

San Diego Regional Water Quality Control Board

September 14, 2015

Mr. Clay Phillips
City Manager
City of Escondido
City Hall, Second Floor
201 North Broadway
Escondido, CA 92025

Certified Mail – Return Receipt Requested
Article Number: 7010 1060 0000 4953 0532

In reply refer to: 222931: cmeans

Mr. Phillips:

Subject: August 11, 2015 San Diego Water Board Inspection Report

Enclosed is an August 11, 2015 Inspection Report prepared by the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) for a joint inspection conducted with City of Escondido staff of various Priority Development Projects (PDPs) within the City's jurisdiction, and their associated permanent stormwater treatment control best management practices (BMPs). This inspection was conducted as an enforcement follow-up to Notice of Violation (NOV) No. R9-2015-0024, issued to the City on February 10, 2015.

As described in the inspection report, the San Diego Water Board documented numerous continuing violations of San Diego Water Board Municipal Stormwater Permit Order No. R9-2007-0001. The City should take immediate steps to address these violations and bring the missing and ineffective BMPs into compliance.

The violations alleged herein, and in NOV No. R9-2015-0024, 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. 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.

Please submit written correspondences electronically to sandiego@waterboards.ca.gov in optical character recognition (OCR) pdf format. In the subject line of any response, please include "**222931: cmeans**". For questions pertaining to the subject matter, please contact Christopher Means of my staff at (619) 521-3365 or cmeans@waterboards.ca.gov.

Respectfully,



Chiara Clemente
Senior Environmental Scientist

Enclosures:

1. August 11, 2015 Inspection Report
2. Attachment 1: Photo Summary of Inspection
3. Attachment 2: City of Escondido Inspection Summary

Cc via email: (w/encl.)

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CIWQS Entries:	Tech Staff Info & Use
Place ID	222931
Reg Msr ID (SEL)	402819
NPDES No.	CAS108758
WDID	9 000510S13
Violation IDs	985747, 985757

Respectfully,



Chiara Clemente
Senior Environmental Specialist

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

**MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4)
AUDIT INSPECTION REPORT**

FACILITY: City of Escondido MS4

INSPECTION DATE/TIME: 8/11/2015; 9:15 am

CIWQS Place ID No.: CW-222931

REPRESENTATIVE(S) PRESENT DURING INSPECTION:

NAME: Wayne Chiu

AFFILIATION: San Diego Water Board

NAME: Christopher Means

AFFILIATION: San Diego Water Board

NAME: Chiara Clemente

AFFILIATION: San Diego Water Board

NAME: Helen Davies

AFFILIATION: City of Escondido

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

FACILITY OR DEVELOPER NAME (if different from owner)

201 North Broadway
Escondido, CA 92025
OWNER MAILING ADDRESS

throughout MS4
FACILITY ADDRESS

Christopher McKinney, 760-839-4090
OWNER CONTACT NAME AND PHONE #

Helen Davies, 760-839-6915
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)

Facility: City of Escondido MS4
Inspection Date: 8/11/2015

I. HISTORY / PURPOSE OF INSPECTION

History

On March 13, 2014, Laurie Walsh of the San Diego Water Board Storm Water Management Unit conducted an audit of the City of Escondido (City) jurisdictional runoff management program (JRMP) compliance with the requirements of the San Diego County Municipal Separate Storm Sewer System (MS4) Permit, Order No. R9-2007-0001 (Order). At the conclusion of the audit, Ms. Walsh requested additional information on 9 priority development projects (PDPs) where structural post-construction treatment control BMP violations were reported by the City to the San Diego Water Board in the FY 2012-2013 JRMP Annual Report. In April 2014, the City provided additional information about the 9 PDPs. Of the 9 PDPs, 5 PDPs had remaining issues to be resolved.

In October 2014, Christopher Means of the San Diego Water Board Compliance Assurance Unit requested additional information about 3 of the noncompliant PDPs discussed by the City's April 2014 response.

During a storm event on December 3, 2014, San Diego Water Board staff members Wayne Chiu (Storm Water Management Unit) and Christopher Means conducted inspections of post-construction treatment control BMPs at several facilities identified in the City's JRMP annual report PDP inventory. The purpose of the inspections was to determine if the BMPs within the city's jurisdiction were properly maintained and functioning as required by Order No. R9-2007-0001. This included follow-up at some of the sites that were previously identified as noncompliant in the March 2014 audit. The findings concluded that six of seven PDPs inspected had inadequate or ineffective treatment control BMPs. San Diego Water Board staff reviewed the City's prior inspection findings for these BMPs and found discrepancies between inspection findings by the City and inspection findings of San Diego Water Board staff during the December inspection.

As a result of the December 2014 inspection, the San Diego Water Board issued the City Notice of Violation (NOV)/ Request for Technical Report No. R9-2015-0024. The NOV documented violations of Municipal Storm Water Permit No. R9-2007-0001. The alleged violations included 1) failure to prevent the discharge of pollutants not reduced to the maximum extent practicable, 2) failure to implement Standard Urban Storm Water Mitigation Plan (SUSMP) requirements, and 3) failure to adequately enforce at Priority Development Sites. The NOV also required the submittal of a Technical Report including an updated spreadsheet of all permanent treatment control BMPs, the dates they were inspected, and the inspection findings. On April 13, 2015 the City provided a technical report in response to the NOV. As part of the City's response they provided annual BMP inspection findings for the years 2009-2014.

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For the 2013-2014 reporting year, the City inspected their inventoried PDPs between the months of March through August 2014. The inspection findings showed that of the 78 PDPs listed in their inventory, the City had found 76 of the projects to be in compliance with Storm Water Permit requirements. The results of the December 3, 2014 inspection by San Diego Water Board staff seemed to be in contradiction to the City's findings, and provided San Diego Water Board staff concern as to the adequacy of the City's inspection and enforcement program.

San Diego Water Board staff completed a thorough review of the City's response to NOV R9-2015-0024 in June 2015. The review concluded that the City had failed to meet SUSMP requirements contained in Order R9-2007-0001 in a variety of ways including, but not limited to:

- 1) The City has failed to inspect 100% of High priority PDPs annually as required by Section D.1.e.2(c) of Order R9-2007-0001.
- 2) The City has failed to utilize its enforcement tools in a timely manner when missing or ineffective BMPs were noted during City inspections.

On June 8, 2015 the San Diego Water Board requested additional information from the City in regards to the above conclusions and other related questions pertaining to their overall SUSMP program. The San Diego Water Board also informed the City of its intent to conduct additional inspections of PDPs within the City. On June 18, 2015 the City provided a response to the request for additional information.

On July 24, 2015, prior to the August inspection, the San Diego Water Board requested that the City provide updated inspection findings of its PDP inventory for the 2014-2015 reporting year. The City provided a list of PDP projects that indicated whether or not the PDP had been inspected, or inspection was pending, but were unable to provide the inspection findings of the sites that had been inspected. On August 5, 2015 the San Diego Water Board provided the City with a list of eight preselected PDP sites for inspection to allow the City time to gather the necessary background information and documentation for each site.

Purpose of Inspection

On August 11, 2015, San Diego Water Board staff (Wayne Chiu, Christopher Means, and Chiara Clemente) met with Helen Davies, Homi Nomdari, and Julie Procopio at the City office to review water quality technical reports and site plans for the 8 pre-selected PDPs to be inspected. The purpose of the inspection was to review the status and effectiveness of the treatment control BMPs at a mixture of Residential, Commercial and Public PDPs within the jurisdiction of the City. While previous reviews of the City's SUSMP program focused mainly on the City's handling of high priority PDPs in their inventory, the August 11, 2015 sites (6 medium priority and 2 high priority), were focused more on medium priority PDPs, which are not required to be inspected on an annual basis.

