

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

FACILITY INSPECTION REPORT

FACILITY: City of Lemon Grove MS4 **INSPECTION DATE/TIME:** 3/26/2014; 8:30 am

CIWQS Place ID: CW-236851

REPRESENTATIVE(S) PRESENT DURING INSPECTION:

NAME: <u>Wayne Chiu</u>	AFFILIATION: <u>San Diego Water Board</u>
NAME: <u>Gary Harper</u>	AFFILIATION: <u>City of Lemon Grove</u>
NAME: <u>Malik Tamimi</u>	AFFILIATION: <u>City of Lemon Grove</u>
NAME: <u>Leon Firsht</u>	AFFILIATION: <u>City of Lemon Grove</u>

City of Lemon Grove
NAME OF OWNER, AGENCY OR PARTY RESPONSIBLE FOR DISCHARGE

3232 Main Street
Lemon Grove, CA 91945
OWNER MAILING ADDRESS

Malik Tamimi
619-825-3827
OWNER CONTACT NAME AND PHONE #

FACILITY OR DEVELOPER NAME (if different from owner)

3232 Main Street
Lemon Grove, CA 91945
FACILITY ADDRESS

Malik Tamimi
619-825-3827
FACILITY OR DEVELOPER CONTACT NAME AND PHONE #

APPLICABLE WATER QUALITY LICENSING REQUIREMENTS:

- | | |
|---|---|
| <input checked="" type="checkbox"/> MS4 URBAN RUNOFF REQUIREMENTS | <input type="checkbox"/> GENERAL OR INDIVIDUAL WASTE DISCHARGE REQUIREMENTS OR NPDES |
| <input 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.
- MS4 AUDIT - AN EVALUATION OF AN MS4 PROGRAM OR PROGRAM COMPONENT THAT COULD POSSIBLY LEAD TO ENFORCEMENT. IT MUST INCLUDE A SITE VISIT.

INSPECTION FINDINGS:

Y WERE VIOLATIONS NOTED DURING THIS INSPECTION? (YES/NO/PENDING SAMPLE RESULTS)

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I. BACKGROUND AND PURPOSE

On March 26, 2014, Wayne Chiu from the Regional Water Quality Control Board, San Diego Region (San Diego Water Board) conducted inspections of two construction sites (WDIDs 937C366147 [Citronica Two], and 937C366021 [KD 8 Grove]) within the jurisdiction of the City of Lemon Grove (City). The purpose of the inspections was to determine if the sites were implementing BMP in compliance with Construction General Storm Water Permit Order No. 2009-0009-DWQ (CGP), and to conduct an audit to assess whether the City was implementing its construction management program in compliance with San Diego County Municipal Storm Water Permit, Order No. R9-2007-0001 (MS4 Permit).

The inspections were conducted with Gary Harper (Engineering Inspector), Malik Tamimi (Management Analyst/Stormwater), and Leon Firsht (City Engineer) from the City's Development Services Department. The inspections were conducted during the rainy season, which is defined in the MS4 Permit as October 1 through April 30 of each year. The findings from the March 26, 2014 construction site inspections and the audit of the City's construction management program are summarized below.

II. FINDINGS

March 26, 2014 Inspection Findings

1. Citronica Two: The owner of the project is identified in the Storm Water Multiple Application and Report Tracking System (SMARTS) as Citronica Two LP. Rick Donahoo, Jim Millett, and Mike Silvett of Allgire General Contractors were present during the inspection. Mr. Silvett was identified as the Qualified Storm Water Pollution Prevention Plan (SWPPP) Practitioner (QSP) for the project. The project is identified as Risk Level 1 in SMARTS. According to SMARTS, the total area to be disturbed by the project is approximately 1 acre.

Gary Harper, inspector from the City's Development Services Department, conducts the inspections of the site for MS4 Permit requirements. Mr. Harper inspects the site at least monthly. Mr. Harper was the lead during the inspection, with the San Diego Water Board inspector providing additional support. Documentation of training for construction site contractors and subcontractors were not included or available in the SWPPP. The QSP inspection reports were documented with inappropriate inspection forms. The City and San Diego Water Board inspectors identified several inadequacies with stockpile management, perimeter controls, and erosion controls. Inadequate implementation of erosion controls were observed for several areas that appeared to be inactive, or could be scheduled to be inactive as required for Risk Level 1 sites. Several exposed disturbed areas were not provided adequate erosion controls for over 10 days. Inadequate implementation of erosion controls identified during the inspection by the City and San Diego Water Board inspectors was not identified by the City inspector during previous inspections.

