



Linda S. Adams
Secretary for
Environmental Protection

California Regional Water Quality Control Board San Diego Region

Over 50 Years Serving San Diego, Orange, and Riverside Counties
Recipient of the 2004 Environmental Award for Outstanding Achievement from U.S. EPA



Arnold Schwarzenegger
Governor

9174 Sky Park Court, Suite 100, San Diego, California 92123-4353
(858) 467-2952 • Fax (858) 571-6972
<http://www.waterboards.ca.gov/sandiego>

February 2, 2010

Chief Operating Officer
Mr. Jay M. Goldstone
City of San Diego
202 C Street
San Diego, CA 92101

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
7009 1410 0002 2347 4046

In reply refer to:
Place No. 255222:carias

RE: NOTICE OF VIOLATION NO. R9-2010-0015

Dear Mr. Goldstone:

Enclosed is **Notice of Violation (NOV) R9-2010-0015** issued to the City of San Diego for violations of California Regional Water Quality Control Board, San Diego Region (Regional Board) Order No. R9-2007-0001, National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS0108758, *Waste Discharge Requirements (WDRs) For Discharges Of Urban Runoff Associated From the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds of the County of San Diego, the Incorporated Cities of San Diego County, the San Diego Unified Port District, and the San Diego County Regional Airport Authority* (Order No. R9-2007-0001).

NOV R9-2010-0015 is issued to the City of San Diego for 1) failure to require implementation of minimum best management practices (BMPs) at the construction site known as Quarry Falls; 2) failure to inspect the Quarry Falls construction site for compliance with Order No. R9-2007-0001; and 3) failure to prohibit discharges of pollutants to the maximum extent practicable (MEP) from this site.

Please provide a response to the Regional Board by February 16, 2010, describing how the alleged violations noted in the NOV have been or will be resolved. Your response will be reviewed to determine if appropriate measures have been taken to address the violations noted and to assess the need for further enforcement action.

In the subject line of any response, please include the requested **"In reply refer to:"** information located in the heading of this letter. Questions pertaining to the issuance of this NOV should be directed to Christina Arias at (858)627-3931 or carias@waterboards.ca.gov.

Mr. Jay Goldstone
 City of San Diego
 NOV R9-2010-0015

February 2, 2010

Written correspondence pertaining to this NOV should be directed to the following address:

David Barker, Supervising Water Resource Engineer
 Attn: Christina Arias
 California Regional Water Quality Control Board, San Diego Region
 9174 Sky Park Court, Suite 100, San Diego, CA 92123-4340

Respectfully,

for David T. Barker, P.E.
 Senior Water Resource Control Engineer
 Surface Water Basins Branch

DTB:esb:cma

Order No.	R9-2010-0015
CIWQS Place ID	255222
Reg. Measure No	372902

Enclosures: Notice of Violation R9-2010-0015
 Facility Inspection Report dated January 20, 2010

Cc via email: (w/encl.)

David Zoumaras, Deputy Director, Field Engineering, Engineering and Capital Projects
 (DZoumaras@sandiego.gov)

Afsaneh Ahmadi, Chief Deputy Director, Building, Safety, and Construction,
 Development Services (AAhmadi@sandiego.gov)

Kris McFadden, Deputy Director, Storm Water Pollution Prevention Program
 (kmcfadden@sandiego.gov)



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February 2, 2010

IN THE MATTER OF:)
)
Chief Operating Officer)
Mr. Jay M. Goldstone)
City of San Diego)
202 C Street)
San Diego, CA 92101)

**NOTICE OF VIOLATION
NO. R9-2010-0015**

In reply refer to:
Place No. 255222: carias

WDID No. 9000000510

Order No. R9-2007-0001, NPDES No. CAS0108758

YOU ARE HEREBY NOTIFIED THAT:

You are in violation of Order No. R9-2007-0001, National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS0108758, *Waste Discharge Requirements (WDRs) For Discharges Of Urban Runoff Associated From the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds of the County of San Diego, the Incorporated Cities of San Diego County, the San Diego Unified Port District, and the San Diego County Regional Airport Authority* for failing to require the implementation of designated minimum best management practices (BMPs) at the construction site known as Quarry Falls, for allowing discharges from this site to the MS4 containing pollutants which have not been reduced to the maximum extent practicable (MEP), and for failing to conduct inspections at this construction site for compliance with Order No. R9-2007-0001.

