------|-------------------------|-------------------------------|-------------------------|-----------------------|
| Off site, Upstream                | 22.1            | Not Sampled             | Not Sampled                   | Not Sampled             | Not Sampled           |
| Onsite, Upstream from Discharge   | 66.9            | Not Sampled             | Not Sampled                   | Not Sampled             | Not Sampled           |
| Onsite, Downstream from Discharge | 386             | Not Sampled             | Not Sampled                   | Not Sampled             | Not Sampled           |

**Table 2. West Fork West Martis Creek Monitoring Data Summary, October 5, 2006, Discharge from Station 144+00, Approximately 4:00 p.m.**

| Monitoring Station        | Turbidity (NTU) | Suspended Solids (mg/L) | Total Dissolved Solids (mg/L) | Total Phosphorus (mg/L) | Total Nitrogen (mg/L) |
|---------------------------|-----------------|-------------------------|-------------------------------|-------------------------|-----------------------|
| Upstream from Discharge   | 3.64            | Not Sampled             | Not Sampled                   | Not Sampled             | Not Sampled           |
| Downstream from Discharge | 3.38            | Not Sampled             | Not Sampled                   | Not Sampled             | Not Sampled           |

A contractor hit a water line on October 10, 2006, and directed all runoff into a Drain Inlet with a direct link to West Fork West Martis Creek. 2,100 gallons was discharged.

**Table 3. West Fork West Martis Creek Monitoring Data Summary, October 10, 2006, Discharge from Station 144+00, 10:05 a.m. to 10:15 a.m. Samples collected 15 minutes after the discharge was stopped.**

| Monitoring Station   | Turbidity (NTU) | Suspended Solids (mg/L) | Total Dissolved Solids (mg/L) | Total Phosphorus (mg/L) | Total Nitrogen (mg/L) |
|--|-----------------|-------------------------|-------------------------------|-------------------------|-----------------------|
| Upstream from Discharge and Road Crossing (Station HVD4)   | 13              | 44                      | 100                           | 0.09                    | 0.24                  |
| Downstream from Discharge and Road Crossing (Station HVD5) | 38              | 67                      | 120                           | 0.11                    | 0.29                  |

A rain event on November 2-3, 2006, produced 1.28 inches of precipitation.

**Table 4. West Martis Creek Monitoring Data Summary, November 2, 2006, Discharge from Station 104+00, 10:50 a.m. to 11:50 a.m.**

| Monitoring Station   | Turbidity (NTU) | Settleable Solids (mg/L) | Total Dissolved Solids (mg/L) | Total Phosphorus (mg/L) | Total Nitrogen (mg/L) |
|--|-----------------|--------------------------|-------------------------------|-------------------------|-----------------------|
| Upstream from Discharge and Road Crossing (Station HVR2)   | 0.3             | <4                       | 86                            | 0.02                    | 0.39                  |
| Downstream from Discharge and Road Crossing (Station HVR3) | 23              | <4                       | 100                           | <0.02                   | 0.33                  |

**Table 5. West Fork West Martis Creek Monitoring Data Summary, November 2, 2006, Discharge from Station 144+00, 11:45 a.m. to 11:50 a.m. Samples collected 15 minutes after the discharge was stopped.**

| Monitoring Station   | Turbidity (NTU) | Settleable Solids (mg/L) | Total Dissolved Solids (mg/L) | Total Phosphorus (mg/L) | Total Nitrogen (mg/L) |
|--|-----------------|--------------------------|-------------------------------|-------------------------|-----------------------|
| Upstream from Discharge and Road Crossing (Station HVR4)   | 0.5             | <4                       | 100                           | 0.02                    | 0.39                  |
| Downstream from Discharge and Road Crossing (Station HVR5) | 38              | 67                       | 120                           | 0.11                    | 0.29                  |

A small rain and sampling event occurred on December 15, 2006. The monitoring results do not indicate conditions of pollution, and the results are not tabulated for the proposed ACL Complaint.

A precipitation event occurred on January 3-4, 2007, which produced approximately 0.65 inches of rain in addition to subsequent snow. West Martis Creek at Station 104+00 was not sampled, presumably because there was no flow present.

**Table 6. West Fork West Martis Creek Monitoring Data Summary, January 4, 2007, Discharge from Station 144+00, 2:00 p.m. to 2:25 p.m.**

| Monitoring Station   | Turbidity (NTU) | Suspended Solids (mg/L) | Total Dissolved Solids (mg/L) | Total Phosphorus (mg/L) | Total Nitrogen (mg/L) |
|--|-----------------|-------------------------|-------------------------------|-------------------------|-----------------------|
| Upstream from Discharge and Road Crossing (Station HVR4)           | 1.4             | <5                      | 100                           | <0.02                   | <0.6                  |
| Downstream from Discharge and Road Crossing (Station HVR5)         | 2.6             | <5                      | 110                           | <0.02                   | <0.6                  |
| Further Downstream from Discharge and Road Crossing (Station HVR6) | 1.1             | <5                      | 110                           | <0.2                    | <0.6                  |

A rain event February 8-10, 2007, produced 2.52 inches of precipitation. The Discharger reported flows only at Station 144+00 (West Fork West Martis Creek).

However, a subsequent report by IERS indicates that there were flows within West Martis Creek.