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2. KD 8 Grove: The owner of the project is identified in SMARTS as KD 8 Grove LLC. John Mikkelsen, Superintendent for the project, was present during the inspection. The project is identified as Risk Level 1 in SMARTS. According to SMARTS, the total area to be disturbed by the project is approximately 2 acres.

Gary Harper, inspector from the City's Development Services Department, conducts the inspections of the site for MS4 Permit requirements. Mr. Harper inspects the site at least monthly. Mr. Harper was the lead during the inspection, with the San Diego Water Board inspector providing additional support. Documentation of training for construction site contractors and subcontractors were not included or available in the SWPPP. The QSP inspection reports were documented with inappropriate inspection forms. Mr. Mikkleson was delegated the weekly inspections by the QSP, but had not received training from the QSP. The City and San Diego Water Board inspectors identified several inadequacies with perimeter controls and erosion controls. Inadequate implementation of erosion controls were observed for several areas that appeared to be inactive, or could be scheduled to be inactive as required for Risk Level 1 sites. Several exposed disturbed areas were not provided adequate erosion controls for over 10 days. Inadequate implementation of erosion controls identified during the inspection by the City and San Diego Water Board inspectors was not identified by the City inspector during previous inspections.

Construction Management Program Audit Findings

3. Pursuant to section C.1 of the MS4 Permit, the City is required to establish, maintain, and enforce adequate legal authority to control pollutant discharges into and from its MS4 through ordinance, statute, permit, contract or similar means. Pursuant to section D.2.a.(1) of the MS4 Permit, the City is required upgrade its grading ordinances, and other ordinances as necessary to achieve full compliance with the MS4 Permit. The City designated minimum BMP requirements for all construction sites in its Jurisdiction Urban Runoff Management Program (JURMP). The legal authority for requiring implementation of the JURMP's requirements is established by Lemon Grove Municipal Code 8.48. Lemon Grove Municipal Code 18.08.140 also establishes legal authority for requiring implementation of the JURMP's requirements specifically for excavation and grading projects. In addition, Lemon Grove Municipal Code 18.08.150 establishes Erosion Prevention requirements that must be implemented for grading and construction activities. The legal authority has been established as required by the MS4 Permit.
4. Pursuant to section D.2.c.(1) of the MS4 Permit, the City is required to designate a minimum set of BMPs and other measures to be implemented at all construction sites. The designated minimum BMPs are as follows:
 - a. Section 7 of the JURMP identifies the minimum BMPs to be required for all construction sites. Section 7.1 of the JURMP provides the pollution prevention principles that apply to construction sites, which include:

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- *Plan grading operations to minimize soil exposure in the rainy season;*
- *Retain existing vegetation to the maximum extent feasible;*
- *Establish cover on slopes as soon as possible;*
- *Minimize the length and steepness of slopes;*
- *Direct runoff away from disturbed areas; and*
- *Inspect and maintain control measures before and after each rainstorm.*

These prevention pollution principals that apply to construction sites under Section 7.1 of the JURMP are consistent with the requirements of the MS4 Permit.

- b. Section 7.2 of the JURMP states that the City's grading ordinances have been updated to include the following BMPs or their equivalent:

- *Erosion prevention;*
- *Seasonal restrictions on grading;*
- *Slope stabilization requirements;*
- *Phased grading;*
- *Revegetation as early as feasible;*
- *Preservation of natural hydrologic features;*
- *Preservation of riparian buffers and corridors;*
- *Maintenance of all source control and structural treatment BMPs; and*
- *Retention and proper management of sediment and other construction pollutants on site.*

The minimum BMPs under Section 7.2 of the JURMP are consistent with the requirements of the MS4 Permit.

