



California Regional Water Quality Control Board San Diego Region



Linda S. Adams
Secretary for
Environmental
Protection

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9174 Sky Park Court, Suite 100, San Diego, California 92123-4340
(858) 467-2952 • Fax (858) 571-6972
<http://www.waterboards.ca.gov/sandiego>

March 24, 2010

Mr. Jack Eitzen
22631 Mount Eden Road
Saratoga, CA 95070

VIA CERTIFIED MAIL
7006 0810 0000 6389 0466

In reply refer to:
App. IDs: 288214, 288215,
339509, 339514, 337595

RE: NOTICE OF VIOLATION NO. R9-2010-0059 &
REQUIRED TECHNICAL REPORT

SUBJECT SITE: Fairway Hills Estate LLC, La Cresta Hillcrest Estates, 38500
Via Vista Grande, Murrieta, CA 92562

Dear Mr. Eitzen:

Enclosed is **Notice of Violation (NOV) No. R9-2010-0059** for the subject site in Riverside County, CA. The alleged violations specified were identified during a site inspection on December 16, 2008 and subsequent follow-up inspections. Corrective measures and Best Management Practices (BMPs) should be implemented immediately to address these violations.

Pursuant to California Water Code (CWC) section 13267 and 13383, the California Regional Water Quality Control Board (San Diego Water Board) directs you to submit a **Required Technical Report (RTR)** received at the San Diego Water Board no later than **5:00 PM, May 1, 2010**. The RTR is required due to the alleged violations noted in the enclosed NOV. The RTR will be reviewed to assess the need for further enforcement actions. The RTR shall include the following Sections:

1. An Immediate Actions Section describing the reasons for the discharge of sediment from the site into the Municipal Separate Storm Sewer System and/or waters of the United States and State, and what immediate steps were taken to stop the illegal discharge.
2. Provide verification of all documents for construction activities that required permit enrollment with the State Water Resources Control Board (State Water Board).
3. A Storm Water Pollution Prevention Plan (SWPPP) Status Report Section including:

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- a) An 8.5" x 11" Site Map boldly indicating all flow lines, storm water inlets and outfalls (designate active or inactive), and direct discharge (if applicable) to a water of the State.
 - b) A statement giving the exact date construction began.
 - c) Photocopies of all BMP implementation/maintenance/inspection records (to date).
 - d) Photocopies of all annual Compliance Certifications (to date).
 - e) A photocopy of the SWPPP Signatory Requirement page.
 - f) If necessary, copies of newly completed Notices of Intent (NOIs). **Please note:** If any information provided on the current NOIs has changed, a NOI change of information, filed with the State Water Board in Sacramento, is required.
 - g) A completed "SWPPP and Monitoring Program Review Sheet" (copy enclosed), with preparer's name, included in the RTR as attachment A.
4. A Site Status Report Section including photo-documentation of implementation of the SWPPP, including proper installation of BMPs addressing, but not limited to, those specific violations indicated in the attached NOV.
5. A Hydrologic Study Section certified by a Registered Civil Engineer, for each sediment basin serving any tributary area as erosion control. Include:
- a) Site Map delineating topographic tributary area (scaled) with flowlines.
 - b) Basin dimensions and calculated maximum volume.
 - c) Outlet and filtration calculations and specifications.
 - d) Hydrologic calculations based on one of the prescribed methods specified in Order No. 99-08-DWQ.
 - e) All supporting documentation.
6. A Pollutant Sampling Program Section including the following:
- a) Site Map delineating topographic tributary area (scaled with flowlines) of area(s) to be sampled for pollutants and area(s) to be sampled as background (free of pollutants).
 - b) A list of all pollutants to be tested which are not visually detectable in storm water discharges as specified in Section B.8 of the permit.
 - c) Copies of all qualifications and training certifications for the laboratory or staff who will be sampling.
 - d) A copy of all protocol measures to be employed, including, at a minimum, Quality Assurance/Quality Control (QA/QC) and Chain of Custody.

