



EDMUND G. BROWN JR.
GOVERNOR



MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

California Regional Water Quality Control Board, San Diego Region

October 4, 2013

Certified Mail – Return Receipt Requested

Article Number: 7010 1060 0000 4952 7884

Stuart Posnock
Garden Communities
8530 Costa Verde Blvd.
San Diego, CA 92122

In reply refer to / attn:

PIN No. 9 37C362854

Dear Mr. Posnock:

**Subject: Notice of Violation No. R9-2013-0148, Torrey Hill Unit 19,
NPDES Order No. 2009-0009-DWQ**

Enclosed is Notice of Violation (NOV) No. R9-2013-0148 issued to Garden Communities for violations of Order No. 2009-0009-DWQ, issued by the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board). As described in the attached 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.

In making the determination of whether and how to proceed with further enforcement action, the San Diego Water Board will consider the severity and effect of the violation, the level of cooperation, 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 information located in the heading of this letter: "in reply refer to." For questions pertaining to the subject matter, please contact Christina Arias at (619) 521-3361 or carias@waterboards.ca.gov.

Respectfully,

Eric S. Becker, P.E.
Senior Water Resource Control Engineer

ESB:cma

TOMAS MORALES, CHAIR | DAVID GIBSON, EXECUTIVE OFFICER

2375 Northside Drive, Suite 100, San Diego, CA 92108 | (619) 516-1990 | www.waterboards.ca.gov/sandiego



Mr. Posnock

- 2 -

October 4, 2013

Enclosure: NOV No. R9-2013-0148
Facility Inspection Report dated September 20, 2013

Cc by email: David Zoumaras, City of San Diego

Tech Staff Info & Use	
Enforcement ID	413572
WDID	9 37C362854
NPDES No.	CAS000002
Inspection ID	2019828

TOMAS MORALES, CHAIR | DAVID GIBSON, EXECUTIVE OFFICER

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California Regional Water Quality Control Board, San Diego Region

In reply refer to / attn:
9 37C362854: carias

October 4, 2013

NOTICE OF VIOLATION
No. R9-2013-0148

Stuart Posnock
8530 Costa Verde Blvd.
San Diego, CA 92122

Garden Communities

Violations of Order No. 2009-0009-DWQ

Torrey Hills Unit 19
PIN: 9 37C362854: carias

GARDEN COMMUNITIES 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.

GARDEN COMMUNITIES 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 Provide a Storm Water Pollution Prevention Plan (SWPPP)

- a. **Pursuant to Provision I M. of Order No. 2009-0009-DWQ:** This General Permit requires the development of a site-specific SWPPP. The SWPPP must include the information needed to demonstrate compliance with all requirements of this General Permit, and must be kept on the construction site and be available for review.
- b. **Observation:** On September 20, 2013, inspectors from the San Diego Water Board performed a routine inspection of the Torrey Hills Unit 19 construction site. The Assistant Site Superintendent was not able to provide the SWPPP for review upon inspector's request.

TOMAS MORALES, CHAIR | DAVID GIBSON, EXECUTIVE OFFICER

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2. 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 discharges specifically authorized by this General Permit or another NPDES permit.
- c. Observation:** During the September 20, 2013 inspection, San Diego Water Board inspectors observed discharges of sediment and trash beyond the project boundaries and onto the adjacent downstream property. See attached Facility Inspection Report, Figure 12.

3. Failure to Implement Trash Management Best Management Practices (BMPs):

- a. Pursuant to Provision B.2.a of Attachment D to Order No. 2009-0009-DWQ:** Risk Level 2 discharges shall implement good housekeeping measures for waste management, which, at a minimum, shall consist of the following: Prevent disposal of any rinse or wash waters or materials on impervious or pervious site surfaces or into the storm drain system.
- b. Observation:** During the September 20, 2013 inspection, San Diego Water Board inspectors observed trash in several areas within the construction site. There was no observable management strategy for trash or construction debris.

4. Failure to Implement Concrete Washout BMPs:

- a. Pursuant to Provision B.2.i of Attachment D to Order No. 2009-0009-DWQ:** Risk Level 2 dischargers shall implement good housekeeping measures for waste management, which, at a minimum, shall consist of the following: Ensure the containment of concrete washout areas and other washout areas that may contain additional pollutants so there is no discharge into the underlying soil and onto the surrounding areas.
- b. Observation:** During the September 20, 2013 inspection, San Diego Water Board inspectors found two areas within the construction site that had been used as concrete washouts. Neither site was contained, and as a result, waste material was allowed to come into contact with the underlying soil.

