



California Regional Water Quality Control Board

San Diego Region

Over 50 Years Serving San Diego, Orange, and Riverside Counties

Recipient of the 2004 Environmental Award for Outstanding Achievement from USEPA



Linda S. Adams
Secretary for
Environmental Protection

Arnold Schwarzenegger

9174 Sky Park Court, Suite 100, San Diego, California 92123-4340

(858) 467-2952 • Fax (858) 571-6972

<http://www.waterboards.ca.gov/sandiego>

Attachment No. 15

October 26, 2007

VIA CERTIFIED MAIL

Karen King, Executive Officer
North County Transit District
810 Mission Avenue
Oceanside, CA 92054-2825

In reply refer to:
CWU:10-3022900.02:neilb

RE: NOTICE OF VIOLATION NO. R9-2007-0208 and
CWC §13267 REQUEST FOR TECHNICAL REPORT

Subject Site: North County Transit District Sprinter Rail Construction from
Oceanside to Escondido

Dear Ms. King,

Enclosed is **Notice of Violation (NOV) No. R9-2007-0208** for the subject site in the Cities of Oceanside, Vista, San Marcos and Escondido. Corrective measures and Best Management Practices (BMPs) must be implemented immediately to address these violations.

On October 4, 2007, the Regional Board received your response to Administrative Civil Liability Complaint No. R9-2007-0093, issued on August 31, 2007. On the next day, October 5, 2007, Mr. Ben Neill, Mr. Peter Peuron, and Mr. Lee Shenk conducted an inspection of the subject site to verify site compliance and validate the success of your efforts as described in the October 4, 2007 submittal.

The specific violations observed during the October 5, 2007 inspection are described in the attached NOV No. R9-2007-0208 Facility Inspection Report (FIR), incorporated herein by reference. These violations are essentially the same violations observed at your site on February 20, 2007 and March 21, 2007. These violations demonstrate that your site remains in non-compliance despite our prior enforcement actions and despite the report dated October 4, 2007 submitted by NCTD's counsel. Your October 4 report stated that your agency had taken the necessary steps to be in compliance and prevent future violations. Unfortunately, the October 5 inspection of your site revealed that the site continues to be in violation.

This continued noncompliance and the lack of adequate BMPs is a very serious problem. Violations of the Construction Storm Water Permit may subject you to further 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

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per day per violation; referral to the State Attorney General for injunctive relief; and, referral to the District Attorney for criminal prosecution.

Pursuant to California Water Code (CWC) section 13267 and 13383, the San Diego Regional Water Quality Control Board directs you to submit a **Required Technical Report (RTR)** received at the SDRWQCB no later than **5:00 PM, November 7, 2007**. The RTR is required due to the violations noted in the enclosed NOV. The RTR will be reviewed to determine if appropriate BMPs have been installed and to assess the need for further possible enforcement actions. The RTR shall include the following Sections:

1. A Site Management Section including
 - a. A detailed explanation describing reasons for the continual noncompliance by the NCTD at the Sprinter Rail construction project.
 - b. A description of additional measures taken by NCTD to prevent future violations from occurring at the subject site.
 - c. Copies of all site storm water inspection reports since October 1, 2007.
2. 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.

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.

Note: All documents requiring signature shall be signed per the General Construction Permit, Water Quality Order No. 99-08, Section C.9.a (3), as follows:

"For a municipality, State, Federal, or other public agency by either a principal executive officer, ranking elected official, or duly authorized representative. The Principal executive officer of a federal agency includes the chief executive officer of the agency or the senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrator of USEPA)."

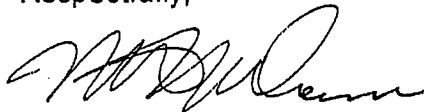
Failure to submit the above information by the date requested may result in the imposition of additional administrative civil liability pursuant to CWC sections 13268 and 13385.

Questions pertaining to this Required Technical Report and the enclosed Notice of Violation should be directed to Ben Neill at (858) 467-2983 or email: bnNeill@waterboards.ca.gov. Written correspondence should be directed to the following address:

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

I urge you to immediately take all necessary steps to ensure that your site is in compliance and to prevent future violations.

