



EDMUND G. BROWN JR.
GOVERNOR



MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

California Regional Water Quality Control Board, San Diego Region

June 16, 2014

Via email only

Gary Stanford
Director, Project Management Department
San Diego Unified School District
4860 Ruffner Street
San Diego, California 92111

In reply refer to / attn:
SM-811445:wchiu

**Subject: Notice of Violation No. R9-2014-0062, Jonas Salk Elementary School,
Order No. 2009-0009-DWQ, NPDES Permit No. CAS000002**

Mr. Stanford:

Enclosed is Notice of Violation (NOV) No. R9-2014-0062 issued to the San Diego Unified School District (SDUSD) for violations of Order No. 2009-0009-DWQ, issued by the California State Water Resources Control Board and overseen by the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board). As described in the NOV, the violations are subject to further enforcement pursuant to the California Water Code. The San Diego Water Board reserves the right to take any enforcement action authorized by law.

Please provide a written response by **July 18, 2014** that either confirms the violations have been corrected or identifies a date by which the violations will be corrected.

In making the determination of whether and how to proceed with further enforcement action, the San Diego Water Board will consider the severity and effect of the violation, the level of cooperation, the time it takes to correct the identified violations, and the sufficiency of the corrections.

In the subject line of any response, please include the information located in the heading of this letter: "in reply refer to." For questions pertaining to the subject matter, please contact Wayne Chiu at (619) 521-3354 or wchiu@waterboards.ca.gov.

Respectfully,

Eric S. Becker
Senior Water Resource Control Engineer
Storm Water Management Unit

ESB:wc

Enclosure: Notice of Violation No. R9-2014-0062

cc (via email only): Don Webb, SDUSD (dwebb1@sandi.net)
Robert Snipes, SDUSD (rsnipes@sandi.net)
John Stokes, SDUSD (jstokes@sandi.net)
Mike Hagler, Soltek Pacific Construction (mhagler@soltekpacific.com)
Bob Thompson, Soltek Pacific Construction (bobthompson@soltekpacific.com)
Carl Fiorica, Burkett & Wong Engineers (cfiorica@burkett-wong.com)
James Smith, San Diego Water Board (James.Smith@waterboards.ca.gov)

Tech Staff Info & Use	
Order No.	2009-0009-DWQ
NPDES No.	CAS000002
Place ID	SM-811445
WDID	937C365865
Inspection ID	2021829
Violation ID	853489, 853644, 853645, 853834, 853835
Enforcement ID	415553



California Regional Water Quality Control Board, San Diego Region

June 16, 2014

NOTICE OF VIOLATION
No. R9-2014-0062

Gary Stanford
Director, Project Management Department
San Diego Unified School District
4860 Ruffner Street
San Diego, CA 92111

San Diego Unified School District

Jonas Salk Elementary School
PIN No. SM-811445:wchiu

Violations of

Order No. 2009-0009-DWQ,
Construction General Permit

The SAN DIEGO UNIFIED SCHOOL DISTRICT is hereby notified that the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) reserves the right to take any enforcement action authorized by law for the violations described herein.

The SAN DIEGO UNIFIED SCHOOL DISTRICT is in violation of State Water Resources Control Board (State Water Board) Order No. 2009-0009-DWQ, NPDES No. CAS000002, National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Construction General Permit).

A. Summary of Violations

Construction General Permit Violations

1. Failure to Comply with Discharge Prohibitions for Construction Activities:

a. Pursuant to Provision III.B of State Water Board Order No. 2009-0009-DWQ:

All discharges are prohibited except for the storm water and non-storm water discharges specifically authorized by this General Permit or another NPDES permit.

- b. Observation:** The San Diego Water Board conducted a drive-by inspection of the Jonas Salk Elementary School construction site (WDID 937C365865) on March 3, 2014, and a follow-up inspection on April 2, 2014. The San Diego San Diego Unified School District (SDUSD) is the Legally Responsible Person (LRP) enrolled under the Construction General Permit (CGP) for the site. On March 3, 2014, the San Diego Water Board inspector observed evidence of sediment and sediment-laden water discharging from the site due to inadequate and ineffective implementation of best management practices (BMPs), constituting an unauthorized storm water discharge from the site. The discharge was the result of inadequate implementation of erosion controls observed during the April 2, 2014 inspection. See attached April 2, 2014 Facility Inspection Report Photos 17 through 20 and Attachment 1.

