



# California Regional Water Quality Control Board San Diego Region



Linda S. Adams  
Secretary for  
Environmental Protection

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

9174 Sky Park Court, Suite 100, San Diego, California 92123-4353  
(858) 467-2952 • Fax (858) 571-6972  
[http:// www.waterboards.ca.gov/sandiego](http://www.waterboards.ca.gov/sandiego)

Edmund G. Brown, Jr.  
Governor

January 27, 2011

Certified Mail – Return Receipt Requested  
Article Number: 7010 1060 0000 4952 7860

Mr. Jay Goldstone  
Chief Operating Officer  
City of San Diego  
202 C Street  
San Diego, CA 92101

In reply refer to:  
CIWQS Place ID: 255222:carias

Dear Mr. Goldstone:

**Subject: Notice of Violation, City of San Diego Construction Oversight Program,  
NPDES Order No. R9-2007-0001**

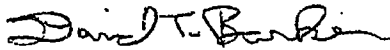
Enclosed is Notice of Violation (NOV) No. R9-2011-0027 issued by the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) to the City of San Diego, Field Engineering Division of the Engineering and Capitol Projects Department, for violations of San Diego Municipal Storm Water Permit Order No. R9-2007-0001. As described in the NOV, the violations are subject to further enforcement pursuant to the California Water Code and the San Diego Water Board reserves the right to take any enforcement action authorized by law.

Please provide a written response by **February 28, 2011** that either confirms the violations have been corrected or identifies a date by which the violations will be corrected. Also, include what changes have been made by the City of San Diego, Field Engineering Division of the Engineering and Capitol Projects Department to ensure that these violations do not occur again.

In making the determination of whether and how to proceed with further enforcement action, the San Diego Water Board will consider both the time it takes to correct the identified violations and the sufficiency of the corrections.

In the subject line of any response, please include the requested "In reply refer to:" information located in the heading of this letter. For questions pertaining to the subject matter, please contact Christina Arias at (858) 627-3931 or [carias@waterboards.ca.gov](mailto:carias@waterboards.ca.gov).

Respectfully,



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

Signed under the authority delegated by the Executive Officer

DTB:esb:cm

Enclosures:

1. Notice of Violation No. R9-2011-0027
2. Facility Inspection Reports dated October 25, 2010 and December 22, 2010

Cc via email: (w/encl.)

Tony Heinrichs, [THeinrichs@sandiego.gov](mailto:THeinrichs@sandiego.gov)

Kelly Broughton, [KBroughton@sandiego.gov](mailto:KBroughton@sandiego.gov)

David Zoumaras, [DZoumaras@sandiego.gov](mailto:DZoumaras@sandiego.gov)

Kris McFadden, [KMcfadden@sandiego.gov](mailto:KMcfadden@sandiego.gov)

Joan Brackin, [JBrackin@sandiego.gov](mailto:JBrackin@sandiego.gov)

CIWQS Entries:	Tech Staff Info & Use
Place ID	255222
Reg Msr ID	377340
NPDES No.	CAS0108758
WDID	900000510
Violation ID	889367



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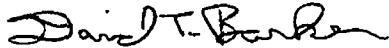
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**California Environmental Protection Agency**

January 27, 2011

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Respectfully,



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CIWQS Entries:	Tech Staff Info & Use
Place ID	255222
Reg Msr ID	377340
NPDES No.	CAS0108758
WDID	900000510
Violation ID	889367

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

**FACILITY INSPECTION REPORT**

**FACILITY:** Del Sur/Unit 14

**INSPECTION DATE/TIME:** 12/22/2010; 1400

**WDID/FILE NO.:** 9 37C328390

**REPRESENTATIVE(S) PRESENT DURING INSPECTION:**

NAME: Christina Arias

AFFILIATION: San Diego Water Board

NAME: Jody Ebsen

AFFILIATION: San Diego Water Board

NAME: Kurt Bruskotter

AFFILIATION: Black Mountain Ranch LLC

NAME: \_\_\_\_\_

AFFILIATION: \_\_\_\_\_

NAME: \_\_\_\_\_

AFFILIATION: \_\_\_\_\_

Black Mountain Ranch LLC  
NAME OF OWNER, AGENCY OR PARTY RESPONSIBLE FOR DISCHARGE