Such violations subject you to further enforcement action by the California Regional Water Quality Control Board, San Diego Region (Regional Board), including administrative enforcement orders requiring you to cease and desist from violations, or to clean up waste and abate existing or threatened conditions of pollution or nuisance; administrative civil liability in amounts of up to \$10,000 per day per violation; referral to the State Attorney General for injunctive relief; and, referral to the District Attorney for criminal prosecution.

Background

On October 21, 2008, the City of San Diego (City) passed Resolution Numbers R-304294, R-304295, and R-304296, approving the conversion of an existing quarry

site roughly ¼ mile north of the San Diego River to a mixed land use site including residential, commercial, and open space. The land use plan overview is described in a document entitled the Quarry Falls Specific Plan dated October 21, 2008. As part of approving this Plan, the quarry's Reclamation Plan was also updated to allow terracing of the site and creation of building pads. The 230-acre site is currently being graded to conform to both the Reclamation Plan and Quarry Falls Specific Plan. Normal mining operations continue to take place.

Order No. R9-2007-0001 defines a construction site as "Any project, including projects requiring coverage under the General Construction Permit, that involves soil disturbing activities including, but not limited to, clearing, grading, disturbances to ground such as stockpiling, and excavation." Although the City has not issued a grading permit for the Quarry Falls site, it has been graded to conform to the Reclamation Plan and fits the Order's definition of a construction site. The City does not list Quarry Falls as an active construction site in the City's Jurisdictional Urban Runoff Management Plan (JURMP) Annual Report dated September 30, 2009.

Under Order No. R9-2007-0001 and the JURMP program, construction sites are required to have a minimum set of BMPs deployed to eliminate or minimize erosion and sediment discharges to the City's MS4 and downstream receiving waters. Additionally, Order No. R9-2007-0001 and the JURMP specify a frequency that each construction site is to be inspected. Because the City has not issued a building or grading permit to the Quarry Falls development, the City has not completed inspections of the site to ensure proper implementation of BMPs.

On January 20, 2010, the Regional Board identified an illegal discharge of sediment originating from disturbed soil at the Quarry Falls project to the City's MS4. This sediment was likely discharged to the San Diego River because rainfall records from the National Weather Services' Montgomery Field rain gauge (the closest gauge) at <http://www.wrh.noaa.gov/sgx/obs/rtp/rtpmap.php?wfo=sgx> indicate that 2.05 inches of rain fell on January 21, 2010. Although the City's Storm Water Pollution Prevention Program responded to the illegal discharge, this discharge could have been prevented if the site had been adequately inspected on a regular basis and required BMPs deployed. The Regional Board conducted a follow up inspection of the site on January 27, 2010 and found that sediment control BMPs had been implemented, although adequate erosion control BMPs were still lacking.

Summary of Violations:

FAILURE TO REQUIRE IMPLEMENTATION OF MINIMUM BMPS

The City of San Diego failed to require implementation of minimum BMPs at the construction site known as Quarry Falls as required by Order No. R9-2007-0001.

1. **Pursuant to Provision D.2.c.(3):** Each Copermittee shall implement, or require the designated minimum BMPs and any additional measures necessary to comply with this Order at each construction site within its jurisdiction year round. However, BMP implementation requirements can vary based on wet and dry seasons. *Dry season BMP implementation must plan for and address rain events that may occur during the dry season.*

Observation: The City of San Diego failed to require implementation of the designated minimum BMPs (adequate erosion and sediment control) at Quarry Falls, a construction site (as defined in Order No. R9-2007-0001) within its jurisdiction. The City's failure to implement these minimum BMP requirements have caused, and threaten to cause a discharge of sediment from this construction site to the MS4 that causes or contributes to a violation of receiving water quality standards.

FAILURE TO INSPECT CONSTRUCTION SITES

2. **Pursuant to Provision D.2.d. Inspection of Construction Sites:** Each Copermittee shall conduct construction site inspections for compliance with its local ordinances (grading, storm water, etc.), permits (construction, grading, etc.), and this Order.