2. Failure to Comply with Effluent Limitations for Construction Activities:

- a. Pursuant to Provision V.A.2 of State Water Board Order No. 2009-0009-DWQ:** Dischargers shall minimize or prevent pollutants in storm water discharges and authorized non-storm water discharges through the use of controls, structures, and management practices that achieve Best Available Technology Economically Achievable (BAT) for toxic and non-conventional pollutants and Best Conventional Pollutant Control Technology (BCT) for conventional pollutants.
- b. Pursuant to Provision X and Section A.1.b of Attachment D of State Water Board Order No. 2009-0009-DWQ:** Dischargers shall minimize or prevent pollutants in storm water and authorized non-storm water discharges through the use of controls, structures, and management practices that achieve BAT for toxic and non-conventional pollutants and BCT for conventional pollutants.
- c. Observation:** During the April 2, 2014 inspection, the San Diego Water Board inspector observed the lack of effective erosion controls required by the CGP, which directly lead to erosion and sedimentation that ultimately resulted in the discharge of sediment and sediment-laden water from the site observed on March 3, 2014. The discharge was a result of the implementation of controls, structures, and BMPs that do not achieve BCT. See attached April 2, 2014 Facility Inspection Report Photos 19 and 20.

3. Failure to Implement Good Site Management “Housekeeping” Best Management Practices (BMPs) for Construction Materials:

- a. Pursuant to Provision X and Section B.1.a of Attachment D of State Water Board Order No. 2009-0009-DWQ:** Risk Level 2 dischargers are required to cover and berm loose stockpiled construction materials that are not actively being used (i.e. soil, spoils, aggregate, fly-ash, stucco, hydrated lime, etc.).
- b. Observation:** During the April 2, 2014 inspection, the San Diego Water Board inspector observed soil stockpiles that appeared to be inactive, or could be

scheduled to be inactive without adequate cover or berm. See attached April 2, 2014 Facility Inspection Report Photos 3 through 5.

4. Failure to Implement Good Site Management “Housekeeping” BMPs for Waste Management:

- a. Pursuant to Provision X and Section B.2.a of Attachment D of State Water Board Order No. 2009-0009-DWQ:** Risk Level 2 dischargers are required to cover waste disposal containers at the end of every business day and during a rain event.
- b. Observation:** During the April 2, 2014 inspection, the San Diego Water Board inspector observed several waste containers that lacked covers, and no evidence that there were covers available for the containers. See attached April 2, 2014 Facility Inspection Report Photos 1 and 2.
- c. Pursuant to Provision X and Section B.2.i of Attachment D of State Water Board Order No. 2009-0009-DWQ:** Risk Level 2 dischargers are required to ensure containment of concrete washout areas and other washout areas that may contain additional pollutants so there is no discharge into underlying soil and onto the surrounding areas.
- d. Observation:** During the April 2, 2014 inspection, the San Diego Water Board inspector observed a concrete washout area without measures to contain and prevent discharges into underlying soil and onto surrounding areas. See attached April 2, 2014 Facility Inspection Report Photo 6.

5. Failure to Implement Adequate Erosion Controls for Inactive Areas:

- a. Pursuant to Provision X and Section D.2 of Attachment D of State Water Board Order No. 2009-0009-DWQ:** Risk Level 2 dischargers shall provide effective soil cover for inactive areas and all finished slopes, open space, utility backfill, and completed lots.
- b. Observation:** During the April 2, 2014 inspection, the San Diego Water Board inspector observed several areas of the site that appeared to be inactive, or could be scheduled to be inactive, without effective soil cover or other BMPs that could prevent erosion. At least one area had been identified as and observed to be inactive on October 7, 2013, and was observed to lack effective soil cover during the April 2, 2014 inspection. See attached April 2, 2014 Facility Inspection Report Photos 7, 8, and 19.

6. Failure to Implement Appropriate Erosion Controls or Areas Under Active Construction:

- a. Pursuant to Provision X and Section E.3 of Attachment D of State Water Board Order No. 2009-0009-DWQ:** Risk Level 2 dischargers shall implement appropriate erosion control BMPs (runoff control and soil stabilization) in conjunction with sediment control BMPs for areas under active construction.
- b. Observation:** During the April 2, 2014 inspection, the San Diego Water Board inspector observed several areas of the site under active construction without appropriate BMPs to prevent erosion in conjunction with sediment control BMPs. See attached April 2, 2014 Facility Inspection Report Photos 9 through 12.

