ERRATA SHEET

I declare under penalty of perjury that I have read the foregoing 1 - 83 **pages of my testimony, taken on** 13 JAN 2016 **(date) at** San Diego **(city),** CA **(state), and that the same is a true record of the testimony given by me at the time and place herein above set forth, with the following exceptions:**

Page	Line	Should read:	Reason for Change:** (See below before completion)
18	13	NPDES	
18	15	2010-0014-DWQ NPDES No. CAS000002."	
26	20	Basin Plan	
28	3	effluent standards and	
34	17	effort by a municipality	
43	25	the City of San Diego	
45	22	Leon	
51	6	Anderson the site	
53	9	EPA's	
59	7	the notation that in regards to	
59	24	Errantly identifies this as a question.	
69	22	by Tad	
73	3	says "Cover and berm loose stockpiled	
73	4	being used (i.e., soil, spoils	
73	5	aggregate, fly-ash, stucco, hydrated lime, etc.).	
83	23	Straw wattles hold up	

Date: 21 JAN 2016

Frank T. Melbourn

Signature of Witness

Frank T. Melbourn

Name Typed or Printed

** **THE "REASON FOR CHANGE" COLUMN SHOULD ONLY BE COMPLETED FOR FEDEI DISTRICT OR BANKRUPTCY COURT MATTERS (FRCP RULE 30(e)). THIS COLU SHOULD NOT BE COMPLETED FOR STATE COURT ACTIONS.**

Job No. _____

Rev. 3/15/14

ERRATA SHEET

I declare under penalty of perjury that I have read the foregoing 84-113 **pages of my testimony, taken on** 13 JAN 2016 **(date) at** San Diego **(city),** CA **(state), and that the same is a true record of the testimony given by me at the time and place herein above set forth, with the following exceptions:**

Page	Line	Should read:	Reason for Change:** (See below before completion)
89	5	lot of erosion that was lost. Less so where they	
94	17	one, as having been in an inactive area.	
101	8	and there is a title	
101	20	It states, "Add	
101	21	slopes at	
101	22	edges of pads, and area near entrance on Akins."	
104	15	BMPs, (e.g. visqueen or erosion	
104	16	blankets) if hydroseed growth	
104	18	Akins Avenue.	
106	20	erosion controls to stabilize	
106	21	than hydroseed, since there is	
106	25	"Stabilize area if inactive or rain in forecast."	
108	14	MR. BOYERS not Mr. Rosenbaum.	
109	12	management practice for each of those	
110	13	northern part of site lack protection."	
113	18	"Repair minor rills and	

Date: 21 JAN 2016

Frank T. Melbourn

Signature of Witness

Frank T. Melbourn

Name Typed or Printed

** **THE "REASON FOR CHANGE" COLUMN SHOULD ONLY BE COMPLETED FOR FEDER DISTRICT OR BANKRUPTCY COURT MATTERS (FRCP RULE 30(e)). THIS COLU SHOULD NOT BE COMPLETED FOR STATE COURT ACTIONS.**

Job No. _____

Rev. 3/15/14

ERRATA SHEET

I declare under penalty of perjury that I have read the foregoing 113-152 **pages of my testimony, taken on** 13 JAN 2016 **(date) at** San Diego **(city),** CA **(state), and that the same is a true record of the testimony given by me at the time and place herein above set forth, with the following exceptions:**

Page	Line	Should read:	Reason for Change:** (See below before completion)
113	25	been areas that should	
120	25	"Clean sediment out of roadways	
124	15	says, "Are concrete washouts properly	
124	18	on ground outside of washouts.	
126	1	cementitious materials.	
127	13	observed at multiple locations."	
128	22	of cementitious materials.	
129	11	cementitious materials	
133	16	Region's	
133	18	R9-2013-0152	
133	20	Orders Nos. 2009-0009-DWQ and R9-2007-0001, and Basin	
138	10	to the Construction Storm Water Permit."	
140	16	And it says, "Wood/scrap	
144	21	Effective: No."	
150	21	Protection: Sediment Trap, De-Silting Basin	
152	11	If there's a non-storm water discharge	

Date: 21 JAN 2016

Frank T. Melbourn

Signature of Witness

Frank T. Melbourn

Name Typed or Printed

** **THE "REASON FOR CHANGE" COLUMN SHOULD ONLY BE COMPLETED FOR FEDEF DISTRICT OR BANKRUPTCY COURT MATTERS (FRCP RULE 30(e)). THIS COLU SHOULD NOT BE COMPLETED FOR STATE COURT ACTIONS.**

Job No. _____

Rev. 3/15/14

ERRATA SHEET

I declare under penalty of perjury that I have read the foregoing 153-188 **pages of my testimony, taken on** 13 JAN 2016 **(date) at** San Diego **(city),** CA **(state), and that the same is a true record of the testimony given by me at the time and place herein above set forth, with the following exceptions:**

Page	Line	Should read:	Reason for Change:** (See below before completion)
157	18	In bold: Q Do you know...	
185	6	I think when I met Wayne out at	

Date: 21 JAN 2016

Frank T. Melbourn

Signature of Witness

Frank T. Melbourn

Name Typed or Printed

** THE "REASON FOR CHANGE" COLUMN SHOULD ONLY BE COMPLETED FOR FEDEI DISTRICT OR BANKRUPTCY COURT MATTERS (FRCP RULE 30(e)). THIS COLU SHOULD NOT BE COMPLETED FOR STATE COURT ACTIONS.

Job No. _____

Rev. 3/15/14

HUTCHINGS Litigation SERVICES

ORIGINAL

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD

SAN DIEGO REGION

IN THE MATTER OF:

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT
NO. R9-2015-0110
AGAINST SAN ALTOS- LEMON GROVE, LLC

_____/

DEPOSITION OF FRANK MELBOURN

TAKEN AT SAN DIEGO, CALIFORNIA

JANUARY 13, 2016

Job Number 600096

REPORTED BY DULCEMARIA DUARTE, CSR

CERTIFICATE NO. 13968

I N D E X

DEPOSITION OF FRANK MELBOURN

JANUARY 13, 2016

EXAMINATION	PAGE
BY MS. BERESFORD	5

E X H I B I T S

EXHIBITS		MARKED
1	Notice of Deposition for Frank Melbourn	7
2	Notice of Hearing and Issuance of Complaint No. R9-2015-0110 for Administrative Civil Liability against San Altos Lemon Grove, LLC for violations of Order No. 2009-0009-DWQ	17
3	Exhibits to the Technical Analysis	17
4	Appendix 5 Glossary	71
5	Correct Work Notice issued by the City of Lemon Grove on December 9, 2014	165
	Witness signature page	188
	Reporter's certificate page	189

Pursuant to Notice to Take Deposition, on the 13th day of January, 2016, commencing at the hour of 9:02 a.m., at 225 Broadway, Suite 1900, in the City of San Diego, County of San Diego, State of California, before me, Dulcemaria Duarte, Certified Shorthand Reporter in and for the State of California, personally appeared:

FRANK MELBOURN,

Called by the Defendants, who, being by me first duly sworn, was thereupon examined as a witness in said cause.

A P P E A R A N C E S

FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R9-2015-0110:

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD
By: LAURA DRABANDT, ESQ.
and
DAVID BOYERS, ESQ.
1001 I Street
P.O. Box 100
Sacramento, California 95812
(916) 341-5180
ldrabandt@waterboards.ca.gov

///

FOR SAN ALTOS-LEMON GROVE, LLC:

OPPER & VARCO, LLP
By: LINDA C. BERESFORD, ESQ.
and
WAYNE ROSENBAUM, ESQ.
225 Broadway
Suite 1900
San Diego, California 92101
(619) 231-5858
lindab@envirolwayer.com

ALSO PRESENT:

CHIARA CLEMENTE, MPH, Senior Environmental Scientist
JOSHUA ROSENBAUM, Law Clerk

SAN DIEGO, CALIFORNIA; JANUARY 13, 2016; 9:02 A.M.

FRANK MELBOURN,

having been sworn, testified as follows:

EXAMINATION

BY MS. BERESFORD:

Q Good morning, Mr. Melbourn.

A Good morning.

Q I am Linda Beresford, counsel for one of the attorneys for San Altos in this administrative matter.

Could you please state your name and spell it for the record.

A Sure. My first name is Frank, F-r-a-n-k; last name is Melbourn, M-e-l-b-o-u-r-n.

Q Thanks. Have you had your deposition taken before?

A No.

Q Well, I know you've heard this before from some of the prior depositions, but we'll go through some of the ground rules.

You're here today, appearing under oath, and we have a court reporter taking everything down. So, if possible, to have an accurate transcript, please try to respond to the questions verbally with "yes" or "no," with complete sentence, instead of nodding, or shrugging, or

saying things like "huh-uh."

Is that okay?

A Yes.

Q Thank you. Again, in order to have an accurate transcript, it's important that you understand my questions. So if you don't understand a question, please let me know, and I will do my best to rephrase it so you understand. If you answer a question, I will presume that you understand.

It is that fair?

A Yes.

Q Thank you. Also, again, in the interest of the transcript, it's easiest for the court reporter if only one of us speak at a time. So I ask that you wait for me to finish my question before you answer, and I, in turn, will do my best to wait until you finish your answer, until I ask my next question.

Is that agreeable?

A Yes.

Q Great. And then finally -- actually, not finally -- but please feel free to take a break at any time. Just let me know, and we'll take a break. My only request is that if you ask to take a break, if I have a question pending, please answer the question before we break.

Is that fair?

A Yes.

Q Okay. And I apologize, but I do have to ask: Have you taken any medication today or is there any reason why you can't give your best testimony today?

A No.

Q Thank you.

Okay. I would like to have your first exhibit be your Notice of Deposition.

Have you seen that document before?

A Yes.

MS. BERESFORD: Can we please mark this as Exhibit 1?

(Exhibit No. 1 marked.)

BY MS. BERESFORD:

Q Can you please state for the record what it is?

A This is a subpoena issued to me on December 29, 2015, noticing the deposition -- my deposition on January 13, 2016, at 9:00 a.m. at this office.

Q And did you do anything to prepare for your deposition today?

A Yes.

Q What did you do?

A I put together the documents for production, and I consulted with legal counsel.

Q Did you do anything else?

A No.

Q Did you review any specific documents?
A No.
Q And I think you indicated that you brought documents here today responsive to the subpoena; is that correct?
A Yes.
Q And I will state for the record, that counsel for the water board also provided me with a privileged log today.
Were there any documents that were not identified on the privilege log that are related to the San Altos case that you did not bring today?
A No.
Q Okay. Let's start with a little bit of your background.
A Yes.
Q Can you please tell me where you went to high school?
A I went to James Madison High School here in San Diego.
Q And did you go to college after that?
A Yes.
Q Where did you go?
A San Diego State University.
Q And when did you graduate?

A 1990.

Q And what was your degree?

A Bachelor of science in civil engineering.

Q Do you have a professional engineering registration?

A Yes.

Q Do you have any advanced degrees?

A Yes.

Q And what is that?

A I have a master of science in civil engineering from San Diego State University. I graduated in 1992, and I also have a juris doctorate from Thomas Jefferson School of Law.

Q And when did you get that?

A 1997.

Q Let's talk about your work history.

After you graduated from SDSU in 1990, did you go to work right away?

A No. I continued with work on a graduate degree.

Q Okay. And you got that degree in '92; is that correct?

A Yes.

Q And then did you get a job after that?

A Yes.

Q And where was your first job?

A At the California Regional Water Quality Control Board, San Diego Region.

Q And what was your first position there?

A As a water resource control engineer.

Q And what does that mean?

A That entails engineering work related to water quality, environmental regulation.

Q Did that involve storm water?

A Yes.

Q Can you describe for me a little bit more how it involved storm water?

A Yes. So when I joined the regional board in February of 1993, within about two weeks of my joining the office, they formed up their first ever storm water unit. And so I was a member of the storm water unit for approximately nine years.

We worked on industrial storm water compliance, construction storm water compliance, and also municipal storm water permitting.

Q So you were a member of that unit for nine years, you said?

A Yes.

Q And what did you do after you were no longer a member of that unit?

A In about 1999, 2000 -- so it would have been about

six years. In about 1999 they formed up the first water enforcement unit.

Q Are you still a member of that enforcement unit?

A Yes.

Q So you've been a member of the enforcement unit for approximately 15, 16 years?

A Yes.

Q What is your title now?

A It continues to be a water resource control engineer.

Q Okay. And so you've you worked continuously for the water board from 1992 or '93 until the present?

A Yes.

Q You've never had another outside job with another consultant?

A No.

Q I know you were a member of the storm water unit and the enforcement unit, but did you ever have any training as a storm water investigator?

A Yes.

Q Can you please describe that for me?

A Through the years there have been many training -- many trainings that have been offered through CalEPA, through the State Water Resources Control Board on inspecting industrial and construction sites. And then I've

had various enforcement-related inspection training through Western States Project.

I've attended numerous CASQA -- I'm not sure on the acronym -- but the professional organization for California storm water professionals. I've attended workshops and also seminars that they've held.

Q When was the last time you went to one of those trainings?

A Probably three to four years ago.

Q Okay. Are you a qualified storm water professional or a QSP?

A No.

Q Are you a qualified equipment developer or also known as a QSE?

A No.

Q Okay. Are you a trainer of record?

A No.

Q Okay. So we are here today primarily to talk about the Valencia Hills construction project located at 1350 San Altos Place in Lemon Grove.

Are you familiar with this project?

A Yes.

Q If I refer to it as "the site," will you understand what I'm talking about?

A Yes.

Q Okay. When did you first hear about the site?

A I would have to say August of 2014.

Q From whom did you hear about it?

A Wayne Chiu.

Q And what did he tell you about it?

A Wayne had mentioned that there was a non-storm water discharge from the site, and that he was notified of it.

Q Did he describe the type of discharge?

A He explained to me that there was a report that the developer or contractor at the site accidentally hit a water line, and that water and sediment then left the site and entered into the storm water conveyance system and into Encanto Channel.

Q Do you remember the next time you heard about the site?

A Probably around January or February of 2015.

Q And what did you hear about it then?

A I believe it was during one of our COG meetings, or compliance oversight group meetings, where we internally discuss potential enforcement matters and prioritize and assign enforcement cases. So I believe that's when I would have heard -- or that I did hear more about the site.

Q And do you remember what -- well, who was talking about the site at that time?

A I don't recall specifically who.

Q Do you recall the nature of the discussion during that meeting?

A Yes.

Q With respect to the site?

A Yes.

Q Can you describe it?

A That there were violations -- alleged violations of the Construction Storm Water Permit occurring on the site, and that there was a discussion of how to approach the site next.

Q Do you remember what the resolution of that issue was -- what the decision was on how to approach the site next?

A It's a little fuzzy, but I believe the case was assigned to Wayne Chiu to develop an administrative civil liability complaint, and that I was to assist him.

Q Have you ever visited the site?

A Yes.

Q And when was that?

A I believe it was in March of 2015.

Q How many times have you been there?

A I don't recall a specific number, but I will estimate six times.

Q So when you visited the site at that time, do you

recall, were you already intending on developing an administrative civil liability complaint?

A When --

MS. DRABANDT: I'm going to object. Attorney-client privilege.

BY MS. BERESFORD:

Q When you visited the site, had you discussed with Mr. Chiu your intent to -- that the purpose of visiting the site was for the purpose of developing an administrative civil liability complaint?

A No.

Q Okay. Have you ever discussed the site with Malik Tamimi?

A Yes.

Q Can you describe those discussions for me?

A The discussions were focused on the procedural aspects of the issuance of an administrative civil liability complaint, specifically when would be the hearing and the timing.

Q How many times did you speak with him?

A I would estimate five times.

Q Do you recall when your first conversation was?

A No.

Q Did you ever discuss any specific alleged violations of the site with Mr. Tamimi?

A No.
Q Did you ever speak with Gary Harper?
A No.
Q Did you ever speak with Leon Firsht?
A No.
Q Did you ever talk to Tad Nakatani?
A No.
Q Did you ever talk to John Quenzer?
A No.
Q Did you ever speak to Brian Nemero?
A No.
Q Have you ever spoken to John Draminski?
A No.
Q Have you ever spoken to Tamara O'Neil?
A No.
Q Okay. Do you recognize this document?
A I recognize it as an ACL complaint package. However, I was not involved with this case.
Q Oh, then I'm giving you the wrong document. My apologies.
Have you ever recognized this document?
A Yes.
Q And what is that?
A This is the notice of hearing and issuance of Complaint No. R9-2015-0110 for administrative civil

liability against San Altos Lemon Grove, LLC for violations of Order No. 2009-0009-DWQ, as amended.

MS. BERESFORD: Thank you. And let's mark that as Exhibit 2, please.

(Exhibit 2 was marked.)

BY MS. BERESFORD:

Q Have you ever seen those documents?

A Yes.

Q And what are they?

A These are the exhibits to the technical analysis that accompanied the complaint for administrative liability against San Altos.

MS. BERESFORD: Okay. And we'll mark those as Exhibit 3.

(Exhibit 3 was marked.)

MS. BERESFORD: So for purposes of clarification, the ACL and the technical report against San Altos is Exhibit 2 to the deposition, and then the exhibits to that are Exhibit 3 to the deposition.

BY MS. BERESFORD:

Q Did you prepare the ACL?

A Yes.

Q Did you have any assistance?

A Yes.

Q From whom?

A From Office of Enforcement counsel, also Wayne Chiu.

Q What did Mr. Chiu do?

A Mr. Chiu drafted an initial version of the administrative civil liability complaint that I then augmented.

Q Who collected and prepared the exhibits?

A I did.

Q Okay. Do you recognize this document?

A Yes.

Q Can you please state what it is?

A This is the Construction Storm Water Permit. It is a general NPDS permit for construction activities land disturbance activities. It's titled "Order No. 2010-0014-DWQNPDES No. PAS000002."

Q So many of my questions will relate to this permit. So if I refer to a "permit" or the "construction permit," do you understand that I will be referring to that document?

A Yes.

Q Okay. Did you rely on that permit when preparing the ACL?

A Yes.

Q Can you please describe to me how?

A I referred to the permit for various requirements and standards for determining compliance at the site.

Q Did you have assistance in interpreting that document as it applies to the ACL?

MS. DRABANDT: Objection. Attorney-client privilege.

MS. BERESFORD: I'll take that as a yes.

BY MS. BERESFORD:

Q Did you have assistance in interpreting that document from anyone other than counsel for the water board?

A Yes.

Q And from whom was that?

A Wayne Chiu.

Q And can you describe to me those conversations?

A We had conversations related to active versus inactive sections of the permit when it applies to the definition -- when it applies to erosion control activities.

And we also discussed various interpretations of different sections of the permit regarding this type of construction site of Phase 2 Construction Site or Risk Level 2 Construction Site.

Q How -- what's your understanding of what an active part of a construction site is under the permit?

A I refer to the definition in the permit.

Q And do you know what that definition is?

A Yes.

Q And what is it?

A I would refer to the permit. I don't have it memorized.

Q Do you know where we can locate it easily?

A Yes.

Q Can you do that?

A Yes.

Q Can you identify for me where in the permit the definition of "inactive" is?

A I'm looking at Attachment D to the permit on page 5, and there is a Footnote No. 1 that describes inactive areas.

Q And can you read what that says?

A Yes. "Inactive areas of construction are areas of construction activity that have been disturbed and are not scheduled to be re-disturbed for at least 14 days."

Q Did Mr. Chiu have a different definition of what inactive was?

A No.

Q Okay. Are there any other sections of the permit that you specifically recall discussing with Mr. Chiu in developing this ACL?

A The other discussions were focused on the various requirements under this section -- under this Attachment D for Risk Level 2 Construction Sites, but it was just general. I can't recall anything specific.

Q Okay. Are several of the exhibits to the ACL inspection reports prepared by the employees of the City of Lemon Grove?

A Yes.

Q When the City of Lemon Grove was conducting inspections of the site, do you know if their intention was to conduct an inspection for violations of the construction permit?

MS. DRABANDT: Objection. Beyond the witness's knowledge. Speculative.

BY MS. BERESFORD:

Q Okay. You can still answer.

A I don't know.

Q So do you know what the City's goals were when inspecting the site?

MS. DRABANDT: Objection. Speculative.

THE WITNESS: No.

BY MS. BERESFORD:

Q Are several of the exhibits to the ACL inspection reports prepared by employees of D-Max Engineering?

A Yes.

Q Do you know what D-Max Engineering's role was with respect to the site?

A No.

Q When D-Max Engineering was inspecting the site, do

you know if their intention was to conduct an inspection of the site for violations of the construction permit?

MS. DRABANDT: Objection. Speculative.

THE WITNESS: No.

BY MS. BERESFORD:

Q Do you know what their goals were when inspecting the site?

MS. DRABANDT: Objection. Speculative.

THE WITNESS: No.

BY MS. BERESFORD:

Q Okay. Are you aware that Mr. Harper of the City of Lemon Grove and Mr. Nakatani of D-Max testified that they were not inspecting the sites for violations of the construction permit?

A Yes.

Q When did you become aware of that?

A During the depositions prior to the first of the year.

Q Did you have -- did you know that they stated that they were not inspecting the site for violations of the construction permit before their depositions?

A No.

Q Okay. Are you familiar with the City of Lemon Grove's "Jurisdictional Urban Management Runoff Plan"?

A No.

Q Do you know if that plan defines what they -- how they define an inactive part of a construction site?

MS. DRABANDT: Objection. Speculative.

THE WITNESS: No.

BY MS. BERESFORD:

Q Okay. I will take that back from you (indicating). Are you familiar with this document?

A Yes.

Q Can you please state what it is?

A It is the "Water Quality Enforcement Policy" issued by the State Water Resources Control Board, and it says it is effective as of May 20, 2010.

Q Did you rely on that document when preparing the ACL for the site?

A Yes.

Q Can you please describe for me how?

A There is guidance in how to proceed with enforcement cases. There is also -- most specifically the section that I relied upon is the penalty methodology section in developing a penalty amount for the ACL complaint.

Q Did you have assistance in interpreting the penalty methodology section when drafting the ACL?

MS. DRABANDT: Objection. Attorney-client privilege.

THE WITNESS: No.

BY MS. BERESFORD:

Q So you prepared the penalty methodology section on your own?

A Yes.

Q Okay. I will take that back (indicating).

Are you familiar with that document?

A Yes.

Q Can you please state what it is?

A It is the "California Storm Water BMP Handbook Portal." It says, "Handbook Portal," but it's a handbook for construction sites, and it is dated August 2011, and it is copyrighted by the California Storm Water Quality Association also known as CASQA.

Q Do you think that document states the standard of care that construction sites should follow for preparing and implementing best management practices?

A Could you rephrase the question?

Q Sure. When construction sites are trying to develop and implement best management practices for storm water protection, does that handbook provide the standard of care that they should follow?

A No.

Q Where can they find that standard of care?

A I would suggest that standard of care should be

found in the Construction Storm Water Permit.

Q Does the permit describe all situations?

A No.

Q Does that handbook provide additional information on various situations?

A Yes.

Q In your experience do most storm water practitioners rely on the CASQA handbook for determining appropriate BMPs for construction sites?

MS. DRABANDT: Objection. Speculative.

THE WITNESS: No.

BY MS. BERESFORD:

Q What do you think they rely on?

A I don't know.

Q Did you rely on that document when preparing the ACL for the site?

A Yes.

Q Can you please describe for me how?

A I reviewed several of the best management practices or BMPs that are described in there for gaining insight and knowledge as to which BMPs are best suited for different situations.

Q It sounds like you've got it from the standard of care for certain BMPs; is that correct?

MS. DRABANDT: Objection. Argumentative.

BY MS. BERESFORD:

Q That's okay. You don't have to answer.

Did you have assistance from anyone in reviewing and interpreting that document?

A No.

Q Okay. I will take that back (indicating).

Would you like to take a break?

A No.

Q All right.

A Just stretching my legs.

Q All right. I think we're going to get into now the specific violations that were alleged in the administrative civil liability complaint for the site.

So I would like to talk about Violation No. 1. If you could please refer to Exhibit 2 and state for the record what Violation No. 1 was -- alleged Violation No. 1.

A Violation No. 1 states, "The discharger violated Water Code Section 13376, Construction Storm Water Permit Discharge Prohibitions 3.A and 3.B, Section V.A.2, and Attachment D, Section A.1.B, Base Implant Waste Discharge Prohibition No. 8, and the Federal Water Pollution Control Act also known as the Clean Water Act. "Citation 33 USC, Section 1251 et seq. "Section 301, by discharging sediment-laden storm water from the site into Encanto Channel and thence Chollas Creek on the following six days:

December 4, 2014, December 12, 2014, December 17, 2014, December 31, 2014, May 8th, 2015, and September 15, 2015."

Q Thank you. So to paraphrase -- and please correct me if I'm wrong -- but the primary basis of the allegation -- of the alleged violation is for discharging sediment-laden storm water from the cite into Encanto Channel and thence Chollas Creek on those dates; is that correct?

A Yes.

Q Okay. I would like to talk -- well, first, is sediment a pollutant under the Construction General Permit?

A Yes.

Q Is it a pollutant if it's discharged at any level at any concentration?

A I would say yes. It's a pollutant when it's discharged. The -- yes.

Q Is sediment subject to the best control technology standard as defined in Appendix 5 of the construction permit?

A Yes.

Q Is compliance with best control technology measured by compliance with Section 5A2 and Table One of the permit?

A Could you repeat that?

Q Yes. Do you recognize that page?

A Yes.

Q And what is that page?

A It's a page out of the Construction Storm Water Permit related to F1 Standards in receiving water monitoring.

Q So my question is: Is compliance with best control technology measured by compliance with that table for sediment?

A Could you repeat the question one more time?

Q Yes.

MS. BERESFORD: Could you please read it back for me, please?

(Last question was read.)

MS. DRABANDT: Objection. Calls for legal conclusion.

THE WITNESS: My response is no.

BY MS. BERESFORD:

Q So how do they measure compliance with best control technology for sediment?

MS. DRABANDT: Same objection.

THE WITNESS: Well, I understood you to say compliance in general. So compliance with BCT or the best conventional technology means two things to me -- two different things because we have other regulations that apply, and so I would just say that with this -- compliance with BCT is one aspect of it, but there could be other

things that occur on the construction site that could cause other type of violations.

BY MS. BERESFORD:

Q Okay. So when evaluating whether there has been a violation of a permit for discharge of sediment, does compliance with that table matter in any way?

MS. DRABANDT: Objection. Calls for legal conclusion.

THE WITNESS: The information in the table is useful for determining how well or effective some of the best management practices are at the site, but, in my opinion, compliance with those numbers do not necessarily constitute compliance with the permit.

BY MS. BERESFORD:

Q So if there is a discharge of sediment and someone takes a turbidity sample, and the turbidity sample is 10 NTUs, is that a violation of the permit?

MS. DRABANDT: Objection. Calls for legal conclusion.

THE WITNESS: I would say that a sample with 10 NTU is a very low amount, and so that would be what we would consider a fairly clean sample.

So that would not raise my -- my -- raise any alarms with me if I saw something of that amount, but, again, that is just one factor there could be other things

that could be a problem with that discharge other than sediment.

BY MS. BERESFORD:

Q If we're only talking about sediment, what number raises your alarm?

A There's so many factors that go into analyzing or monitoring storm water effluent, and so, yes, turbidity is one factor that we look at, but absent that just one factor, it would be tough for me to say a specific number that -- that does raise an alarm for me.

I guess we could go back and forth on some numbers. I said 10 seems pretty clean to me. But, obviously, I do rely upon the numbers that are suggested in here as guidance.

But there are some -- some other factors that go into it that would base my opinion on whether a site is in compliance or not. It's more than just looking at turbidity.

Q So to be clear, just for the record, when you said, "I look at the numbers in here for guidance," you were referring to Table One; is that correct?

A Yes.

Q Okay. All right. Do you know what analytical measure is used to determine sediment values in a sample?

A Could you rephrase that?

Q Yes. What analytical measure is used to evaluate turbidity concentrations in a sample?

A Well, there are field monitors -- handheld field monitors that can determine turbidity. You can also take a sample and take it into a lab, and then it can be analyzed. So there are several methods by which it can be determined.

Q The construction permit doesn't -- does the construction permit define a specific method that's supposed to be used?

A I don't recall.

Q Okay. All right. If you could refer to the exhibits to the ACL, which in total are Exhibit No. 3. And I would like you to refer to Exhibit No. 3 of Exhibit 3 which I believe is a document with the date at the top of December 4.

Do you recognize this document?

A Yes.

Q Can you please state what it is?

A It is a "Stop Work Notice of Violation" issued by the City of Lemon Grove to the Valencia project on December 4, 2014.

Q Did you rely on this document for alleged Violation No. 1?

A Yes.

Q The document has yellow highlighting on it.

Did you make that yellow highlighting?

A Yes.

Q And there's also red underline and red boxes.

Did you make those edits to the document?

A Yes.

Q Okay. Is 69th Street a water of the United States?

MS. DRABANDT: Objection. Calls for legal conclusion.

THE WITNESS: No.

BY MS. BERESFORD:

Q Did you rely on any other facts when alleging Violation No. 1 for December 4?

A No.

Q What facts demonstrate a discharge to Encanto Channel for December 4, 2014?

A To me what were specifically telling were the photographs that were attached to the report.

Q And can you specify in particular which photograph was used with respect to this specific violation?

A There were several. In general in looking at the photographs, they demonstrate that there was sediment-laden runoff that overwhelmed the best management practices at the site, spilled over the gravel bags, entered into the street, deposited a lot of water and sediment into the street, and then was discharged into the storm water conveyance system,

and also directly into Encanto Channel.

Q Can you show me the evidence that it was deposited into the storm water conveyance channel?

A I rely on the fact that I can see that the sediment reached all the way down to -- all the way down -- flowed down Akins Avenue into the City of San Diego storm water conveyance system. There's two inlets on Akins Avenue on each side of the street. Those connect into Encanto Channel.

Also directly opposite from the discharge point that's shown, there's -- I'm looking at the first page of photos, and I'm looking at the middle row, far right column, there's some bags of -- gravel bags where you can see sediment has overtopped -- sediment-laden water has overtopped that. The photo below it also shows the entrance.

Opposite that there is a connection to Encanto Channel where I observed the site several times where it would discharge there. So in my opinion based upon seeing the sediment in the street and in the gutters from these photos, that there was a discharge into the city storm water conveyance system and also into Encanto Channel directly.

Q What facts are there that copper, lead, or zinc entered Chollas Creek?

A I would rely on studies that have been done

nationwide and also statewide that show that construction storm water runoff is likely to contain those pollutants.

Q Do you have an estimate for this particular site what the concentrations of copper, lead, or zinc might be?

A No.

Q Do you know if any recommendations were provided to the discharger advising them of additional BMPs that they should implement on December 4?

A Basing this solely on Exhibit 3, I see that there was a box checked "Erosion control is inadequate," and a box that was checked saying "Failure to maintain erosion/sediment control device."

So from that I would take that the City notified the developer San Altos that those needed to be addressed.

Furthermore, the box at the top is checked saying "Stop Work Notice of Violation." That's a very serious effort by municipality. That's one of the strongest enforcement tools they have is to tell the developer they have to stop construction work on the site, and that the only work they can do is fixing their erosion control deficiencies.

Because for the developer time is money, and so every day that they are not constructing is another day that they are losing out on -- on profits. So this is a very serious matter when I see a city or a municipality issue a

Stop Work Notice. I know the developers do not like that.

I also notice on there that it says that the City will be notifying the regional board regarding the deficiencies.

Q Do you know if they implemented any of the recommendations within the 72 hours?

A I don't believe they did based upon the follow-up inspections that are in the exhibits and the continued deficiencies at the site for best management practices, and the continued existence of the Stop Work Notice, but I'm basing it upon those inspection reports and those enforcement documents from the City of Lemon Grove.

Q Has the water board issued other administrative civil liability complaints relying on inspection reports from a city?

A I believe so.

Q Do you know approximately how many?

A I do not.

Q Is that something that occurs frequently?

A I don't know.

Q Okay. Specific to December 4, what facts demonstrate the impacts to beneficial uses from this December 4 alleged discharge impacted Encanto Channel?

A Sediment can be very toxic to the wildlife. It ends up smothering the animals or the critters that live

in -- and I'm talking about insects and fish.

They get smothered by the sediment, so they're unable to see because of the turbidity. It's so cloudy. So it affects reproduction. It affects their ability to feed, and, furthermore, it -- it just clogs up and bottles up that system.

Q Do you have evidence that those impacts occurred in this instance?

A For specifically Exhibit 3?

Q Yes.

A I would say I don't have anything specific that shows that there was an impact to beneficial uses, but I would say that based upon the photographs that I see here, that it would be highly likely that there were impacts to beneficial uses based upon the amount of sediment that I see on the street, based upon the size of this construction site, and the difficulties the site had with implementing effective best management practices.

Q Do you have facts that this specific discharge created a direct threat to potential receptors?

A Only my knowledge that discharges like this do cause a threat.

Q Could more than 50 percent of the sediments resulting from this alleged discharge be removed from Encanto Channel?

A At this point, no.

Q Could it have been?

A Highly unlikely.

Q And why is that?

A When there are flows through Encanto Channel or any storm water conveyance system or creek, the flows are usually strong enough to where they will push through sediment.

There will always be some sediment that will stay behind typically, unless it's a very, very strong event. But typically the sediment will be pushed down, and so it would be very difficult to recover.

Q Do you know what the flow of Encanto Channel was on December 4?

A I do not.

Q Do you know if Mr. Harper actually observed whether or not sediment was flowing into the storm water conveyance on December 4?

A I do not know for sure. However, I will point out that as the listed inspector for the City for this inspection report/Notice of Violation Work Stop Notice, that -- and also an assumption that I would make that he took these photographs -- but on the -- on the third page of the photographs looking at the left-hand column middle photo, that there is flow of sediment-laden water going down

Akins Avenue towards the inlet.

So I would be surprised if he didn't see it go in. I believe the photo below it shows the inlet, but it's a little hard for me to see it in this reproduction of the photo.

Q Okay. Thank you. Let's talk about December 12th which is Exhibit No. 7, or I would like to refer to it as Exhibit No. 7 to the ACL.

BY MS. BERESFORD:

Q Do you recognize Exhibit 7?

A Yes.

Q Can you state what it is?

A Exhibit No. 7 contains -- the cover on Exhibit 7 is the administrative citation from the City of Lemon Grove to Tim Anderson the project manager for the San Altos Lemon Grove, LLC Development. It's dated -- the date of the violation observed is December 12, 2014. The date of the citation is December 15, 2014, and was issued by Leon Firsht.

Q Did you rely on this document for the -- for alleging that Violation No. 1 occurred on December 12th?

A I did. I also would like to add that in addition with Exhibit No. 7 is some attachments.

There's the attachment describing the Lemon Grove Municipal Code for discharge of non-storm water prohibited.

There's also a D-Max Engineering, Inc. Memo dated December 12, 2014, from John Quenzer to Malik Tamimi. And it includes photographs and also sample results of turbidity.

Q Did you rely on any other evidence for alleging Violation No. 1 for December 12th?

A No.

Q Did you make the highlighting and red boxes that appear on Exhibit No. 7?

A Yes.

Q Okay. What facts indicate that sediment -- that storm water laden with sediment entered into the storm drain on December 12th?

A To me, what was most telling was the photographs. Specifically the photograph on page 3 of the D-Max Engineering report, and it's titled "Photo 2 Sites Valencia San Altos" which is the red arrow, and the background flow of runoff is the yellow arrow.

So what was most telling to me was the red arrow was displaying the sediment-laden runoff coming from the construction site through underneath or over the perimeter of the construction site, and the water is cloudy indicating that it's highly turbid and full of sediment.

Whereas, the runoff that's pointed by the yellow area is the runoff coming from the residential area, upstream, and you can see that it's clear.

And this is further indicated when you look at the next page, page 44 of the D-Max Engineering report of December 12, 2014, that has Photo 5, a photograph depicting two cups full of runoff, one from the red arrow the San Altos site, and one from the background or residential area, and the background is clear. It looks like you could drink it. Whereas the runoff from the San Altos site is cloudy or turbid indicating to me that it's full of runoff.

But to me that was very telling because the runoff from the residential area was what you would expect it, clear, and then the runoff from the construction site was -- was cloudy.

And then you can see there's a gap in the curb, and the sediment was running off through that gap and directly into Encanto Channel, so that was a direct discharge.

Q Looking at Photo 2, do you know how far that picture is from a storm drain inlet?

A That is upstream of the storm drain inlet for Akins Avenue. The flow is going from the bottom of the photograph towards the top. But if you look in the middle of that curb, you can see there's a gap in the curb, and that's where the discharge was occurring, and that was flowing directly into Encanto Channel for that discharge there.

The photo down below is the storm drain inlet which is -- that's Photo 3 on that same page -- is depicting the

storm drain inlet that's the City of San Diego storm water conveyance system, and that's where other flows from the construction site flowed down and into.

Q Does the December 12 D-Max Engineering memo that we're talking about state that there was water flowing through this -- I don't see the gap in the curb, but you say there's a gap in the curb.

They state that they saw there was water flowing over the curb into Encanto Channel there?

A I'd have to read this report. No.

Q Did you rely on the turbidity sampling that D-Max did as part of preparing or alleging this violation on this date?

A It certainly is a high number, but there's enough information from the photographs alone, to me, to justify an alleged violation.

Q Do you know what method Mr. Quenzer used to measure the turbidity?

A The D-Max report on the second paragraph of page 1 says each sample is collected and analyzed for turbidity using a calibrated field meter.

Q Do you have his calibrations logs?

A I do not.

Q Do you know if he has a QAQC log for the data?

A I do not.

Q Okay. Moving to December 17, I would like to refer you to Exhibit No. 10.

A I have it.

Q Okay. Can you please state what Exhibit No. 10 is?

A Exhibit No. 10 is a D-Max Engineering, Incorporated memo dated December 17, 2014 from Brian Nemero to Malik Tamimi, and the subject line states "December 17, 2014, Field Visit at Valencia Construction Site."

Q Did you rely on this document to state that there was the alleged Violation No. 1 on December 17?

A Yes.

Q Did you rely on any other facts for the allegation that Violation No. 1 occurred on December 17?

A No.

Q Did you make the highlighting and red underlining on this document?

A Yes.

Q And what are the facts here that support that sediment entered into the storm drain on December 17?

A I relied upon the photographs that were attached to the report. Photograph No. 1 is the construction site entrance that is located on Akins Avenue. It's adjacent to a City of San Diego neighborhood, and the gravel bags are covered in sediment.

There is sediment in the street. The gravel bags

are breaking apart, but it's clear that sediment came off the site and overwhelmed the gravel bags there. Photograph 2 is another photo, just a close up of that, but it's -- you can see there's at the bottom of Photo 2 there's a blue curb, looks like a handicap curb. And it's hard to tell that it's blue because it's covered in brown sediment.

Photograph 3 on the following page demonstrates that there had been evidence of a sediment flow down Akins Avenue through the street.

And Photograph 4 continues to flow downstream on Akins Avenue from the construction site now into the City of San Diego's jurisdiction. The fence to the right -- just beyond that fence is Encanto Channel. There are storm drain inlets on both sides of the curb further downstream from this photo. And Photo 4 shows the activities by a contractor power washing the street to remove sediment from the street.

So based upon these photographs -- well, and there's continued pictures on 5 and 6 of the power washing down on Akins Avenue further along the City of San Diego residences.

But to me it clearly indicates there was a sediment discharge from the construction site into the gutter, and then ultimately into the storm water conveyance system for the City of Sand Diego directly into Encanto Channel.

Q Going to Photos 1 and 2, do you know how far that is from the storm drain inlet?

A I don't know specifically, but I would say that it's probably -- I'm going to estimate six or seven houses down. It's before you come to 69th Street.

Q And in Photo 5 and 6, they're power washing; is that correct?

A Yes. In photo 6 I can see a gentleman power washing the street and gutter, and in Photo 5 it looks like somebody with a squeegee-type device pushing water around.

Q Is it possible that they prevented the sediment you see in Photos 1 and 2 from reaching the storm drain by their power-washing activities?

MS. DRABANDT: Objection. Speculative.

THE WITNESS: My belief is that they were unable to do that because there was a storm event that happened in the early morning, and so I -- I -- I doubt they were out there on the site during the middle of the night doing that work. It looks like they were doing it post-discharge.

BY MS. BERESFORD:

Q What records do you have of the time of that storm?

A Well, one, it states it in the first paragraph of this memo, but also we look at rainfall data for the area. And that's one thing that we do to look to see when activity has occurred for precipitation.

Q So did anyone observe the sediment going into the storm drain?

A I don't know.

Q Do you know which weather station you rely on when you're taking your rainfall data?

A I know from one of my inspection reports that the NOAA Station for Lemon Grove was not active, and so I believe at one point I've cited the La Mesa Station which is close by. And also another weather reporting station that we've used for that region is the one at Gillespie Field.

Q How far is that from the site?

A Off the top of my head, I don't know. But it's when -- when one does a search for the closest weather stations, those are the two that come up.

Q Is there a station at Federal Avenue?

A I do not know.

Q Okay. I would like to talk about December 31, please, and specifically Exhibit No. 12 to the ACL.

A I have Exhibit No. 12.

Q And what is that?

A Exhibit No. 12 is a D-Max Engineering, Incorporated memo dated December 31, 2014, from John Quenzer to Leo Firsht and Malik Tamimi.

The subject states "December 31st, 2014, Field Visit at Valencia Construction Site."

Q Did you rely on this memo for purposes of alleging Violation No. 1 for December 31, 2014?

A Yes.

Q Did you rely on any other facts for purposes of alleging Violation No. 1 for December 31?

A No.

Q Did you make the highlighting and redlining on the exhibit?

A Yes.

Q Okay. Can you please describe for me what facts demonstrate the discharge to Encanto Channel on December 31?

A I relied upon the photographs that were attached to the D-Max memo. Photo 1 demonstrates a sediment-laden and runoff leaving the construction site. It's very brown, very dark in contrast with the street.

And then I can see in the following photos such as Photos 2 and 3 shows the flows down along Akins Avenue from the construction site of the turbid sediment-laden storm water runoff.

And then the final Photograph 5 shows continuation of the runoff down towards the storm water conveyance inlet -- storm drain inlet just before you get to 69th Street on Akins Avenue. And you can see sediment has dropped out into the street, and there's still some water in the curb, and as it flows towards the gravel bags that are

surrounding the storm drain inlet.

Q So I see in Photo 5 gravel bags around the inlet. Was there any evidence that sediment entered the storm drain system at that location?

A From this photograph I cannot see that it entered in. But given my experience with doing construction inspections through the years, gravel bags will slow down the flow of sediment-laden runoff, but they will not prevent the discharge of sediment-laden runoff from entering into a storm drain in that situation in that set up.

So, in my opinion, it was highly likely that there was a discharge of sediment during this storm event with construction runoff from the site.

Q Did you rely on any of the turbidity sampling for purposes of determining your belief that a discharge occurred on December 31?

A I did see that they were in there, but I did not rely upon that. I relied upon the photographs and my observations from the photographs.

Q I had asked you earlier some questions specific to December. For purposes of convenience, I'm going to try to ask them generally for all of the December discharges. If you don't understand my questions, please let me know, and I will break them apart.

But earlier we had talked about what facts there

were that copper, lead, or zinc entered Chollas Creek, and we were talking specifically about December 4.

With respect to the December 12, 17, or 31, do you have any additional information for those dates that copper, lead or zinc entered Chollas Creek from these alleged discharges?

A No.

Q Okay. And for December 12, 17, and 31, do you have any facts beyond what we talked about for December 4 that impacts to beneficial uses from these alleged discharges impacted Chollas Creek or Encanto Channel?

A No.

Q And similar to my question about direct threat to potential receptors, do you have any additional facts for December 12, 17, or 31 that these alleged discharges caused a direct threat to potential receptors?

A No.

Q Okay. Let's talk about May 8, please, and I will refer you to Exhibit No. 18 of the ACL -- actually, let's move on.

Let's talk about September 15th, please. So I will refer you to Exhibit No. 22 of the ACL.

A I have it.

Q Can you please state what it is?

A Exhibit No. 22 is a City of Lemon Grove inspection form for the construction storm water compliance. The

inspector is Tad Nakatani. It's dated and initialed as September 15, 2015, 2:00 p.m., and it's an inspection of the San Altos Lemon Grove, LLC development named Valencia.

Q And did you rely on this document for purposes of alleging Violation No. 1 for September 15, 2015?

A I relied upon Exhibit No. 22 and Exhibit No. 21 for this allegation of a discharge.

Q For -- can you please identify for me the facts in Exhibit No. 22 that you relied on in saying that there was a discharge to Encanto Channel on September 15?

A Yes. First, it notes that's there was a rain event that happened since, you know, the last inspection here. It says that it was approximately 8/10ths of an inch.

Overall, in looking at the inspection report, it notes that there were significant areas of the site that lacked erosion control, that there was evidence of erosion throughout the site. It states that their physical stabilization was not effective. That there was some areas of the site were lacking perimeter control that would allow erosion to leave the site. There was a notation that there was no inlet protection on a storm drain near the southeast corner which would allow sediment-laden runoff to enter unchecked into the storm water conveyance system.

Furthermore, it states that there was a significant sediment on streets within the project and in gutter on

Akins. That there is the need for best management practice TC-1 which is protection of construction entrances, and it says, "TC-1 is needed on all driveways where vehicles will be driving."

Furthermore, it states that there are some small sediment piles that are not protected on the site. There's litter waste throughout the site. And then finally, it states that there was some sediment in the road and gutter near the southeast corner, and that sediment -- let's see.

So in conjunction with that statement and then also the recommended BMP recommendations -- it talks about improving perimeter controls, cleaning sediment out of the roadways and gutters, and adding inlet protection.

To me, based on the totality of that from this inspection report from the text of it that there was a discharge of sediment-laden runoff from the site that entered into Akins Avenue and flowed down it and likely entered into the storm water conveyance system.

Q Does it note that he saw sediment in the storm drain area?

A No.

Q And what are the facts from Exhibit 21 that you rely on to support your allegation of Violation No. 1 for September 15th?

A Exhibit No. 21 is an administrative citation from

the City of Lemon Grove that was issued on September 22, 2015, by Gary Harper for violations that were observed on September 15, 2015. Notably, it talked about inadequate BMPs, but also it says evidence of discharge reports.

The citation was for a $1,000 it was issued to Tim Anderson the cite representative project manager for the San Altos Lemon Grove Project-Valencia Hills.

Q Do you know what they -- what the City relied on when it issued the citation stating evidence of discharge reports?

A No.

Q Are you aware that citation is under appeal?

A I'm aware that some citations are under appeal. I'm unsure whether that one is specifically under appeal.

Q Would that matter to your evaluation if the City were to retract that citation?

MS. DRABANDT: Objection. Speculative.

THE WITNESS: At this point I am confident with the allegation and the information I have in front of me.

BY MS. BERESFORD:

Q Could more than 50 percent of the sediment resulting from the alleged discharge on September 15 have been removed from Encanto Channel?

A I do not know. It is my opinion that it would be highly unlikely based on my experience in conducting

construction storm water inspections that for most discharges of sediment especially one like Encanto Channel where it has a hard bottom or concreted sides, it is very difficult to recover sediment. And I am unaware that any effort was made to recover the sediment.

Q Okay. We've been going about an hour and a half. Should we take a short break?

MS. DRABANDT: That's good.

THE WITNESS: That sounds good.

(Recess.)

MS. BERESFORD: Back on the record.

BY MS. BERESFORD:

Q Going back to alleged Violation No. 1 for September 15, you stated that you relied on facts as discussed in Exhibit 21 and Exhibit 22 to the ACL.

Did you rely on any other facts for alleged Violation No. 1 for September 15?

A There were -- I was just thinking about this. You know, I did look at rainfall data, looked at the other inspection reports, you know, kind of the totality of stuff for the site, the compliance overall for the site. I think that's it.

Q Okay. And earlier we were talking about facts relating to whether or not copper, lead, or zinc entered Chollas Creek, and I believe you indicated to me that you

relied on various studies for that purpose; is that correct?

A Yes.

Q Were those studies stated in the ACL or the technical report?

A No.

Q Do you know what those studies specifically were?

A There was a Caltrans study. There was one, I believe, for -- for statewide construction sites. I don't recall the -- the author, and then the CEPA's guidance concerning what is in construction runoff.

But I believe in the permit, itself, it talks about what are the constituents of construction storm water runoff.

Q Okay. Moving right along to Violation No. 2. If you could, please, refer to the ACL complaint and state what alleged Violation No. 2 is.

A I may have lost the first part. Let me see. Okay.

Q Why don't you clip --

A Sure.

Q -- to Exhibit No. 2 --

A Yeah.

Q -- so that stays together?

A Will do. Okay. Violation No. 2 in the complaint states "The discharger violated Construction Storm Water Permit, Attachment D, Section B, 1B by failing to implement

material stockpile BMPs at the site on the following 10 days: December 2 through December 8, 2014, December 15, 2014, May 13, 2015, and September 15, 2015."

Q Earlier we talked about the definition of an inactive site.

Does the construction permit define when a site is actively being used?

A There is a definition under the "Erosion Control Section" that was right underneath the Footnote 1 that we discussed earlier in relation to erosion controls.

Q And that's for active areas?

A Yes.

Q Okay. Do you know how the Lemon Grove inspectors defined active versus inactive areas?

A No.

Q Do you know how the D-Max Engineer inspectors defined active versus inactive areas?

A No.

