



EDMUND G. BROWN, JR.
GOVERNOR



MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

California Regional Water Quality Control Board, San Diego Region

October 16, 2012

Certified Mail – Return Receipt Requested

Article Number: 7011 0470 0002 8961 5247

Mr. Jack Spencer, Owner
Modern Stairways
3239 Bancroft Drive
Spring Valley, CA 91977

In reply refer to:

WDID 9371013743:WGhoram

Subject: Notice of Violation No. R9-2012-0067, Modern Stairways, General NPDES Permit No. CAS000001, Order No. 97-03-DWQ, for Discharges of Storm Water Associated With Industrial Activities

Mr. Spencer:

Enclosed is Notice of Violation (NOV) No. R9-2012-0067 issued to Modern Stairways for violations of Order No. 97-03-DWQ, a General NPDES Permit for discharges of storm water associated with industrial activities adopted by the State Water Resources Control Board, and enforced by the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board). As described in the NOV, the violations are subject to further enforcement pursuant to the California Water Code. The San Diego Water Board reserves the right to take any enforcement action authorized by law.

Please provide a written response **by November 16, 2012** that confirms the violations have been corrected and identifies a date by which the violations were corrected.

In making the determination of whether and how to proceed with further enforcement action, the San Diego Water Board will consider the severity and effect of the violation, the level of cooperation, 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 information located in the heading of this letter: "in reply refer to." For questions pertaining to the subject matter, please contact Ms. Whitney Ghoram at (858) 467-2967 or WGhoram@waterboards.ca.gov.

Respectfully,

David T. Barker
Supervising Water Resource Control Engineer
Surface Water Basins Branch

Mr. Jack Spencer
Modern Stairways

- 2 -

October 16, 2012

DTB:esb wjg
Enclosures (3): NOV Order No. R9-2012-0067
Inspection Reports

cc: Mr. Richard Diaz, County of San Diego, Program Coordinator, Watershed Protection Program, County of San Diego, Public Works, 5201 Ruffin Road, Suite P, MS 0326, San Diego, CA 92123, USA

Tech Staff Info & Use	
WDID	9371013743
NPDES No.	CAS000001
Inspection ID	2015454, 2016465
Violation ID	847939, 849167, 849165
Enforcement ID	409990, 410035, 410036



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California Regional Water Quality Control Board, San Diego Region

Certified Mail – Return Receipt Requested
Article Number: 7011 0470 0002 8961 5427

In reply refer to:
WDID 937I013743:WGhoram

October 16, 2012

NOTICE OF VIOLATION
No. R9-2012-0067

Mr. Jack Spencer, Owner
3239 Bancroft Drive
Spring Valley, CA 91977

Modern Stairways
WDID: 937I013743

Violations of Order No. 97-03-DWQ

Modern Stairways is hereby notified that the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) reserves the right to take any enforcement action authorized by law for the violations described herein.

Modern Stairways is in violation of State Water Resources Control Board (State Water Board) Order No. 97-03-DWQ, *Waste Discharge Requirements for Discharges of Storm Water Associated with Industrial Activities Excluding Construction Activities*.

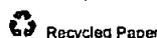
A. Summary of Violations

1. Failure to Implement Structural Best Management Practices (BMPs)

- a. Violation of Order No. 97-03-DWQ, A. Discharge Prohibitions, 1. Except as allowed in Special Conditions (D.1) of this General Permit, materials other than storm water (non-storm water discharges) that discharge either directly or indirectly to waters of the United States are prohibited. Prohibited non-storm water discharges must be either eliminated or permitted by a separate NPDES permit.
- b. Violation of Order No. 97-03-DWQ, A. Discharge Prohibitions, 2. Storm Water discharges and authorized non-storm water discharges shall not cause or threaten to cause pollution, contamination, or nuisance.

GRANT DESTACHE, CHAIR | DAVID GIBSON, EXECUTIVE OFFICER

9174 Sky Park Court, Suite 100, San Diego, CA 92123 | (858) 467-2952 | www.waterboards.ca.gov/sandiego



2. Failure to Submit Annual Reports

- a. Violation of Order No. 97-03-DWQ, Section B. Monitoring Program and Reporting Requirement, 14. Annual Report. All facility operators shall submit an annual report by July 1 of each year to the Executive Officer of the Regional Water Board responsible for the area in which the facility is located and to the local agency (if requested).