7. Failure to Implement Adequate Linear Sediment Controls for Exposed Slopes:

- a. Pursuant to Provision X and Section E.4 of Attachment D of State Water Board Order No. 2009-0009-DWQ:** Risk Level 2 dischargers shall apply linear sediment controls along the toe of the slope, face of the slope, and at the grade breaks of exposed slopes to comply with sheet flow lengths.
- b. Observation:** During the April 2, 2014 inspection, the San Diego Water Board inspector observed several exposed slopes lacking linear sediment controls along the toe of the slopes. At least one exposed slope had been identified as and observed to be lacking linear sediment control along the toe of the slope on October 24, 2013, and was observed to lack linear sediment controls along the toe of the slope during the April 2, 2014 inspection. See attached April 2, 2014 Facility Inspection Report Photos 13 through 16.

8. Failure to Implement Repairs to BMPs As Soon As Possible:

- a. Pursuant to Provision X and Section G.3 of Attachment D of State Water Board Order No. 2009-0009-DWQ:** Upon identifying failures or other shortcomings, as directed by the QSP, Risk Level 2 discharges shall begin implementing repairs or design changes to BMPs within 72 hours of identification and complete the changes as soon as possible.
- b. Observation:** During the April 2, 2014 inspection, the San Diego Water Board inspector observed erosion control BMPs on a slope that failed and required repairs. The failure occurred during a storm event that occurred on February 26 through March 2, 2014, which resulted in a discharge of sediment and sediment-laden water from the site observed on March 3, 2014. No repairs or changes to BMPs to address and prevent a subsequent failure was observed. See attached April 2, 2014 Facility Inspection Report Photo 20.

9. Failure to Collect Storm Water Grab Samples:

- a. **Pursuant to Provision X and Section I.4.b of Attachment D of State Water Board Order No. 2009-0009-DWQ:** At a minimum, Risk Level 2 discharges shall collect 3 samples per day of the qualifying storm event (producing precipitation of ½ inch or more at the time of discharge).
- b. **Observation:** During the April 2, 2014 inspection, a review of the records for the site indicated that no samples were collected for the qualifying storm event that took place on February 26 through March 2, 2014, which resulted in a discharge of sediment and sediment-laden water from the site observed on March 3, 2014. See attached April 2, 2014 Facility Inspection Report Finding 9.

10. Failure to Have a Storm Water Pollution Prevention Plan (SWPPP) that Meets the Requirements of State Water Board Order No. 2009-0009-DWQ:

- a. **Pursuant to Provision XVI.A.3 of State Water Board Order No. 2009-0009-DWQ:** [The SWPPP shall be designed to include] site BMPs [that] are effective and result in the reduction or elimination of pollutants in storm water and authorized non-storm water discharges from construction activity to the BAT/BCT standard.
- b. **Pursuant to Provision XVI.B of State Water Board Order No. 2009-0009-DWQ:** To demonstrate compliance with requirements of this General Permit, the QSD shall include information in the SWPPP that supports the conclusions, selection, use, and maintenance of BMPs.
- c. **Observation:** At the time of the April 2, 2014 inspection, the San Diego Water Board inspector reviewed the SWPPP available onsite. The SWPPP available for the site did not include information in the SWPPP that supports the conclusions, selection, use, and maintenance of BMPs for a Risk Level 2 construction site. Inadequate BMPs included in the SWPPP resulted in the discharge of pollutants in storm water from the site that were not reduced or eliminated to the BAT/BCT standard. See attached April 2, 2014 Facility Inspection Report Findings 1 through 8.

11. Failure to Submit 2012-2013 Annual Report:

- a. **Pursuant to Provision XVI.A of State Water Board Order No. 2009-0009-DWQ:** All dischargers shall prepare and electronically submit an Annual Report no later than September 1 of each year. An annual report is required if a project is active more than one continuous three month period.
- b. **Observation:** At the time of the April 2, 2014 inspection, the San Diego Water Board inspector reviewed the Storm Water Multiple Application and Report Tracking System (SMARTS) for to review the 2012-2013 Annual Report. According to SMARTS, the project became active on March 13, 2013. SMARTS indicated that

the 2012-2013 Annual Report is Past Due as of September 1, 2013. See attached April 2, 2014 Facility Inspection Report Finding 10.

