

California Regional Water Quality Control Board, San Diego Region

March 26, 2014

**NOTICE OF VIOLATION
No. R9-2014-0043**

Steven Shotwell
Kaiser Permanente
5251 Viewridge Court
San Diego, CA 92123

Kaiser Permanente
Hospital and Medical Center

PIN No. SM-824555:Carias

**Violations of Order No. 2009-0009-DWQ,
Statewide Construction General Storm
Water Permit**

KAISER PERMANENTE 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.

KAISER PERMANENTE is in violation of State Water Resources Control Board Order No. 2009-0009-DWQ, *National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities*.

A. Summary of Violations

1. Failure to Comply with Discharge Prohibitions and Effluent Standards

- a. **Pursuant to Provision III A. of Order No. 2009-0009-DWQ:** Dischargers shall not violate any discharge prohibitions contained in applicable Basin Plans or statewide water quality control plans.
- b. **Pursuant to Provision III B. of 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.

- c. Pursuant to Provision A.1.b. of Attachment D to 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.
- d. Observation:** On February 28, 2014, San Diego Water Board inspectors conducted a routine inspection of the Kaiser Permanente construction site. The inspectors observed discharges of sediment-laden water off the property and into a brow ditch that is connected to the City of San Diego storm drain system. See attached Facility Inspection Report (FIR) dated February 28 and March 3, 2014; photos 1-4.

2. Failure to Implement Erosion and Sediment Control Best Management Practices (BMPs)

- a. Pursuant to Provision E.3 of Attachment D to 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 inspections occurring on February 28, 2014 and March 3, 2014, San Diego Water Board inspectors did not observe any erosion control BMPs anywhere on the construction site. Sediment control BMPs were inadequate given the size of the construction site and amount of disturbed soil. See FIR photos 5-10.

3. Failure to Implement Run-on and Run-off Controls

- a. Pursuant to Provision F. of Attachment D to Order No. 2009-0009-DWQ:** Risk Level 2 dischargers shall effectively manage all run-on, all runoff within the site and all runoff that discharges off the site. Run-on from offsite shall be directed away from all disturbed areas or shall collectively be in compliance with the effluent limitations in this General Permit.
- b. Observation:** During the inspection occurring on March 3, 2014, San Diego Water Board inspectors observed that the discharge occurring on February 28, 2014 occurred as a result of run-on entering the construction site, contacting the disturbed area and overwhelming the existing BMPs. See FIR photos 5-10.

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 Christina Arias at (619) 521-3361 or christina.arias@waterboards.ca.gov.



Eric Becker, P.E.
Senior Water Resource Control Engineer

ESB:cma

Enclosure: Facility Inspection Report dated February 28 and March 3, 2014

Tech Staff Info & Use	
Enforcement ID	415134
Violation ID	853607, 853608, 853609
WDID	9 37C367439
NPDES No.	CAS000002
Inspection ID	2021731, 2021732