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San Diego Water Board Staff selected the 8 inspection sites after a desk top review utilizing Google Earth aerial imagery and review of prior inspection findings for a majority of the PDPs contained in the City's inventory. Sites were selected based on the inability to confirm presence of BMPs from satellite images and past deficiencies noted in the historic inspection findings.

San Diego Water Board Staff and Helen Davies inspected 7 of the 8 sites on August 11, 2015. The City Fire Station located on 1828 Nutmeg Street (Project ID PUB-07-022) was not inspected due to Fire Station personnel not being present when inspectors arrived on site.

The San Diego Water Board staff findings of the 7 inspections are presented below. Attachment No. 1 to the report provides a photo summary of each PDP inspected. Attachment No. 2 contains inspection findings prepared by the City of Escondido, and provided to the San Diego Water Board by email on August 24, 2015.

II. INSPECTION FINDINGS

August 11, 2015 Post-Construction Treatment Control BMP Inspection Findings

1. PUB-03-004, Ryan Park, 450 Hidden Trails Road; Medium Priority

- a) According to City's design plans, Ryan Park is intended to have 1 bioswale to address runoff from the parking lot (see photo 1(a)).
- b) City inspections of the site indicate "BMP Operational, in compliance" from 2009-2014. Notes from City's 2015 inspection indicate issues with sediment buildup and grade problems.
- c) Site observations were as follows:
 - The bioswale was in designed location and vegetated.
 - Sediment buildup was evident in the parking lot and inlet appears to be constructed higher than bioswale.
 - Trash was noted in the bioswale.
- d) The City reported that, based on the City's inspection findings, they intend to do street sweeping and regrade the bioswale.

Conclusion: City findings in Attachment 2 are comparable with San Diego Water Board staff findings. The bioswale needs maintenance and re-contouring of the bioswale flow path to avoid flow backing up and sediment deposition in the parking lot. However, the likelihood of pollutants leaving the site and entering the MS4 is minimal. The City should provide documentation of any maintenance activities performed on swale to add functionality to the BMP.

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2. PRI-06-0134 Tract 881 / Washington Hills II, Trovita Court; Medium Priority

a) According to City design plans, the structural post-construction treatment control BMPs for this residential area include a bioswale behind the development and parallel to Escondido Creek designed to capture and treat low flows with a bypass for higher flows directly to Escondido Creek (see photos 2(a) and 2(b)).

b) City's inspection findings for the site are as follows:

2009	Could not locate BMP
2010	Unable to locate BMP; under construction
2011	Unable to locate BMP
2012	Project drains to existing bioswale in City maintained area along Escondido Creek Channel. Organic debris and sediment deposits need to be removed from swale.
2013	Self-certification completed, no inspection
2014	Self-certification completed, no inspection

Notes from City's 2015 inspection indicate "clear vegetation, remove trash and debris, pipe needs to be exposed."

c) Site observations were as follows:

- City stated that photo-documentation is not required for self-certification submittals.
- Observed active over-irrigation illicit discharge in residential area. Helen Davies approached the property owner who proceeded to terminate the discharge.
- Accessed bioswale area through City right of way behind the residential area. Bioswale was covered in dense vegetation (see photo 2(c)). After a thorough search inspectors were unable to locate the pipe or point where the low flow discharge enters swale.
- Inspectors opened adjacent manhole at bioswale terminus (see photo 2(d)), and observed low-flow illicit discharge directly to Escondido Creek (i.e. bypassing the bioswale) (see photos 2(e) and 2(f)).
- Trash in swale.

Conclusion: Despite a thorough search by inspectors, the low-flow outlet to the bioswale was never located. It is unclear whether the low flow bypass is working or was ever constructed as per plan. Moreover, there should not have been any flow in the high-flow bypass if the BMP were constructed as designed. If the City is not able to document that the low flow outlet is present and the BMP was constructed as designed, the San Diego Water Board staff conclude that this is a poorly designed and ineffective BMP. Without the low flow bypass stormwater would be discharged directly into

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Escondido Creek without any treatment and this PDP would be in violation of SUSMP requirements.

Based on the City's prior inspection findings, the first three years inspectors were unable to locate the BMP, and it is unclear if an adequate inspection has ever been conducted by City personnel to determine if the BMP was functioning as designed. The City's self-certification program should require PDPs to provide photo documentation of BMPs, to better enable the City to determine, and document the effectiveness of BMPs. The City must provide documentation to show this BMP was built and functions per the plans.

3. PRI-05-129, Tract 857/ Falcon Crest, Windstone Glen Rd.; Medium Priority

a) According to City design plans, the structural post-construction treatment control BMPs for this Homeowner's Association-maintained residential area include 8 bioswales, located in the front yard of individual properties. Inlets from the curb consist of three angled PVC pipes, extending slightly into the street to catch flow and direct it into the bioswale (see photo 3(b)). At the terminus of the bioswale outlet structures are designed to take treated flow and discharge it to the MS4.

b) City's inspection findings for the site are as follows:

2009	BMP Operational
2010	Bioswale at 2929 Windstone Glen has insufficient vegetation cover and adjacent slope needs to be stabilized.
2011	Pipe diverting runoff from the street to bioswale are blocked with sediment and debris, and need to be cleared at 6 bioswales. 2 bioswales operational.
2012	Pipes diverting runoff from the street to six bioswales are blocked with sediment and debris and need to be cleared.
2013	No access.
2014	Project in compliance.

c) Site observations were as follows:

- A majority of the curb inlet pipes' outer flanges were broken off from where they extended into the gutter, leaving them flush with the curb (see photo 3(c)). This reduces the ability of the inlet pipes to convey stormwater to the bioswales. This is a poor design for the inlets and could be improved upon.
- A majority of the inlet pipes were obstructed with sediment and debris (see photos 3(d) and 3(e)). This further reduces the ability of stormwater to enter the bioswale and receive treatment. This observation is consistent with previous City inspection findings in 2011 and 2012.

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- 7 of 8 bioswales had the inlet pipes buried under turf, hard packed gravel, or dirt. This makes it impossible for storm water to enter the swale and receive treatment, likely resulting in clogged inlet pipes.
- Homeowners landscaping their yards most likely did not understand the function of the bioswales and buried the pipes to make the front of their yards more aesthetically pleasing. This renders 7 of 8 bioswales inoperable (see photos 3(f), 3(g) and 3(h)).
- One bioswale had flow obstructions in the form of a modified walkway in the middle of the swale (see photo 3(i)).
- Some bioswales were not fully vegetated (see photo 3(j)).

Conclusion: In attachment 2 the City summarizes the current BMP condition of this project as "Good". While a majority of the bioswales were in place and vegetated, the San Diego Water Board concluded that 7 of the 8 bioswales on site were inoperable due to faulty inlet structures, obstructions within the bioswale, and lack of vegetation. The City's previous inspection findings for this site again call into question the adequacy and thoroughness of the City's historic inspection process. While City inspectors did note in past inspections inlet structures clogged with sediment and debris, there is no evidence that inspectors took the next step to try and figure out why the inlet pipes were not working as designed, and remedy the situation. San Diego Water Board staff were able to quickly discern the faulty design of the treatment BMPs on site, but the City's last documented inspection in 2014 found the site to be in compliance.

Based on this inspection San Diego Water Board staff conclude that without major improvements to the inlet structures of these bioswales, stormwater runoff generated on this site receives little or no treatment, and discharges to the MS4 in violation of Order R9-2007-0001 discharge prohibitions and SUSMP requirements. The City should take a close look at the design and functionality of the bioswales and work with the HOA to find a solution to the obvious deficiencies.