B. Summary of Potential Enforcement Options

These violations may subject you to additional enforcement by the San Diego Water Board or State Water Resources Control Board, including a potential civil liability assessment of \$10,000 per day of violation (Water Code section 13385) and/or any of the following enforcement actions:

Other Potential Enforcement Options	Applicable Water Code Section
Technical or Investigative Order	Sections 13267 or 13383
Cleanup and Abatement Order	Section 13304
Cease and Desist Order	Sections 13301-13303
Time Schedule Order	Sections 13300, 13308

In addition, the San Diego Water Board may consider revising or rescinding applicable waste discharge requirements, if any, referring the matter to other resource agencies, referring the matter to the State Attorney General for injunctive relief, and referral to the municipal or District Attorney for criminal prosecution.

In the subject line of any response, please include the information located in the heading of this letter: "in reply refer to." Questions pertaining to this Notice of Violation should be directed to Wayne Chiu at (619) 521-3354 or wchiu@waterboards.ca.gov.



Eric S. Becker, P.E.
Senior Water Resource Control Engineer
Storm Water Management

ESB:wc

Attachments: Facility Inspection Report dated April 2, 2014

Tech Staff Info & Use	
Place ID	SM-811445
WDID	937C365865
Inspection ID	2021829
Violation ID	853489, 853644, 853645, 853834, 853835
Enforcement ID	415553

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD - SAN DIEGO REGION
WATERSHED PROTECTION PROGRAM**

FACILITY INSPECTION REPORT

FACILITY: Jonas Salk Elementary School **INSPECTION DATE/TIME:** 4/2/2014; 9:00 am

WDID/FILE NO.: 937C365865

REPRESENTATIVE(S) PRESENT DURING INSPECTION:

NAME: Wayne Chiu AFFILIATION: San Diego Water Board

NAME: Mike Hagler AFFILIATION: Soltek Pacific Construction

NAME: Oscar Lucio AFFILIATION: Soltek Pacific Construction

San Diego Unified School District
NAME OF OWNER, AGENCY OR PARTY RESPONSIBLE FOR DISCHARGE

Jonas Salk Elementary School
FACILITY OR DEVELOPER NAME (if different from owner)

4860 Ruffner Street
San Diego, CA 92111
OWNER MAILING ADDRESS

7825 Flanders Drive
San Diego, CA 92126
FACILITY ADDRESS

Gary Sanford, 858-638-6280
OWNER CONTACT NAME AND PHONE #

Same
FACILITY OR DEVELOPER CONTACT NAME AND PHONE #

APPLICABLE WATER QUALITY LICENSING REQUIREMENTS:

- | | |
|---|---|
| <input type="checkbox"/> MS4 URBAN RUNOFF REQUIREMENTS | <input type="checkbox"/> GENERAL OR INDIVIDUAL WASTE DISCHARGE REQUIREMENTS OR NPDES |
| <input checked="" type="checkbox"/> CONSTRUCTION GENERAL PERMIT | <input type="checkbox"/> GENERAL OR INDIVIDUAL WAIVER OF WASTE DISCHARGE REQUIREMENTS |
| <input type="checkbox"/> CALTRANS GENERAL PERMIT | <input type="checkbox"/> SECTION 401 WATER QUALITY CERTIFICATION |
| <input type="checkbox"/> INDUSTRIAL GENERAL PERMIT | <input type="checkbox"/> CWC SECTION 13264 |

INSPECTION TYPE (Check One):

- "A" TYPE COMPLIANCE--COMPREHENSIVE INSPECTION IN WHICH SAMPLES ARE TAKEN. (EPA TYPE S)
- "B" TYPE COMPLIANCE--A ROUTINE NONSAMPLING INSPECTION. (EPA TYPE C)
- NONCOMPLIANCE FOLLOW-UP--INSPECTION MADE TO VERIFY CORRECTION OF A PREVIOUSLY IDENTIFIED VIOLATION.
- ENFORCEMENT FOLLOW-UP--INSPECTION MADE TO VERIFY THAT CONDITIONS OF AN ENFORCEMENT ACTION ARE BEING MET.
- COMPLAINT--INSPECTION MADE IN RESPONSE TO A COMPLAINT.
- PRE-REQUIREMENT--INSPECTION MADE TO GATHER INFO. RELATIVE TO PREPARING, MODIFYING, OR RESCINDING REQUIREMENTS.
- NO EXPOSURE CERTIFICATION (NEC) - VERIFICATION THAT THERE IS NO EXPOSURE OF INDUSTRIAL ACTIVITIES TO STORM WATER.
- NOTICE OF TERMINATION REQUEST FOR INDUSTRIAL FACILITIES OR CONSTRUCTION SITES - VERIFICATION THAT THE FACILITY OR CONSTRUCTION SITE IS NOT SUBJECT TO PERMIT REQUIREMENTS.
- COMPLIANCE ASSISTANCE INSPECTION - OUTREACH INSPECTION DUE TO DISCHARGER'S REQUEST FOR COMPLIANCE ASSISTANCE.