3. Inspection Observations

On May 24, 2012, and, on September 18, 2012, the San Diego Water Board conducted site inspections of Modern Stairways at 3239 Bancroft Drive, Spring Valley, to verify that the facility was still in operation, and to request past due fees and annual reports, respectively. During the September 18, 2012 inspection, annual report forms for the 2011-2012 reporting period were left with the site manager, with verbal instructions to submit the past due annual report immediately. To date, the report has not been submitted.

During both inspections the site was found in extremely poor condition, lacking adequate BMPs, and housekeeping. Concrete waste covered the entire site surface one to 3 inches deep, trash, chemicals and oils were observed on the ground without containment, and exposed to storm water which will result in offsite discharges of waste during rain events. Discharges of process waste commingled with storm water from Modern Stairways are prohibited. Discharges of waste to the street flows to a natural drainage course tributary to the Sweetwater River, a water of the United States.

B. Summary of Potential Enforcement Options

These violations may subject you to additional enforcement by the San Diego Water Board or State Water Board, including a potential civil liability assessment of \$10,000 per day of violation (Water Code section 13385) and/or any of the following enforcement actions:

Other Potential Enforcement Options	Applicable Water Code Section
Technical or Investigative Order	Sections 13267 or 13383
Cleanup and Abatement Order	Section 13304
Cease and Desist Order	Sections 13301-13303
Time Schedule Order	Sections 13300, 13308

In addition, the San Diego Water Board may consider revising or rescinding applicable waste discharge requirements, if any, referring the matter to other resource agencies, referring the matter to the State Attorney General for injunctive relief, and referral to the municipal or District Attorney for criminal prosecution.

Mr. Jack Spencer
Modern Stairways

- 3 -

October 16, 2012
Notice Of Violation Order No. R9-2012-0067

In the subject line of any response, please include the information located in the heading of this letter: "in reply refer to." Questions pertaining to this Notice of Violation should be directed to Ms. Whitney Ghoram at 858-467-2967 or WGhoram@waterboards.ca.gov.

Respectfully,



David T. Barker, P.E.
Supervising Water Resource Control Engineer
Surface Water Basins Branch

DTB:esb:wjg

Enclosures (2): Inspection Reports w/photos

cc: Mr. Richard Diaz, County of San Diego, Program Coordinator, Watershed Protection Program, County of San Diego, Public Works, 5201 Ruffin Road, Suite P, MS 0326, San Diego, CA 92123, USA

Tech Staff Info & Use	
Order No.	97-03-DWQ
WDID	9371013743
NPDES No.	CAS000001
Inspection ID	2015454, 2016465
Violation ID	847939, 849167, 849165
Enforcement ID	409990, 410035, 410036

Storm Water Industrial General Permit Inspection Report

Insp. Date & Time:	May 24, 2012	Inspected By:	Whitney Ghoram
WDID #	9 371013743	SMARTS Inspection #	2015454
Operator Name:	Mr. Jack Spencer, Owner		
Facility Name:	Modern Stairways		
Facility Address:	3239 Bancroft Drive, Spring Valley, CA 91977		
Facility Contact:	Ramon (for Jack Spencer, Owner)		

Inspection Type: Non Compliance Follow up			
SWPPP on site?	Undetermined	SWPPP Implemented/Updated?	NA
Photos Taken?	Yes	Appropriate Monitoring Program?	NA
Weather: sunny, 80 degrees		Evidence of Non-SW Discharge?	No, High Potential

The inspection was conducted to verify that facility is still in operation and to drop off three past due Storm Water fee invoices and the current FY 2012 fee invoice. The facility is poorly maintained. Housekeeping BMPs are not being implemented. Lots of debris, trash, and concrete processing dust/powder all over the site. The concrete dust is an inch thick in many places. Site crowns in center and slopes down - off site from the center, so all rain water will runoff and will carry debris with it. Open containers of oil and antifreeze are out in the open on the ground, one container was leaking. The Inspector requested immediate cleanup of the leak and oil/antifreeze containers, which, Ramon had workers do the same day, and sent me a photo confirming cleanup of the leak and containers. The inspector requested cleanup of the debris, trash, and concrete processing dust/fines spread across the site and implementation of BMPs and housekeeping procedures. There is an illicit discharge/connection in an open concrete sump outside of the bathroom. A hose is in the sump filled with dirty/septic water.

Records:
The inspector was not able to confirm whether or not a SWPPP was on site because the owner was not present.