Q Okay. Would it be reasonable for a construction company to not cover a stockpile that has been used within the past 14 days and the chance of rain is less than 50 percent in the next 48 hours?

MS. DRABANDT: Objection. Speculative.

THE WITNESS: You're asking me if it's reasonable. I would say that it would be a violation of the Construction

Storm Water Permit if they were to do so.

BY MS. BERESFORD:

Q To not cover an active stockpile?

A To not cover a stockpile that's not actively being worked on.

Q Okay. How do you define -- or how does the permit define actively being used?

MS. DRABANDT: Objection. Calls for legal conclusion.

THE WITNESS: That section of the permit does not define actively.

BY MS. BERESFORD:

Q Do you -- when -- in your interpretations is it -- is that definition different than whether it's been used in the last 14 days?

A Yes.

Q Can you please be more specific then in what your definition of it is then?

A If you read the permit language specifically, it's in a section that's in a different section from the active versus inactive definition, and it uses the word "actively," and my reading of that section of the permit is that one is actively pulling material from that stockpile.

And the reason being, is that we are not only concerned with erosion due to rain events, but there's also

a component that's concerned about wind erosion. And so, obviously, if a sediment pile or some sort of a material pile is not covered and not being used, then it would be open to wind erosion.

So, therefore, it is our understanding of the permit that unless one is actively removing material from that stockpile, it needs to be covered.

Q Okay. Let's talk about December 2nd, and if I can refer you to Exhibit No. 2 of the ACL?

A I have it.

Q Did you rely on this document in alleging Violation No. 2 for December 2nd?

A Yes.

Q Did you rely on any other facts for purposes of alleging Violation No. 2 for December 2nd?

A Yes.

Q And what other facts did you rely on?

A I believe I looked at rainfall data indicating that there were imminent storms.

Q Did you rely on any other facts for alleging the Violation No. 2 for December 2nd?

A Mainly the photographs from -- from the inspection report. There might have been some other things, but right now just mainly I recall using the photographs.

Q Okay. Did you do the highlighting and red box

notations on this Exhibit No. 2?

A Yes.

Q Okay. And what were the stockpiles that are subject to the violation for the State?

Well, I can see on -- it looks like on page 5 of the photographs, there's a photograph top center dated December 2, 2014, 12:48 p.m. I've put a box around it in red and put a text box stating "Unprotected stock pile."

I see in the picture, it looks like a roadway, and to the left is a large pile of dirt has no protection as far as there's no black visqueen plastic. There's no fiber roles around the bottom of it to contain it. It's just an exposed, unprotected stockpile.

Q Do you have any information as to whether or not they were going to -- well, let me rephrase. Going to the stockpile on -- in the center of that page 5 of the photographs --

A It looks like the photo in the bottom right is a continuation of that same stockpile.

Q Okay. So just to be clear: The stockpile that you were just talking about, that's the stockpile in those two photographs?

A Yes.

Q Okay. Do you have any information about whether they were going to work on that stockpile in the afternoon

of December 2nd.

A I would be highly surprised that they would be working on it because they were under Stop Work Notice.

Q Had they received that yet? I would like to look at the front page of Exhibit No. 2, and it says "The Stop Work Notice was issued at 3:00 p.m."

Do you see that?

A Yes.

Q And the photos were taken at what time?

A 12:48.

Q So they had worked on that stockpile at 12:48 and the time they received this document?

MS. DRABANDT: Objection. Speculative.

THE WITNESS: I don't know, but I would be surprised given that the inspector came out, and with the threat of a storm the construction storm water permit would -- would require them to focus their efforts on getting the site prepared for a storm event.

BY MS. BERESFORD:

Q Is it reasonable for a construction company to work on a stockpile in the afternoon and cover it at the end of the day if the storm is expected the next day?

A Under my reading of the Construction Storm Water Permit, unless they are actively pulling material from the stockpile, then, no, it would not be acceptable for them to

have a stock pile uncovered.

Q Do you have any -- strike that.

Are there any other stockpiles on December 2nd that you believe gave rise to this alleged Violation No. 2?

A In looking at the inspection report dated 12-2-2014 by Gary Harper on page 2 of his inspection report, there's the notation that when regards to stockpiles, it says, "Some are covered. Some are not. Effective: Yes or no. No," Which indicates to me that there were more than one stockpile that was uncovered.

Q Okay. Any other facts or other stockpiles that were subject to this Violation for December 2nd?

A Not that I know of.

Q Violation 2 alleges that this violation continued on December 3rd; is that correct?

A Let me correct that. I just --

Q Sure.

A We're going through these very quickly, and there are other photographs that are dated from 12/2 in the same time period that appear to be different stockpiles, so I would say that's not the only one.

Q Can you identify for me what those are?

A Sure.

Q So looking at page -- so on page 5 of the photos there are stockpiles in the upper right, the upper middle,

the lower right.

On page 6 there appears to be stockpiles on the upper left and right, the middle right and left, the lower middle.

On the following page, page 7 there are stockpiles on -- it looks like upper right, middle right. They are sprayed with an orange dyed mulch, but does not appear that they have a perimeter control around them. There's a stockpile, looks like on the middle bottom that's uncovered. The stock pile on the bottom left does not have perimeter control of it, although it has the visqueen on top.

On the following page, upper middle, there appears to be stockpiles that are uncovered. The upper right appear to be stockpiles, uncovered. The lower right, uncovered stockpile. And then in the bottom left are stockpiles that appear to have been sprayed with an orange soil binder of some type, but does not have perimeter control.

Q Okay. Anything else?

A No.

Q Okay. So let's move to December 3rd.

What evidence do you have that there were insufficient stockpiles BMPs on December 3rd?

A Based upon the other inspections that were done later on, they continued to have citations of uncovered stockpiles and photographs of uncovered stockpiles.

Q So you're relying on evidence from other days?

A Yes.

Q For the allegations of this day?

Let's look at December 4, and I will refer you to Exhibit No. 3 to the ACL.

A Yes, I have it, Exhibit 3.

Q Did you rely on this Exhibit No. 3 for the allegation or Notice of Violation 2 for December 4?

A Yes.

Q Did you rely on any other evidence for the Notice of Violation No. 2 for December 4?

A Not that I recall.

Q I hate to ask this question over and over again.

Did you do all the highlighting and red underlining for all the exhibits?

A Yes.

Q Okay. What is the basis of the Notice of Violation No. 2 for December 4?

A In the photographs that were taken by the City of Lemon Grove inspectors -- inspector in Exhibit No. 3 from December 4, 2014, at the site I can see stockpiles that are either uncovered and lacking perimeter control around them, or that are missing perimeter control, or that have insufficient coverage.

Q Can you identify which ones they are for me?

A Yes. Looking at the third page of photographs, in the -- in the upper right or -- I'm sorry -- upper left photo it looks like it was dated 12-4-2014 at 8:55 a.m., I believe -- it's a little hard to read in this reproduction -- but it appears to be a stockpile that's sprayed with some orange material.

But it is lacking perimeter control. And it looks like even the coverage with the soil binder is incomplete because there are erosion rills depicted on it.

On the next page --

Q Just to be clear -- I'm sorry. I just want to be sure we're looking at the same one.

Is this the photograph that you mean that has the little box up at the top of the slope there (indicating)?

A Correct.

Q Okay.

A Again, the reproduction is tough to see, but I believe that is a stockpile.

On the next page the middle and right upper photographs display stockpiles that are covered with a white plastic. They are not covered completely, and they fail to have perimeter control around them.

Looking at the photos -- looking at the next row down on the left middle, again, there's plastic on some of these stockpiles, but it's not complete coverage, and

there's no perimeter control.

The same with the middle photograph. Looking at the middle right photograph, again, there's no perimeter control around the stockpiles. Same with the photograph of the stockpile on the lower right. You can see one stockpile is covered with plastic but does not have perimeter control. And then slightly above it is another stockpile that has no coverage whatsoever.

Next page, I think the middle left is the same photograph of -- that we saw on the previous page, but again, it's one stockpile completely uncovered and another has plastic on it, but is lacking perimeter control. And then the bottom right looks like a stockpile that has partial coverage and no perimeter control.

THE WITNESS: Also from the Stop Work Notice, it does state that there was a deficiency noted and that stockpiles are to be covered.

BY MS. BERESFORD:

Q Anything else?

A No.

Q Okay. You alleged that stockpiles continue to be covered on December 5th; is that correct?

A Yes.

Q And what evidence do you have of that?

A Based upon Exhibit No. 4 which is the City of Lemon

Grove inspection dated December 8, 2014, I see that there were continued deficiencies in covering stockpiles.

Q Do you know if the stockpile is noted on December 8 were the same as noted on the stockpile for December 4?

A I do not know.

Q Is it possible that after they got the notice on December 4 that they went out and covered all the stockpiles?

MS. DRABANDT: Objection. Speculative.

THE WITNESS: Yes, it's possible. But, again, I have trouble understanding why a stockpile would be uncovered if they're under a Stop Work Notice. Their efforts should be focused on correcting deficiencies on BMPs and not doing work or creating new stockpiles.

BY MS. BERESFORD:

Q Do you have any evidence that the stockpiles were uncovered on December 6th?

A I do not.

Q How about December 7th?

A I do not, other than, like I said, my -- my belief based upon the inspection reports that the continued deficiencies noted occurred throughout the period, that they did not correct them, and then they were created anew.

Q Could the creation of stockpiles be related to the construction of BMPs?

A Possibly.

Q So I'd like to look at Exhibit No. 3 which is the December 4?

And did you spend a lot of time going through and citing numerous stockpiles that you thought needed better protection; is that accurate?

A Yes.

Q Let's look at Exhibit No. 4 which is December 8th. They have one page of pictures.

A Yes.

Q It looks like one photograph notes uncovered stockpile?

A Yes.

Q Is it possible that that stockpile was created to create new BMPs?

MS. DRABANDT: Objection. Speculative.

THE WITNESS: I don't know.

BY MS. BERESFORD:

Q So is it fair to say that on December 4 the report shows numerous stockpiles, and on December 8 there's a photograph of one?

A On December 8 there is one photograph that is supplied that shows an uncovered stockpile, yet if you look at page 2 of the inspection report in regards to stockpiles, there's a notation "Need to cover stockpiles," plural,

"Effective: Yes or no. No."

Q Is there any indication of what those stockpiles were being used for?

A No.

Q Okay. And sticking with Exhibit No. 4, there was an allegation of an uncovered stockpile for December 8.

Did you rely on Exhibit No. 4 for alleged Violation No. 2 for December 8th?

A Yes.

Q Did you rely on any other evidence for Violation No. 2 for December 8th?

A It's difficult to answer that, but I would say that not only am I looking at the inspection report but looking at the previous inspection reports to see if there's any consistent deficiencies. So I was looking at the totality of things but mainly relying upon the photograph and the text from the inspection.

Q Do you know who conducted the inspection on December 8th?

A I don't know who conducted the inspection on December 8th, but it says on the inspection report that the inspector name is Harper.

Q Did you ever talk with Mr. Harper about his inspection?

A No.

Q Did you ever talk with him about whether he thought they were improving from on December 8th as opposed to December 4th?

A No.

Q And I don't want to put words in your mouth. You noted on page 2, it says "Need to cover stockpiles," but you don't know what those stockpiles were being used for; is that correct?

A That is correct.

Q Okay. Do you know if it was raining on December 8th?

A I don't recall.

Q What facts demonstrate that the alleged violations on December 5, 6, 7, or 8 resulted in impacts to the beneficial uses of Encanto Channel?

A Could you repeat that?

Q Sure. Are there any facts that this alleged Violation No. 2 uncovered stockpiles resulted in impacts to beneficial uses of Encanto Channel?

A I would look at the weather report to see if there where any storm events in that time period.

It's -- I see on this inspection report from Exhibit No. 4 that it talked about on Friday there was a 95 percent chance of storm event, so that would color my opinion on whether there might have been impacts.

Q Right. I'm talking about December 5, 6, 7, and 8.

A So 5, 6, 7, and 8, I would -- I would want to look at the rainfall data to see, but potentially, there could be if there was a storm event.

Q What if there was not a storm event?

A Less likely, unless there was significant winds. If there was significant winds, it could have blown sediment into the receiving waters.

Q Did you attach wind data to any of your technical reports?

A No.

Q Did you look at wind data for your technical reports?

A No. I will -- I will correct that. In the weather information it does have wind data, so I apologize. It does.

In the precipitation data it includes the full weather report, and it does include wind. It's not my highest priority, but it is something that we do look at.

Q Do you have a miles-per-hour criteria that you look at when evaluating potential impacts?

A No.

Q So how do you evaluate wind data?

A There would be two things. One is the maximum velocity, but also if there's notations for gust -- but,

again, that's what I would say is a lesser point for us typically, but it is of importance.

There have been sites that we've contacted the air pollution control board on when -- even during the dry dust control. They're lacking dust control. We have made those contacts.

Q For December 5, 6, 7, and 8, do you have facts that there was direct threat to potential receptors for this specific alleged violation?

A Based upon the inspection reports that I saw and the lack of erosion control and sediment control on the site, I would say they -- the site posed a threat to water quality.

Q Is that the same as a direct threat to potential receptors?

A Yes.

Q I would like to talk about September 15 where I will refer you to Exhibit No. 22.

What is the basis for alleged Violation No. 2 for September 15?

A Exhibit No. 2 is the Lemon Grove inspection report by TAD Nakatani on September 15, 2015, of the Valencia site. In there -- in his inspection report he noted on page 2 in regard to material stockpiles, he described some small sediment piles are not protected "Effective: Yes or no.

No." On the following page, I believe -- that's it.

Q Do you know what the sediment piles were being used for?

A No.

Q Did you talk to Mr. Nakatani about this report?

A No.

Q Is it possible that they were going to be working on those piles that afternoon?

MS. DRABANDT: Objection. Speculative.

THE WITNESS: I don't know.

BY MS. BERESFORD:

Q Okay. All right. Let's go to -- we're going to talk about Violation No. 4 in a second, if you want to take a look at that.

MR. ROSENBAUM: Can we go off the record for one second?

MS. DRABANDT: Go off the record.

(Brief recess.)

MS. BERESFORD: We'll go back on.

BY MS. BERESFORD:

Q I'm sorry. Before we move on to Violation No. 4, I do want to go back and talk about the definition of active a little bit more.

Can you please look at that (indicating)?

A Yes.

Q When you're thinking of stockpiles, does your definition of active stockpiles -- I'm sorry. Let's strike that.

MS. BERESFORD: Can we attach this as our next exhibit to the deposition, please? What exhibit are we?

THE REPORTER: Four.

MS. BERESFORD: Four, okay.

(Exhibit 4 was marked.)

BY MS. BERESFORD:

Q Okay. Can you please state what this is?

A I have in front of me what is called Appendix 5 Glossary. It is a part of the Construction Storm Water Permit.

Q And what is the first definition at the top?

A The first definition at the top of the glossary is "Active Areas of Construction."

Q And does that definition differ from what you described to me earlier as active stockpiles?

A Yes.

Q Why do you think the definition of active stockpiles is different than the definition of active areas of construction as defined for the permit?

A I don't have the permit in front of me, but I believe the permit language talks about actively using stockpiles. It doesn't say "active stockpiles," it says

"actively using stockpiles."

Q And on that basis you think the definition is different?

A Yes.

Q Have you ever heard that discussed at any training?

A No.

Q Do you know if the CASQA BMP handbook discussing that?

A I do not.

Q You know, can I ask you to find that in here for me? Please forgive my ignorance, but I would like to know.

MR. ROSENBAUM: Can we go off the record for a second?

MS. DRABANDT: Sure. Let's go off the record.

MS. BERESFORD: Go back on.

BY MS. BERESFORD:

Q And I was asking Mr. Melbourne to please locate for me in the permit the reference to active and actively as respects to stockpiles that he has been talking about.

So if you could please do that?

A Yes. So if you look at Attachment D to the Construction Storm Water Permit which is -- Attachment D applies to Risk Level 2 Construction Sites and this site is a Risk Level 2 Site, so these are the requirements that apply to it.

And on page 1, Attachment D if you look at Section B which is "Good Site Management Housekeeping No. 1(b)," it says "Cover and burn loose stockpile construction materials that are not actively being used and (i.e., soils, spoils, aggregate flash stucco, hydrated line, etc.)."

Q Okay. And then I had asked whether you had heard in any training direction that that definition or use of actively was different from the active definition in the glossary.

Have you heard any direction on that in any training?

A No.

Q And do you know if the CASQA handbook discusses that?

A I don't believe it does.

Q And did you ever talk to San Altos specifically about that?

A No.

Q Do you know if Mr. Chiu discussed that with San Altos?

A I do not know.

Q Okay. Let's move to alleged Violation No. 4. If you could refer to the ACL and state what alleged Violation No. 4 is, please?

A Linda, did you want this back (indicating)?

Q Yes. Please.

A Okay. Referring to Exhibit No. 2 the ACL complaint. Violation No. 4 is on page 3 of 7. It states, "The discharger violated Construction Storm Water Permit, Attachment D, Section D.2 by failing to implement erosion control BMPs in inactive areas at the site on the following 22 days: December 1st through 9th, 2014, December 15th through 16th, 2014, January 6, 2015, January 14, 2015, May 8th through 15th, 2015, and September 15, 2015."

Q Can you please provide for me the definition of inactive as you used for Violation No. 4?

A I don't know that I have it memorized from the permit, but in general they talk about areas that are inactive for 14 days. And so you would want to look at has there been activity in the last 14 days in the area? Is it scheduled to happen?

Q I'll refer you back to, I believe, it's Exhibit 4, the glossary. If you could look at page 5, there's a definition provided there.

Is that the definition that you were using for alleged Violation No. 4?

A Yes.

Q Can you please read that for the record?

A On page 5 of Appendix 5 to the Construction Storm Water Permit, the glossary definition for inactive areas of

construction states, "Areas of construction activity that are not active, and those that have been active and are not scheduled to be re-disturbed for at least 14 days."

Q Okay. Let's talk about December 1.

Can you, please, identify for me the facts that you relied on for this alleged violation for December 1?

A So I relied upon Exhibit No. 2 which is the Stop Work Notice issued by the City of Lemon Grove on December 2, 2014, by -- it appears to be Gary Harper from the City of Lemon Grove.

Attached to his inspection report are some photographs that were taken on December 1, 2014, and December 2, 2014. In this exhibit I highlighted the first page of photographs in the upper left-hand corner of photograph -- and I put a text box that says "Lack of erosion control BMPs on inactive areas."

In the photograph you will see a roadway. It is Tangelos Place, and there is a house in the upper left part that is being -- like, stuccoed. You can see that in the lower right-hand corner of the picture that there's some orange. The orange is indicative of sprayed-on erosion control product.

There is no looks like no soil binder on the graded street, and there is a side part of the street which is a housing pad that is also not covered. In the foreground you

can see some equipment parked in that area. Also does not appear to have been sprayed, and there is two stockpiles that are uncovered that have not been sprayed.

For this alleged violation there was an imminent storm event, so these areas needed to be protected. And given that this, in my judgment, this area was inactive based upon looking at the site and the conditions around the development -- that this area was inactive.

I'm much more confident about the area near the house in that staging area and above that blue line that you see on the left side middle, but I think also a decent case can be made that the Tangelos Place, itself, should have been sprayed with some sort of erosion control material.

Because if you look in subsequent photos of the site, there was not substantial grading occurring on that road that was at the base at which it was until they paved it. And, yes, they were using it for transportation. So some trucks may have been riding on it, but as far as grading, there was no grading that occurred on that area for several months.

On the second page of photographs in the upper left, you'll see a car parked on a very flat graded area. That area does not appear, to me, to be active. They were parking vehicles on there. And so, again, in my opinion, that area should have been sprayed with some sort of erosion

control material.

The photo in the bottom right is a continuation of that area, and, again, I would say in my opinion, that should have been sprayed.

Q Any other areas that you deem to be inactive on December 1?

A No.

Q I'd like to go to the first page of photos. We talked a lot about those -- oh, I'm sorry. Strike that.

Did you ever ask anybody if there was going to be work performed on any of these areas in the next 14 days?

A I was not at the site on this date, so no.

Q In preparing the ACL when you were looking at these photographs, did you talk to anyone to find out if they had worked on these areas that you identified as inactive in the next 14 days?

A No. I did not talk to anybody, but I did look at, like I said, subsequent inspection reports and photographs to look at areas and to see when there was activity on those areas.

Also, in my follow-up inspections or my inspections that occurred later on, I could see the same pattern. And, again, this area -- this site was under a Stop Work Notice, so --

Q I don't believe it was on December 1.

A Correct. It was not on December 1, but it was on December 2nd all the way through until it was released on January 22nd.

Q Do you know what the weather report was for December 1?

A I don't recall, but I know that there were significant storm events that occurred pretty much every week during the month of December.

Q If someone is working on an active area, and they need to prepare for a storm event, do you know the timeline that they need to be -- how long that weather forecast is that they look at?

A Well, there's -- there's different things that they will at look at. One is when they look for storm events that are greater than a 50 percent chance in the forecast, they'll often look 48 hours out.

But in this case, I believe, the storm event was predicted for the following day on December 2nd, and typically in the permit, from what I recall, it talks about trying to address these areas as soon as possible, but typically no later than 24 hours prior to the anticipated storm event.

And I think that's -- in the photographs, you can see, there was a meeting of staff, and so, therefore, it looks like they were trying to address the deficiencies at

the site before the storm event came.

Q How do you know that's what they were talking about?

A Well, I see freshly sprayed erosion control materials, but I also see in the inspection report that there were deficiencies, so, therefore, it's my belief based upon these photographs, that it was an effort to try to get the site into compliance before the storm event.

Q Could they have also been talking about where they were going to work that afternoon?

MS. DRABANDT: Objection. Speculative.

THE WITNESS: I don't know.

BY MS. BERESFORD:

Q Did you talk to anybody in this photograph about what they were talking about?

A No.

Q Do you know who conducted this inspection?

A The inspection report says Gary Harper conducted it, but in looking at the picture, I can see the Lemon Grove storm water personnel -- storm water personnel in the far right in the upper right-hand photograph on the third page.

Q Who is that?

A I don't recall her name, but I recall her being introduced to me on -- when I was at the site in March as a storm water employee of the City of Lemon Grove.

Q Did you talk to her about what that meeting was about?

A No.

Q Did you talk to Mr. Harper about what the meeting was about?

A No.

Q Do you have any idea what the meeting was about?

A I believe very strongly that it was a meeting to discuss deficient BMPs.

Q But why? Why could they not have been talking about where they were going to work that afternoon?

A Because this is a fairly substantial meeting, and there was an imminent storm event, and the City was very concerned that there was going to be a sediment discharge from the site.

In fact, if you look at page 2 of the inspection report, it says "See Stop Work Notice. Discharge is imminent. If NOAA forecast is correct, 100 percent heavy rain this afternoon."

Q And what is the date of this photograph?

A That's on the 1st.

Q Is that the first time that anyone from the city had been out there in several months?

A I do not know.

Q All right. Let's talk about December 2nd.

And what is the evidence that you rely on for violations of inactive areas for December 2nd?

A So in looking at the photograph from the inspection report from -- this is Gary Harper on December 2nd -- yes. On photograph page -- page 5 of the photographs, if you look at the middle row the far left, you'll see a photograph that's taken from Seville Way looking down towards Encanto Channel.

And this is a road that was graded but did not substantially change over the months. And it was used for some access, but was not being actively graded. That area was a source of a lot of the sediment discharges from the site.

And, in my opinion, should have had either some sort of soil binders on it or gravel all down it because there was no sort of -- of stopping. It was a steep slope, and it was an area of contention. And it was one that I identified in my March visit to them.

Not only would I inspect to see some sort of a soil binder or gravel on that because of the steepness, but also some sort of energy dissipators such as a straw wattle or gravel bag chevrons.

Q Do you have any photographs of the areas that you identified on December 1st? Do you have any photographs of those areas on December 2nd?

A Yes. I would point to you on the 7th page of photos, if you were to look at the lower right-hand photo that has the text box "Lack of Erosion Control BMPs on Inactive Areas," again, that's Tangelos Place. And that area -- they finished grading that, and they did not do any other land disturbance to that until they paved it.

A photo looking in the opposite direction is on the next page in the upper left. Again, these were some steep slopes. Yes, there was traffic that could drive on there, but as far as land disturbance for construction activity, they could have put some sort of soil binder on there or some gravel to protect that.

Again, some energy dissipators given the steepness of the slope would have been helpful.

Q So for your interpretation of the permit driving on an area is not active use of an area?

A I have a tough problem with that because if you look at most of the areas where you focus on driving such as the entrances, they implement BMPs. They'll put on gravel, or they'll put in shaker plates because of the driving aspect to it and the fact that they don't want to track stuff off the site.

So when I look at some of these areas where they've graded it and there's no further grading that's going to go on to those sites until they put in the street, they might

do some digging for utilities on the side, but if they're done grading for that area, given the ease of being able to apply some sort of soil binder or gravel to some of these areas, in my mind and based on the permit requirements and my experience, that those are areas that they should protect. It makes a lot of sense.

It helps to prevent the erosion from happening in the first place. And if you look at the site back in -- later in a few months -- later in May when I was out on the site, again, you saw completely unprotected areas, and it was a muddy mess, and it was a huge source of sediment for the site.

Q Do you know if you can drive on soil binder?

A You can, but it does break down.

Q How quickly?

A It depends on how much activity -- driving activity occurs on there. So more activity, then it would break down quicker. But as far as the application of it, it doesn't take much application, and it's very cost effective for sites. Also gravel, gravel is more expensive but has longer lasting impacts.

Q Can you drive on energy dissipators?

A It's best if you don't. Straw wattles hold a better for you to drive over than, say, a gravel bag, but they lose their ability on areas where you drive over them.

Q Have you ever heard in any training you've taken that active areas that people are driving on still have to have something like soil binders or gravel or something like that on it?

A I would not say that I've heard it in training because it's been a while since I've had some of the storm water training, but definitely I have seen it discussed on construction sites amongst, not only city inspectors, regional board inspectors, but also QSPs for the sites.

Q Do you know what sites those are?

A Definitely, we discussed it at the Garden Community Site in Mira Mesa, at the -- at the site that was -- I'm trying to think -- a site that we had in Encanto, but I can't remember -- I can't recall the name of it right now.

Q Do you know if it was discussed at the Garden Community Site before or after they received a Notice of Violation for it?

A I would say it occurred after the Notice of Violation was issued.

Q Do you know if these types of BMPs you're talking about -- BMPs on areas of a construction site where people are actively driving on them, is there a discussion of that in the CASQA handbook?

A I don't recall.

Q Okay.

A There is a photograph on page -- on page, I believe it's 4 in the upper right that was dated 12-2-2014 at 12:49 p.m. There's some --

Q Hold on just a second, please.

Can you show me which photograph you're referring to?

A Sure. So there's some picture with the car in the middle.

Q Uh-huh.

A So it would be this picture and this picture. They're of the same area, just slightly different perspective (indicating).

Q And what's the date of the photograph?

A 12-2.

MS. DRABANDT: It might be page 5 of those.

THE WITNESS: Yes. Page 5 of the photos.

BY MS. BERESFORD:

Q I don't have it.

A That one (indicating).

Q Okay.

A So if you look on there, the photo in the upper left and then the lower middle. It's a different perspective of the same areas, but, again, those areas there, they have the grading sticks out, but there's some of those side slopes appear to me to be inactive also. So

those -- I would have thought that they would have sprayed those also.

Q Did you ever talk to anyone about what those sites were scheduled to be used for in the next 14 days?

A No.

Q Okay. Let's talk about December 4. And I'm referring to Exhibit No. 3.

Can you please identify for me the areas that are subject to Violation No. 4 for December 4?

A So the one that really stood out to me from this, there's at least two or three photographs that caught my attention. But on the second page of photographs in the upper left, there is a box -- red box that I've identified "Lack of erosion control in inactive areas." So what's missing here on the front is -- this is one of the construction entrances. So what's missing there is gravel, and a shaker plate, or something like that.

But that's -- that's not the focus but -- but just that's one that thing stood out to me. But if you look up towards the center and then going towards the right of the photo. That area there was graded and is developed as a park for the residents there at the community, and so that area did not change substantially, and that was not an area where -- where they were driving up and around on.

And so that was an area that we had identified with

them that needed to be addressed with soil -- soil binders and also some runoff control given that there was a slope to it.

Q I'm sorry. Is the area shown in the picture?

A Yes. So in the photograph, the one in the second page of photos, upper left, you will see in the top left there is a retaining wall.

Q Uh-huh.

A And then on the retaining wall where it turns dark, where it's shaded on the right side of it, if you follow up that path there, that is the future park for the community. And so that section there had been graded, but was not -- not set to be developed or anything else.

They put some picnic benches and some other things there eventually, but that was not an active area, and they were not driving on it either because there's no access.

Q But the park area, itself, is not shown in the photograph; is that correct?

A It is.

Q Can you point it out for me?

A Sure.

Q On the photograph the area that you're talking about?

A So this path (indicating) that is the future park for the development, and so this area here (indicating)

there's no access here (indicating).

Q Okay.

A That is closed off, and there's no -- it's not like traffic. I know you were trying to differentiate that in the previous case. There was activity because there was driving. What I'm trying to say is here, there's no driving occurring on there. It is a future park that they graded and that in my opinion should have been sprayed erosion control, and because it has a slope to it, it also needed to have some runoff control.

Q Is there a -- okay. Do you know if they were slated to do any additional work in this area past December 4? Within the next week, say?

A I believe not. The only thing they were slated to do was landscaping, and then the last thing was -- and they're probably doing it at this time period now -- is to put in the benches and the tables.

Q So as of December 4 do you know if they were planning to do any work on that area between December 4 and December 20?

A I do not know that they were planning to do any work in that area.

Q Any other areas that were identified as inactive for Violation No. 4 of December 4?

A Yes. If you look at the next page there is in the

upper left -- it looks like there's a box container. And there were several areas that were sprayed with the orange bonded fiber matrix material, soil binder.

And you can see there's a lot of erosion rills, and there's a lot of erosion that was lost less So where they sprayed, but still there was a lot of erosion there. Those areas needed to be touched up. They needed to be repaired.

Q Do you know if they were slated to work on those areas within the next 14 days?

A I'm not aware that they were slated to be worked on in the next 14 days.

Q Could they have been scheduled for that?

A Again, I doubt it because they were under a Stop Work Notice.

Q But could they have been scheduled for it?

MS. DRABANDT: Objection. Speculative.

THE WITNESS: I don't know.

BY MS. BERESFORD:

Q Any other areas?

A If you go to the next page, the middle left where you see a bunch of the partially covered stockpiles. That area there, I think, could have also have been sprayed as being inactive. It does not look like to me that area was used to access the stockpiles, so, therefore, a soil binder would have been appropriate in that section.

Q Do you know what they were doing in that area as of December 4, or what they were scheduled to be doing?

A That was one of the later phases scheduled, so I don't believe there was any scheduled activity for that section.

Q Did you ever discuss with anyone what that schedule was?

A On later visits when I was on the site, I did talk to the site superintendent when they were on the site. I did talk with them about scheduling, yes.

Q And so did you discuss with a them what the schedule was with them for December?

A No.

Q So did you know the schedule for this area in December?

A No.

Q Any other areas?

A I don't think so.

Q Going back to the photographs on December 1st -- the first page of photographs on December 1st.

Do you know if they implemented any BMPs?

A Excuse me. Linda, which exhibit are we on?

Q I'm sorry. December 1st which I believe is part of Exhibit No. 2.

A Okay.

Q And the first page of photographs.

A Okay. I now have Exhibit 2.

Q Do you know if they implemented any BMPs on that area in the next two weeks on that photograph of the 10:44 a.m.?

A Could you rephrase the question?

Q Yes. So the photograph in the upper left-hand corner on the first page of photographs of December 1st where there's a box that says "Lack of erosion control BMPs on inactive areas."

Do you know if there were any BMPs implemented on that area after December 2nd?

A I do not know. I would refer to -- let me restate that.

I would -- in putting together the ACL complaint, I looked at the follow-up inspections to see if work was done, but I don't recall that they did put in BMPs on the 2nd on this site at that location. But I would refer to the December 2nd or the -- yeah, the December 2nd or later inspection reports to determine that.

Q Well, let's go to Exhibit 4, to the ACL which is the December 8th inspection.

A I have it.

Q Is there anything in this report that tells you whether or not they did anything on that area that was

identified in the December photograph that we were just looking at?

A No.

Q Going to the second page of photographs on December 1 which is part of Exhibit 2.

A Exhibit 2, okay.

Q You just should probably keep those both handy.

A Exhibit 2.

Q The second page of photographs with photographs on December 1.

A Okay.

Q Is there anything in the December 8 inspection that tells you whether or not they implemented any BMPs on, say, December 5, 6, 7, and 8 on this specific area?

A No.

Q So we just looked at the December 4 inspection, and then we were looking at the December 8th inspection.

Can you tell me what evidence you have of lack of BMPs on inactive areas for December 5, 6, 7?

A The basis of my allegation that there were continued violations during that -- those time periods is based upon looking at the inspection reports in their totality.

And so, therefore, because the violations continued through that time period, and the Stop Work Notice continued

through that time period, it is my belief that those violations existed on those days intervening between the inspection reports.

Q So can you point to me for a specific area that you thought had violations on December 5, 6, and 7?

MS. DRABANDT: Objection. Calls for legal conclusion.

THE WITNESS: I don't know.

BY MS. BERESFORD:

Q All right. It's 12:25. Should we take a lunch break? Okay. So we'll go off the record.

(The luncheon recess was taken at 12:25 p.m.)

SAN DIEGO, CALIFORNIA; JANUARY 13, 2016; 1:41 P.M.

BY MS. BERESFORD:

Q Okay. So starting up again, we were talking about Notice of Violation No. 4 which alleges failure to implement erosion control BMPs in inactive areas of the site. And I would like to talk about December 8 which I will direct your attention to Exhibit No. 4 to the ACL.

And if you could please identify for me the inactive areas that are the subject to this alleged Notice of Violation for December 8th, please?

A Okay. I have Exhibit 4 in front of me. December 8, 2014, the City of Lemon Grove inspection report. So looking at the photographs, there's only one page of photographs. There are seven photographs. I've indicated with red boxes two photographs as -- let's see, actually one, as having being in an inactive area.

The photograph in the lower right that I have highlighted, that is looking to the northeast from Tangelos Place and, again, it's my assertion that when they graded this street area, that they were not planning on doing any other major grading on this section.

And, therefore, I -- in my opinion, that area needed to have some sort of soil cover, whether it be sprayed with a soil binder or gravel laid down.

Q Okay. Any other inactive areas that are the subject for this violation for December 8th?

A I also was concerned with the photo in the lower left along the orange construction fencing. I felt that area could have been sprayed also as far as soil -- have some sort of soil cover on it.

Q Does it appear that both of those areas are being used as a way for people to drive?

A The one in the lower right on Tangelos Place, that is a graded roadway. So I would not be surprised if they did do some driving on it. But at that phase of the construction in that development, I wasn't expecting there to be very much activity on that section.

For the one in the lower left -- the area that I'm specifically referring to is along the orange construction fence that's outside of the graded road area. I see they have some electrical poles up and other things, and so that area perhaps -- that area was active.

Q Is there any other evidence that you're relying on for the violation for December 8th?

A Noting that the inspector found that there was ineffective physical stabilization of the site and, furthermore, just in totality looking at the inspection reports over time, they had a lot of problems with erosion on the site.

Q You're referring to the physical stabilization -- you're referring to the first page of Exhibit 4?

A Correct.

Q Does it specify the areas?

A It does not.

Q Let's talk about December 9, and I'll direct your attention to Exhibit 5.

A I have Exhibit No. 5 in front of me.

Q Can you state what that is please?

A Exhibit No. 5 is a Correct Work Notice issued by the City of Lemon Grove on December 9, 2014 for the Valencia project by, it appears to be Gary Harper of the City of Lemon Grove. And on it the San Altos Place Development is directed to correct deficiencies within 24 hours.

Q And what evidence are -- well, did you rely on this document for the allegation of Notice of Violation No. 4 for December 9?

A Could you repeat your question?

Q Did you rely on Exhibit No. 5 for the allegation that they failed to implement erosion control BMPs in inactive areas for December 9?

A Looking at my technical analysis, I would say I don't recall.

Q Do you -- what did you rely on for the allegations of this alleged violation on December 9?

A I'm trying to determine if I had a typo because I don't see it as listed in my technical analysis, unless I'm misreading it, that I did use it to support it, but it makes sense that I would have. I can point to photos that I would comment on.

Q Okay. Well, we'll state for the record, that the technical analysis on page 10 doesn't cite any evidence per December 9, but please tell me if you believe there are failure to implement BMPs on inactive areas on December 9?

A So looking at, for instance, page 2 of the -- or of the Correct Work Notice, I see there are on the upper middle and the middle right there are two photographs looking northeast on Tangelos Place that I had indicated previously that I felt should have some sort of soil cover on it. You can see there are some erosion rills coming down the center of that pathway.

Q Can you give me the time stamp of those photographs that you're talking about?

A I believe it was 1:00 -- 9 after 1:00 p.m. So I'm looking at the second page of photographs.

Q Okay. The 1:09 p.m. photograph?

A Correct.

Q Okay.

A There's two of them.

Q Anything else?

A The photo on the same page in the lower right. That area given the -- it looks like some of the growth of vegetation that's brown on there. That could be an area that needs application of it, but it -- at this point I -- it's hard to tell. As far as it may have been sprayed, but it does not have the orange coloration like the other pictures do, so I'm tending to think that it needed to have some coverage on it too, but it appears inactive based upon the vegetation growth upon it.

Q Could that area have been a roadway that people were driving on for the construction site?

MS. DRABANDT: Objection. Speculative.

THE WITNESS: From my view of the photograph, it does not appear to be a roadway. It looks more like a pad.

BY MS. BERESFORD:

Q Do you know what that area is used for, or was it was used for on December 9?

A It appears to be a housing pad that has not been developed. I'm familiar with the location on the site.

Q And where is that?

A It's in the -- it's off of Tangelos Place. I would say it's in the north of the site.

Q Anything else for December 9?

A No. The other photos that I -- draw my attention, but whether the way they were reproduced or the sizing, it's

difficult to make out a lot of the characteristics of it.

The first page of photos taken on December 9th at 1:38 p.m. and 1:39 p.m., those are on the right side top and right middle column -- I'm sorry.

On the right upper right and the middle right, those two photos if I had better view, I might be able to make a better assessment. I would also note that the inspection form is checked stating that erosion control is inadequate.

Q Does it say where?

A It does not.

Q Let's talk about December 16. And I will direct your attention to Exhibit No. 9 to the ACL.

A I have Exhibit No. 9 in front of me.

Q Did you rely on this document for Notice of Violation No. 4 for alleged violations on December 16th?

A Yes.

Q Did you rely on any other evidence for this allegation for December 16?

A I can't think of anything specifically, but just to say that I know, and I looked at, like I said, rainfall data and the other inspection reports in forming my opinions on these site -- on this site.

Q Okay. Can you please identify for me the facts that establish lack of erosion control BMPs in inactive

areas for December 16?

A Sure. Looking at page 1 of the City's letter, it states that the Stop Work Notice is still in effect, and that no work other than implementation of best management practices are allowed.

And it states the deficiencies include failure to effectively implement erosion prevention and sediment control BMPs.

Q Do you know in that sentence, were they talking about erosion prevention and sediment control BMPs for the construction permit or something else?

MS. DRABANDT: Objection. Speculative.

THE WITNESS: I do not know. On the second page which is the City of Lemon Grove's administrative citation notes. It's the second citation for $200. It's dated December 16, 2014, signed by Leon Firsht. The date of violation observed is December 16, 2014. It cites various Municipal Code citation violations, and then it states, "Install BMPs per recommendations and permit."

BY MS. BERESFORD:

Q Do you know which permit he was talking about there?

MS. DRABANDT: Objection. Speculative.

THE WITNESS: I do not know. But the attached report is the December 16, 2014, City Inspection Report by

Tad Nakatani. On that inspection report under "Physical Stabilization Description Explanation" it states, "Numerous gullies still unprotected. Some pads and slopes still unstabilized. Effective: No."

BY MS. BERESFORD:

Q Does it state where on the site that is located?

A It does not, but it does have a map on the final page of the site, and there is a tile where there's numbers circled to indicate different deficiencies.

And then on the map, the numbers are circled. So what draws my attention is No. 2 where it states, "Stabilization Erosion Controls Needed," and it cites the areas of the site in the upper portion of the site along Tangelos Place and those are housing pads.

It does also site an area in the far right of the site that I identified on a previous photo where there's some construction fencing.

Q Anything else for December 16th?

A It does mention on page 2 of Nakatani's inspection under "Recommended Corrective Action." It states, "Bad erosion controls to stabilize remaining pads, slopes of edges at pads, and area near entrance at Akins."

And it also noticed -- I noticed that on the second page of Nakatani's inspection report under "Discharge Locations," there's a note that says, "There's still

significant sediment on Akins." And, "Is the location free of significant erosion or sediment transport?" And the identification is "No," and that concerns me also.

And it goes to the point of these areas that -- that are being cited as not having effective erosion control that -- that would make sense that then there would be significant sediment on the street and Akins from the site.

Q Does anywhere in his report identify where they have been actively working to implement BMPs versus areas they were not working to put BMPs?

A Could you state that again?

Q Does Mr. Nakatani's report identify or distinguish areas where they may have actively been working to implement BMPs versus areas they were not working to put BMPs?

A Well, one thing that I note in the inspection report is that northeast entrance -- and this is on the top of the second page of Nakatani's report -- it mentions that the northeast entrance is not going to be used for vehicle traffic, and so, therefore, that gate is locked up, and there is gravel bags placed.

So when you say active or actively, it sounds like they were working to install BMPs at that section. But as far as construction activity, they were still under a Stop Work Notice.

Q Sure. But could they have been erecting berms, or

detention basins, or anything like that?

MS. DRABANDT: Objection. Speculative.

THE WITNESS: Could you restate the question?

BY MS. BERESFORD:

Q Yes. Could they have been erecting berms, or could they have been engaged in active activities on the site to implement BMPs?

MS. DRABANDT: Same objection.

THE WITNESS: I don't know.

BY MS. BERESFORD:

Q So it's possible that some areas were active to implement BMPs?

MS. DRABANDT: Objection. Speculative.

THE WITNESS: I don't know.

BY MS. BERESFORD:

Q Okay. Let's talk about January 6, and I will direct your attention to Exhibit No. 24.

A I have Exhibit No. 24.

Q Did you rely on this document for the -- for the Notice of Violation No. 4 for January 6?

A Yes.

Q Did you rely on any other evidence for the alleged violation for January 6?

A Again, I may have relied upon precipitation data and other inspection reports to -- to look at, you know, how

the site was shaping up, but the bulk of it was from this exhibit.

Q Can you identify for me the inactive areas that were the subject of the violation for this day?

A So this Exhibit No. 24 is the City of Lemon Grove inspection report for January 6, 2015, by Tad Nakatani for the Valencia Hills site. He has identified that physical stabilization of the site was not effective, and he identifies the area near Akins Avenue entrance is not fully stabilized. There are several gullies, and it's unprotected.

If you look at -- that's on the first page. On the additional -- on page 3 which is BMP recommendations, there's a No. 1 that states, "Fully stabilize area. Utilize other erosion control BMPs, PG, visqueen, or other erosion control blankets if hydroseed growth is not sufficient," and Section 1 shows the Seville Way entrance that goes onto Akin's Avenue.

MS. DRABANDT: I'm sorry. You said that's Section 1. Please tell us where you're looking at.

THE WITNESS: Sure. So I'm then referring to the last page of the inspection report which is a map of the site. And there is a 1 that is circled indicating, as the previous page stated, that that is an area that needs stabilization and protection from erosion control.

And it's not on the entrance itself, but slightly above the entrance. And it's an area that they graded. There's some stockpiles near there, but it wasn't an area that they were actively working based upon looking at various photos over the course of the inspections that were done by the City.

BY MS. BERESFORD:

Q Did you know what they were doing in that area between January 1st and January 15?

A I don't believe they were doing anything.

Q Could they have been implementing additional BMPs in that area during that time?

MS. DRABANDT: Objection. Speculative.

THE WITNESS: I don't know. There's also a notation on page 3 under the "Recommendations, No. 4. Repair gullies and prevent concentrated flow to area." Gullies typically are a sign of concentrated flow of erosion, and so the location of the 4s on the map which is the last page show up on the graded pads.

The pads on Avalon Way -- on the west side of Avalon Way and the pads to the East of Orlando Drive that are indicated in the pads on Tangelos Place, those were later phases. And so I would see those as inactive areas at that time. The one that's to the east on Avalon Way that's indicated, to me, those were active at the time.

BY MS. BERESFORD:

Q And could they have been implementing BMPs in those locations?

MS. DRABANDT: Objection. Speculative.

THE WITNESS: I don't know.

BY MS. BERESFORD:

Q Okay. Let's talk about January 14.

A I still have one. There's another one. Sorry.

Q Sure.

A Number 5 states on the "Recommendation, repair and stabilize slope." So 5 is indicated on the last page map as being the slope along Tangelos Place, and those -- there and then towards the northeast entrance had been closed off.

So those slopes were set, and I don't believe those were due for any -- any work. And so that's why the inspector was suggesting to stabilize those also, and also do the repairs.

And then No. 6 is related to some slopes on an interior section of some housing pads, and it states, "Use the rows to control and stabilize exposed sidewalls. Consider methods other than hydroseeds, since there's evidence of failure." And I think they ended up using visqueen.

And then there's a notation for No. 7 which states, "Stabilize area of inactive for rain in forecast."

Q Does it identify which areas are active versus inactive -- and what I mean, active at that time. Well, I'll just restate.

Does it identify areas of inactive versus active?

A It does not. The area that they identified with No. 7 is at the end of Tangelos Place, and that was one of the last phases to be completed. So at that time I wouldn't expect that there would have been activity in that location.

Q Could they have been doing storm water BMPs in this area?

MS. DRABANDT: Objection. Speculative.

THE WITNESS: I don't know.

BY MS. BERESFORD:

Q I want to jump ahead and ask a question about; Violation No. 7 which is failure to apply linear sediment controls. And that talks about failure to apply sediment controls along the toe of the slope, the face of the slope, and at the grade breaks.

Does that sound familiar?

A Yes.

Q And in talking about some of the things that you were identifying on January 6th, I believe, you were talking about the slopes; is that correct?

A Yes.

Q So if you were applying a violation for an inactive

area for a slope and a violation for failure to apply liner sedimentary controls, is that two separate violations for the same area?

MS. DRABANDT: Objection. Calls for legal conclusion.

THE WITNESS: It may.

BY MS. BERESFORD:

Q How do you decide when to apply one versus two?

MS. DRABANDT: Objection. Calls for legal conclusion, and attorney-client privilege.

MS. BERESFORD: Are you directing him not to answer?

MS. DRABANDT: One moment.

MR. ROSENBAUM: Frank, you can answer to the extent that you don't disclose communications between you and your attorney on that issue.

THE WITNESS: Where I find that there's been a violation of the permit requirement, then I will allege a violation if I can support that with evidence.

BY MS. BERESFORD:

Q Do you do that in all instances that you allege both violations, or are there instances where you just allege one or the other?

A Could you rephrase that?

Q Yes. So here if you have allegations of failure to

implement BMPs on a slope, and you're saying that could be a violation for inactive areas and also a violation for linear sedimentary controls.

Are there instances where you will only allege one, or the other, or do you always allege both?

A What I would like to distinguish on this is that the previous violation that we were talking about was for erosion control. That was Violation No. 4.

This violation that we've now started talking about, Violation No. 7 is for sediment controls. And so those are two separate permit requirements, and the best management practice is for each of those requirements is different.

So the failure to put soil stabilization on an inactive area or soil cover is different than if a -- you have a slope, and it does not have some sort of sediment control best management practice to interrupt the flow coming down.

Q Okay. Let's talk about January 14. We're still on alleged Violation No. 4, Exhibit No. 25. The only thing I will ask you on this day is: Do you know if they were working on the site to install BMPs in any specific location?

A Based upon Exhibit No. 25 which is Tad Nakatani's inspection of January 14, 2015, of the Valencia subdivision

for the City of Lemon Grove, I can infer that there was some BMP work occurring at the site.

When looking at the deficiencies that are noted, some are ongoing, some are smaller it says. So I think it's reasonable to infer that there was some BMP work going on at the site to correct the deficiencies so they could ask the City to remove the Stop Work Notice.

Q And can you identify where that work was occurring?

A Again, it would be an inference, since I wasn't at the site during this inspection. But for instance on the first page under the heading "Geotextiles, Plastic Covers." It states, "Most sidewalls have been covered, but a couple in the north -- northern part of side lack protection."

And so I recall from the previous inspection report that they had talked about most of the sidewalls had issues, and so they were directed to make some repairs. So it sounds like -- again, it's an inference on my part -- I don't know for sure, but it seems like they -- they made some effort to repair those sidewalls.

Q Well, what area would you deem inactive on this day?

A The continuation of what we talked about on the previous exhibit. There on page 3 of the inspection report of the BMP recommendations, No. 1 talks about "Stabilize remaining small areas that lack full hydroseed or visqueen

cover." So that No. 1 correlates on the map which is the last page to, again, that section near just west of Seville way near the Akins Avenue entrance.

And, again, that area they graded, and I don't believe there was activity at that time, so I would say that was an active area. And then --

Q You know, before you continue I'm going to bring you back to January 6th where at No. 1 it says, "Fully stabilize area in that area," and then on January 14 it says, "Stabilize remaining small areas."

