

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

CLEANUP AND ABATEMENT ORDER NO. 99-018  
HANSON PERMANENTE CEMENT COMPANY, INC.  
(FORMERLY KAISER CEMENT CORPORATION)  
CUPERTINO, SANTA CLARA COUNTY, CALIFORNIA

The California Regional Water Quality Control Board, San Francisco Bay Region (the Board) finds that:

1. The Hanson Permanente Cement Company, Inc. (Hanson), owns and operates a cement plant and rock quarry (the Facility) adjacent to Permanente Creek (the Creek) in the City of Cupertino, Santa Clara County, California.
2. Hanson is currently regulated under Cleanup and Abatement Order Nos. 92-001 and 95-207, and operates under the State Board's General Permit for Storm Water Discharges Associated with Industrial Activities (General Permit), Waste Discharger Identification Number 2 43S006267.
3. Section 411.32 of 40 C.F.R. prohibits the discharge of storm water with more than 50 mg/l of Total Suspended Solids from cement manufacturing facilities for all storms of an intensity equal to or less than the 25-year, 24-hour storm.
4. The discharge of silt, sand, clay or other earthen materials from any activity in quantity sufficient to cause deleterious bottom deposits, turbidity or discoloration in surface waters or to unreasonably affect or threaten to affect beneficial uses (Table 4-1, Discharge Prohibitions, Item No.9) is prohibited by the San Francisco Bay Water Quality Control Plan (Basin Plan) and the General Permit. Slide areas and stream banks that remain unstable during the rainy season are a significant source of sediment discharge. In addition to increased sediment loading, historic activities at the Facility have also impacted creek dynamics (e.g., biological, hydraulics, hydrology, sedimentation and deposition, etc.). Changes to creek dynamics can affect physical and chemical changes in water quality and, thus, the beneficial uses of the Creek.
5. Board staff inspected the Facility on several occasions during dry and wet weather months in 1998 and 1999 and observed sediment-laden water discharging to the Creek from various locations at the Facility. During these inspections, water clarity in the Creek was generally observed to be significantly more turbid downstream than upstream of the Facility.

6. On June 22, 1998, Board staff met with representatives from California Department of Fish and Game (DF&G), U.S. Army Corps of Engineers (Corps), U.S. Fish and Wildlife Service (F&WS), Santa Clara Valley Water District (SCVWD) and Hanson at the Facility to discuss appropriate alternatives for Pond-14. Pond-14 is an in-stream pond and is located at the furthest downgradient point of the Facility. It was generally agreed that it would be beneficial to install a mechanism that would divert stream flows away from Pond-14 while increasing riparian and wetland habitat and using Pond-14 for emergency use as a sedimentation basin.
7. Pond-22, located immediately upstream of Pond-14 at the downstream end of the Facility, is believed to have been constructed in 1997 without appropriate regulatory permits. On September 2, 1998, The Board issued a Waiver of Waste Discharge Requirements and Water Quality Certification for the excavation of approximately 2,000 cubic yards of sediment from instream settlement Ponds-13 and -14, and for repair of an approximately 10-foot wide by 20-foot length section of the Creek. Pond-22 was specifically excluded from authorization in the waiver because of the concern that it was constructed without appropriate regulatory permits.
8. On September 17, 1998, the Board issued a Notice of Violation (NOV) for discharges of sediment laden storm water into the Creek in violation of Board Order No. 95-207 and the General Permit. The NOV was issued in response to citizen complaints and subsequent Board staff inspections and observations at the Facility indicating a significant increase in turbidity through the Facility and increased sediment deposition downstream of Facility operations.
9. The NOV required Hanson to develop interim and long term measures to eliminate discharge of sediment laden water into the Creek, to perform a storm water discharge outfall consolidation study to improve storm water monitoring, and to provide its findings in a report to Board staff.
10. Hanson has implemented interim measures as required by the NOV, and submitted two reports documenting the progress made to date. As part of the long-term goals, Hanson has performed a sediment source identification exercise to pinpoint and prioritize the potential source areas within the Facility.
11. Board staff met with Hanson representatives on February 16, 1999, to discuss the source areas identified during the inspections described in Finding 5, and possible interim and long-term measures for each of the six areas identified as having the highest priority for erosion control.
12. Based on the above facts, Hanson has caused or permitted storm water to be discharged into waters of the State and created and threatened to continue to

create pollution. This Order, therefore, sets forth tasks for investigating and mitigating existing and potential future impacts to the Creek.

13. This Order is an action to enforce the Basin Plan and as such is exempt from the California Environmental Quality Act, pursuant to Section 15321(a)(2) of Title 14, California Code of Regulations.
14. Pursuant to Section 13304 of the Water Code, Hanson is hereby notified that the Board is entitled to, and may seek reimbursement for all reasonable costs actually incurred by the Board to investigate the unauthorized discharges and to oversee cleanup and abatement of the effect thereof, or other remedial action, required by this Order.

