
San Diego Regional Water Quality Control Board

August 26, 2016

**NOTICE OF VIOLATION
No. R9-2016-0187**

Mr. Don Webb
San Diego Unified School District
4860 Ruffner Street
San Diego, CA 92111

O'Farrell Charter School Construction Site

**Violations of Order No. 2009-0009-DWQ,
Statewide Construction General Storm
Water Permit**

PIN No. SM-832989:CArias

SAN DIEGO UNIFIED SCHOOL DISTRICT 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.

SAN DIEGO UNIFIED SCHOOL DISTRICT is in violation of State Water Resources Control Board Order No. 2009-0009-DWQ, *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 Implement Good Housekeeping Measures for Construction Materials

- a. Pursuant to Provision B.1.b of Attachment D to Order No. 2009-0009-DWQ:** Risk Level 2 dischargers shall implement good site management measures for construction materials that could potentially be a threat to water quality if discharged. At a minimum, Risk Level 2 dischargers shall cover and berm loose stockpiled construction materials that are not actively being used (i.e. soil, spoils, aggregate, fly-ash, stucco, hydrated lime, etc.).

- b. Pursuant to Provision B.1.c of Attachment D to Order No. 2009-0009-DWQ:** Risk Level 2 dischargers shall implement good site management measures for construction materials that could potentially be a threat to water quality if discharged. At a minimum, Risk Level 2 dischargers shall store chemicals in watertight containers (with appropriate secondary containment to prevent any spillage or leakage) or in a storage shed (completely enclosed).
- c. Observation:** On July 28, 2016, Christina Arias of the San Diego Water Board conducted an inspection of the O'Farrell Charter School Construction Site. Ms. Arias observed large stockpiles, roughly 30,000 cubic yards in volume, that were not actively being used and were neither covered nor bermed (See Figures 5, 6, 9, 11, 12 of *Facility Inspection Report dated July 28, 2016*, herein referred to as Attachment 1). These stockpiles had been covered with plastic sometime in 2015 as an erosion control measure. However, the plastic cover was severely degraded by months of exposure, and had become a source of trash at the construction site. Ms. Arias had indicated to site operators that the plastic was ineffective as an erosion control best management practice (BMP) in emails dated October 13, 2015, June 13, 2016, and July 13, 2016. Each email contained a photo of the stockpiles with inadequate BMPs that were provided to Ms. Arias by a concerned citizen. During the July 28, 2016 construction site inspection, construction site contractors indicated that the stockpiles would not be in use for at least 3-6 months. Failure to adequately implement stockpile management BMPs is a violation of Provision B.1.b. of Attachment D to Order No. 2009-0009-DWQ.

During the inspection, Ms. Arias also observed several acrylic latex paint containers that were not properly stored inside storage sheds or with appropriate secondary containment to prevent any spillage or leakage (Figure 15 of Attachment 1). Failure to properly store chemicals is a violation of Provision B.1.c. of Attachment D to Order No. 2009-0009-DWQ.

2. Failure to Implement Good Housekeeping Measures for Waste Management

- a. Pursuant to Provision B.2.a of Attachment D to Order No. 2009-0009-DWQ:** Risk Level 2 dischargers shall implement good housekeeping measures for waste management, which shall consist of preventing disposal of any rinse or wash waters or materials on impervious or pervious site surfaces or into the storm drain system.
- b. Pursuant to Provision B.2.f of Attachment D to Order No. 2009-0009-DWQ:** Risk Level 2 dischargers shall implement good housekeeping measures for waste management, which shall consist of containing and securely protecting stockpiled waste material from wind and rain at all times unless actively being used.
- c. Pursuant to Provision B.2.i of Attachment D to Order No. 2009-0009-DWQ:**

Risk Level 2 discharger shall implement good housekeeping measures including ensuring the containment of concrete washout areas that may contain additional pollutants so there is no discharge into the underlying soil and onto the surrounding areas.

- d. Observation:** During the July 28, 2016 inspection, Ms. Arias observed that the primary playing field at the school was littered with degraded plastic shards throughout the site (Figures 3, 4, 6-10 of Attachment 1). Failure to prevent the discharge of materials such as this plastic waste is a violation of Provision B.2.a. of Attachment D to Order No. 2009-0009-DWQ.

Ms. Arias noted a concrete waste pile that was not actively being used was not protected from wind and rain (Figure 11 of Attachment 1). Failure to implement waste stockpile BMPs is a violation of Provision B.2.f. of Attachment D to Order No. 2009-0009-DWQ.

Ms. Arias noted that concrete washouts were in need of maintenance, and as a result, concrete residue had spilled onto the underlying soil (Figures 16-18 of Attachment 1). Failure to implement concrete washout BMPs is a violation of Provision B.2.i. of Attachment D to Order No. 2009-0009-DWQ.

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

- a. Pursuant to Provision D.2 of Attachment D to Order No. 2009-0009-DWQ:** Risk Level 2 dischargers shall provide effective soil cover for inactive areas and all finished slopes, open space, utility backfill, and completed lots.
- b. Observation:** During the July 28, 2016 inspection, Ms. Arias observed an embankment on the east boundary of the construction site lacked vegetation or erosion control BMPs. This is in contrary to the site's Storm Water Pollution Prevention Plan (SWPPP), which stated that a soil binder would be applied (Figure 2 of Attachment 1). Failure to implement erosion control BMPs on inactive areas is a violation of Provision D.2. of Attachment D to Order No. 2009-0009-DWQ.

4. Failure to Implement Requirements for Inspection, Maintenance, and Repair

- a. Pursuant to Provision G.3 of Attachment D to Order No. 2009-0009-DWQ:** Upon identifying failures or other shortcomings, as directed by the Qualified SWPPP Practitioner (QSP), Risk Level 2 dischargers shall begin implementing repairs or design changes to BMPs within 72 hours of identification and complete the changes as soon as possible.

- b. **Observation:** During the July 28, 2016 inspection, Ms. Arias reviewed the QSP weekly inspection forms dating back to March 10, 2016. According to the QSP inspection forms, plastic covers were blowing off the stockpiles on March 10, 2016 and repairs were required by March 14, 2016. Several inspection reports between March 2016 and July 2016 indicated that maintenance was required on the stockpile BMPs, yet BMPs remained grossly deficient as of the site inspection on July 28, 2016 (See Attachment 2: QSP Inspection Forms-Inspection Checklist). Failure to begin implementing repairs to BMPs where they are needed within 72 hours of identification is a violation of Provision G.3. of Attachment D to Order No. 2009-0009-DWQ.

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 per 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.



Laurie Walsh, P.E.
Senior Water Resource Control Engineer

LAW:cma

Enclosures: Attachment 1: San Diego Water Board Facility Inspection Report dated July 28, 2016
Attachment 2: QSP Inspection Forms (Soltek Pacific Construction; 8 total forms dated March 10, 2016 through July 19, 2016)

SMARTS:

Tech Staff Info & Use		
	Place ID	SM-832989
	WDID	9 37C371865
	Enforcement ID (Notice of Violation)	423729
	Violation ID (Material stockpile management)	860651
	Violation ID (Inadequate erosion controls)	860652
	Violation ID (Inadequate trash/waste management)	860653
	Violation ID (Waste stockpile management)	860654
	Violation ID (Chemical storage)	860655
	Violation ID (Concrete washout)	860656
	Violation ID (BMP repair within 72 hours)	860905