MS. DRABANDT: Can you please reference what exhibit you're looking at?

MS. BERESFORD: Sure. So the first one I went back to January 6th, and for Area No. 1, Mr. Nakatani's list it says, "Fully stabilize area."

MS. DRABANDT: Which exhibit number to the ACL?

MS. BERESFORD: 24.

MS. DRABANDT: Thank you.

BY MS. BERESFORD:

Q Do you see that?

A Yes.

Q And then if you go to Exhibit No. 25, Area No. 1, it says, "Stabilize remaining small areas that lack full hydroseed or visqueen cover," No. 1.

Does that sound like they've been working in that

area?

A It does sound like it.

Q What other areas would you deem inactive on January 14?

A We had talked about the sidewalls, so the Notation on the Recommendations No. 2 talks about installing erosion controls on the remaining sidewalls, and that's indicated on the map on some housing pads on Tangelos Place.

Q Can we look at January 6, again? And I'm sorry, that is Exhibit 24.

Do you see how -- I'm looking on his numbered area for Exhibit 24 on January 6th. No. 6 says, "Use erosion controls to stabilize exposed sidewalls."

Do you see that?

A Yes.

Q And I see that there's a No. 6 on the map in two locations.

Do you see that?

A Yes.

Q And then looking at the report for January 14 on No. 25, it says, "Install erosion controls on remaining sidewalls."

A Yes.

Q Does that seem like they've been making progress on that?

A It's in a different location, so the ones that had shown up previously are gone.

Q So does that sound like the ones that they had worked on are gone?

A That would be a reasonable inference.

Q Any other inactive areas on January 14th?

A I'm not sure if I -- if we talked about that, but No. 5 -- I'm looking at Exhibit 25 which is the January 14, 2015, City of Lemon Grove inspection report. On page 3 for "Recommendations 5." It talks about "Stabilize area, if inactive or rain in forecast." Again, that's Section 5.

On the map on the final page it's in the upper northwest corner of the site, and that site -- that part of the site was not active at that time for -- for work. And, again, they were under the Stop Work Notice, so I would assume that area was inactive.

And also then it talks about No. 7 on the BMP recommendations page, it says, "Repair minor rails and protect against concentrated flows in the area." And that No. 7 correlates to some of the pads along the southern part of Avalon Way.

And those were some of the first ones built and worked on, but the parkway strips or the areas along the -- the streets would not have been, in my mind, active at that time. So those would have been area that's should have had

soil cover.

Q And do you know if they were doing any work to implement BMPs in those areas on January 14th?

MS. DRABANDT: Objection. Speculative.

THE WITNESS: I do not know.

BY MS. BERESFORD:

Q Okay. Jumping ahead to May 9, 10, 11, and 12. Do you have any reports for those days?

A I do not have specific inspection reports for May 9, 10, or 11, or 12.

Q Do you know if they were working in any of those areas -- were they working on the site on those days?

A I'd have to refer to my inspection notes, but, if I can recall, during that time period there were storm events.

And so, therefore, most of their efforts most likely would have been to address the BMP deficiencies.

Q Did you produce your inspection notes?

A I produced my inspection report.

Q Do you have separate notes that you take?

A No.

Q Okay. I'd like to refer you to Exhibit 18 which is the inspection report for May 8, and that's -- I'd like you to look at page 3 at the bottom, No. 2 says, "Several areas were observed to be inactive or could be scheduled to be inactive."

Did you identify in your report which areas those were?

A I did not.

Q. So how did you know they were inactive areas?

A Based upon my visit of the site, based upon my knowledge of the activities at the site from my visit in March, I could see specifically when I look at -- again, Photograph No. 6 which is the future park area for the development, that that area has not changed substantially. It definitely has not been regraded and so, therefore, that area should have soil cover.

Q Do you know if they were driving on that area?

A I believe they were driving to some extent. There's a photograph. In the photograph there's some heavy equipment that is parked there, so, obviously, that had to be parked there, it traveled over at least the front part of this.

Q Any other areas that you could identify as inactive on this day?

A Looking at Photograph No. 4, that section to the -- to the left of this page where you can see some of the stockpiles that are partially covered, that section there is the area that did not have activity going on it, and was left unprotected. That was an area that I recall as being inactive.

Q Were you -- were they driving in that area?

A No. It's not an area where there would be vehicles driving on it.

Q Did you ask for the construction schedule for the next two weeks?

A I did not.

Q Do you know how far this location is from Encanto Channel?

A This site is located right next to Encanto Channel.

Q What does that mean? Do you have an estimated distance?

A It's adjacent to Encanto Channel. The development site abuts Encanto Channel.

Q Is there one -- did you observe storm water flowing all through the side of where it's adjacent, or does it enter in distinct locations?

A I observed flows in Encanto Channel, and I observed the storm drain inlets on Akins Avenue that discharge directly into Encanto Channel.

Q And did you -- in preparing allegations for this ACL, did you determine there was a substantial threat to beneficial water use?

A I determined that there was a threat to beneficial uses from this site.

Q And what facts did you rely on for that

determination?

A Looking at the inspection reports from the City of Lemon Grove, looking at the regional board inspection reports, my first-hand observations of the condition of the site, and the way that the site was prepared for storm events, it's my opinion that the -- based on all of that, that this site was not in compliance with the Construction Storm Water Permit, and, therefore, there were threats of sediment discharges from the site. And I did observe sediment discharges from the site.

Q And that sediment discharge created a substantial threat to beneficial use? Did you make that determination?

A It poses a threat.

Q Are you the head of the enforcement unit?

A No.

Q Who is?

A Chiara Clemente.

Q Did you discuss this ACL with her?

A Yes.

Q In preparing it?

A Yes.

Q Have you seen this document before (indicating)?

A Yes.

Q When did you first see it?

A I don't know an exact date, but I would say I

probably saw it in March or April of 2015.

Q And what was your impression of that document?

MS. DRABANDT: Objection. Vague.

BY MS. BERESFORD:

Q Did you -- when you read this document, did you feel like they -- like San Altos was making an effort to come into compliance with the permit?

A I would say I had mixed feelings on that.

Q And why is that?

A Some of the responses in there seem to address the allegations of violations and the Notice of Violation issued by Wayne Chiu, but some of the responses, to me, seemed unresponsive or defensive.

Q Can you be more specific about what was unresponsive?

A I would need some time to look at the document further to be able to do that. It's been a while since I read the complete document. You had asked for what my feelings were, and that's what I recall my feelings.

Q No. I appreciate that. That's fine.

Have you read other reports that companies submit to demonstrate coming back into compliance?

A Yes.

Q Do you feel that many of them are defensive?

A It would be difficult for me to be able to say yes

or no.

Q Were your -- was your reaction to this report substantially different from how you feel when you read other similar reports?

A It was not substantially different.

Q We're going to go back to Notice of Violation No. 4, and look at the allegations for September 15. I will ask you to look at Exhibit No. 22 to the ACL.

A Did you say 22?

Q Yes, I did.

Did you rely on this document for Notice of Violation No. 4 for September 15?

A Yes, I did.

Q Did you rely on any other evidence for that allegation?

A Not that I recall.

Q Can you identify the inactive areas for me that form the basis of Notice of Violation No. 4 for September 15?

A In looking at Exhibit No. 22 which is Tad Nakatani's September 15, 2015, City of Lemon Grove inspection form of the San Altos-Valencia Hills site. If you look on the first page of that under "Physical Stabilization," it states, "Significant areas lack erosion control. Evidence of erosion throughout site. Effective:

Yes or no. No."

And when I look at the BMP Recommendations on page 3, No. 1 states, "Utilize erosion controls on all disturbed areas prior to rain events or when they are inactive, whichever comes first."

And I note that on the map on page 4, that his one circle applies to a lot of the lots in the graded pads throughout the site. During this time, September 15, 2015, the areas that I would expect that were inactive would have been those along Valencia Court that have the one circled and those along Orlando Drive that have the one.

The ones that are circled along Tangelos Place, I would expect that that was an active area for that time of the development.

Q Do you know where they were doing construction on from September 15 to September 30?

A I believe it was along Tangelos Place.

Q Could they have been doing any other work in any other area of the site?

MS. DRABANDT: Objection. Speculative.

THE WITNESS: I don't know.

BY MS. BERESFORD:

Q Okay.

A I would also note No. 5 on that BMP Recommendation, states, "Clean sediment out of roadway and gutter." Again,

to me, that's indicative that there was a discharge of sediment from the site, at least onto the street. It does talk about on page 1 of the inspection report that there had been an inspection -- or had been a storm event.

Q Can you say with certainty whether that discharge came from active versus inactive areas?

A No.

Q Let's talk about Notice of violation No. 13. If you could read for the record, what alleged Violation No. 13 is?

A On page 18 of the Technical Analysis for the ACL complaint, Violation No. 13 states,

"Failure to prevent discharge of concrete waste to the ground (15 days) pursuant to Section B.2.I in Attachment D to the Construction Storm Water Permit.

"Discharges are required to ensure the containment of concrete washout areas and other washout areas that may contain additional pollutants so there is no discharge into the underlying soil and onto the surrounding areas."

Q Is stucco that falls on the ground as part of the application process the same as concrete or concrete washout area?

A No.

Q If stucco that falls on the ground is removed prior to a rain event, is that a discharge to underlying soil?

A Yes.

Q Are underlying soils waters of the United States?

MS. DRABANDT: Objection. Calls for legal conclusion.

THE WITNESS: It may.

BY MS. BERESFORD:

Q How is that?

A Depends on the site characteristics.

Q Can you be more specific?

A If the geology is such that there's a high groundwater level, then it could be.

Q Do you know what the groundwater level at this site is?

A No.

Q Other than clean up the stucco, if stucco falls on the ground before a rain event, weather best management practice would be the best available technology for purposes of the construction general permit?

A I have seen on various sites where stucco contractors will lay down a fabric material or a plastic. So I've seen it where it's a plastic, and then on top of that a fabric material or a fabric material that is waterproof.

And it will catch the bulk of the stucco that falls off during the stucco application process. And, thereby,

they can pick it up, and they can then dump it into the concrete bins -- or construction, after it's dried, they can then dump it into construction waste bins. If it's still wet, they can -- they can dump it into a concrete washout.

Q Is it possible that stucco can fall on the soil even if somebody is using that type of process?

MS. DRABANDT: Objection. Speculative.

THE WITNESS: Yes, it's possible.

BY MS. BERESFORD:

Q And do you know if using the process you're just described, if that complies with OSHA?

A I do not know if that complies with OSHA.

Q Let's look at Exhibit No. 13, please, to the ACL.

A I have Exhibit No. 13.

Q Did you rely on this document for the allegation of the failure to discharge -- the failure to prevent the discharge of concrete waste to the ground for March 18?

A My technical analysis does not cite Exhibit No. 13 in there. However, I believe it does cite Exhibit 14. I will say that Exhibit No. 13 does contain photographs that to me depict violations of Section B.2.I of Attachment D to the Construction Storm Water Permit.

Q And what would that be?

A In looking at the first page of photographs in the upper right-hand corner, there appears to be a discharge of

concrete waste to the ground. It looks like it may have come out of concrete washout.

There's another picture, I believe, of the same -- the same exact site, different perspective on page 2 of the photographs in the lower left-hand corner. And, again, I can't tell if that's a concrete washout, the black structure.

It could be some drywall that's covered in plastic, I can't tell from the quality of this photograph, but I can tell that there was a flow of concrete waste or washout that flowed down that hillside.

Q Do you know when that was cleaned up?

A I do not. I also note on page 2 of Tad Nakatani's March 18, 2015, inspection report under the section that says, "Our concrete washout is properly installed and maintained with no evidence of discharges." There's description explanation that states "Concrete waste observed on outside ground outside of washouts. Effective: Yes or no. No."

On page 3 of his BMP Recommendations, No. 2, it says, "Clean up concrete waste observed at multiple locations and ensure that all employees use washouts properly." And that No. 3 is shown on the map that's provided on page 4 as being for the housing pads along Avalon Way on both sides.

Q I'm sorry. Could you repeat that last part again. The No. 3 for March 18?

A So on Exhibit No. 13, page 3, No. 2 states, "Clean up concrete waste observed at multiple locations and ensure that all employees use washouts properly."

On the following page is a map where No. 3 is indicated to show where those discharges occurred and he's --

Q I'm sorry. No. 2 or No. 3? That's what I'm getting confused about.

A I apologize. It's No. 2, and No. 2 is indicated along the housing pads along Avalon Way on the east side.

Q So do you know when any of that concrete discharge was cleaned up?

A I do not.

Q Okay. Let's look at Exhibit No. 16, please.

A I have Exhibit No. 16 in front of me.

Q And did you rely on this for your alleged Violation No. 13?

A Yes.

Q And what is the basis for that allegation?

A Exhibit No. 16 is an administrative citation Circled No. 4 for a $1,000 issued by the City of Lemon Grove to Tim Anderson the project manager for the San Altos Place-Valencia Hills Development for illegal discharges of

cementous materials.

And attached to Exhibit No. 16 or attached to the citation is some photographs that were taken, and the photograph in the upper right-hand corner displays discharge of concrete waste to the ground.

Q Is there a concrete washout involved in that picture?

A No.

Q Do you know if that cementous waste identified in that photograph was identified on March 18?

A No.

Q No, you don't know? Or no, it wasn't identified?

A I do not know.

Q Could it be a different discharge than what was identified on March 18?

A I don't know.

Q What evidence do you have that cementous material was on the ground on March 19 through March 23rd?

A The evidence that I would have is that this discharge occurred after the developer received a citation from the City for that same type of activity. And so, in my opinion, it's reasonable to conclude that the developer or the subcontractors who were discharging concrete waste to the ground as a matter of practice during this time period, and so had this con- -- subcontractor or the contractor

changed its ways, then this follow-up inspection would not have discovered another discharge.

It was just a matter of days, different, in less than five days, or five days.

Q Let's go back to Exhibit No. 13.

How many pictures in that exhibit do you think show discharges of concrete waste to the ground?

A In the photographs themselves, I would say only one.

Q On March 18?

A Correct. However, I would note that on page 3 of the BMP Recommendations for No. 2 it says, "Concrete waste observed on multiple locations."

Q And how many pictures of discharges to ground are in Exhibit 16?

A One.

Q Do you know how many houses they were doing stucco work at during this period?

A I do not.

Q So on March 18 they have multiple locations. On March 23rd -- or March 24 they have one.

Is it possible that they improved, and just had one accident on March 24?

A I don't know.

Q Is it possible that they didn't have any on

March 19?

A It's possible.

Q Possible they didn't have any on March 20?

A It's possible.

Q Possible they didn't have any on March 21?

A It's possible.

Q Possible they didn't have any on March 22?

A Possible.

Q Let's look at Exhibit No. 17 -- and before we move on -- I'm sorry. So this one that was identified for March 24, do you know when they cleaned that up?

A I do not.

Q Okay. Let's look at Exhibit No. 17.

Did you rely on this document for the allegation for Violation No. 13?

A Yes.

Q And what is the basis of that allegation?

A Based upon Exhibit No. 17 which is the City of Lemon Grove's Administrative Citation for $1,000 issued to Tim Anderson the project manager for the San Altos-Lemon Grove Project, Valencia Hills. It was for illegal discharges of cementous materials. The date of the violation is April 1, 2015, and it was issued by Tamara O'Neil on April 1, 2015.

Attached to it are photographs of various houses

being stuccoed and the waste stucco on the ground.

Q Does this appear to be a different discharge than what was identified on March 24?

A Yes.

Q What evidence do you have that there were discharges of cementous waste from March 25th to March 31st?

A Based upon the multiple discharges that were documented by the City over the time period, it is my belief that the contractor or subcontractors for the development continued practices that allowed for the discharge of cementous materials to the ground.

Q Looking at the pictures on April 1st, can you tell if that's one house or multiple houses?

A I cannot tell.

Q Could they have cleaned it up as they went along?

A I would say it's highly unlikely based upon my experiences from conducting construction storm water inspections over the years that the stucco contractors will -- will stucco, and they do not stop to pick up every little drop that they make.

Q Do you know who the stucco contractor was on this site?

A I do not.

Q Do you have any idea what their practices are?

A I do not.

Q Is it possible there was no discharge on March 25th?
A No.
Q It's not possible?
A On March?
Q Is it possible there was no discharge of cementous waste on March 25th?
A It is possible.
Q Is it possible there was no discharge on March 26th?
A It's possible.
Q How about March 27th?
A It's possible.
Q March 28th?
A It's possible.
Q March 29th?
A It's possible.
Q And March 30?
A It's possible.
Q Do you have any evidence that the discharges on March 18, 24 and April 1st harmed waters of the United States?
A Could you repeat the question?
Q Yes. Do you have any facts that the cementous waste that we saw on the ground on March 18, March 24, and

April 1st -- are there any facts that that waste actually left the site?

A No.

Q Any evidence that that waste actually harmed waters of the United States?

A No.

Q Do you know which site where you saw the plastic being used by the stucco contractors?

A I believe it was the Garden Community site.

Q Let's look at Exhibit No. 13 again which was for March 18, and I'm going to jump to Notice of Violation No. 12.

Do you know what was stored in those drums? I'm sorry. Let's be more specific. I'm referring to Exhibit No. 13, and the last page has photographs, and it appears to be the same photograph on page No. 17 of the technical analysis for the ACL.

Do you know what was in those drums?

A I do not know.

Q Do you know if they were hazardous or nonhazardous?

A I do not know.

Q Do you know if the containers were watertight?

A I don't think they were.

Q And why do you say that?

A Well, looking at the photograph, it appears that

one of the lids is cracked open.

Q Can you show me where?

A I'm looking at the photograph in the technical analysis which is labeled Figure 12 on page 17. To me, the bucket on the front left appears to have a lid where the lip goes up, so, to me, it does not look like it was sealed.

Q I'm sorry. I don't know if it matters. I'm looking at Exhibit No. 16 which I have one page of photographs attached to that.

A Yes.

Q I do not see a picture of chemicals. You're saying that's from Exhibit No. 15 from the ACL.
So that photograph comes from Exhibit No. 15?

A Yes.

Q Okay. My apologies.

Do you know if there was any rain that occurred between March 18 and March 24?

A Not without looking at the precipitation data, no.

Q So do you have any evidence that this alleged violation caused a threat to beneficial use of Encanto Channel?

A Based on the information in front of me, no.

Q Okay.

MS. BERESFORD: Let's go off the record.

(Brief recess.)

MS. BERESFORD: Back on the record.

BY MS. BERESFORD:

Q Okay. Did you talk to Laurie Walsh when drafting this ACL?

A I'm not sure. The reason I'm not sure is I can't recall when she became supervisor of the storm water unit. There was a transition period between Eric Becker and her, so I don't recall.

Q Did she have any input on the ACL?

A I -- I would have to say very little, if any.

Q Okay. I would like you to, please, take a look at this document?

A Yes.

Q Can you please state for the record what it is?

A This is the November 21, 2013, California Regional Water Quality Control Board, San Diego Regions Issuance and Notice of Hearing of Complaint Administrative Civil Liability Complaint No. R9-2013- 0152 against the City of Encinitas and USS Cal Builders, Inc. For Violations of Orders Nos. 2009-0009-DWQ and R9-2007-0001, and Base and Plan Waste Discharge Prohibition 14.

Q Did you participate in preparing this complaint?

A I did not.

Q Are you familiar with it?

A I would say no.

Q Do you know who drafted it?

A I believe Rebecca Stewart drafted this.

Q Do you know how many days of alleged violations were involved in this complaint?

A I do not.

Q Do you know what type of contaminants or pollutants were at issue in this complaint?

A I'm not sure.

Q Do you know if they alleged multiple day violations as part of this complaint?

A I believe so.

Q Can you expand on that?

A I had very little to do with this. I didn't have anything to do with this complaint issuance or the development of it, so it would just be based upon what I recall of hearing what occurred with this. And I would say I just have very little knowledge about this complaint.

Q Okay. Are you familiar with the multiple-day violation reduction provision in the enforcement policy?

A Yes.

Q Do you know? Was that policy followed for the complaint against San Altos?

MS. DRABANDT: Objection. Vague.

THE WITNESS: I would say yes.

///

BY MS. BERESFORD:

Q Can you explain to me how?

A The multiple-day violation component that's in the enforcement policy allows for long multiple-day violations to be collapsed, and there are certain requirements -- prerequisites that apply to it. Without looking at the enforcement policy, I would not be able to recite them from memory.

Q Do you know which days in the alleged violation complaint against San Altos were it collapsed?

A I don't believe any days in the San Altos complaint were collapsed.

Q So I guess that's what I was trying to ask before. How come there were no -- how many come there was no reductions in the alleged multiple days of violation?

A There were not sufficient days where it pertained. The prerequisites I do not believe applied. And the evidence to support the days of violation were sufficient to -- to follow through.

Q Is this the first complaint in which you've been involved where their multiple days were not collapsed?

A No.

Q Can you identify others?

A Not off the top of my head, no.

Q Do you remember the last time a complaint for the

Construction General Permit did not collapse multiple days for violations?

A I do not recall.

Q When preparing administrative civil liability complaints, is it left to one individual to determine whether or not multiple days should be collapsed?

A No.

Q Can you tell me how that decision is reached?

MS. DRABANDT: May I add a caveat? Without disclosing any attorney-client privilege information.

MS. BERESFORD: Sure.

THE WITNESS: In my experience in developing administrative civil liability complaints, I work in coordination with my supervisor, with our technical staff, and our office of enforcement attorney. And we will have internal meetings where we will discuss the different aspects of a case and how to charge a case.

BY MS. BERESFORD:

Q In those discussions is there a discussion to say, you know, two years ago we issued a civil complaint for violations of the Construction General Permit to the City of Encinitas, do you compare that to see how you're being fair and consistent?

A We will discuss how past cases were prosecuted.

Q Was there discussion of the Encinitas ACL when

preparing this ACL?

MS. DRABANDT: Objection. Attorney-client privilege. I'm asking that he not answer.

BY MS. BERESFORD:

Q Who can answer for me why the Encinitas ACL collapsed multiple days, but this ACL did not?

A I was not involved, so I would not be able to comment on it. However, I believe Rebecca Stuart drafted the ACL complaint, and so that question would probably be best posed to her.

Q For the Encinitas?

A Correct.

Q Was she involved in this -- in the San Altos complaint?

A No.

Q Who was Rebecca's supervisor?

A Rebecca's supervisor is Chiara Clemente.

Q Would Ms. Clemente perhaps know the answer to the questions that I'm asking?

A She may.

Q Okay. Let's talk about Violation No. 11.

A And are you referring to Exhibit 2 of the deposition?

Q Yes.

A Okay. So I can hand you this. Do you want this

back?

Q Sure. Thank you.

A And you're referring to Violation No. 11 from the ACL complaint?

Q Yes.

A Violation No. 11 on page 17 of the Technical Analysis states, "The failure to contain and securely protect stockpile waste material from wind and rain." And it says, "(9 days) pursuant to Section B.2.F in Attachment D to the Construction Storm Water Permit.

"Dischargers are required to contain and securely protect stockpiled waste material from wind and rain at all times unless actively being used."

Q Did you determine that there was a substantial threat to the beneficial use of Encanto Creek from this alleged violation?

A I would say that there is a threat posed by this violation.

Q And was that a substantial threat?

A I -- I don't believe I characterized it as substantial.

Q Okay. I would like you to, please, look at Exhibit No. 24.

A I have Exhibit No. 24.

Q Did you rely on this document for the allegation

that a failure to contain and protect stockpile waste material for January 6th?

A Yes.

Q Did you rely on any other facts for that alleged violation?

A I don't believe so.

Q Can you identify for me the stockpiles that you are referring to for this alleged violation?

A I'm looking at Exhibit No. 24. On page 3 under "Construction BMP Recommendations," Circled No. 3 states, "Move or remove stockpiles that are adjacent to drain."

Page 2 of the inspection report under the heading of "Are There Any -- Are There Any Other Potential Storm Water Pollution Issues/Concerns," under "Description," it states "Stockpiles are too close to drain in northeast basin. Need to be moved or removed. Effective: No." In looking at page 4 which is a map indicating where No. 3 applies to, it shows a circle on the basin that's to the entrance of the site on San Altos Place.

Q Does the report say whether those specific stockpiles are covered or uncovered?

A No.

Q Is there any other information in this report that you relied on for that allegation?

A I don't believe that it was in this one, but I

think I based these violations on two reports by the City of Lemon Grove.

Q So what basis do you have that stockpiles were not securely protected from wind and rain on January 6?

A In the Exhibit No. 24, none.

Q Let's look at Exhibit No. 25 for January 14.

A Yes, I have Exhibit No. 25.

Q And did you rely on this document for the allegations for Violation No. 11?

A Yes.

Q And what in this document did you rely on to state that stockpiles were not protected from wind and rain?

A There was a notation on page 2 of Exhibit No. 25 where it states, "Are material stockpiles protected, covered, contained and located away from non-storm water discharges?" And it says, Wood/scrap pile should be removed or protected. Effective: No."

Below under the same section that was cited in the previous exhibit, "Are there any other storm water pollution issues/concerns?" And it states, "Stockpiles are located too close to drain in northeast basin. Remove or relocate them outside of --" I can't -- I can't read what the rest of that says. And it says, "Not effective."

Q The stockpiles next to the basin, is there any indication about whether they are covered or uncovered?

A Well, if you look at the description up above, it says, "Wood/scrap pile should be removed or protected." So the fact that it says "should be protected," to me, indicates that it was not covered.

Q "Should be removed," and that means to you not covered?

A It says removed or protected.

Q Oh, I misunderstood you.

Do you think that the stockpile he's talking about up here is the same as the one below?

A I do.

Q Why do you think that?

A I believe that -- that, although he's got it under the section "Materials/stockpiles," the fact that it says a scrap pile or scrap wood, it's -- to me, it's typical that wood is not covered, but it definitely should not be in a basin where there's exposure to the storm water, but in his estimation it said it should be moved or protected.

Q I'm still trying to figure out why you think this is the same stockpile as the one down here?

A Because if you look at page 3 under his BMP Recommendations, it says, "Remove the stockpiles that are near the drain or relocate them outside of the basin." There's no other description -- well, I guess on 6 remove or protect scrap pile.

Q If they were the same stockpile, wouldn't he have put all the information together?

A Let me see. I agree with you. They are separate stockpiles.

Q Does the Notice of Violation allege that stockpiled waste material is exposed from January 6th through January 14?

A It does not note it. However, in looking at the two reports that -- it's reasonable to assume that they were in that position that the inspector deemed a deficiency because it shows up in both reports.

Q You're talking about the stockpiles near the basin?

A Correct.

Q So are those the stockpiles that you are focused on for Violation No. 11?

A Yes.

Q How do we know that they're waste stockpiles?

A I would say that I base that upon my confusion that it was the -- the scrap pile from the one above.

Q But you think they're different stockpiles at this point?

A At this point I agree with you. They are different stockpiles based upon the information in the map.

Q And do you have any evidence that waste stockpiles were not protected from wind and rain from January 6th

through January 13?

A I do not.

Q Let's look at Violation No. 10, please.

A I have it in front of me.

Q Can you please state what that is for the record?

A On page 16 of the "ACL Complaint Violation No. 10" is: "The failure to protect storm drain inlets (3 days) pursuant to Section E.6 Attachment D to the Construction Storm Water Permit.

"Dischargers shall ensure that all storm drain inlets, and perimeter controls. Control BMPs, and pollutant controls at entrances and exits (Example, tire washout locations) are maintained and protected from activities that reduce their effectiveness."

Q Let's look at Exhibit No. 4, please, to the ACL.

Did you rely on this report for the allegation of failure to protect storm drain inlets on December 8th?

A I did.

Q Did you rely on any other evidence for this for December 8?

A Not that I can recall.

Q Do you know if there was a discharge resulting from this alleged violation on December 8th?

A I do not.

Q Do you know if there was an alleged potential -- or

what was the alleged potential discharge volume?

A I do not know an alleged potential discharge volume.

Q Let's look at -- going back to May 8.

Do you know -- what did you rely on for the allegation that there was a failure to protect the storm drain inlets?

A I'm looking at Exhibit No. 18 from the ACL complaint, and you're discussing the May 8.

Q No. I'm sorry. The December 8. Yeah, I apologize if I said May 8.

A Okay. Could you repeat the question?

Q Yes. Exhibit No. 4. We're talking about December 8, and I'm asking you what are the facts that form the basis of the alleged violation of failure to protect storm drain inlets on December 8?

A I replied -- I relied upon Gary Harper's December 8, 2014, inspection report of the Valencia Hills site. On that inspection report it states, "Storm drain inlet protection." And it says, "Description Explanation. Inlet to be cleaned. Effect: No."

Q Do you know which storm drain inlet he was looking at?

A I do not.

Q Could he have been looking at an inlet that was not

connected to the MS4?

A I don't know.

Q Let's look at May 13 and Exhibit No. 19.

A I have Exhibit No. 19 in front of me.

Q Can you please identify for me what in that document states that there was failure to protect a storm drain on May 13th?

A I did not write this inspection report. I was at the site on May 13, 2015, and so I recall documenting through a photograph and visually seeing this figure that we have in -- the photograph in Figure 11 on page 16. So it was not included by Wayne in his inspection report.

MS. DRABANDT: May I, please, ask for an explanation of what photograph you're referring to?

THE WITNESS: So in the Technical Analysis to the ACL complaint on page 16, there's a photograph on -- that's entitled Figure 11. And it's a photograph I took during the inspection that Wayne Chiu conducted of the site. And so it documented the failure to protect a storm drain inlet at the site.

BY MS. BERESFORD:

Q So Mr. Chiu's report did not identify that as a violation on May 13th?

A It did not.

Q Do you know if that storm drain was -- or if

that -- the picture on page 16 of a storm drain inlet, do you know if that was connected to the MS4?

A I don't know.

Q If it was not connected to the MS4, is it still a violation of the Construction General Permit?

MS. DRABANDT: Objection. Calls for a legal conclusion.

THE WITNESS: In my opinion, it's a violation of the Construction Storm Water Permit.

BY MS. BERESFORD:

Q If it's not connected to the MS4?

A Right. And the reason being I have seen many sites where the developers will say a storm inlet is not connected, and there will be sediment inside -- which there was at the time that I took this photograph -- and they will not clean it out.

And so, therefore, as soon as there is a set of -- a storm event and the site is connected, it will discharge the sediment.

Q So you're citing them for a violation that you think they're going to do, but have not done yet?

A It's --

MS. DRABANDT: Objection. Argumentative. Calls for legal conclusion.

THE WITNESS: I would say --

BY MS. BERESFORD:

Q Is it possible that they could have cleaned it out? Did you ever ask them if they did?

A Well, it wasn't protected at the time. And we were expecting storm events. So, in my mind, that is a violation of the Construction Storm Water Permit requirement.

Q Okay. Even if it's not connected to the MS4?

A Even if it's connected to the MS4.

Q Where is it going to go?

A If it's connected, it's going to go to Encanto Channel.

Q What if it's not connected?

A Then, it's going to stay on site.

Q And is that still a violation?

MS. DRABANDT: Objection. Calls for legal conclusion.

THE WITNESS: I would refer to the Construction Storm Water Permit.

BY MS. BERESFORD:

Q If you didn't notify them of this being a potential violation, how are they supposed to take corrective action before a storm water event?

A I provided the inspection report to the developer.

Q Your inspection report?

A Oh, I'm sorry, Wayne's did. And it did not include

that. I see what you're saying.

Q So how are they supposed to take corrective action if they're not notified that it's a potential violation?

A I believe that I had a conversation with -- I'd have to refer to my phone log notes -- with the project manager about the condition of the site and the violations and the need to get the site into compliance.

Q And did you specifically talk about this issue?

A I believe so.

Q And so -- and if they cleaned it out, is it still a violation if it doesn't leave the site?

MS. DRABANDT: Objection. Calls for legal conclusion.

THE WITNESS: Based on the requirements and the permit, the storm drain inlets are to be protected. It was not protected, so I'm finding that it was a violation.

BY MS. BERESFORD:

Q How do you define storm drain inlet?

A Well, I would say a storm drain inlet is a device such as the one that appears on Figure 11.

Q Can you be more specific? I mean, what is its function?

A Its function is to convey storm water runoff to the storm water conveyance system.

Q So if it doesn't convey storm water runoff to the

storm water runoff system, does that mean it's not a storm drain inlet?

A I still see it as a storm drain inlet. Again, based upon my experience, it's very common for there to be sediment in there, and it does not get cleaned out. So I still see that as a storm drain inlet.

Q But you don't know if in this instance whether it was cleaned out or not?

A I don't know if it was cleaned out, and I don't have any information to show that it wasn't connected to the storm water conveyance system.

Q Okay. Can I ask you to, please, look at Exhibit No. 20 to the ACL?

A I have it in front of me.

Q Can you look at Photograph No. 3 on page 6 of 8?

A Yes.

Q Can you please read the second to last sentence in the photograph caption?

A So on page 6 of 8 under Photograph No. 3, the second to last sentence says, "The downhill storm drain inlet is connected to an on-site sediment basin."

Q Do you know if that's the same storm drain inlet that's identified in your photograph on page 16 of the Technical Analysis?

A I do not know. Let me take -- well, let me read

this again before I state that.

No. It is not because the photograph identifies it as being on Avalon Way. The photograph that was taken in Figure 11 was on Tangelos Place.

Q Do you know if any of the storm drain inlets on the site that day were connected to the MS4?

A I do not know --

Q Okay.

A -- for certain.

Q Let's look at Exhibit No. 22 to the ACL, please?

A I have it in front of me.

Q Can you please identify -- did you rely on this document for the allegations that there was a failure to protect storm drain inlets on September 15?

A Yes, I did.

Q And what are the facts in that document to support that allegation?

A Exhibit No. 22 is the City of Lemon Grove inspection report from Tad Nakatani dated September 15, 2015. In his inspection report on the first page under "Storm Drain Inlet Protection Sediment Trap Desalting Base and Gravel Bag Barrier." It states, for a description "No inlet protection on drain near southeast corner. Effective: No."

Q Do you know if there was a discharge resulting from

this alleged violation?

A I do not.

Q Do you know if there was an alleged potential discharge volume on September 15th?

A I do not.

Q Okay. Let's talk about Violation No. 5, please.

Can you, please, state what alleged violation No. 5 is, please?

A Violation No. 5 appears on page 11 of the ACL Complaint Technical Analysis. It states, "Failure to implement perimeter sediment control BMPs (14 days) pursuant to Section E.1 and Attachment D to the Construction Storm Water Permit.

"Dischargers are required to establish and maintain effective perimeter controls and stabilize all construction entrances and exits to sufficiently control erosion and sediment discharges from the site."

Q I would like to talk about December 5 through 7.

Do you have any evidence that there was a discharge from the site on December 5 through 7?

A It is my assertion that the violations continued based upon looking at the inspection reports for December 4, 2014, December 8, 2014. Based upon those, the violations on the 4th and the 8th that it was reasonable to conclude that those violations continued in those ensuing days.

Q Do you know what the weather was on December 5 through 7?

A I believe that there were numerous storm events that we had in December. I don't recall exactly the dates of them, but I know that, again, we had storm events basically every week of December 2014.

Q Well, if -- let's take December 5, for example. If there's no rain on December 5, can there be a discharge from the site? Can there be sediment discharge from the site if there's no rain?

A If there's an on-storm water discharge there could be, but as far as, like, what you're stating, if there's not a storm event, then it would be unlikely that there would be a storm water runoff.

Q And is there still a violation of the permit for failure to implement perimeter sediment control BMPs, if there's no discharge from the site?

A Yes.

MS. DRABANDT: Objection. Calls for legal conclusion.

THE WITNESS: In my opinion yes, it is a violation.

BY MS. BERESFORD:

Q And why is that?

A Based upon the permit requirements that we talked about -- establishing and maintaining effective perimeter

controls.

There were threats of storm events throughout this time period, and the site needed to have effective BMPs. They couldn't just expect that they would be there on the day of a storm event.

Q Does the permit require somebody to prepare for a storm event that's farther away than 48 hours?

A The permit has requirements for the implementation of effective best management practices throughout the year, and dependent upon certain conditions like forecast of a storm event, some other requirements are added in.

As far as this requirement, it's not dependent upon whether there's a storm event or not.

Q How do you know if something -- if the BMP is effective if there's no discharge?

A If there are gaps or holes in a perimeter control, then it is highly unlikely that it would be able to be effective such as the photograph that we have in Figure 6 on page 11 of the Technical Analysis.

Q Let's look at Exhibit 4 to the ACL.

A I have it in front of me.

Q Did you rely on this document for the allegation that there was failure to implement perimeter sediment control BMPs for December 8th?

A Yes, I did.

Q And what is the basis of that allegation?

A Looking at page 1 of Exhibit No. 4 which is an inspection report done by Gary Harper with the City of Lemon Grove on December 8, 2014, of the Valencia Hills construction site under "Perimeter Protection," it states "Effective: No."

Q Do you know if he was inspecting for compliance with the Construction General Permit?

A I do not --

MS. DRABANDT: Objection. Speculative.

THE WITNESS: I do not know.

BY MS. BERESFORD:

Q Is there any other evidence in the December 8 report that you're relying on for this Notice of Violation on December 8?

A I don't think so.

Q So do you know what he cited for his -- what his concern was for December 8th?

A What I know is what is in his inspection report which says, "Perimeter Protection. Effective: Yes or no. No."

Q How do you know that that same issue occurred on December 7th?

I do not know that the same exact issue occurred on December 7th, but I do have the inspection report from

December 4th that states that there were inlet protection -- or there was perimeter protection issues.

Q Let's look at December 4 Report, Exhibit No. 3 to the ACL.

Is this the report that you're relying on?

A Yes.

Q And what are the -- what's the basis for that allegation on Exhibit 4?

A Sure. Exhibit No. 3 is the Stop Work Notice issued by the City of Lemon Grove to Valencia Hills on December 4, 2014.

Under the following deficiencies are noted stabilized construction entrance, and also runoff from the site which are indications that they were not able to contain sediment.

But most importantly, looking at the photographs, on page 1 of the photographs, if you look at the middle far right photograph, you can see where there are crumbling gravel bags, and it's dark. You can see where sediment overtopped that. There are other photographs that demonstrate sediment in the street which is indicative that perimeter control BMPs were not effective.

Looking at the photograph on page 2, upper right-hand corner, that is a construction entrance and it is lacking of some sort of perimeter control there.

Q Was there a discharge to the -- was there sediment in the street noted on December 8th?

A It does not. However, it does say -- there's a notation by Gary Harper on his inspection report on page 2 that the street needs to be swept. So that would indicate to me that there was sediment in the street.

MS. DRABANDT: Which exhibit are you reading from?

THE WITNESS: I'm reading from Exhibit No. 4.

BY MS. BERESFORD:

Q On page 2 can you please identify for me where it says --

A Under "Tracking Controls" at the very top. Entrance being rebuilt street sweep.

Q What does that say? Street sweep this week?

A Uh-huh.

Q Could that be just a note that they are going to just sweep the street that week?

A It's possible.

Q So how do you know that some of the issues on December 4 were not -- did not reoccur on December 5, 6, and 7?

A Based upon the information on Exhibit 4 on page 2 at the bottom states, "Are there discharge locations free of significant erosion or sediment transport. Description: Still cleaning. Effective: No."

Q Could that be down the street and not related to the perimeter?

A I don't think so because it says, "Discharge location," so that is typically an entrance or exit area.

Q Have you talked to Mr. Harper about what location he meant there?

A I did not.

Q Are there any pictures of the discharge locations from December 8th?

A Not in the attached photos to Exhibit No. 4.

Q So there's no evidence of a discharge on 5, 6, or 7; is that correct?

A That would be correct.

Q Let's talk about May 9 through 12, please.

Do you have any inspection reports from May 9 through 12?

A I do not.

Do you know what the weather was like on May 10, 11, 12?

A I don't recall.

Q How do you know that there was insufficient perimeter controls on May 9, 10, 11, and 12?

A I based that allegation upon the fact that there were inadequate perimeter sediment control BMPs on May 8th and also on May 13th. And so far I'm inferring that they

continued, that they weren't corrected and then were out of compliance by the 13th.

Q Do you know if what you saw on May 13th is the same as May 8th?

A Could you repeat the question?

Q Do you know if the issues that you identified on May 8th were the same as the issues you identified on May 13th?

A They were not.

Q Is it possible that they could have corrected the things on May 8th, and then had something else occur on May 13?

A It's possible.

Q Let's talk about alleged Violation No. 6.

A I'm ready.

Q Violation No. 6 alleges that the discharger violated Construction Storm Water Permit, Attachment D, Section E3 by failing to implement erosion control BMPs in active areas at the site on 22 days; is that correct?

A Yes.

Q Does the permit define what appropriate erosion control BMPs are for active areas?

A It does describe in parens after that section runoff control and soil stabilization in conjunction with sediment control BMPs.

Q But does it identify what the BMPs are?

A No, it does not.

Q Do you think that the CASQA Storm Water Construction BMP handbook provides the standard care that construction companies should follow when implementing erosion control BMPs?

A I would say that the BMP handbook provides options for developers to implement a variety of BMPs depending on site characteristics and conditions that may be more appropriate than others.

Q Do you think that all active areas have to be protected from erosion prior to the onset of rain?

MS. DRABANDT: Objection. Calls for a legal conclusion.

THE WITNESS: It is my opinion that to comply with this section of the permit that a construction site would need to implement runoff control and soil stabilization on active areas prior to a storm event.

BY MS. BERESFORD:

Q Let's look at December 1, so if you could, please, refer to Exhibit No. 2 --

A I have it.

Q -- of the ACL. Did you rely on this document for your allegations for this Notice of Violation for December 1?

A Yes.

Q Did you rely on any other facts for this allegation?

A Looking at consequent or follow-up inspection reports that were done to see the state of the site -- condition of the site, I'm sure I looked at rainfall data and any other information that was available about the site conditions.

Q Do you know if on December 1 there was a 50 percent or greater chance of rain in the next 48 hours?

A I do not know.

Q Can you describe to me the basis of the allegation for December 1?

A Looking at the photographs -- looking at page 1 of the photographs, in the lower right-hand side is a photograph of some areas that have been sprayed with an orange bonded fiber matrix.

In the center of the photograph it looks like there are some pipelines, and then there's a large area where there is no -- it's flat. It's graded, and there are no soil binders sprayed on it. I also do not see any runoff controls.

Q And it's common that soil binders should be placed on active areas?

A When there's the threat of a storm event, the

active areas -- the developer should take precautions to implement BMPs to stabilize the soil and to implement runoff control from those active areas.

Q Do you know where the runoff would go from this photograph?

A I believe it would flow towards the right of the photograph and then onto Tangelos Place.

Q And how do you know that they didn't have any runoff control?

A I don't see any in the picture. And then if you look on the upper left-hand picture, there's Tangelos Place there. That's the road. (Indicating) I don't see any runoff controls there either or soil stabilization.

Q But is it possible that there's some runoff control down the way that's not shown in the picture?

A I don't think that would be an appropriate application of the best management practice.

That's a -- that roadway -- there's slopes there, and so, therefore, failure to put some sort of runoff control would allow that sediment runoff -- the runoff to build up quite a bit of energy.

So if there was something down below, it would probably be overwhelmed and allow for a discharge.

Q But you don't know if they had something downstream or not?

A Based on these photographs from December 1st, I -- I do not know.

Q They received a Stop Work Notice on December 2nd; is that right?

A Yes.

Q So what would be the active areas from December 2nd through January 6th?

A So the active areas would be the areas where they either plan to do construction -- which they may not have known how long it was going to take for them to come into compliance with the deficiencies that were noted in the Stop Work.

As I stated earlier, for most developers, they don't like being under a Stop Work Notice because they can't make progress on their development. So, therefore, they would want to push forward. So it's my assumption that they would have attempted to cure the deficiencies in their BMPs so they could start work as soon as possible.

Q I'm sorry. I thought earlier when we were talking about inactive areas, you were indicating to me that everywhere had to be an inactive area because they were under a Stop Work Notice.

Did I misunderstand?

A Perhaps.

Q Perhaps I misunderstood? Or perhaps that's what

you were saying?

A Perhaps you misunderstood.

Q Okay. So, wow, I'm sorry if I misunderstood. So when you were talking about the areas of active versus inactive, there could have been active areas going on in those days?

A If you look at the definition in the permit, it talks about an area that is no longer scheduled to be worked on, or hasn't been worked on in the last 14 days, I believe. I'd have to refer to the permit, but I would refer to that definition.

Q So as an -- even if someone is under a Stop Work Notice, and they were scheduled to work on that area within the next 14 days, would that still make that area active?

A Yes.

Q So did you ever discuss with anyone what the schedule of active areas were to be for the month of December?

A No.

Q Did you ever discuss with anyone what the areas of active construction was supposed to be for the month of January?

A No.

Q Are you aware that when Gary Harper was inspecting the site and identifying areas as inactive versus active,

that his definition depended on whether they were going to work there in 10 days?

A I was not aware of that until the depositions.

Q And were you aware that when Mr. Nakatani identified the areas as active versus inactive, his definition depended on whether they were going to work there in the next 10 days?

A No until the depositions.

Q So is it possible that areas that you identified as -- is it possible that areas that they identified as inactive were potentially active for purposes of the permit because they were scheduled to have work on days 11, 12, 13, or 14?

A It's possible.

Q Okay.

A Linda, could we take a break?

Q Absolutely.

MS. BERESFORD: Let's go off the record.

(Recess.)

MS. BERESFORD: Back on the record.

BY MS. BERESFORD:

Q Okay. Going back to the CASQA handbook, does this look familiar to you?

A Yes, I'm familiar with this.

MS. BERESFORD: What exhibit number are we on?

THE REPORTER: Five.

MS. BERESFORD: Can we, please mark this as Exhibit 5?

(Exhibit No. 5 marked.)

BY MS. BERESFORD:

Q Can you please state what this is?

A This appears to be Section 3 from the Construction Storm Water BMP handbook that's produced by CASQA.

Q And do you see halfway down, the second paragraph says "All inactive soil-disturbed areas on the project site and most active areas prior to the onset of rain must be protected from erosion."

Do you see that sentence?

A Yes.

Q So does that mean that some active areas prior to the onset of rain might not be protected from erosion?

A Well, in the way you've provided to me here, that appears to be the case on this statement.

Q Do you know if the permit defines the term "prior to the onset of rain"?

A I'd have to look at the permit.

Q And do you know if the manual defines that term?

A I do not.

Q Okay. Is it possible for an area on a construction site to be both active and inactive at the same time?

A I don't know. I hadn't thought about it.

Q Can we look, please, at Exhibit No. 2 --

A Yes. I have Exhibit No. 2.

Q -- to the ACL. And I'd like to look at the first page of photographs, which are date stamped December 1. And two of the photographs, one in the upper left-hand corner and one in the lower right-hand corner are time stamped as 10:44 a.m.

Do you see that?

A Yes, I see that.

Q Are these two locations close to each other?

A I believe they are close to each other.

Q And can you describe how where they are in relationship to each other?

A I believe that the photograph on the lower right-hand side is slightly down the hill on Tangelos Place from the photograph in the upper left.

Q Can you describe for me why the photograph in the upper left is considered inactive but the photograph in the lower right is considered active?

A So if you recall when I talked about the photo in the upper left, that the areas where -- it might be easier for me to point to you -- but the areas here (indicating) and along here, I described as being inactive, and I was making the comment that this area here which is Tangelos

Place is a roadway, and that it had been graded and was not changing significantly -- was not planned or scheduled to be regraded for many months as far as with pavement and utilities to be put in.

And so my comment was that I deemed this area (indicating) to be inactive because the only thing that was occurring on there was some traffic, and it -- very little because they ended up closing the northeast entrance/exit very shortly after this time period. So even less traffic was going on there, and so my comment was even though this is a graded roadway, and there's some traffic, it was my opinion that there should also be some soil stabilization on there. A soil binder could be sprayed on there. This area along here (indicating).

This area has some traffic (indicating), looks like they have some vehicles parked there, but again it's -- it's not scheduled to be regraded.

Q If somebody is using a location -- a graded area as a road, just as a road, and the road has some slopes on it, are the slopes on the road active or inactive?

A If the road is graded, and there's no plan to do any other land disturbance to it, it's just being used as a dirt road, then I would say it's inactive.

Q Okay. And I'm sorry if you already explained this. Forgive me.

Can you, please, describe for me what characterizes this photograph in the lower right-hand corner as active?

A Well, I characterize that area as active was because I see there were some pipes that were laid down there, and it looks like there some vehicles did some turning around. And so since there's some materials placed there, that perhaps that was an area that was going to get more traffic than what I would expect in some of the other areas.

And so, therefore, they would also be -- it's a housing pad, so I know at another point they will be doing -- pouring concrete, digging utilities, that sort of thing. And that's -- that phase, that area was due to be worked fairly soon, if I can recall correctly.

Q How do you know? Like, what's your recollection based on?

A Based on my discussions with the site superintendent at later times as far as the sequencing of the phases for the development.

Q And do you know when that conversation occurred?

A I believe it occurred sometime in the May of 2015 on-site. It may have also occurred on March of 2015 when I was on-site.

Q Did you inspect the site on March 27th?

A I was -- I believe I was on the site. Wayne Chiu

was the lead on that, so I was there. I observed the conditions at the time, but I did not produce an inspection report.

Q Do you know if Mr. Chiu produced an inspection report?

A I believe -- I don't believe an inspection report was created for that.

Q Why not?