INSPECTION FINDINGS:

Y WERE VIOLATIONS NOTED DURING THIS INSPECTION? (YES/NO/PENDING SAMPLE RESULTS)

Facility: Jonas Salk Elementary School
Inspection Date: 4/2/2014

I. COMPLIANCE HISTORY / PURPOSE OF INSPECTION

On October 7, 2013, Wayne Chiu of the San Diego Water Board performed a routine inspection of the Jonas Salk Elementary School construction site for compliance with the requirements of the Statewide Construction General Storm Water Permit, Order No. 2009-0009-DWQ (CGP). According to the Storm Water Multiple Application & Report Tracking System (SMARTS), the site is 11.6 acres in size and owned by the San Diego Unified School District (SDUSD). The site drains to Carroll Canyon Creek, which is a tributary to Los Penasquitos Lagoon. Los Penasquitos Lagoon is listed on the Clean Water Act Section 303(d) List of Water Quality Impaired Segments (303(d) List) due to sedimentation. At the time of the October 7, 2013 inspection, the site was identified as a Risk Level 1 construction site in SMARTS.

The San Diego Water Board inspector met with Mr. Mike Hagler, the Qualified Storm Water Pollution Prevention Plan (SWPPP) Practitioner (QSP) performing inspections for the project. Mr. Hagler escorted the San Diego Water Board inspector during the October 7, 2013 inspection. Following the inspection, the San Diego Water Board inspector sent a Staff Enforcement Letter (SEL) to the QSP on October 8, 2013 notifying him of the violations of the CGP requirements for Risk Level 1 sites identified during the inspection that needed to be corrected. The QSP was also notified that because the site discharges indirectly to a waterbody listed as impaired by sediment on the 303(d) List (i.e. Los Penasquitos Lagoon) the Risk Level 1 determination was incorrect and needed to be re-evaluated by the Qualified SWPPP Developer (QSD).

The QSP provided a written response to the SEL on October 11, 2013. The response included photo documentation showing additional sediment controls had been implemented, but did not show any erosion controls on several slopes and areas that were inactive or could be scheduled to be inactive. The response also asserted that the site did not discharge indirectly to a waterbody listed as impaired for sediment on the 303(d) List because it only indirectly discharged to Carroll Canyon Creek. The response did not acknowledge that Carroll Canyon Creek is tributary to Los Penasquitos Lagoon.

In an email sent to the QSP and the Project Superintendent for Soltek Pacific Construction, Bob Thompson, on October 14, 2013, the San Diego Water Board notified the site that the sediment control BMPs shown in the photo documentation provided were not adequate to meet the erosion control requirements for a Risk Level 1 (or Risk Level 2) site. The email requested that adequate erosion control BMPs be implemented at the site before the end of the month or before the next storm event, whichever was sooner.

On October 24, 2013, the San Diego Water Board inspector conducted a drive by inspection of the site in anticipation of a forecasted storm event to determine if erosion control BMPs had been implemented as requested. Inadequate implementation of erosion control BMPs was still observed for several slopes and areas identified as inactive during the October 7, 2013 inspection, and the perimeter control BMPs

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Inspection Date: 4/2/2014

previously observed had been removed from one side of the site. Both the QSP and the Project Superintendent were notified by email sent on October 25, 2013 of the continued areas of non-compliance.

At the request of the SDUSD, Chiara Clemente, Eric Becker and Wayne Chiu from the San Diego Water Board met with John Stokes (SDUSD), Carl Fiorica (Burkett & Wong Engineering, representing the QSD), and Mike Hagler (Soltek Pacific Construction, QSP) to discuss the appropriate risk level designation for the site. The SDUSD representatives stated that SMARTS did not identify the site as being in High Risk Receiving Water watershed, and thus asserted the Risk Level 1 designation was appropriate.

