



EDMUND G. BROWN JR.
GOVERNOR



MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

California Regional Water Quality Control Board, San Diego Region

February 6, 2017

Via email only

Mr. Jon Cloud
Hester's Granite Company
2094 Willow Glen Drive
El Cajon, California 92019
jon@jcloudinc.com

In reply refer to / attn:
SM-831234:wghoram

Subject: Notice of Violation No. R9-2017-0039, Hester's Granite Company Grading Trench at 2266 Willow Glen Drive Construction Project, Order No. 2009-0009-DWQ, NPDES Permit No. CAS000002, Construction General Permit

Mr. Cloud:

Enclosed is Notice of Violation (NOV) No. R9-2017-0039 issued to Hester's Granite Company for violations of Order No. 2009-0009-DWQ, issued by the California State Water Resources Control Board and administered 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 March 6, 2017** that confirms the violations have been corrected, identifies a date by which the violations were corrected, and includes a description of the actions taken to ensure future violations of Order No. 2009-0009-DWQ will not occur.

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.

Please send any written correspondence in response to this letter to SanDiego@waterboards.ca.gov. These electronic documents must be submitted as a single file, in Portable Document Format (PDF) format, and converted to text searchable format using Optical Character Recognition (OCR). All electronic documents must also include scanned copies of all signature pages; electronic signatures will not be accepted. Electronic documents submitted to the San Diego Water Board must include the following identification numbers in the header or subject line: **PIN: SM-831234:wghoram**.

For questions pertaining to the subject matter, please contact Whitney Ghoram at (619) 521-8040 or wghoram@waterboards.ca.gov.

Respectfully,



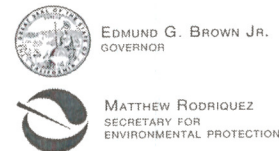
Laurie Walsh, P.E.
Senior Water Resource Control Engineer
Storm Water Management Unit

LAW:wg

Enclosure: Notice of Violation No. R9-2017-0039

cc (via email only): Michael Watt, County of San Diego (Michael.Watt@sdcounty.ca.gov)
Michael McGrath, McGrath Consulting (mwm@mcswwpp.com)
Joel Cloud, Hester's Granite Company (joel@jcloudinc.com)

Tech Staff Info & Use	
Order No.	2009-0009-DWQ
NPDES No.	CAS000002
Place ID	SM-831234
WDID	937C370975
Inspection ID	2032524
Violation ID	862443, 862444
Enforcement ID	425497



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California Regional Water Quality Control Board, San Diego Region

February 6, 2017

NOTICE OF VIOLATION No. R9-2017-0039

Mr. Jon Cloud
Hester's Granite Company
2094 Willow Glen Drive
El Cajon, CA 92109

Hester's Granite Company
Grading Trench at 2266 Willow Glen Drive
PIN No. SM-831234:wghoram

Violations of

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

HESTER'S GRANITE COMPANY 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.

HESTER'S GRANITE COMPANY 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:** On January 21, 2017, the San Diego Water Board received a complaint of ongoing discharges of sediment-laden storm water from Hester's Granite Grading Trench construction site (Site) (WDID 937C370975) to private

properties and the upper reach of the Sweetwater River. Mr. Jon Cloud is the Legally Responsible Person (LRP) enrolled under the Construction General Permit (CGP) for the Site. On January 23, 2017, San Diego Water Board inspectors observed evidence of sediment discharged from the Site due to inadequate and ineffective implementation of best management practices (BMPs), constituting an unauthorized discharge of sediment from the Site.

On January 21, 2017, January 23, 2017, and January 24, 2017, the San Diego Water Board received photo and video documentation of alleged sediment-laden storm water discharges from the Site to private properties and the upper Sweetwater River via MS4 conveyances. San Diego Water Board inspectors later confirmed the discharges were the result of inadequate implementation of erosion controls, sediment controls, and inappropriately utilized and/or designed post-construction BMP basins for the construction phase observed during the January 23, 2017 inspection. See attached January 23, 2017 Facility Inspection Report Photos.

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 IX 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 January 23, 2017 inspection, the San Diego Water Board inspectors observed lack of effective erosion controls, perimeter sediment controls, and run-on and runoff controls required by the CGP, which directly led to erosion and sedimentation that ultimately resulted in the discharge of sediment and sediment-laden storm water from the Site. The discharge was a result of the implementation of controls, structures, and BMPs that do not achieve BCT. See attached January 23, 2017 Facility Inspection Report Photos.

