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Via E-Mail Marvin@brashind.com

Mr. Marvin Sachse

4635 Admiralty Way

Marina del Rey, Ca 90292

RE: Guidance Regarding Provisions of the General Construction Storm Water Permit Order No. 2009-0009-DWQ ("Permit")

Dear Mr. Sachse

The Building Industry of San Diego's membership includes 100 developers currently engaged in developing projects in San Diego County. Recently, some of our members have received varying guidance regarding two provisions of the General Construction Storm Water Permit Order No. 2009-0009-DWQ ("Permit"). We are not seeking a legal interpretation of these provisions. However, given your long experience in working with the industry and the regulatory agencies, we are seeking your opinion regarding prevailing industry practices from an implementation perspective. That is, given your expertise and experience what you believe a reasonable and prudent developer should do in addressing these two provisions. The two provisions we would like you to address regard the proper management of active stock piles and active construction roads.

Attachments C, D, E of the Permit provide that permittees should:

1. "Cover and berm loose stockpiled construction materials that are not actively being used (i.e. soil, spoils, aggregate, fly-ash, stucco, hydrated lime, etc.)";
2. "Contain and securely protect stockpiled waste material from wind and rain at all times unless actively being used"; and
3. "Contain stockpiled materials such as mulches and topsoil when they are not actively being used".

In your opinion, what actions should a reasonable and prudent developer regarding the deployment of Best Management Practices for active stockpiles under the following scenarios?

1. The stockpile has been created or disturbed during the prior 14 days and there is less than a 50% chance of rain predicted in the next 48 hours.

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2. The stockpile is scheduled to be used or disturbed within 14 days of its creation and there is less than a 50% chance of rain predicted in the next 48 hours.

The permit does not appear to speak directly to active haul roads or access roads within the construction site that are being used to access other construction activities. For example where the developer has graded a road that has not yet been paved but is being used by vehicles to access various construction activities on the site or is scheduled to be used for that purpose within the next fourteen days and there is less than a 50% chance of rain predicted in the next 48 hours. In your opinion what steps should a reasonable and prudent developer take regarding the deployment of Best Management Practices for active construction roads?

Thank you for your assistance in this matter.

Sincerely,

Borre Winkel

CEO & President