



# 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 U.S. EPA

Arnold Schwarzenegger  
Governor

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

VIA CERTIFIED MAIL  
7007 3020 0001 0040 7423

In reply refer to:  
NWU:214666:bneill

July 3, 2008

City Manager  
Shawn Nelson  
City of Temecula City Hall  
43200 Business Park Dr.  
Temecula, CA 92590

**RE: NOTICE OF VIOLATION AND REQUIRED TECHNICAL REPORT**

Dear Mr. Nelson,

Enclosed is **Notice of Violation (NOV) No. R9-2008-0075** for violations of California Regional Water Quality Control Board, San Diego Region (Regional Board) Order No. R9-2004-001, National Pollutant Discharge Elimination System (NPDES) Permit No. CAS0108766, *Waste Discharge Requirements for Discharges of Urban Runoff from the Municipal Separate Storm Sewer Systems (MS4s) Draining the County of Riverside, the City of Murrieta, the City of Temecula, and the Riverside County Flood Control and Water Conservation District within the San Diego Region (Permit)*.

The violations were identified during inspections by the Regional Board with PG Environmental, a USEPA Region IX contractor. In addition to the previous NOV's R9-2008-0037 and R9-2008-0030 issued on March 18, 2008 for violations at the City's own construction sites, the results of this inspection give us concern about the City of Temecula's (City) commitment to supporting a program to improve and preserve water quality. Administration of a municipal storm water program is a complex task. The City appears to rely heavily on limited storm water staff to comply with all aspects of the Permit. An effective program needs interdepartmental cooperation with storm water staff to adequately track and manage compliance with the Permit.

Therefore, pursuant to California Water Code section 13267 and 13383, the City is directed to prepare and submit a Required Technical Report (RTR) to the Regional Board no later than **5:00 PM, on August 4, 2008**. The RTR is required due to the violations noted in the enclosed NOV (No. R9-2008-0075). The RTR will be reviewed to determine if appropriate measures have been taken to address these violations and to

assess the need for further enforcement action. The RTR shall provide the following information:

1. An explanation section describing the reasons why the violations occurred.
2. A planned actions section describing how the City plans to correct these violations and to prevent these violations from recurring in the future. This shall include but not be limited to:
  - a. Improvements to the City's oversight of Water Quality Management Plans for new and redevelopment.
  - b. Improvements to the City's inventory, inspection and enforcement of construction sites.
  - c. A plan to update the MS4 map in a timely manner.
  - d. Improvements to the City's Illicit Discharge Detection and Elimination Program including monitoring site locations and numeric criteria for analysis and follow-up.
3. Updated sections of the City's Storm Water Management Plan and Water Quality Management Plan with changes to ensure future compliance with Order No. R9-2004-001.

The submitted Required Technical Report shall be signed in accordance with Order No. R9-2004-001, Attachment B.2 Signatory Requirements and contain the following certification:

*I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.*

Failure to submit the above information by the date requested may result in the imposition of administrative civil liability pursuant to CWC sections 13268 and 13385.

Questions pertaining to this Required Technical Report and the enclosed Notice of Violation should be directed to Ben Neill at (858) 467-2983 or

RF

bneill@waterboards.ca.gov. Written correspondence should be directed to the following address:

Michael P. McCann  
Assistant Executive Officer  
Attn: Ben Neill  
California Regional Water Quality Control Board, San Diego Region  
9174 Sky Park Court, Suite 100  
San Diego, CA 92123-4340

Respectfully,



MICHAEL P. McCANN  
Assistant Executive Officer

Signed pursuant to the authority delegated by the Executive Officer to the Assistant Executive Officer

Attachments: Notice of Violation No. R9-2008-0075  
USEPA Region IX MS4 Inspection Report

CC with attachments via email:

Ken Greenberg, USEPA, [greenberg.ken@epa.gov](mailto:greenberg.ken@epa.gov)  
Aldo Licitra, County of Riverside, [mshetler@rceo.org](mailto:mshetler@rceo.org)  
Wes Ganter, PG Environmental, LLC, [wes.ganter@pgenv.com](mailto:wes.ganter@pgenv.com)