4. PRI-08-150 613 E. Lincoln Ave.; Medium Priority

- a) Although this site is a commercial day care facility, the City of Escondido is listed as the responsible party because they own the property and leases it to the day care (see Photo 4(a)). According to City design plans the structural post-construction treatment control BMPs for this site include two inlet filters and two bioswales.
- b) City's inspection findings for the site are as follows:

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2009	Insufficient vegetative cover
2010	Insufficient vegetative cover in bioswale.
2011	Insufficient vegetation in bioswale, cleanout and or replace insert filter. Existing filter is partially detached from mounting structure.
2012	Insufficient vegetation in bioswale. Evidence of erosion on slopes. Replace insert filter and remove trash and debris from storm drain inlet. Existing filter is partially detached from housing unit.
2013	Self-certification completed. No inspection.
2014	Self-certification completed. No inspection.

Notes from City's 2015 inspection indicate "Inlet filter needs to be cleaned out. Minor evidence of erosion."

c) Site observations were as follows:

- Playground bioswale installed as designed and operational (see photo 4(b)).
- Plans called for a second parking lot bioswale, but the designated area for that BMP lacks surface vegetation and does not appear to be properly graded to capture and treat flows. This treatment BMP is effectively missing (see photo 4(c)).
- Inlet filters are in place but need maintenance (see photo 4(d)).

d) Water Board staff clarified that all structural post-construction treatment control BMPs should be inventoried and maintained, regardless of whether they exceed the minimum structural requirements applicable at the time of project approval.

Conclusion: 3 out of 4 BMPs, were in place. One bioswale was missing. Past inspection results (2009-2012) indicated that vegetation was insufficient in bioswale, but failed to recognize that one of the bioswales not implemented per plans. Consistent with City inspection findings at other sites, when problems are noted for multiple years, it appears that the City has failed to ensure that these deficiencies are remedied. As land owner of the property the City should go back in and ensure that bioswales are implemented per plan, and should perform maintenance on both inlet filters. Until improvements and maintenance are conducted the site is violation of SUSMP requirements due to lack of treatment for a portion of the parking area.

5. PRI-07-144, 426 Date Street; Medium Priority

- a) This site is a commercial health care facility and parking lot. According to City design plans the structural post-construction treatment control BMPs for this site include a bioswale parallel to Escondido Creek that ultimately discharges to the Creek. The bioswale area appears to be within the City right-of-way adjacent to Escondido Creek.

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b) City's inspection findings for the site are as follows:

2009	Insufficient vegetation
2010	Insufficient vegetation cover in bioswale.
2011	Insufficient vegetation cover in bioswale. Replace deteriorating gravel bags within swale.
2012	Insufficient vegetation cover in bioswale. Storm drain inlet is blocked with sediment and debris.
2013	Self-certification completed. BMP Operational. No maintenance necessary.
2014	Project in compliance.

Notes from City's 2015 inspection indicate "drains off site" and "trash present."

c) Site observations were as follows:

- Bioswale appears to have been constructed in wrong location; i.e. offsite and in City right-of-way. The flow of stormwater from a single curb cut at the low point of the parking lot bypasses sparse vegetation in the City right of way and travels across dirt to a storm drain inlet which is surrounded by gravel and straw wattles (see photo 5(b)).
- The vegetated strip within the project boundary, below the parking lot, seems to be the original intended location of the treatment BMP, but is sloped away from parking lot towards the City's right of way beyond the fence (see photo 5(c)).
- The existing condition of the property does not allow stormwater to undergo any treatment prior to discharge to the MS4.

Conclusion: The City's past inspections (2009-2012) noted a lack of vegetation in the bioswale for years, but offers no indication that the property owners were informed of the fact or required to improve the BMP. The project was noted to be in compliance in 2014, but based on San Diego Water Board observations it does not seem possible that this project has ever been in compliance.

The City should contact the property owners and request that the vegetated area within the project boundaries be regraded and revegetated to become a functioning bioswale. Until such a time as these improvements are made the BMP should be considered missing and in violation of Order R9-2007-0001.

6. PRI-08-149, 1556 Auto Parkway; High Priority

a) This site is a commercial Audi dealership. According to City design plans the structural post-construction treatment control BMPs for this site include 2 bioswales (see photo 6(a)).

b) City inspections findings for this site are as follows:

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2009	BMP operational. No maintenance necessary.
2010	BMP operational. No maintenance necessary.
2011	BMP operational. No maintenance necessary.
2012	BMP operational. No maintenance necessary.
2013	BMP operational. No maintenance necessary.
2014	Debris in treatment area; removed during inspection. Project in compliance.

Notes from the City's 2015 inspection indicate "needs vegetation."

c) Site observations were as follows:

- **Swale 1 (back lot)** is a short bioswale on a steep slope. In observing the drainage area served by the BMP, it appears that this bioswale treats the service bays located in the back of the lot (see photo 6(b)).
- Runoff from the service bay area enters the bioswale through a small curb cut (see photo 6(c)).
- The area which contains the BMP is vegetated, but the flow channel of the bioswale is not (see photo 6(d)).
- The steep slope of the bioswale reduces retention time of any storm flows and thus reduces the ability of the bioswale to provide any treatment. The lack of vegetation within the actual channel of the bioswale further reduces its effectiveness.
- The short bioswale discharges directly into the City of Escondido MS4 system (see photo 6(e)).
- **Swale 2 (front lot)** is a large bioswale which treats a majority of the dealership including the front lot which houses all the cars for sale. Flow is directed through a single curb cut (see photo 6(f)), passes through the swale, and discharges to a storm drain inlet (see photo 6(g)).
- San Diego Water Board staff walked the entirety of the large swale and the channel consisted of hard packed earth. There was no indication (dead vegetation, root clusters) that this bioswale had ever been vegetated as per plans. In fact the Audi representative who accompanied inspectors indicated that it had likely been unvegetated "all along".
- City staff is working with Audi representative to vegetate swale bed before October 1, 2015.
- Drain outlet from swale had a significant amount of organic debris inside, and is in need of maintenance prior to rainy season (see photo 6(h)).

Conclusion: Past City inspections for this high priority PDP (2009-2014) have consistently found this PDP to be in compliance with Order R9-2007-0001. San Diego Water Board inspection findings are in direct contradiction with the City's findings. The design of the smaller bioswale is such that, even if it was vegetated along the flow path, the steepness of the slope would preclude pollutants from receiving the necessary retention time to receive treatment. It is a poorly

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designed, ineffective BMP. However, the City's perception of the BMP included in attachment 2 finds the current BMP condition to be "Fair".

From the viewpoint of San Diego Water Board inspectors, the larger swale in front appears to have never been planted with vegetation of any sort. In its observed condition, the unvegetated swale is deemed an ineffective BMP. Yet the City, in attachment 2 finds the current condition of the BMP to be "Satisfactory". The historic inspection findings of the City, coupled with their assessment of the current condition of the bioswale again casts serious doubt on the adequacy of their inspection program, and the technical expertise of their inspectors. The City should provide any available historic documentation of the presence of vegetation within the larger swale.

7. PRI-05-130, Tract 865/ 125-133 Pennsylvania Ave; Medium Priority

a) This site consists of residential apartment housing. According to City design plans the structural post-construction treatment control BMP for this site includes 1 bioswale. The bioswale drains the interior pavement of the complex, passes under a residential fence (see photo 7(b)), through the side yard, and into the City MS4 (see photo 7(c)).

b) City inspections findings for this site are as follows:

2009	BMP operational. No maintenance necessary.
2010	BMP operational. No maintenance necessary.
2011	BMP operational. No maintenance necessary.
2012	Some scouring in bioswale floor. The bioswale is located within residential property.
2013	Self certification completed, no inspection.
2014	Self certification completed, no inspection.

c) Site observations were as follows:

- There is sediment buildup at the terminus of the impervious surface prior to the bioswale.
- City lacked adequate access to inspect/maintain the swale. Swale was vegetated as per plans.
- Unable to inspect bioswale grade closely due to it being on private property.

Conclusion: Bioswale exists as per plans, is vegetated, and is compliant.