Pursuant to Provision D.2.d.(1): During the wet season, each Copermittee shall inspect at least biweekly (every two weeks), all construction sites within its jurisdiction meeting the following criteria: (a) All sites 50 acres or more in size and grading will occur during the wet season.

Observation: The City of San Diego failed to inspect the Quarry Falls construction site to ensure compliance with its local ordinances, and this Order, most notably to verify implementation of BMPs and assess BMP effectiveness. The Quarry Falls construction site has 230-acres of disturbed soil in close proximity to the San Diego River that requires frequent inspections by the City of San Diego to ensure proper implementation of BMPs.

Mr. Jay Goldstone
City of San Diego
NOV R9-2010-0015

February 2, 2010

FAILURE TO PROHIBIT DISCHARGES OF POLLUTANTS TO THE MEP


- 3. **Pursuant to Provision A.2.:** Discharges from MS4s containing pollutants which have not been reduced to the maximum extent practicable (MEP) are prohibited.

Observation: On January 20, 2010, the Regional Board identified an illegal discharge of sediment originating from disturbed soil at the Quarry Falls project to the City's MS4, which was likely discharged to receiving waters during the ensuing rain event (see attached Facility Inspection Report). The City of San Diego failed to prohibit this discharge containing pollutants not reduced to the MEP by not requiring BMP implementation, or inspecting this site, as noted above.

Questions pertaining to the issuance of this Notice of Violation should be directed to Christina Arias at (858) 627-3931 or carias@waterboards.ca.gov.

Written correspondence pertaining to this Notice of Violation should be directed to the following address:

David Barker, Supervising Water Resource Control Engineer
Attn: Christina Arias
California Regional Water Quality Control Board, San Diego Region
9174 Sky Park Court, Suite 100, San Diego, CA 92123-4340

for 

 David Barker
 Supervising Engineer

2-2-2010

 DATE

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

FACILITY INSPECTION REPORT

FACILITY: *Vulcan/Quarry Falls*

WDID/401 File #:
9371005217

INSPECTION DATE/Time: 1/20/10; 1440

FACILITY: **Vulcan Materials Co., Mission Valley Operations**

REPRESENTATIVE(S) PRESENT DURING INSPECTION: Christina Arias (Regional Board)

John Atkins, Plant Manager

619-778-6572

NAME OF OWNER, PARTY RESPONSIBLE FOR DISCHARGE

OWNER CONTACT NAME AND PHONE #

FACILITY OR DEVELOPER NAME (if different from owner)

FACILITY OR DEVELOPER CONTACT NAME AND PHONE #

5745 Mission Center Road

San Diego, CA 92108

FACILITY STREET ADDRESS

FACILITY CITY AND STATE

APPLICABLE WATER QUALITY LICENSING REQUIREMENTS

- MS4 URBAN RUNOFF REQUIREMENTS NPDES NOS. CAS0108758, CAS0108740 or CAS0108766**
- GENERAL PERMIT ORDER NO. 99-08-DWQ, NPDES NO. CAS000002 - CONSTRUCTION**
- GENERAL PERMIT ORDER NO. 99-06-DWQ, NPDES NO. CAS000003 - CALTRANS**
- GENERAL OR INDIVIDUAL WASTE DISCHARGE REQUIREMENTS**
- GENERAL OR INDIVIDUAL WAIVER OF WASTE DISCHARGE REQUIREMENTS**
- SECTION 401 WATER QUALITY CERTIFICATION**
- CWC SECTION 13264**

INSPECTION TYPE (Check One)

- A1 ___ "A" type compliance--Comprehensive inspection in which samples are taken. (EPA Type S)
- B1 X "B" type compliance--A routine nonsampling inspection. (EPA Type C)
- 02 ___ Noncompliance follow-up--Inspection made to verify correction of a previously identified violation.
- 03 ___ Enforcement follow-up--Inspection made to verify that conditions of an enforcement action are being met.
- 04 ___ Complaint--Inspection made in response to a complaint.
- 05 ___ Pre-requirement--Inspection made to gather info. relative to preparing, modifying, or rescinding requirements.
- 06 ___ No Exposure Certification (NEC) - verification that there is no exposure of industrial activities to storm water.
- 07 ___ Notice of termination request for industrial facilities or construction sites - verification that the facility or construction site is not subject to permit requirements (**Type, NOT I or NOT C - circle one**).
- 08 ___ 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)