D:\My Documents\Desktop\Temecula Audit NOV13267 06-13-08.doc

|               |  |
|---------------|--|
| CIWQS: 13267: | 347715   |
| NOV:          | 347691   |
| 9/20/07 FIR:  | 1402640  |
| 1/15/08 FIR:  | 1402892  |
| Violations:   | 767241, 767243, 767247, 767263, 767268, 767270, 767272, 767274, 767276, 767282, 767287, 767290, 767311 |



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July 3, 2008

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|---|--|
| <p><b>IN THE MATTER OF:</b></p> <p><b>City Manager<br/>Shawn Nelson<br/>City of Temecula City Hall<br/>43200 Business Park Dr.<br/>Temecula, CA 92590</b></p> | <p><b>NOTICE OF VIOLATION<br/>NO. R9-2008-0075</b></p> <p><b>In reply refer to:<br/>NWU:214666:bneill</b></p> <p><b>WDID NO.<br/>9 0000512S2</b></p> |
|---|--|

**Order No. R9-2004-001, NPDES No. CAS0108766**

**YOU ARE HEREBY NOTIFIED THAT:**

You are in violation of waste discharge requirements contained in California Regional Water Quality Control Board, San Diego Region (Regional Board) Order No. R9-2004-001, National Pollutant Discharge Elimination System (NPDES) Permit No. CAS0108766, *Waste Discharge Requirements for Discharges of Urban Runoff from the Municipal Separate Storm Sewer Systems (MS4s) Draining the County of Riverside, the City of Murrieta, the City of Temecula, and the Riverside County Flood Control and Water Conservation District (Permittees) within the San Diego Region.* Such violations subject you to possible enforcement action by the Regional Board, including administrative enforcement orders requiring you to cease and desist from violations, or to clean up waste and abate existing or threatened conditions of pollution or nuisance; administrative civil liability in amounts of up to \$10,000 per day per violation; referral to the State Attorney General for injunctive relief; and, referral to the District Attorney for criminal prosecution.

On September 20, 2007, Tony Felix, Water Resource Control (WRC) Engineer, Jody Ebsen, Engineering Geologist, and Jeremy Haas, Environmental Scientist, accompanied by Scott Coulson of PG Environmental, LLC, a USEPA Region IX contractor, conducted an inspection to investigate the City of Temecula's (City) compliance with Order No. R9-2004-001. On January 15 and 16, Ben Neill, WRC Engineer, accompanied by PG Environmental conducted follow-up inspections. These inspections identified the violations described below. USEPA's report describing the findings of the inspections is attached. At both inspections, Mr. Aldo Licitra represented the City of Temecula.

The Riverside County Permittees have chosen to name their "Standard Urban Storm Water Mitigation Plans" (SUSMP) as "Water Quality Management Plans" (WQMP). Therefore, this notice of violation uses the two terms interchangeably as SUSMP when referring to the Regional Board's Order No. R9-2004-001 requirements and as WQMP when referring to the Permittee's plan to comply with Order No. R9-2004-001. The Order's SUSMP requirements are to reduce pollutants to the maximum extent practicable (MEP) and to maintain or reduce downstream erosion and protect stream habitat from all Priority Development Projects.

## **SUMMARY OF VIOLATIONS:**

### **I. Failure to Identify SUSMP Applicable Projects**

- Order R9-2004-001, Provision F, Development Planning, F.2.b):  
" ... each Permittee shall review and ensure that all Priority Development Projects meet SUSMP requirements."

**Observation:** The Permittee's WQMP checklist only utilizes an "impervious surface" categorical threshold and does not include the "land area for development" as required by the Permit. For example, the Permittee's checklist specifies that the non-residential or commercial development category includes projects that create more than 100,000 square feet of *impervious surface*, rather than the Permit requirement of projects where the *land area* for development is greater than 100,000 square feet. By using an incorrect categorical threshold, the Permittee may not be identifying all development projects which are subject to SUSMP.

### **II. Failure to Ensure BMPs are Effective**

- Order R9-2004-001, Provision F, Development Planning, F.2.b)(2)(d):  
"The BMPs shall, at a minimum ... Be effective at removing or treating the pollutants of concern associated with the project."