\_\_\_\_\_  
FACILITY OR DEVELOPER NAME (if different from owner)

16010 Camino del Sur, SD, CA 92127  
OWNER MAILING ADDRESS

Camino del Sur and Del Sur Ct TB: 1169B5  
FACILITY ADDRESS

Kurt Bruskotter (858) 792-7061  
OWNER CONTACT NAME AND PHONE #

\_\_\_\_\_  
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.
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- ☐ 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: Del Sur Unit 14  
Inspection Date: 12/22/2010

## **I. COMPLIANCE HISTORY / PURPOSE OF INSPECTION**

On December 22, 2010, Christina Arias and Jody Ebsen of the San Diego Water Board performed a routine inspection of the Del Sur Unit 14 construction site. This site is part of a master development of residential and commercial buildings known as Black Mountain Ranch, roughly 1,500 acres in size, and under construction since June 2004. This site is located in the Rancho Santa Fe area of the City of San Diego, west of I-15 and abuts Lusardi Creek to the south. Photos of the site are attached and identified as Figures 1-9.

Rain gauges onsite recorded approximately 6 inches of rain from this series of storms, which spanned several days, at the time of inspection (according to Mr. Bruskotter). The NOAA rain gauge at Poway recorded 6.37 inches of rain between 12/16/10 and 12/22/10.

## **II. FINDINGS**

1. This phase of development is known as Del Sur Unit 14. This site is approximately 30 acres in size, all of which is in the rough grading stage. A berm was being constructed at the site perimeter to temporarily detain the storm water. At the time of inspection, permanent detention basins had not been completed.
2. A silt fence was placed around the perimeter of the construction site. No erosion control BMPs were identified.
3. Newly finished houses are located upstream of this site and contributed storm water run-on to this construction area. This area has a gradual slope towards Lusardi Creek, which is tributary to San Dieguito River and lagoon.
4. The berm at the perimeter that was used to temporarily detain the storm water was overwhelmed by recent storms. Sediment-laden storm water breached the berm in at least two places and entered Lusardi Creek (Figures 4-9).
5. The discharger placed visqueen at the locations of both breaches in order to prevent the berm from further eroding, but was ineffective.

## **III. RECOMMENDATIONS AND ADDITIONAL COMMENTS**

1. Given the size of the construction site, volume of disturbed sediment, and proximity to Lusardi Creek, the site lacks adequate sediment and erosion control BMPs.
2. Sediment control basins can be used provided they are designed with adequate capacity to capture and treat sediment-laden storm water generated from the site. Implementation of sediment basins should have been done at the onset of rough grading, as described in the SWPPP Site Maps (see Exhibit Showing

Facility: Del Sur Unit 14  
Inspection Date: 12/22/2010

Temporary BMPs for "Grading and Land Development Phase" for Black Mountain Ranch North Village Unit 14, dated June 30, 2010.

3. Run-on from upstream development contributed to the breach. BMPs should be implemented to accommodate run-on volume and prevent erosion on the site.
4. Page 24 of the SWPPP states that there is no anticipated run-on to the project; therefore, no measures are applicable. The discharger must amend the SWPPP to add in proper measures to accommodate run-on because run-on was a major factor in the illegal discharge.
5. Erosion control BMPs should be implemented at the site including on all slopes.
6. These findings will be used to evaluate compliance with Order No. 2009-0009-DWQ.
7. This site is considered Risk Level 1 because it was an existing project under Order No. 99-08-DWQ. The Risk Level should be re-evaluated given the potential for discharges and negative impacts to the adjacent creek.