Additionally, to satisfy the 401 Certification for dredge or fill violations the RTR shall include the following Sections:

7. A discussion of the filling of all unnamed drainages within the subject site including, at minimum, the following:

- a) A full delineation of the entire subject site, including a map, depicting all on-site waters of the United States and/or State.
 - b) The amount and locations of fill placed in waters of the State and, where appropriate, waters of the United States. Fill must be reported in acres and linear feet.
 - c) A timeline of activities related to the fill placement into each drainage.
 - d) A full description of the pre-construction condition of the drainages.
 - e) Proposing to discharge waste or fill to waters of the State requires the filing of Waste Discharge Requirements containing the information required by the appropriate Water Board.
8. A list of all applicable federal, State and local permits, licenses and agreements that were obtained for fill activities to waters of the United States and/or State.
 9. The status of the California Environmental Quality Act (CEQA) review for the work that resulted in the discharges of fill and, if available, a copy of the final or draft CEQA document.
 10. A time schedule and an implementation and monitoring plan for the restoration of all impacted waters of the State on-site.

The submitted Required Technical Report shall include the following signed 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.

Note: All documents requiring signature shall be signed per the General Construction Permit, Water Quality Order No. 99-08, Section C.9.a (1&2), as follows:

"For a corporation: by a responsible corporate officer. For the purpose of this Section, a responsible corporate officer means: (a) a president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or (b) the manager of the construction activity if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

For a partnership or sole proprietorship: by a general partner or the proprietor, respectively."

Questions pertaining to this Required Technical Report and the enclosed Notice of Violation should be directed to Mr. Tony Felix at 858-636-3134 or via e-mail at TFelix@waterboards.ca.gov. Written correspondence should be directed to the following address listed in the heading.

The heading portion of this letter includes a San Diego Water Board code number noted after "In reply refer to:" In order to assist us in the processing of your correspondence please include this code number in the heading or subject line portion of all correspondence and reports to the San Diego Water Board pertaining to this matter.



James G. Smith
Assistant Executive Officer

Attachments: Notice of Violation R9-2010-0059
December 16, 2008 Facility Inspection Report w/ Photos
December 23, 2008 Facility Inspection Report w/ Photos
January 28, 2009 Facility Inspection Report w/ Photos
Location Map
Gertie Kazmi's Photo Document
Distribution List

SMARTS-2 Entries

WDIDs	App. ID	Inspection ID	Violation ID	Enforcement ID
9 33C338575	288214	2002520	841134	401312
9 33C338574	288215	2002521	841135	401313
9 33C350456	339509	2002523	841136	401314
9 33C350455	339514	2002524	841137	401315
9 33C350453	339510	2002525	841138	401316
9 33C349965	337595	2002526	841139	401317
9 33C350XXX*	-	-	-	-

* WDID no. submitted as-is by Jack Eitzen

S:\Surface Waters Basins Branch\Northern Watershed Unit\Tony\Storm Water Program\Construction
SW\Inspections\Riverside County Inspections\Riverside County\La Cresta 12-16-08 Inspection\Enforcement\La
Cresta NOV13267 New letterhead.doc

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March 24, 2010

IN THE MATTER OF)

NOTICE OF VIOLATION
NO. R9-2010-0059

Mr. Jack Eitzen)
22631 Mount Eden Road)
Saratoga, CA 95070)

WDID NOs.
9 33C338575, 9 33C338574,
9 33C350456, 9 33C350455,
9 33C349965 and 9 33C350XXX

NPDES Construction General Permit No. CAS000002, SWRCB Order 99-08-DWQ
and California Water Code Section 13260 & 13050, Clean Water Act Section 401

Subject Site: Fairway Hills Estate LLC, La Cresta Hillcrest Estate, 38500 Via Vista
Grande, Murrieta, CA 92562

YOU ARE HEREBY NOTIFIED THAT:

You are in violation of waste discharge requirements contained in State Water Resources Control Board, Water Quality Order No. 99-08-DWQ, of the National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000002, Waste Discharge Requirements for Discharges of Storm Water Runoff Associated with Construction Activity. Also, you are in violation of California Water Code (CWC) Section 13260 for failure to file a Report of Waste Discharge (RoWD) and Section 13376 for failure to file an application for an individual Clean Water Act (CWA) Section 401 Water Quality Certification. Furthermore, you are in violation of CWC Section 13050 for failure to comply with Waste Discharge Prohibition No. 1. Such violations subject you to enforcement action by the California Regional Water Quality Control Board (San Diego Water 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 December 16, 2008 Chad Loflen (Environmental Scientist), Ben Neill and Tony Felix (Water Resource Control Engineers) of the San Diego Water Board conducted an inspection of the subject site and observed, documented and photo-documented evidence of specific violations indicated in the attached Facility Inspection Report (FIR) incorporated herein by reference. No one from your staff was present during the inspection.