I. COMPLIANCE HISTORY:

- Vulcan Materials Co. has been operating a quarry at this site for several decades. Vulcan is an industrial discharger covered under Order No. 97-03-DWQ. In October 2008, the site was approved by the City of San Diego for development into a mixed-use residential and commercial site, including approximately 5000 new homes.
- Vulcan will continue its quarry operations at the site until December 2011. Vulcan is in the process of downsizing its operations and has also been conducting mass grading at the site in accordance with the Reclamation Plan. Vulcan must condition the land per the Reclamation Plan before it can close its operations. Because the site is being graded, resulting in a massive amount of disturbed sediment, is hundreds of acres in size, and is in close proximity to the San Diego River, it must be monitored to ensure that erosion and sediment control BMPs are utilized and potential pollutants in storm water runoff are contained onsite.

- On 1/20/10, Christina Arias of the Regional Board conducted an inspection of the perimeter to ensure the functionality of the storm water BMPs.

Photos taken by Christina Arias 1/20/10



View of settling basin. Appears to be functioning but nearing capacity. More rain expected.



Outlet from basin showing active discharge. Some fine sediment has been discharge from the basin, but still captured on property with sandbags (not shown).

FACILITY: Vulcan/Quarry Falls

WDID/401 File #:
9371005217

INSPECTION DATE/Time: 1/20/10 1440



Flow lines showing sediment has eroded from slopes.



Rills have formed beneath fiber rolls.

FACILITY: Vulcan/Quarry Falls

WDID/401 File #:
937I005217

INSPECTION DATE/Time: 1/20/10 1440



Sediment flow has overwhelmed silt fence and fiber rolls and made its way to conveyance (MS4).



Some sediment has been captured by curb, but is nearing height of the curb.

FACILITY: Vulcan/Quarry Falls

 WDID/401 File #:
9371005217

INSPECTION DATE/Time: 1/20/10 1440



Fine sediment has reached storm water conveyance system.

FINDINGS :

- The detention basin on the SE corner of the property was nearing capacity, and more rain is expected (see attached rain totals for Montgomery Field, closest rain gauge). The water discharging from the basin into the storm drain was mostly clear, but some fine sediment has been discharged.
- Fiber rolls were placed on steep slopes, but rill erosion was still evident.
- The silt fences used along the project perimeter were in good shape, although they need to be placed at different angles to capture all sediment flows. Some sediment has already breached the property lines and entered the MS4. This is a violation of Vulcan's storm water permit.

III. RECOMMENDATIONS AND ADDITIONAL COMMENTS

- More silt fences/sand bags are needed to capture moving sediment. Slopes should be re-sprayed heavily with BFM or equivalent erosion control implemented ASAP.
- An email was sent to John Atkins, Plant Manager, regarding urgent need to deploy more BMPs (attached).
- Photos were sent to the City of San Diego's storm water hotline on 1/25/10. A code compliance officer visited the site on 1/26/10 to ensure BMPs were improved.

FACILITY: Vulcan/Quarry Falls

WDID/401 File #:
9371005217

INSPECTION DATE/Time: 1/20/10 1440

IV. SIGNATURE SECTION

Inspection Report
received by:

FACILITY REPRESENTATIVE	SIGNATURE	TITLE	DATE
Christina Arias STAFF INSPECTOR	<i>Christina Arias</i>		1/20/10

VI. (For internal use only)			
Reviewed by Supervisor:	<i>Eric Beck</i>	Date	1/29/10
CC:			
Inter-office Referral: 1) _____	2) _____	3) _____	4) _____
			5) _____

CIWQS:
Place ID: 656543

NMMN040

rainfall
(inches)