**Observation:** The City of Temecula's WQMP requires BMPs with medium pollutant removal efficiency in areas with receiving waters with pollutants of concern. For example, the entire length of Murrieta Creek has been identified as being impaired for nitrogen and phosphorous (nutrients). The City of Temecula representatives stated that WQMPs have been approved with low or medium pollutant removal efficiency for nutrients. A BMP rated as having a medium pollutant removal efficiency cannot be considered effective at removing the pollutants of concern when other BMPs are practicable that have a high pollutant removal efficiency.

### **III. Failure to Ensure Ongoing Maintenance**

- Order R9-2004-001, Provision F, Development Planning, F.2.b)(2)(j):  
"The BMPs shall ... Include proof of a mechanism, to be provided by the project proponent or Permittee, which will ensure ongoing long-term BMP maintenance."
- Order R9-2004-001, Provision F, Development Planning, F.2.b)(6):

"As part of the SUSMP, the Permittees shall develop a process by which SUSMP requirements will be implemented."

**Observation:** Although a list of WQMP projects and hard copy project files are maintained, the City of Temecula lacks a formal system to inventory the specific locations where BMPs are implemented, and the corresponding maintenance obligations and records demonstrating that maintenance has been performed. As a result, the City cannot ensure adequate long-term maintenance of the BMPs.

#### IV. Failure to Identify Construction Site Sources

➤ Order R9-2004-001, Provision G, Construction, G.4:

"Each Permittee shall annually develop and update, prior to the rainy season, an inventory of all construction sites within its jurisdiction regardless of site size or ownership."

**Observation:** The City's construction site inventory includes only those sites which maintain an active grading permit. Therefore the City's inventory does not include sites where the grading permit is closed and construction is ongoing. In addition, the City's inventory would not include construction sites that did not require a grading permit. The City's inventory would also not include those sites under construction illegally without a grading permit where the City is aware of the unpermitted construction activity.

#### V. Failure to Designate Best Management Practices

➤ Order R9-2004-001, Provision G, Construction:

"Each Permittee shall implement a program to address construction sites to reduce pollutants in runoff to the MEP during all construction phases."

➤ Order R9-2004-001, Provision G, Construction, G.5.a):

"Each Permittee shall designate a set of minimum BMPs that ensure the following at all construction sites: (1) Erosion prevention; (2) Slope stabilization; (3) Phased grading; (4) Revegetation as early as feasible; (5) Preservation of natural hydrologic features where feasible; (6) Preservation of riparian buffers and corridors where feasible; (7) Maintenance of all source control and treatment control BMPs; and (8) Retention and proper management of sediment and other construction pollutants on site."

**Observation:** The City's Grading Manual does not include design criteria for erosion and sediment control, only for grading. Furthermore, the City's Standard Erosion and Sediment Control (ESC) Notes do not specify criteria for BMP design. As a result, neither of these documents includes design criteria and adequate installation and maintenance specifications for construction site BMPs. The City generally refers project proponents to the California Stormwater BMP Handbook for Construction. However, the City has not formally adopted the handbook as their designated design criteria for BMPs required to be used at construction sites. The Grading Manual, Standard ESC Notes, and the California Stormwater BMP Handbook combine to create confusion among the building industry as to what BMPs are required within the City of Temecula.

In summary, the City's designated BMPs fail to ensure the required conditions at all construction sites.

**VI. Failure to Implement, or Require Implementation of Best Management Practices**

➤ Order R9-2004-001, Provision G, Construction:

"Each Permittee shall implement a program to address construction sites to reduce pollutants in runoff to the MEP during all construction phases."

➤ Order R9-2004-001, Provision G, Construction, G.5.b):

"Each Permittee shall implement, or require the implementation of, the designated minimum BMPs at each construction site within its jurisdiction year round."

**Observation 1, YMCA site, 29229 Margarita Street:** The private construction of the YMCA did not adequately implement several BMPs including erosion controls, sediment controls and soil stabilization measures. A lack of adequate BMPs appeared to have caused a discharge of sediment to the adjacent Empire Creek.

**Observation 2, MJW property, intersection of Rio Nedo and Via Industria:** This private construction site did not adequately implement several BMPs including erosion controls, sediment controls and soil stabilization.