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A. Summary of NPDES General Permit No. CAS000002, SWRCB Order 99-08-DWQ Violations:**I. FAILURE TO FILE NOTICE OF INTENT (NOI)****➤ Pursuant to Water Quality Order No. 99-08-DWQ C.1:**

- All dischargers shall file an NOI and pay the appropriate fee for construction activities conducted at each site...

Observation: You failed to file a NOI for new grading of the fire road. Additionally, six of the construction projects do not have NOIs for coverage under the statewide General Construction Permit, Order No 99-08-DWQ.

II. FAILURE TO PREVENT PROHIBITED DISCHARGES**➤ Pursuant to Water Quality Order No. 99-08-DWQ Section A.2:**

- Discharges of material other than storm water which are not otherwise authorized by an NPDES permit to a separate storm sewer system (MS4) or waters of the nation are prohibited...

Observation: We photo-documented large quantities of sediment and silt which were deposited at the Claremont Street entrance, into waters of the State, and the hardened channel which abuts the Bear Creek Community (photos 03 and 04).

III. FAILURE TO FURNISH STORM WATER POLLUTION PREVENTION PLAN**➤ Pursuant to Water Quality Order No. 99-08-DWQ Orders C.2, C.4 & C.6 and Section A.3:**

- All dischargers shall develop and implement a SWPPP in accordance with Section A: Storm Water Pollution Prevention Plan.
- All dischargers shall develop and implement a monitoring program and reporting plan in accordance with Section B: Monitoring Program and Reporting Requirements.
- All dischargers shall comply with the standard provisions and reporting requirements contained in Section C: Standard Provisions.
- The SWPPP shall remain on the construction site while the site is under construction...

Observation: From the time of the initial inspection to the present you have not produced a SWPPP that complies with the General Construction Permit requirements, including a fully developed monitoring program for pollutants not visually detectable in storm water.

IV. FAILURE TO IMPLEMENT / MAINTAIN BEST MANAGEMENT PRACTICES**➤ Pursuant to Water Quality Order NO. 99-08, Section A.6 & A.8:**

- At a minimum, the discharger/operator must implement an effective combination of erosion and sediment control on all disturbed areas during the rainy season. These disturbed areas include rough graded roadways, slopes, and building pads.

Observation: Your site lacked the appropriate and necessary erosion and sediment controls for most disturbed areas. Your site lacked sediment controls (i.e. silt fences or fiber rolls) for the outside slopes (see photos 06, 09, 10, 11, 12, 13, 18, and 26).

➤ Pursuant to Water Quality Order NO. 99-08, Section A.6 & A.8:

- The SWPPP shall include a description of the erosion control practices, including a time schedule, to be implemented during construction to minimize erosion on disturbed areas of a construction site... These disturbed areas include rough graded roadways, slopes, and building pads... A proposed schedule for deployment of sediment control BMPs shall be included in the SWPPP.

Observation: There was no SWPPP available for inspection review to insure there was a specific construction phase / BMP sequencing schedule. This sequencing schedule must be developed and implemented to insure that all areas of the site are sufficiently protected and will not result in illegal discharges. Your site had disturbed areas under active construction with no scheduled BMP implementation strategy to protect these areas prior to a rain event. This schedule must be reasonable and implementable with sufficient BMPs stockpiled to protect your site prior to a rain event.

➤ Pursuant to Water Quality Order NO. 99-08, Section A.8:

- ...sediment basins shall, at a minimum, be designed and maintained as follows: Option 1, 2, 3, or 4 (abbr.).