- c. Section 7.3 of the JURMP indicates that all individual proposed construction and grading projects involving more than 50 cubic yards of soil are required to implement the Lemon Grove Grading Ordinance. Projects with less than 50 cubic yards of soil are still required to comply with local, state, and federal ordinances and regulations. Section 7.3 of the JURMP states that the construction and grading approval process complies with the requirements of the MS4 Permit in that all projects are required to:

- *Develop and implement a plan to manage storm water and non-storm water discharges from the site at all times;*
- *Emphasize erosion prevention as the most important measure for keeping sediment on site during construction;*
- *Utilize sediment controls as a supplement to erosion prevention for keeping sediment on-site during construction, and never as the single or primary method;*
- *Minimize disturbed areas;*

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- *Temporarily stabilize and reseed disturbed soil areas as rapidly as possible;*
- *Permanently revegetate or landscape as early as feasible;*
- *Stabilize all slopes; and*
- *Provide evidence of existing coverage under the California General Construction Permit, if applicable (i.e., the project will disturb more than five acres).*

These requirements for all construction projects as part of the construction and grading approval process under Section 7.3 of the JURMP are consistent with the requirements of the MS4 Permit, except that projects that will disturb 1 acre or more is subject to the requirements of the California General Construction Permit, Order No. 2009-0009-DWQ (CGP).

- d. Section 7.6 of the JURMP identifies the minimum BMPs required for high priority, medium priority, and low priority construction sites in addition to the pollution prevention measures under Section 7.1. Temporary stabilization measures are required for locations where construction activities temporarily cease for more than 21 days. This is inconsistent with the requirements of Lemon Grove Municipal Code 18.08.150 (see below), the CGP, and the MS4 Permit.
- e. Lemon Grove Municipal Code 18.08.150 includes the erosion prevention requirements for all construction projects not provided an exception pursuant to Lemon Grove Municipal Code 18.08.070. The minimum erosion prevention methods required include:
1. *Consideration shall be made of the time of year that grading and construction activities will be taking place, recognizing that the ideal grading period is the non-rainy season, especially in areas at high risk for erosion;*
 2. *The length of time that soils are left exposed to elements of wind and water shall be minimized;*
 3. *The total area of exposed soil shall be reduced during the rainy season;*
 4. *Critical areas, such as drainage channels, streams, and natural watercourses shall be protected;*
 5. *Exposed areas shall be stabilized as quickly as feasible;*
 6. *Sufficient waste disposal facilities shall be provided for all proposed activities;*
 7. *Sufficient storage facilities shall be provided for all materials and equipment; and*
 8. *Assurances shall be made that materials used for erosion and sediment control are on site at all times during the rainy season.*

Lemon Grove Municipal Code 18.08.150 also includes requirements specific to the dry season (May 1 through September 30) and additional requirements for the wet season. Cleared or graded areas left exposed at any one time are limited to the amount of acreage that the discharger can adequately protect prior to a predicted rain event or seventeen acres, whichever is smaller, unless the City Engineer approves the disturbance of a larger area. During the wet season,

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an incomplete disturbed area that is not being actively graded must be fully protected from erosion if left for 10 days or more. The requirements of Lemon Grove Municipal Code 18.08.150 are consistent with the MS4 Permit requirements.

5. Pursuant to sections D.2.a.(2)(a)-(b) of the MS4 Permit, prior to approval and issuance of local construction and grading permits, the City must require all individual proposed construction sites to implement designated BMPs and other measures so that pollutant discharges from the site will be reduced to the MEP, and verify that the project's storm water management plan (e.g. SWPPP) complies with their grading ordinance, and other ordinances, and the requirements of the MS4 Permit. The San Diego Water Board inspector reviewed the SWPPPs available on SMARTS for the two sites inspected and noted the following:
 - a) The dry season and wet season requirements for all construction projects specified in Section 7 of the JURMP and under Lemon Grove Municipal Code 18.08.150 were not clearly included in the SWPPPs reviewed.
 - b) There were no requirements in the SWPPPs to minimize grading during the wet season and correlation of grading with seasonal dry weather periods to the extent feasible.
 - c) There were no requirements in the SWPPPs that indicated erosion prevention is to be used as the most important measure for keeping sediment on site during construction.

