



California Regional Water Quality Control Board San Diego Region



Linda S. Adams
Secretary for
Environmental Protection

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

Arnold Schwarzenegger
Governor

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November 3, 2010

Certified Mail – Return Receipt Requested
Article Number: 7010 1060 0000 4952 6986

Mr. Stuart Posnock
Scripps Mesa Developers, LLC
8530 Costa Verde Boulevard
San Diego, CA 92122

In reply refer to:
CIWQS Place ID: 9 37C353628: carias

Dear Mr. Posnock:

**Subject: Notice of Violation No. R9-2010-0146 and Water Code Section 13267
Technical Report, Casa Mira View**

Enclosed is Notice of Violation (NOV) No. R9-2010-0146 issued to Scripps Mesa Developers, LLC, for violations of Order No. 2009-0009-DWQ, issued by the State Water Resources Control Board and enforced 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.

Water Code Section 13267¹ Technical Report Is Required by November 22, 2010

Pursuant to Water Code section 13267, **you are hereby required to provide a Technical Report by November 22, 2010** that includes the following information:

1. A description of the measures taken to prevent additional illicit pumping of sediment laden water into storm drains.
2. A description of how the violations noted in NOV No. R9-2010-0146 and the Facility Inspection Report dated October 26, 2010 have been corrected, including photo-documentation of the additional BMPs implemented at the site.
3. A description of measures being taken to ensure additional violations of Order No. 2009-0009-DWQ do not occur. Please describe any changes made to the site's Storm Water Pollution Prevention Plan.

¹ Water Code section 13267, subdivision (b), allows the Water Boards to conduct investigations and to require technical or monitoring reports from any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste in accordance with the conditions in the section.

The violations documented in the attached NOV and Facility Inspection Report dated October 26, 2010 support the requirement to provide the technical report. The report is necessary for the San Diego Water Board to determine the state of compliance with Order No. 2009-0009-DWQ. The report is also necessary to determine the potential or actual harm to human health or the environment from non-compliance. The burden, including costs of the reports, bears a reasonable relationship to the need for the reports and the benefits to be obtained from them.

Failure to comply with requirements made pursuant to Water Code section 13267, subdivision (b), may result in administrative civil liability pursuant to Water Code section 13268 up to \$1,000 per day.

In making the determination of whether and how to proceed with further enforcement action, the San Diego Water Board will consider both 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 requested "In reply refer to:" information located in the heading of this letter. For questions pertaining to the subject matter, please contact Christina Arias at (858) 627-3931 or carias@waterboards.ca.gov.

Respectfully,



DAVID T. BARKER, P.E.
Supervising Water Resource Control Engineer
Surface Waters Basins Branch

Signed under the authority delegated by the Executive Officer

DTB:esb:cma

Enclosures:

1. Notice of Violation No. R9-2010-0146
2. Facility Inspection Report Dated October 26, 2010.

Cc via email: (w/encl.)

Joan Brackin, City of San Diego

SMARTS Entries:

SMARTS Entries:	Tech Staff Info & Use
Place/WDID	9 37C353628
Enf ID	403098, 403100
NPDES No.	CAS000002
Violation IDs	842769, 842770



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Scripps Mesa Developers LLC

Casa Mira View

WDID No.: 9 37C353628: cma

NOTICE OF VIOLATION No. R9-2010-0146

Violations of Order No. 2009-0009-DWQ
November 3, 2010

SCRIPPS MESA DEVELOPERS LLC 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.

SCRIPPS MESA DEVELOPERS LLC is in violation of State Water Resources Control 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*.

A. Summary of Violations

1. Failure to Comply with Discharge Prohibitions

- 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 discharge specifically authorized by this General Permit or another NPDES permit.
- c. **Observations:** On October 26, 2010, the San Diego Water Board inspected the Casa Mira View construction site (WDID No. 9 37C353628) and found sediment-laden water being pumped from the construction site into an offsite storm drain. Photo-documentation and specific findings regarding this illegal discharge are discussed in the Facility Inspection Report dated October 26, 2010.

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

- a. **Pursuant to Provision D.2. of Attachment C to Order No. 2009-0009-DWQ:** Risk Level 1 dischargers shall provide effective soil cover for inactive areas and all finished slopes, open space, utility backfill, and completed lots.
- b. **Observations:** On October 26, 2010, the San Diego Water Board inspected the Casa Mira View construction site and found that several inactive areas and finished slopes had no erosion control BMPs. Photo-documentation and specific findings are discussed in the Facility Inspection Report dated October 26, 2010.

3. Failure to Adequately Implement Sediment Control BMPs

- a. **Pursuant to Provision E.1 of Attachment C to Order No. 2009-0009-DWQ:** Risk Level 1 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. **Observations:** On October 26, 2010, the San Diego Water Board inspected the Casa Mira View construction site and found that both perimeter controls and BMPs at the construction site entrance were inadequate. This resulted in a discharge of sediment into the sidewalks and streets. Photo-documentation and specific findings are discussed in the Facility Inspection Report dated October 26, 2010.

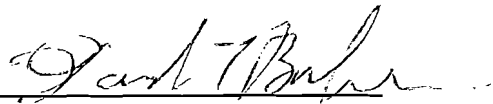
B. Summary of Potential Enforcement Options

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.