Respectfully,



MICHAEL P. McCANN
Assistant Executive Officer (Acting)

Signed pursuant to the authority delegated by the Executive Officer to the Assistant Executive Officer
MPM:cmc:bin

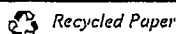
Attachments: Notice of Violation with Facility Inspection Report

CC via email:

Ken Greenberg, U.S. EPA
Peggy Strand, Best Best and Krieger
Don Bullock, NCTD
Steve O'Neil, Sheppard Mullin
Cheryl Filar, City of Escondido
Mo Lahasia, City of Oceanside
Ken St. Claire, City of San Marcos
Jayne-Strommer, City of Vista
Cid Tesoro, County of San Diego

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October 26, 2007

IN THE MATTER OF:

NOTICE OF VIOLATION
NO. R9-2007-0208

Karen King, Executive Director
North County Transit District
810 Mission Avenue
Oceanside, CA 92054-2825

WDID NO.
9 37C322900

In reply refer to:
CWU:10-3022900.02:neilb

NPDES General Permit No. CAS000002, SWRCB Order 99-08

Subject Site: North County Transit District Sprinter Rail Construction Site from
Oceanside to Escondido.

YOU ARE HEREBY NOTIFIED THAT:

You are in violation of waste discharge requirements contained in State Water Resources Control Board (SWRCB) 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. Such violation subjects you to further enforcement action by the California Regional Water Quality Control Board, San Diego Region, 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 October 5, 2007 Mr. Ben Neill, Mr. Peter Peuron, and Mr. Lee Shenk conducted an inspection of subject site and observed, documented, and photo-documented evidence of specific violations indicated in the attached Facility Inspection Report (FIR), incorporated herein by reference. North County Transit District (NCTD) representatives were not present during this inspection. The violations cited below were observed on the project site that spans the municipal jurisdictions of the City of Escondido, City of San Marcos, City of Vista, and City of Oceanside.

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I. FAILURE TO IMPLEMENT / MAINTAIN BEST MANAGEMENT PRACTICES

➤ **Pursuant to Water Quality Order No. 99-08, Special Provision C.2, Section A.6:**

- **Erosion Control:** 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 erosion control such as bonded fiber matrix, mulch, hydroseed, or blankets for several slopes, including slopes directly adjacent to Loma Alta Creek. This violation was observed within the City of Oceanside.

➤ **Pursuant to Water Quality Order No. 99-08, Special Provision C.2, Section A.8:**

- **Sediment Control:** Sediment control BMPs are required at appropriate locations along the site perimeter and at all operational internal inlets to the storm drain system at all times during the rainy season.

Observation: Your site lacked sediment controls along the site perimeter and at the storm drain inlets. Several inlets had insufficient numbers of gravel bags or other inlet protection practices. Other inlets had gravel bags that were not maintained properly. Silt fences in several places were not maintained to provide perimeter protection. This violation was observed within the Cities of Escondido, San Marcos, and Oceanside.

➤ **Pursuant to Water Quality Order No. 99-08, Special Provision C.2, Section A.8:**

- **Sediment Control:** [implement] BMPs to reduce the tracking of sediment onto public or private roads at all times.

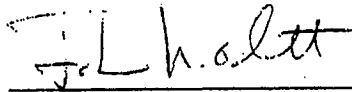
Observation: Construction site exits had inadequate BMPs to effectively reduce the tracking of sediment onto paved roads. Significant sediment tracking was observed onto North Citracado Parkway, Rancho del Oro Road, and onto private parking lots. This violation was observed within the Cities of Escondido and Oceanside.

➤ **Pursuant to Water Quality Order No. 99-08, Special Provision C.2, Section A.5.b.4 & b.5:**

- (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.

Observation: Your site had inadequate BMPs to minimize or eliminate the exposure of storm water to construction waste, trash, and materials. Trash containment was nonexistent in most areas of the construction site. Soil stockpiles at the Mar Vista Drive storage yard and at the College Boulevard Station lacked containment and coverage to minimize contact with storm water runoff. This violation was observed within the Cities of Escondido and Oceanside.

Questions pertaining to the issuance of this Notice of Violation should be directed to Ben Neill at (858) 467-2983 or email: bneill@waterboards.ca.gov.



JOHN ODERMATT, P.G.
Senior Engineering Geologist

10/26/07

Date