The San Diego Water Board informed the SDUSD representatives that, according to the CGP, construction sites discharging directly or indirectly to a waterbody listed as impaired by sediment on the 303(d) List have High Receiving Water Risk. Construction sites with High Receiving Water Risk will have a designation of Risk Level 2, at a minimum. The SDUSD did not dispute that the site discharges to Carroll Canyon Creek which is tributary to Los Penasquitos Lagoon, a waterbody listed as impaired by sediment on the 303(d) List.

The San Diego Water Board also informed the SDUSD representatives that information utilized by SMARTS to determine receiving water risk was inaccurate, but that did not relieve the SDUSD from complying with the requirements of the CGP and properly designating the risk level for the site after notification by the San Diego Water Board the site discharges indirectly to a waterbody listed as impaired by sediment on the 303(d) List. The SDUSD agreed to submit a Change of Information (COI) to SMARTS to change the risk level for the site and SWPPP to Risk Level 2 and begin implementing the CGP requirements for a Risk Level 2 site.

On November 5, 2013, the QSP informed the San Diego Water Board by email that erosion control and linear sediment control BMPs would be implemented, in addition to additional perimeter controls on November 6, 2013. On November 25, 2013, the COI was submitted by the SDUSD to change the site to Risk Level 2 and amend the SWPPP (See COI No. 14567). The COI to change the risk level was approved by Eric Becker on December 4, 2013.

According to SMARTS, on February 18, 2014, a new COI was submitted to change the site back to Risk Level 1, again asserting that SMARTS did not identify the site as being in High Risk Receiving Water watershed (See COI No. 15926). The new COI was submitted by Mr. Carl Fiorica, who was agreed that the site would be changed to a Risk Level 2 site at the October 29, 2013 meeting with the San Diego Water Board. The COI was inadvertently approved by the San Diego Water Board on February 27, 2014. Upon discovering the COI approval on March 4, 2014, the COI approval was rescinded and denied by the San Diego Water Board.

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Inspection Date: 4/2/2014

On March 3, 2014, following a storm event that took place between February 26 to March 2, 2014, the San Diego Water Board inspector conducted a drive by inspection of the site and observed evidence of sediment and sediment-laden water discharged from the site (see Attachment 1). The discharges appeared to be due to the lack of erosion control BMPs for several inactive areas.

Based on the observations during the drive by inspection on March 3, 2014 and the COI to change the site to a Risk Level 1 site, the San Diego Water Board conducted an inspection on April 2, 2014 to determine whether the site was implementing CGP requirements in compliance with a Risk Level 2 site. The San Diego Water Board was escorted by Mr. Oscar Lucio and Mr. Mike Hagler from Soltek Pacific Construction during the inspection.

II. FINDINGS

1. The SWPPP available on the site was still for a Risk Level 1 site. The updates as part of the COI approved on December 4, 2013 were not included in the SWPPP available on site. The QSP was implementing the Risk Level 1 SWPPP as directed by SDUSD.
2. Several waste disposal containers observed to be inadequately covered, and there was no evidence that there was a cover available for the container (See Photos 1 and 2). All Risk Level 2 construction sites are required to cover waste disposal containers at the end of every business day and during a rain event (Section B.2.d of Attachment D to CGP).
3. Soil stockpiles observed without adequate cover or containment (See Photos 3 to 5). Soil stockpiles appeared to be waste material, but will likely be re-used on site as construction material. All Risk Level 2 construction sites are required to contain and securely protect stockpiled waste material from wind and rain at all times unless actively being used (Section B.2.f of Attachment D to CGP). All Risk Level 2 construction sites are required to cover and berm loose stockpiled construction materials that are not actively being used (i.e. soil, spoils, aggregate, fly-ash, stucco, hydrated lime, etc.) (Section B.1.b of Attachment D to CGP).
4. Inadequate containment of concrete washout area observed during the inspection (See Photo 6). All Risk Level 2 construction sites are required to ensure containment of concrete washout areas so there is no discharge into the underlying soil and onto surrounding areas (Section B.2.i of Attachment D to CGP).
5. Several areas were observed to be inactive, or could be scheduled to be inactive, without effective soil cover to control potential erosion. At least one area, referred to as the joint use field, was inactive since the October 7, 2013 inspection and did not have adequate erosion controls implemented as of the April 2, 2014 inspection (See Photos 7, 8, 15, and 16). All Risk Level 2

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Inspection Date: 4/2/2014

construction sites are required to provide effective soil cover for inactive (i.e. areas that have been disturbed and not scheduled to be re-disturbed for at least 14 days) areas and all finished slopes, open space, utility backfill, and completed lots (Section D.2 of Attachment D to CGP).