6. Pursuant to section D.2.c.(3), the City is required to implement, or require implementation of the designated minimum BMPs and any additional measures necessary to comply with the MS4 Permit at each construction site within its jurisdiction year round. Pursuant to section D.2.d of the MS4 Permit, the City is required to inspect construction sites for compliance with its local ordinances, permits, and the requirements of the MS4 Permit. Based on the observations noted by Findings 1 and 2, the City's construction storm water inspection program failed to identify the following deficiencies in the implementation of the designated minimum BMPs required by the JURMP, Lemon Grove Municipal Code, and MS4 Permit for all construction sites:
 - a) The City's inspector did not require the implementation of erosion prevention to be used as the most important measure for keeping sediment on site during construction.
 - b) The City's inspector did not require the sites to implement erosion prevention controls for all exposed disturbed areas, as required by the Lemon Grove Municipal Code 18.08.150 during the dry and wet seasons.

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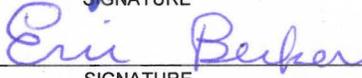
- c) The City's inspector did not require the sites to have 125 percent of the materials needed to install standby BMPs necessary to completely protect exposed portions of the site from erosion and prevent sediment discharges stored on the site, as required by the Lemon Grove Municipal Code 18.08.150 during the dry and wet seasons.
 - d) The City's inspector did not require the sites to implement erosion prevention BMPs as soon as slopes completed for any portion of the site, as required by the Lemon Grove Municipal Code 18.08.150 during the dry and wet seasons.
 - e) The City's inspector did not require the sites to fully protect incomplete disturbed areas after 10 days, as required by the Lemon Grove Municipal Code 18.08.150 during the wet season.
 - f) By not requiring implementation of several designated minimum BMPs required by the Manual and the MS4 Permit, the City's inspectors did not require the implementation of BMPs to retain, reduce, and properly manage all pollutant discharges to the MEP.
7. Pursuant to section D.2.e of the MS4 Permit, the City is required to implement an escalating enforcement process that achieves prompt corrective actions at constructions sites for violations of the City's water quality protection requirements and ordinances. There was no evidence that the City was implementing an enforcement process because the City's inspectors were not identifying applicable violations during inspections (see Findings 1-2).
8. Pursuant to section D.5.b.(1)(a) of the MS4 Permit, the City is required to implement an education program so that its planning and development review staff have an understanding of storm water management plan (e.g. SWPPP) development and review and source control BMPs. Education of the City's planning and development review staff was not implemented or inadequate, as evidenced by SWPPPs approved by the City staff that do not include the designated minimum BMPs for construction sites (see Finding 5).
9. Pursuant to section D.5.b.(1)(b) of the MS4 Permit, the City is required to implement an education program so that its construction, building, code enforcement, and grading review staffs, inspectors, and other responsible construction staff have an understanding of Federal, state, and local water quality laws and regulations applicable to construction and grading activities, and proper implementation of erosion and sediment control and other BMPs to minimize impacts to receiving waters from construction activities. Education of the City's construction, building, code enforcement, and grading review staffs, inspectors, and other responsible construction staff was not implemented or inadequate as evidenced by the lack of enforcement actions issued by the City's inspector for violations of the City's designated minimum BMP requirements (i.e. erosion controls required by the JURMP and Lemon Grove Municipal Code 18.08.150) (see Findings 1-2, 6 and 7).

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RECOMMENDATIONS AND ADDITIONAL COMMENTS

1. For the three construction sites under the City's jurisdiction inspected by the San Diego Water Board, the City's implementation of its construction management program is not in compliance with the requirements of sections D.2.a.(2)(a)-(b), D.2.c.(3), D.2.d, D.2.e, and D.5.b.(1)(a)-(b) of the MS4 Permit.
2. It is recommended that the City be allowed to provide recommendations for bringing its construction management program into compliance with the requirements of the MS4 Permit. Recommendations should include proposed modifications to the construction management program implementation processes, and documentation that will be developed to demonstrate the requirements of the MS4 Permit are being adequately implemented.
3. In the event the City does not bring its construction management program into compliance with the requirements of the MS4 Permit within a reasonable period of time, it is recommended that the San Diego Water Board initiate additional enforcement actions to compel the City to come into compliance with the requirements of the MS4 Permit.

III. SIGNATURE SECTION

Wayne Chiu		3/26/2014
STAFF INSPECTOR	SIGNATURE	INSPECTION DATE
Eric Becker		4/22/14
REVIEWED BY SUPERVISOR	SIGNATURE	DATE

SMARTS:

Tech Staff Info & Use	
Place ID	236851
Reg Measure ID	214394
Inspection ID	16046578
Violation ID	967324