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



DAVID T. BARKER, P.E.
Supervising Water Resource Control Engineer
Surface Waters Basins Branch

SMARTS Entries
WDID ID: 9 37C353628
Enf. ID: 403098
Violation IDs: 842770, 842769

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

FACILITY INSPECTION REPORT

FACILITY: Casa Mira View **INSPECTION DATE/TIME:** 10/25/2010; 1330

WDID/FILE NO.: 9 37C353628

REPRESENTATIVE(S) PRESENT DURING INSPECTION:

NAME: <u> Christina Arias </u>	AFFILIATION: <u> San Diego Water Board </u>
NAME: <u> Rod Fink </u>	AFFILIATION: <u> Garden Communities </u>
NAME: _____	AFFILIATION: _____
NAME: _____	AFFILIATION: _____
NAME: _____	AFFILIATION: _____

Scripps Mesa Developers LLC
NAME OF OWNER, AGENCY OR PARTY RESPONSIBLE FOR DISCHARGE

8530 Costa Verde Blvd.
OWNER MAILING ADDRESS

(858) 320-0018
OWNER CONTACT NAME AND PHONE #

Garden Communities (Contractor)
FACILITY OR DEVELOPER NAME (if different from owner)

11241 Westview Pkwy, San Diego, 92126
FACILITY ADDRESS

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: Casa Mira View
Inspection Date: 10/25/2010

I. COMPLIANCE HISTORY / PURPOSE OF INSPECTION

On October 25, 2010, Christina Arias of the San Diego Water Board performed a routine inspection of the Casa Mira View construction site. This site is roughly 40 acres and is located West of I-15 in the Mira Mesa area of the City of San Diego. Photos of the site are attached and identified as Figures 1-12.

II. FINDINGS

1. The entire site lacked adequate erosion control BMPs including several slopes susceptible to discharge (Figures 3, 4, 6).
2. Inadequate entrance/exit BMPs that have not been maintained (Figure 1).
3. A shopping cart was found in the middle of the desilting basin (Figure 2).
4. Lack of adequate sediment control BMPs have resulted in the discharge of sediment onto the side walk, street, and into storm drains (Figures 1, 5, 7).
5. Temporary stockpiles, disturbed sediment, and chemical dust were found uncovered and close to the sidewalk (Figures 4, 6).
6. Sediment-laden water was being pumped from the construction site and discharged illegally into a storm drain (Figures 8-12). During the inspection, Christina Arias notified Rod Fink of Garden Communities to immediately cease the discharge.

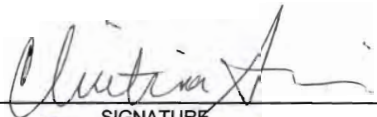
III. RECOMMENDATIONS AND ADDITIONAL COMMENTS

1. Prevent additional illegal pumping of sediment laden water into the storm drains. The illegal discharge observed during the inspection must be formally reported to the San Diego Water Board and Legally Responsible Person within 30 days (see SWPPP page 1-3).
2. Implement erosion control BMPs site-wide immediately.
3. Implement additional sediment control BMPs site-wide to prevent additional discharges of sediment. Site entrance/exit BMPs must be maintained.
4. Sediment from the construction site must be removed regularly from the public right-of-way and streets.
5. Temporary stockpiles should be covered during rain events.
6. Chemical residue should be removed and disposed of properly.

Facility: Casa Mira View
 Inspection Date: 10/25/2010

7. These findings will be used to evaluate compliance with Order No. 2009-0009-DWQ.

IV. SIGNATURE SECTION

Christina Arias STAFF INSPECTOR	 SIGNATURE	10/25/10 INSPECTION DATE
Eric Becker REVIEWED BY SUPERVISOR	 SIGNATURE	10/27/10 DATE

SMARTS:

Tech Staff Info & Use	
Application ID.	
WDID	9 37C353628
Inspection ID	2009070

Facility: Casa Mira View
Inspection Date: 10/25/2010



Note sediment on street. Gravel BMP in poor condition and in need of maintenance.

Figure 1. Construction site entrance



Shopping cart in desilting basin should be removed.

Figure 2. Desilting basin inside project boundaries

Facility: Casa Mira View
Inspection Date: 10/25/2010



Erosion control measures must be applied to slopes.

Figure 3. Uncovered slope (inside property)



Note uncovered stockpile and blue dust from pipe cutting

Figure 4. Project site at street level

Facility: Casa Mira View
Inspection Date: 10/25/2010



Project sediment is on sidewalk and street.

Figure 5. Sidewalk adjacent to project site



Slopes on West side (perimeter) of site have no erosion control BMPs. Also, disturbed sediment near sidewalk should be covered or removed.

Figure 6. Slope and project material at perimeter

Facility: Casa Mira View
Inspection Date: 10/25/2010



Area near storm drain inlet should be swept.

Figure 7. Storm drain inlet at North side of property



Riser pipe is wrapped with filter fabric. Note turbid water surrounding pipe entering via concrete swale.

Figure 8. Storm drain on Caltrans right of way (East side project boundary)

Facility: Casa Mira View
Inspection Date: 10/25/2010



Source of turbid water is illegal discharge from project site.

Figure 9. Outlet pipe of illegal discharge



Pipe from project site was placed through chain link fence to concrete swale.

Figure 10. Pipe leading off property (from pump)

Facility: Casa Mira View
Inspection Date: 10/25/2010



Pump intake line

Figure 11. Pump intake



Area of construction site being dewatered.

Figure 12. Dewatering area