



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
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Governor

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Certified Mail-Return Receipt Requested
Article Number: 7009 1410 0002 2347 2868

May 6, 2010

In reply refer to:
NWU: 749045:AM

General Manager-Chief Engineer
Warren D. Williams
Riverside County Flood Control and
Water Conservation District
1995 Market Street
Riverside, CA 92501

City Manager
Rick Dudley
City of Murrieta
One Town Square
24601 Jefferson Avenue
Murrieta, CA 92562

Riverside County Executive Officer
Larry Parrish
Riverside County Administrative Center
4080 Lemon Street – 4th Floor
Riverside, CA 92501

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

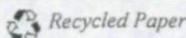
SUBJECT: NOTICE OF VIOLATION AND REQUIRED TECHNICAL REPORT

To Riverside Copermittees:

Attached is **Notice of Violation (NOV) No. R9-2010-0074** issued to the County of Riverside, the Riverside County Flood Control and Water Conservation District, the City of Murrieta, and the City of Temecula (Copermittees) for failure to comply with monitoring requirements in California Regional Water Quality Control Board, San Diego Region (San Diego Water 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).*

Pursuant to California Water Code sections 13267 and 13383, the Copermittees are directed to prepare and submit a Required Technical Report (RTR) to the San Diego

California Environmental Protection Agency



Water Board no later than **5:00 PM, on June 7, 2010**. The RTR is necessary to document the cause of the recurring violations, and to ensure adequate corrective measures have been implemented to prevent the violations noted in the NOV from recurring in the future. The cost and any burden of preparing the report are expected to be minimal relative to the need for the Copermittees to effectively implement the monitoring requirements. The RTR will be reviewed to determine if appropriate measures have been taken to address the violations and will be considered in any further enforcement action. The RTR must provide the following information:

1. An explanation section describing the reasons why the violations occurred.
2. A planned actions section describing how the Copermittees plan to correct these violations and to prevent these violations from occurring in the future.

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.

The Copermittees may elect to have one Copermittee submit an RTR on behalf of the other Copermittees provided the RTR includes a signed authorization from each Copermittee including the signed certification. Each Copermittee, however, is responsible for complying with permit requirements.

Questions pertaining to this Required Technical Report and the attached Notice of Violation should be directed to Alan Monji at (858) 637-7140 or amonji@waterboards.ca.gov. Written correspondence should be directed to the following address:

James G. Smith
Assistant Executive Officer
Attn: Alan Monji
California Regional Water Quality Control Board, San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123-4340

Respectfully,



James G. Smith
Assistant Executive Officer

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

Attachments: Notice of Violation No. R9-2010-0074

CC with attachments via email:

Ken Greenberg, USEPA, greenberg.ken@epa.gov
Aldo Licitra, City of Temecula, aldo.licitra@temecula.org
Bill Woolsey, City of Murrieta, wwoolsey@murrieta.org
Mike Shetler, County of Riverside, mshetler@rceo.org
Jason Uhley, Riverside County Flood Control District, juhley@rcflood.org
Wes Ganter, PG Environmental, LLC, wes.ganter@pgenv.com

CIWQS:

13267: 373747

NOV: 373746

Violations: 867149, 867151, 867153



California Regional Water Quality Control Board

San Diego Region



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May 6, 2010

Certified Mail – Return Receipt Requested
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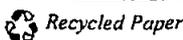
<p>IN THE MATTER OF:</p> <p>General Manager-Chief Engineer Warren D. Williams Riverside County Flood Control and Water Conservation District 1995 Market Street Riverside, CA 92501</p> <p>Riverside County Executive Officer Larry Parrish Riverside County Administrative Center 4080 Lemon Street – 4th Floor Riverside, CA 92501</p> <p>City Manager Shawn Nelson City of Temecula City Hall 43200 Business Park Dr. Temecula, CA 92590</p> <p>City Manager Rick Dudley City of Murrieta One Town Square 24601 Jefferson Avenue Murrieta, CA 92562</p>	<p>NOTICE OF VIOLATION NO. R9-2010-0074</p> <p>In reply refer to: NWU: 749045:AM</p> <p>WDID NOs. 9 000000512</p> <p>9 0000512S1</p> <p>9 0000512S2</p> <p>9 0000512S3</p>
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Order No. R9-2004-001, NPDES No. CAS0108766

YOU ARE HEREBY NOTIFIED THAT:

The County of Riverside, Riverside County Flood Control and Water Conservation District (District), City of Murrieta, and City of Temecula (Copermittees) are in violation

California Environmental Protection Agency



of waste discharge requirements contained in California Regional Water Quality Control Board, San Diego Region (San Diego Water 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 Santa Margarita Watershed in the San Diego Region.*

Specifically, the Copermittees failed to comply with monitoring requirements for Triad and Tributary stations as specified in Order No. R9-2004-001. The cited violations were discovered following review of the Copermittees' Santa Margarita Region Monitoring Annual Report, Fiscal Year 2008 – 2009, Appendix G (Monitoring Report), submitted by the District on behalf of the Copermittees.