A If I can recall, that was a meeting in which Wayne was discussing -- Wayne Chiu was discussing with the developer the potential for enforcement, and it was also a chance to get the -- the developer, the subcontractors, and some of the City of Lemon Grove staff together to make sure that everybody was on the same page when it came to protecting the site from sediment and runoff.

Q Do you recall what the general conclusion of that inspection was?

A I remembered that I was disappointed with the site conditions, that the developer was planning to use -- what I would say -- some unorthodox BMPs on the site, and was also thinking that the rainy season was over, and that there weren't going to be any more storm events, and so that they felt they were in the clear.

Q Do you recall Mr. Chiu's conclusions after that inspection were?

A I don't recall.

Q Do you -- would you be surprised to hear that in his May 13 inspection, he found that the violations of 2015-0153 had been largely addressed?

A It wouldn't surprise me because given that time of the year and given the site conditions of them not expecting anymore storm events, that there was -- their approach was a little different as far as what their expectations on the site were.

And I think many developers are still under the false impression of the previous permit that really kind of placed an emphasis on there being a wet season and a dry season. And this version of the Construction Storm Water Permit has abandoned that approach and being prepared for storm events through the entire year, or being on the lookout such that when one approaches such as what happened over this summer where we had storm events during the summer, although it's not typical for this area happened. And it's more typical for something like an El Nino year.

Q But Mr. Chiu found that the violations from the NOV in December 2015 were largely addressed; is that correct?

A If that's what his report said, then that's what it says. I still recall that I had some concerns with the site, and I believe Wayne did too and we talked with the site superintendent about our concerns. And it was our

understanding that they would address those concerns.

Q Can you please take a look at that?

A (Witness complies.)

Q Have you seen that before?

A I don't recall looking at this specifically, but it appears to be Section 5 which is a glossary and list of acronyms to the California Storm Water BMP handbook for construction activity produced by CASQA.

Q And can you read the definition of active areas of construction?

A They define active areas of construction as "All areas undergoing land surface disturbance activities related to the project including but not limited to project staging areas, immediate access areas, and storage areas."

Q How would you define land surface -- land -- land surface disturbance activities?

A I'd like to look at the Construction Storm Water Permit, but off the top of my head, I would say land surface disturbance activities are those that are related to, say, grading. Could be grubbing, cleaning a site. That sort of activities. Digging. Activities related to the disturbance of the soil.

Q And driving over the soil, is that a land surface disturbance activity?

A I don't think that it is typically. I will say

that in some aspects if it's a highly active area, meaning, it's like an entrance or exit, then it would be an active area. But if it's like on this case where it's Tangelos Place where it's on the upper end, and they closed off that entrance, and there is no further traffic going through there, then no, I don't see that as being a soil disturbance.

Q Do you know when they closed that entrance and exit?

A I don't recall, but I remember it was in one of the exhibits that we -- we looked at today.

Q Okay.

A I would just also add that I don't know how this definition compares to the definition in the Construction Storm Water Permit. I mean, this is a handbook that's prepared by somebody other than the State Water Resources Control Board so their definitions may not be the same. I'd have to look at the permit to be able to tell you if they are the same.

Q Well, here's the glossary for the permit. You can take a look at that.

A The first part of it appears to be the same.

Q The first part of the definition of --

A The definition that's in the CASQA BMP handbook appears to be a part of -- a portion of the one that appears

in the Construction Storm Water Permit.

Q I'd like you to take a look at this page. Can you, please, state what that is?

MS. DRABANDT: I'm sorry. May I have a copy?

MS. BERESFORD: I only have one at this point.

THE WITNESS: I believe it is, again, from the Construction Storm Water BMP handbook by CASQA, and it talks about its technical advisory consultant team, and some other consultants associated with it, I believe.

BY MS. BERESFORD:

Q Are members from the State Water Resources Control Board on the technical advisory team for that handbook?

A It appears to be an Eric Burnsten. I'm not familiar with him, but it does say that he's with the State Water Resources Control Board.

Q And that he's on the technical advisory committee?

A Yes.

Q Can I have you take a look at this page?

A It says acknowledgements at the top, and it purports to be from the "Storm Water BMP Handbook for Construction" that's produced CASQA.

Q And are there members from the State Water Resources Control Board on the hearing committee?

A Yes.

Q And just to be clear for the record, I will give

this page back to you for the technical advisory committee. You identified one gentleman from the State Water Resources Control Board on the technical advisory committee, but are there, in fact, three people from the State Water Board on the technical advisory committee?

A At the bottom there it does say State Water Resource Control Board, and it lists three people, yes.

Q So on that basis would you say that the State Water Board had input on this handbook?

MS. DRABANDT: Objection. Speculative.

THE WITNESS: I don't know.

BY MS. BERESFORD:

Q So they were on the technical advisory committee and the hearing committee, but you don't know if they had input?

A I don't know.

MS. DRABANDT: Objection. Beyond the witness's scope of knowledge.

BY MS. BERESFORD:

Q Can you take a look at that page?

A At the top it says "2011 Handbook Portal Update iv, and it's the "July 2012 California Storm Water BMP Handbook for Construction" produced by CASQA.

Q Is somebody from the State Water Research and Control Board on the review -- one of the technical

reviewers?

A Yes.

Q Okay. Let's go back to Notice of Violation No. 6.

A Okay.

Q And let's look at Exhibit No. 4 which is December 8.

A Okay. I have Exhibit No. 4 in front of me.

Q Did you rely on this document for alleged Violation No. 6 "Failure to Input Erosion Control BMPs in Active Areas for December 8"?

A Yes, I did.

Q And can you tell me the facts in there that you relied on for that allegation?

A So I relied upon the photograph in the bottom left -- actually, excuse me -- in the middle left where it looks like there are some grading sticks, and some pipe, and some trenching occurring.

Q And what was the lack of erosion control in this photograph?

A I'd have to look at a weather report, but I would say that there should have been some sort of soil stabilization and runoff controls from the site, or from this area, especially with there being some of the trenching and other things.

Q And what type of soil stabilization should they

have had there? And let's assume -- do you know whether or not on December 8th there was a greater than 50 percent chance of rain within the next 48 hours?

A I don't recall.

Q Let's assume that there was not a chance of rain within the next 48 hours on December 8th.

What erosion controls should they have implemented in an active area?

A They should have BMPs available to install or use on the site. I think that would be appropriate.

Q Do you know if they have those BMPs available?

A Based upon this inspection report, I do not know.

Q Is there anything else that forms the basis of your alleged violation for December 8?

A Again, I know I was looking at precipitation reports for the time period that may have influenced my decision, and also looking at the other -- other inspection reports that occurred during this time period.

Q So can you say anything specific about December 8th?

A That I made the allegation that they had a lack of erosion controls in that active area.

Q But can you tell me why?

A I believe there was a storm event, but I would have to look at the weather reports to see.

Q Okay. Let's talk about December 5, 6, and 7. What was the basis of your allegations for December 5, 6, and 7?

A Again, looking at the inspection report for -- let's see here. So looking at the information from the December 2nd, December 4th, and December 8th inspection reports that there was a -- consistent deficiencies for erosion control, and so, therefore, I'm asserting that those violations carried through the time period, even though there were not inspection reports for those days.

Q And would that matter whether or not a storm was expected in the next 48 hours?

A It may.

Q So let's assume there was a storm, and it ended on December 4, and starting on December 5 there was no rain expected for at least the next five days.

What can you tell me what lack of erosion controls in active areas they did not have on December 5, 6, and 7?

A I don't think I would allege that then.

Q Did you provide your weather reports that you relied on as part of your technical report?

A I did not.

Q Did you provide that information in the documents that you produced to us today?

A I did not.

Q Do you have that information somewhere?

A I obtained it online through a website.

Q Did you record it, or, you know, save the webpage or make a note of it, what the webpage was that you got it from? I'll stop asking questions.

A Could you go ahead and rephrase it, yeah?

Q So you obtained the information about the weather reports online.

Did you do that at the time that you were drafting the ACL?

A I believe so.

Q Did you make a note of it somewhere what website you looked at?

A I believe that I saved a PDF of it.

Q But you did not produce that PDF today?

A I did not.

Q Can we get that, please? I think that would be responsive. Is that something that can be reproduced?

A I think so.

Q Okay. Can we, please, look at Exhibit No. 24?

A I have it in front of me.

Q Did you rely on this document for your allegations for January 6 for this Notice of Violation No. 6?

A Yes, I believe I did.

Q Can you, please, identify for me the basis of the lack of erosion controls for active areas on January 6?

A I believe I relied upon page 1, "Physical Stabilization," where it talked about there being unprotected areas. "Was it effective? No." Also -- I believe, also, if you look at -- if you look at No. 7 on the BMP Recommendations, I know it -- I'm unsure which ones I used for the inactive and which ones I used for the active.

I believe in my previous testimony I talked about all of those as being for the inactive areas. So based on this exhibit, I'm unsure.

Q Going back to the first page where you talked about physical stabilization --

A Yes.

Q -- and the comment says, "Area near Akins entrance not fully stabilized."

A I believe that is the one I cited for the inactive area, so I would not then cite that again for the active area.

Q For the sake of argument, if there's an area -- an active area, and an inspector says it's not fully stabilized, and there's no rain in the forecast, is that a violation of the permit for lack of erosion control BMPs?

MS. DRABANDT: Objection. Calls for legal conclusion.

THE WITNESS: I would say no.

BY MS. BERESFORD:

Q Let's go to Exhibit No. 15, please, and that, I believe, is a report from March 24.

A Yes.

Q What is the basis of your allegation for March 23rd?

A Included in this inspection report in Exhibit 15 are photographs that were taken on March 24th and March 23rd. If you look at the last page of the photographs, I had a text box inserted that says, "Lack of erosion controls in inactive areas," and it shows a photograph from March 23, 2015.

Q And can you tell me the basis of the allegation that there's a lack of erosion control in that area?

A I would have to say that I -- I would have probably looked at the precipitation to see if there was a storm event forecast or not.

Q If there was no storm forecasted, do you still think there would have been a violation on that day?

MS. DRABANDT: Objection. Calls for legal conclusion.

THE WITNESS: I don't know.

BY MS. BERESFORD:

Q And then how about March 24?

A Again, I would state that there -- I believe there

was a storm event that was coming, and that the active areas such as the ones described on page 4 on the left-hand column would have needed some sort of soil stabilization runoff control.

Q Can you identify the picture for me, please?

A The 4th page of photographs, the entire left-hand column.

Q Would your opinion change if there was no storm forecasted?

A It may.

Q And what evidence do you have of lack of erosion control for May 10, 11, and 12?

A Based upon the fact that when we inspected the site on the 13th, that there were problems, and the storm events were predicted.

Q If the storm events were not predicted on 10, 11, 12 would that change your opinion?

A It may.

Q Do you have any inspection reports from those days?

A I do not believe so.

Q Okay.

MS. DRABANDT: Can we please have a time check?

THE WITNESS: I'd actually like a break.

MS. BERESFORD: Sure. Let's go off the record.

(Recess.)

MS. BERESFORD: Back on the record.

BY MS. BERESFORD:

Q Okay. We are continuing to discuss Notice of Violation No. 6. I would like you to, please, review Exhibit No. 22 to the ACL.

A I have Exhibit No. 22 in front of me.

Q Can you, please, identify for me the active areas that were the subject of this alleged violation on September 15?

A So Exhibit No. 22 is Tad Nakatani's inspection report for the City of Lemon Grove of the San Altos-Lemon Grove, Valencia construction site for September 15, 2015.

I relied upon the statement that -- under "Physical Stabilization," on the first page that there were "significant areas lack of erosion control. Evidence of erosion throughout site. Effective: Yes or no. No." Furthermore, there's a notation that there's some sediment in road and gutter near southeast corner on page 2 under the heading "Discharge Locations." "Effective: Yes or no? No."

And notice there's a notation on page 3 the BMP Recommendations No. 5, "Clean Sediment out of roadways and gutter." And it also on No. 7, "Clean sediment out of retention basins, significant accumulation, especially by inlets."

What I note on that is that we've been talking about erosion control BMPs in active areas, and the permit talks about implement appropriate erosion control BMPs, and it talks runoff control and soil stabilization in conjunction sediment control BMPs for areas under active construction.

And you've been asking me about whether there was a storm event or not, and I have to admit that at this late time of the evening, I am -- I am tired, but a thought came to my mind while I was on break thinking about this. Is that regardless of whether there's a storm event, the permit does talk about that there be the implementation of appropriate erosion control BMPs on active areas.

And noting in this inspection report the amount of sediment that is in the bio-retention basins in the streets and gutters, that there was not appropriate erosion control BMPs on the site.

Because had there been, then there would not have been the notations, I believe, by the inspectors that there was significant areas lacking erosion control, and that there would not have been so much sediment in the streets, and gutters, and in the bio-retention basins.

Q How do you know that the areas that he was talking about -- significant areas like erosion control, how do you know whether those were active or inactive areas?

A Well, one, he identified approximately 60 to 70 percent of the site. And two, is the areas that I see noted are areas that were phases that were either being completed or just being started.

Q Which areas are you saying he's marked as -- you said 60 percent of the site of as --

A Yeah. So I'm referring to No. 1 talks about utilizing erosion controls in on the map on the next page, it shows all of the housing lots on the north side of Tangelos Place -- on the side of Tangelos Place, those along Orlando Drive, and on the east side of Valencia Court, and then on the south side of Orlando Drive abutting or above the park -- the future park. Those are all the last phases to be developed.

I'm not surprised that the other -- Avalon Way had any notation because those would have been built out and people would have been in them by now.

Q So how do we know that they were working within two weeks of that entire area?

A I would say based upon the information that I have of the site and based upon the information that's provided in this report, that's it's a reasonable assumption that I'm making.

Q But did you talk to anybody about where they were actually working on September 15th?

A No.

Q And do you know where they were intending to be working for the next 14 days?

A No. I would say that in my conversations in May, and then -- I'm trying to think if I was on the site more recently than that -- I think when I met Chiu, Wayne out at the site, and we talked about scheduling that's when I got the most recent information about the phasing of the development (indicating).

Q Well, that's a pretty big area. I mean, is it possible that they're working on all of it?

A No. But I think it's reasonable to infer that some of that 60 to 70 percent was under active construction.

Q And how do we know -- I mean, is he -- do you read this report to say that there is lack of erosion control on every single pad?

A No, I don't think --

Q It says significant areas, not all areas.

A I don't think every single pad, but he highlighted on the map specific areas. And there's some pads that he didn't highlight, so I would assume there's some accuracy to the number of pads that were lacking in erosion control.

Q Do you read this map where he was -- one, do you read this map -- I'm looking at the area south of Tangelos Place. In the three pads to the left, you do not have an

arrow across it.

Do you think those three pads are encompassed in his or not?

A I do not.

Q You do not think that they are?

A I do not think that they are because the arrows go up to the edge of that lot line and then to the edge.

Q So you are reading his arrows literally that his comments only cover the places where he had -- he physically wrote the arrows?

A That is the way I'm interpreting it.

Q Did you ever talk with him about if that's what he meant?

A I did not.

Q You talked about the sediment in the road as an indicator as lack of erosion BMPs?

A Yes.

Q How do you do you know that the sediment was from active areas and not inactive areas?

A I don't know for sure, but if it was an inactive area, then there would be the requirement that it be covered and have soil stabilization. So I would think that it would be less likely that it would come from that area, but it could also come from an inactive area.

Q Well, did you notice them for a violation of

inactive BMPs on September 15th?

A Yes.

Q And did you notice them for failure to implement stockpile BMPs on -- I'll retract that.

So you did notice them for failure to have sufficient BMPs of inactive areas on September 15th?

A Yes.

Q So if they didn't have sufficient BMPs in inactive areas, could it have come from the inactive areas?

A It could.

MS. BERESFORD: I don't have anymore questions for tonight. Should we go off the record?

(Recess.)

(The deposition was adjourned at 5:52 p.m.)

Declaration Under Penalty of Perjury

I, FRANK MELBOURN, declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct; that I have read my deposition and have made the necessary corrections, additions, or changes to my answers that I deem necessary.

Executed on this 21ST day of JANUARY, 2016.

Frank Melbourn

FRANK MELBOURN

REPORTER'S CERTIFICATE

STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

I, DULCEMARIA DUARTE, Certified Shorthand Reporter, in and for the State of California, Certificate Number 13968, do hereby certify:

That the witness in the foregoing deposition was by me first duly sworn to testify to the truth, the whole truth, and nothing but the truth; that said deposition was taken before me pursuant to notice, at the time and place therein set forth, and reported by me in shorthand and transcribed, through computer-aided transcription, under my direction; and that the above and foregoing pages are a true record of the testimony elicited and proceedings had at said deposition.

I do further certify that I am a disinterested person and am in no way interested in the outcome of this action or connected with or related to any of the parties in this action or to their respective counsel.

In witness whereof, I have hereunto set my hand

This 19th day of January, 20 16.

Dulcemaria Duarte

DULCEMARIA DUARTE, CSR No. 13968



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HUTCHINGS Litigation SERVICES

ORIGINAL

VOLUME 1 OF 1
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CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD

SAN DIEGO REGION

IN THE MATTER OF:

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT
NO. R9-2015-0110
AGAINST SAN ALTOS- LEMON GROVE, LLC

_____/

EXHIBIT BOOKLET

DEPOSITION OF FRANK MELBOURN

TAKEN AT SAN DIEGO, CALIFORNIA

JANUARY 13, 2016

Job Number 600096

REPORTED BY DULCEMARIA DUARTE, CSR

CERTIFICATE NO. 13968

Melbourn, Frank - Vol. 1



Litigation
SERVICES

Job: 600096

Exhibit: 00001







BEFORE THE SAN DIEGO REGIONAL WATER QUALITY CONTROL BOARD
SUBPOENA FOR ADJUDICATIVE ACTION

ATTORNEY OR PARTY WITHOUT ATTORNEY REQUESTING SUBPOENA *(name, address, and telephone no.)*:	FOR REGIONAL WATER BOARD USE ONLY
S. Wayne Rosenbaum, Esq. (619) 231-5858 Opper & Varco LLP, 225 Broadway, 19th Fl., San Diego CA 92101 REPRESENTING: San Altos - Lemon Grove, LLC	
TITLE OF THE PROCEEDING: Administrative Civil Liability Complaint No. R9-2015-0110	
[XX] SUBPOENA [ ] RE HEARING [XX] SUBPOENA DUCES TECUM [ ] RE DEPOSITION	

THE PEOPLE OF THE STATE OF CALIFORNIA, TO *(name)*: Frank Melbourn

1. YOU ARE ORDERED TO APPEAR AS A WITNESS in this proceeding as follows unless you make special agreement with the person named in item 3:

a. Date: January 13, 2016 Time: 9:00 a.m.
b. Address: 225 Broadway, 19th Fl., San Diego, CA 92101

2. AND YOU ARE:

a. [ ] Ordered to appear in person. (Wat. Code, § 1080; Gov. Code, § 11450.10; Cal. Code Regs., tit. 23, § 649.6.)
b. [ ] Not required to appear in person if you produce the records described in the accompanying affidavit in compliance with Evidence Code sections 1560 and 1561. (Wat. Code, § 1080; Gov. Code, § 11450.10(b); Cal. Code Regs., tit. 23, § 649.6.)
c. [XX] Ordered to appear in person and to produce the records described in the accompanying affidavit. The personal attendance of the custodian or other qualified witness and the production of the original records is required by this subpoena. The procedure authorized by subdivision (b) of section 1560, and sections 1561 and 1562, of the Evidence Code will not be deemed sufficient compliance with this subpoena. (Wat. Code, § 1080; Gov. Code, § 11450.10; Cal. Code Regs., tit. 23, § 649.6.)

3. IF YOU HAVE ANY QUESTIONS ABOUT WITNESS FEES OR THE TIME OR DATE FOR YOU TO APPEAR, OR IF YOU WANT TO BE CERTAIN THAT YOUR PRESENCE IS REQUIRED, CONTACT THE FOLLOWING PERSON BEFORE THE DATE ON WHICH YOU ARE TO APPEAR:

a. Name: S. Wayne Rosenbaum b. Telephone number: (619) 231-5858
(Gov. Code, § 11450.20(a); Code Civ. Proc., § 1985.2.)

4. WITNESS FEES: You are entitled to witness fees and mileage actually traveled, both ways, as provided by law. Request them from the person who serves this subpoena or from the person named in item 3. (Wat. Code, §§ 1081, 1083, 1084; Gov. Code, §§ 11450.40, 68070 et seq.; Code Civ. Proc., §§ 1986.5, 2065.)

5. If you object to the terms of this subpoena, you may file a motion for a protective order including a motion to quash. Motions must be made within a reasonable period after receipt of the subpoena, and shall be made with written notice to all parties, with proof of service upon all parties attached. In response to your motion, the hearing officer may make an order quashing the subpoena entirely, modifying it, or directing compliance with it, or may make any order needed to protect the parties or witnesses from unreasonable or oppressive demands, including unreasonable violations of the right to privacy. (Gov. Code, § 11450.30.) (Send motions to: San Diego Regional Water Quality Control Board, 2375 Northside Drive, Suite 100, San Diego, CA 92108, Attn: David Gibson, with copies to all parties and to Catherine George Hagan, State Water Resources Control Board, Office of Chief Counsel, c/o San Diego Water Board, 2375 Northside Drive, Suite 100, San Diego, CA 92108.)

DISOBEDIENCE OF THIS SUBPOENA MAY CAUSE YOU TO BE LIABLE FOR CONTEMPT AND OTHER PENALTIES PROVIDED BY LAW
(Wat. Code, §§ 1090-1097; 23 CCR §648.8; Gov. Code, §§ 11450.20(b), 11455.10-11455.30.)

Dated: December 29, 2015

S. Wayne Rosenbaum
(signature)

Name: S. Wayne Rosenbaum
Title: Partner - Opper & Varco LLP
Attorney for San Altos - Lemon Grove

Exhibit 1
WITNESS: Melbourn
DATE: 1/13/16 Rptr: DMD
Shelburne Sherr
Court Reporters

S. WAYNE ROSENBAUM (SBN 182456)
OPPER & VARCO, LLP
225 Broadway, Suite 1900
San Diego, California 92101
Telephone: 619.231.5858
Facsimile: 619.231.5853
Email: swr@envirolawyer.com

Attorney for San Altos – Lemon Grove, LLC

BEFORE THE CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD

SAN DIEGO REGION

IN THE MATTER OF:, **Administrative Civil Liability Complaint No. R9-2015-0110 Against San Altos – Lemon Grove, LLC**	AFFIDAVIT IN SUPPORT OF SUBPOENA FOR DOCUMENTS AND THINGS FROM FRANK MELBOURN

1. I, S. Wayne Rosenbaum, declare that I am counsel for San Altos – Lemon Grove, LLC ("San Altos"), a Designated Party in the above-entitled matter.

2. On December 4, 2015, the Advisory Team for the California Regional Water Quality Control Board, San Diego Region ("Advisory Team") issued the Final Hearing Procedures for ACLC R9-2015-0110.("Final Hearing Procedures"), which included a list of deadlines (the "Schedule") prior to the currently scheduled hearing date of February 10, 2016.

3. The Schedule requires San Altos submit "All evidence (other than witness testimony to be presented orally at the hearing) that the Designated Party would like the San Diego Water Board to consider" by January 4, 2016.

4. Good cause exists for the production of the document described below because such evidence is probative of the veracity of the alleged violations of the Complaint.

5. As an Employee of the San Diego Water Board, Frank Melbourn has, or should have, the documents described below in his possession or control.

6. The exact documents to be produced include:

a. All records and documents, including, but not limited to, inspection reports, notices of violation, administrative citations, stop work notices, correct work notices, field notes, photographs, audio

or video recordings, phone logs, and internal communications, including emails, related to inspections that occurred at the San Altos – Lemon Grove, LLC Valencia Hills Construction Site on the following dates:

December 1, 2014

December 2, 2014

December 3, 2014

December 4, 2014

December 5, 2014

December 6, 2014

December 7, 2014

December 8, 2014

December 9, 2014

December 11, 2014

December 12, 2014

December 15, 2014

December 16, 2014

December 17, 2014

December 31, 2014

January 6, 2015

January 7, 2015

January 8, 2015

January 9, 2015

January 10, 2015

January 11, 2015

January 12, 2015

January 13, 2015

March 1, 2015

March 18, 2015

March 19, 2015

March 20, 2015

March 21, 2015

March 22, 2015

March 23, 2015

March 24, 2015

March 25, 2015

March 26, 2015

March 27, 2015

March 28, 2015

March 29, 2015

March 30, 2015

March 31, 2015

April 1, 2015

May 8, 2015

May 9, 2015

May 10, 2015

May 11, 2015

May 12, 2015

May 13, 2015

May 14, 2015

May 15, 2015

September 15, 2015

October 5, 2015

b. Any additional records and documents, including, but not limited to, inspection reports, notices of violation, administrative citations, stop work notices, correct work notices, field notes, photographs, audio or video recordings, phone logs, and internal communications, including emails, related to inspections that occurred at the San Altos – Lemon Grove, LLC Valencia Hills Construction Site, regardless of whether or not the inspection led to the issuance of a formal report, notice, or citation from Mr. Melbourn and/or the San Diego or State Water Quality Control Boards to San Altos – Lemon Grove, LLC from March 6, 2014 to October 19, 2015.

c. Any documents, contracts, work orders, requests for services, communications or records thereof including but not limited to emails, or invoices related to inspections, testing, report writing, or materials related to services rendered by D-Max Engineering, Inc. on behalf of the City of Lemon Grove that involved or affected the San Altos – Lemon Grove, LLC Valencia Hills Project Site during the period of March 6, 2014 through October 19, 2015.

d. A copy of Mr. Melbourn's curriculum vitae listing his education, qualifications, and experience.

7. Emails, writings, or photographs should be provided in both printed and digital formats. Audio or video recordings may be provided in conventional formats accessible on personal computers without the assistance of specialized software.

I declare under penalty of perjury that the foregoing is true and correct.

Dated this 10th of December, 2015.

S. Wayne Rosenbaum
Attorney for San Altos – Lemon Grove, LLC

OPPER & VARCO, LLP
S. WAYNE ROSENBAUM (Bar No. 182456)
LINDA C. BERESFORD (Bar No. 199145)
225 BROADWAY, SUITE 1900
SAN DIEGO, CALIFORNIA 92101
TELEPHONE: 619.231.5858
FACSIMILE: 619.231.5853

ATTORNEYS FOR SAN ALTOS – LEMON GROVE, LLC

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD

SAN DIEGO REGION

IN THE MATTER OF: ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R9-2015-0110 AGAINST SAN ALTOS – LEMON GROVE, LLC	**SAN ALTOS – LEMON GROVE, LLC'S AMENDED NOTICE OF DEPOSITION OF FRANK MELBOURN AND REQUEST FOR PRODUCTION OF DOCUMENTS** Date: January 13, 2016 Time: 9:00 a.m. Place: Law Offices of Opper & Varco LLP 225 Broadway, Suite 1900 San Diego, CA 92101

TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on January 13, 2016 at 9:00 a.m., San Altos – Lemon Grove, LLC will take the deposition of Frank Melbourn in accordance with the enclosed subpoena. This deposition will take place at the law firm of Opper & Varco, LLP, located at 225 Broadway, Suite 1900, San Diego, CA 92101, before a certified reporter or person authorized to administer oaths who is present at the specified time and place. Said deposition will continue from day to day, Saturdays, Sundays and holidays excepted, until completed.

YOU ARE FURTHER NOTIFIED that the deposition may also be recorded by videotape as authorized by the Code of civil Procedure section 2025.340 and Plaintiff reserves the right to use any videotaped portion of the deposition testimony at a hearing in this matter. The deposition may also be recorded through such means as to provide the instant display of the

testimony as also authorized by Code of Civil Procedure section 2025.340.

YOU ARE FURTHER NOTIFIED that San Altos-Lemon Grove, LLC requests that Frank Melbourn produce the documents identified in Attachment A to this Notice of Deposition and Request for Production of Documents.

Dated: December 29, 2015

OPPER & VARCO LLP

Linda C. Beresford
Attorney for San Altos – Lemon Grove, LLC

S. WAYNE ROSENBAUM (SBN 182456)
OPPER & VARCO, LLP
225 Broadway, Suite 1900
San Diego, California 92101
Telephone: 619.231.5858
Facsimile: 619.231.5853
Email: swr@envirolawyer.com

Attorney for San Altos – Lemon Grove, LLC

BEFORE THE CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD

SAN DIEGO REGION

IN THE MATTER OF:, **Administrative Civil Liability Complaint No. R9-2015-0110 Against San Altos – Lemon Grove, LLC**	AFFIDAVIT IN SUPPORT OF SUBPOENA FOR DOCUMENTS AND THINGS FROM FRANK MELBOURN

1. I, S. Wayne Rosenbaum, declare that I am counsel for San Altos – Lemon Grove, LLC ("San Altos"), a Designated Party in the above-entitled matter.

2. On December 4, 2015, the Advisory Team for the California Regional Water Quality Control Board, San Diego Region ("Advisory Team") issued the Final Hearing Procedures for ACLC R9-2015-0110.("Final Hearing Procedures"), which included a list of deadlines (the "Schedule") prior to the currently scheduled hearing date of February 10, 2016.

3. The Schedule requires San Altos submit "All evidence (other than witness testimony to be presented orally at the hearing) that the Designated Party would like the San Diego Water Board to consider" by January 4, 2016.

4. Good cause exists for the production of the document described below because such evidence is probative of the veracity of the alleged violations of the Complaint.

5. As an Employee of the San Diego Water Board, Frank Melbourn has, or should have, the documents described below in his possession or control.

6. The exact documents to be produced include:

a. All records and documents, including, but not limited to, inspection reports, notices of violation, administrative citations, stop work notices, correct work notices, field notes, photographs, audio

or video recordings, phone logs, and internal communications, including emails, related to inspections that occurred at the San Altos – Lemon Grove, LLC Valencia Hills Construction Site on the following dates:

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January 9, 2015

January 10, 2015

January 11, 2015

January 12, 2015

January 13, 2015

March 1, 2015

March 18, 2015

March 19, 2015

March 20, 2015

March 21, 2015

March 22, 2015

March 23, 2015

March 24, 2015

March 25, 2015

March 26, 2015

March 27, 2015

March 28, 2015

March 29, 2015

March 30, 2015

March 31, 2015

April 1, 2015

May 8, 2015

May 9, 2015

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May 11, 2015

May 12, 2015

May 13, 2015

May 14, 2015

May 15, 2015

September 15, 2015

October 5, 2015

b. Any additional records and documents, including, but not limited to, inspection reports, notices of violation, administrative citations, stop work notices, correct work notices, field notes, photographs, audio or video recordings, phone logs, and internal communications, including emails, related to inspections that occurred at the San Altos – Lemon Grove, LLC Valencia Hills Construction Site, regardless of whether or not the inspection led to the issuance of a formal report, notice, or citation from Mr. Melbourn and/or the San Diego or State Water Quality Control Boards to San Altos – Lemon Grove, LLC from March 6, 2014 to October 19, 2015.

c. Any documents, contracts, work orders, requests for services, communications or records thereof including but not limited to emails, or invoices related to inspections, testing, report writing, or materials related to services rendered by D-Max Engineering, Inc. on behalf of the City of Lemon Grove that involved or affected the San Altos – Lemon Grove, LLC Valencia Hills Project Site during the period of March 6, 2014 through October 19, 2015.

d. A copy of Mr. Melbourn's curriculum vitae listing his education, qualifications, and experience.

7. Emails, writings, or photographs should be provided in both printed and digital formats. Audio or video recordings may be provided in conventional formats accessible on personal computers without the assistance of specialized software.

I declare under penalty of perjury that the foregoing is true and correct.

Dated this 10th of December, 2015.

S. Wayne Rosenbaum
Attorney for San Altos – Lemon Grove, LLC

Melbourn, Frank - Vol. 1



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Job: 600096

Exhibit: 00002







October 19, 2015

Certified Mail – Return Receipt Requested
Article Number: 7011 0470 0002 8952 5263

In reply refer to: SM-828060:FMelbourn

Mr. Ben C. Anderson
San Altos-Lemon Grove, LLC
Suite 225
5780 Fleet Street
Carlsbad, California 92008

Notice of Hearing and Issuance of Complaint No. R9-2015-0110 for Administrative Civil Liability Against San Altos-Lemon Grove, LLC for Violations of Order No. 2009-0009-DWQ, as amended.

Mr. Anderson:

Enclosed find Complaint No. R9-2015-0110 (Complaint) for Administrative Civil Liability against San Altos-Lemon Grove, LLC (Discharger) for $848,374 for violations of State Water Resources Control Board Order No. 2009-0009-DWQ, as amended by Order Nos. 2010-0014-DWQ and 2012-0006-DWQ, *National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities*, California Water Code (Water Code) section 13376, the Water Quality Control Plan for the San Diego Basin, and federal Clean Water Act section 301. The alleged violations are described in the Complaint and the attached Technical Analysis to the Complaint. Pursuant to Water Code section 13323, the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) shall hold a hearing on the Complaint no later than ninety (90) days after it is issued.

Waiver of Hearing
You may elect to waive your right to a hearing before the San Diego Water Board. Waiver of the hearing constitutes admission of the violations alleged in the Complaint and acceptance of the assessment of civil liability as set forth in the Complaint. For the San Diego Water Board to accept the waiver of your right to a public hearing, you must sign, as the Legally Responsible Person for San Altos-Lemon Grove, LLC, the enclosed waiver form with Option 1 selected, and submit it to the San Diego Water Board by 5:00 p.m. on **October 30, 2015**.

Exhibit 2
WITNESS: Melbourn
DATE: 1/13/16 Rptr: DMD
Shelburne Sherr
Court Reporters

Public Hearing
Alternatively, if you elect to proceed to a public hearing, a hearing is tentatively scheduled to be held at the San Diego Water Board meeting on **December 16, 2015**. The meeting is scheduled to convene at the San Diego Water Board, 2375 Northside Drive, Suite 100, San Diego, California at 9:00 a.m. At that time, the San Diego Water Board will accept testimony, public comment, and decide whether to affirm, reject, or modify the proposed liability, or whether to refer the matter for judicial civil action.

Enclosed is the recommended hearing procedure for the San Diego Water Board to follow in conducting the hearing. Please note that comments on the proposed procedure are due by **October 26, 2015**, to the San Diego Water Board's advisory attorney, Catherine Hagan, at the address indicated in the hearing procedure.

Please submit all written documents as Portable Document Format (PDF) files to sandiego@waterboards.ca.gov. In the subject line of any response, please include the reference number **SM-828060:FMelbourn**. For questions or comments, please contact Frank Melbourn by telephone at (619) 521-3372, or by email at fmelbourn@waterboards.ca.gov.

Respectfully,

JAMES G. SMITH
Assistant Executive Officer

JGS:jch:ljd:cmc:ftm

Enclosures:
1. ACL Complaint No. R9-2015-0110 with attached Technical Analysis
2. ACL Complaint Fact Sheet
3. Proposed Hearing Procedure
4. Waiver of Public Hearing Form

cc with enclosures:
David Boyers, State Water Resources Control Board, dboyers@waterboards.ca.gov
Wayne Chiu, San Diego Water Board, wchiu@waterboards.ca.gov
Chiara Clemente, San Diego Water Board, cclemente@waterboards.ca.gov
Laura Drabandt, State Water Resources Control Board, ldrabandt@waterboards.ca.gov
Jeremy Haas, San Diego Water Board, jhaas@waterboards.ca.gov
Catherine Hagan, State Water Resources Control Board, chagan@waterboards.ca.gov
Deborah Jayne, San Diego Water Board, djayne@waterboards.ca.gov
Marc Ozarski, Agent for Service of Process, Ste. 225, 5780 Fleet St., Carlsbad, CA 92008
Malik Tamimi, City of Lemon Grove, mtamimi@lemongrove.ca.gov
Laurie Walsh, San Diego Water Board, lwalsh@waterboards.ca.gov

SMARTS:
Place ID: SM-828060
Violation IDs: 855345, 855346, 857231, 857232, 857243, and 857267
WDID No: 9 37C369143
Enforcement ID: 420236

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION

In the matter of:	COMPLAINT NO. R9-2015-0110 FOR ADMINISTRATIVE CIVIL LIABILITY
San Altos-Lemon Grove, LLC Valencia Hills Construction Site San Diego County	Noncompliance with Order No. 2009-0009-DWQ, Water Code § 13376, Water Quality Control Plan for the San Diego Basin, and Clean Water Act § 301
PIN: SM-828060	October 19, 2015

SAN ALTOS-LEMON GROVE, LLC IS HEREBY GIVEN NOTICE THAT:

1. San Altos-Lemon Grove, LLC (Discharger) has violated provisions of law for which the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) may impose civil liability pursuant to Water Code section 13385.

2. This Administrative Civil Liability Complaint is issued under authority of Water Code section 13323.

3. The Discharger is constructing Valencia Hills, a single family detached home community of 78 homes on 18.26 acres (Site). The Site is located at 1350 San Altos Place, in the southwest corner of the City of Lemon Grove, County of San Diego, California.

4. The Discharger is the property owner. Ben C. Anderson is the contact and the "Legally Responsible Person" (LRP) for the Discharger.

5. On March 6, 2014, Ben C. Anderson, on behalf of the Discharger filed a Notice of Intent (NOI) to comply with California State Water Resources Control Board (State Water Board) Order No. 2009-0009-DWQ, as amended by Order Nos. 2010-0014-DWQ and 2012-0006-DWQ, *National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities* (Construction Storm Water Permit).

6. The Discharger stated in the NOI that construction activities would begin at the Site on March 1, 2014, and end on December 31, 2015. Additionally, the Discharger stated in the NOI that the Site is a Risk Level 2 construction site; thus acknowledging that the Discharger must implement the requirements in Attachment D to the Construction Storm Water Permit to achieve Best Available Technology Economically Achievable (BAT) and Best Conventional Pollutant Control Technology (BCT). On March 12, 2014, the State Water Board processed the NOI and assigned Waste Discharge Identification (WDID) No. 9 37C369143 to the Site.

7. Construction Storm Water Permit section V.A.2. requires the implementation of best management practices (BMPs), using best available technology economically achievable (BAT) and best conventional pollutant control technology (BCT) to reduce pollution from storm water runoff from construction sites.

8. On December 12, 2014, the City of Lemon Grove (City) requested the San Diego Water Board's assistance in obtaining regulatory compliance at the Site after documenting the Discharger's second sediment discharge. By this time, the City had inspected the Site at least seven times; resulting in two administrative citations, three stop work notices, and one correct work notice. San Diego Water Board staff inspected the Site on December 15, 2014. Based upon the results of the inspection and previous inspections by the City, the San Diego Water Board issued Notice of Violation No. R9-2014-0153 on December 19, 2014, to the Discharger.

9. The City provided its Site inspection reports and enforcement documents to the San Diego Water Board for the following days: August 14, 2014; December 2, 2014; December 4, 2014; December 8, 2014; December 9, 2014; December 11, 2014; December 12, 2014; December 15, 2014; December 16, 2014; December 17, 2014; December 23, 2014; December 24, 2014; December 29, 2014; December 31, 2014; January 6, 2015; January 14, 2015; January 19, 2015; March 1, 2015; March 5, 2015; March 18, 2015; March 24, 2015; April 1, 2015; September 15, 2015; and October 5, 2015.

10. The City issued administrative citations to the Discharger on the following dates: December 11, 2014; December 15, 2014; December 16, 2014; March 19, 2015 (2 citations); March 24, 2015; April 1, 2015; September 22, 2015; and October 5, 2015.

11. The San Diego Water Board inspected the Site on the following days: December 15, 2014; May 8, 2015; May 13, 2015; and May 15, 2015.

12. The Site lies within the Chollas Hydrologic Subarea (HSA) (908.22) of the Pueblo San Diego Hydrologic Unit. Storm water discharges from the Site flow directly into Encanto Channel and thence Chollas Creek.

13. The Water Quality Control Plan for the San Diego Basin (Basin Plan) designates the following beneficial uses for Chollas Creek and its tributaries:

    1. Contact Water Recreation (REC-1);
    2. Non-contact Water Recreation (REC-2);
    3. Warm Freshwater Habitat (WARM); and
    4. Wildlife Habitat (WILD).

14. Chollas Creek is designated as impaired for diazinon, dissolved metals (copper, lead, and zinc), indicator bacteria, nutrients (phosphorus and nitrogen), and trash pursuant to Clean Water Act section 303(d).

ALLEGED VIOLATIONS

15. **Violation No. 1:** The Discharger violated Water Code section 13376; Construction Storm Water Permit Discharge Prohibitions III.A. and III.B., section V.A.2. and Attachment D section A.1.b; Basin Plan Waste Discharge Prohibition No. 8; and the Federal Water Pollution Control Act (Clean Water Act) (33 U.S.C. § 1251 et seq.) section 301 (33 U.S.C. § 1311) by discharging sediment laden storm water from the Site into Encanto Channel and thence Chollas Creek on the following six days: December 4, 2014; December 12, 2014; December 17, 2014; December 31, 2014; May 8, 2015, and September 15, 2015.

16. **Violation No. 2:** The Discharger violated Construction Storm Water Permit Attachment D, section B.1.b. by failing to implement material stockpile BMPs at the Site on the following 10 days: December 2 through 8, 2014; December 15, 2014; May 13, 2015; and September 15, 2015.

17. **Violation No. 3:** The Discharger violated Construction Storm Water Permit Attachment D, section B.3.a. by failing to implement vehicle fluid leak BMPs at the Site on the following two days: December 15, 2014; and May 13, 2015.

18. **Violation No. 4:** The Discharger violated Construction Storm Water Permit Attachment D, section D.2. by failing to implement erosion control BMPs in inactive areas at the Site on the following 22 days: December 1 through 9 , 2014; December 15 through 16, 2014; January 6, 2015; January 14, 2015; May 8 through 15, 2015; and September 15, 2015.

19. **Violation No. 5:** The Discharger violated Construction Storm Water Permit Attachment D, section E.1. by failing to implement perimeter sediment control BMPs at the Site on the following 14 days: December 4 through 8, 2014; December 15 through 16, 2014; May 8 through 13, 2015; and September 15, 2015.

20. **Violation No. 6:** The Discharger violated Construction Storm Water Permit Attachment D, section E.3. by failing to implement erosion control BMPs in active areas at the Site on the following 22 days: December 1 through 8 , 2014; December 15 – 16, 2014; January 6, 2015; March 23 through 24, 2015; May 8 through 15, 2015; and September 15, 2015.

21. **Violation No. 7:** The Discharger violated Construction Storm Water Permit Risk Attachment D, section E.4. by failing to apply linear sediment controls at the Site on the following nine days: December 15 through 16, 2014; May 8 through 13, 2015; and September 15, 2015.

22. **Violation No. 8:** The Discharger violated Construction Storm Water Permit Attachment D, section F. by failing to effectively manage run-on and runoff at the Site on the following seven days: December 15, 2014; and May 8 through 13, 2015.

23. **Violation No. 9:** The Discharger violated Construction Storm Water Permit Attachment D, section E.7. by failing to remove sediment or other construction materials from roads at the Site on the following 10 days: December 2 through 9, 2014; December 16, 2014; and September 15, 2015.

24. **Violation No. 10:** The Discharger violated Construction Storm Water Permit Attachment D, section E.6. by failing to protect storm drain inlets at the Site on the following three days: December 8, 2014; May 13, 2015; and September 15, 2015.

25. **Violation No. 11:** The Discharger violated Construction Storm Water Permit Attachment D, section B.2.f. by failing to contain and securely protect stockpiles waste material from wind and rain at the Site on the following nine days: January 6 through 14, 2015.

26. **Violation No. 12:** The Discharger violated Construction Storm Water Permit Attachment D, section B.1.c. by failing to properly store chemicals at the Site on the following seven days: March 18 through 24, 2015.

27. **Violation No. 13:** The Discharger violated Construction Storm Water Permit Attachment D, section B.2.i. by failing to prevent the discharge of concrete waste to the ground at the Site on the following 15 days: March 18 through April 1, 2015.

28. The details of these violations are set forth in full in the accompanying Technical Analysis, which is incorporated herein by this reference as if set forth in full.

MAXIMUM LIABILITY

29. Pursuant to Water Code section 13385(a), a person who violates either Water Code section 13376, a waste discharge requirement, a basin plan prohibition, or a requirement of section 301 of the federal Clean Water Act is subject to administrative civil liability pursuant to Water Code section 13385(c)

> *...in an amount not to exceed the sum of both of the following:*
> *(1) Ten thousand dollars ($10,000) for each day in which the violation occurs.*
> *(2) Where there is a discharge, any portion of which is not susceptible to cleanup or is not cleaned up, and the volume discharged but not cleaned up exceeds 1,000 gallons, an additional liability not to exceed ten dollars ($10) multiplied by the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons.*

30. Due to the difficulty in accurately determining the volume of sediment laden storm water discharged during the discharge events, civil liability was only calculated on a per day basis for the discharge violations. Therefore, the maximum liability that the San Diego Water Board may assess for the alleged violations listed above is $1,360,000 pursuant to Water Code section 13385(c).

MINIMUM LIABILITY

31. Water Code section 13385(e) requires that when pursuing civil liability under section 13385, "[a]t a minimum, liability shall be assessed at a level that recovers the economic benefits, if any, derived from the acts that constitute the violation." The State Water Board Enforcement Policy (Enforcement Policy) further instructs the Regional Water Boards to assess liability against a violator at least ten percent higher than the economic benefit realized from the violation, such that liabilities are not construed as the cost of doing business and provide a meaningful deterrent to future violators.

32. As detailed in the attached Technical Analysis, and based on a calculated economic benefit of $29,923, the minimum liability amount the San Diego Water Board may assess the Discharger is $32,915.

PROPOSED LIABILITY

33. Pursuant to Water Code section 13385(e), in determining the amount of any civil liability, the San Diego Water Board shall consider the nature, circumstances, extent, and gravity of the violations, whether the discharge is susceptible to cleanup or abatement, the degree of toxicity of the discharge; and with respect to the Discharger, the ability to pay, the effect on the Discharger's ability to continue in business, any voluntary cleanup efforts undertaken, any prior history of violations, the degree of culpability, economic benefit or savings, if any, resulting from the violations, and other matters as justice may require.

34. The Enforcement Policy establishes a methodology for assessing administrative civil liability. The use of this methodology addresses the factors that are required to be considered when imposing a civil liability as outlined in Water Code section 13385(e). The required factors have been considered for the violations alleged herein using the methodology in the Enforcement Policy, as explained in detail in the Technical Analysis and summarized in Technical Analysis Exhibit No. 27, Penalty Methodology Summary.

35. Based on consideration of the above facts, the applicable law, and after applying the penalty calculation methodology in section VI of the Enforcement Policy, the Prosecution Team recommends that the San Diego Water Board impose civil liability against the Discharger in the amount of $848,374 for the violations alleged herein and set forth in full in the accompanying Technical Analysis. The assessed amount includes $15,763 for 212.5 hours of San Diego Water Board staff time to investigate and prepare the enforcement documents. Should this matter proceed to hearing, the San Diego Water Board may choose to increase the recommended liability to recover additional necessary staff costs accrued after this Complaint is issued and through the hearing.

JAMES G. SMITH
Assistant Executive Officer

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

Attachment: Technical Analysis

SMARTS:
Place ID: SM-828060
Violation IDs: 855345, 855346, 857231, 857232, 857243, and 857267
WDID No: 9 37C369143
Enforcement ID: 420236

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION

TECHNICAL ANALYSIS

ADMINISTRATIVE CIVIL LIABILITY CONTAINED IN
COMPLAINT NO. R9-2015-0110
for
SAN ALTOS-LEMON GROVE, LLC
VALENCIA HILLS CONSTRUCTION SITE
WDID 9 37C369143

NONCOMPLIANCE
with
State Water Resources Control Board Order No. 2009-0009-DWQ,
as amended by Order No. 2010-0014-DWQ and 2012-0006-DWQ,
National Pollutant Discharge Elimination System (NPDES)
General Permit for Storm Water Discharges associated with
Construction and Land Disturbance Activities
and
Water Quality Control Plan for the San Diego Basin
and
Water Code Section 13376
and
Clean Water Act Section 301

Prepared by

Frank Melbourn
Water Resource Control Engineer
Compliance Assurance Unit

October 19, 2015

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Exhibit No. 17: City Administrative Citation April 1, 2015
Exhibit No. 18: San Diego Water Board Inspection Report May 8, 2015
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Exhibit No. 21: City Administrative Citation September 15, 2015
Exhibit No. 22 City Inspection Report September 15, 2015
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Exhibit No. 24: City Contractor Report January 16, 2015
Exhibit No. 25: City Inspection Report January 6, 2015
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I. INTRODUCTION

This technical analysis provides a summary of factual and analytical evidence that support the findings in Administrative Civil Liability Complaint No. R9-2015-0110 (Complaint) and the recommended assessment of civil liability in the amount of **$848,374** against San Altos-Lemon Grove, LLC (Discharger) for violations of California State Water Resources Control Board (State Water Board) Order No. 2009-0009-DWQ, as amended by Order Nos. 2010-0014-DWQ and 2012-0006-DWQ, *National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities* (Construction Storm Water Permit).

A. Construction Storm Water Permit

The Construction Storm Water Permit authorizes discharges of storm water associated with construction activity so long as the dischargers comply with all requirements, provisions, limitations and prohibitions in the permit. Pursuant to federal statutes and regulations, the Construction Storm Water Permit requires the implementation of the best available technology economically achievable (BAT) and best conventional pollutant control technology (BCT) to reduce or eliminate pollutants in storm water runoff, as well as additional requirements necessary to implement applicable water quality standards.