5. Failure to Implement Erosion Control 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 September 20, 2013 inspection, San Diego Water Board inspectors observed finished slopes with no visible erosion control BMPs.

6. Failure to Adequately Implement Sediment Control BMPs

- a. **Pursuant to Provision E.1 of Attachment D to Order No. 2009-0009-DWQ:** Risk Level 2 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. **Observation:** During the September 20, 2013 inspection, San Diego Water Board inspectors observed broken and failing silt fences along the site perimeter. Additionally, entrance/exit BMPs were not functioning properly and in need of maintenance.

7. Failure to Adequately Protect Storm Drain Inlets

- a. **Pursuant to Provision E.6 of Attachment D to Order No. 2009-0009-DWQ:** Risk Level 2 dischargers shall ensure that all storm drain inlets and perimeter controls, runoff control BMPs, and pollutant controls at entrances and exits are maintained and protected from activities that reduce their effectiveness.
- b. **Observation:** During the September 20, 2013 inspection, San Diego Water Board inspectors observed an offsite storm drain inlet that had no protection, yet had the potential for receiving runoff from the site. Additionally, storm drain inlets within the construction site were inadequately protected.

B. Summary of Potential Enforcement Options

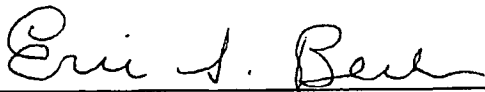
These violations may subject you to additional enforcement by the San Diego Water Board or State Water Resources Control Board, including a potential civil liability assessment of \$10,000 per day of violation (Water Code section 13385) and/or any of the following enforcement actions:

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.

October 4, 2013

In the subject line of any response, please include the information located in the heading of this letter: "in reply refer to." Questions pertaining to this Notice of Violation should be directed to Christina Arias at (619) 521-3361 or carias@waterboards.ca.gov.



Eric S. Becker, P.E.
Senior Water Resource Control Engineer

ESB:cma

Enclosure: Facility Inspection Report dated September 20, 2013

Tech Staff Info & Use	
Enforcement ID	413572
WDID	9 37C362854
NPDES No.	CAS000002
Inspection ID	2019828

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

FACILITY INSPECTION REPORT

FACILITY: Torrey Hills Unit 19 **INSPECTION DATE/TIME:** 09/20/2013: 1000

WDID/FILE NO.: 9 37C362854

REPRESENTATIVE(S) PRESENT DURING INSPECTION:

NAME: <u>Christina Arias</u>	AFFILIATION: <u>San Diego Water Board</u>
NAME: <u>Christopher Means</u>	AFFILIATION: <u>San Diego Water Board</u>
NAME: <u>Nam Do</u>	AFFILIATION: <u>Asst. Site Superintendent</u>
NAME: _____	AFFILIATION: _____
NAME: _____	AFFILIATION: _____

Garden Communities
NAME OF OWNER, AGENCY OR PARTY RESPONSIBLE FOR DISCHARGE

8530 Costa Verde Blvd.
OWNER MAILING ADDRESS

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

FACILITY OR DEVELOPER NAME (if different from owner)

Calle Mar de Mariposa & W. Ocean Air Dr.
FACILITY ADDRESS

same
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: Torrey Hills Unit 19
Inspection Date: 09/20/2013

I. COMPLIANCE HISTORY / PURPOSE OF INSPECTION

On September 20, 2013, Christina Arias and Chris Means of the San Diego Water Board performed a routine inspection of the Torrey Hills residential apartment construction site. The site is located in the Torrey Hills/Carmel Valley area of San Diego, east of I-5 and south of Carmel Mountain Rd. Further, the site is located in the Penasquitos watershed, which drains to Penasquitos Lagoon (a Clean Water Act section 303(d) listed waterbody as impaired for sediment). According to the Storm Water Multiple Application & Report Tracking System (SMARTS), the site is 8.6 acres in size. The weather on the day of the inspection was cool and overcast.

Water Board inspectors met with Nam Do, Assistant Superintendent for the construction site. Mr. Do provided weekly inspection reports but was unable to locate the Storm Water Pollution Prevention Plan (SWPPP). Mr. Do escorted inspectors throughout the construction site.