IT IS HEREBY ORDERED, pursuant to Section 13304, of Division 7 of the California Water Code, that Hanson shall abate the effects of the discharges, and take other remedial actions to control as follows:

A. Prohibitions

1. The discharge, or creation of potential for discharge, of any earthen materials, fresh concrete, cement, silt, clay, sand, organic material or any other pollutants that will significantly degrade water quality, and adversely affect beneficial uses of waters of the State is prohibited.
2. No work shall be performed in the Creek that may contribute to sediment discharges, including stabilization of banks and sediment removal, without advance authorization from this Board and other appropriate permitting agencies.

B. Interim/Annual Corrective Measures

1. Stabilize all disturbed slopes at the Facility which are not being actively mined and which contribute to sediment discharges. Stabilization to prevent erosion may be in the form of either hydro-seeding, mulching or other erosion control measures.
2. Intercept all sediment laden storm water in excess of 50 mg/l Total Suspended Solids before the storm water enters the Creek for all storms of an intensity equal to or less than the 25-year, 24-hour storm. Hanson may propose to treat that storm water before allowing it to enter the Creek.
3. To the extent feasible, clean out all sediment from existing permitted sedimentation basins to achieve adequate retention volume. The removal of earthen materials must be in accordance with all DF&G, Army Corps of Engineers, SCVWD, and Board permits, requirements and conditions, and

may occur on an annual basis (or more frequently if necessary), and must be scheduled and performed in a manner that minimizes impacts to the Creek.

4. Adequate erosion control measures shall be implemented and maintained at the Facility to prevent discharge of earthen materials and other pollutants to waters of the State from disturbed or stockpiled area.
5. All surplus and waste materials shall be contained or disposed of in an appropriate manner and location sufficient to prevent erosion or washout and subsequently discharging to waters of the State.
6. Drainage and surface flows from the Facility shall be controlled to prevent onsite and downstream erosion and pollutant discharge. **By August 31, 1999** Hanson shall submit a technical report containing an Interim Corrective Action Plan acceptable to the Executive Officer, that complies with the Prohibitions of this Order and provides a schedule for complying with all the Interim/Annual Corrective Measures specified in Provisions B.1. through B.5. above. The Interim Corrective Action Plan shall be in place until the permanent corrective measures outlined below have been implemented.

C. Remedial and Long Term Measures

1. **By August 15, 1999** Hanson shall submit a technical report containing an updated storm water monitoring plan, acceptable to the Executive Officer, to assess the effectiveness of the source control measures implemented. The monitoring plan must include a map delineating all disturbed areas at the Facility, Facility-wide storm water sampling locations, sampling frequency, sampling schedule, laboratory analyses, and reporting schedule. The report must include an evaluation of the data collected, and recommendations for additional source control options if the monitoring demonstrates that the source control options implemented were not successful. The plan should be responsive to changing conditions at the Facility, and monitoring locations should be deleted or added accordingly.
2. **By September 15, 1999** Hanson shall submit a technical report containing a work plan and an implementation schedule, acceptable to the Executive Officer, to restore the Creek to a natural flowing condition by-passing Pond-14, the farthest downstream sedimentation pond at the Facility. This shall be done in such a manner that adequate water is allowed to flow into Pond-14 to maintain a wetland habitat as discussed with Board staff during the June 22, 1998, meeting at the Facility. The restoration shall provide for a mechanism that is capable of diverting all flows back to Pond-14 in the event of an upgradient sediment discharge or other necessary

condition. The work plan shall be prepared and implemented by a creek restoration specialist.

3. **By September 15, 1999** Hanson shall submit a technical report containing a proposal, acceptable to the Executive Officer, to either restore Pond-22 to a natural flowing condition or obtain appropriate "after the fact" regulatory permits for its construction. Any proposal to obtain permits shall include a plan and schedule for mitigating both temporal and permanent impacts caused by its construction.
4. **By November 15, 1999** Hanson shall submit a technical report containing a work plan, acceptable to the Executive Officer, outlining the corrective measures to control sediment discharges to the Creek from Upper and Lower Quarry Road. The work plan shall contain a detailed description of the source areas contributing to the runoff entering the Creek from Quarry Road, a map depicting those areas, a plan outlining the specific sediment control measures to be implemented per source area identified, and an implementation schedule.
5. **By November 1, 1999** Hanson shall submit a technical report containing a work plan and an implementation schedule, acceptable to the Executive Officer, outlining a plan to control sediment runoff from the Primary Crusher and from the Ore Feeder to the Primary Crusher. The work plan will include the design of a containment system to control overland flow of sediment laden water over the embankment directly into the Creek, and a storm water drainage plan for the water contained by the new system. In addition, the plan shall include a sediment management plan for the water contained in the existing concrete containment structure adjacent to the Primary Crusher. The sediment management plan must include a training component to ensure all Facility personnel follow the procedures outlined within the plan.
6. **By November 15, 1999** Hanson shall submit a technical report containing a work plan, acceptable to the Executive Officer, for the containment of storm water and aggregate wash water containing elevated levels of sediment from Screen Tower No. 4. The work plan must include the design of a containment system and water management plan for this area, and the stockpiles adjacent to the Creek to the west of Screen Tower No. 4. The work plan must provide for source removal activities, sediment removal, drainage improvements, or a combination of these activities, and an implementation schedule.
7. **By December 15, 1999** Hanson shall submit a technical report containing a work plan, acceptable to the Executive Officer, for slope stabilization and re-vegetation of the former overburden stockpile area. This plan shall