**Table 7. West Fork West Martis Creek Monitoring Data Summary, February 8, 2007, Discharge from Station 144+00, 8:45 a.m. to 9:15 a.m.**

| Monitoring Station   | Turbidity (NTU) | Suspended Solids (mg/L) | Total Dissolved Solids (mg/L) | Total Phosphorus (mg/L) | Total Nitrogen (mg/L) |
|--|-----------------|-------------------------|-------------------------------|-------------------------|-----------------------|
| Upstream from Discharge and Road Crossing (Station HVR4)           | 0.5             | <5                      | 90                            | <0.02                   | 0.3                   |
| Downstream from Discharge and Road Crossing (Station HVR5)         | 0.4             | <5                      | 120                           | 0.02                    | 0.4                   |
| Further Downstream from Discharge and Road Crossing (Station HVR6) | 0.6             | <5                      | 100                           | <0.02                   | 0.5                   |

**Table 8. West Fork West Martis Creek Monitoring Data Summary, February 9, 2007, Discharge from Station 144+00, 12:30 p.m. to 1:30 p.m.**

| Monitoring Station   | Turbidity (NTU) | Suspended Solids (mg/L) | Total Dissolved Solids (mg/L) | Total Phosphorus (mg/L) | Total Nitrogen (mg/L) |
|--|-----------------|-------------------------|-------------------------------|-------------------------|-----------------------|
| Upstream from Discharge and Road Crossing (Station HVR4)           | 12              | 12                      | 100                           | 0.02                    | 0.7                   |
| Downstream from Discharge and Road Crossing (Station HVR5)         | 24              | 28                      | 120                           | 0.05                    | 0.8                   |
| Further Downstream from Discharge and Road Crossing (Station HVR6) | 6.2             | 8                       | 120                           | 0.02                    | 0.4                   |

**Table 9. West Fork West Martis Creek Monitoring Data Summary,  
February 10, 2007, Discharge from Station 144+00, 10:15 a.m. to  
10:45 a.m.**

| Monitoring Station   | Turbidity (NTU) | Suspended Solids (mg/L) | Total Dissolved Solids (mg/L) | Total Phosphorus (mg/L) | Total Nitrogen (mg/L) |
|--|-----------------|-------------------------|-------------------------------|-------------------------|-----------------------|
| Upstream from Discharge and Road Crossing (Station HVR4)           | 6.2             | 23                      | 120                           | 0.04                    | 1.0                   |
| Downstream from Discharge and Road Crossing (Station HVR5)         | 4.7             | 33                      | 100                           | 0.04                    | 0.6                   |
| Further Downstream from Discharge and Road Crossing (Station HVR6) | 7.5             | 28                      | 120                           | 0.03                    | 0.6                   |

**Table 10. West Fork West Martis Creek Monitoring Data Summary,  
February 10, 2007, Discharge from Station 144+00, 3:45 p.m. to  
4:05 p.m.**

| Monitoring Station   | Turbidity (NTU) | Suspended Solids (mg/L) | Total Dissolved Solids (mg/L) | Total Phosphorus (mg/L) | Total Nitrogen (mg/L) |
|--|-----------------|-------------------------|-------------------------------|-------------------------|-----------------------|
| Upstream from Discharge and Road Crossing (Station HVR4)           | 7.7             | 20                      | 130                           | 0.06                    | 1.8                   |
| Downstream from Discharge and Road Crossing (Station HVR5)         | 1.1             | 150                     | 120                           | 0.17                    | 1.6                   |
| Further Downstream from Discharge and Road Crossing (Station HVR6) | 7.1             | 71                      | 120                           | 0.03                    | 0.7                   |

## **EMPLOYEE HOUSING**

A rain event on October 5, 2006, produced 0.3 inches of precipitation in a 24-hour period. No sampling was conducted, presumably because there was no discharge from the storm water basins.

A rain event on November 2-3, 2006, produced 1.28 inches of precipitation. No sampling was conducted, presumably because there was no discharge from the storm water basins.

A precipitation event occurred on January 3-4, 2007, which produced approximately 0.65 inches of rain in addition to subsequent snow. No sampling was conducted, presumably because there was no discharge from the storm water basins.

A rain event February 8-10, 2007, produced 2.52 inches of precipitation. No sampling was conducted, presumably because there was no discharge from the storm water basins.

## **HIGHLANDS RESORT HOTEL (RITZ CARLTON HOTEL)**

A rain event on October 5, 2006, produced 0.3 inches of precipitation in a 24-hour period. No sampling was conducted, presumably because there was no discharge from the storm water basins.

A rain event on November 2-3, 2006, produced 1.28 inches of precipitation. No sampling was conducted, presumably because there was no discharge from the storm water basins.

A precipitation event occurred on January 3-4, 2007, which produced approximately 0.65 inches of rain in addition to subsequent snow. No sampling was conducted, presumably because there was no discharge from the storm water basins.

A rain event February 8-10, 2007, produced 2.52 inches of precipitation. No sampling was conducted, presumably because there was no discharge from the storm water basins.

## **TRAILSIDE TOWNHOMES**

A rain event on October 5, 2006, produced 0.3 inches of precipitation in a 24-hour period. No sampling was conducted, presumably because there was no discharge from the storm water basins.

A rain event on November 2-3, 2006, produced 1.28 inches of precipitation. No sampling was conducted, presumably because there was no discharge from the storm water basins.

A precipitation event occurred on January 3-4, 2007, which produced approximately 0.65 inches of rain in addition to subsequent snow. No sampling was conducted, presumably because there was no discharge from the storm water basins.

A rain event February 8-10, 2007, produced 2.52 inches of precipitation. No sampling was conducted, presumably because there was no discharge from the storm water basins.