Sites with any construction or demolition activity resulting in a land disturbance of equal to or greater than one acre are required to obtain coverage under the Construction Storm Water Permit. Dischargers that have obtained coverage under the Construction Storm Water Permit are required to implement controls, structures, and management practices (a.k.a. Best Management Practices [BMPs[1]]) that achieve BAT for toxic and non-conventional pollutants and BCT for conventional pollutants.

Based upon each site's sediment transport and receiving water risk (Risk Level), the Construction Storm Water Permit requires different BMPs, monitoring, and reporting to achieve and demonstrate BAT and BCT. The specific requirements for each Risk Level are contained in Attachments C, D, and E to the permit (Risk Level 1, 2, or 3, respectively). Sites that fail to implement one or more of the requirements contained in Attachments C, D, or E, as applicable, are not in compliance with the implementation of BMPs that achieve BAT and BCT. Discharges of storm water or non-storm water from sites where BMPs have not been implemented that achieve BAT and BCT, as required by the Construction Storm Water Permit, are unauthorized discharges.

[1] Best Management Practices (BMPs) are "schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of 'waters of the United States.' BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage." (40 C.F.R. § 122.2)

B. Site Description

The 18.26 acre Valencia Hills construction site (Site) is located within the City of Lemon Grove, and is within the Chollas Hydrologic Subarea (HSA 902.22) of the Pueblo San Diego Hydrologic Unit. Runoff from the Site discharges into Encanto Channel, and then discharges into Chollas Creek which discharges into San Diego Bay. Encanto Channel runs parallel to Akins Avenue along the southeastern side of the Site. See Figure 1.

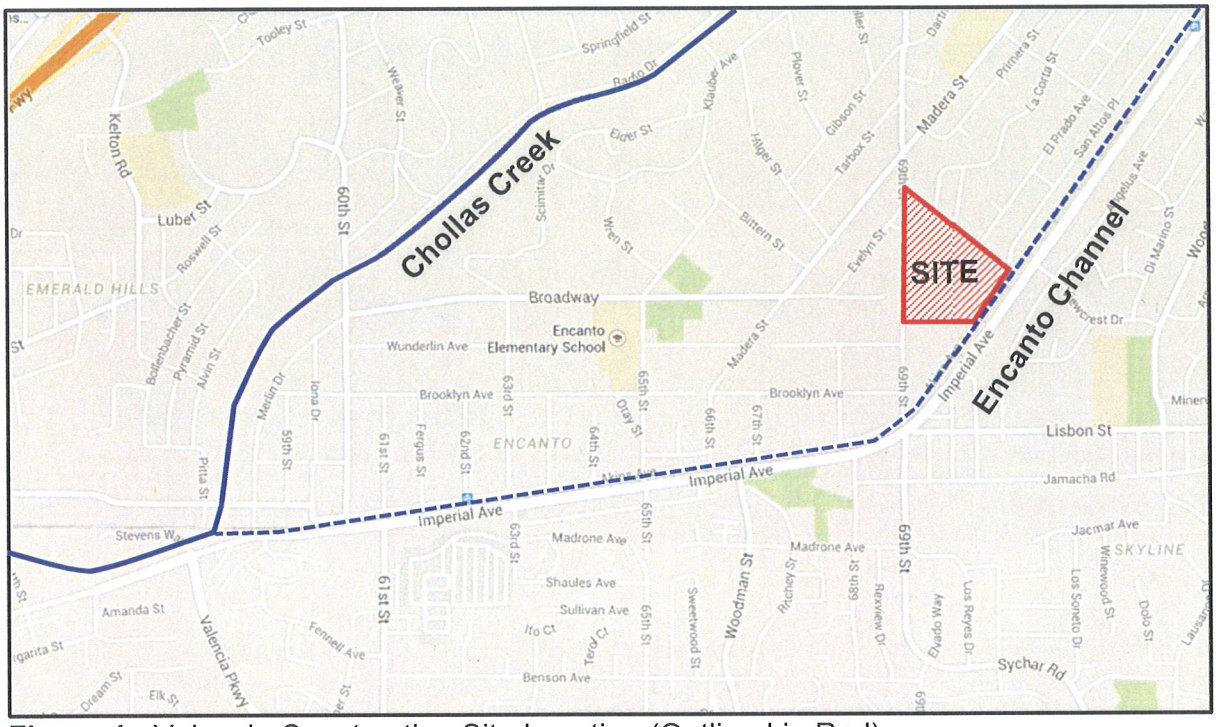


Figure 1. Valencia Construction Site Location (Outlined in Red)

The Site is owned by San Altos-Lemon Grove, LLC (Discharger). Ben C. Anderson is the contact and the "Legally Responsible Person" (LRP) for the Discharger. On March 6, 2014, Ben Anderson, on behalf of the Discharger, filed a Notice of Intent (NOI) with the State Water Board to comply with the requirements of the Construction Storm Water Permit. See Exhibit No. 1, Notice of Intent. On March 12, 2014, the State Water Board processed the NOI and assigned Waste Discharge Identification (WDID) No. 9 37C369143 to the Discharger. The submitted NOI lists BCA Development, Inc. as the "Contractor/Developer" and Ben Anderson as its contact.

The NOI identifies the Site as a Risk Level 2 construction site that must implement the requirements in Attachment D to the Construction Storm Water Permit to achieve BAT and BCT. The submitted NOI, states that construction activities will disturb all 18.26 acres of the Site. The NOI further states that construction activities would begin on March 1, 2014, and final stabilization would be completed on December 31, 2015.

C. Beneficial Uses of Potentially Affected Waters

The Site indirectly discharges to Chollas Creek. The Water Quality Control Plan for the San Diego Basin (Basin Plan) designates beneficial uses for all surface and ground waters in the San Diego Region. These beneficial uses "*form the cornerstone of water quality protection under the Basin Plan.*" (Basin Plan, Chapter 2) Beneficial uses are defined in the Basin Plan as "*the uses of water necessary for the survival or well being of man, plants and wildlife.*" (*Id.*)

The Basin Plan also designates water quality objectives to protect the designated beneficial uses. Water Code section 13050(h) defines "water quality objectives" as "the limits or levels of water quality constituents or characteristics which are established for the reasonable protection of beneficial uses of water or the prevention of nuisance within a specific area."

The Basin Plan designates the following potential and existing beneficial uses for Chollas Creek:

- Contact Water Recreation (REC-1)
- Non-contact Water Recreation (REC-2)
- Warm Freshwater Habitat (WARM)
- Wildlife Habitat (WILD)

Chollas Creek is designated as impaired for diazinon, dissolved metals (copper, lead, and zinc), indicator bacteria, nutrients (phosphorus and nitrogen), and trash pursuant to Clean Water Act section 303(d). In August 2002, the San Diego Water Board adopted its first Total Maximum Daily Load (TMDL) to address diazinon impairment in Chollas Creek. In June 2007, the San Diego Water Board adopted a TMDL to address the dissolved metals impairment in Chollas Creek. In February 2010, the San Diego Water Board adopted a TMDL to address the indicator bacteria impairment in Chollas Creek.

D. Compliance History

December 2014: The City issued the Discharger a Stop Work Notice on December 2, 2014, for failing to implement required BMPs. See Exhibit No. 2, City Stop Work Notice December 2, 2014. The City warned the Discharger that without adequate BMPs, a "*discharge is imminent.*" The Discharger failed to implement the required BMPs and there was an unauthorized discharge of sediment and sediment laden storm water runoff from the Site into Encanto Channel on December 4, 2014. This resulted in the City issuing the Discharger a second Stop Work Notice on December 4, 2014. See Exhibit No. 3, Stop Work Notice December 4, 2014. The same BMP deficiencies identified before the storm event, as well as additional deficiencies in perimeter sediment controls were identified in a follow up City inspection of the Site on December 8 and 9, 2014. See Exhibit No. 4, City Inspection Report December 8, 2014; and Exhibit No. 5, City Inspection Report December 9, 2014.

On December 11, 2014, the City issued an Administrative Citation to the Discharger warning that if recommended BMPs were not installed by December 15, 2014, then monetary penalties would begin. See Exhibit No. 6, City Administrative Citation December 11, 2014. The City documented another unauthorized discharge of sediment and sediment laden storm water on December 12, 2014, from the Site into Encanto Channel and issued a second Administrative Citation. See Exhibit No. 7, City Administrative Citation December 15, 2014.

On December 12, 2014, the City requested the San Diego Water Board's assistance in obtaining regulatory compliance at the Site after the Discharger's second sediment discharge. By this time, the City had inspected the Site at least seven times; resulting in two administrative citations, three stop work notices, and one correct work notice. Therefore, the San Diego Water Board inspected the Site on December 15, 2014, and noted violations of the Construction Storm Water Permit. See Exhibit No. 8, San Diego Water Board Inspection Report December 15, 2014. On December 16, 2014, the City issued the Discharger its third Administrative Citation for failure to install adequate BMPs. See Exhibit No. 9, City Letter with Administrative Citation and Inspection Report December 16, 2014. On December 17, 2014, after a storm event, the City inspected the Site and observed workers power washing a City of San Diego street south of the Site to remove accumulated sediment discharged from the Site. See Exhibit No. 10, City Contractor Report December 17, 2014. On December 19, 2014, the San Diego Water Board issued Notice of Violation No. R9-2014-0153 to the Discharger, and requested a written response to confirm that the violations were corrected. See Exhibit No. 11, NOV No. R9-2014-0153. On December 31, 2014, after a storm event, the City documented another discharge from the Site. See Exhibit No. 12, City Contractor Report December 31, 2014.

January 2015: The City lifted the Site's Stop Work Order on January 22, 2015, after the Discharger corrected the bulk of the violations.

March 2015: The City documented Discharger BMP violations on March 18, 2015; including discharges of cement to the ground for which the City fined the Discharger $1,000. See Exhibit No. 13, City Inspection Report March 18, 2015; and Exhibit No. 14, City Administrative Citation March 19, 2015. The City noted continued BMP violations on March 23 and 24, 2015, and issued a $1,000 Administrative Citation for the discharge of cement to the ground. See Exhibit No. 15, City Inspection Report March 24, 2015; and Exhibit No. 16, City Administrative Citation March 24, 2015. On March 27, 2015, San Diego Water Board staff during an inspection found that the Discharger had implemented corrective actions that largely addressed the violations noted in Notice of Violation No. R9-2015-0153.

April 2015: The City issued the Discharger a second $1,000 fine for cement discharges to the ground. See Exhibit No. 17, City Administrative Citation April 1, 2015.

May 2015: On the morning of May 8, 2015, San Diego Water Board staff advised the Discharger that an Administrative Civil Liability was being considered. On the evening of May 8, 2015, San Diego Water Board staff documented a sediment discharge from the Site into Encanto Channel, as well as other BMP violations. See Exhibit No. 18, San Diego Water Board Inspection Report May 8, 2015. On May 12, 2015, the San Diego Water Board provided the Site Superintendent with the May 8, 2015, inspection report. San Diego Water Board staff documented additional Site BMP violations on May 13, 2015. See Exhibit No. 19, San Diego Water Board Inspection Report May 13, 2015. On May 14, 2015, San Diego Water Board staff spoke by telephone with the Site Superintendent about the approaching storm event, the inadequacy of existing Site BMPs, the strong likelihood of an administrative civil liability, and that San Diego Water Board staff would inspect the Site again on May 15, 2015. On May 15, 2015, after a storm event, San Diego Water Board staff documented additional BMP violations at the Site. See Exhibit No. 20, San Diego Water Board Inspection Report May 15, 2015.

June through October 2015: The City inspected the site once in June and once in July 2015. The City characterizes the Site as "High Priority" and returned to inspecting the Site every other week beginning in September 2015. The City issued a $1,000 Administrative Citation to the Discharger for discharging sediment from the Site into Encanto Channel and for failing to have adequate BMPs during an inspection on September 15, 2015. See Exhibit No. 21, City Administrative Citation September 22, 2015; and Exhibit No. 22, City Inspection Report September 15, 2015. On September 17, 2015, the City sent letters warning all active construction sites within the City that failure to implement effective BMPs may result in City, State or Federal penalties. The City issued another $1,000 Administrative Citation on October 5, 2015, for inadequate erosion control BMPs. See Exhibit No. 23, City Administrative Citation October 5, 2015. The City found BMP deficiencies in every inspection since May 2015; erosion control BMP deficiencies were the most prevalent.

II. ALLEGED VIOLATIONS

The following allegations against the Discharger are the basis for assessing administrative civil liability pursuant to Water Code section 13385, and also appear in the Complaint:

A. Violation No. 1: Unauthorized Discharge of Sediment. (6 Days)

The Discharger discharged pollutants to waters of the United States without filing a Report of Waste Discharge as required under Water Code section 13376. Pursuant to section III.B. of the Construction Storm Water Permit, *"[a]ll discharges are prohibited except for storm water and non-storm water discharges specifically authorized by [the Construction Storm Water Permit]."* Furthermore, pursuant to section III.A. of the Construction Storm Water Permit, *"[d]ischargers shall not violate any discharge prohibitions contained in applicable Basin Plans or statewide water quality control plans."* Waste Discharge Prohibition No. 8 in Chapter 4 of the Basin Plan prohibits discharges to the storm water conveyance system that are not composed entirely of storm water. In addition, pursuant to section V.A.2. and Attachment D, section A.1.b. of the Construction Storm Water Permit, *"[d]ischargers shall minimize or prevent pollutants in storm water discharges and authorized non-storm water discharges through the use of controls, structures, and management practices that achieve BAT for toxic and non-conventional pollutants and BCT for conventional pollutants."*

Sediment-laden water was discharged from the Site into Encanto Channel and Chollas Creek on December 4, 12, 17, 31, 2014, May 8, 2015, and September 15, 2015. See Figure 2. May 8, 2015, Sediment Discharge. The violations were noted in the following documents: City Stop Work Notice December 4, 2014 (Exhibit No. 3); City Administrative Citation December 15, 2014 (Exhibit No. 7), and San Diego Water Board Inspection Report December 15, 2014 (Exhibit No. 8); City Contractor Report December 17, 2014 (Exhibit No. 10); City Contractor Report December 31, 2014 (Exhibit No. 12); in photographs and text in San Diego Water Board Inspection Report May 8, 2015 (Exhibit No. 18), and City Administrative Citation September 15, 2015 (Exhibit No. 21). The discharges into Encanto Channel and Chollas Creek were unauthorized and a violation of the Construction Storm Water Permit section III.B. because the Discharger failed to reduce or eliminate the pollutants in the storm water runoff prior to discharge (i.e., to implement BMPs that achieve BAT and BCT).



Figure 2. May 8, 2015, Sediment Discharge. View of sediment in street (Orlando Drive) after storm event. Photograph taken by Frank Melbourn, San Diego Water Board. 20150508_191716.jpg

B. Violation No. 2: Failure to Implement Material Stockpile BMPs. (10 days) Pursuant to section B.1.b. in Attachment D to the Construction Storm Water Permit, dischargers are required to "*[c]over and berm loose stockpiled construction materials that are not actively being used (i.e. soil, spoils, aggregate, fly-ash, stucco, hydrated lime, etc.).*"

The Discharger was in violation of section B.1.b. for 10 days; from December 2 through 8, 2014, December 15, 2014, May 13, 2015, and September 15, 2015. See Figure 3. Failure to implement material stockpile BMPs. The violations were noted in the following documents: City Stop Work Notice December 2, 2014 (Exhibit No. 2); City Stop Work Notice December 4, 2014 (Exhibit No. 3); City Inspection Report December 8, 2014 (Exhibit No. 4); San Diego Water Board Inspection Report December 15, 2014 (Exhibit No. 8); San Diego Water Board Inspection Report May 13, 2015 (Exhibit No. 19), and City Inspection Report September 15, 2015 (Exhibit No. 22).



Figure 3. Failure to implement material stockpile BMPs. Photograph taken by the City of Lemon Grove on December 2, 2014.

C. Violation No. 3: Failure to Implement Vehicle Fluid Leak BMPs. ***(2 days)*** Pursuant to section B.3.a. in Attachment D to the Construction Storm Water Permit, dischargers are required to "*[p]revent oil, grease, or fuel to leak in to the ground, storm drains or surface waters.*" The Discharger was in violation of section B.3.a. for two days: December 15, 2014; and May 13, 2015. See Figure 4. Failure to have vehicle fluid leak protection. The violations were noted in the following documents: San Diego Water Board Inspection Report December 15, 2014 (Exhibit No. 8); and San Diego Water Board Inspection Report May 13, 2015 (Exhibit No. 19).



Figure 4. Failure to have vehicle fluid leak protection. Photograph taken by Wayne Chiu, San Diego Water Board on December 15, 2014, of heavy equipment without vehicle fluid leak protection. IMG_5064.jpg

D. Violation No. 4: Failure to Implement Erosion Control BMPs in Inactive Areas. (22 days)

Pursuant to section D.2. in Attachment D to the Construction Storm Water Permit, dischargers are required to "*provide effective soil cover for inactive areas and all finished slopes, open space, utility backfill, and completed lots.*" The Discharger was in violation of section B.2. for 22 days: 9 days (December 1 through 9, 2014); 2 days (December 15 through 16, 2014); 1 day (January 6, 2015); 1 day (January 14, 2015); 8 days (May 8 through 15, 2015), and 1 day (September 15, 2015). See Figure 5. Failure to implement erosion control BMPs on inactive areas.

The violations were noted in the following documents: in photographs and text in City Stop Work Notice December 2, 2014 (Exhibit No. 2); City Stop Work Notice December 4, 2014 (Exhibit No. 3); City Inspection Report December 8, 2014 (Exhibit No. 4); City Inspection Report December 16, 2014 (Exhibit No. 9); City Contractor Report January 16, 2015 (Exhibit No. 24); San Diego Water Board Inspection Report December 15, 2014 (Exhibit No. 8); City Inspection Report January 6, 2015 (Exhibit No. 25); City Inspection Report January 14, 2015 (Exhibit No. 26); San Diego Water Board Inspection Report May 8, 2015 (Exhibit No. 18); San Diego Water Board Inspection Report May 13, 2015 (Exhibit No. 19); San Diego Water Board Inspection Report May 15, 2015 (Exhibit No. 20), and City Inspection Report September 15, 2015 (Exhibit No. 22).



Figure 5. Failure to implement erosion control BMPs on inactive areas. Photograph taken by Wayne Chiu, San Diego Water Board on December 15, 2014, of housing pad without erosion control BMPs. Note the erosion rills. IMG_5061.jpg

E. Violation No. 5: Failure to Implement Perimeter Sediment Control BMPs. (14 days)

Pursuant to section E.1. in Attachment D to the Construction Storm Water Permit, dischargers are required to "*establish and maintain effective perimeter controls and stabilize all construction entrances and exits to sufficiently control erosion and sediment discharges from the site.*" The Discharger was in violation of section E.1. for 14 days: 5 days (December 4 through 8, 2014); 2 days (December 15 through 16, 2014); 6 days (May 8 through 13, 2015), and 1 day (September 15, 2015). See Figure 6. Failure to implement perimeter sediment control BMPs. The violations were noted in the following documents: in photographs and text in City Stop Work Notice December 4, 2014 (Exhibit No. 3); City Inspection Report December 8, 2014 (Exhibit No. 4); San Diego Water Board Inspection Report December 15, 2014 (Exhibit No. 8); City Inspection Report December 16, 2014 (Exhibit No. 9); San Diego Water Board Inspection Report May 8, 2015 (Exhibit No. 18); San Diego Water Board Inspection Report May 13, 2015 (Exhibit No. 19), and City Inspection Report September 15, 2015 (Exhibit No. 21).



Figure 6. Failure to implement perimeter sediment control BMPs. Photograph taken by Frank Melbourn, San Diego Water Board on May 8, 2015, of gap (identified by red arrow) in perimeter sediment control BMPs that resulted in sediment discharge to Encanto Channel. 20150508_192234.jpg

F. Violation No. 6: Failure to Implement Erosion Control BMPs in Active Areas. (22 days)

Pursuant to section E.3. in Attachment D to the Construction Storm Water Permit, dischargers are required to "*implement appropriate erosion control BMPs (runoff control and soil stabilization) in conjunction with sediment control BMPs for areas under active construction.*" The Discharger was in violation of section E.3. for 22 days: 8 days (December 1 through 8, 2014); 2 days (December 15 through 16, 2014); 1 day (January 6, 2015); 2 days (March 23 through 24, 2015); 8 days (May 8 through 15, 2015), and 1 day (September 15, 2015). See Figure 7. Lack of erosion control BMPs in active areas. The violations were noted in the following documents: in photographs and text in City Stop Work Notice December 2, 2014 (Exhibit No. 2); City Stop Work Notice December 4, 2014 (Exhibit No. 3); in photograph in City Inspection Report December 8, 2014 (Exhibit No. 4); San Diego Water Board Inspection Report December 15, 2014 (Exhibit No. 8); City Inspection Report December 16, 2014 (Exhibit No. 9); City Contractor Report January 16, 2015 (Exhibit No. 24); in photograph in City Administrative Citation March 24, 2015 (Exhibit No. 16); in photograph in San Diego Water Board Inspection Report May 8, 2015 (Exhibit No. 18); San Diego Water Board Inspection Report May 13, 2015 (Exhibit No. 19); San Diego Water Board Inspection Report May 15, 2015 (Exhibit No. 20), and City Inspection Report September 15, 2015 (Exhibit No. 22).



Figure 7. Lack of erosion control BMPs in active areas. Photograph on May 15, 2015, of muddy thoroughfare (Tangelos Place) lacking erosion control BMPs after rain event. Photograph taken by Frank Melbourn, San Diego Water Board. IMG_0354.jpg

G. Violation No. 7: Failure to Apply Linear Sediment Controls. (9 days) Pursuant to section E.4. in Attachment D to the Construction Storm Water Permit, dischargers are required to "*apply linear sediment controls along toe of slope, face of the slope, and at the grade breaks of exposed slopes to comply with the sheet flow lengths in accordance with Table 1.*" The Discharger was in violation of section E.4. for nine days: 2 days (December 15 through 16, 2014); 6 days (May 8 through 13, 2015), and 1 day (September 15, 2015). See Figure 8. Failure to apply linear sediment controls. The violations were noted in the following documents: San Diego Water Board Inspection Report December 15, 2014 (Exhibit No. 8); City Inspection Report December 16, 2014 (Exhibit No. 9); San Diego Water Board Inspection Report May 8, 2015 (Exhibit No. 18); San Diego Water Board Inspection Report May 13, 2015 (Exhibit No. 19), and City Inspection Report September 15, 2015 (Exhibit No. 22).



Figure 8. Failure to apply linear sediment controls. Photograph taken by Wayne Chiu, San Diego Water Board, on December 15, 2014, depicting the lack of linear sediment controls on a slope. IMG_5035.jpg

H. Violation No. 8: Failure to Manage Run-On and Runoff. (7 days)
Pursuant to section F. in Attachment D to the Construction Storm Water Permit, dischargers are required to "*effectively manage all run-on, all runoff within the site and all runoff that discharges off the site. Run-on from off site shall be directed away from all disturbed areas or shall be collectively be in compliance with the effluent limitations in this General Permit.*" The Discharger was in violation of section F. for seven days: 1 day (December 15, 2014); and 6 days (May 8 through 13, 2015). See Figure 9. Failure to manage run-on and runoff. The violations were noted in the following documents: San Diego Water Board Inspection Report December 15, 2014 (Exhibit No. 8); San Diego Water Board Inspection Report May 8, 2015 (Exhibit No. 18); and San Diego Water Board Inspection Report May 13, 2015 (Exhibit No. 19).



Figure 9. Failure to manage run-on and runoff. Photograph taken by Wayne Chiu, San Diego Water Board on December 15, 2014, displaying erosion caused by runoff flowing under fence and offsite. IMG_5042.jpg.

I. **Violation No. 9: Failure to Remove Sediment or Other Construction Materials from Roads. (10 days)**
Pursuant to section E.7. in Attachment D to the Construction Storm Water Permit, dischargers are required "*at a minimum daily (when necessary) and prior to any rain event, the discharger shall remove any sediment or other construction activity-related materials that are deposited on the roads (by vacuuming or sweeping).*" The Discharger was in violation of section E.7. for 10 days: 8 days (December 2 through 9, 2014) December 16, 2014, and September 15, 2015. See Figure 10. Failure to remove sediment from roads. The violations were noted in the City Stop Work Notice December 2, 2014 (Exhibit No. 2); in City photographs from December 4, 2014; City Inspection Report December 8, 2014 (Exhibit No. 4); City Inspection Report December 9, 2014 (Exhibit No. 5); City Inspection Report December 16, 2014 (Exhibit No. 9), and City Inspection Report September 15, 2015 (Exhibit No. 22).



Figure 10. Failure to remove sediment from roads. Photograph taken by the City of Lemon Grove on December 4, 2014, depicting sediment on Akins Avenue southwest of the Site.

J. Violation No. 10: Failure to Protect Storm Drain Inlets. (3 days) Pursuant to section E.6. in Attachment D to the Construction Storm Water Permit, dischargers "*shall ensure that all storm drain inlets and perimeter controls, runoff control BMPs, and pollutant controls at entrances and exits (e.g. tire washoff locations) are maintained and protected from activities that reduce their effectiveness.*" The Discharger was in violation of section E.6. for three days: December 8, 2014; May 13, 2015, and September 15, 2015. See Figure 11. Failure to protect storm drain inlets. The violation was noted in the City Inspection Report December 8, 2014 (Exhibit No. 4); in San Diego Water Board photographs from May 13, 2015 (Exhibit No. 19), and City Inspection Report September 15, 2015 (Exhibit No. 22).



Figure 11. Failure to protect storm drain inlets. Photograph taken by Frank Melbourn, San Diego Water Board on May 13, 2015, displaying unprotected storm drain inlet. IMG_0295.jpg.

K. Violation No. 11: Failure to Contain and Securely Protect Stockpiled Waste Material from Wind and Rain. (9 days)

Pursuant to section B.2.f. in Attachment D to the Construction Storm Water Permit, dischargers are required to "*[c]ontain and securely protect stockpiled waste material from wind and rain at all times unless actively being used.*" The Discharger was in violation of section B.2.f. for nine days (January 6 through 14, 2015). The violations were noted in the following documents: City Inspection Report January 6, 2015 (Exhibit No. 25); and City Inspection Report January 14, 2015 (Exhibit No. 26).

L. Violation No. 12: Failure to Properly Store Chemicals. (7 days)

Pursuant to section B.1.c. in Attachment D to the Construction Storm Water Permit, dischargers are required to "*[s]tore chemicals in watertight containers (with appropriate secondary containment to prevent any spillage or leakage) or in a storage shed (completely enclosed).*" The Discharger was in violation of section B.1.c. for seven days (March 18 through 24, 2015). See Figure 12. Failure to properly store chemicals. The violations were noted in the following documents: City Inspection Report March 18, 2015 (Exhibit No. 13); and City Correct Work Notice March 24, 2015 (Exhibit No. 15).



Figure 12. Failure to properly store chemicals. Photograph taken by the City of Lemon Grove on March 24, 2015, depicting chemicals and vehicle lubricants stored on pallets without protection from the elements and without secondary containment.

M. Violation No. 13: Failure to Prevent Discharge of Concrete Waste to the Ground. (15 days)

Pursuant to section B.2.i. in Attachment D to the Construction Storm Water Permit, dischargers are required to "*[e]nsure the containment of concrete washout areas and other washout areas that may contain additional pollutants so there is no discharge into the underlying soil and onto the surrounding areas.*" The Discharger was in violation of section B.2.i. for 15 days (March 18 through April 1, 2015). See Figure 13. Failure to prevent discharge of concrete waste to the ground. The violations were noted in the following documents: City Administrative Citation March 19, 2015 (Exhibit No. 14); City Administrative Citation March 24, 2015 (Exhibit No. 16); and City Administrative Citation April 1, 2015 (Exhibit No. 17).



Figure 13. Failure to prevent the discharge of concrete waste to the ground. Photograph taken by the City of Lemon Grove on March 24, 2015, depicting discharge of concrete waste on slope (identified by red circle).

III. LIABILITY CALCULATIONS

A. Determination of Administrative Civil Liability

An administrative civil liability may be imposed pursuant to the procedures in Water Code section 13323. The Complaint alleges the act(s) or failure to act that constitutes a violation of law, the provision of law authorizing civil liability, and the proposed civil liability. Pursuant to the relevant portions of Water Code section 13385(a):

> *A person who violates any of the following shall be liable civilly in accordance with this section:*
>
> *(1) Section 13375 or 13376.*
> *(2) A waste discharge requirement or dredged or fill material permit issued pursuant to this chapter or any water quality certification issued pursuant to Section 13160.*
> *(3) A requirement established pursuant to section 13383.*

Furthermore, Water Code section 13385 (c) provides that:

> *Civil liability may be imposed administratively by the state board or a regional board pursuant to Article 2.5 (commencing with section 13323) of Chapter 5 in an amount not to exceed the sum of both of the following:*
>
> *(1) Ten thousand dollars ($10,000) for each day in which the violation occurs.*
> *(2) Where there is a discharge, any portion of which is not susceptible to cleanup or is not cleaned up, and the volume discharged but not cleaned up exceeds 1,000 gallons, an additional liability not to exceed ten dollars ($10) multiplied by the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons.*

Water Code section 13385(e) requires the consideration of several factors when determining the amount of civil liability to impose. These factors include:

> *...the nature, circumstances, extent, and gravity of the violation or violations, whether the discharge is susceptible to cleanup or abatement, the degree of toxicity of the discharge, and, with respect to the violator, the ability to pay, the effect on its ability to continue its business, any voluntary cleanup efforts undertaken, any prior history of violations, the degree of culpability, economic benefit or savings, if any, resulting from the violation, and other matters that justice may require. At a minimum, liability shall be assessed at a level that recovers the economic benefits, if any, derived from the acts that constitute the violation.*

B. State Water Board Enforcement Policy

On November 17, 2009, the State Water Board adopted Resolution No. 2009-0083 amending the Water Quality Enforcement Policy (Enforcement Policy). The Enforcement Policy was approved by the Office of Administrative Law and became effective on May 20, 2010. The Enforcement Policy establishes a methodology for assessing administrative civil liability. Use of the methodology addresses the factors in Water Code section 13385(e). The liability calculation methodology enables the Regional Water Boards to fairly and consistently implement liability provisions of the Water Code for maximum enforcement impact to address, correct, and deter water quality violations.

Pursuant to the Enforcement Policy, Regional Water Boards determine an initial liability factor based on the Potential for Harm and the extent of Deviation from Requirements for a violation. Regional Water Boards may then use three adjustment factors for modification of the initial liability amount. These factors are Culpability, Cleanup and Cooperation, and History of Violations. The initial liability amount can be increased or decreased based on these adjustment factors. Additional adjustments may be used regarding multiple violations resulting from the same incident and multiple day violations.

C. Proposed Base Civil Liabilities for Alleged Violations

This section provides the recommendations for the proposed base civil liabilities for each of the alleged violations discussed in Section II, developed in accordance with the procedures in the Enforcement Policy methodology. A summary of the information and factors used to develop the proposed base civil liabilities for each of the violations are provided in Exhibit No. 27, Penalty Methodology Summary.

1. **Violation No. 1: Unauthorized Discharge of Sediment.**

STEP 1 - Potential for Harm for Discharge Violations (Violation No. 1)
The Potential for Harm for Discharge Violations is determined by using a three-factor scoring system to quantify: (1) the potential for harm to beneficial uses; (2) the degree of toxicity of the discharge; and (3) the discharge's susceptibility to cleanup or abatement. The determination of these three factors and the final score are discussed below.

Factor 1: Harm or Potential Harm to Beneficial Uses
A score between 0 and 5 is assigned in accordance with the statutory factors of the nature, circumstances, extent, and gravity of the violation, based on a determination of whether the harm or potential for harm is negligible (0), minor (1), below moderate (2), moderate (3), above moderate (4), or major (5).

The San Diego Water Board Prosecution Team (Prosecution Team) assigned a score of **3**. The Enforcement Policy defines a score of **3** as a "*moderate threat to beneficial uses (i.e., impacts are observed or reasonably expected and impacts to beneficial uses are moderate and likely to attenuate without appreciable acute or chronic effects)*." A score of **3** was selected because:

a. Sediment, the primary storm water pollutant from construction sites, was indirectly discharged into Chollas Creek.

b. Chollas Creek is designated as an impaired water body for dissolved metals (copper, lead, and zinc) pursuant to Clean Water Act section 303(d). Storm water runoff containing sediment discharged from the Site likely transported other pollutants such as metals; therefore it is reasonable to state that the unauthorized discharge further degraded the already impaired waters of Chollas Creek.

c. Sediment discharges from the Site into Chollas Creek are reasonably expected to have a negative impact on its beneficial uses (REC-1, REC-2, WARM, and WILD). However the discharges are likely to attenuate without appreciable acute and chronic effects.

Factor 2: The Physical, Chemical, Biological or Thermal Characteristics of the Discharge

A score between 0 and 4 is assigned based on a determination of whether the discharged material poses a negligible (0), minor (1), moderate (2), above moderate (3), or major (4) risk or threat to potential receptors. "Potential receptors" are those identified considering human, environmental and ecosystem health exposure pathways.

The Prosecution Team assigned a score of **2**. The Enforcement Policy defines a score of **2** as "*[d]ischarged material poses a moderate risk or threat to potential receptors (i.e. the chemical and/or physical characteristics of the discharged material have some level of toxicity or pose a moderate level of concern regarding receptor protection)*." A score of **2** was selected because:

a. Sediment discharges can adversely impact the physical quality of in-stream waterways by altering or obstructing flows and affecting existing riparian functions.

b. Sediment acts as a binding carrier to other toxic constituents like metals and organic contaminants (i.e., pesticides and PCBs).

c. Sediment discharges typically increase receiving water turbidity levels which have an adverse impact on the quality of receiving waters and the ability to support habitat related beneficial uses by reducing visibility and interfering with biotic feeding and reproduction.

d. Sediment discharges cause acute effects on the invertebrate aquatic community (e.g., it can be lethal when the benthic community is buried in sediment).

Factor 3: Susceptibility to Cleanup and Abatement

A score of 0 is assigned if 50 percent or more of the discharge is susceptible to cleanup or abatement. A score of 1 is assigned if less than 50 percent of the discharge is susceptible to cleanup or abatement.

The Prosecution Team assigned a score of **1**. A score of **1** was selected because the San Diego Water Board determined that less than 50 percent of the unauthorized discharges of sediment and sediment laden water to Encanto Channel and Chollas Creek was susceptible to cleanup or abatement.

FINAL SCORE – "Potential for Harm"

The Potential for Harm for Discharge Violations is the sum of Factors 1, 2, and 3. Based on the determinations above, the final Potential for Harm score is **6** (3 + 2 + 1).

STEP 2 – Assessment for Discharge Violations (Violation No. 1)

According to Water Code section 13385, a Regional Water Board may impose civil liability on a per day basis, a per gallon basis, or both. Due to the difficulty in accurately determining the volume of unauthorized discharges from the Site, civil liability was only calculated on a per day basis for the violation.

Per day assessments for discharge violations are determined based on the final Potential for Harm score and the extent of the Deviation from Requirement, which are used in Table 2 of the Enforcement Policy to determine the Per Day Factor. The Per Day Factor is multiplied by the Statutory Maximum Liability amount allowed under the Water Code (i.e. $10,000 per day).

Deviation from Requirement

The Deviation from Requirement is based on a determination of whether the intended effectiveness of the requirement "remains generally intact" (Minor), "has been partially compromised" (Moderate), or "rendered ineffective" (Major). The Enforcement Policy defines a Major "Deviation from Requirement" as "[t]he requirement has been rendered ineffective (e.g., discharger disregards the requirement, and/or the requirement is rendered ineffective in its essential functions)."

The Prosecution Team has determined that the Deviation from Requirement is **Major** because the Construction Storm Water Permit prohibits all discharges except for storm water and non-storm water discharges specifically authorized by the permit. Only discharges that have been controlled with BMPs that achieve BAT and BCT are authorized. Because the Discharger did not implement BMPs that achieve BAT and BCT, the requirements of the Construction Storm Water Permit were "rendered ineffective."

Per Day Factor

Using a Potential for Harm factor score of **6** (see Step 1) and Deviation from Requirement of **Major**, the Per Day Factor for the unauthorized discharges from the Site to Chollas Creek is **0.220** in Table 2 of the Enforcement Policy.

Days of Discharge Violations
Sediment laden water was discharged from the Site into Encanto Channel and Chollas Creek on December 4, 12, 17, 31, 2014, May 8, 2015, and September 15, 2015. Therefore, there were six days of discharge.

STEP 3 – Per Day Assessment of Non-Discharge Violations (Violation No. 1)
Step 3 does not apply to Discharge Violations

STEP 4 – Adjustment Factors (Violation No. 1)
There are three additional factors that are considered for modification of the amount of the initial liability: the Discharger's Culpability, the Discharger's efforts for Cleanup and Cooperation after the violation, and the Discharger's History of Violations. These three factors are discussed below.

Culpability
An adjustment for the initial liability based on the Discharger's Culpability should result in a multiplier between 0.5 to 1.5, with a lower multiplier for accidental or non-negligent violations, and a higher multiplier for intentional or negligent violations. The test is what a reasonable and prudent person would have done or not done under similar circumstances. The Prosecution Team assigned a Culpability multiplier of **1.3** for this violation because the Discharger either intentionally or due to negligence did not implement BMPs that achieve BAT and BCT, which resulted in the unauthorized discharges from the Site. The Discharger was informed by the City and the San Diego Water Board in writing various times that the Site's BMPs were inadequate. A reasonable person would have corrected the deficient BMPs to prevent future discharges.

Cleanup and Cooperation
An adjustment for the initial liability based on the Discharger's efforts for Cleanup and Cooperation should result in a multiplier between 0.75 to 1.5, with a lower multiplier where there is a high degree of cleanup and cooperation, and a higher multiplier where this is absent. The Prosecution Team assigned a Cleanup and Cooperation multiplier of **1.1** for this violation because the Discharger in many cases ignored the BMP recommendations or took longer than 72 hours to correct deficiencies.

History of Violations
Where there is a history of repeat violations, a minimum multiplier of 1.1 should be used to reflect this. The Prosecution Team assigned a History of Violations multiplier of **1.0** for this violation because the Discharger does not have a history of construction storm water violations determined by this Board.

STEP 5 – Determination of Total Base Liability Amount (Violation No. 1)
The Total Base Liability Amount (i.e. initial amount of liability) is determined by multiplying the Per Day Assessment by the Days of Violation and then applying the adjustment factors as follows:

Total Base Liability	=	Days of Violation	x	Per Day Factor	x	Statutory Maximum Liability	x	Culpability Multiplier	x	Cleanup & Cooperation Multiplier	x	History of Violations Multiplier	
Total Base Liability	=	6	x	0.220	x	$10,000	x	1.3	x	1.1	x	1.0	= $18,876

STEP 6 – Ability to Pay and Ability to Continue in Business (Violation No. 1)
See discussion in Section III.D.

STEP 7 – Other Factors as Justice May Require (Violation No. 1)
See discussion in Section III.E.

STEP 8 – Economic Benefit (Violation No. 1)
The Discharger derived an economic benefit by not properly implementing the erosion and sediment control BMPs that are required for all construction sites. At a minimum, the Discharger should have implemented erosion control and sediment control requirements for a Risk Level 1 construction site. The estimated cost to implement effective soil cover and effective perimeter sediment controls is **$13,500** based upon costs estimated by the San Diego Water Board. Using the US EPA BEN Model the Discharger enjoyed an economic benefit of **$9,476.** See Exhibit No. 28, Economic Benefit Calculation and Supporting Documentation.

STEP 9 – Maximum and Minimum Liability Amounts (Violation No. 1)
For all violations, Water Code section 13385 sets a maximum liability amount that may be assessed for each violation. For some violations, the statute also requires the assessment of a liability at no less than a specified amount. The maximum and minimum amounts for each violation must be determined for comparison to the amounts being proposed.

Maximum Liability Amount
Pursuant to Water Code section 13385 the maximum civil liability that the San Diego Water Board may assess for this violation is (a) ten thousand dollars ($10,000) per day of violation (per violation); and (b) ten dollars ($10) for every gallon discharged, over one thousand (1,000) gallons discharged, that was not cleaned up. In this instance, the Prosecution Team is proposing the assessment of civil liability for the discharge of sediment to waters of the United States only on a per day basis based on information currently available. The Maximum Liability Amount that could be assessed for this violation is **$10,000 per day per discharge**. Therefore, the maximum liability amount is **$60,000** for five days of discharge.

Minimum Liability Amount

Water Code section 13385(e) requires that when pursuing civil liability under section 13385, "*at a minimum, liability shall be assessed at a level that recovers the economic benefit, if any, derived from the acts that constitute the violation.*" The Enforcement Policy requires that the adjusted Total Base Liability Amount be at least ten percent (10%) higher than the Economic Benefit. Therefore the Minimum Liability Amount that should be assessed for this violation is (1.1 x $9,476) = **$10,424**.

STEP 10 – Final Liability Amount (Violation No. 1)

Based on the unique facts of this case, and the liability calculation methodology within Section VI of the Enforcement Policy, the proposed civil liability for **six days** of discharge in violation of the Construction Storm Water Permit is **$18,876**, plus staff costs. The proposed liability is within the minimum and maximum liability range. See Exhibit No. 27.

2. Violation No. 2: Failure to Implement Material Stockpile BMPs.

STEP 1 - Potential for Harm for Discharge Violations (Violation No. 2)

Step 1 does not apply to Non-Discharge Violations.

STEP 2 – Assessment for Discharge Violations (Violation No. 2)

Step 2 does not apply to Non-Discharge Violations.

STEP 3 – Per Day Assessment of Non-Discharge Violations (Violation No. 2)

While non-discharge violations may not directly or immediately impact beneficial uses, they harm or undermine the regulatory program. Per day assessments of non-discharge violations are determined based on the Potential for Harm and the extent of Deviation from Requirement, which are used in Table 3 of the Enforcement Policy to determine the Per Day Factor. The Per Day Factor is multiplied by the Statutory Maximum Liability amount allowed under the Water Code (i.e. $10,000 per day).

Potential for Harm

The violation poses either a Minor, Moderate, or Major threat to beneficial uses. The Potential for Harm for this violation is characterized as **Moderate**. The Enforcement Policy defines Moderate Potential for Harm as "[t]he characteristics of the violation present a substantial threat to beneficial uses, and/or the circumstances of the violation indicate a substantial potential for harm." The Prosecution Team has determined that the Potential for Harm is **Moderate** because the failure to implement adequate stockpile management BMPs poses a substantial potential for harm if there is storm water or non-storm water runoff that flows through and transports sediment from the Site to receiving waters.

Deviation from Requirement

The violation is characterized as either a Minor, Moderate, or Major deviation from the requirement. In this case, the Prosecution Team characterized the violation as a **Moderate** Deviation from Requirement. The Enforcement Policy defines a Moderate Deviation from Requirement as "[t]he intended effectiveness of the requirement has been partially compromised (e.g., the requirement was not met, and the effectiveness of the requirement is only partially achieved)." **Moderate** was selected because the Discharger covered only some of the material stockpiles, thus rendering the requirement only partially effective.

Per Day Factor

Using a Potential for Harm determination of **Moderate** and Deviation from Requirement determination of **Moderate**, the Per Day Factor for the failure to implement the stockpile management requirements is **0.35** in Table 3 of the Enforcement Policy.

Days of Non-Discharge Violation

According to the documentation included with this technical analysis, the Discharger was in violation of the stockpile management requirements of or B.1.b. in Attachment D to the Construction Storm Water Permit for **10 days** (December 2 through 8, 2014, December 15, 2014, May 13, 2015, and September 15, 2015).

STEP 4 – Adjustment Factors (Violation No. 2)

There are three additional factors that are considered for modification of the amount of the initial liability: the Discharger's Culpability, the Discharger's efforts for Cleanup and Cooperation after the violation, and the Discharger's History of Violations. These three factors are discussed below.

Culpability

An adjustment for the initial liability based on the Discharger's Culpability should result in a multiplier between 0.5 to 1.5, with a lower multiplier for accidental or non-negligent violations, and a higher multiplier for intentional or negligent violations. The test is what a reasonable and prudent person would have done or not done under similar circumstances. The Prosecution Team assigned a Culpability multiplier of **1.3** for this violation because the Discharger either intentionally or due to negligence did not adequately implement the stockpile management requirements. There was no reason BMPs could not reasonably have been implemented to be in compliance with the Construction Storm Water Permit.

Cleanup and Cooperation

An adjustment for the initial liability based on the Discharger's efforts for Cleanup and Cooperation should result in a multiplier between 0.75 to 1.5, with a lower multiplier where there is a high degree of cleanup and cooperation, and a higher multiplier where this is absent. The Prosecution Team assigned a Cleanup and Cooperation multiplier of **1.1** for this violation because the Discharger repeatedly failed to comply with the requirement over several months.

History of Violations

Where there is a history of repeated violations, a minimum multiplier of 1.1 should be used to reflect this. The Prosecution Team assigned a History of Violations multiplier of **1.0** for this violation because the Discharger does not have a history of construction storm water violations determined by this Board.

STEP 5 – Determination of Total Base Liability Amount (Violation No. 2)

The Total Base Liability Amount (i.e. initial amount of liability) is determined by multiplying the Per Day Assessment by the Days of Violation and then applying the adjustment factors as follows:

Total Base Liability	=	Days of Violation	x	Per Day Factor	x	Statutory Maximum Liability	x	Culpability Multiplier	x	Cleanup & Cooperation Multiplier	x	History of Violations Multiplier	
Total Base Liability	=	10	x	0.35	x	$10,000	x	1.3	x	1.1	x	1.0	= $50,050

STEP 6 – Ability to Pay and Ability to Continue in Business (Violation No. 2)

See discussion in Section III.D.

STEP 7 – Other Factors as Justice May Require (Violation No. 2)

See discussion in Section III.E.

STEP 8 – Economic Benefit (Violation No. 2)

The Discharger derived an economic benefit by not properly implementing the stockpile management BMPs that are required for all construction sites. At a minimum, the Discharger should have properly covered and contained stockpiles on the Site before the predicted storm events. The estimated cost to properly cover and contain the stockpiles is **$1,550** based upon costs estimated by the San Diego Water Board. Using the US EPA BEN Model the Discharger enjoyed an economic benefit of **$1,088.** See Exhibit No. 28.

STEP 9 – Maximum and Minimum Liability Amounts (Violation No. 2)
For all violations, Water Code section 13385 sets a maximum liability amount that may be assessed for each violation. For some violations, the statute also requires the assessment of a liability at no less than a specified amount. The maximum and minimum amounts for each violation must be determined for comparison to the amounts being proposed.

Maximum Liability Amount
Pursuant to Water Code section 13385 the maximum civil liability that the San Diego Water Board may assess for this violation is ten thousand dollars ($10,000) per day of violation (per violation). The Maximum Liability Amount that could be assessed for this violation is **$10,000 per day**. Therefore the maximum liability amount for ten days of violation is **$100,000**.

Minimum Liability Amount
Water Code section 13385(e) requires that when pursuing civil liability under section 13385, "*at a minimum, liability shall be assessed at a level that recovers the economic benefit, if any, derived from the acts that constitute the violation.*" The Enforcement Policy requires that the adjusted Total Base Liability shall be at least ten percent (10%) higher than the Economic Benefit. Therefore, the minimum liability is (1.1 x $1,088) = **$1,197**.

STEP 10 – Final Liability Amount (Violation No. 2)
Based on the unique facts of this case, and the liability calculation methodology within Section VI of the Enforcement Policy, the proposed civil liability for 10 days of violation of the Construction Storm Water Permit is **$50,050**, plus staff costs. The proposed liability is within the minimum and maximum liability range. See Exhibit No. 27.

3. Violation No. 3: Failure to Implement Vehicle Fluid Leak BMPs.

STEP 1 - Potential for Harm for Discharge Violations (Violation No. 3)
Step 1 does not apply to Non-Discharge Violations.

STEP 2 – Assessment for Discharge Violations (Violation No. 3)
Step 2 does not apply to Non-Discharge Violations.

STEP 3 – Per Day Assessment of Non-Discharge Violations (Violation No. 3)
While non-discharge violations may not directly or immediately impact beneficial uses, they harm or undermine the regulatory program. Per day assessments of non-discharge violations are determined based on the Potential for Harm and the extent of Deviation from Requirement, which are used in Table 3 of the Enforcement Policy to determine the Per Day Factor. The Per Day Factor is multiplied by the Statutory Maximum Liability amount allowed under the Water Code (i.e. $10,000 per day).

Potential for Harm

The Potential for Harm is based on a determination of whether the circumstances of the violation indicate "a minor potential for harm" (Minor), "a substantial potential for harm" (Moderate), or "a very high potential for harm" (Major). The Potential for Harm for this violation was characterized as **Moderate**. The Enforcement Policy defines Moderate Potential for Harm as "[t]he characteristics of the violation present a substantial threat to beneficial uses, and/or the circumstances of the violation indicate a substantial potential for harm. The Prosecution Team has determined that the Potential for Harm is **Moderate** because the failure to implement adequate vehicle storage and maintenance BMPs poses a substantial potential for harm if there is storm water or non-storm water runoff that flows through and transports oil, grease, or fuel from the Site to receiving waters.