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III. VIOLATIONS OF ORDER R9-2007-001

- a. Pursuant to Section A.2 of the Order, the City is prohibited from discharging storm water from its MS4 containing pollutants which have not been reduced to the maximum extent practicable (MEP).

The above inspection findings document that 5 of 7 PDPs inspected had either poorly designed and implemented BMPs, or missing BMPs. These ineffective or missing BMPs have been in place for years and it is reasonable to conclude that these BMPs have not provided effective treatment of stormwater to the MEP, and thus the City is in violation of Section A.2 of the Order.

- b. Pursuant to Section D.1.e.(2)(d) of the Order, the City is required to annually verify the effective operation and maintenance of each approved treatment control BMP by the party responsible for the treatment control BMP maintenance.

For Medium Priority PDPs the City relies heavily on Self-Certification submittals from the responsible party to verify the effective operation and maintenance of the approved treatment control BMPs. According to City staff these submittals are not required to contain photographic documentation of the state of the BMP at the time of the certification. Based on the findings above for PDPs PRI-06-1034, PRI-07-144 and PRI-08-150, the reliance on these Self -Certification submittals resulted in the City being unaware of the ineffective implementation and operation these BMPs, and thus the City is violation of Section D.1.e.(2)(d) of the Order.

- c. Pursuant to D.1.f of the Order, the City is required to verify that BMPs have been constructed in compliance with all specifications, plans, permits, ordinances, and the Order.

Based on inspection findings 2 through 6, treatment control BMPs did not appear to be installed or constructed in compliance with all specifications, plans, permits, ordinances, and the Order, in violation of Section D.1.f of the Order.

- d. Pursuant to Section D.1.h of the Order, the City is required to enforce its storm water ordinance for all PDPs as necessary to maintain compliance with the Order.

Based on The City's historic inspection findings provided in response to NOV R9-2015-0024, and the inspection findings for PRI-05-129, PRI-08-150 and PRI-07-144, City inspectors noted deficiencies in treatment BMPs for multiple years, and these deficiencies were noted again when the San Diego Water Board conducted inspections. There is no evidence to indicate that the City utilized any enforcement mechanism on these sites to bring the sites into compliance, and the deficiencies persisted, thus the City is in violation of Section D.1.h of the Order.

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IV. COMMENTS AND RECOMMENDATIONS

Comments

1. The City of Escondido should immediately take action to bring non-compliant PDPs into compliance with its local ordinances and San Diego Water Board Order No.R9-2007-0001.
2. If the City continues to rely on self-certification submittals for medium priority PDPs, they should require photo-documentation of BMPs with the submittal.
3. City inspectors would benefit from being provided additional training opportunities to bolster their knowledge and technical expertise in BMP design, function and implementation. Inspectors would also benefit by inspecting some PDPs during rain events to assess how effective BMPs are when in use. Inspectors should be required to photo-document their PDP inspections to provide a better record of the state of the projects' compliance.
4. If the City has documentation refuting the conclusions of this inspection report findings as to the functionality of any of the deficient PDPs, they should provide this information to the San Diego Water Board.

Recommendations

1. Based on prior inspections it is clear that the City and the San Diego Water Board are of differing opinions on what constitutes compliance with Order. R9-2007-0001. CAU staff have concluded that escalated enforcement is necessary to compel the City to address deficiencies in their overall SUSMP program and therefore will begin drafting an Administrative Civil Liability Complaint.
2. If the City provides evidence that the BMPs were maintained or have been corrected, it will be taken into consideration in the calculation of the penalty.

V. SIGNATURE SECTION

Christopher Means
 STAFF INSPECTOR




SIGNATURE

8/11/2015

INSPECTION DATE

Chiara Clemente
 REVIEWED BY SUPERVISOR



SIGNATURE

9/14/15

DATE

Facility: City of Escondido MS4
 Inspection Date: 8/11/2015

Attachments:

Attachment 1: San Diego Water Board Inspection Photo Summary

Attachment 2: City of Escondido Summary of Site Visits

CIWQS:

Tech Staff Info & Use	
Place ID	CW-222931
Reg. Measure ID	214420
Inspection ID	21704579
Violation IDs	985747, 985758,

Recommendations

1. Based on photo inspections it is clear that the City and the San Diego Water Board are of differing opinions on what constitutes compliance with Order RB-2007-0001. CAU staff have concluded that escalated enforcement is necessary to compel the City to address deficiencies in their overall SUSMP program and therefore will begin drafting an Administrative Civil Liability Complaint.

2. If the City provides evidence that the BMPs were maintained or have been corrected, it will be taken into consideration in the calculation of the penalty.

V. SIGNATURE SECTION

 Christopher Means
 DISTRICT INSPECTOR

 Chris Clements
 REVIEWED BY SUPERVISOR

 DATE

 DATE

Attachment 1
City of Escondido SUSMP Program Inspection Photo Summary

1. PUB-03-004, Ryan Park, 450 Hidden Trails Road; Medium Priority

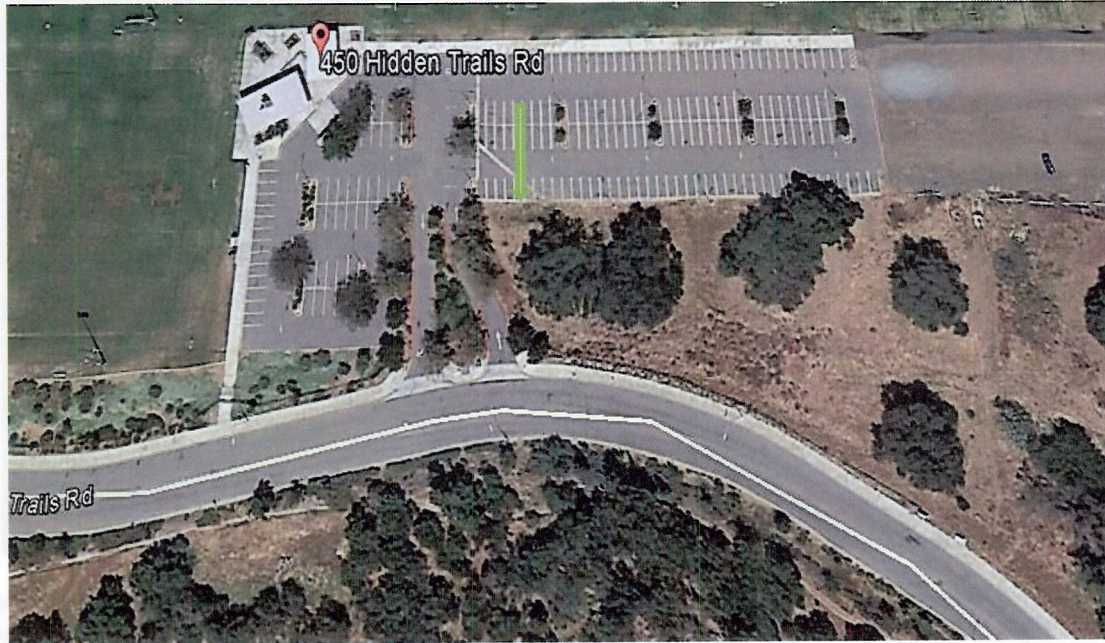


Photo 1(a): Google earth aerial view of Ryan Park parking lot, and location of bioswale BMP.



Photo 1(b): Inlet to bioswale from parking lot, ground higher than inlet preventing flow to enter swale, trash present, needs maintenance and contouring to allow flow to enter swale. Evidence of sediment buildup at inlet. Parking lot could use a sweeping.

Attachment 1
City of Escondido SUSMP Program Inspection Photo Summary



Photo 1(c): Bioswale is fully vegetated, but flow path tends to be slightly uphill from inlet to outlet. Entire area may function to allow infiltration of runoff. But re-contouring necessary to allow bioswale to perform as designed. City should inform Public Works Dept. that swale is in need of maintenance.