6. Several areas under active construction were observed to lack erosion controls, and the QSP could not describe the erosion controls that were being implemented, in conjunction with sediment controls (See Photos 9 through 12). All Risk Level 2 construction sites are required to implement appropriate erosion controls (runoff control and soil stabilization) in conjunction with sediment controls for areas under active (i.e. areas undergoing land surface disturbance) construction (Section E.3 of Attachment D to CGP).
7. Several slopes observed without linear sediment controls along the toe of exposed slopes (See Photos 13 through 16). Several slopes observed during the April 2, 2014 inspection have not had adequate linear sediment controls since at least the October 24, 2013 inspection. All Risk Level 2 construction sites are required to apply linear sediment controls along the toe of the slope, face of the slope, and at the grade breaks of exposed slopes to comply with sheet flow lengths (Section E.4 of Attachment D to CGP).
8. Evidence of erosion on a slope covered with bonded fiber matrix, in combination with inadequate erosion controls for an inactive area observed, resulting in the discharges of sediment and sediment-laden water from the site observed during the March 3, 2014 inspection. Additional sediment control BMPs were implemented for perimeter protection, but no evidence that bonded fiber matrix was re-applied to repair erosion control BMPs on eroded slope or erosion controls added to prevent erosion from unprotected areas (See Photos 17 through 20). No documentation provided that noted failure of erosion controls, and no evidence of amendments to the SWPPP to change sediment or erosion controls.

All Risk Level 2 construction sites are required to conduct post rain event visual observations (inspections) within two business days (48 hours) of a qualifying rain event (i.e. 0.5 inches or more) to (1) identify whether BMPs were adequately designed, implemented and effective, and (2) identify additional BMPs and revise the SWPPP accordingly (Section I.3.g of Attachments C and D to CGP). All Risk Level 2 construction sites are required to begin implementing repairs or design changes to BMPs within 72 hours of identification and complete the changes as soon as possible upon identifying failures or other shortcomings (Section G.3 of Attachments C and D to CGP).

9. No grab samples of the discharge resulting from the February 26-March 2 qualifying rain event, and observed during the March 3, 2014 inspection, were collected. All Risk Level 2 construction sites are required to collect 3 storm water grab samples per day for discharges from a qualifying rain event (producing

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precipitation of ½ inch or more at the time of discharge) (Section I.4.a-c of Attachment D to CGP).

10. A review of SMARTS indicates that the Annual Report for 2012-2013 is past due. All Risk Level 2 sites are required to prepare and electronically submit an Annual Report no later than September 1 of each year (Section XVI.A of CGP).

III. COMMENTS AND RECOMMENDATIONS

Comments

1. There is evidence that the discharger knowingly submitted and certified inaccurate and potentially false information to the State by submitting a new COI to change the site from Risk Level 2 back to Risk Level 1 on February 18, 2014. This was done after the San Diego Water Board informed the discharger on October 29, 2013 that the site was Risk Level 2. These actions can subject the discharger to significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations as part of the certification (Sections IV.I and IV.J of CGP).
2. There is evidence that Good Site Management “Housekeeping” BMPs were not adequately implemented, as required for Risk Level 2 sites (See Findings 2-4).
3. There is evidence that adequate erosion control BMPs were not implemented for at least one inactive area, as required for Risk Level 2 sites, between October 7, 2013 and April 2, 2014 for a total of 178 days (See Finding 5).
4. There is evidence that erosion control BMPs were not implemented for active areas, as required for Risk Level 2 sites (See Finding 6).
5. There is evidence that adequate linear sediment control BMPs were not implemented for several slopes, as required for Risk Level 2 sites, between December 4, 2013 (when the COI to change the site to a Risk Level 2 site was approved) and April 2, 2014 for a total of 120 days (See Finding 7).
6. There was evidence that repairs to ineffective erosion control BMPs were not implemented or identified to be implemented, as required for Risk Level 2 sites, following the February 26-March 2 storm event up to the April 2, 2014 inspection for a total of approximately 30 days (See Finding 8).
7. There was evidence observed during the inspection that the site has not implemented BMPs to meet the Best Conventional Technology (BCT) Technology Based Effluent Limitations (TBELs) under Section V.A.2 of the CGP, as required for Risk Level 2 sites, which resulted in the unauthorized discharges of sediment and sediment-laden water from the site observed on March 3, 2014.



