CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION

IN THE MATTER OF:

SCRIPPS RANCH MIDDLE SCHOOL
NONCOMPLIANCE WITH STATE BOARD
ORDER NO. 99-08-DWQ

COMPLAINT NO. R9-2007-0061
FOR
ADMINISTRATIVE CIVIL LIABILITY

June 19, 2007

THE SAN DIEGO UNIFIED SCHOOL DISTRICT IS HEREBY GIVEN NOTICE THAT:

1. The San Diego Unified School District (hereinafter District) is alleged to have violated provisions of law for which the California Regional Water Quality Control Board, San Diego Region (Regional Board) may impose civil liability under sections 13261 and 13385 of the California Water Code.

2. The District owns and operates the Scripps Ranch Middle School construction site (hereinafter Site) located southwest of the intersection of Avenue of Nations and Pomerado Road within the City of San Diego. The site has been regulated by the Regional Board in accordance with State Board Order No. 99-08-DWQ, *NPDES General Permit No. CAS000002, Waste Discharge Requirements for Discharges of Storm Water Runoff Associated with Construction Activity* (Order No. 99-08-DWQ) since August 4, 2004 when the Notice of Intent (NOI) to comply with terms of Order No. 99-08-DWQ was submitted.

ALLEGATIONS

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

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

3.3 **District Discharged Sediment to Waters of the State: Violation of Construction Storm Water Permit Discharge Prohibition A.2.**
For at least three days, on March 18, 2005, February 19, 2007 and February 27, 2007, the District discharged sediment-laden water either into an unnamed tributary to Carroll Canyon Creek, or directly into Carroll Canyon Creek, in violation of Discharge Prohibition A.2 of Order No. 99-08-DWQ.

PROPOSED CIVIL LIABILITY

4. Based on Section 13385 of the Water Code, the maximum liability is $510,000. Based on the known circumstances affecting the discharger's liability and as provided for in Section 13385(e) of the Water Code, the total recommended civil liability for alleged violations is $128,000. The recommended liability is based on the following:

   a. The discharger violated the reporting requirements of Sections A.11 and B.3 of Order No. 99-08-DWQ by failing to include required information in a total of 42 inspection reports (inspections required to be performed by the discharger when rainfall events occur). The maximum liability for violating reporting requirements is $10,000 per day. Civil liability should be imposed at a rate of $2,000 per reporting violation for a total of $84,000.

   b. The discharger failed to implement and maintain effective BMPs for at least 7 days. This includes two days on which Regional Board staff observed BMP violations during site inspections and five days for which BMP violations were documented pursuant to the CAO requirement to submit Technical Reports when rainfall exceeds one inch. The maximum liability for failure to implement and maintain effective BMPs is $10,000 per day. Civil liability should be imposed at a rate of $2,000 per day for a total of $14,000.

   c. The discharge of sediment-laden storm water into a tributary to Carroll Canyon Creek and directly into Carroll Canyon Creek occurred for at least 3 days.

Pursuant to Water Code Section 13385, the maximum liability is $10,000 per day plus up to $10 per gallon discharged. Civil liability for these unregulated discharges should be imposed at $10,000 per day for a total of $30,000. Liability for gallons discharged was not included in this assessment.

Dated this June 19th, 2007

JOHN H. ROBERTUS
Executive Officer