#### IV. SIGNATURE SECTION

Christina Arias  
STAFF INSPECTOR

SIGNATURE

INSPECTION DATE

Eric Becker  
REVIEWED BY SUPERVISOR

SIGNATURE

DATE

#### SMARTS:

Tech Staff Info & Use	
Application ID.	
WDID	9 37C328390
Inspection ID	2009852
Violation ID	843117

Facility: Del Sur Unit 14  
Inspection Date: 12/22/2010



Sites of two recent breaches

Figure 1. Construction site; looking south at Lusardi Creek



Berm that will eventually used as permanent storm water detention feature

Figure 2. Construction site; looking east from Camino del Sur



Facility: Del Sur Unit 14  
 Inspection Date: 12/22/2010



Storm water detention basin used to detain offsite run on from upstream development

Figure 3. Construction site looking northeast



Note slopes have no erosion control

Figure 4. Berm used to detain storm water

Facility: Del Sur Unit 14  
 Inspection Date: 12/22/2010



Figure 5. Construction site looking upstream from location of breach



Sediment from  
 construction site has  
 entered Lusardi Creek

Figure 6. Foot of berm



Facility: Del Sur Unit 14  
 Inspection Date: 12/22/2010



Figure 7. Location of second breach



Note discoloration of  
 storm water from site  
 mixing with creek

Figure 8. Construction site discharge entering Lusardi Creek

Facility: Del Sur Unit 14  
Inspection Date: 12/22/2010



Note silt fences are underwater.

Figure 9. Construction site discharge entering Lusardi Creek

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

**FACILITY INSPECTION REPORT**

**FACILITY:** Casa Mira View

**INSPECTION DATE/TIME:** 10/25/2010; 1330

**WDID/FILE NO.:** 9 37C353628

**REPRESENTATIVE(S) PRESENT DURING INSPECTION:**

NAME: Christina Arias

AFFILIATION: San Diego Water Board

NAME: Rod Fink

AFFILIATION: Garden Communities

NAME: \_\_\_\_\_

AFFILIATION: \_\_\_\_\_

NAME: \_\_\_\_\_

AFFILIATION: \_\_\_\_\_

NAME: \_\_\_\_\_

AFFILIATION: \_\_\_\_\_

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

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

8530 Costa Verde Blvd.  
OWNER MAILING ADDRESS

11241 Westview Pkwy, San Diego, 92126  
FACILITY ADDRESS

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

\_\_\_\_\_  
FACILITY OR DEVELOPER CONTACT NAME AND PHONE #

**APPLICABLE WATER QUALITY LICENSING REQUIREMENTS:**

- |   |   |
|---|---|
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**INSPECTION FINDINGS:**

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

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

## I. COMPLIANCE HISTORY / PURPOSE OF INSPECTION

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

## II. FINDINGS

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

## III. RECOMMENDATIONS AND ADDITIONAL COMMENTS

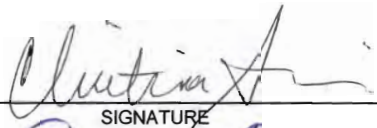
1. Prevent additional illegal pumping of sediment laden water into the storm drains. The illegal discharge observed during the inspection must be formally reported to the San Diego Water Board and Legally Responsible Person within 30 days (see SWPPP page 1-3).
2. Implement erosion control BMPs site-wide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

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

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

#### IV. SIGNATURE SECTION

Christina Arias  
STAFF INSPECTOR

  
SIGNATURE

10/25/10  
INSPECTION DATE

Eric Becker  
REVIEWED BY SUPERVISOR

  
SIGNATURE

10/27/10  
DATE

#### SMARTS:

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



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



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

Figure 1. Construction site entrance



Shopping cart in desilting  
 basin should be  
 removed.

Figure 2. Desilting basin inside project boundaries



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



Erosion control measures must be applied to slopes.

Figure 3. Uncovered slope (inside property)



Note uncovered stockpile and blue dust from pipe cutting

Figure 4. Project site at street level

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



Project sediment is on sidewalk and street.

Figure 5. Sidewalk adjacent to project site



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

Figure 6. Slope and project material at perimeter



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



Area near storm drain inlet should be swept.

Figure 7. Storm drain inlet at North side of property



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

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



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



Source of turbid water is illegal discharge from project site.

Figure 9. Outlet pipe of illegal discharge



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

Figure 10. Pipe leading off property (from pump)

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



Pump intake line

Figure 11. Pump intake



Area of construction site  
being dewatered.

Figure 12. Dewatering area