



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>

March 3, 2010

City Manager
Mr. Robert Manis
City of Poway
13325 Civic Center Drive
Poway, CA 92064

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
7009 1410 0002 2347 7450

In reply refer to:
CIWQS:249010:Lwalsh

Subject: Notice of Violation No. R9-2010-0013 to the City of Poway for Violations of R9-2007-0001.

Dear Mr. Manis:

Enclosed is **Notice of Violation (NOV) R9-2010-0013** issued to the City of Poway for failing to implement, or require the implementation of, the designated minimum BMPs and any additional measures necessary to comply with the requirements 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 (Order No. R9-2007-0001)* at the Heights Development Project located on Valley View Road in Poway.

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 Notice of Violation should be directed to Laurie Walsh at 858-467-2970 or lwalsh@waterboards.ca.gov.

Respectfully,

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

DTB:cmc:law

Mr. Robert Manis
City of Poway
NOV R9-2010-0013

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Order No.	R9-2010-0013
CIWQS Place ID	249010
Reg. Measure No.	373178
CIWQS Inspections	2126292, 2127094, 2127387
Vio of Mun Order	862684, 862683, 862687, 862688, 862690, 862691, 83110

Enclosures: Notice of Violation R9-2010-0013

Cc via email: (w/encl.)

Malik Tamimi
Stormwater Program Administrator
Development Services Department
MTamimi@ci.poway.ca.us

Geoffrey Sherman
EXCEL REALTY HOLDINGS
17140 Bernardo Center Dr. #300
San Diego, CA 92128
GSherman@excelrh.com

Jim Kennedy
14755 Valley View Road
Poway, CA 92064



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March 3, 2010

IN THE MATTER OF:)
City Manager)
Mr. Robert Manis)
City of Poway)
13325 Civic Center Drive)
Poway, CA 92064)
)
)
)

**NOTICE OF VIOLATION
NO. R9-2009-0013**

In reply refer to:
CWU:249010:lwalsh

NPDES Permit No. R9-2007-0001, 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 implement, or to require implementation of, the designated minimum set of best management practices (BMPs) and any additional measures necessary to comply with Order R9-2007-0001 at the construction site known as The Heights.

Such violations subject the City to possible enforcement action by the California Regional Water Quality Control Board, San Diego Region (San Diego Water 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

The San Diego Water Board inspected the Heights Development Project (Heights Project) on October 1, 2009, December 8, 2009, and most recently January 19, 2010. The Heights Project is located on Valley View Road in the City of Poway, California. One of the ten lots (Sabin residence) to be developed as part of the Project was under construction during all three site inspections. The Heights Project is a priority development project subject to *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).*

Summary of Violations:

1. FAILURE TO IMPLEMENT OR REQUIRE IMPLEMENTATION OF DESIGNATED BMPS

The City of Poway failed to implement or require implementation of, the designated minimum BMPs and any additional measures necessary to comply with Order R9-2007-0001 at the Heights Project.

- a. Pursuant to Provision D.2.c.3:** Each Copermittee shall implement, or require the implementation of, the designated minimum BMPs and any other additional measures necessary to comply with Order R9-2007-0001 at each construction site within its jurisdiction year round.

Observations: During the October 1, 2009 inspection, The San Diego Water Board observed significant amounts of sediment deposited onto Valley View Road as the result of absent or inadequate erosion control BMPs through out the Heights Project. The slopes surrounding the Sabin residence were bare soil and absent any erosion control BMPs. During the December 8, 2009 inspection, San Diego Water Board observed large gullies near detention basin 1 (near the water tower) and detention basin 2 (near the Sabin residence). Slopes surrounding the Sabin residence were still absent any erosion control BMPs after the January 19, 2010 inspection. Surrounding the Sabin residence San Diego Water Board observed multiple locations where sediment breached the silt fence resulting in a discharge of sediment beyond the Heights Project boundaries. Large gullies, rills, and failed silt fences were documented in San Diego Water Board's December 8, 2009 inspection report. During the January 19, 2010 inspection San Diego Water Board observed the site during a significant rain event. Erosion and sediment control BMPs were failing throughout the site. Specifically, sediment laden storm

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City of Poway
NOV R9-2009-0013

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water was discharged beneath and around the silt fence installed at the toe of the east and west slopes surrounding the Sabin residence. Discharges occurred due to insufficient and/or inadequately installed erosion and sediment control BMPs (e.g. fiber rolls, hay bales, fiber blankets).

2. DISCHARGE INTO MS4

The City of Poway failed to implement or require implementation of, the designated minimum BMPs and any additional measures necessary to prevent discharges of non-storm water into the MS4 at the Heights Project.

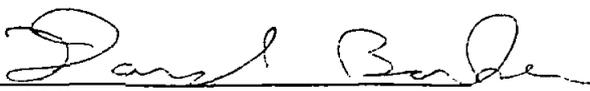
- a. **Pursuant to Prohibition A.1:** Discharges into and from municipal separate storm sewer systems (MS4s) in a manner causing, or threatening to cause, a condition of pollution, contamination, or nuisance (as defined in CWC section 13050), in waters of the state are prohibited.

Observations: During inspections on October 1, 2009 and December 8, 2009 at the Heights Project, the San Diego Water Board observed evidence (sediment on streets and in gutters and drainage swales (e.g. the storm water conveyance system) of non-storm water discharges. On January 19, 2010 (during a significant storm event), the San Diego Water Board observed sediment laden storm water discharging to the storm water conveyance system at and beyond the Height Development Project. Evidence of the San Diego Water Boards observations are documented in the field inspection reports on those dates.

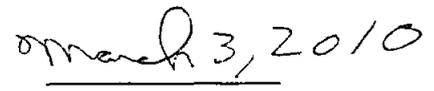
Questions pertaining to the issuance of this Notice of Violation should be directed to Laurie Walsh at 858-467-2970 or lwalsh@waterboards.ca.gov.

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

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



David Barker
Supervising Engineer



DATE

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:
 MR. Robert Manis
 City Manager
 City of Poway
 13325 Civic Center Dr
 Poway, CA 92064

2. Article Number
 (Transfer from service label)

7009 1410 0002 2347 7450

COMPLETE THIS SECTION ON DELIVERY

A. Signature
 X Agent
 Addressee

B. Received by (Printed Name) C. Date of Delivery

D. Is delivery address different from Item 1? Yes
 If YES, enter delivery address below: No

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4. Restricted Delivery? (Extra Fee) Yes

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PS Form 3800 August 2005 See Reverse for Instructions	

12-13N-20-1W