Deviation from Requirement

The Deviation from Requirement is based on a determination of whether the intended effectiveness of the requirement "remains generally intact" (Minor), "has been partially compromised" (Moderate), or "rendered ineffective" (Major). The Enforcement Policy defines a Major "Deviation from Requirement" as "[t]he requirement has been rendered ineffective (e.g., discharger disregards the requirement, and/or the requirement is rendered ineffective in its essential functions)." The Prosecution Team has determined that the Deviation from Requirement is **Major** because the Discharger failed to provide drip pans for vehicles stored on the Site, thus rendering the requirement ineffective.

Per Day Factor

Using a Potential for Harm determination of **Moderate** and Deviation from Requirement determination of **Major**, the Per Day Factor for the failure to implement vehicle fluid leak BMPs is **0.55** in Table 3 of the Enforcement Policy.

Days of Non-Discharge Violation

According to the documentation included with this technical analysis, the Discharger was in violation of the vehicle storage and maintenance requirements of Sections B.3.a. in Attachment D to the Construction Storm Water Permit for **2 days** (December 15, 2014, and May 13, 2015).

STEP 4 – Adjustment Factors (Violation No. 3)

There are three additional factors that are considered for modification of the amount of the initial liability: the Discharger's Culpability, the Discharger's efforts for Cleanup and Cooperation after the violation, and the Discharger's History of Violations. These three factors are discussed below.

Culpability

An adjustment for the initial liability based on the Discharger's Culpability should result in a multiplier between 0.5 to 1.5, with a lower multiplier for accidental or non-negligent violations, and a higher multiplier for intentional or negligent violations. The test is what a reasonable and prudent person would have done or not done under similar circumstances. The Prosecution Team assigned a Culpability multiplier of **1.3** for this violation because the Discharger either intentionally or due to negligence did not adequately implement the vehicle storage and maintenance requirements. There was no reason BMPs could not reasonably have been implemented to be in compliance with the Construction Storm Water Permit.

Cleanup and Cooperation

An adjustment for the initial liability based on the Discharger's efforts for Cleanup and Cooperation should result in a multiplier between 0.75 to 1.5, with a lower multiplier where there is a high degree of cleanup and cooperation, and a higher multiplier where this is absent. The Prosecution Team assigned a Cleanup and Cooperation multiplier of **1.1** for this violation because the Discharger failed to comply with the requirement twice over several months.

History of Violations

Where there is a history of repeated violations, a minimum multiplier of 1.1 should be used to reflect this. The Prosecution Team assigned a History of Violations multiplier of **1.0** for this violation because the Discharger does not have a history of construction storm water violations determined by this Board.

STEP 5 – Determination of Total Base Liability Amount (Violation No. 3)

The Total Base Liability Amount (i.e. initial amount of liability) is determined by multiplying the Per Day Assessment by the Days of Violation and then applying the adjustment factors as follows:

Total Base Liability	=	Days of Violation	x	Per Day Factor	x	Statutory Maximum Liability	x	Culpability Multiplier	x	Cleanup & Cooperation Multiplier	x	History of Violations Multiplier	
Total Base Liability	=	2	x	0.55	x	$10,000	x	1.3	x	1.1	x	1.0	= $15,730

STEP 6 – Ability to Pay and Ability to Continue in Business (Violation No. 3)

See discussion in Section III.D.

STEP 7 – Other Factors as Justice May Require (Violation No. 3)

See discussion in Section III.E.

STEP 8 – Economic Benefit (Violation No. 3)

The Discharger derived an economic benefit by not properly implementing the vehicle storage and maintenance BMPs that are required. At a minimum, the Discharger should have provided drip pans for construction equipment stored on the Site. The estimated cost to provide drip pans for construction vehicles on the Site is **$1,286** based upon costs estimated by the San Diego Water Board. Using the US EPA BEN Model the Discharger enjoyed an economic benefit of **$823.** See Exhibit No. 27.

STEP 9 – Maximum and Minimum Liability Amounts (Violation No. 3)

For all violations, Water Code section 13385 sets a maximum liability amount that may be assessed for each violation. For some violations, the statute also requires the assessment of a liability at no less than a specified amount. The maximum and minimum amounts for each violation must be determined for comparison to the amounts being proposed.

Maximum Liability Amount

Pursuant to Water Code section 13385 the maximum civil liability that the San Diego Water Board may assess for this violation is ten thousand dollars ($10,000) per day of violation (per violation). The Maximum Liability Amount that could be assessed for this violation is **$10,000 per day of violation**. Therefore the maximum liability amount is **$20,000**.

Minimum Liability Amount

Water Code section 13385(e) requires that when pursuing civil liability under section 13385, "*at a minimum, liability shall be assessed at a level that recovers the economic benefit, if any, derived from the acts that constitute the violation.*" The Enforcement Policy requires that the adjusted Total Base Liability shall be at least ten percent (10%) higher than the Economic Benefit. Therefore, the minimum liability is (1.1 x $823) = **$905**.

STEP 10 – Final Liability Amount (Violation No. 3)

Based on the unique facts of this case, and the liability calculation methodology within Section VI of the Enforcement Policy, the proposed civil liability for failing to adequately implement vehicle storage and maintenance requirements for **two days** in violation of the Construction Storm Water Permit is **$15,730**, plus staff costs. The proposed liability is within the minimum and maximum liability range.

4. Violation No. 4: Failure to Implement Erosion Control BMPs in Inactive Areas.

STEP 1 - Potential for Harm for Discharge Violations (Violation No. 4)

Step 1 does not apply to Non-Discharge Violations.

STEP 2 – Assessment for Discharge Violations (Violation No. 4)
Step 2 does not apply to Non-Discharge Violations.

STEP 3 – Per Day Assessment of Non-Discharge Violations (Violation No. 4)
While non-discharge violations may not directly or immediately impact beneficial uses, they harm or undermine the regulatory program. Per day assessments of non-discharge violations are determined based on the Potential for Harm and the extent of Deviation from Requirement, which are used in Table 3 of the Enforcement Policy to determine the Per Day Factor. The Per Day Factor is multiplied by the Statutory Maximum Liability amount allowed under the Water Code (i.e. $10,000 per day).

Potential for Harm
The Potential for Harm is based on a determination of whether the circumstances of the violation indicate "a minor potential for harm" (Minor), "a substantial potential for harm" (Moderate), or "a very high potential for harm" (Major). The Potential for Harm for this violation was characterized as **Moderate**. The Enforcement Policy defines Moderate Potential for Harm as "[t]he characteristics of the violation present a substantial threat to beneficial uses, and/or the circumstances of the violation indicate a substantial potential for harm. The Prosecution Team has determined that the Potential for Harm is **Moderate** because the failure to implement adequate erosion control BMPs poses a substantial potential for harm if there is storm water or non-storm water runoff that flows through the Site and erodes exposed soil areas which generates sediment that can be transported in runoff to receiving waters.

Deviation from Requirement
The Deviation from Requirement is based on a determination of whether the intended effectiveness of the requirement "remains generally intact" (Minor), "has been partially compromised" (Moderate), or "rendered ineffective" (Major). The Enforcement Policy defines a Major "Deviation from Requirement" as "[t]he requirement has been rendered ineffective (e.g., discharger disregards the requirement, and/or the requirement is rendered ineffective in its essential functions)." The Prosecution Team has determined that the Deviation from Requirement is **Major** because San Diego Water Board and City inspectors consistently found inactive areas without erosion control BMPs.

Per Day Factor
Using a Potential for Harm determination of **Moderate** and Deviation from Requirement determination of **Major**, the Per Day Factor for the failure to implement erosion control BMPs on inactive areas is **0.55** in Table 3 of the Enforcement Policy.

Days of Non-Discharge Violation

According to the documentation included with this technical analysis, the Discharger was in violation of the erosion control requirements of Section D.2. in Attachment D to the Construction Storm Water Permit for a period of **22 days**: 9 days (December 1 through 9, 2014); 2 days (December 15 through 16, 2014); 1 day (January 6, 2015); 1 day (January 14, 2015); 8 days (May 8 through 15, 2015), and 1 day (September 15, 2015).

STEP 4 – Adjustment Factors (Violation No. 4)

There are three additional factors that are considered for modification of the amount of the initial liability: the Discharger's Culpability, the Discharger's efforts for Cleanup and Cooperation after the violation, and the Discharger's History of Violations. These three factors are discussed below.

Culpability

An adjustment for the initial liability based on the Discharger's Culpability should result in a multiplier between 0.5 to 1.5, with a lower multiplier for accidental or non-negligent violations, and a higher multiplier for intentional or negligent violations. The test is what a reasonable and prudent person would have done or not done under similar circumstances. The Prosecution Team assigned a Culpability multiplier of **1.3** for this violation because the Discharger either intentionally or due to negligence did not adequately implement the erosion control requirements for inactive areas of the Site. There was no reason BMPs could not reasonably have been implemented to be in compliance with the Construction Storm Water Permit.

Cleanup and Cooperation

An adjustment for the initial liability based on the Discharger's efforts for Cleanup and Cooperation should result in a multiplier between 0.75 to 1.5, with a lower multiplier where there is a high degree of cleanup and cooperation, and a higher multiplier where this is absent. The Prosecution Team assigned a Cleanup and Cooperation multiplier of **1.1** for this violation because the Discharger was repeatedly told by San Diego Water Board and City inspectors to address the violation.

History of Violations

Where there is a history of repeated violations, a minimum multiplier of 1.1 should be used to reflect this. The Prosecution Team assigned a History of Violations multiplier of **1.0** for this violation because the Discharger does not have a history of construction storm water violations determined by this Board.

STEP 5 – Determination of Total Base Liability Amount (Violation No. 4)
The Total Base Liability Amount (i.e. initial amount of liability) is determined by multiplying the Per Day Assessment by the Days of Violation and then applying the adjustment factors as follows:

Total Base Liability	=	Days of Violation	x	Per Day Factor	x	Statutory Maximum Liability	x	Culpability Multiplier	x	Cleanup & Cooperation Multiplier	x	History of Violations Multiplier	
Total Base Liability	=	22	x	0.55	x	$10,000	x	1.3	x	1.1	x	1.0	= $173,030

STEP 6 – Ability to Pay and Ability to Continue in Business (Violation No. 4)
See discussion in Section III.D.

STEP 7 – Other Factors as Justice May Require (Violation No. 4)
See discussion in Section III.E.

STEP 8 – Economic Benefit (Violation No. 4)
The Discharger derived an economic benefit by not properly implementing the erosion control BMPs that are required for inactive areas. At a minimum, the Discharger should have provided effective soil cover for all inactive areas on the Site. The estimated cost to provide effective soil cover for all inactive areas on the Site is **$8,500** based upon costs estimated by the San Diego Water Board. Using the US EPA BEN Model the Discharger enjoyed an economic benefit of **$5,966.** See Exhibit No. 28.

STEP 9 – Maximum and Minimum Liability Amounts (Violation No. 4)
For all violations, Water Code section 13385 sets a maximum liability amount that may be assessed for each violation. For some violations, the statute also requires the assessment of a liability at no less than a specified amount. The maximum and minimum amounts for each violation must be determined for comparison to the amounts being proposed.

Maximum Liability Amount
Pursuant to Water Code section 13385 the maximum civil liability that the San Diego Water Board may assess for this violation is ten thousand dollars ($10,000) per day of violation (per violation). Therefore, the Maximum Liability Amount that could be assessed for this violation is **$220,000**.

Minimum Liability Amount

Water Code section 13385(e) requires that when pursuing civil liability under section 13385, "*at a minimum, liability shall be assessed at a level that recovers the economic benefit, if any, derived from the acts that constitute the violation.*" The Enforcement Policy requires that the adjusted Total Base Liability shall be at least ten percent (10%) higher than the Economic Benefit. Therefore, the minimum liability is (1.1 x $5,966) = **$6,563**.

STEP 10 – Final Liability Amount (Violation No. 4)

Based on the unique facts of this case, and the liability calculation methodology within Section VI of the Enforcement Policy, the proposed civil liability for failing to adequately implement erosion control requirements for inactive areas for **22 days** in violation of the Construction Storm Water Permit is **$173,030**, plus staff costs. The proposed liability is within the minimum and maximum liability range. See Exhibit No. 27.

5. Violation No. 5: Failure to Implement Perimeter Sediment Control BMPs

STEP 1 - Potential for Harm for Discharge Violations (Violation No. 5)

Step 1 does not apply to Non-Discharge Violations.

STEP 2 – Assessment for Discharge Violations (Violation No. 5)

Step 2 does not apply to Non-Discharge Violations.

STEP 3 – Per Day Assessment of Non-Discharge Violations (Violation No. 5)

While non-discharge violations may not directly or immediately impact beneficial uses, they harm or undermine the regulatory program. Per day assessments of non-discharge violations are determined based on the Potential for Harm and the extent of Deviation from Requirement, which are used in Table 3 of the Enforcement Policy to determine the Per Day Factor. The Per Day Factor is multiplied by the Statutory Maximum Liability amount allowed under the Water Code (i.e. $10,000 per day).

Potential for Harm

The Potential for Harm is based on a determination of whether the circumstances of the violation indicate "a minor potential for harm" (Minor), "a substantial potential for harm" (Moderate), or "a very high potential for harm" (Major). The Enforcement Policy defines Moderate Potential for Harm as "[t]he characteristics of the violation present a substantial threat to beneficial uses, and/or the circumstances of the violation indicate a substantial potential for harm. The Prosecution Team has determined that the Potential for Harm is **Moderate** because the failure to implement adequate perimeter sediment control BMPs poses a substantial potential for harm if there is loose or eroded sediment that can be transported from the Site in storm water or non-storm water runoff to receiving waters.

Deviation from Requirement

The Deviation from Requirement is based on a determination of whether the intended effectiveness of the requirement "remains generally intact" (Minor), "has been partially compromised" (Moderate), or "rendered ineffective" (Major). The Enforcement Policy defines a Moderate "Deviation from Requirement" as "[t]he intended effectiveness of the requirement has been partially compromised (e.g., the requirement was not met, and the effectiveness of the requirement is only partially achieved)." The Prosecution Team has determined that the Deviation from Requirement is **Moderate** because there was evidence that the Discharger had attempted to implement perimeter sediment control BMPs; however they were ineffective as evidenced by sediment discharges, gaps in perimeter protection, and unmaintained BMPs during inspections.

Per Day Factor

Using a Potential for Harm determination of **Moderate** and Deviation from Requirement determination of **Moderate**, the Per Day Factor for the failure to implement the perimeter sediment control BMPs is **0.35** in Table 3 of the Enforcement Policy.

Days of Non-Discharge Violation

According to the documentation included with this technical analysis, the Discharger was in violation of the perimeter sediment control requirements of Section E.1. in Attachment D to the Construction Storm Water Permit for a period of **14 days:** 5 days (December 4 through 8, 2014); 2 days (December 15 through 16, 2014); 6 days (May 8 through 13, 2015), and 1 day (September 15, 2015).

STEP 4 – Adjustment Factors (Violation No. 5)

There are three additional factors that are considered for modification of the amount of the initial liability: the Discharger's Culpability, the Discharger's efforts for Cleanup and Cooperation after the violation, and the Discharger's History of Violations. These three factors are discussed below.

Culpability

An adjustment for the initial liability based on the Discharger's Culpability should result in a multiplier between 0.5 to 1.5, with a lower multiplier for accidental or non-negligent violations, and a higher multiplier for intentional or negligent violations. The test is what a reasonable and prudent person would have done or not done under similar circumstances. The Prosecution Team assigned a Culpability multiplier of **1.3** for this violation because the Discharger either intentionally or due to negligence did not adequately implement the perimeter sediment control requirements to prevent erosion and sediment discharges from the Site. There was no reason BMPs could not reasonably have been implemented to be in compliance with the Construction Storm Water Permit.

Cleanup and Cooperation
An adjustment for the initial liability based on the Discharger's efforts for Cleanup and Cooperation should result in a multiplier between 0.75 to 1.5, with a lower multiplier where there is a high degree of cleanup and cooperation, and a higher multiplier where this is absent. The Prosecution Team assigned a Cleanup and Cooperation multiplier of **1.1** for this violation because the Discharger did not adequately implement perimeter sediment control BMPs over several months.

History of Violations
Where there is a history of repeated violations, a minimum multiplier of 1.1 should be used to reflect this. The Prosecution Team assigned a History of Violations multiplier of **1.0** for this violation because the Discharger does not have a history of construction storm water violations determined by this Board.

STEP 5 – Determination of Total Base Liability Amount (Violation No. 5)
The Total Base Liability Amount (i.e. initial amount of liability) is determined by multiplying the Per Day Assessment by the Days of Violation and then applying the adjustment factors as follows:

Total Base Liability	=	Days of Violation	x	Per Day Factor	x	Statutory Maximum Liability	x	Culpability Multiplier	x	Cleanup & Cooperation Multiplier	x	History of Violations Multiplier	
Total Base Liability	=	14	x	0.35	x	$10,000	x	1.3	x	1.1	x	1.0	= $70,070

STEP 6 – Ability to Pay and Ability to Continue in Business (Violation No. 5)
See discussion in Section III.D.

STEP 7 – Other Factors as Justice May Require (Violation No. 5)
See discussion in Section III.E.

STEP 8 – Economic Benefit (Violation No. 5)
The Discharger derived an economic benefit by not properly implementing the perimeter sediment control BMPs that are required. At a minimum, the Discharger should have maintained or repaired gaps in perimeter sediment control BMPs when identified. The estimated cost to maintain or repair gaps in perimeter sediment control BMPs is **$3,100** based upon costs estimated by the San Diego Water Board. Using the US EPA BEN Model the Discharger enjoyed an economic benefit of **$2,175.** See Exhibit No. 28.

STEP 9 – Maximum and Minimum Liability Amounts (Violation No. 5)
For all violations, Water Code section 13385 sets a maximum liability amount that may be assessed for each violation. For some violations, the statute also requires the assessment of a liability at no less than a specified amount. The maximum and minimum amounts for each violation must be determined for comparison to the amounts being proposed.

Maximum Liability Amount
Pursuant to Water Code section 13385 the maximum civil liability that the San Diego Water Board may assess for this violation is ten thousand dollars ($10,000) per day of violation (per violation). Therefore, the Maximum Liability Amount that could be assessed for this violation is **$140,000**.

Minimum Liability Amount
Water Code section 13385(e) requires that when pursuing civil liability under section 13385, "*at a minimum, liability shall be assessed at a level that recovers the economic benefit, if any, derived from the acts that constitute the violation.*" The Enforcement Policy requires that the adjusted Total Base Liability shall be at least ten percent (10%) higher than the Economic Benefit. Therefore, the minimum liability is (1.1 x $2,175) = **$2,393**.

STEP 10 – Final Liability Amount (Violation No. 5)
Based on the unique facts of this case, and the liability calculation methodology within Section VI of the Enforcement Policy, the proposed civil liability for failing to adequately implement perimeter sediment control requirements for **14 days** in violation of the Construction Storm Water Permit is **$70,070**, plus staff costs. The proposed liability is within the minimum and maximum liability range. See Exhibit No. 27.

6. Violation No. 6: Failure to Implement Erosion Control BMPs in Active Areas.

STEP 1 - Potential for Harm for Discharge Violations (Violation No. 6)
Step 1 does not apply to Non-Discharge Violations.

STEP 2 – Assessment for Discharge Violations (Violation No. 6)
Step 2 does not apply to Non-Discharge Violations.

STEP 3 – Per Day Assessment of Non-Discharge Violations (Violation No. 6)
While non-discharge violations may not directly or immediately impact beneficial uses, they harm or undermine the regulatory program. Per day assessments of non-discharge violations are determined based on the Potential for Harm and the extent of Deviation from Requirement, which are used in Table 3 of the Enforcement Policy to determine the Per Day Factor. The Per Day Factor is multiplied by the Statutory Maximum Liability amount allowed under the Water Code (i.e. $10,000 per day).

Potential for Harm

The Potential for Harm is based on a determination of whether the circumstances of the violation indicate "a minor potential for harm" (Minor), "a substantial potential for harm" (Moderate), or "a very high potential for harm" (Major). The Enforcement Policy defines Moderate Potential for Harm as "[t]he characteristics of the violation present a substantial threat to beneficial uses, and/or the circumstances of the violation indicate a substantial potential for harm. The Prosecution Team has determined that the Potential for Harm is **Moderate** because the failure to implement the additional erosion control requirements for a Risk Level 2 construction site to reduce the higher potential of sediment generation poses a substantial potential for harm that may be caused by additional sediment potentially discharged in storm water runoff to receiving waters.

Deviation from Requirement

The Deviation from Requirement is based on a determination of whether the intended effectiveness of the requirement "remains generally intact" (Minor), "has been partially compromised" (Moderate), or "rendered ineffective" (Major). The Enforcement Policy defines a Major "Deviation from Requirement" as "[t]he requirement has been rendered ineffective (e.g., discharger disregards the requirement, and/or the requirement is rendered ineffective in its essential functions)." The Prosecution Team has determined that the Deviation from Requirement is **Major** because there was no evidence that the Discharger had adequately implemented, or was prepared to implement erosion control BMPs for active areas, thus rendering the requirement ineffective.

Per Day Factor

Using a Potential for Harm determination of **Moderate** and Deviation from Requirement determination of **Major**, the Per Day Factor for the failure to implement the additional Risk Level 2 erosion control requirements is **0.55** in Table 3 of the Enforcement Policy.

Days of Non-Discharge Violation

According to the documentation included with this technical analysis, the Discharger was in violation of the Risk Level 2 erosion control requirements of Section E.3. in Attachment D to the Construction Storm Water Permit for **22 days:** 8 days (December 1 through 8, 2014); 2 days (December 15 through 16, 2014); 1 day (January 6, 2015); 2 days (March 23 through 24, 2015); 8 days (May 8 through 15, 2015), and 1 day (September 15, 2015).

STEP 4 – Adjustment Factors (Violation No. 6)

There are three additional factors that are considered for modification of the amount of the initial liability: the Discharger's Culpability, the Discharger's efforts for Cleanup and Cooperation after the violation, and the Discharger's History of Violations. These three factors are discussed below.

Culpability

An adjustment for the initial liability based on the Discharger's Culpability should result in a multiplier between 0.5 to 1.5, with a lower multiplier for accidental or non-negligent violations, and a higher multiplier for intentional or negligent violations. The test is what a reasonable and prudent person would have done or not done under similar circumstances. The Prosecution Team assigned a Culpability multiplier of **1.3** for this violation because the Discharger either intentionally or due to negligence did not adequately implement the additional Risk Level 2 erosion control requirements for active areas of the Site. There was no reason BMPs could not reasonably have been implemented to be in compliance with the Construction Storm Water Permit.

Cleanup and Cooperation

An adjustment for the initial liability based on the Discharger's efforts for Cleanup and Cooperation should result in a multiplier between 0.75 to 1.5, with a lower multiplier where there is a high degree of cleanup and cooperation, and a higher multiplier where this is absent. The Prosecution Team assigned a Cleanup and Cooperation multiplier of **1.1** for this violation because the Discharger was repeatedly told by San Diego Water Board and City inspectors to address the violation.

History of Violations

Where there is a history of repeated violations, a minimum multiplier of 1.1 should be used to reflect this. The Prosecution Team assigned a History of Violations multiplier of **1.0** for this violation because the Discharger does not have a history of construction storm water violations determined by this Board.

STEP 5 – Determination of Total Base Liability Amount (Violation No. 6)

The Total Base Liability Amount (i.e. initial amount of liability) is determined by multiplying the Per Day Assessment by the Days of Violation and then applying the adjustment factors as follows:

Total Base Liability	=	Days of Violation	x	Per Day Factor	x	Statutory Maximum Liability	x	Culpability Multiplier	x	Cleanup & Cooperation Multiplier	x	History of Violations Multiplier	
Total Base Liability	=	22	x	0.55	x	$10,000	x	1.3	x	1.1	x	1.0	= $173,030

STEP 6 – Ability to Pay and Ability to Continue in Business (Violation No. 6)
See discussion in Section III.D.

STEP 7 – Other Factors as Justice May Require (Violation No. 6)
See discussion in Section III.E.

STEP 8 – Economic Benefit (Violation No. 6)
The Discharger derived an economic benefit by not properly implementing the additional erosion control BMPs that are required on active areas for Risk Level 2 construction sites. At a minimum, the Discharger should have applied erosion control BMPs on active areas of the Site prior to the predicted storm events, and have BMPs available on site for deployment. The estimated cost to have materials available on site and provide erosion control BMPs for active areas on the Site is **$8,500** based upon costs estimated by the San Diego Water Board. Using the US EPA BEN Model the Discharger enjoyed an economic benefit of **$5,966.** See Exhibit No. 28.

STEP 9 – Maximum and Minimum Liability Amounts (Violation No. 6)
For all violations, Water Code section 13385 sets a maximum liability amount that may be assessed for each violation. For some violations, the statute also requires the assessment of a liability at no less than a specified amount. The maximum and minimum amounts for each violation must be determined for comparison to the amounts being proposed.

Maximum Liability Amount
Pursuant to Water Code section 13385 the maximum civil liability that the San Diego Water Board may assess for this violation is ten thousand dollars ($10,000) per day of violation (per violation). Therefore, the Maximum Liability Amount that could be assessed for this violation is **$220,000**.

Minimum Liability Amount
Water Code section 13385(e) requires that when pursuing civil liability under section 13385, "*at a minimum, liability shall be assessed at a level that recovers the economic benefit, if any, derived from the acts that constitute the violation.*" The Enforcement Policy requires that the adjusted Total Base Liability shall be at least ten percent (10%) higher than the Economic Benefit. Therefore, the minimum liability is (1.1 x $5,966) = **$6,563**.

STEP 10 – Final Liability Amount (Violation No. 6)
Based on the unique facts of this case, and the liability calculation methodology within Section VI of the Enforcement Policy, the proposed civil liability for failing to adequately implement additional Risk Level 2 erosion control requirements for **22 days** in violation of the Construction Storm Water Permit is **$173,030**, plus staff costs. The proposed liability is within the minimum and maximum liability range. See Exhibit No. 27.

7. Violation No. 7: Failure to Apply Linear Sediment Controls

STEP 1 - Potential for Harm for Discharge Violations (Violation No. 7)
Step 1 does not apply to Non-Discharge Violations.

STEP 2 – Assessment for Discharge Violations (Violation No. 7)
Step 2 does not apply to Non-Discharge Violations.

STEP 3 – Per Day Assessment of Non-Discharge Violations (Violation No. 7)
While non-discharge violations may not directly or immediately impact beneficial uses, they harm or undermine the regulatory program. Per day assessments of non-discharge violations are determined based on the Potential for Harm and the extent of Deviation from Requirement, which are used in Table 3 of the Enforcement Policy to determine the Per Day Factor. The Per Day Factor is multiplied by the Statutory Maximum Liability amount allowed under the Water Code (i.e. $10,000 per day).

Potential for Harm
The Potential for Harm is based on a determination of whether the circumstances of the violation indicate "a minor potential for harm" (Minor), "a substantial potential for harm" (Moderate), or "a very high potential for harm" (Major). The Enforcement Policy defines Moderate Potential for Harm as "[t]he characteristics of the violation present a substantial threat to beneficial uses, and/or the circumstances of the violation indicate a substantial potential for harm. The Prosecution Team has determined that the Potential for Harm is **Moderate** because the failure to implement the additional sediment control requirements for a Risk Level 2 construction site to reduce the higher potential of sediment generation and transport from exposed slopes poses a substantial potential for harm that may be caused from additional sediment potentially discharged in storm water runoff to receiving waters.

Deviation from Requirement
The Deviation from Requirement is based on a determination of whether the intended effectiveness of the requirement "remains generally intact" (Minor), "has been partially compromised" (Moderate), or "rendered ineffective" (Major). The Enforcement Policy defines a Major "Deviation from Requirement" as "[t]he requirement has been rendered ineffective (e.g., discharger disregards the requirement, and/or the requirement is rendered ineffective in its essential functions)." The Prosecution Team has determined that the Deviation from Requirement is **Major** because the failure of the Discharger to implement effective BMPs resulted in sediment discharges.

Per Day Factor

Using a Potential for Harm determination of **Moderate** and Deviation from Requirement determination of **Major**, the Per Day Factor for the failure to implement the additional Risk Level 2 linear sediment control requirements is **0.55** in Table 3 of the Enforcement Policy.

Days of Non-Discharge Violation

According to the documentation included with this technical analysis, the Discharger was in violation of the Risk Level 2 linear sediment control requirements of Section E.4. in Attachment D to the Construction Storm Water Permit for **nine days:** 2 days (December 15 through 16, 2014); 6 days (May 8 through 13, 2015), and 1 day (September 15, 2015).

STEP 4 – Adjustment Factors (Violation No. 7)

There are three additional factors that are considered for modification of the amount of the initial liability: the Discharger's Culpability, the Discharger's efforts for Cleanup and Cooperation after the violation, and the Discharger's History of Violations. These three factors are discussed below.

Culpability

An adjustment for the initial liability based on the Discharger's Culpability should result in a multiplier between 0.5 to 1.5, with a lower multiplier for accidental or non-negligent violations, and a higher multiplier for intentional or negligent violations. The test is what a reasonable and prudent person would have done or not done under similar circumstances. The Prosecution Team assigned a Culpability multiplier of **1.3** for this violation because the Discharger either intentionally or due to negligence did not adequately implement the additional Risk Level 2 linear sediment control requirements for exposed slopes on the Site. There was no reason BMPs could not reasonably have been implemented to be in compliance with the Construction Storm Water Permit.

Cleanup and Cooperation

An adjustment for the initial liability based on the Discharger's efforts for Cleanup and Cooperation should result in a multiplier between 0.75 to 1.5, with a lower multiplier where there is a high degree of cleanup and cooperation, and a higher multiplier where this is absent. The Prosecution Team assigned a Cleanup and Cooperation multiplier of **1.1** for this violation because the Discharger did not adequately implement the additional Risk Level 2 sediment control BMPs for exposed slopes over several months.

History of Violations

Where there is a history of repeated violations, a minimum multiplier of 1.1 should be used to reflect this. The Prosecution Team assigned a History of Violations multiplier of **1.0** for this violation because the Discharger does not have a history of construction storm water violations determined by this Board.

STEP 5 – Determination of Total Base Liability Amount (Violation No. 7)
The Total Base Liability Amount (i.e. initial amount of liability) is determined by multiplying the Per Day Assessment by the Days of Violation and then applying the adjustment factors as follows:

Total Base Liability	=	Days of Violation	x	Per Day Factor	x	Statutory Maximum Liability	x	Culpability Multiplier	x	Cleanup & Cooperation Multiplier	x	History of Violations Multiplier	
Total Base Liability	=	9	x	0.55	x	$10,000	x	1.3	x	1.1	x	1.0	= $70,785

STEP 6 – Ability to Pay and Ability to Continue in Business (Violation No. 7)
See discussion in Section III.D.

STEP 7 – Other Factors as Justice May Require (Violation No. 7)
See discussion in Section III.E.

STEP 8 – Economic Benefit (Violation No. 7)
The Discharger derived an economic benefit by not properly implementing the additional sediment control BMPs that are required on exposed slopes for Risk Level 2 construction sites. At a minimum, the Discharger should have applied linear sediment control BMPs on exposed areas of the Site prior to the predicted storm events. The estimated cost to implement linear sediment control BMPs for exposed slopes on the Site is **$1,000** based upon costs estimated by the San Diego Water Board. Using the US EPA BEN Model the Discharger enjoyed an economic benefit of **$700.** See Exhibit No. 28.

STEP 9 – Maximum and Minimum Liability Amounts (Violation No. 7)
For all violations, Water Code section 13385 sets a maximum liability amount that may be assessed for each violation. For some violations, the statute also requires the assessment of a liability at no less than a specified amount. The maximum and minimum amounts for each violation must be determined for comparison to the amounts being proposed.

Maximum Liability Amount
Pursuant to Water Code section 13385 the maximum civil liability that the San Diego Water Board may assess for this violation is ten thousand dollars ($10,000) per day of violation (per violation). Therefore, the Maximum Liability Amount that could be assessed for this violation is **$90,000**.

Minimum Liability Amount

Water Code section 13385(e) requires that when pursuing civil liability under section 13385, "*at a minimum, liability shall be assessed at a level that recovers the economic benefit, if any, derived from the acts that constitute the violation.*" The Enforcement Policy requires that the adjusted Total Base Liability shall be at least ten percent (10%) higher than the Economic Benefit. Therefore, the minimum liability is (1.1 x $700) = **$770**.

STEP 10 – Final Liability Amount (Violation No. 7)

Based on the unique facts of this case, and the liability calculation methodology within Section VI of the Enforcement Policy, the proposed civil liability for failing to adequately implement additional Risk Level 2 linear sediment control requirements for exposed slopes for **nine days** in violation of the Construction Storm Water Permit is **$70,785**, plus staff costs. The proposed liability is within the minimum and maximum liability range. See Exhibit No. 27.

8. Violation No. 8: Failure to Manage Run-On and Runoff.

STEP 1 - Potential for Harm for Discharge Violations (Violation No. 8)

Step 1 does not apply to Non-Discharge Violations.

STEP 2 – Assessment for Discharge Violations (Violation No. 8)

Step 2 does not apply to Non-Discharge Violations.

STEP 3 – Per Day Assessment of Non-Discharge Violations (Violation No. 8)

While non-discharge violations may not directly or immediately impact beneficial uses, they harm or undermine the regulatory program. Per day assessments of non-discharge violations are determined based on the Potential for Harm and the extent of Deviation from Requirement, which are used in Table 3 of the Enforcement Policy to determine the Per Day Factor. The Per Day Factor is multiplied by the Statutory Maximum Liability amount allowed under the Water Code (i.e. $10,000 per day).

Potential for Harm

The Potential for Harm is based on a determination of whether the circumstances of the violation indicate "a minor potential for harm" (Minor), "a substantial potential for harm" (Moderate), or "a very high potential for harm" (Major). The Enforcement Policy defines Moderate Potential for Harm as "[t]he characteristics of the violation present a substantial threat to beneficial uses, and/or the circumstances of the violation indicate a substantial potential for harm. The Prosecution Team has determined that the Potential for Harm is **Moderate** because the failure to adequately control run-on, runoff within the Site, and runoff that discharged from the Site poses a substantial potential for harm from additional sediment that potentially discharged in storm water runoff to receiving waters.

Deviation from Requirement

The Deviation from Requirement is based on a determination of whether the intended effectiveness of the requirement "remains generally intact" (Minor), "has been partially compromised" (Moderate), or "rendered ineffective" (Major). The Enforcement Policy defines a Moderate "Deviation from Requirement" as "[t]he intended effectiveness of the requirement has been partially compromised (e.g., the requirement was not met, and the effectiveness of the requirement is only partially achieved)." The Prosecution Team has determined that the Deviation from Requirement is **Moderate** because there was evidence that the Discharger had at least implemented partially run-on controls, runoff controls within the Site, and runoff controls to prevent discharges off the Site, but the lack of adequate runoff controls within the Site compromised the intended effectiveness of the requirement.

Per Day Factor

Using a Potential for Harm determination of **Moderate** and Deviation from Requirement determination of **Moderate**, the Per Day Factor for the failure to implement the run-on and runoff control requirements is **0.35** in Table 3 of the Enforcement Policy.

Days of Non-Discharge Violation

According to the documentation included with this technical analysis, the Discharger was in violation of the run-on and runoff control requirements of Section F. in Attachment D to the Construction Storm Water Permit for **seven days:** 1 day (December 15, 2014); and 6 days (May 8 through 13, 2015).

STEP 4 – Adjustment Factors (Violation No. 8)

There are three additional factors that are considered for modification of the amount of the initial liability: the Discharger's Culpability, the Discharger's efforts for Cleanup and Cooperation after the violation, and the Discharger's History of Violations. These three factors are discussed below.

Culpability

An adjustment for the initial liability based on the Discharger's Culpability should result in a multiplier between 0.5 to 1.5, with a lower multiplier for accidental or non-negligent violations, and a higher multiplier for intentional or negligent violations. The test is what a reasonable and prudent person would have done or not done under similar circumstances. The Prosecution Team assigned a Culpability multiplier of **1.3** for this violation because the Discharger either intentionally or due to negligence did not adequately implement the run-on and runoff control requirements on the Site. There was no reason BMPs could not reasonably have been implemented to be in compliance with the Construction Storm Water Permit.

Cleanup and Cooperation

An adjustment for the initial liability based on the Discharger's efforts for Cleanup and Cooperation should result in a multiplier between 0.75 to 1.5, with a lower multiplier where there is a high degree of cleanup and cooperation, and a higher multiplier where this is absent. The Prosecution Team assigned a Cleanup and Cooperation multiplier of **1.1** for this violation because the Discharger did not adequately implement the run-on and runoff control BMPs over several months.

History of Violations

Where there is a history of repeated violations, a minimum multiplier of 1.1 should be used to reflect this. The Prosecution Team assigned a History of Violations multiplier of **1.0** for this violation because the Discharger does not have a history of construction storm water violations determined by this Board.

STEP 5 – Determination of Total Base Liability Amount (Violation No. 8)

The Total Base Liability Amount (i.e. initial amount of liability) is determined by multiplying the Per Day Assessment by the Days of Violation and then applying the adjustment factors as follows:

Total Base Liability	=	Days of Violation	x	Per Day Factor	x	Statutory Maximum Liability	x	Culpability Multiplier	x	Cleanup & Cooperation Multiplier	x	History of Violations Multiplier	
Total Base Liability	=	7	x	0.35	x	$10,000	x	1.3	x	1.1	x	1.0	= $35,035

STEP 6 – Ability to Pay and Ability to Continue in Business (Violation No. 8)

See discussion in Section III.D.

STEP 7 – Other Factors as Justice May Require (Violation No. 8)

See discussion in Section III.E.

STEP 8 – Economic Benefit (Violation No. 8)

The Discharger derived an economic benefit by not properly implementing the run-on and runoff control requirements. At a minimum, the Discharger should have implemented runoff controls within the Site in addition to implementing adequate perimeter sediment controls. The estimated cost to implement runoff controls within the Site is **$600** based upon costs estimated by the San Diego Water Board. Using the US EPA BEN Model the Discharger enjoyed an economic benefit of **$420.** See Exhibit No. 28.

STEP 9 – Maximum and Minimum Liability Amounts (Violation No. 8)
For all violations, Water Code section 13385 sets a maximum liability amount that may be assessed for each violation. For some violations, the statute also requires the assessment of a liability at no less than a specified amount. The maximum and minimum amounts for each violation must be determined for comparison to the amounts being proposed.

Maximum Liability Amount
Pursuant to Water Code section 13385 the maximum civil liability that the San Diego Water Board may assess for this violation is ten thousand dollars ($10,000) per day of violation (per violation). Therefore, the Maximum Liability Amount that could be assessed for this violation is **$70,000**.

Minimum Liability Amount
Water Code section 13385(e) requires that when pursuing civil liability under section 13385, "*at a minimum, liability shall be assessed at a level that recovers the economic benefit, if any, derived from the acts that constitute the violation.*" The Enforcement Policy requires that the adjusted Total Base Liability shall be at least ten percent (10%) higher than the Economic Benefit. Therefore, the minimum liability is (1.1 x $420) = **$462**.

STEP 10 – Final Liability Amount (Violation No. 8)
Based on the unique facts of this case, and the liability calculation methodology within Section VI of the Enforcement Policy, the proposed civil liability for failing to adequately implement run-on and runoff control requirements for **seven days** in violation of the Construction Storm Water Permit is **$35,035**, plus staff costs. The proposed liability is within the minimum and maximum liability range. See Exhibit No. 27.

9. Violation No. 9: Failure to Remove Sediment or Other Construction Materials from Roads.

STEP 1 - Potential for Harm for Discharge Violations (Violation No. 9)
Step 1 does not apply to Non-Discharge Violations.

STEP 2 – Assessment for Discharge Violations (Violation No. 9)
Step 2 does not apply to Non-Discharge Violations.

STEP 3 – Per Day Assessment of Non-Discharge Violations (Violation No. 9)

While non-discharge violations may not directly or immediately impact beneficial uses, they harm or undermine the regulatory program. Per day assessments of non-discharge violations are determined based on the Potential for Harm and the extent of Deviation from Requirement, which are used in Table 3 of the Enforcement Policy to determine the Per Day Factor. The Per Day Factor is multiplied by the Statutory Maximum Liability amount allowed under the Water Code (i.e. $10,000 per day).

Potential for Harm

The Potential for Harm is based on a determination of whether the circumstances of the violation indicate "a minor potential for harm" (Minor), "a substantial potential for harm" (Moderate), or "a very high potential for harm" (Major). The Enforcement Policy defines Moderate Potential for Harm as "[t]he characteristics of the violation present a substantial threat to beneficial uses, and/or the circumstances of the violation indicate a substantial potential for harm. The Prosecution Team has determined that the Potential for Harm is **Moderate** because the existence of sediment and/or construction materials and waste in the streets poses a substantial threat to receiving water beneficial uses when there are storm events.

Deviation from Requirement

The Deviation from Requirement is based on a determination of whether the intended effectiveness of the requirement "remains generally intact" (Minor), "has been partially compromised" (Moderate), or "rendered ineffective" (Major). The Enforcement Policy defines a Moderate "Deviation from Requirement" as "[t]he intended effectiveness of the requirement has been partially compromised (e.g., the requirement was not met, and the effectiveness of the requirement is only partially achieved)." The Prosecution Team has determined that the Deviation from Requirement is **Moderate** because there was evidence that the Discharger attempted to reduce the existence of sediment and construction materials from roadways however their efforts were clearly unsuccessful as evidenced in the inspection reports.

Per Day Factor

Using a Potential for Harm determination of **Moderate** and Deviation from Requirement determination of **Moderate**, the Per Day Factor for the failure to adequately sweep up sediment and construction materials from roadways is **0.35** in Table 3 of the Enforcement Policy.

Days of Non-Discharge Violation

According to the documentation included with this technical analysis, the Discharger was in violation of the requirement of Section E.7. in Attachment D to the Construction Storm Water Permit for **10 days:** December 2 through 9, 2014; December 16, 2014, and September 15, 2015.

STEP 4 – Adjustment Factors (Violation No. 9)

There are three additional factors that are considered for modification of the amount of the initial liability: the Discharger's Culpability, the Discharger's efforts for Cleanup and Cooperation after the violation, and the Discharger's History of Violations. These three factors are discussed below.

Culpability

An adjustment for the initial liability based on the Discharger's Culpability should result in a multiplier between 0.5 to 1.5, with a lower multiplier for accidental or non-negligent violations, and a higher multiplier for intentional or negligent violations. The test is what a reasonable and prudent person would have done or not done under similar circumstances.

The Prosecution Team assigned a Culpability multiplier of **1.3** for this violation because the Discharger either intentionally or due to negligence failed to remove sediment and construction materials from roadways. There was no reason the Discharger could not reasonably have hired a street sweeper or employed laborers to sweep the roadways.

Cleanup and Cooperation

An adjustment for the initial liability based on the Discharger's efforts for Cleanup and Cooperation should result in a multiplier between 0.75 to 1.5, with a lower multiplier where there is a high degree of cleanup and cooperation, and a higher multiplier where this is absent. The Prosecution Team assigned a Cleanup and Cooperation multiplier of **1.1** for this violation because the Discharger did not sweep the sediment and construction materials within 72 hours after repeated notifications to do so.

History of Violations

Where there is a history of repeated violations, a minimum multiplier of 1.1 should be used to reflect this. The Prosecution Team assigned a History of Violations multiplier of **1.0** for this violation because the Discharger does not have a history of construction storm water violations determined by this Board.

STEP 5 – Determination of Total Base Liability Amount (Violation No. 9)

The Total Base Liability Amount (i.e. initial amount of liability) is determined by multiplying the Per Day Assessment by the Days of Violation and then applying the adjustment factors as follows:

Total Base Liability	=	Days of Violation	x	Per Day Factor	x	Statutory Maximum Liability	x	Culpability Multiplier	x	Cleanup & Cooperation Multiplier	x	History of Violations Multiplier	
Total Base Liability	=	10	x	0.35	x	$10,000	x	1.3	x	1.1	x	1.0	= $50,050

STEP 6 – Ability to Pay and Ability to Continue in Business (Violation No. 9)
See discussion in Section III.D.

STEP 7 – Other Factors as Justice May Require (Violation No. 9)
See discussion in Section III.E.

STEP 8 – Economic Benefit
The Discharger derived an economic benefit by removing the sediment and construction materials from the roadways. At a minimum, the Discharger should have swept the roadways. The estimated cost to implement the BMPs on the Site is **$300** based upon costs estimated by the San Diego Water Board. Using the US EPA BEN Model the Discharger enjoyed an economic benefit of **$211.** See Exhibit No. 28.

STEP 9 – Maximum and Minimum Liability Amounts (Violation No. 9)
For all violations, Water Code section 13385 sets a maximum liability amount that may be assessed for each violation. For some violations, the statute also requires the assessment of a liability at no less than a specified amount. The maximum and minimum amounts for each violation must be determined for comparison to the amounts being proposed.

Maximum Liability Amount
Pursuant to Water Code section 13385 the maximum civil liability that the San Diego Water Board may assess for this violation is ten thousand dollars ($10,000) per day of violation (per violation). Therefore, the Maximum Liability Amount that could be assessed for this violation is **$100,000**.

Minimum Liability Amount
Water Code section 13385(e) requires that when pursuing civil liability under section 13385, "*at a minimum, liability shall be assessed at a level that recovers the economic benefit, if any, derived from the acts that constitute the violation.*" The Enforcement Policy requires that the adjusted Total Base Liability shall be at least ten percent (10%) higher than the Economic Benefit. Therefore, the minimum liability is (1.1 x $211) = **$232**.

STEP 10 – Final Liability Amount (Violation No. 9)
Based on the unique facts of this case, and the liability calculation methodology within Section VI of the Enforcement Policy, the proposed civil liability for failing to sweep the streets of sediment and construction materials for **10 days** in violation of the Construction Storm Water Permit is **$50,050**, plus staff costs. The proposed liability is within the minimum and maximum liability range. See Exhibit No. 27.

10. Violation No. 10: Failure to Protect Storm Drain Inlets.

STEP 1 - Potential for Harm for Discharge Violations (Violation No. 10)
Step 1 does not apply to Non-Discharge Violations.

STEP 2 – Assessment for Discharge Violations (Violation No. 10)
Step 2 does not apply to Non-Discharge Violations.

STEP 3 – Per Day Assessment of Non-Discharge Violations (Violation No. 10)
While non-discharge violations may not directly or immediately impact beneficial uses, they harm or undermine the regulatory program. Per day assessments of non-discharge violations are determined based on the Potential for Harm and the extent of Deviation from Requirement, which are used in Table 3 of the Enforcement Policy to determine the Per Day Factor. The Per Day Factor is multiplied by the Statutory Maximum Liability amount allowed under the Water Code (i.e. $10,000 per day).

Potential for Harm
The Potential for Harm is based on a determination of whether the circumstances of the violation indicate "a minor potential for harm" (Minor), "a substantial potential for harm" (Moderate), or "a very high potential for harm" (Major). The Enforcement Policy defines Moderate Potential for Harm as "[t]he characteristics of the violation present a substantial threat to beneficial uses, and/or the circumstances of the violation indicate a substantial potential for harm. The Prosecution Team has determined that the Potential for Harm is **Moderate** because the failure to implement adequate storm drain inlet protections poses a substantial potential for harm because in the event of storm event or non-storm water discharge pollutants will flow unabated into the receiving water.

Deviation from Requirement
The Deviation from Requirement is based on a determination of whether the intended effectiveness of the requirement "remains generally intact" (Minor), "has been partially compromised" (Moderate), or "rendered ineffective" (Major). The Enforcement Policy defines a Moderate "Deviation from Requirement" as "[t]he intended effectiveness of the requirement has been partially compromised (e.g., the requirement was not met, and the effectiveness of the requirement is only partially achieved)." The Prosecution Team has determined that the Deviation from Requirement is **Moderate** because there was evidence that the Discharger had attempted to implement storm drain inlet protection on some of the storm drain inlets at the Site but not all.

Per Day Factor

Using a Potential for Harm determination of **Moderate** and Deviation from Requirement determination of **Moderate**, the Per Day Factor for the failure to implement the perimeter sediment control BMPs is **0.35** in Table 3 of the Enforcement Policy.

Days of Non-Discharge Violation

According to the documentation included with this technical analysis, the Discharger was in violation of the requirement to protect storm drain inlets, Section E.6. in Attachment D to the Construction Storm Water Permit for **three days:** December 8, 2014; May 13, 2015, and September 15, 2015.

STEP 4 – Adjustment Factors (Violation No. 10)

There are three additional factors that are considered for modification of the amount of the initial liability: the Discharger's Culpability, the Discharger's efforts for Cleanup and Cooperation after the violation, and the Discharger's History of Violations. These three factors are discussed below.

Culpability

An adjustment for the initial liability based on the Discharger's Culpability should result in a multiplier between 0.5 to 1.5, with a lower multiplier for accidental or non-negligent violations, and a higher multiplier for intentional or negligent violations. The test is what a reasonable and prudent person would have done or not done under similar circumstances. The Prosecution Team assigned a Culpability multiplier of **1.3** for this violation because the Discharger either intentionally or due to negligence did not protect some of the storm drain inlets on the Site. There was no reason BMPs could not reasonably have been implemented to be in compliance with the Construction Storm Water Permit.

Cleanup and Cooperation

An adjustment for the initial liability based on the Discharger's efforts for Cleanup and Cooperation should result in a multiplier between 0.75 to 1.5, with a lower multiplier where there is a high degree of cleanup and cooperation, and a higher multiplier where this is absent. The Prosecution Team assigned a Cleanup and Cooperation multiplier of **1.0** for this violation because the Discharger corrected the violations with 72 hours of being notified.