be in addition to the annual hydro-seeding program that Hanson currently performs. The slope stabilization and re-vegetation plan must include specific areas to be re-vegetated, a phased planting plan, and implementation schedule for the stabilization and planting program. The plan must specify the types of vegetation to be planted within each area and performance criteria to determine whether the re-vegetation plan implemented for a particular area is successful. A contingency plan for areas where re-vegetation is not successful must also be included.

8. **By February 1, 2000** Hanson shall submit a technical report containing a work plan, acceptable to the Executive Officer, for slope stabilization of the Creek embankment adjacent to Screen Tower No. 4. The work plan must be prepared by a creek restoration specialist and include a review of potential slope stabilization alternatives, including biotechnical stabilization alternatives and discussion of the benefits and disadvantages of each alternative. A recommendation for the selected alternative and a schedule for its implementation must be included in the technical report.
9. **By September 1, 2000** Hanson shall submit a technical report containing a proposal for a long term creek restoration plan (plan), acceptable to the Executive Officer, for all areas of the Creek area affected by the Facility. A creek restoration specialist must prepare the plan. This plan should build upon previous work including the tasks required above and be performed in three phases. The plan shall fully describe each phase, which should, at a minimum, include the following components:

Phase 1: A system wide field reconnaissance (fluvial geomorphology), that includes problem(s) identification (determine cause/mode of failure), and data collection and analysis (e.g., biological, geotechnical, hydraulics & hydrology, sedimentation, survey and mapping, etc.). Properly performed field reconnaissance and problem identification should result in a good qualitative understanding of erosion and bank stability problems on a watershed scale. The purpose of this reconnaissance is to identify sites along the Creek that would ideally require some form of stabilization and/or restoration;

Phase 2: Prioritization of candidate sites and a description of identified and potential solutions and design alternatives that incorporate information from Phase 1. Such a plan should consider appropriate fluvial geomorphologic design and the degree to which biotechnical measures and creek restoration design can be included as the solution; and,

Phase 3: Submittal of implementation schedules for candidate sites and their associated design alternative(s) and solutions from Phase 2.

10. If Hanson is delayed, interrupted or prevented from meeting one or more of the completion dates specified in this Order, Hanson shall promptly notify the Executive Officer in writing and request revised completion dates.

D. Reporting Requirements

1. Hanson shall immediately notify the Board by telephone at (510) 622-2300 whenever an adverse water quality condition occurs as a result of Facility related activities. A written confirmation to the Board on the incident shall follow within five working days by certified mail.
2. In addition, Hanson shall submit to the Board reports acceptable to the Executive Officer on compliance with the requirements of this Order and status reports that contain descriptions and results of the work and analysis performed. These reports are to be submitted according to the program outlined below:

On a quarterly basis, Hanson shall submit status reports, which may be prepared in letter format, documenting compliance with this Order, commencing on October 1, 1999. Thereafter, reports shall be due quarterly on the 1st of each ensuing October, January, and April, and July until the tasks have been completed. Each quarterly report shall cover the previous calendar quarter and include, at a minimum, the following information:

- a. Summary of the work completed since the submittal of the previous report, and work projected to be completed before the submittal of the next report.
- b. Identification of obstacles that may threaten compliance with the schedule set forth by this Order, or by plans and reports submitted in response to this Order, and what actions are being taken to overcome these obstacles.

With appropriate justification and written request from Hanson, the Executive Officer may agree to delete this reporting requirement, or amend the reporting requirements for content and frequency, when all or most of the required tasks are completed satisfactorily.

E. Other Provisions

1. On an annual basis by April 30, Hanson shall apply for Waste Discharge Requirements and/or Water Quality Certification for all scheduled and/or planned work in the Creek and its tributaries, including stabilization of banks, sediment removal, and all other work scheduled and/or planned to be undertaken in implementing the measures under Provisions B. and C. in that calendar year. For all such work scheduled and/or planned prior to February 1, 2000, only, Hanson shall submit the above application by August 23, 1999.
2. As described in Finding 14 above, upon receipt of a billing statement for costs incurred pursuant to Section 13304 of the Water Code, Hanson shall reimburse the Board.
3. Pursuant to California Water Code Sections 13304 and 13350, if Hanson fails to comply with the provisions of this Order, the Board may schedule a hearing to consider assessing civil monetary penalties and to consider requesting the Attorney General to take appropriate enforcement action, including injunctive and civil monetary remedies.

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Loretta K. Barsamian  
Executive Officer

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Date