Such violation subjects each Copermittee to possible enforcement action by the San Diego Water Board, including, but not limited to, 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.

Background Information:

On September 20, 2007, San Diego Water Board staff and representatives from PG Environmental, a USEPA Region IX contractor, conducted an inspection to investigate the Copermittees compliance with Provision L, Part II, Monitoring Program of Order No. R9-2004-001. On January 15, 16, and 17, 2008, San Diego Water Board staff and representatives from PG Environmental conducted a follow-up inspection to review the Permittees 2006 - 2007 Monitoring Annual Report and identify any violations of the permit. The violations noted by San Diego Water Board staff and PG Environmental were detailed in Notice of Violation (NOV) No. R9-2008-0053 dated May 13, 2008 from the San Diego Water Board to the Copermittees. The letter described eight violations listed below.

1. Failure to Monitor and Report.
2. Failure to Collect Wet Weather Mass Loading Samples.
3. Failure to Provide Written Explanation for Lack of Sampling.
4. Failure to Follow Required Monitoring Protocols.
5. Failure to Analyze for the full USEPA Priority Pollutant List.
6. Failure to Conduct Follow-up Analysis and Actions.
7. Failure to Appropriately Collect Samples at Tributary Stations.
8. Failure to Adhere to Monitoring Provisions.

In response to the NOV, Riverside County Flood Control and Water Conservation District, on behalf of the Copermittees, submitted a Required Technical Report (RTR)

dated June 6, 2008. The Copermittees met with the San Diego Water Board staff on September 8, 2008 to discuss comments and concerns with the RTR including the potential use of automatic samplers, the mobilization criteria for sampling, the written explanation for a lack of sampling, and the analysis of the full EPA priority pollutant list. Following that meeting, the Copermittees submitted an addendum to the RTR clarifying corrections to the monitoring program which led the San Diego Water Board staff to believe that no further incidents of non-compliance would occur.

The San Diego Water Board has reviewed the Copermittees 2008 – 2009 Monitoring Report and documented the specific violations of Order No. R9-2004-001 Monitoring and Reporting Program (MRP), detailed below.

Summary of Violations:

1. Failure to Analyze for the full USEPA Priority Pollutant List at Triad Stations Monitoring and Reporting Program (MRP) Section II.A.I.1.h.

Order R9-2004-001, Monitoring and Reporting Program (MRP) Section II.A.I.1.h states: *"At triad stations, the first storm of every sampling year shall be analyzed for the full [US] EPA priority pollutant list (40 CFR 122, Appendix D). For the remaining sampling events, analysis may be reduced to the constituents listed in Table below, unless data from the first storm indicate the need for additional data."*

Observation: The District's 2008 - 2009 Monitoring Report states on page G-28: *"During the first storm event of the reporting period, samples collected at the Temecula and Murrieta Creek Stations were analyzed for the Long List (40 CFR 423, Appendix A)."* A review of the actual monitoring results reveals that the full list was not analyzed. Cadmium (a priority pollutant) results were not reported for either Murrieta or Temecula Creek. Furthermore, cadmium was not analyzed in the next two storm sampling events despite being listed as a constituent of concern in the Short List of Constituents (See Table 1 on page four of the MRP).

The District did not analyze Murrieta Creek or Temecula Creek wet weather samples for color, dissolved oxygen, manganese, iron, or nitrogen during the December 15, 2008 and January 6, 2009 monitoring events despite exceedances of water quality objectives from the first storm event of the sampling year. This is a violation because:

- a) Dissolved oxygen is on the Short List of Constituents and color, manganese, iron, and nitrogen are considered constituents of concern because they are expected to be present (40 CFR 122, Appendix D, Table IV); and
- b) Murrieta Creek is listed on the Clean Water Act §303(d) list of impaired water bodies for iron, manganese, nitrogen, and phosphorous and Temecula Creek is §303(d) listed for nitrogen and phosphorous. It is reasonable to expect these

pollutants at levels above water quality objectives as long as the waterbodies remain on the 303(d) list.

The Copermittees' failure to analyze for the full USEPA priority pollutant list is a repeat violation. For example, the failure to analyze for iron, manganese, and nutrients were noted monitoring failures in NOV No. R9-2008-0053, issued on May 13, 2008.

2. Failure to Analyze for the Constituents of Concern at the Tributary Stations, MRP Section II.A.1.5.c.

Order R9-2004-001, MRP Section II.A.1.5.c states: "*Tributary samples shall be analyzed for constituents of concern. Constituents of concern shall be determined based on exceedance of water quality objectives at respective triad and dry weather monitoring stations, as well as land use areas.*"

Observation: The District's 2008 - 2009 Monitoring Report states on page G-29: "*Wet weather event samples were analyzed for the Constituents of Concern in Table G-2, as well as additional constituents tested for research purposes but not required by the MRP.*" There were six constituents of concern that required further analysis under the MRP based on the Triad Station data water quality exceedances for Murrieta and Temecula Creeks. The missing constituents are cadmium, lead, iron, manganese, dissolved oxygen, nitrogen, and color. Cadmium data was missing for all Triad and Tributary Stations. The table below outlines the missing data by constituent and storm event.