01/01/10	MYF	:	MONTGOMERY FIELD	420	:	72	/	44	/	0.00	/
01/02/10	MYF	:	MONTGOMERY FIELD	420	:	75	/	46	/	0.00	/
01/03/10	MYF	:	MONTGOMERY FIELD	420	:	80	/	45	/	0.00	/
01/04/10	MYF	:	MONTGOMERY FIELD	420	:	76	/	46	/	0.00	/
01/05/10	MYF	:	MONTGOMERY FIELD	420	:	75	/	44	/	0.00	/
01/06/10	MYF	:	MONTGOMERY FIELD	420	:	74	/	46	/	0.00	/
01/07/10	MYF	:	MONTGOMERY FIELD	420	:	71	/	46	/	0.00	/
01/08/10	MYF	:	MONTGOMERY FIELD	420	:	78	/	48	/	0.00	/
01/09/10	MYF	:	MONTGOMERY FIELD	420	:	75	/	50	/	0.00	/
01/10/10	MYF	:	MONTGOMERY FIELD	420	:	78	/	53	/	0.00	/
01/11/10	MYF	:	MONTGOMERY FIELD	420	:	78	/	48	/	0.00	/
01/12/10	MYF	:	MONTGOMERY FIELD	420	:	71	/	48	/	0.00	/
01/13/10	MYF	:	MONTGOMERY FIELD	420	:	62	/	52	/	0.00	/
01/14/10	MYF	:	MONTGOMERY FIELD	420	:	70	/	45	/	0.01	/
01/15/10	MYF	:	MONTGOMERY FIELD	420	:	73	/	46	/	0.00	/
01/16/10	MYF	:	MONTGOMERY FIELD	420	:	67	/	50	/	0.00	/
01/17/10	MYF	:	MONTGOMERY FIELD	420	:	63	/	48	/	0.00	/
01/18/10	MYF	:	MONTGOMERY FIELD	420	:	60	/	55	/	0.55	/
01/19/10	MYF	:	MONTGOMERY FIELD	420	:	60	/	45	/	1.68	/
01/20/10	MYF	:	MONTGOMERY FIELD	420	:	59	/	48	/	0.04	/
01/21/10	MYF	:	MONTGOMERY FIELD	420	:	60	/	50	/	2.05	/
01/22/10	MYF	:	MONTGOMERY FIELD	420	:	56	/	48	/	0.53	/
01/23/10	MYF	:	MONTGOMERY FIELD	420	:	59	/	44	/	0.26	/
01/24/10	MYF	:	MONTGOMERY FIELD	420	:	61	/	40	/	0.00	/
01/25/10	MYF	:	MONTGOMERY FIELD	420	:	65	/	42	/	0.00	/
01/26/10	MYF	:	MONTGOMERY FIELD	420	:	60	/	46	/	0.00	/
01/27/10	MYF	:	MONTGOMERY FIELD	420	:	64	/	52	/	0.08	/

— date of inspection

From: Christina Arias
To: atkinsj@vmcmail.com
Date: 1/20/2010 4:38 PM
Subject: Storm water BMPs

Hi John,

I visited your Mission Valley site today and looked for you, but I think you already went home. I have some observations regarding the SE area of your site, in the vicinity of the detention basin.

1. The water discharging from the basin looks clear, the sediment is settling as designed. The basin looks close to full, and we're expecting more rain tonight/tomorrow.
2. There are rills in the slopes that were previously sprayed with bonded fiber matrix. Next time more product is needed to keep the slopes stabilized.
3. I see you placed more sandbags around the area. They seem to have kept the sediment mostly contained. The curb has also worked to your benefit of containing the fine sediment. However, in both cases, looks to me like the containment has just about reached capacity, as there is a minute amount of sediment reaching the street.

I recommend you take further measures to keep the fine sediment from leaving the site. For example, you may want to place more silt fences perpendicular to the fence that runs along the perimeter. It would cause a barrier against the sediment-laden flow, and help trap and slow down the sediment. I hope that is clear, its hard to explain in email. Either way, please remain vigilant in keeping pollutants from leaving the site. If I have time, I'll stop by again tomorrow, as I will be out doing various storm water inspections.

Thanks

Christina Arias
Water Resource Control Engineer
San Diego Regional Water Quality Control Board
(858) 627-3931
FAX (858) 571-6972
CArias@waterboards.ca.gov