**Observation 3, Hemmingway at Redhawk by Centex Homes on Via Puebla:** This private construction site did not adequately implement several BMPs including erosion controls, sediment controls and soil stabilization. A previous BMP failure was evident, including sediment discharged to a down gradient storm drain inlet.

**Summary:** The City did not implement or require the implementation of minimum BMPs to reduce pollutants in runoff from construction sites to the MEP.

**VII. Failure to Enforce Ordinances**

➤ Order R9-2004-001, Provision G, Construction, G.7:

"Each Permittee shall enforce its ordinances and permits at all construction sites as necessary to maintain compliance with this Order.

**Observation:** The Temecula Municipal Code, Chapter 18.15, Section 02, Construction runoff compliance, states that "all individually proposed construction and grading projects shall implement measures to ensure that pollutants from the site will be reduced to the maximum extent practicable." BMPs were not adequately installed and maintained to prevent the discharge of pollutants from the YMCA, MJW Property, and Hemmingway at Redhawk construction sites. The City did not adequately enforce its ordinances at these sites to ensure compliance.

**VIII. Failure to Develop/Maintain MS4 Map**

➤ Order R9-2004-001, Provision J, Illicit Discharge Detection and Elimination Program, J.2:

"Each Permittee shall develop or obtain an up-to-date labeled map of its entire MS4 and the corresponding drainage areas within its jurisdiction."

**Observation:** The City has developed a map of its MS4 but the corresponding drainage areas for specific storm drainage system mains and outfalls were not delineated. The MS4 map is required as part of the City's Storm Water Management Plan (SWMP) which was due on July 14, 2005. The City's current map lacks the details necessary to serve as an effective tool in identifying and eliminating illicit discharges or connections.

**IX. Failure to Adequately Select Illicit Discharge Monitoring Stations**

- Order R9-2004-001, Provision J, Illicit Discharge Detection and Elimination Program, J.3:

"Each Permittee shall implement the Illicit Discharge Monitoring Program in accordance with Section II.B of the MRP [Monitoring and Reporting Program] to detect illicit discharges and connections."

- Order R9-2004-001, Monitoring and Reporting Program, Part II.B, Illicit Discharge Monitoring, II.B.1.a:

"Each Permittee shall select Illicit Discharge Monitoring stations within its jurisdiction... Stations shall be accessible points in the MS4 (i.e., outfalls, manholes or open channels) located downstream of potential sources of illicit discharges (i.e., commercial, industrial, and residential areas).

**Observation:** The City of Temecula's four monitoring stations are located in natural waterways, and not in an accessible point in the MS4. One monitoring station has flowing water the majority of the year and therefore is not representative of dry weather flow. These sites hold little value for identifying unauthorized dry weather discharges to the MS4 and eliminating their respective sources.

**X. Failure to Monitor Illegal Discharges at the Required Frequency**

- Order R9-2004-001, Provision J, Illicit Discharge Detection and Elimination Program, J.3:

"Each Permittee shall implement the Illicit Discharge Monitoring Program in accordance with Section II.B of the MRP [Monitoring and Reporting Program] to detect illicit discharges and connections."

- Order R9-2004-001, Monitoring and Reporting Program, Part II.B, Illicit Discharge Monitoring, II.B.1.a:

"... Each identified station shall be inspected at least twice between May 1<sup>st</sup> and September 30<sup>th</sup> of each year, and more frequently if the Permittee determines it necessary to comply with section J of Order No. R9-2004-001."

**Observation:** In 2006, the City's illicit discharge monitoring stations were inspected only once between May 1<sup>st</sup> and September 30<sup>th</sup>. The stations were inspected again outside of the specified time period.



**XI. Failure to Adhere to Required Monitoring Provisions**

- Order R9-2004-001, Provision J, Illicit Discharge Detection and Elimination Program, J.3:

“Each Permittee shall implement the Illicit Discharge Monitoring Program in accordance with Section II.B of the MRP [Monitoring and Reporting Program] to detect illicit discharges and connections.”