Recommendation:
Issue a Notice of Violation to Modern Stairways for lack of structural BMP's to prevent run-off of process waste water. Request Additional BMPs.

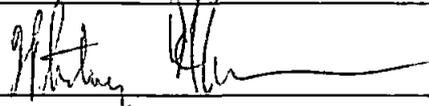
Signature <u></u> Date <u>10-16-12</u>	Date Entered: <u>05/24/12</u> Entered By: <u>W Ghoram</u> Senior Review: <u>EJB</u>
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Photo 1



Photo 2



Photo3



Photo 4



Storm Water Industrial General Permit Inspection Report

Insp. Date & Time:	September 18, 2012	Inspected By:	Whitney Ghoram
WDID #	9 371013743	SMARTS Inspection #2016465	
Operator Name:	Mr. Jack Spencer, Owner		
Facility Name:	Modern Stairways		
Facility Address:	3239 Bancroft Drive, Spring Valley, CA 91977		
Facility Contact:	Ramon (for Jack Spencer, Owner)		

Inspection Type: Non Compliance Follow up			
SWPPP on site?	Undetermined	SWPPP Implemented/Updated?	NA
Photos Taken?	Yes	Appropriate Monitoring Program?	NA
Weather: sunny, 90 degrees		Evidence of Non-SW Discharge?	No, High Potential

The inspection was conducted to drop off 2011-12 annual report forms and request immediate submittal of the past due report. The facility is still poorly maintained and in worse condition than the last inspection in May 2012. Housekeeping BMPs are not being implemented. Lots of debris, trash and concrete processing dust/powder all over the site. The concrete dust is all over the site and is 2 to 4 inches thick in many places. Site crowns in center and slopes down - off site from the center, so all rain water will runoff and will carry debris with it. Open containers of oil are out in the open on ground, Also there is a 55 gallon drum of Atlas Release chemical with the chemical solvent spilled on the drum top inside of the top lip, about 1/2 inch of fluid which is exposed. The Inspector requested immediate cleanup and proper storage of the exposed chemical and containers, cleanup of the debris, trash, and concrete processing dust/fines spread across the site, and implementation of BMPs and housekeeping procedures. I sprained my ankle when I stepped into a pothole in the asphalt that was filled with/covered by the concrete dust/powder that is all over the facility ground.

Records:
The inspector was not able to confirm whether or not a SWPPP was on site because the owner was not present.

Recommendation:
Issue a Notice of Violation to Modern Stairways for lack of structural BMP's to prevent run-off of process waste water. Request Additional BMPs. Due to discharger failure to clean up site since the last request, failure to pay fees, and failure to submit annual reports, I recommend referral to the COG for Enforcement.

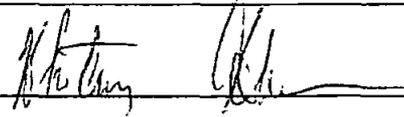
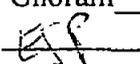
Signature <u></u>	Date <u>10-16-12</u>	Date Entered: <u>09/18/12</u> Entered By: <u>W Ghoram</u> Senior Review: <u></u>
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Photo 1



