California Re_.onal Water Quality C n
San Diego Region
Internet Address: http://www.swrcb.ca.gov/rwqcb9
9174 Sky Park Court, Suite 100, San Diego, California 92123-4340
Phone (858) 467-2952 • FAX (858) 571-6972

Winston H. Hickox
Secretary for
Environmental
Protection

Gray Davis
Governor

Supporting Document No. 4

July 28, 2003

**CERTIFIED MAIL and VIA FACSIMILE**
7002 1000 0004 6879 1049

In reply refer to:
**CA:10-3020657.02:stewr**

Mr. Justin Ashby
President
Ashby USA, LLC
470 E. Harrison Street
Corona, California 92879

Dear Mr. Ashby:

**SUBJECT: PROPOSED SETTLEMENT OF COMPLAINT NO. R9-2003-0227 FOR ASSESSMENT OF CIVIL LIABILITY AGAINST ASHBY USA, LLC FOR VIOLATION OF STATE BOARD ORDER NO. 99-08-DWQ: RORIPAUGH RANCH CONSTRUCTION SITE WDID 9 33S320657**

This letter is to confirm the California Regional Water Quality Control Board, San Diego Region (Regional Board) has received an offer by Ashby USA, LLC (Ashby) to settle ACL Complaint No. R9-2003-0227 issued for assessment of civil liability. The terms of the settlement are contained in your letter dated July 25, 2003 and are summarized below:

1. Ashby will pay $51,000 to the State Water Resources Control Board for deposit in the State's Pollution Cleanup and Abatement Account. A cashier's check for the full amount must be submitted no later than September 10, 2003.

2. Ashby commits to comply with the California State Water Resouces Control Board (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* now and in the future at all existing and future Ashby construction sites within the San Diego Region.

3. Civil liability will be assessed as follows:

   a. Ten thousand dollars ($10,000) for the sediment discharge that occurred on March 16, 2003.

b. Five thousand dollars ($5,000) for the sediment discharge that occurred on April 14, 2003.

c. Thirty six thousand dollars ($36,000) for failure to implement a Storm Water Pollution Prevention Plan (SWPPP) during a period of 24 consecutive days.

I have determined it is in the best interest of the Regional Board to resolve the matter by accepting your settlement with the following clarifications and conditions:

1. Ashby waives its right to petition this settlement to the State Board.

2. Ashby will publish the attached notice in the Riverside Press Enterprise no later than August 1, 2003, notifying the public of a 30-day period from August 1, 2003 through August 30, 2003 and soliciting comments on the terms of the settlement.

3. Regional Board acceptance of the settlement will resolve all liability which was alleged in ACL Complaint No. R9-2003-0227. Although the Regional Board elects not to access the proposed liability for all the violations alleged in the complaint, this does not alter our findings of the alleged violations documented at your site. Therefore, if an ACL were justified in the future for new violations, the amount of the liability assessed against Ashby would be based on consideration of all past violations alleged including those not assessed, as well as other factors established in the California Water Code.

Subsequently, the Regional Board will consider acceptance of the proposed settlement during its regularly scheduled meeting of September 10, 2003. The meeting will begin at 9:00 a.m. and be held at the Regional Board's office located at 9174 Sky Park Court, San Diego, California. The Regional Board will send you an agenda the first week of September and will include copies of all comments received during the public comment period.

Assuming you concur with the conditions and clarifications stated above, the 30-day comment period will commence with the proper public noticing by Ashby to initiate the public comment period.

The heading portion of this letter includes a Regional Board code number noted after "In reply refer to:" In order to assist us in the processing of your correspondence please include this code number in the heading or subject line portion of all correspondence and reports to the Regional Board pertaining to this matter.

If you have any questions regarding this matter please contact Rebecca Stewart of my staff at (858) 467-2966 or stewr@rb9.swrcb.ca.gov .

Sincerely,

John H. Robertus
Executive Officer

JHR:mpm:mja:rls

Enclosures: (1) Public Hearing Notice

cc: Peter Olah, Ashby USA, LLC, 470 E. Harrison Street, Corona, Ca 92870

Martin Rasnick, Glenn Lukos Associates, 29 Orchard, Lake Forrest, CA 92630-8300

Joe Stone, City of Temecula, Department of Public Works, NPDES Program, P.O. Box 9033, Temecula, CA 92589-9033

Aldo Licitra, City of Temecula, Department of Public Works, NPDES Program, P.O. Box 9033, Temecula, CA 92589-9033

Ellen M. Blake, U.S. Environmental Protection Agency, Clean Water Act Complicance Office, 75 Hawthorne Street, WTR-7, San Francisco, CA 94105-3901