2. PRI-06-0134 Tract 881 / Washington Hills II, Trovita Court; Medium Priority



Photo 2(a): Google earth aerial view of Washington Hills II, and location of bioswale BMP.

Attachment 1
City of Escondido SUSMP Program Inspection Photo Summary



Photo 2(b): Single drainage inlet at end of Trovita Court. Inlet picks up flow from entire subdivision. According to the City there is a low flow inlet and high flow bypass associated with the inlet.



Photo 2(c): Bioswale area along Escondido Creek behind Trovita Court. Bioswale area is fully vegetated.

Attachment 1
City of Escondido SUSMP Program Inspection Photo Summary



Photo 2(d): Inlet structure at the terminus of the Bioswale.

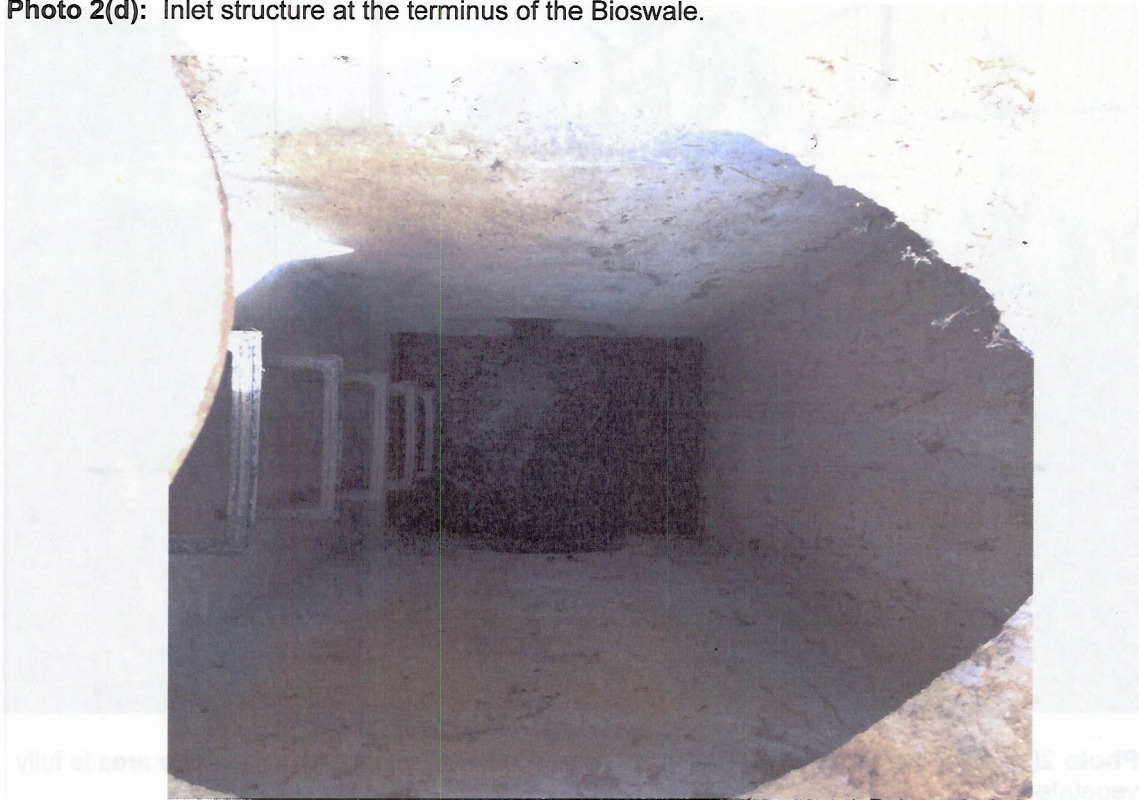


Photo 2(e): Inspectors removed manhole and observed water having discharged through hi-flow bypass directly into Escondido Creek. Unable to determine if low-flow bypass to bioswale is present or functional.

Attachment 1

City of Escondido SUSMP Program Inspection Photo Summary



Photo 2(f): Hi flow outlet to Escondido Creek showed signs of moisture at terminus. Potential bypass of low flow outlet to swale.

3. PRI-05-129, Tract 857/ Falcon Crest, Windstone Glen Rd.; Medium Priority



Photo 3(a): Google earth aerial view of Falcon Crest PDP on Windstone Glen Road. Stormwater flows in two directions toward the street ends.

Attachment 1
City of Escondido SUSMP Program Inspection Photo Summary



Photo 3(b): Typical bioswale set up with three inlet pipes and vegetated swale running along street.

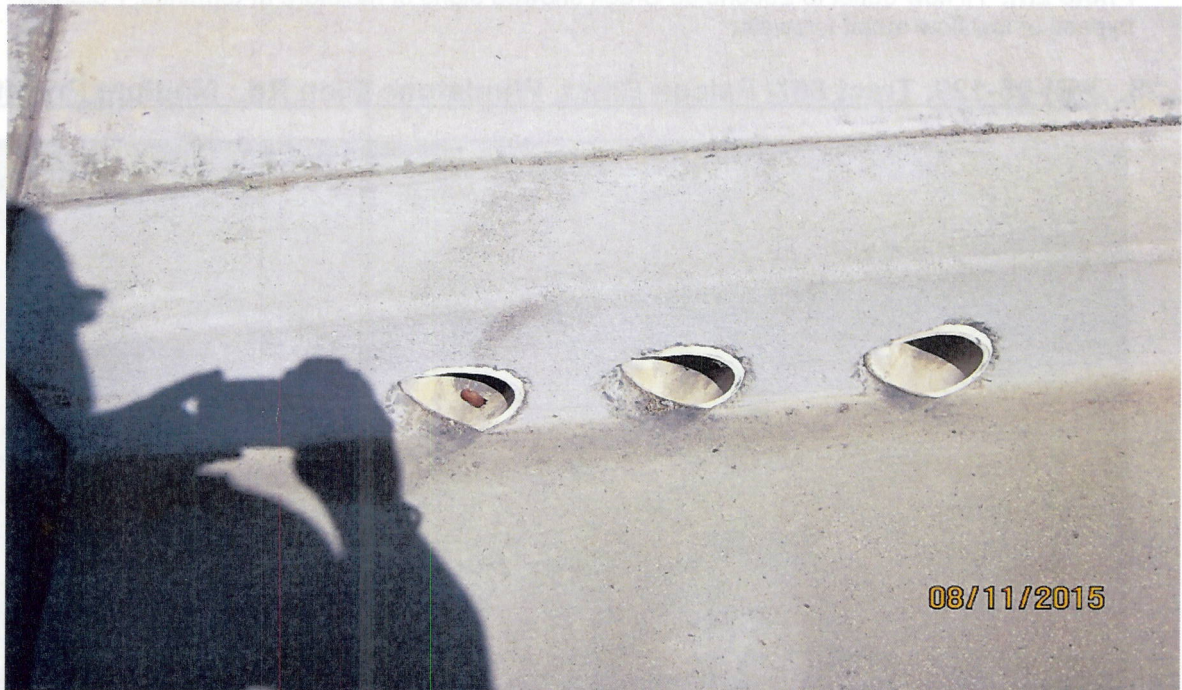


Photo 3(c): A majority of the inlet pipes' outer flanges extending into the gutter were broken off (likely from cars parking along the street). This reduces the ability of the inlet pipes to collect stormwater flow and passes it down the street.

Attachment 1
City of Escondido SUSMP Program Inspection Photo Summary



Photo 3(d): Inlet pipes clogged with sediment. Flow is not able to get into swale, backs up and some sediment is deposited.



Photo 3(e): Closeup of typical bioswale inlet pipe clogged with sediment.

Attachment 1
City of Escondido SUSMP Program Inspection Photo Summary



Photo 3(f): Inlet pipes upgradient of swale are buried beneath hard packed dirt and gravel rendering the inlet structure to the swale inoperable.