History of Violations

Where there is a history of repeated violations, a minimum multiplier of 1.1 should be used to reflect this. The Prosecution Team assigned a History of Violations multiplier of **1.0** for this violation because the Discharger does not have a history of construction storm water violations determined by this Board.

STEP 5 – Determination of Total Base Liability Amount (Violation No. 10)
The Total Base Liability Amount (i.e. initial amount of liability) is determined by multiplying the Per Day Assessment by the Days of Violation and then applying the adjustment factors as follows:

Total Base Liability	=	Days of Violation	x	Per Day Factor	x	Statutory Maximum Liability	x	Culpability Multiplier	x	Cleanup & Cooperation Multiplier	x	History of Violations Multiplier	
Total Base Liability	=	3	x	0.35	x	$10,000	x	1.3	x	1.0	x	1.0	= $13,650

STEP 6 – Ability to Pay and Ability to Continue in Business (Violation No. 10)
See discussion in Section III.D.

STEP 7 – Other Factors as Justice May Require (Violation No. 10)
See discussion in Section III.E.

STEP 8 – Economic Benefit (Violation No. 10)
The Discharger derived an economic benefit by not protecting storm drain inlets as required. At a minimum, the Discharger should have installed storm drain inlet inserts to protect the storm drain inlets. The estimated cost to install storm drain inserts into the storm drain inlets is **$600** based upon costs estimated by the San Diego Water Board. Using the US EPA BEN Model the Discharger enjoyed an economic benefit of **$420.** See Exhibit No. 28.

STEP 9 – Maximum and Minimum Liability Amounts (Violation No. 10)
For all violations, Water Code section 13385 sets a maximum liability amount that may be assessed for each violation. For some violations, the statute also requires the assessment of a liability at no less than a specified amount. The maximum and minimum amounts for each violation must be determined for comparison to the amounts being proposed.

Maximum Liability Amount
Pursuant to Water Code section 13385 the maximum civil liability that the San Diego Water Board may assess for this violation is ten thousand dollars ($10,000) per day of violation (per violation). Therefore, the Maximum Liability Amount that could be assessed for this violation is **$30,000**.

Minimum Liability Amount
Water Code section 13385(e) requires that when pursuing civil liability under section 13385, "*at a minimum, liability shall be assessed at a level that recovers the economic benefit, if any, derived from the acts that constitute the violation.*" The Enforcement Policy requires that the adjusted Total Base Liability shall be at least ten percent (10%) higher than the Economic Benefit. Therefore, the minimum liability is (1.1 x $420) = **$462**.

STEP 10 – Final Liability Amount (Violation No. 10)
Based on the unique facts of this case, and the liability calculation methodology within Section VI of the Enforcement Policy, the proposed civil liability for failing to protect storm drain inlets for **three days** in violation of the Construction Storm Water Permit is **$13,650**, plus staff costs. The proposed liability is within the minimum and maximum liability range. See Exhibit No. 27.

11. Violation No. 11: Failure to Contain and Securely Protect Stockpiled Waste Material from Wind and Rain.

STEP 1 - Potential for Harm for Discharge Violations (Violation No. 11)
Step 1 does not apply to Non-Discharge Violations.

STEP 2 – Assessment for Discharge Violations (Violation No. 11)
Step 2 does not apply to Non-Discharge Violations.

STEP 3 – Per Day Assessment of Non-Discharge Violations (Violation No. 11)
While non-discharge violations may not directly or immediately impact beneficial uses, they harm or undermine the regulatory program. Per day assessments of non-discharge violations are determined based on the Potential for Harm and the extent of Deviation from Requirement, which are used in Table 3 of the Enforcement Policy to determine the Per Day Factor. The Per Day Factor is multiplied by the Statutory Maximum Liability amount allowed under the Water Code (i.e. $10,000 per day).

Potential for Harm
The Potential for Harm is based on a determination of whether the circumstances of the violation indicate "a minor potential for harm" (Minor), "a substantial potential for harm" (Moderate), or "a very high potential for harm" (Major). The Enforcement Policy defines Minor Potential for Harm as "[t]he characteristics of the violation present a minor threat to beneficial uses, and/or the circumstances of the violation indicate a minor potential for harm." The Prosecution Team has determined that the Potential for Harm is **Minor** because the stockpile that the Discharger failed to cover contained scrap lumber which poses a minor threat to beneficial uses.

Deviation from Requirement

The Deviation from Requirement is based on a determination of whether the intended effectiveness of the requirement "remains generally intact" (Minor), "has been partially compromised" (Moderate), or "rendered ineffective" (Major). The Enforcement Policy defines a Moderate "Deviation from Requirement" as "[t]he intended effectiveness of the requirement has been partially compromised (e.g., the requirement was not met, and the effectiveness of the requirement is only partially achieved)." The Prosecution Team has determined that the Deviation from Requirement is **Moderate** because there was evidence that the Discharger had attempted to cover other waste stockpiles at the Site.

Per Day Factor

Using a Potential for Harm determination of **Minor** and Deviation from Requirement determination of **Moderate**, the Per Day Factor for the failure to implement the perimeter sediment control BMPs is **0.25** in Table 3 of the Enforcement Policy.

Days of Non-Discharge Violation

According to the documentation included with this technical analysis, the Discharger was in violation of the requirement to cover waste stockpiles, Section B.2.f. in Attachment D to the Construction Storm Water Permit for **nine days:** January 6 through 14, 2015.

STEP 4 – Adjustment Factors (Violation No. 11)

There are three additional factors that are considered for modification of the amount of the initial liability: the Discharger's Culpability, the Discharger's efforts for Cleanup and Cooperation after the violation, and the Discharger's History of Violations. These three factors are discussed below.

Culpability

An adjustment for the initial liability based on the Discharger's Culpability should result in a multiplier between 0.5 to 1.5, with a lower multiplier for accidental or non-negligent violations, and a higher multiplier for intentional or negligent violations. The test is what a reasonable and prudent person would have done or not done under similar circumstances. The Prosecution Team assigned a Culpability multiplier of **1.3** for this violation because the Discharger either intentionally or due to negligence did not protect some of the storm drain inlets on the Site. There was no reason BMPs could not reasonably have been implemented to be in compliance with the Construction Storm Water Permit.

Cleanup and Cooperation

An adjustment for the initial liability based on the Discharger's efforts for Cleanup and Cooperation should result in a multiplier between 0.75 to 1.5, with a lower multiplier where there is a high degree of cleanup and cooperation, and a higher multiplier where this is absent. The Prosecution Team assigned a Cleanup and Cooperation multiplier of **1.1** for this violation because the Discharger failed to correct the violation with 72 hours of being notified.

History of Violations

Where there is a history of repeated violations, a minimum multiplier of 1.1 should be used to reflect this. The Prosecution Team assigned a History of Violations multiplier of **1.0** for this violation because the Discharger does not have a history of construction storm water violations determined by this Board.

STEP 5 – Determination of Total Base Liability Amount (Violation No. 11)

The Total Base Liability Amount (i.e. initial amount of liability) is determined by multiplying the Per Day Assessment by the Days of Violation and then applying the adjustment factors as follows:

Total Base Liability	=	Days of Violation	x	Per Day Factor	x	Statutory Maximum Liability	x	Culpability Multiplier	x	Cleanup & Cooperation Multiplier	x	History of Violations Multiplier	
Total Base Liability	=	9	x	0.25	x	$10,000	x	1.3	x	1.1	x	1.0	= $32,175

STEP 6 – Ability to Pay and Ability to Continue in Business (Violation No. 11)

See discussion in Section III.D.

STEP 7 – Other Factors as Justice May Require (Violation No. 11)

See discussion in Section III.E.

STEP 8 – Economic Benefit (Violation No. 11)

The Discharger derived an economic benefit by not properly protecting waste stockpiles as required. At a minimum, the Discharger should have covered and bermed the waste stockpiles. The estimated cost to cover and berm the waste stockpiles is **$455** based upon costs estimated by the San Diego Water Board. Using the US EPA BEN Model the Discharger enjoyed an economic benefit of **$315.** See Exhibit No. 28.

STEP 9 – Maximum and Minimum Liability Amounts (Violation No. 11)

For all violations, Water Code section 13385 sets a maximum liability amount that may be assessed for each violation. For some violations, the statute also requires the assessment of a liability at no less than a specified amount. The maximum and minimum amounts for each violation must be determined for comparison to the amounts being proposed.

Maximum Liability Amount
Pursuant to Water Code section 13385 the maximum civil liability that the San Diego Water Board may assess for this violation is ten thousand dollars ($10,000) per day of violation (per violation). Therefore, the Maximum Liability Amount that could be assessed for this violation is **$90,000**.

Minimum Liability Amount
Water Code section 13385(e) requires that when pursuing civil liability under section 13385, "*at a minimum, liability shall be assessed at a level that recovers the economic benefit, if any, derived from the acts that constitute the violation.*" The Enforcement Policy requires that the adjusted Total Base Liability shall be at least ten percent (10%) higher than the Economic Benefit. Therefore, the minimum liability is (1.1 x $315) = **$347**.

STEP 11 – Final Liability Amount (Violation No. 11)
Based on the unique facts of this case, and the liability calculation methodology within Section VI of the Enforcement Policy, the proposed civil liability for failing to protect waste stockpiles for **nine days** in violation of the Construction Storm Water Permit is **$32,175**, plus staff costs. The proposed liability is within the minimum and maximum liability range. See Exhibit No. 27.

12. Violation No. 12: Failure to Properly Store Chemicals.

STEP 1 - Potential for Harm for Discharge Violations (Violation No. 12)
Step 1 does not apply to Non-Discharge Violations.

STEP 2 – Assessment for Discharge Violations (Violation No. 12)
Step 2 does not apply to Non-Discharge Violations.

STEP 3 – Per Day Assessment of Non-Discharge Violations (Violation No. 12)
While non-discharge violations may not directly or immediately impact beneficial uses, they harm or undermine the regulatory program. Per day assessments of non-discharge violations are determined based on the Potential for Harm and the extent of Deviation from Requirement, which are used in Table 3 of the Enforcement Policy to determine the Per Day Factor. The Per Day Factor is multiplied by the Statutory Maximum Liability amount allowed under the Water Code (i.e. $10,000 per day).

Potential for Harm

The Potential for Harm is based on a determination of whether the circumstances of the violation indicate "a minor potential for harm" (Minor), "a substantial potential for harm" (Moderate), or "a very high potential for harm" (Major). The Enforcement Policy defines Major Potential for Harm as "[t]he characteristics of the violation present a particularly egregious threat to beneficial uses, and/or the circumstances of the violation indicate a very high potential for harm." The Prosecution Team has determined that the Potential for Harm is **Major** because the failure to have secondary containment of diesel fuels and asphaltic material poses an egregious threat to beneficial uses because there is a very high potential for harm if these materials were discharged to the receiving waters.

Deviation from Requirement

The Deviation from Requirement is based on a determination of whether the intended effectiveness of the requirement "remains generally intact" (Minor), "has been partially compromised" (Moderate), or "rendered ineffective" (Major). The Enforcement Policy defines a Moderate "Deviation from Requirement" as "[t]he intended effectiveness of the requirement has been partially compromised (e.g., the requirement was not met, and the effectiveness of the requirement is only partially achieved)." The Prosecution Team has determined that the Deviation from Requirement is **Moderate** because although there was no secondary containment for the chemicals they were in water tight containers.

Per Day Factor

Using a Potential for Harm determination of **Major** and Deviation from Requirement determination of **Moderate**, the Per Day Factor for the failure to implement the perimeter sediment control BMPs is **0.55** in Table 3 of the Enforcement Policy.

Days of Non-Discharge Violation

According to the documentation included with this technical analysis, the Discharger was in violation of the requirement to provide secondary containment for stored chemicals and fuels, Section B.1.c. in Attachment D to the Construction Storm Water Permit for **7 days:** March 18 through 24, 2015.

STEP 4 – Adjustment Factors (Violation No. 12)

There are three additional factors that are considered for modification of the amount of the initial liability: the Discharger's Culpability, the Discharger's efforts for Cleanup and Cooperation after the violation, and the Discharger's History of Violations. These three factors are discussed below.

Culpability

An adjustment for the initial liability based on the Discharger's Culpability should result in a multiplier between 0.5 to 1.5, with a lower multiplier for accidental or non-negligent violations, and a higher multiplier for intentional or negligent violations. The test is what a reasonable and prudent person would have done or not done under similar circumstances. The Prosecution Team assigned a Culpability multiplier of **1.3** for this violation because the Discharger either intentionally or due to negligence did not provide secondary containment for the chemicals and fuels. There was no reason secondary containment could not reasonably have been implemented to be in compliance with the Construction Storm Water Permit.

Cleanup and Cooperation

An adjustment for the initial liability based on the Discharger's efforts for Cleanup and Cooperation should result in a multiplier between 0.75 to 1.5, with a lower multiplier where there is a high degree of cleanup and cooperation, and a higher multiplier where this is absent. The Prosecution Team assigned a Cleanup and Cooperation multiplier of **1.1** for this violation because the Discharger failed to correct the violation with 72 hours of being notified.

History of Violations

Where there is a history of repeated violations, a minimum multiplier of 1.1 should be used to reflect this. The Prosecution Team assigned a History of Violations multiplier of **1.0** for this violation because the Discharger does not have a history of construction storm water violations determined by this Board.

STEP 5 – Determination of Total Base Liability Amount (Violation No. 12)

The Total Base Liability Amount (i.e. initial amount of liability) is determined by multiplying the Per Day Assessment by the Days of Violation and then applying the adjustment factors as follows:

Total Base Liability	=	Days of Violation	x	Per Day Factor	x	Statutory Maximum Liability	x	Culpability Multiplier	x	Cleanup & Cooperation Multiplier	x	History of Violations Multiplier	
Total Base Liability	=	7	x	0.55	x	$10,000	x	1.3	x	1.1	x	1.0	= $55,055

STEP 6 – Ability to Pay and Ability to Continue in Business (Violation No. 12)

See discussion in Section III.D.

STEP 7 – Other Factors as Justice May Require (Violation No. 12)

See discussion in Section III.E.

STEP 8 – Economic Benefit (Violation No. 12)

The Discharger derived an economic benefit by not providing secondary containment as required. At a minimum, the Discharger should have installed secondary containment structures. The estimated cost to protect the chemicals and fuels is **$3,213** based upon costs estimated by the San Diego Water Board. Using the US EPA BEN Model the Discharger enjoyed an economic benefit of **$1,985.** See Exhibit No. 28.

STEP 9 – Maximum and Minimum Liability Amounts (Violation No. 12)

For all violations, Water Code section 13385 sets a maximum liability amount that may be assessed for each violation. For some violations, the statute also requires the assessment of a liability at no less than a specified amount. The maximum and minimum amounts for each violation must be determined for comparison to the amounts being proposed.

Maximum Liability Amount

Pursuant to Water Code section 13385 the maximum civil liability that the San Diego Water Board may assess for this violation is ten thousand dollars ($10,000) per day of violation (per violation). Therefore, the Maximum Liability Amount that could be assessed for this violation is **$70,000**.

Minimum Liability Amount

Water Code section 13385(e) requires that when pursuing civil liability under section 13385, "*at a minimum, liability shall be assessed at a level that recovers the economic benefit, if any, derived from the acts that constitute the violation.*" The Enforcement Policy requires that the adjusted Total Base Liability shall be at least ten percent (10%) higher than the Economic Benefit. Therefore, the minimum liability is (1.1 x $1,985) = **$2,184**.

STEP 10 – Final Liability Amount (Violation No. 12)

Based on the unique facts of this case, and the liability calculation methodology within Section VI of the Enforcement Policy, the proposed civil liability for failing to provide secondary containment for chemicals and fuels for **seven days** in violation of the Construction Storm Water Permit is **$55,055**, plus staff costs. The proposed liability is within the minimum and maximum liability range. See Exhibit No. 27.

13. Violation No. 13: Failure to Prevent Discharge of Concrete Waste to the Ground.

STEP 1 - Potential for Harm for Discharge Violations (Violation No. 13)

Step 1 does not apply to Non-Discharge Violations.

STEP 2 – Assessment for Discharge Violations (Violation No. 13)

Step 2 does not apply to Non-Discharge Violations.

STEP 3 – Per Day Assessment of Non-Discharge Violations (Violation No. 13)

While non-discharge violations may not directly or immediately impact beneficial uses, they harm or undermine the regulatory program. Per day assessments of non-discharge violations are determined based on the Potential for Harm and the extent of Deviation from Requirement, which are used in Table 3 of the Enforcement Policy to determine the Per Day Factor. The Per Day Factor is multiplied by the Statutory Maximum Liability amount allowed under the Water Code (i.e. $10,000 per day).

Potential for Harm

The Potential for Harm is based on a determination of whether the circumstances of the violation indicate "a minor potential for harm" (Minor), "a substantial potential for harm" (Moderate), or "a very high potential for harm" (Major). The Enforcement Policy defines Minor Potential for Harm as "[t]he characteristics of the violation present a minor threat to beneficial uses, and/or the circumstances of the violation indicate a minor potential for harm." The Prosecution Team has determined that the Potential for Harm is **Minor.** While cementious material is highly toxic to plants and animals; in this case the several instances of discharge appear to be less than five gallons in volume to the ground, and not directly into a storm drain.

Deviation from Requirement

The Deviation from Requirement is based on a determination of whether the intended effectiveness of the requirement "remains generally intact" (Minor), "has been partially compromised" (Moderate), or "rendered ineffective" (Major). The Enforcement Policy defines a Major "Deviation from Requirement" as "[t]he requirement has been rendered ineffective (e.g., discharger disregards the requirement, and/or the requirement is rendered ineffective in its essential functions)." The Prosecution Team has determined that the Deviation from Requirement is **Major** because no intent was made to use wash out or concrete waste bins when facilities existed at the Site.

Per Day Factor

Using a Potential for Harm determination of **Minor** and Deviation from Requirement determination of **Major**, the Per Day Factor for the failure to implement the perimeter sediment control BMPs is **0.55** in Table 3 of the Enforcement Policy.

Days of Non-Discharge Violation

According to the documentation included with this technical analysis, the Discharger failed to prevent the discharge of concrete waste to the ground in violation of section B.2.i. in Attachment D to the Construction Storm Water Permit for **15 days:** March 18 through April 1, 2015.

STEP 4 – Adjustment Factors (Violation No. 13)

There are three additional factors that are considered for modification of the amount of the initial liability: the Discharger's Culpability, the Discharger's efforts for Cleanup and Cooperation after the violation, and the Discharger's History of Violations. These three factors are discussed below.

Culpability

An adjustment for the initial liability based on the Discharger's Culpability should result in a multiplier between 0.5 to 1.5, with a lower multiplier for accidental or non-negligent violations, and a higher multiplier for intentional or negligent violations. The test is what a reasonable and prudent person would have done or not done under similar circumstances. The Prosecution Team assigned a Culpability multiplier of **1.3** for this violation because the Discharger either intentionally or due to negligence did not use the concrete washout facilities on the Site. There was no reason BMPs could not reasonably have been implemented to be in compliance with the Construction Storm Water Permit.

Cleanup and Cooperation

An adjustment for the initial liability based on the Discharger's efforts for Cleanup and Cooperation should result in a multiplier between 0.75 to 1.5, with a lower multiplier where there is a high degree of cleanup and cooperation, and a higher multiplier where this is absent. The Prosecution Team assigned a Cleanup and Cooperation multiplier of **1.1** for this violation because the Discharger failed to correct the violation with 72 hours of being notified.

History of Violations

Where there is a history of repeated violations, a minimum multiplier of 1.1 should be used to reflect this. The Prosecution Team assigned a History of Violations multiplier of **1.0** for this violation because the Discharger does not have a history of construction storm water violations determined by this Board.

STEP 5 – Determination of Total Base Liability Amount (Violation No. 13)

The Total Base Liability Amount (i.e. initial amount of liability) is determined by multiplying the Per Day Assessment by the Days of Violation and then applying the adjustment factors as follows:

Total Base Liability	=	Days of Violation	x	Per Day Factor	x	Statutory Maximum Liability	x	Culpability Multiplier	x	Cleanup & Cooperation Multiplier	x	History of Violations Multiplier	
Total Base Liability	=	15	x	0.55	x	$10,000	x	1.3	x	1.1	x	1.0	= $75,075

STEP 6 – Ability to Pay and Ability to Continue in Business (Violation No. 13)

See discussion in Section III.D.

STEP 7 – Other Factors as Justice May Require (Violation No. 13)
See discussion in Section III.E.

STEP 8 – Economic Benefit (Violation No. 13)
The Discharger derived an economic benefit by not properly disposing of the concrete waste as required. At a minimum, the Discharger should have discharged the concrete waste into a designated concrete washout container. The estimated cost to rent a concrete washout container and properly dispose of the concrete is **$618** based upon costs estimated by the San Diego Water Board. Using the US EPA BEN Model the Discharger enjoyed an economic benefit of **$378.** See Exhibit No. 28.

STEP 9 – Maximum and Minimum Liability Amounts (Violation No. 13)
For all violations, Water Code section 13385 sets a maximum liability amount that may be assessed for each violation. For some violations, the statute also requires the assessment of a liability at no less than a specified amount. The maximum and minimum amounts for each violation must be determined for comparison to the amounts being proposed.

Maximum Liability Amount
Pursuant to Water Code section 13385 the maximum civil liability that the San Diego Water Board may assess for this violation is ten thousand dollars ($10,000) per day of violation (per violation). Therefore, the Maximum Liability Amount that could be assessed for this violation is **$150,000**.

Minimum Liability Amount
Water Code section 13385(e) requires that when pursuing civil liability under section 13385, "*at a minimum, liability shall be assessed at a level that recovers the economic benefit, if any, derived from the acts that constitute the violation.*" The Enforcement Policy requires that the adjusted Total Base Liability shall be at least ten percent (10%) higher than the Economic Benefit. Therefore, the minimum liability is (1.1 x $378) = **$416**.

STEP 11 – Final Liability Amount (Violation No. 13)
Based on the unique facts of this case, and the liability calculation methodology within Section VI of the Enforcement Policy, the proposed civil liability for failing to properly dispose of concrete waste for **15 days** in violation of the Construction Storm Water Permit is **$75,075**, plus staff costs. The proposed liability is within the minimum and maximum liability range. See Exhibit No. 27.

D. Consideration of Ability to Pay and Ability to Continue in Business

The Total Base Liability Amount may be adjusted to address the violator's ability to pay or continue in business. For a violation addressed pursuant to Water Code section 13385, the adjustment for ability to pay and ability to continue in business cannot reduce the liability to less than the economic benefit amount.

According to the NOI, the property owner is San Altos-Lemon Grove, LLC, and the developer is BCA Development, Inc. The contact for both entities is Ben Anderson. According to publicly available information (http://www.manta.com/c/mmj25wg/bca-development-inc), Ben Anderson is the owner of BCA Development, Inc., and the estimated annual revenue of BCA Development, Inc. is $10 to $20 million. According to this information, the Discharger has the ability to pay the proposed civil liability and continue in business.

Based on this publicly available data, the burden of this affirmative defense now shifts to the Discharger to offer any evidence they would like to the Prosecution Team to consider when evaluating their ability to pay the Total Proposed Liability Amount.

E. Other Factors as Justice May Require

The Enforcement Policy provides that if the San Diego Water Board believes that the amount determined using the above factors is inappropriate, the liability amount may be adjusted under the provision for "other factors as justice may require," if express finding are made.

Examples of circumstances warranting an adjustment under this step are:

a. The discharger has provided, or Water Board staff has identified, other pertinent information not previously considered that indicates a higher or lower amount is justified.

b. A consideration of issues of environmental justice indicates that the amount would have a disproportionate impact on a particular disadvantaged group.

c. The calculated amount is entirely disproportionate to assessments for similar conduct made in the recent past using the Enforcement Policy.

(Enforcement Policy, p. 19.)

The circumstances in this matter do not warrant an adjustment under this step.

The Enforcement Policy also provides under the "Other Factors as Justice May Require" that the cost of investigation and enforcement should be added to the liability amount. From December 15, 2014, to September 10, 2015, the San Diego Water Board invested 212.50 hours to investigate, prepare enforcement documents, and consider this action. The total investment of the San Diego Water Board to date is **$15,763**. These staff costs are not divided by violation and are added at the end of the collective penalty assessment. A summary of the staff costs incurred to date is provided in Exhibit No. 29, Staff Cost Summary. If the Discharger elects to contest this matter, the recommended liability may increase to recover necessary additional staff costs incurred through to the day of hearing.

F. Total Proposed Liability Amount

The total proposed liability amount for the violations in ACL Complaint No. R9-2015-0110 is $832,611, plus staff costs of $15,763 for a total of **$848,374**. A summary of the methodology used by the Prosecution Team to calculate the proposed civil liability is provided in Exhibit No. 27, Penalty Methodology Summary. Below is a tabular summary of the total proposed liability, Table No. 1.

Table No. 1. Total Proposed Liability Amount Summary

Violation No.	Alleged Violation	Liability Per Day of Violation	Days of Violation Assessed	Proposed Liability Amount
1	Discharges of sediment	$3,146	6	$18,876
2	Failure to protect material stockpiles.	$5,005	10	$50,050
3	Failure to protect against vehicle leaks.	$7,865	2	$15,730
4	Failure to protect against Erosion in inactive areas.	$7,865	22	$173,030
5	Failure to implement adequate perimeter sediment controls.	$5,005	14	$70,070
6	Failure to protect against Erosion in active areas.	$7,865	22	$173,030
7	Failure to implement adequate linear sediment controls.	$7,865	9	$70,785
8	Failure to implement adequate run-on/runoff controls.	$5,005	7	$35,035
9	Failure to remove sediment from roadways.	$5,005	10	$50,050
10	Failure to protect storm drain inlets.	$4,550	3	$13,650
11	Failure to protect waste stockpiles.	$3,575	9	$32,175
12	Failure to adequately store chemicals.	$7,865	7	$55,055
13	Failure to prevent concrete discharges to the ground.	$5,005	15	$75,075
Total Base Liability Amount				**$832,611**
Staff Costs to Date				**$15,763**
Total Proposed Liability Amount				**$848,374**

Melbourn, Frank - Vol. 1



Litigation
SERVICES

Job: 600096

Exhibit: 00003







Exhibit No. 1
State Water Resources Control Board

Exhibit 3
WITNESS: Melbourn
DATE: 4/13/16 Rptr: DMD
Shelburne Sherr
Court Reporters

NOTICE OF INTENT

GENERAL PERMIT TO DISCHARGE STORM WATER
ASSOCIATED WITH CONSTRUCTION ACTIVITY
(WQ ORDER No. 2009-0009-DWQ)

WDID:

Risk Level: Level2

Property Owner Information

Type: Private Business

Name: SAN ALTOS LEMON GROVE LLC
Address: 5780 Fleet Avenue
Address 2: Suite 225
City/State/Zip: Carlsbad CA 92008

Contact Name: Ben Anderson
Title: Contact
Phone #: 714-966-1544
Email: kimberlyv@bcadevelopment.com

Contractor/Developer Information

Name: BCA DEVELOPMENT INC
Address: 3194 Airport Loop Drive
Address 2: Suite C2
City/State/Zip: Costa Mesa CA 92626

Contact Name: Ben Anderson
Title:
Phone #: 714-966-1544
Email: kimberlyv@bcadevelopment.com

Construction Site Information

Site Name: Valencia
Address: 1350 San Altos Place
City/State/Zip: Lemon Grove CA 91945
County: San Diego
Latitude: 32.7163 Longitude: -117.04805
Total Size of Construction Area: 18.26
Total Area to be Disturbed: 18.26

Contact Name: Ben Anderson
Title:
Site Phone #: 714-966-1544
Email: kimberlyv@bcadevelopment.com
Construction Start: March 01, 2014
Complete Grading:
Final Stabilization: December 31, 2015

Risk Values

R: 41.3 K: 0.24 LS: 2.11

Beneficial Uses/303(d): No

Type of Construction: *Residential
Receiving Water: Chollas Creek
Qualified SWPPP Developer: Kamal Sweis
RWQCB Jurisdiction: Region 9 - San Diego
Phone: 619-516-1990

Certification #: 20266
Email: r9_stormwater@waterboards.ca.gov

Certification

Name Ben Anderson
Title: President

Date: March 06, 2014

Exhibit No. 2

NOTICE

DATE: 12/2/14
PROJECT: VALENCIA
PROJECT #: GR-1692
ADDRESS: SAN AITOS PL

☒ STOP WORK/NOTICE OF VIOLATION

Stop all other work until erosion control/NPDES deficiencies noted below are corrected. Issuance of this Stop Work Notice will notify the Regional Water Quality Control Board regarding your BMP deficiencies. This may subject you to fines of up to $10,000/day.

☐ CORRECT WORK

Correct noted deficiencies within the specified time frame to avoid a Stop Work Notice:

☐ 24 Hours ☐ 72 Hours ☐ 5 Days ☐ Prior to October 1st, And/Or ☐ Before Rain Event

---

THIS PROJECT IS IN CONFLICT WITH THE FOLLOWING:

☐ City of Lemon Grove Grading Ordinance* ☒ City of Lemon Grove JURMP
☐ Other: _____

THE AREAS OF CONFLICT ARE:

☐ Erosion control is not on site ☐ Erosion control is not per the approved plan
☒ Erosion control is inadequate ☐ Failure to maintain erosion/sediment control device
☐ Other _____

THE FOLLOWING DEFICIENCIES ARE NOTED:

☒ Stabilized construction entrance ☐ Runoff from the site ☐ Desilting basin
☐ Perimeter protection at toe of slope ☐ Waste/materials storage
☐ Concrete washout inadequate, not maintained ☐ No secondary containment
☒ Cover stockpiles ☐ No storm drain inlet/outlet protection ☐ Trash/debris not managed
☐ Cover on sloped and/or flat areas that are inactive for more than 10 days
☐ Other _____

***STOP/ CORRECT WORK ADEQUATELY ADDRESSED (DATE/SIGNATURE)_____

CC: ☒ City Engineer
☒ Engineering
☐ Management Analyst
☐ Code Compliance
☐ Building
☐ RWQCB

ISSUED TO: TIM ANDERSON (VIA EMAIL)
DATE/TIME: 12/2/14 3pm
BY: GARY HARPER
TITLE: ENG. INSPECTOR
PHONE: (619) 454-1272

IF YOU HAVE FURTHER QUESTIONS, PLEASE CALL THE CITY OF LEMON GROVE'S DEVELOPMENT SERVICES DEPARTMENT AT (619) 825-3805.

* Having deficiencies in your erosion control is a violation of the City of Lemon Grove's Grading Ordinance. A violation of the City's Grading Ordinance is a misdemeanor. Each separate day or portion thereof on which a violation exists or is allowed to exist shall constitute a separate offense punishable by the provisions of the Ordinance.

CITY OF LEMON GROVE
3232 Main Street, Lemon Grove, CA 91945

NPDES STORMWATER PROGRAM
CONSTRUCTION STORMWATER COMPLIANCE INSPECTION FORM

Inspector Name /Signature/Date/Time: Harper / [signature] / 12/2/14 / 1pm

Inspection: ☐ Permit-Required Inspection ☐ Follow-up Inspection ☒ Other (Explain) Weekly

Construction Project Priority: ☐ High ☐ Medium ☐ Low

GENERAL INFORMATION

Grading or Building Permit #: Gr- 1692

Project Name & Type: Valencia, Subdivision

Project Location & Address: San Altos pl

Contractor's Name & Telephone #: Anderson Development (949) 275-6738

Property Owner & Telephone #: San Altos LLC

Is this Project Greater than an Acre? ☒ Yes ☐ No ☐ N/A

If yes: Provide Record of Waste Discharge Identification Number (WDID#): 937C 36 9143

Does this Project have an NOI/SWPPP Available? ☒ Yes ☐ No ☐ N/A

Is Weather Triggered Action Plan Completed? ☒ Yes ☐ No ☐ N/A

Is Advanced Treatment Implemented Appropriately? ☐ Yes ☐ No ☒ N/A

Is More than 17 Acres of Cleared or Graded Areas Left Exposed at Any Given Time? ☐ Yes ☒ No ☐ N/A

Is 125% of Materials to Install Standby BMPs Available? ☐ Yes ☒ No ☐ N/A

Are Routine Self-Inspections Being Conducted by Developer/Owner? ☒ Yes ☐ No ☐ N/A

Project Site is in What Sub-Watershed: ☐ Chollas Creek 908.22 ☐ Sweetwater River 909.12

Nearest Conveyances or Water Bodies: MS4

BMP	Yes	No	N/A	Description/Explanation	Effective Yes/No
Soil Stabilization and Erosion Prevention					
Is construction site phased/scheduled to address erosion control on a timely basis?	X			Contractor Hydroseeding as needed, but did not seed as planned	N
Preservation of existing vegetation?	X				Y
Physical Stabilization: Hydraulic Mulch, Hydroseeding, Soil Binders, Straw Mulch					
Geotextiles, Plastic Covers, Erosion Prevention Blankets, Wood Mulching	X			Not enough plastic covers for stockpiles	No
Site Drainage: Outlet Protection/Slope Drain	X				Y
Inlet/Outlet Protection	Y				Y
Sediment Control/Containment					
Perimeter Protection: Silt Fencing, Gravel Bags, Fiber Rolls	Y				Y

BMP	Yes	No	N/A	Description/Explanation	Effective Yes/No
Storm Drain inlet protection: Sediment Trap, De-silting Basin, Gravel Bag Barrier	Y				Y
Tracking Controls: Stabilized Entrance/Exit Road Stabilization, Tire Wash, Street Sweeping	Y			ENTRANCE NEEDS TO BE CLEANED. ALSO NEED STREET SWEPT	NO
Materials and Equipment Management					
Are materials and wastes stored in a manner that minimizes or eliminates the potential to discharge these materials to the storm drain system, is secondary containment used?	Y				Y
Are material stockpiles protected: covered, contained and located away from non-storm water discharges?	Y			SOME ARE COVERED SOME ARE NOT	NO
Are heavy equipment and vehicles parked in designated areas with permeable surface?	Y				Y
Are appropriate spill response and containment measures kept on the site?	Y				Y
Are wastes managed and stored properly (Solid, liquid, sanitary, concrete, hazardous)	Y				Y
Are concrete washouts properly installed, maintained with no evidence of discharges.	Y				Y
Is timely service and removal provided to prevent waste containers and sanitary facilities from overflowing?	Y				Y
Non-Storm Water Management					
Is the site free of evidence of illegal connections and/or illicit discharges?	Y				Y
Discharge Locations					
Are the discharge locations free of significant erosion or sediment transport?		N		TC-1 IS DOWNSTREAM OF UPPER SITE; NEEDS TO BE CLEANED	NO
Other					
Are there any other potential storm water pollution issues/concerns?	Y			RAIN EVENT TODAY, TC-1 SHOULD BE PROTECTED	NO
Was there any employee or subcontractor training on stormwater BMPs?		N			

VIOLATIONS

- ☐ No violations noted at time of inspection/investigation
- ☐ No violations; however, recommended corrective actions required
  - ☐ Inspection Form as Correct Work Notice ☐ Correct Work Notice Issued on: _____
- ☒ Violation: Illegal Discharge/Illegal Connection/Improper BMPs Implementation
  - ☒ Stop Work Notice Issued on: 12/2/14

RECOMMENDED CORRECTIVE ACTION

SEE STOP WORK NOTICE - DISCHARGE IS IMMINENT IF NOAA FORECAST CORRECT: 100% HENRY RAIN THIS AFTERNOON.

I CALL TO TIM ANDERSON THIS MORNING AT 9AM. LEFT V. MAIL THAT SITUATION NEEDED ATTENTION ASAP - NO RETURN CALL

Lack of eroison control BMPs on inactive areas.





Lack of eroison control BMPs on active areas.









Lack of eroison control BMPs on inactive areas.






12/01/2014 10:42 AM


12/01/2014 10:14 AM


12/01/2014 10:43 AM


KSD
12/01/2014 10:14 AM


12/02/2014 12:56 PM


ROAD
CLOSED
Homeowners
Access Only
12/02/2014 12:54 PM


12/02/2014 12:53 PM


12/02/2014 12:56 PM


12/02/2014 12:54 PM


12/02/2014 12:54 PM


12/02/2014 09:08 AM


12/02/2014 12:54 PM


ROAD
CLOSED
12/02/2014 12:54 PM

Unprotected stockpile.













Lack of eroison control BMPs on inactive areas.







Stockpiles lack coverage and perimeter containment.


12/02/2014 12:46 PM


12/02/2014 12:44 PM


12/02/2014 12:44 PM


12/02/2014 12:47 PM


CAT
12/02/2014 12:45 PM


12/02/2014 12:44 PM


12/02/2014 12:47 PM


CAT
12/02/2014 12:45 PM


12/02/2014 12:44 PM





Lack of eroison control BMPs on active areas.















Lack of eroison control BMPs on inactive areas.







Lack of eroison control BMPs on inactive areas.














12/02/2014 09:08 AM


12/02/2014 09:22 AM


12/02/2014 09:22 AM

Exhibit No. 3

NOTICE

DATE: 12/4/2014
PROJECT: VALENCIA
PROJECT #: GR-1692
ADDRESS: SAN ALTOS PL

☑ STOP WORK/NOTICE OF VIOLATION

Stop all other work until erosion control/NPDES deficiencies noted below are corrected. Issuance of this Stop Work Notice will notify the Regional Water Quality Control Board regarding your BMP deficiencies. This may subject you to fines of up to $10,000/day.

☐ CORRECT WORK

Correct noted deficiencies within the specified time frame to avoid a Stop Work Notice:

☐ 24 Hours ☐ 72 Hours ☐ 5 Days ☐ Prior to October 1st, And/Or ☐ Before Rain Event

---

THIS PROJECT IS IN CONFLICT WITH THE FOLLOWING:

☐ City of Lemon Grove Grading Ordinance* ☑ City of Lemon Grove JURMP
☐ Other: _____

THE AREAS OF CONFLICT ARE:

☐ Erosion control is not on site ☑ Erosion control is not per the approved plan
☑ Erosion control is inadequate ☑ Failure to maintain erosion/sediment control device
☐ Other _____

THE FOLLOWING DEFICIENCIES ARE NOTED:

☑ Stabilized construction entrance ☑ Runoff from the site ☐ Desilting basin
☐ Perimeter protection at toe of slope ☐ Waste/materials storage
☐ Concrete washout inadequate, not maintained ☐ No secondary containment
☑ Cover stockpiles ☐ No storm drain inlet/outlet protection ☐ Trash/debris not managed
☐ Cover on sloped and/or flat areas that are inactive for more than 10 days
☑ Other Illegal Discharge

***STOP/ CORRECT WORK ADEQUATELY ADDRESSED (DATE/SIGNATURE)_____

CC: ☑ City Engineer
☑ Engineering
☐ Management Analyst
☐ Code Compliance
☐ Building
☑ RWQCB

ISSUED TO: Tim Anderson (EMAIL)
DATE/TIME: 12/4/2014 10AM
BY: Gary Hayes
TITLE: Env. Inspector
PHONE: (619) 454 1272

IF YOU HAVE FURTHER QUESTIONS, PLEASE CALL THE CITY OF LEMON GROVE'S DEVELOPMENT SERVICES DEPARTMENT AT (619) 825-3805.

* Having deficiencies in your erosion control is a violation of the City of Lemon Grove's Grading Ordinance. A violation of the City's Grading Ordinance is a misdemeanor. Each separate day or portion thereof on which a violation exists or is allowed to exist shall constitute a separate offense punishable by the provisions of the Ordinance.















Sediment in street.







Lack of erosion control in inactive areas.





























Lack of eroison control BMPs on active areas.



Sediment in street.





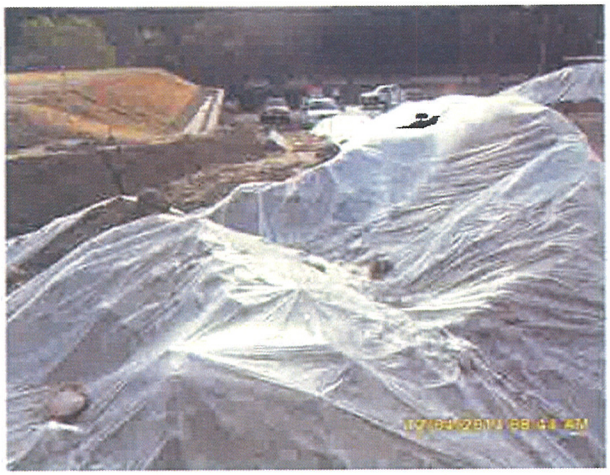
Althought stockpile is partially covered it lacks perimeter containment.




















12/04/2014 08:42 AM






12/04/2014 08:43 AM











* = CITY OF SAN DIEGO 47TH ST RUNOFF NOT VALENCIA



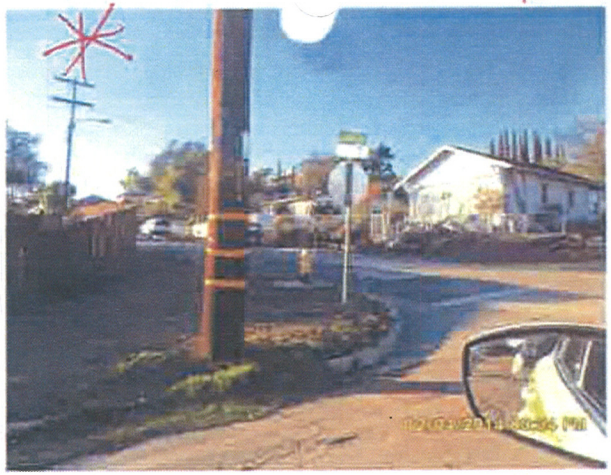
















Exhibit No. 4

CITY OF LEMON GROVE
3232 Main Street, Lemon Grove, CA 91945

NPDES STORMWATER PROGRAM
CONSTRUCTION STORMWATER COMPLIANCE INSPECTION FORM

Inspector Name /Signature/Date/Time: Harper / [signature] / 12/8/14 10:00 am

Inspection: ☐ Permit-Required Inspection ☐ Follow-up Inspection ☒ Other (Explain) Weekly (pre storm) Friday = 95 %

Construction Project Priority: ☐ High ☒ Medium ☐ Low

GENERAL INFORMATION

Grading or Building Permit #: ~~Gr-1692~~ Gr-1692

Project Name & Type: Valencia, Homes

Project Location & Address: San Altos Place

Contractor's Name & Telephone #: Anderson Dev (949) 275-673

Property Owner & Telephone #: San Altos LLC

Is this Project Greater than an Acre? ☒ Yes ☐ No ☐ N/A

If yes: Provide Record of Waste Discharge Identification Number (WDID#): 937C 369143

Does this Project have an NOI/SWPPP Available? ☐ Yes ☐ No ☐ N/A

Is Weather Triggered Action Plan Completed? ☑ Yes ☐ No ☐ N/A

Is Advanced Treatment Implemented Appropriately? ☐ Yes ☐ No ☒ N/A

Is More than 17 Acres of Cleared or Graded Areas Left Exposed at Any Given Time? ☐ Yes ☒ No ☐ N/A

Is 125% of Materials to Install Standby BMPs Available? ☐ Yes ☒ No ☐ N/A

Are Routine Self-Inspections Being Conducted by Developer/Owner? ☑ Yes ☐ No ☐ N/A

Project Site is in What Sub-Watershed: ☒ Chollas Creek 908.22 ☐ Sweetwater River 909.12

Nearest Conveyances or Water Bodies: MS4

BMP	Yes	No	N/A	Description/Explanation	Effective Yes/No
Soil Stabilization and Erosion Prevention					
Preservation of existing vegetation?	Y			ON N/W SLOPES	Y
Physical Stabilization: Hydraulic Mulch, Hydroseeding, Soil Binders, Straw Mulch	Y			HYDROSEED TODAY	N
Geotextiles, Plastic Covers, Erosion Prevention Blankets, Wood Mulching	Y				
Site Drainage: Outlet Protection/Slope Drain					
Inlet/Outlet Protection					
Sediment Control/Containment					
Perimeter Protection: Silt Fencing, Gravel Bags, Fiber Rolls	Y				N
Storm Drain inlet protection: Sediment Trap, De-silting Basin, Gravel Bag Barrier	Y			INLET TO BE CLEANED	N

BMP	Yes	No	N/A	Description/Explanation	Effective Yes/No
Tracking Controls: Stabilized Entrance/Exit Road Stabilization, Tire Wash, Street Sweeping				ENTRANCE BEING REBUILT, ST. SWEEP THIS WEEK	
VALENCIA **Materials and Equipment Management**					
Are materials and wastes stored in a manner that minimizes or eliminates the potential to discharge these materials to the storm drain system, is secondary containment used?	Y				Y
Are material stockpiles protected: covered, contained and located away from non-storm water discharges?		N		NEED TO COVER STOCK PILES	N
Are heavy equipment and vehicles parked in designated areas with permeable surface?		N		VEHICLES IN USE	Y
Are appropriate spill response and containment measures kept on the site?	Y				Y
Are wastes managed and stored properly (Solid, liquid, sanitary, concrete, hazardous)	Y				Y
Are concrete washouts properly installed, maintained with no evidence of discharges.		N		NO CONC WORK	Y
Is timely service and removal provided to prevent waste containers and sanitary facilities from overflowing?	Y				Y
Non-Storm Water Management					
Is the site free of evidence of illegal connections and/or illicit discharges?					
Discharge Locations					
Are the discharge locations free of significant erosion or sediment transport?		N		STILL CLEANING -	NO
Other					
Are there any other potential storm water pollution issues/concerns?		N			
Was there any employee or subcontractor training on stormwater BMPs?		N			

VIOLATIONS

- ☐ No violations noted at time of inspection/investigation
- ☐ No violations; however, recommended corrective actions required
  - ☐ Inspection Form as Correct Work Notice ☐ Correct Work Notice Issued on: _____
- ☐ Violation: Illegal Discharge/Illegal Connection/Improper BMPs Implementation
  - ☒ Stop Work Notice Issued on: 12/4/14

RECOMMENDED CORRECTIVE ACTION

NOV WRITTEN LAST WEEK, CONTRACTOR WORKING ON ITEMS

Jncovered stockpile.

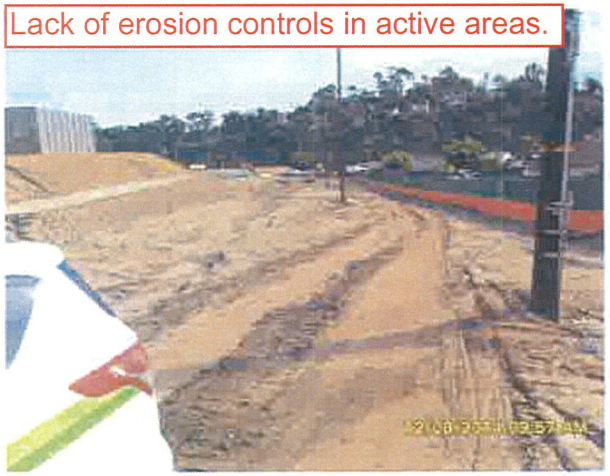








Lack of erosion controls in active areas.





Lack of erosion controls in inactive areas.



Exhibit No. 5

NOTICE

DATE: 12/9/14
PROJECT: VALENCIA
PROJECT #: GR-1692
ADDRESS: SAN ALTOS PLACE

☐ STOP WORK/NOTICE OF VIOLATION

Stop all other work until erosion control/NPDES deficiencies noted below are corrected. Issuance of this Stop Work Notice will notify the Regional Water Quality Control Board regarding your BMP deficiencies. This may subject you to fines of up to $10,000/day.

☒ CORRECT WORK

Correct noted deficiencies within the specified time frame to avoid a Stop Work Notice:

☒ 24 Hours ☐ 72 Hours ☐ 5 Days ☐ Prior to October 1st, And/Or ☐ Before Rain Event

---

THIS PROJECT IS IN CONFLICT WITH THE FOLLOWING:

☒ City of Lemon Grove Grading Ordinance* ☒ City of Lemon Grove JURMP
☐ Other: _____

THE AREAS OF CONFLICT ARE:

☐ Erosion control is not on site ☐ Erosion control is not per the approved plan
☒ Erosion control is inadequate ☐ Failure to maintain erosion/sediment control device
☐ Other _____

THE FOLLOWING DEFICIENCIES ARE NOTED:

☐ Stabilized construction entrance ☐ Runoff from the site ☐ Desilting basin
☐ Perimeter protection at toe of slope ☐ Waste/materials storage
☐ Concrete washout inadequate, not maintained ☐ No secondary containment
☒ Cover stockpiles ☐ No storm drain inlet/outlet protection ☐ Trash/debris not managed
☒ Cover on sloped and/or flat areas that are inactive for more than 10 days
☐ Other _____

******STOP/ CORRECT WORK ADEQUATELY ADDRESSED (DATE/SIGNATURE)*** _____

CC: ☒ City Engineer
☒ Engineering
☐ Management Analyst
☐ Code Compliance
☐ Building
☐ RWQCB

ISSUED TO: TIM ANDERSON VIA EMAIL
DATE/TIME: 12/9/14 6:30 PM
BY: GARY HARPER
TITLE: ENG. INSPECTOR
PHONE: (619) 454-1272

IF YOU HAVE FURTHER QUESTIONS, PLEASE CALL THE CITY OF LEMON GROVE'S DEVELOPMENT SERVICES DEPARTMENT AT (619) 825-3805.