- Order R9-2004-001, Monitoring and Reporting Program, Part II.B, Illicit Discharge Monitoring, II.B.2.a):

“At each inspected site, Permittees shall record the following general information:

- Time since last rain;
- Quantity of last rain;
- Site descriptions (i.e. conveyance type, dominant land uses in drainage area);
- Flow estimation (i.e. width of surface, approximate depth of water, approximate flow velocity, flow rate);
- Visual observations (e.g. odor, color, clarity, floatables, deposits/stains, oil sheen, surface scum, vegetation conditions, structural condition, and biology).”

**Observation:** For all dry weather monitoring site inspections conducted in 2006 and 2007, inspection records did not document (1) time since last rain, (2) site descriptions, or (3) flow estimation. Furthermore, because City staff had not recorded time since the last rain, the City cannot demonstrate that at least seventy-two hours of dry weather had elapsed prior to conducting field screening analysis, a requirement of Section II.B.2.b) of the MRP.

**XII. Failure to Follow Required Monitoring Protocols**

- Order R9-2004-001, Provision J, Illicit Discharge Detection and Elimination Program, J.3:

“Each Permittee shall implement the Illicit Discharge Monitoring Program in accordance with Section II.B of the MRP [Monitoring and Reporting Program] to detect illicit discharges and connections.”

- Order R9-2004-001, Monitoring and Reporting Program, Part II.B, Illicit Discharge Monitoring, II.B.2.b):

“If flow or ponded water is observed at a station and there has been at least seventy-two hours of dry weather, a field screening analysis using suitable methods to estimate the following constituents shall be conducted.”

**Observation:** Because the City had not recorded the time since the last rain, the City cannot demonstrate that at least seventy-two hours of dry weather had elapsed prior to conducting the field screening analysis. Furthermore, the City conducted field screening analyses when there was not seventy-two hours of dry weather. On April 7, 2006, a maximum of sixty-four hours of dry weather could have elapsed. Again on

August 27, 2007 a maximum of only thirty-nine hours of dry weather could have elapsed.

**XIII. Failure to Develop Numeric Criteria for Analysis**

- Order R9-2004-001, Provision J, Illicit Discharge Detection and Elimination Program, J.3:

"Each Permittee shall implement the Illicit Discharge Monitoring Program in accordance with Section II.B of the MRP [Monitoring and Reporting Program] to detect illicit discharges and connections."


- Order R9-2004-001, Monitoring and Reporting Program, Part II.B, Illicit Discharge Monitoring, II.B.3:

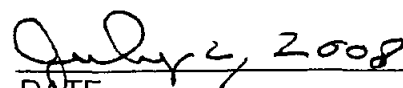
"As part of the Illicit Discharge Monitoring Program, the Permittees shall develop numeric criteria for field screening and analytical monitoring results that will trigger follow-up investigations to identify the source causing the exceedance of the criteria."

**Observation:** The City of Temecula chooses to utilize the Riverside County Consolidated Monitoring Program for Water Quality Monitoring (CMP). The CMP does not contain numeric criteria for laboratory analysis of the following required parameters: total hardness, oil and grease, ammonia nitrogen, total phosphorous, copper (total and dissolved), surfactants (MBAS), diazinon and chlorpyrifos, lead (dissolved), nitrate nitrogen, E. coli, total coliform, and fecal coliform. In addition, the City did not develop numeric criteria for temperature, a required field screening parameter.

Questions pertaining to the issuance of this Notice of Violation should be directed to Ben Neill at (858) 467-2983 or [bneill@waterboards.ca.gov](mailto:bneill@waterboards.ca.gov). Written correspondence pertaining to this Notice of Violation should be directed to the following address:

David Barker  
Supervising Water Resource Control Engineer  
Attn: Ben Neill  
California Regional Water Quality Control Board, San Diego Region  
9174 Sky Park Court, Suite 100  
San Diego, CA 92123-4340

  
David Barker, P.E.  
Supervising Water Resource Control Engineer

  
DATE

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
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- Attach this card to the back of the mailpiece, or on the front if space permits.

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Shawn Nelson  
 43200 Business Park Dr.  
 Temecula, CA 92590

2. Article Number  
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PS Form 3811, February 2004

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- Addressee

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Sent To

Shawn Nelson  
 Street, Apt. No.,  
 or PO Box No. 43200 Business Park Dr.  
 City, State, ZIP+4  
 Temecula, CA 92590

PS Form 3800, August 2006

See Reverse for Instructions