Observation: Three sediment basins at the site lacked the proper design and placement requirements. One had failed resulting in a discharge and the other two were placed directly within waters of the State (see photos 12, 13, 14, 17, 21, 22, and 23).

➤ Pursuant to Water Quality Order NO. 99-08, Section A.5.b.4 & b.5, Section B 8:

- (Provide) ...areas designated for the (a) storage of soil or waste, (b) vehicle storage and service areas, (c) construction material loading, unloading, and access areas, (d) equipment storage, cleaning, and maintenance areas. (Implement) ...BMPs designed to minimize or eliminate the exposure of storm water to construction materials, equipment, vehicles, waste storage areas, or service areas. Any breach, malfunction, leakage, or spill observed which could result in the discharge

of pollutants to surface waters that would not be visually detectable in storm water shall trigger the collection of a sample of discharge.

Observation: Your vehicle and equipment storage area lacked the proper controls to minimize the exposure of spilled oil, grease, and other vehicle maintenance fluids to stormwater (see photos 27 and 28).

➤ **Pursuant to Water Quality Order NO. 99-08, Section A.8:**

- BMPs to reduce the tracking of sediment onto public or private roads at all times.

Observation: Your site had inadequately maintained entrance/exit BMPs, which caused significant sediment tracking at the Claremont Street entrance/exit (see photo 04).

B. Summary of Clean Water Act Section 401 Violations:

I. FAILURE TO FILE A ROWD FOR WASTE DISCHARGE REQUIREMENTS

➤ **Pursuant to CWC Section 13260:**

- Any person discharging waste, or proposing to discharge waste, within any region that could affect the quality of the waters of the State shall file with the appropriate water board a report of the discharge, containing the information required by the San Diego Water Board.

Observation: The San Diego Water Board to date has not received a RoWD for the discharge of fill to the unnamed drainages associated with construction of the subject site and associated (access) roads (see photos 11, 13, 15, 16, and 17).

II. FAILURE TO SUBMIT AN APPLICATION FOR CWA SECTION 401 WATER QUALITY CERTIFICATION

➤ **Pursuant to CWC Section 13376:**

- Any person proposing to discharge dredged or fill material to waters of the United States under permit systems provided by the Federal CWA, must file a report at least 180 days *in advance* of the date on which it is desired to commence the discharge. The discharge of dredged or fill material by any person except as authorized by waste discharge requirements or dredged or fill material permits is prohibited.

Observation: The San Diego Water Board to date has not received an application for CWA Section 401 Water Quality Certification for the discharge of fill to any unnamed drainages that are waters of the United States associated with the subject site and associated roads (see photos 15, 16, and 17).

III. FAILURE TO COMPLY WITH WASTE DISCHARGE PROHIBITION NO. 1**➤ Pursuant to Waste Discharge Prohibition No.1 of the Water Quality Control Plan for the San Diego Basin:**

- The discharge of waste into waters of the State in a manner causing, or threatening to cause, a condition of pollution, contamination or nuisance as defined in CWC Section 13050, is prohibited.

Observation: The discharge of fill to streams has the potential to result in alteration or elimination of the Beneficial Uses associated with the water body. The unnamed drainages within the Project areas are tributary to Murrieta Creek. Beneficial Uses assigned to Murrieta Creek and its tributaries include MUN, AGR, IND, PROC, GWR, REC2, WARM and WILD. Construction of the Project in and over the unnamed drainages has eliminated the Beneficial Uses of these drainages in each location. The fill of each unnamed drainage has fragmented upstream and downstream reaches and was observed to have resulted in alteration of the hydrologic characteristics of each drainage, which has led to erosion throughout the property. Alteration of hydrologic characteristics results in diminished quality of in-stream and riparian habitat for flora and fauna in the unnamed drainages and downstream. Furthermore, construction of the Project has resulted in the discharge of pollutants to the remaining portion of the unnamed drainages, resulting in the degradation of downstream Beneficial Uses.

Questions pertaining to the issuance of this Notice of Violation should be directed to Mr. Tony Felix at 858-636-3134 or via e-mail at TFelix@waterboards.ca.gov.



James G. Smith
Assistant Executive Officer