Photo 3(g): Inlet pipes upgradient of swale are buried beneath ornamental landscaping rendering the inlet structure to the swale inoperable.

Attachment 1
City of Escondido SUSMP Program Inspection Photo Summary



Photo 3(h): Inlet pipes upgradient of swale are buried beneath turf rendering the inlet structure to the swale inoperable.



Photo 3(i): Stairs constructed in the middle of bioswale. Flow through pipe is buried 2/3 of the way below swale.

Attachment 1
City of Escondido SUSMP Program Inspection Photo Summary



Photo 3(j): Landscaping with ornamental bark covers the upper side of the swale, reducing ability to treat stormwater.

4. PRI-08-150 613 E. Lincoln Ave.; Medium Priority

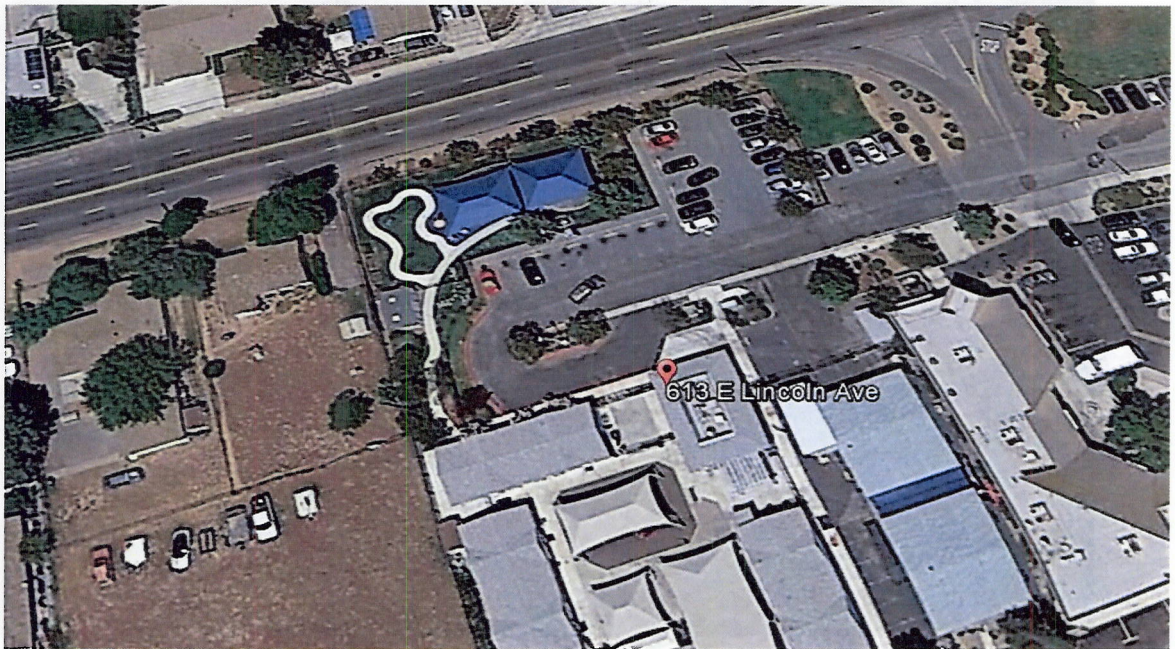


Photo 4(a): Google earth aerial view of 613 E. Lincoln commercial day care center.

Attachment 1
City of Escondido SUSMP Program Inspection Photo Summary



Photo 4(b): Bioswale running through children's playground is vegetated and functional per plans.



Photo 4(c): Second bioswale should be in line with white post, but area lacks vegetation and is not contoured as a swale. Missing BMP.

Attachment 1
City of Escondido SUSMP Program Inspection Photo Summary



Photo 4(d): Inlet filter in place on street outside of property, and in need of maintenance.

5. PRI-07-144, 426 Date Street; Medium Priority

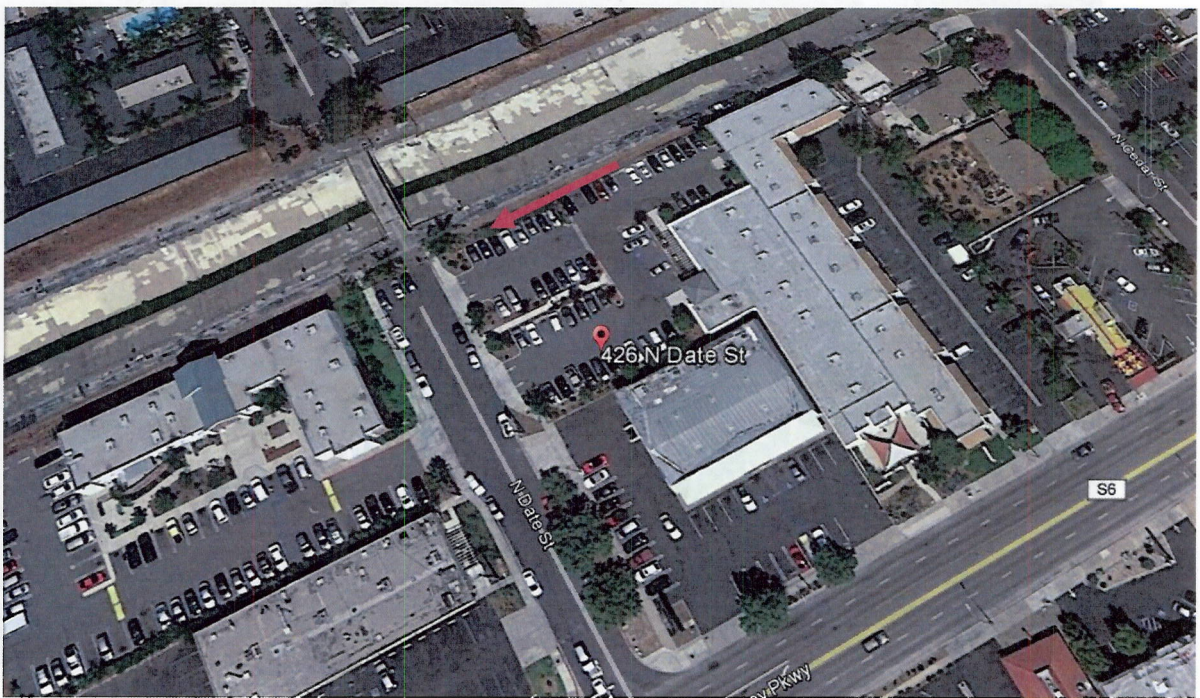


Photo 5(a): Google aerial view of 426 Date Street. Red arrow indicates where BMP should be located.

Attachment 1
City of Escondido SUSMP Program Inspection Photo Summary



Photo 5(b): Past location of bioswale within City right away adjacent to Escondido Creek. Orange line shows the approximate flow path of stormwater exiting parking lot through single curb cut. Flow would tend to pass at a right angle through lightly vegetated area at the top of arrow, flow through unvegetated area and eventually enter protected storm drain inlet at bottom of picture. Stormwater runoff would receive little or no treatment.

Attachment 1
City of Escondido SUSMP Program Inspection Photo Summary



Photo 5(c): Area of parking lot on site that appears to be the actual location of the bioswale per the original plans. This area could be re-graded and planted with vegetation to better serve as a treatment control BMP for the site. As it exists now, the area slopes downward towards the fence and the offsite dirt area beyond the property boundary.