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 Inspection Date: 4/2/2014

8. There is evidence that the discharger failed to collect and analyzed storm water samples from the February 26-March 2 storm event, as required for Risk Level 2 sites (See Finding 9).
9. There is evidence that the discharger has failed to submit the 2012-2013 Annual Report for the site by the September 1, 2013 due date, as required for Risk Level 2 sites (See Finding 10).

Recommendations

1. Issue a Notice of Violation for discharges of sediment and sediment-laden water from the site and failure to implement Risk Level 2 requirements of CGP.
2. Refer the site to the Compliance Assurance Unit to determine whether or not issuance of an Administrative Civil Liability Complaint or other formal enforcement action is appropriate.

IV. SIGNATURE SECTION

Wayne Chiu		4/2/2013
STAFF INSPECTOR	SIGNATURE	INSPECTION DATE
Eric Becker		5/20/14
REVIEWED BY SUPERVISOR	SIGNATURE	DATE

SMARTS:

Tech Staff Info & Use	
WDID	937C365865
Place ID	SM-811445
Inspection ID	2021829
Violation ID	853644, 853645

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Inspection Date: 4/2/2014



Photo 1



Photo 2

Photos 1-2 show waste disposal containers that were inadequately covered, and no evidence that there are covers available for the containers. Photo 2 also shows trash that was not properly disposed.



Photo 3



Photo 4



Photo 5

Photos 3-5 show soil stockpiles without adequate cover or containment to protect materials from wind and rain.

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Photo 6

Photo 6 shows concrete washout without any secondary containment to prevent discharges to underlying soil and surrounding areas.



Photo 7



Photo 8

Photos 7-8 show the joint use field that was considered inactive during the October 7, 2013 inspection. Photo 7 was taken on October 7, 2013 and shows lack of sediment control and internal runoff control BMPs, and lack of erosion control BMPs (i.e. effective soil cover). Photo 8 was taken on April 2, 2014 and shows the addition of sediment control and internal runoff control BMPs, but continued lack of erosion control BMPs.

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Photo 9



Photo 10



Photo 11



Photo 12

Photos 9-12 show areas considered to be active areas lacking erosion controls (runoff control and soil stabilization) in conjunction with sediment controls, as required for Risk Level 2 sites.

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Photo 13



Photo 14

Photos 13-14 show a slope that does not have adequate linear sediment control along the toe of exposed slope, as required for Risk Level 2 sites. Photo 13 was taken on October 24, 2013, looking south and up the slope, and shows lack of linear sediment controls at the toe of the slope. Photo 14 was taken on April 2, 2014, looking northwest and down the slope, and shows continued lack of linear sediment controls at the toe of the slope.



Photo 15



Photo 16

Photos 15-16 show inactive slopes that lack erosion control BMPs, as required for Risk Level 1 and Risk Level 2 sites, as well as lack of linear sediment control BMPs at toe of slopes, as required for Risk Level 2 sites.

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Photo 17



Photo 18

Photos 17-18 taken on March 3, 2014 after February 26 - March 2 storm event show discharge from the site due to ineffective erosion control and perimeter sediment control BMPs. Photo 17 shows discharge of sediment and sediment-laden water from the site, and additional fiber roll placed outside the fence. Photo 18 shows the inside of the fence where the discharge originated, where a significant buildup of sediment behind the fiber roll can be observed and exposed soil on the slope that was the source of the sediment.



Photo 19



Photo 20

Photos 19-20 taken on April 2, 2014, show lack of effective erosion control BMPs which resulted in discharges observed on March 3, 2014. Photo 19 shows an area at the top of the slope that could have been scheduled to be inactive and stabilized with effective soil cover where the discharge originated. Photo 20 shows the slope where the bonded fiber matrix had been washed away and evidence of erosion can be observed. Additional gravel bags placed at perimeter, but bonded fiber matrix slope cover not repaired, and additional erosion controls not observed to be implemented on the slope or at the top of the slope.

ATTACHMENT 1

Photos from
March 3, 2014 Inspection