II. FINDINGS

1. The site was littered with cigarette butts, trash, and debris throughout. Mr. Do was unaware of any specific dedicated trash area (See Figures 1-7).
2. The site had inadequate erosion control and sediment control BMPs throughout the site.
3. The steep slopes on the east side of the site had fiber rolls and a silt fence at the toe of the slope. However, there was no erosion control. The slopes were bare and require erosion control BMPs because they are at risk for mobilization during a heavy rain (Figure 8).
4. There is a stockpile located next to a steep slope. The silt fence between the stockpile and slope is in need of repair (Figures 9). Mr. Do was unaware of when the adjacent/downstream slope had been last sprayed with hydroseed.
5. The site generally slopes towards the westerly direction. The perimeter controls along the west side were inadequate for containing the sediment within the construction site (Figures 10-12). There was evidence of a sediment discharge from the site and onto the adjacent downstream property (Figure 12).
6. Two areas of the site were used as concrete wash-out areas, with no containment in either area (Figures 13-14).
7. Gravel and shaker plates at entrances/exits are ineffective at retaining sediment onsite. Sediment can be seen in the street (Figures 15-17).
8. The storm drain inlet downstream of the site (on the street) has no protection (Figure 18).
9. Live storm drains within the site are covered by material used for silt fence, which is permeable. Drains are surrounded by sediment on all sides (Figures 19-20).

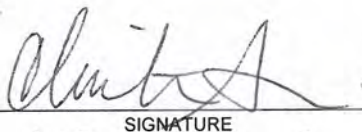
Facility: Torrey Hills Unit 19
 Inspection Date: 09/20/2013

RECOMMENDATIONS AND ADDITIONAL COMMENTS

1. Overall the site lacks adequate housekeeping. The site requires an improved method for dealing with trash and construction debris.
2. The site requires erosion control and adequate sediment control BMPs. All slopes require improved soil stabilization such as hydroseed, bonded fiber matrix, or erosion control blankets.
3. The west side perimeter lacks adequate sediment controls to prevent sediment from leaving the site.
4. Sediment stockpiles should not be located near the edge of a steep slope.
5. A designated concrete washout area for the site must be established and used. Concrete must not be allowed to come into contact with bare ground.
6. Site entrance/exit BMPs are inadequate and require maintenance.
7. Public storm drain inlets downstream of the site must be protected with BMPs.
8. Storm drain inlets within the construction site require improved BMPs to prevent sediment from entering.
9. These findings will be used to evaluate compliance with Order Number 2009-0009-DWQ.

III. SIGNATURE SECTION

Christina Arias
 STAFF INSPECTOR


 SIGNATURE

9/20/13
 INSPECTION DATE

Eric Becker
 REVIEWED BY SUPERVISOR


 SIGNATURE

9/30/13
 DATE

SMARTS:

Tech Staff Info & Use	
WDID	9 37C362854
Inspection ID	2019828
Violation ID (no SWPPP)	851842
Violation ID (unauthorized NSWD)	851850
Violation ID (Inadequate BMPs)	851843, 851844, 851845, 851846, 851848

Facility: Torrey Hills Unit 19
 Inspection Date: 09/20/2013

Torrey Hills Unit 19. Photos taken by Christina Arias 9/20/13



Figure 1. Trailer entrance; cigarette butts



Figure 2. Near south entrance; trash area

Facility: Torrey Hills Unit 19
Inspection Date: 09/20/2013



Figure 3. Site interior; construction debris



Figure 4. South west side; construction debris

Facility: Torrey Hills Unit 19
Inspection Date: 09/20/2013



Figure 5. Site interior; construction debris



Figure 6. West perimeter; trash

Facility: Torrey Hills Unit 19
Inspection Date: 09/20/2013



Figure 7. Site interior; trash



Figure 8. Slope east side; bare soil

Facility: Torrey Hills Unit 19
Inspection Date: 09/20/2013



Figure 9. Sediment stockpile with broken silt fence



Figure 10. Perimeter south west side

Facility: Torrey Hills Unit 19
Inspection Date: 09/20/2013



Figure 11. Perimeter west side



Figure 12. Sediment discharge outside site boundary

Facility: Torrey Hills Unit 19
Inspection Date: 09/20/2013



Figure 13. Concrete washout with no containment



Figure 14. Concrete washout with no containment

Facility: Torrey Hills Unit 19
Inspection Date: 09/20/2013



Figure 15. Shaker plates north entrance



Figure 16. Public street outside construction site

Facility: Torrey Hills Unit 19
 Inspection Date: 09/20/2013



Figure 17. Gravel at south entrance



Figure 18. Nearest storm drain downstream; no inlet protection

Facility: Torrey Hills Unit 19
Inspection Date: 09/20/2013



Figure 19. Live storm drain covered with permeable fabric



Figure 20. Live storm drain covered with permeable fabric