Attachment 1

City of Escondido SUSMP Program Inspection Photo Summary

6. PRI-08-149, 1556 Auto Parkway; High Priority

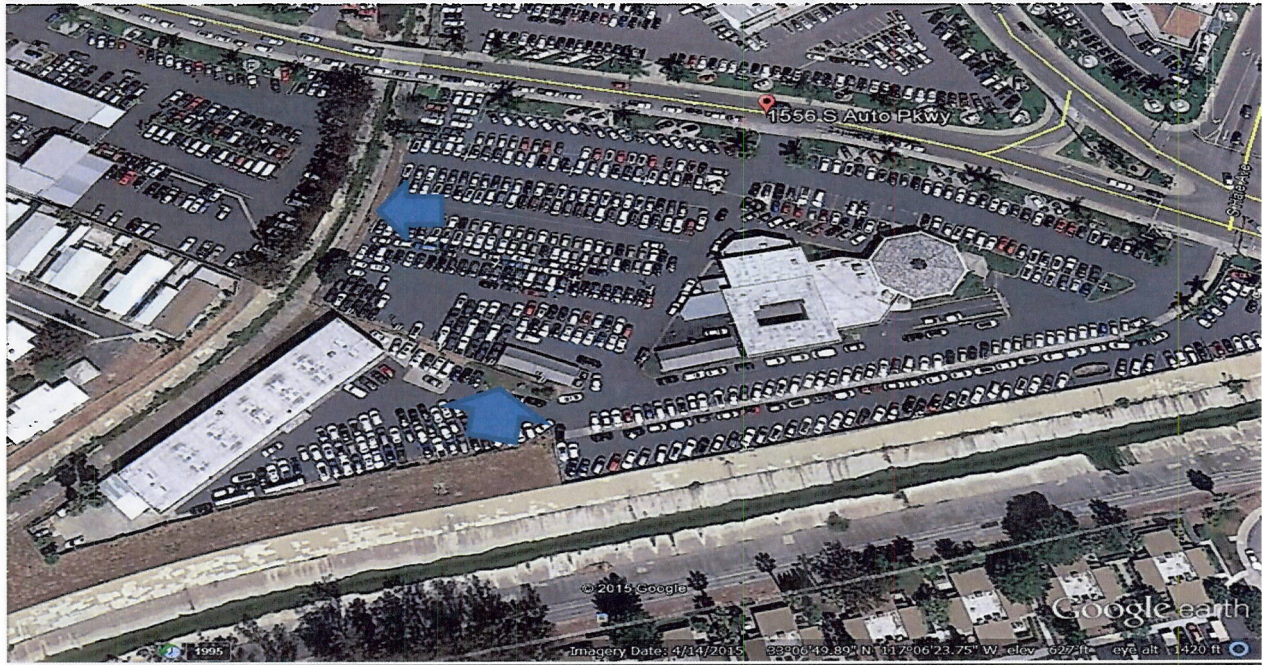


Photo 6(a): Google aerial view of Audi dealership, 1556 Auto Parkway. Arrows indicate location of bioswales.



Photo 6(b): Back service bay that feeds into smaller swale in back of dealership. Questions remain if car storage lot to the right of the fence is part of dealership and needs treatment.

Attachment 1
City of Escondido SUSMP Program Inspection Photo Summary



Photo 6(c): Curb cut that serves as the inlet to the smaller swale in back of dealership.



Photo 6(d): Bioswale is situated on steep slope with no vegetation in the flow path. Poor design.

Attachment 1
City of Escondido SUSMP Program Inspection Photo Summary



Photo 6(e): Small swale discharges directly into City of Escondido MS4 system.



Photo 6(f): Single curb cut inlet to larger bioswale from front of dealership parking lot.

Attachment 1
City of Escondido SUSMP Program Inspection Photo Summary



Photo 6(g): Larger bioswale at southerly boundary of auto dealership. Floor of the bioswale channel is hard packed earth which showed no indication that it had ever been previously planted with vegetation. Based on input from City inspector in 2015, the owner added burlap matting and planted ornamental vegetation on the sides of the bioswale (apparent miscommunication between owner and inspector).

Attachment 1

City of Escondido SUSMP Program Inspection Photo Summary

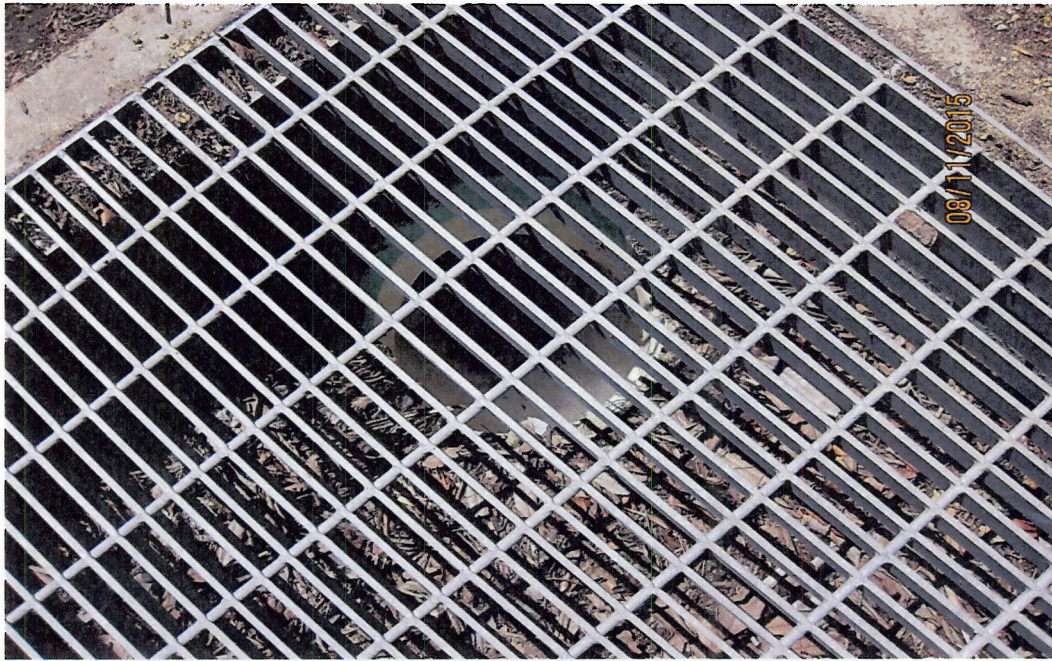


Photo 6(h): Drain inlet to MS4 from larger swale contained organic debris and should be maintained prior to rainy season.

7. PRI-05-130, Tract 865/ 125-133 Pennsylvania Ave; Medium Priority

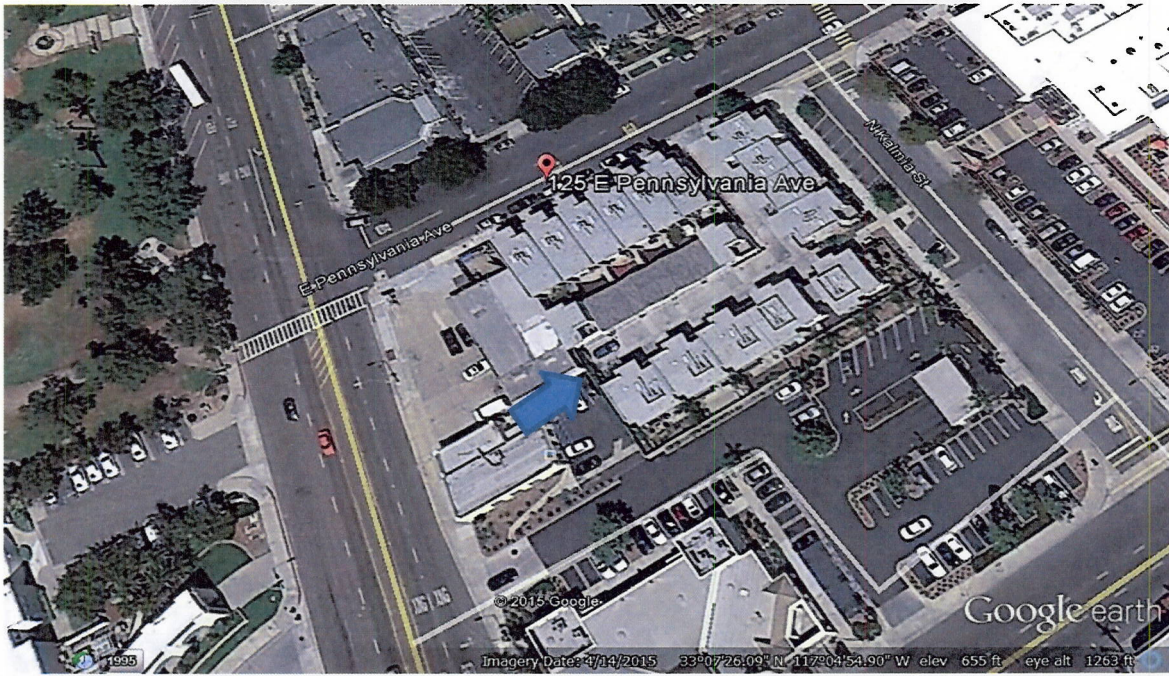


Photo 7(a): Google aerial view of 125-133 Pennsylvania Ave. Blue arrow denotes approximate location of bioswale.