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

- a. **Pursuant to Provision IX 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 January 23, 2017 inspection, the San Diego Water Board inspectors observed 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. Evidence of erosion and sediment transport due to lack of erosion control measures were observed throughout the Site. See attached January 23, 2017 Facility Inspection Report Photos.

4. Failure to Implement Adequate Perimeter Sediment Controls:

- a. **Pursuant to Provision IX and Section E.1 of Attachment D of State Water Board Order No. 2009-0009-DWQ:** Risk Level 2 dischargers shall establish and maintain effective perimeter controls and stabilize all construction entrances and exits to sufficiently control erosion and sediment discharges from the site.
- b. **Observation:** During the January 23, 2017 inspection, San Diego Water Board inspectors observed several areas of the Site where perimeter controls were not established or maintained to sufficiently control erosion and sediment discharges from the Site. See attached January 23, 2017 Facility Inspection Report Photos.

5. Failure to Implement Adequate Run-on and Runoff Controls:

- a. **Pursuant to Provision IX and Section F.1 of Attachment D of State Water Board 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 from 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 the CGP.
- b. **Observation:** During the January 23, 2017 inspection, San Diego Water Board inspectors observed at least one area of the Site where perimeter controls were not established or maintained to prevent runoff from the Site, resulting in sediment discharges from the Site. See attached January 23, 2017 Facility Inspection Report Photos.

6. Failure to Implement, Inspect, Maintain and Repair BMPs in the SWPPP:

- a. **Pursuant to Provision XIV.B of State Water Board Order No. 2009-0009-DWQ:** To demonstrate compliance with requirements of the CGP, the Qualified SWPPP Developer (QSD) shall include information in the SWPPP that supports the conclusions, selections, use, and maintenance of BMPs.
- b. **Pursuant to Provision IX and Section G.1 of Attachment D of State Water Board Order No. 2009-0009-DWQ:** Risk Level 2 dischargers shall ensure that all inspection, maintenance, repair and sampling activities at the project location shall be performed or supervised by a QSP representing the discharger. The QSP may delegate any or all of these activities to an employee trained to do the task(s) appropriately, but shall ensure adequate deployment.

- c. **Pursuant to Provision IX and Section G.2 of Attachment D of State Water Board Order No. 2009-0009-DWQ:** Risk Level 2 dischargers shall perform weekly inspections and observations, and at least once each 24-hour period during extended storm events, to identify and record BMPs that need maintenance to operate effectively, that have failed, or that could fail to operate as intended. Inspectors shall be the QSP or be trained by the QSP.
- d. **Pursuant to Provision IX 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 dischargers shall begin implementing repairs or design changes to BMPs within 72 hours of identification and complete the changes as soon as possible.
- e. **Observation:** During the January 23, 2017 inspection, San Diego Water Board inspectors observed a lack of BMP implementation, and failures or other shortcomings in the implementation of erosion controls, sediment controls, and run-on and runoff controls. See attached January 23, 2017 Facility Inspection Report Findings 1-9 and Photos.

7. Failure to Submit 2015-2016 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:** Following the January 23, 2017 inspection, a San Diego Water Board inspector assessed the Storm Water Multiple Application and Report Tracking System (SMARTS) to review the 2015-2016 Annual Report for the Site. SMARTS indicated that the 2015-2016 Annual Report is Past Due as of September 1, 2016. See attached January 23, 2017 Facility Inspection Report Finding 7.

8. Failure to Prepare a Rain Event Action Plan (REAP):

- a. **Pursuant to Provision X. of Attachment D of State Water Board Order No. 2009-0009-DWQ: Risk Level 2 Requirements, H. Rain Event Action Plan, 1. Additional Risk Level 2 Requirement:** The discharger shall ensure a QSP develop a Rain Event Action Plan (REAP) 48 hour priors to any likely precipitation event.
- b. **Observation:** Review of SMARTS indicates that a Rain Event Action Plan (REAP) was not prepared and uploaded to SMARTS for the January 2017 series of storms. All Risk Level 2 dischargers are required to ensure that a Qualified SWPPP Preparer (QSP) develops a REAP 48 hours prior to any likely

precipitation event. See attached January 23, 2017 Facility Inspection Report Finding 8.

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 Whitney Ghoram at (619) 521-8040 or wghoram@waterboards.ca.gov.

Laurie Walsh, P.E.
Senior Water Resource Control Engineer
Storm Water Management Unit

LAW:wg

Attachments: Facility Inspection Report dated January 23, 2017

Tech Staff Info & Use	
Place ID	SM-831234
WDID	937C370975
Inspection ID	2032524
Violation ID	862443, 862444
Enforcement ID	42549