Photo 2



Photo 3



Photo 4



Photo 5



Photo 6



Photo 7

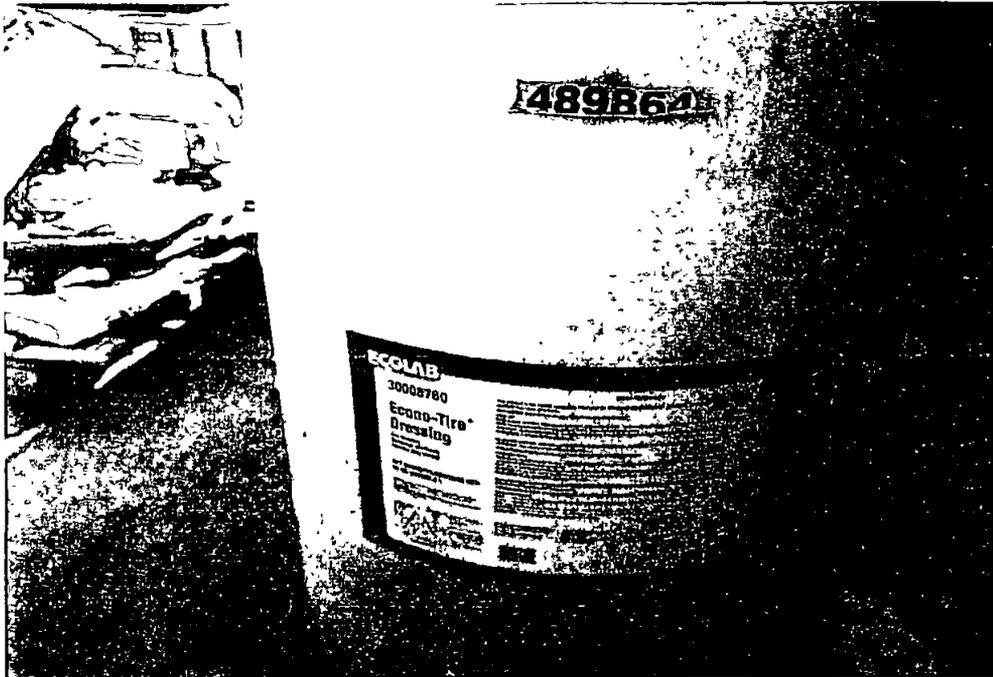


Photo 8

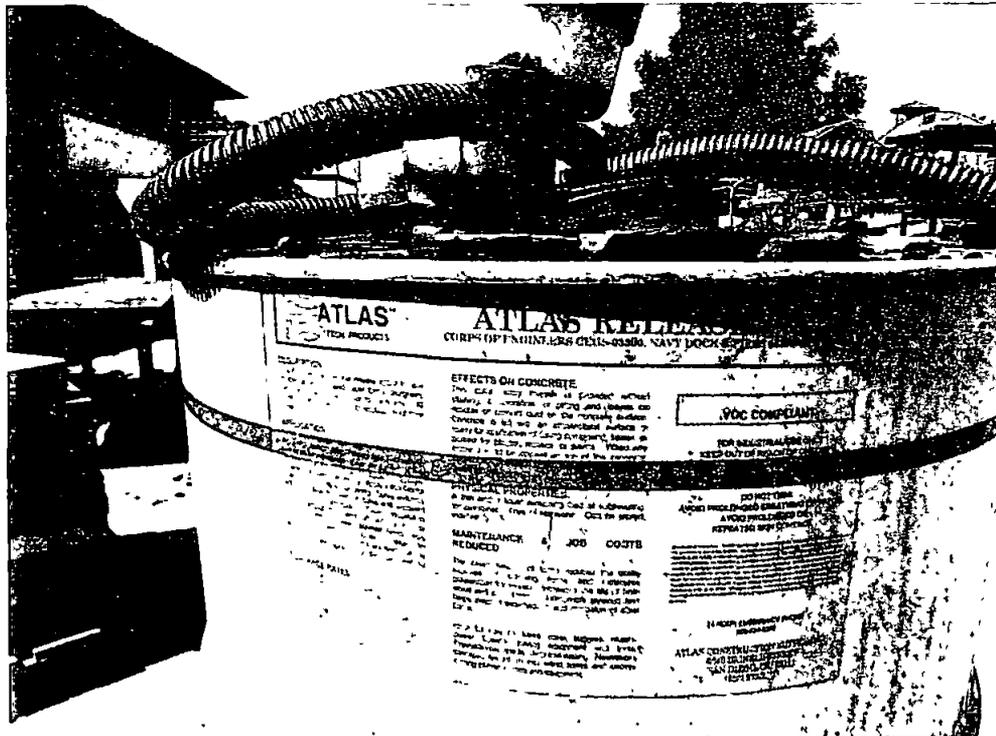


Photo 9



Photo 10



PLACE STICKER AT TOP OF ENVELOPE OR FRONT FLAP OF MAIL PIECE. RETURN ADDRESS, POSTAGE, POSTNET OR POSTNET+4 BARCODES, AND POSTAGE PAID PERMIT NO. MUST BE PRINTED OR TYPED ON THIS SIDE.

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Sent To
Jack Spencer, Modern Stairways
 Street, Apt. No.,
 or PO Box No. **3239 Bancroft Drive**
 City, State, ZIP+4
Spring Valley, CA 91977

PS Form 3800, August 2006 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:
MR JACK SPENCER, owner
Modern Stairways
3239 Bancroft Drive
Spring Valley, CA
91977

2. Article Number
 (Transfer from service label)

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent
 Addressee
X

B. Received by (Printed Name) C. Date of Delivery

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below No

3. Service type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

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