Attachment 1
City of Escondido SUSMP Program Inspection Photo Summary



Photo 7(b): End of impervious surface in the interior of the apartment complex. Sediment build up is apparent. Arrow shows the inlet to the bioswale under the fence of a resident's private side yard.

Attachment 1
City of Escondido SUSMP Program Inspection Photo Summary



Photo 7(c): Bioswale located in the side yard of residence.

ATTACHMENT 2

Meeting Notes: August 11, 2015

Attendees: Chiara Clemente, Chris Means, Wayne Chu (Regional Board)

Summary of Site Visits

Helen Davies (City of Escondido)

Site #	Location	Summary of Site Visit	Consistent with Plan	Current BMP Condition	Regional Board Staff Assessment
1	Francis Ryan Park	Parking lot drains to bioswale. Bioswale in good condition. Minor contouring at inlet would improve drainage and minor trash requires removal.	Yes	Good	Compliant
2a	1556 Auto Pkwy (front)	Owner had just re-planted the swale as a result of City's routine maintenance inspection/notice. Owner misunderstood City direction and placed filter fabric on slopes instead of on bottom. Owner agreed to add plants and place filter fabric on bottom. RB staff felt that swale had not been planted before. City agreed to provide proof that swale was previously planted.	Yes	Satisfactory The Condition will improve to Good with owner's completion of maintenance	Need to demonstrate past compliance and continue routine maintenance <i>Note: Routine maintenance was already in progress prior to RB inspection.</i>
2b	1556 Auto Pkwy (back)	Swale existed per plan but vegetation was sparse. City's routine inspection had identified the need for additional vegetation which the owner was preparing to install. RB had concerns about the viability of planting due to the slope. While the site appeared to be installed as designed, the City agreed to investigate options to reduce velocity or otherwise improve BMP and to provide proof of prior planting of this BMP.	Yes	Fair	Need to continue routine maintenance. Look for ways to improve BMP above original design.
2c	1556 Auto Pkwy	RB staff asked City to show that parking lot to the north was not a part of this project.	Yes	N/A	Need to demonstrate compliance

ATTACHMENT 2

Site #	Location	Summary of Site Visit	Consistent with Plan	Current BMP Condition	Regional Board Staff Assessment
3	Falcon Crest	Swales and inlet pipes exist per plan. Owner was present on site, obviously educated on the reason why the swales were installed and is actively conducting maintenance. RB staff did not believe the BMPs could work because they could not locate all pipes into swales. However, several of the outlet pipes were visible with some partially buried in vegetation. The vegetation around the pipes would be removed as a part of regular maintenance. City agreed to demonstrate to RB staff how BMPs work.	Yes from visual inspection. To be confirmed.	Good Swales have adequate vegetative or gravel cover	Need to demonstrate compliance and continue routine maintenance.
4	Washington Hills	Development drains to curb inlet that has two outlet points per plan. The swale area exists and is vegetated. While the swale area was wet, the outlet point could not be located and was likely buried under dense vegetation. RB staff felt that the low flow pipe was not connected to the swale. City agreed to demonstrate that this connection existed. RB pointed out damp staining in high flow storm drain box and around associated outfall. This is a non-stormwater flow for which the intensity may have exceeded the design storm.	Yes To be confirmed N/A	Good N/A	Need to demonstrate compliance
5a	613 E. Lincoln (west)	Westerly swale existed and was in good condition	Yes	Good	Compliant
5b	613 E. Lincoln (east)	BMP area was landscaped (bushes and mulch) with no evidence of erosion, but no longer contoured like a swale. The area around the inlet was landscaped with bushes but lacked ground cover or mulch. RB staff suggested that contouring was needed. However, provided that the drainage is not bypassing the BMP, its effectiveness remains intact. City can survey to ensure the parking area drains to the BMP as designed. As a part of routine maintenance, the downstream-most portion of the swale will be protected or planted and swale contour re-established. Inlet filters were present. City staff noted that the inlet filter met the structural treatment control requirements at the time. The purpose of a treatment train is to ensure BMP effectiveness when one BMP operates at less than optimum.	Yes	Fair The condition will improve to Good when additional vegetation at downstream end is added and the swale re-contoured and planted/protected	Need to demonstrate compliance. <i>Note: City feels BMP is effective in its current state but is willing to make improvements.</i>
5c	613 E. Lincoln	RB staff saw some evidence of erosion at the end of the parking lot. This erosion may have been a result of the recent very large	Yes	N/A	Need to demonstrate compliance

ATTACHMENT 2

Site #	Location	Summary of Site Visit	Consistent with Plan	Current BMP Condition	Regional Board Staff Assessment
6	436 N. Date	<p>storm. While the site appears to be constructed per the plan, City staff will confirm that parking area drains to the BMP per plan.</p> <p>Parking lot drains into landscaped area; however, landscaped area is not contoured into a swale. Drainage flows through the landscaping and then appears to flow into a swale in the adjacent ROW. There is no evidence of erosion along the drainage path and prior to the drought the ROW swale was grassy. The swale requires routine maintenance including re-contouring to keep drainage on site and additional planting. City will provide proof showing the right of way area along the channel was previously a grassy swale (prior to the drought) to demonstrate alternate treatment had been achieved in the interim.</p>	<p>To be confirmed</p> <p>Drainage was directed to adjacent grassy swale instead of on site.</p>	Fair	<p>Need to demonstrate past compliance and continue routine maintenance.</p> <p><i>Note: City feels BMP was effective with redirection to grassy swale; however, will require owner to regrade since the drought has made maintenance of the grassy swale in the right of way infeasible.</i></p>
7	Fire Station #2	RB staff decided not to visit.	Not evaluated	Not evaluated	Not evaluated
8	1525 Pennsylvania	Swale exists per plan and is in good condition. RB commented on the uniqueness of the location; however, had no suggestions for improvement.	Yes	Good	Compliant

De-brief of Site Visit

City staff stated that while there is room for improvement, City staff disagreed with some of the Regional Board staff's statements and opinion. City staff are prepared to provide additional information to allow Regional Board staff to make a more informed assessment.

Regional Board staff stated that they would review information provided by the City; however, they expected to file an Administrative Civil Liability that would result in fines. In preparation for this site visit, Regional Board staff had selected what they felt were the worst locations of the City's total 70 site inventory for today's site visits. In addition, Regional Board staff had already calculated the number of rain events in order to calculate a fine. Due to geography there were more qualifying rain events than those used in calculating fines for the City of San Diego. The RWQCB is looking for a comprehensive review of the inventory and the overall program (verification of BMP installation, inspections and maintenance) to identify and correct deficiencies. Specifically, they want us to do a rigorous review of the BMPs, identify where improvements are needed and how they will be implemented, as well as a timeframe for implementation. Cooperation from City staff could result in reduced fines (a less than one multiplier).