Constituent	Long Canyon Creek	Redhawk Channel	Santa Gertrudis Creek	Warm Springs Creek
Cadmium ²	11/26/08 12/15/08	11/26/08 6/17/09	11/26/08 12/15/08	11/26/08 12/15/08
Lead ^{1,2}	11/26/08	11/26/08 6/17/09	11/26/08	11/26/08
Iron ^{1,3}	12/15/08	12/15/08 6/17/09	12/15/08	12/15/08
Manganese ^{1,3}	12/15/08	12/15/08 6/17/09	12/15/08	12/15/08
Dissolved Oxygen (Field) ^{1,2}	12/15/08	12/15/08	12/15/08	12/15/08
Nitrogen ^{1,3}	12/15/08	12/15/08 6/17/09	12/15/08	12/15/08
Color ¹	12/15/08	12/15/08	12/15/08	12/15/08

¹Constituent of Concern based on Triad Data from 2008-2009.

²Short List of Constituents, Table 1, R9-2004-001.

³Constituent of Concern monitoring failure noted in NOV R9-2008-0053.

The Copermittees' failure to analyze for the constituents of concern at the tributary stations is a repeat violation. Similar violations were cited in NOV No. R9-2008-0053. Specifically, sample results for iron, manganese, and nutrients were noted in the NOV.

3. Failure to Provide Written Explanation for Lack of Sampling MRP Section II.A.I.1.c.

Order R9-2004-001, MRP Section II.A.I.1.c states: *"In the event that the required number of storm events are not sampled during one monitoring year at any given station, the Permittees shall submit, with the subsequent Annual Report, a written explanation for a lack of sampling data, including stream flow data from the nearest USGS gauging station."*

Observation: The District's 2008 - 2009 Monitoring Report, Table G-13: Constituents Not Analyzed, pages G-30 to G-32, lists 17 analytes and 80 waterbody/date combinations as missing data. The missing sample results listed were antimony, arsenic, cadmium, iron, lead, manganese, selenium, dissolved metals, nitrogen, oil and grease, phenol, total dissolved solids, dissolved oxygen, Danitol, Fluvinat, MBAS, and volatile organic carbon. The explanation for the missing data is described by one of the following reasons in Table G-13:

- *"Not expected to be present based on 2007-2008 results.*
- *Miscommunication concerning the updated constituent list.*
- *Analysis was cancelled due to lab login error.*
- *DO meter failed."*

The explanation provided is inadequate considering the high number and frequency of missing data in the Monitoring Report. In addition, it is inappropriate to use 2007 - 2008 monitoring data as a basis to justify not conducting 2008 - 2009 monitoring required under the MRP. Many of the missing analytical sample results were for constituents whose analysis is explicitly required under the MRP including priority pollutants, the Short List of Constituents of Concern, and constituents of concern based on storm event sampling.

It should also be noted that Table G-13 is incomplete. Cadmium was noted in Table G-13 as missing data for the Tributary Stations on November 26, 2008. A review of the data show that cadmium data is missing for all Triad and Tributary Stations for all sampling events with one exception. One cadmium result is recorded for Redhawk Channel on December 15, 2008. Furthermore, total suspended solids (TSS) is not mentioned in Table G-13 but a review of the data show TSS is missing for Murrieta and Temecula Creek for October 22, 2008 and May 21, 2009.

The Copermittees' failure to provide written explanation for lack of sampling is a repeat violation. Failure to provide a written explanation for the lack of sampling data was also cited in NOV No. R9-2008-0053.

Conclusions:

The Copermittees' repeated violations indicate chronic deficiencies in the overall management of the Copermittees' monitoring program. These violations are especially significant considering the previous NOV. The Copermittees' must take all necessary steps to correct these violations and ensure that they will not occur again.

The failure to properly implement the requirements of the Monitoring and Reporting Program hinders the Copermittees' ability to comply with the goals of Order No. R9-2004-001, Monitoring and Reporting Program.

Furthermore, the fact sheet for Order No. R9-2004-001 provides that "*monitoring programs are an essential link in urban runoff management efforts.*" These violations of permit requirements will impede the Copermittees' ability to submit a comprehensive sixth year Monitoring Report that is required to discuss long term trends, recommendations for future changes in monitoring, and recommended modifications to the Copermittees' Storm Water Management Plans.

Questions pertaining to the issuance of this Notice of Violation should be directed to Alan Monji at (858) 637-7140 or amonji@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: Alan Monji
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

5/6/2010
DATE

CIWQS:
RM: 373746, 373747
Place IDs: 749045
Violations: 867149, 867151, 867153

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February 11, 2004

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