* Having deficiencies in your erosion control is a violation of the City of Lemon Grove's Grading Ordinance. A violation of the City's Grading Ordinance is a misdemeanor. Each separate day or portion thereof on which a violation exists or is allowed to exist shall constitute a separate offense punishable by the provisions of the Ordinance.




12/09/2014 01:40 PM


12/09/2014 01:38 PM




12/09/2014 01:40 PM


12/09/2014 01:39 PM




12/09/2014 01:40 PM


12/09/2014 01:39 PM











Exhibit No. 6

CITY OF LEMON GROVE
ADMINISTRATIVE CITATION

A) TYPE OF VIOLATION

Circle One: (Warning) 1st Citation $100 | 2nd Citation $200 | 3rd Citation $500 | 4th Citation $1,000

Payment of $ — is due no later than — to the City of Lemon Grove. The City accepts cash, check or credit card.

If the violation is not corrected by the date specified therein and/or payment is not received by the date above, the next level of citation may be issued, other enforcement actions may occur, and penalties may be assessed (25% and interest at the rate of 10% per month). Payment of fine does not excuse or discharge the failure to correct violation identified below.

B) RESPONSIBLE PARTY INFORMATION

Person Cited: Anderson (Last Name) Tim (First Name)

Circle One: Property Owner Tenant Business Owner (Other) Site Representative / Project Manager

Mailing Address: 3194-C2 Airport Loop Drive Costa Mesa, CA 92626

Business Name (if applicable): BCA Development

cc: Phil Downey, Code Enforcement File

C) VIOLATION(S) INFORMATION

Date (Violation Observed): 12/11/14 Time (Violation Observed): 4:00-5:00 P.M.

Location of Violation: 1350 San Altos, LG / Valencia (Street Address) (APN)

Violation(s) Observed (Code Section and Description):

B.48.060 18.08.560 Inadequate BMP's - see attached inspection reports
18.08.170
18.08.180

D) CORRECTION(S) REQUIRED (with date to complete corrections)

Install BMP's per Recommendations > 12/15/14 5:00 P.M.
Maintain adequate surplus of BMPs

E) SERVICING CITATION INFORMATION

Enforcing Officer Name	Phone No.	Signature	Date
Leon Finchet	619-825-3825		12/11/14

Person Cited – Signature Acknowledging Receipt _____ (Date)

Citation Served (circle one): In Person (By Mail / Email) Posted on Property

This citation may be appealed within thirty (30) days from date of correction identified in Section D. To request an appeal, a Request an Appeal Hearing form (available at City Hall) should be completed and returned to City Hall. In the event a Hardship Waiver is requested, the Request for an Appeal Hearing and Hardship Waiver forms are required within fifteen (15) days from the correction date identified in Section D.

WHITE-ORIGINAL PINK-COPY CITATION CARD-OWNER

8.48.060 Best management practice requirements and general requirements applicable to all dischargers.

A. Applicable Requirements. All dischargers in the city must comply with the generally applicable prohibitions and requirements in Sections 8.48.010 through 8.48.060 of this chapter, and must also comply with any other parts of this chapter (including relevant parts of the Manual) that are applicable to the type of facility or activity owned or operated by that discharger.

B. Minimum Best Management Practices for All Dischargers. All dischargers in the city must install, implement and maintain at least the following minimum BMPs:

1. Eroded Soils. Prior to the rainy season, dischargers must remove or secure any significant accumulations of eroded soils from slopes previously disturbed by clearing or grading, if those eroded soils could otherwise enter the stormwater conveyance system or receiving waters during the rainy season.

2. Pollution Prevention. Dischargers employing ten or more persons on a full-time basis shall implement those stormwater pollution prevention practices that are generally recognized in that discharger's industry or business as being effective and economically advantageous.

3. Prevention of Illegal Discharges. Illicit connections must be eliminated (even if the connection was established pursuant to a valid permit and was legal at the time it was constructed), and illegal discharge practices eliminated.

4. Slopes. Completed slopes that are more than five feet in height, more than two hundred fifty square feet in total area, and steeper than 3:1 (run-to-rise) that have been disturbed at any time by clearing, grading, or landscaping, shall be protected from erosion prior to the first rainy season following completion of the slope, and continuously thereafter.

5. Storage of Materials and Wastes. All materials and wastes with the potential to pollute urban runoff shall be stored in a manner that either prevents contact with rainfall and stormwater, or contains contaminated runoff for treatment and disposal.

6. Use of Materials. All materials with the potential to pollute urban runoff (including, but not limited to, cleaning and maintenance products used outdoors, fertilizers, pesticides and herbicides, etc.) shall be used in accordance with label directions. No such product may be disposed of or rinsed into receiving waters or the stormwater conveyance system.

C. Inspection, Maintenance, Repair and Upgrading of BMPs. BMPs at manned facilities must be inspected by the discharger before and following predicted rain events. BMPs at unmanned facilities must be inspected by the discharger at least once during the rainy season and at least once between each rainy season. These BMPs must be maintained so that they continue to function as designed. BMPs that fail must be repaired as soon as it is safe to do so. If the failure of a BMP indicates that the BMPs in use are inappropriate or inadequate to the circumstances, the BMPs must be modified or upgraded to prevent any further failure in the same or similar circumstances.

D. Stormwater Pollution Prevention Plan. An authorized enforcement official may require a commercial, industrial or land disturbance activity discharger to prepare and submit an SWPPP for approval by that official if: (1) the discharger does not come into compliance with this chapter after one or more warnings (or other enforcement action) that BMPs are inadequate or are not being adequately maintained; or (2) the facility or activity at issue is a significant source of contaminants to receiving waters despite compliance with this

chapter. Any discharger required to submit and to obtain approval of an SWPPP shall install, implement, and maintain the BMPs specified in the approved SWPPP.

The SWPPP shall identify the BMPs that will be used by the discharger to prevent or control pollution of stormwater to the MEP. If the facility is an industrial facility, the SWPPP submitted to the city shall at a minimum meet the requirements of the state NPDES general industrial stormwater permit. If the activity at issue is a construction or land disturbance activity, the SWPPP submitted to the city shall at a minimum meet the requirements of the state NPDES general construction stormwater permit. If a facility required to submit an SWPPP to the city discharges non-stormwater to groundwater, the facility shall obtain an RWQCB permit as required by the State Water Code, and shall describe the requirements of that permit in the SWPPP.

Whenever submission of an SWPPP is required pursuant to this chapter, an authorized enforcement official may take existing city BMPs into account when determining whether the practices proposed in the SWPPP are BMPs that will prevent or control pollution to the required level of MEP.

E. Notification of Spills, Releases and Illegal Discharges. Spills, releases, and illegal discharges of pollutants to receiving waters or to the stormwater conveyance system shall be reported by the discharger as required by all applicable state and federal laws. In addition, any such spills, releases and illegal discharges with the potential to endanger health, safety or the environment shall be reported to the Directors within twenty-four hours after discovery of the spill, release or discharge. If safe to do so, necessary actions shall be taken to contain and minimize the spill, release or illegal discharge.

F. Sampling, Testing, Monitoring and Reporting. Commercial, industrial or land disturbance activity dischargers shall perform the sampling, testing, monitoring and reporting required by this chapter. In addition, an authorized enforcement official may order a discharger to conduct testing or monitoring and to report the results to the city if: (1) the authorized enforcement official determines that testing or monitoring is needed to determine whether BMPs are effectively preventing or reducing pollution in stormwater to the MEP, or to determine whether the facility is a significant source of contaminants to receiving waters; or (2) the authorized enforcement official determines that testing or monitoring is needed to assess the impacts of an illegal discharge on health, safety or the environment; or (3) an illegal discharge has not been eliminated after written notice by an authorized enforcement official; or (4) repeated violations have been documented by written notices from authorized enforcement officials; or (5) the RWQCB requires the city to provide any information related to the discharger's activities.

Testing and monitoring ordered pursuant to this subsection may include the following:

1. Visual monitoring of dry weather flows, wet weather erosion, and/or BMPs;
2. Visual monitoring of premises for spills or discharges;
3. Laboratory analyses of stormwater or non-stormwater discharges for pollutants;
4. Background or baseline monitoring or analysis; and
5. Monitoring of receiving waters or sediments that may be affected by pollutant discharges by the discharger (or by a group of dischargers including the discharger).

The authorized enforcement official may direct the manner in which the results of required testing and monitoring are reported, and may determine when required sampling, testing or monitoring may be discontinued.

G. Mitigation. All illegal discharges must be mitigated within a reasonable period of time to correct or compensate for all damage to the environment caused by the illegal discharge. The authorized enforcement official shall determine whether mitigation measures proposed or completed by the discharger meet this standard. The authorized enforcement official shall require the discharger to submit a mitigation plan and schedule by a specified date prior to taking action, and to submit a summary of completed mitigation by a specified date. Notwithstanding the granting of any period of time to the discharger to correct the damage, the

discharger shall remain liable for some or all of any fines or penalties imposed pursuant to this chapter, or by the RWQCB. (Ord. 369 § 1, 2008)

18.08.170 Erosion control required.

A. Plans for an erosion control system shall be prepared and submitted for the review and approval of the city engineer as a part of any application for a construction permit. The erosion control system shall comply with the requirements of the latest national pollutant discharge elimination system permit, Chapters 8.48 and this chapter to satisfy the requirements for erosion control and eliminate the discharge of sediment and pollutants. The erosion control plan shall include, but not be limited to, the following information:

1. Name, address, and a twenty-four hour phone number of the owner or responsible party, and the person or contractor responsible for installing and maintaining the erosion control system and performing emergency erosion control work;

2. The name, address and signature of the civil engineer or person who prepared the plan;

3. All desilting basins, debris basins, silt traps, and other desilting, velocity retarding and protection facilities necessary to adequately protect the site and downstream properties from erosion and its effects, preserve natural hydrologic features, and preserve riparian buffers and corridors;

4. The streets, easements, drains, and other improvements;

5. The location and placement of gravel bags, diverters, check dams, slope planting, drains, and other erosion controlling devices and measures;

6. Access routes to all such erosion control facilities and how access shall be maintained during inclement weather.

B. Erosion control system standards shall be as follows:

1. The faces of cut-and-fill slopes and the project site shall be prepared and maintained to control against erosion. Where cut slopes are not subject to erosion due to the erosion-resistant character of the materials, such protection may be omitted upon approval of the city engineer.

2. Where necessary, temporary and/or permanent erosion control devices such as desilting basins, check dams, cribbing, riprap, or other devices or methods as approved by the city engineer, shall be employed to control erosion, prevent discharge of sediment, and provide safety.

3. Temporary desilting basins constructed of compacted earth shall be compacted to a relative compaction of ninety percent of maximum density. A gravel bag or plastic spillway must be installed for overflow, as designed by the engineer of work, to avoid failure of the earthen dam. A soils engineering report prepared by the soils engineer, including the type of field-testing performed, location and results of testing shall be submitted to the city engineer for approval upon completion of the desilting basins.

4. Desilting facilities shall be provided at drainage outlets from the graded site, and shall be designed to provide a desilting capacity capable of containing the anticipated runoff for a period of time adequate to allow reasonable settlement of suspended particles.

5. Desilting basins shall be constructed around the perimeter of projects, whenever feasible, and shall provide improved maintenance access from paved roads during wet weather. Grading cost estimates must include maintenance and ultimate removal costs for temporary desilting basins.

6. The erosion control provisions shall take into account drainage patterns during the current and future phases of grading.

7. All removable protective devices shown shall be in place at the end of each working day when there is a fifty percent chance of rain within a forty-eight hour period. If the developer does not provide the required installation or maintenance of erosion control structures within two hours of notification at the twenty-four hour number on the plans, the city engineer may order city crews to do the work or may issue contracts for such work and charge the cost of this work along with reasonable overhead charges to the cash deposits or other instruments implemented for this work without further notification to the owner. No additional work on the project except erosion control work may be performed until the full amount drawn from the deposit is restored by the developer.

8. At any time of year, an inactive site shall be fully protected from erosion and discharges of sediment. Flat areas with less than five percent grade shall be fully covered unless sediment control is provided through desiltation basins at all project discharge points. A site is considered inactive if construction activities have ceased for a period of ten or more consecutive days.

C. No grading work shall be allowed between October 1st and the following April 30th on any site when the city engineer determines that erosion, mudflow or sediment of silt discharge may adversely affect downstream properties, drainage courses, storm drains, streets, easements, or public or private facilities or improvements unless an approved erosion control system has been implemented on the site. If the city determines that it is necessary for the city to cause erosion control measures to be installed or cleanup to be done, the developer shall pay all of the city's direct and indirect costs including extra inspection, supervision, and reasonable overhead charges. (Ord. 371 § 1, 2008)

18.08.180 BMP maintenance.

All BMPs for erosion prevention and sediment control shall be functional at all time. Prior to the rainy season and after each major storm, all source control and structural treatment BMPs shall be inspected to assure the functionality. BMP maintenance shall be conducted throughout the life of the project. (Ord. 371 § 1, 2008)

18.08.560 Responsibility of permittee.

It shall be the responsibility of the permittee to know the conditions and/or restrictions placed on the grading permit and as outlined in applicable sections of this chapter, and as continued on the approved report (s) and to insure that all contractors, subcontractors, employees, agents and consultants are also knowledgeable of the same, and insure that they carry out the proposed work in accordance with the approved plans and specifications and with the requirements of the permit and this chapter. The permittee shall also be responsible to maintain in an obvious and accessible location on the site, a copy of the permit and grading plans bearing the approval of the city engineer. (Ord. 371 § 1, 2008)

Meeting Minutes/Phone Record

CITY OF LEMON GROVE
Engineering Department
3232 Main Street
Lemon Grove, CA 91945
619-825-3811

Date: 12/11/14 5:00 P.M. | Project: Valencia

☐ Meeting ☐ Phone ☒ Site Visit

Attendees: Leon + Gary

Notes: Site inspection to review recommended "Construction BMP Recommendations" from 12/9/14 inspection (attached).

(1) No erosion control provided.
(2) Insufficient / Improperly installed check dams.
(3) Repair + stabilization of gullies not completed.
(4) Not completed.
(5) Completed.
(6) Not visible.
(7) Mostly complete.
(8) N/A

Page 1 / 1 Initials LE Hours: 1.0

Get Local Forecast For:
Enter location ... GO
Search Help

XML RSS Feeds

Current Hazards
Watches / Warnings
Outlooks
Submit Report
Current Conditions
Observations
Radar
Satellite
Precipitation
Mapped Weather
Other Hazards
Forecasts
Forecast Discussion
Local Area
Activity Planner
Aviation Weather
Fire Weather
Marine Weather
Severe Weather
Hurricane Center
User Defined Area
Fastlinks
Hydrology
Rivers and Lakes
Forecasts / Obs
Climate
Local
National
Drought
More...
Climate portal
Weather Safety
Preparedness
Weather Radio
SkyWarn™
StormReady
TsunamiReady
Additional Info
Items of Interest
Other Useful Links
Education Resources
COOP Observer

Warnings and/or Advisories In Effect for this Point:

Flash Flood Watch
Wind Advisory

For warnings and/or advisories in effect for adjacent areas to this point, see http://www.wrh.noaa.gov/sgx

Change Table Font Size Increase Decrease

Forecast For Lat/Lon: 32.7370/-117.0200 (Elev. 492 ft)
Lemon Grove CA

Forecast Created at: 6pm PST Dec 11, 2014

Custom Weather Forecast Table

	Thu Dec 11				Fri Dec 12				Sat Dec 13				Sun Dec 14				Mon Dec 15				Tue Dec 16				
Weather			Chance Rain		Slight Chance TStorms and Rain	Rain Showers and TStorms	Likely Rain Showers and TStorms	Likely Rain Showers	Chance Rain Showers								Chance Rain		Likely Rain						C
Daily-Temp	High 67 Low 53				High 63 Low 58				High 63 Low 51				High 65 Low 48				High 64 Low 50				High 64 Low 52				
Chance of Precip	0%	0%	5%	45%	100%	90%	65%	75%	30%	15%	5%	5%	5%	5%	5%	5%	5%	5%	40%	40%	55%	55%	60%	60%	40
Precip	0.00"	0.00"	0.00"	0.01"	0.57"	0.29"	0.06"	0.12"	0.00"	0.00"	0.00"	0.00"	0.00"	0.00"											
12-hr Snow Total	0"		0"		0"		0"		0"																
FRET	0.06"				0.06"				0.05"				0.06"				0.07"				0.07"				
6-Hour	4am	10am	4pm	10pm	4am	10am	4pm	10pm	4am	10am	4pm	10pm	4am	10am	4pm	10pm	4am	10am	4pm	10pm	4am	10am	4pm	10pm	4a
Temp	53	62	65	60	58	61	60	54	52	59	59	52	49	59	61	54	51	59	61	55	53	60	61	55	5
Cloudiness	86%	49%	75%	100%	100%	91%	84%	75%	69%	51%	30%	37%	31%	21%	30%	30%	41%	41%	62%	62%	90%	90%	87%	87%	71
Dewpoint	52	53	54	53	52	54	52	50	49	48	46	46	43	44	44	48	44	43	45	49	47	51	49	51	4
Relative Humdity	94%	73%	67%	78%	79%	77%	73%	88%	89%	69%	61%	81%	80%	57%	52%	81%	79%	57%	54%	81%	82%	72%	63%	88%	89
Wind	S 2	S 7	S 8	S 10	SE 15	W 6	SW 6	W 6	E 2	W 2	NW 5	E 3	E 3	N 1	W 5	E 5	E 6	S 7	SW 7	SE 7	SE 8	S 9	S 7	S 6	S 1
Snow Level (ft)			9317	9161	7608	6313	5478	5212	5704										6701	5923	5850	5993	5805	5704	56

Forecast Weather Table Interface

Select Weather Format	Enter a Location or Click on Map Below
O Custom Weather Table O XML O Point Forecast Page O Point Forecast Matrix O Hourly Tabular Forecast O Hourly Weather Graph Interval in Hours: O 1 O 3 O 6 Duration in Days: O 1 O 2 O 3 O 4 O 5 O 6 O 7	Search by address; city,state; latitude/longitude... Go

CITY OF LEMON GROVE
3232 Main Street, Lemon Grove, CA 91945

NPDES STORMWATER PROGRAM
CONSTRUCTION STORMWATER COMPLIANCE INSPECTION FORM

Inspector Name /Signature/Date/Time: TAD NAKATANI / ~~TAD~~ / 12/11/14 9:00AM

Inspection: ☐ Permit-Required Inspection ☒ Follow-up Inspection ☐ Other (Explain)____

Construction Project Priority: ☐ High ☒ Medium ☐ Low

GENERAL INFORMATION

Grading or Building Permit #: Gr-1692

Project Name & Type: VALENCIA SUBDIVISION

Project Location & Address: SAN ALTOS PLACE

Contractor's Name & Telephone #: ANDERSON DEVELOPMENT (949) 275-6739

Property Owner & Telephone #: SAN ALTOS LLC

Is this Project Greater than an Acre? ☒ Yes ☐ No ☐ N/A

If yes: Provide Record of Waste Discharge Identification Number (WDID#): 937C369143

Does this Project have an NOI/SWPPP Available? ☒ Yes ☐ No ☐ N/A

Is Weather Triggered Action Plan Completed? ☐ Yes ☐ No ☒ N/A

Is Advanced Treatment Implemented Appropriately? ☐ Yes ☐ No ☒ N/A

Is More than 17 Acres of Cleared or Graded Areas Left Exposed at Any Given Time? ☐ Yes ☒ No ☐ N/A

Is 125% of Materials to Install Standby BMPs Available? ☐ Yes ☒ No ☐ N/A

Are Routine Self-Inspections Being Conducted by Developer/Owner? ☐ Yes ☐ No ☐ N/A

Project Site is in What Sub-Watershed: ☒ Chollas Creek 908.22 ☐ Sweetwater River 909.12

Nearest Conveyances or Water Bodies: _____

BMP	Yes	No	N/A	Description/Explanation	Effective Yes/No
Soil Stabilization and Erosion Prevention					
Preservation of existing vegetation?			X		
Physical Stabilization: Hydraulic Mulch, Hydroseeding, Soil Binders, Straw Mulch	X			Gullies & unstabilized pads still not addressed	No
Geotextiles, Plastic Covers, Erosion Prevention Blankets, Wood Mulching	X			some plastic sheets added but not yet sufficient	No
Site Drainage: Outlet Protection/Slope Drain		X			
Inlet/Outlet Protection	X			See inlet protection comment below	No
Sediment Control/Containment					
Perimeter Protection: Silt Fencing, Gravel Bags, Fiber Rolls	X			Additional fiber rolls not placed on slopes yet	No
Storm Drain inlet protection: Sediment Trap, De-silting Basin, Gravel Bag Barrier	X			Per discussion w/ contractor, they still need to add gravel bag inlet protection	No

BMP	Yes	No	N/A	Description/Explanation	Effective Yes/No
Tracking Controls: Stabilized Entrance/Exit Road Stabilization, Tire Wash, Street Sweeping	X			NE entrance still not stabilized but not currently in use	No
Materials and Equipment Management					
Are materials and wastes stored in a manner that minimizes or eliminates the potential to discharge these materials to the storm drain system, is secondary containment used?	X				Yes
Are material stockpiles protected: covered, contained and located away from non-storm water discharges?	X			still need to protect all stockpiles	No
Are heavy equipment and vehicles parked in designated areas with permeable surface?	X				Yes
Are appropriate spill response and containment measures kept on the site?	X				Yes
Are wastes managed and stored properly (Solid, liquid, sanitary, concrete, hazardous)	X				Yes
Are concrete washouts properly installed, maintained with no evidence of discharges.	X				Yes
Is timely service and removal provided to prevent waste containers and sanitary facilities from overflowing?	X				Yes
Non-Storm Water Management					
Is the site free of evidence of illegal connections and/or illicit discharges?	X				YES
Discharge Locations					
Are the discharge locations free of significant erosion or sediment transport?		X		still need to clean sediment on Akins	NO
Other					
Are there any other potential storm water pollution issues/concerns?	X			Roadway stabilization still needed	No
Was there any employee or subcontractor training on stormwater BMPs?			X		

VIOLATIONS

- ☐ No violations noted at time of inspection/investigation
- ☒ No violations; however, recommended corrective actions required
  - ☒ Inspection Form as Correct Work Notice ☐ Correct Work Notice Issued on: _____
- ☐ Violation: Illegal Discharge/Illegal Connection/Improper BMPs Implementation
  - ☐ Stop Work Notice Issued on: _____

RECOMMENDED CORRECTIVE ACTION

FLOW ALONG SOUTHERN EDGE OF SITE HAS BEEN REDIRECTED AWAY FROM THE CORNER. ALL OTHER CORRECTIVE ACTIONS FROM THE 12/9/14 INSPECTION HAVE NOT YET BEEN ADDRESSED. REFER TO THAT INSPECTION FOR FULL DESCRIPTION OF CORRECTIVE ACTIONS.

CITY OF LEMON GROVE
3232 Main Street, Lemon Grove, CA 91945

NPDES STORMWATER PROGRAM
CONSTRUCTION STORMWATER COMPLIANCE INSPECTION FORM

Inspector Name /Signature/Date/Time: TAD NAKATANI 12/9/14 1:00 pm

Inspection: ☒ Permit-Required Inspection ☐ Follow-up Inspection ☐ Other (Explain)____

Construction Project Priority: ☒ High ☒ Medium ☐ Low

GENERAL INFORMATION

Grading or Building Permit #: Gr 1692

Project Name & Type: VALENCIA SUBDIVISION

Project Location & Address: SAN ALTOS PLACE

Contractor's Name & Telephone #: ANDERSON DEVELOPMENT (949) 275-6739

Property Owner & Telephone #: SAN ALTOS LLC

Is this Project Greater than an Acre? ☒ Yes ☐ No ☐ N/A

If yes: Provide Record of Waste Discharge Identification Number (WDID#): 937C369143

Does this Project have an NOI/SWPPP Available? ☒ Yes ☐ No ☐ N/A

Is Weather Triggered Action Plan Completed? ☐ Yes ☐ No ☒ N/A

Is Advanced Treatment Implemented Appropriately? ☐ Yes ☐ No ☒ N/A

Is More than 17 Acres of Cleared or Graded Areas Left Exposed at Any Given Time? ☐ Yes ☐ No ☐ N/A

Is 125% of Materials to Install Standby BMPs Available? ☐ Yes ☒ No ☐ N/A

Are Routine Self-Inspections Being Conducted by Developer/Owner? ☐ Yes ☐ No ☐ N/A

Project Site is in What Sub-Watershed: ☒ Chollas Creek 908.22 ☐ Sweetwater River 909.12

Nearest Conveyances or Water Bodies: _____

BMP	Yes	No	N/A	Description/Explanation	Effective Yes/No
Soil Stabilization and Erosion Prevention					
Preservation of existing vegetation?			X		
Physical Stabilization: Hydraulic Mulch, Hydroseeding, Soil Binders, Straw Mulch	X			Gullies through edges of hydroseeding pics. Some pads not seeded, northern most ending	No
Geotextiles, Plastic Covers, Erosion Prevention Blankets, Wood Mulching		X			
Site Drainage: Outlet Protection/Slope Drain		X			
Inlet/Outlet Protection		X			
Sediment Control/Containment					
Perimeter Protection: Silt Fencing, Gravel Bags, Fiber Rolls	X			Additional fiber rolls needed on western slope	No
Storm Drain inlet protection: Sediment Trap, De-silting Basin, Gravel Bag Barrier		X			

BMP	Yes	No	N/A	Description/Explanation	Effective Yes/No
Tracking Controls: Stabilized Entrance/Exit Road Stabilization, Tire Wash, Street Sweeping	X			NE entrance lacks stabilization	No
Materials and Equipment Management					
Are materials and wastes stored in a manner that minimizes or eliminates the potential to discharge these materials to the storm drain system, is secondary containment used?	X				Yes
Are material stockpiles protected: covered, contained and located away from non-storm water discharges?	X			several unprotected stockpiles	No
Are heavy equipment and vehicles parked in designated areas with permeable surface?	X				Yes
Are appropriate spill response and containment measures kept on the site?	X				Yes
Are wastes managed and stored properly (Solid, liquid, sanitary, concrete, hazardous)	X				Yes
Are concrete washouts properly installed, maintained with no evidence of discharges.	X				Yes
Is timely service and removal provided to prevent waste containers and sanitary facilities from overflowing?	X				Yes
Non-Storm Water Management					
Is the site free of evidence of illegal connections and/or illicit discharges?	X				Yes
Discharge Locations					
Are the discharge locations free of significant erosion or sediment transport?		X		Large amount of sediment on roadway SE of site	No
Other					
Are there any other potential storm water pollution issues/concerns?	X			Roadways within project are unstabilized and show signs of erosion	No
Was there any employee or subcontractor training on stormwater BMPs?			X		

VIOLATIONS

- ☐ No violations noted at time of inspection/investigation
- ☒ No violations; however, recommended corrective actions required
  - ☒ Inspection Form as Correct Work Notice ☐ Correct Work Notice Issued on: _____
- ☐ Violation: Illegal Discharge/Illegal Connection/Improper BMPs Implementation
  - ☐ Stop Work Notice Issued on: _____

RECOMMENDED CORRECTIVE ACTION

- Add erosion controls to all disturbed areas inactive for 14 days, including roadways not currently in use.
- Cover & protect stockpiles
- Repair/protect gullies that have formed on slopes
- Redirect flow near southeast corner so it does not flow toward damaged wall
- Sweep road outside of construction entrance
- Install check dams of stabilization on roadways prior to rain

Construction BMP Recommendations

Site: VALENCIA SUBDIVISION Date: 12/9/14

Recommendations:

① • Add erosion control to road segment (eg northern corner) that are not in use. Can be hydroseeded or stabilized with gravel.

② • For roads that are in use, add check dams prior to rain. Ensure proper installation to prevent rills from forming underneath BMP if using fiber rolls

③ • Repair & stabilize gullies in slopes on edges of pads. May consider using erosion control blankets.

④ • A couple pads on western side do not appear hydroseeded. Add hydroseed or other erosion control

(!) • Cover & protect stockpiles. Some stockpiles near entrance are only partially covered. Others to the west are completely uncovered

⑥ • Ensure that enough BMP materials are kept on site. Not enough fiber rolls were on site

⑦ • Redirect flow along the southern side of site. It currently is causing erosion along the road and directs flow to a damaged wall. Direct away from wall and break up flow with check dams to prevent erosion

⑧ • Sweep road to remove sediment

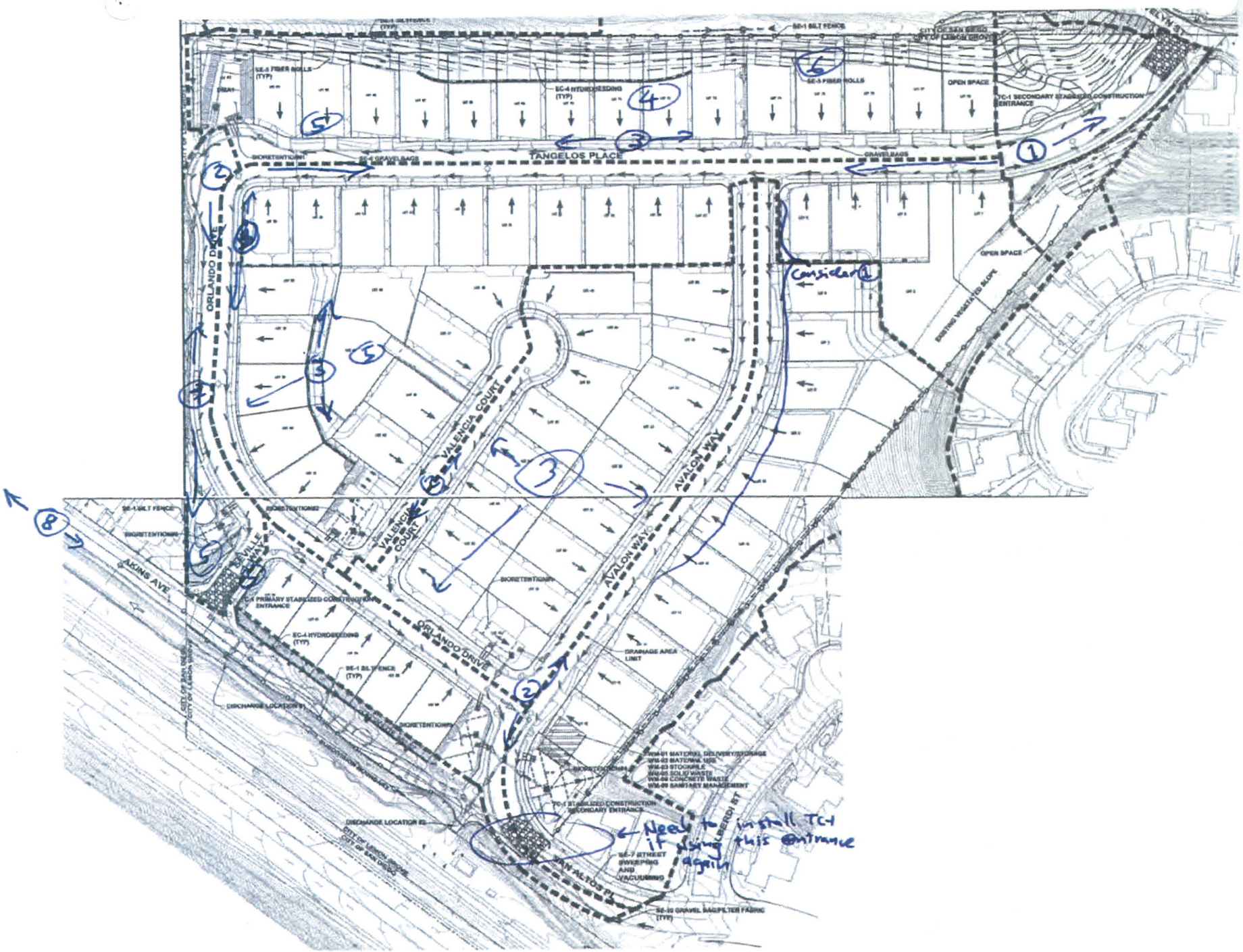

TANGELOS PLACE
ORLANDO DRIVE
VALENCIA COURT
AVALON WAY
OPEN SPACE
EXISTING VEGETATED SLOPE
TC-1 SECONDARY STABILIZED CONSTRUCTION ENTRANCE
SE-5 FIBER ROLLS (TYP)
EC-4 HYDROSEEDING (TYP)
SE-1 SILT FENCE
SE-1 GRAVEL BAGS
BIORETENTION#1
BIORETENTION#2
BIORETENTION#3
TC-4 PRIMARY STABILIZED CONSTRUCTION ENTRANCE
TC-1 STABILIZED CONSTRUCTION SECONDARY ENTRANCE
DISCHARGE LOCATION #1
DISCHARGE LOCATION #2
DRAINAGE AREA LIMIT
SE-7 STREET SWEEPING AND VACUUMING
SE-10 GRAVEL BAG/FILTER FABRIC (TYP)
WM-01 MATERIAL DELIVERY/STORAGE
WM-02 MATERIAL USE
WM-03 STOCKPILE MANAGEMENT
WM-05 SOLID WASTE
WM-08 CONCRETE WASTE
WM-09 SANITARY MANAGEMENT
SAN ALTOS PL
KLEBERG ST
AKINS AVE
SAVILLE WAY
Consider
Need to install TCH if using this entrance again

Exhibit No. 7

CITY OF LEMON GROVE
ADMINISTRATIVE CITATION

A) TYPE OF VIOLATION

Circle One: Warning | 1st Citation $100 | 2nd Citation $200 | 3rd Citation $500 | 4th Citation $1,000

Payment of $ 100 is due no later than 1/12/15 to the City of Lemon Grove.
The City accepts cash, check or credit card.

If the violation is not corrected by the date specified therein and/or payment is not received by the date above, the next level of citation may be issued, other enforcement actions may occur, and penalties may be assessed (25% and interest at the rate of 10% per month). Payment of fine does not excuse or discharge the failure to correct violation identified below.

B) RESPONSIBLE PARTY INFORMATION

Person Cited: Anderson (Last Name) Tim (First Name)

Circle One: Property Owner Tenant Business Owner Other Project Manager

Mailing Address: 3194-C2 Airport Loop Drive, Costa Mesa, CA 92626

Business Name (if applicable): BEA Development cc: Phil Downey, Code Enforcement File

C) VIOLATION(S) INFORMATION

Date (Violation Observed): 12/12/14 Time (Violation Observed): 8:60 AM. 11:12 p.m.

Location of Violation: San Ator / Akins (Street Address) (APN)

Violation(s) Observed (Code Section and Description):

B.48.040 A. Discharge of non-stormwater prohibited.

See Attached Memo

D) CORRECTION(S) REQUIRED (with date to complete corrections)

Install BMP's per Recommendations & Permit > [redacted]* ASAP

Maintain adequate supplies of BMP's

& continuous installation of BMP's until compliance is Reached.

daily

** additional discharges subject to citation.

E) SERVICING CITATION INFORMATION

Enforcing Officer Name	Phone No.	Signature	Date
Leon Finkle	619-825-3825		12/15/14

Person Cited – Signature Acknowledging Receipt _____ (Date)

Citation Served (circle one): In Person By Mail/Email Posted on Property

This citation may be appealed within thirty (30) days from date of correction identified in Section D. To request an appeal, a Request an Appeal Hearing form (available at City Hall) should be completed and returned to City Hall. In the event a Hardship Waiver is requested, the Request for an Appeal Hearing and Hardship Waiver forms are required within fifteen (15) days from the correction date identified in Section D.

WHITE-ORIGINAL PINK-COPY CITATION CARD-OWNER

8.48.040 Discharge of non-stormwater prohibited.

A. Illegal Discharges. The discharge of pollutants to non-stormwater, directly or indirectly into the stormwater conveyance system or receiving waters, is prohibited, except as exempted in

Section 8.48.050 of this chapter. The discharge of pollutants to stormwater, directly or indirectly into the stormwater conveyance system or receiving

waters, is prohibited, unless the applicable requirements of this chapter have been met.

B. Illegal Connection. The establishment of illegal connections is prohibited. The use of illegal connections is prohibited, even if the connection was established pursuant to a valid city permit and was legal at the time it was constructed.

C. Litter, Dumps, and Stockpiles. Throwing, depositing, leaving, abandoning, maintaining or keeping materials or wastes on public or private lands in a manner and place where they may result in an illegal discharge is prohibited. (Ord. 369 § 1, 2008)

D-MAX Engineering, Inc.
Consultants in Water & Environmental Sciences

Memo

Date: December 12, 2014

To: Malik Tamimi

Cc: Tad Nakatani

From: John Quenzer JQ

Subject: December 12, 2014 Sampling at Valencia Construction Site

Per the City's request, D-MAX collected samples of runoff from the Valencia construction site. Samples were taken at the Akins Avenue and San Altos Place entrance/exit locations to the site (sites Valencia_Akins and Valencia_SanAltos, respectively). A sample of runoff from a residential portion of Lemon Grove flow south/southwest toward the San Altos entrance exit was also taken to assess background conditions (site Background_SanAltos). Because gravel bags were noted along Akins Avenue from the site discharge point down to the nearest storm drain inlet, a sample was also taken downstream of the last set of gravel bags, just before the water entered the inlet (site Akins_Inlet). Figure 1 and photos 1 through 3 show the sampling locations.

Each sample was collected and analyzed for turbidity using a calibrated field meter. Most of the site runoff appears to be discharging via the Akins Avenue discharge point (Valenica_Akins). Note that two different samples were taken from site Valencia_Akins, about an hour apart, to see if runoff characteristics would vary over time. Only a minimal difference in turbidity was observed between the two samples. The sample taken at the inlet along Akins Avenue (Akins_Inlet) had somewhat lower turbidity, likely due to the use of gravel bags along the curb between the site and the inlet, but the turbidity levels were still not substantially lower. Results are summarized in the table below, and photos of the samples in clear containers are presented as photos 4 through 6.

Table 1. Sampling Results

Site	Sample Date	Sample Time	Turbidity (NTU)
Valencia_Akins	12/12/2014	11:05	505
Background_SanAltos	12/12/2014	11:26	18.73
Valencia_SanAltos	12/12/2014	11:27	427
Valencia_Akins	12/12/2014	11:55	513
Akins_Inlet	12/12/2014	11:58	477



Figure 1. Sampling Locations



Photo 1. Site Valencia_Akins

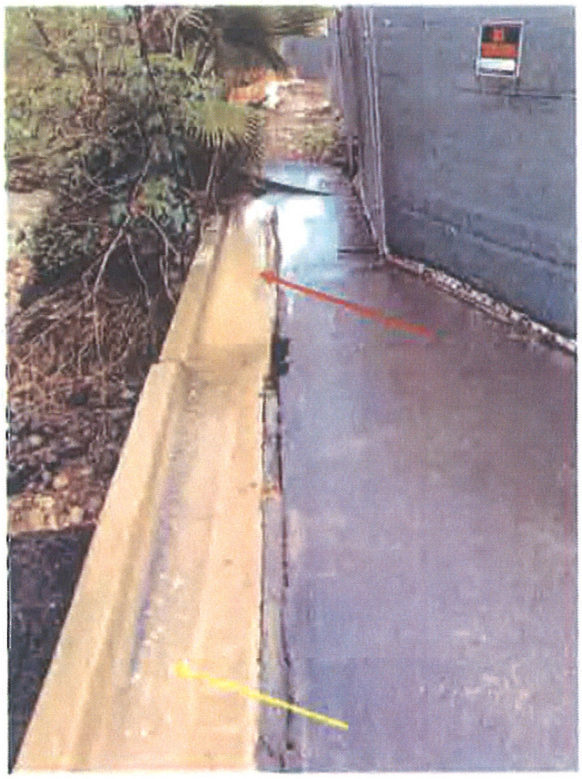


Photo 2. Sites Valencia_SanAltos (red arrow) and Background_SanAltos (yellow arrow)



Photo 3. Site Akins_Inlet



Photo 4. First Sample (11:05) from Site Valencia_Akins



Photo 5. Samples from Sites Background_SanAltos (left) and Valencia_SanAltos (right)



Photo 6. Second Sample from Site Valencia_Akins (11:58, left) and Sample from Site Akins_Inlet (right)

CITY OF LEMON GROVE
3232 Main Street, Lemon Grove, CA 91945

NPDES STORMWATER PROGRAM
CONSTRUCTION STORMWATER COMPLIANCE INSPECTION FORM

Inspector Name /Signature/Date/Time: TAD NAKATANI / [illegible] / 12/11/14 9:00AM

Inspection: ☐ Permit-Required Inspection ☒ Follow-up Inspection ☐ Other (Explain)____

Construction Project Priority: ☐ High ☒ Medium ☐ Low

GENERAL INFORMATION

Grading or Building Permit #: Gr-1692

Project Name & Type: VALENCIA SUBDIVISION

Project Location & Address: SAN ALTOS PLACE

Contractor's Name & Telephone #: ANDERSON DEVELOPMENT (949) 275-6739

Property Owner & Telephone #: SAN ALTOS LLC

Is this Project Greater than an Acre? ☒ Yes ☐ No ☐ N/A

If yes: Provide Record of Waste Discharge Identification Number (WDID#): 937C369143

Does this Project have an NOI/SWPPP Available? ☒ Yes ☐ No ☐ N/A

Is Weather Triggered Action Plan Completed? ☐ Yes ☐ No ☒ N/A

Is Advanced Treatment Implemented Appropriately? ☐ Yes ☐ No ☒ N/A

Is More than 17 Acres of Cleared or Graded Areas Left Exposed at Any Given Time? ☐ Yes ☒ No ☐ N/A

Is 125% of Materials to Install Standby BMPs Available? ☐ Yes ☒ No ☐ N/A

Are Routine Self-Inspections Being Conducted by Developer/Owner? ☐ Yes ☐ No ☐ N/A

Project Site is in What Sub-Watershed: ☒ Chollas Creek 908.22 ☐ Sweetwater River 909.12

Nearest Conveyances or Water Bodies: _____

BMP	Yes	No	N/A	Description/Explanation	Effective Yes/No
Soil Stabilization and Erosion Prevention					
Preservation of existing vegetation?			X		
Physical Stabilization: Hydraulic Mulch, Hydroseeding, Soil Binders, Straw Mulch	X			Gullies & unstabilized pads still not addressed	No
Geotextiles, Plastic Covers, Erosion Prevention Blankets, Wood Mulching	X			some plastic sheets added but not yet sufficient	No
Site Drainage: Outlet Protection/Slope Drain		X			
Inlet/Outlet Protection	X			See inlet protection comment below	No
Sediment Control/Containment					
Perimeter Protection: Silt Fencing, Gravel Bags, Fiber Rolls	X			Additional fiber rolls not placed on slopes yet	No
Storm Drain inlet protection: Sediment Trap, De-silting Basin, Gravel Bag Barrier	X			Per discussion w/ contractor, they still need to add gravel bag inlet protection	No

BMP	Yes	No	N/A	Description/Explanation	Effective Yes/No
Tracking Controls: Stabilized Entrance/Exit Road Stabilization, Tire Wash, Street Sweeping	X			NE entrance still not stabilized but not currently in use	No
Materials and Equipment Management					
Are materials and wastes stored in a manner that minimizes or eliminates the potential to discharge these materials to the storm drain system, is secondary containment used?	X				Yes
Are material stockpiles protected: covered, contained and located away from non-storm water discharges?	X			still need to protect all stockpiles	No
Are heavy equipment and vehicles parked in designated areas with permeable surface?	X				Yes
Are appropriate spill response and containment measures kept on the site?	X				Yes
Are wastes managed and stored properly (Solid, liquid, sanitary, concrete, hazardous)	X				Yes
Are concrete washouts properly installed, maintained with no evidence of discharges.	X				Yes
Is timely service and removal provided to prevent waste containers and sanitary facilities from overflowing?	X				Yes
Non-Storm Water Management					
Is the site free of evidence of illegal connections and/or illicit discharges?	X				YES
Discharge Locations					
Are the discharge locations free of significant erosion or sediment transport?		X		still need to clean sediment on Akins	NO
Other					
Are there any other potential storm water pollution issues/concerns?	X			Roadway stabilization still needed	No
Was there any employee or subcontractor training on stormwater BMPs?			X		

VIOLATIONS

- ☐ No violations noted at time of inspection/investigation
- ☒ No violations; however, recommended corrective actions required
  - ☒ Inspection Form as Correct Work Notice ☐ Correct Work Notice Issued on: _____
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RECOMMENDED CORRECTIVE ACTION

FLOW ALONG SOUTHERN EDGE OF SITE HAS BEEN REDIRECTED AWAY FROM THE CORNER. ALL OTHER CORRECTIVE ACTIONS FROM THE 12/9/14 INSPECTION HAVE NOT YET BEEN ADDRESSED. REFER TO THAT INSPECTION FOR FULL DESCRIPTION OF CORRECTIVE ACTIONS.

CITY OF LEMON GROVE
3232 Main Street, Lemon Grove, CA 91945

NPDES STORMWATER PROGRAM
CONSTRUCTION STORMWATER COMPLIANCE INSPECTION FORM

Inspector Name /Signature/Date/Time: TAD NAKATANI / [signature] 12/9/14 1:00 pm

Inspection: ☒ Permit-Required Inspection ☐ Follow-up Inspection ☐ Other (Explain)____

Construction Project Priority: ☒ High ☒ Medium ☐ Low

GENERAL INFORMATION

Grading or Building Permit #: Gr-1692

Project Name & Type: VALENCIA SUBDIVISION

Project Location & Address: SAN ALTOS PLACE

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Does this Project have an NOI/SWPPP Available? ☒ Yes ☐ No ☐ N/A

Is Weather Triggered Action Plan Completed? ☐ Yes ☐ No ☒ N/A

Is Advanced Treatment Implemented Appropriately? ☐ Yes ☐ No ☒ N/A

Is More than 17 Acres of Cleared or Graded Areas Left Exposed at Any Given Time? ☐ Yes ☐ No ☐ N/A

Is 125% of Materials to Install Standby BMPs Available? ☐ Yes ☒ No ☐ N/A

Are Routine Self-Inspections Being Conducted by Developer/Owner? ☐ Yes ☐ No ☐ N/A

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Preservation of existing vegetation?			X		
Physical Stabilization: Hydraulic Mulch, Hydroseeding, Soil Binders, Straw Mulch	X			Gullies through edges of hydroseeded pads. Some pads not seeded/northern road eroding	No
Geotextiles, Plastic Covers, Erosion Prevention Blankets, Wood Mulching		X			
Site Drainage: Outlet Protection/Slope Drain		X			
Inlet/Outlet Protection		X			
Sediment Control/Containment					
Perimeter Protection: Silt Fencing, Gravel Bags, Fiber Rolls	X			Additional fiber rolls needed on western slope	No
Storm Drain inlet protection: Sediment Trap, De-silting Basin, Gravel Bag Barrier		X			

BMP	Yes	No	N/A	Description/Explanation	Effective Yes/No
Tracking Controls: Stabilized Entrance/Exit Road Stabilization, Tire Wash, Street Sweeping	X			NE entrance lacks stabilization	No
Materials and Equipment Management					
Are materials and wastes stored in a manner that minimizes or eliminates the potential to discharge these materials to the storm drain system, is secondary containment used?	X				Yes
Are material stockpiles protected: covered, contained and located away from non-storm water discharges?	X			Several unprotected stockpiles	No
Are heavy equipment and vehicles parked in designated areas with permeable surface?	X				Yes
Are appropriate spill response and containment measures kept on the site?	X				Yes
Are wastes managed and stored properly (Solid, liquid, sanitary, concrete, hazardous)	X				Yes
Are concrete washouts properly installed, maintained with no evidence of discharges.	X				Yes
Is timely service and removal provided to prevent waste containers and sanitary facilities from overflowing?	X				Yes
Non-Storm Water Management					
Is the site free of evidence of illegal connections and/or illicit discharges?	X				Yes
Discharge Locations					
Are the discharge locations free of significant erosion or sediment transport?		X		Large amount of sediment on roadway SE of site	No
Other					
Are there any other potential storm water pollution issues/concerns?	X			Roadways within project are unstabilized and show signs of erosion	No
Was there any employee or subcontractor training on stormwater BMPs?			X		

VIOLATIONS

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RECOMMENDED CORRECTIVE ACTION

- Add erosion controls to all disturbed areas inactive for 10 days, including roadways not currently in use.
- Cover & protect stockpiles
- Repair/protect gullies that have formed on slopes
- Redirect flow near southeast corner so it does not flow toward damaged wall
- Sweep road outside of construction entrance
- Install check dams of stabilization on roadways prior to rain

Construction BMP Recommendations

Site: VALENCIA SUBDIVISION Date: 12/9/14

Recommendations:

① • Add erosion control to road segment (eg northern corner) that are not in use. Can be hydroseeded or stabilized with gravel.

② • For roads that are in use, add check dams prior to rain. Ensure proper installation to prevent rills from forming underneath BMP if using fiber rolls

③ • Repair / Stabilize gullies in slopes on edges of pads. May consider using erosion control blankets

④ • A couple pads on western side do not appear hydroseeded. Add hydroseed or other erosion control

⑤ • Cover & protect stockpiles. Some stockpiles near entrance are only partially covered. Others to the west are completely uncovered

⑥ • Ensure that enough BMP materials are kept on site. Not enough fiber rolls were on site

⑦ • Redirect flow along the southern side of site. It currently is causing erosion along the road and directs flow to a damaged wall. Direct away from wall and break up flow with check dams to prevent erosion

⑧ • Sweep road to remove sediment

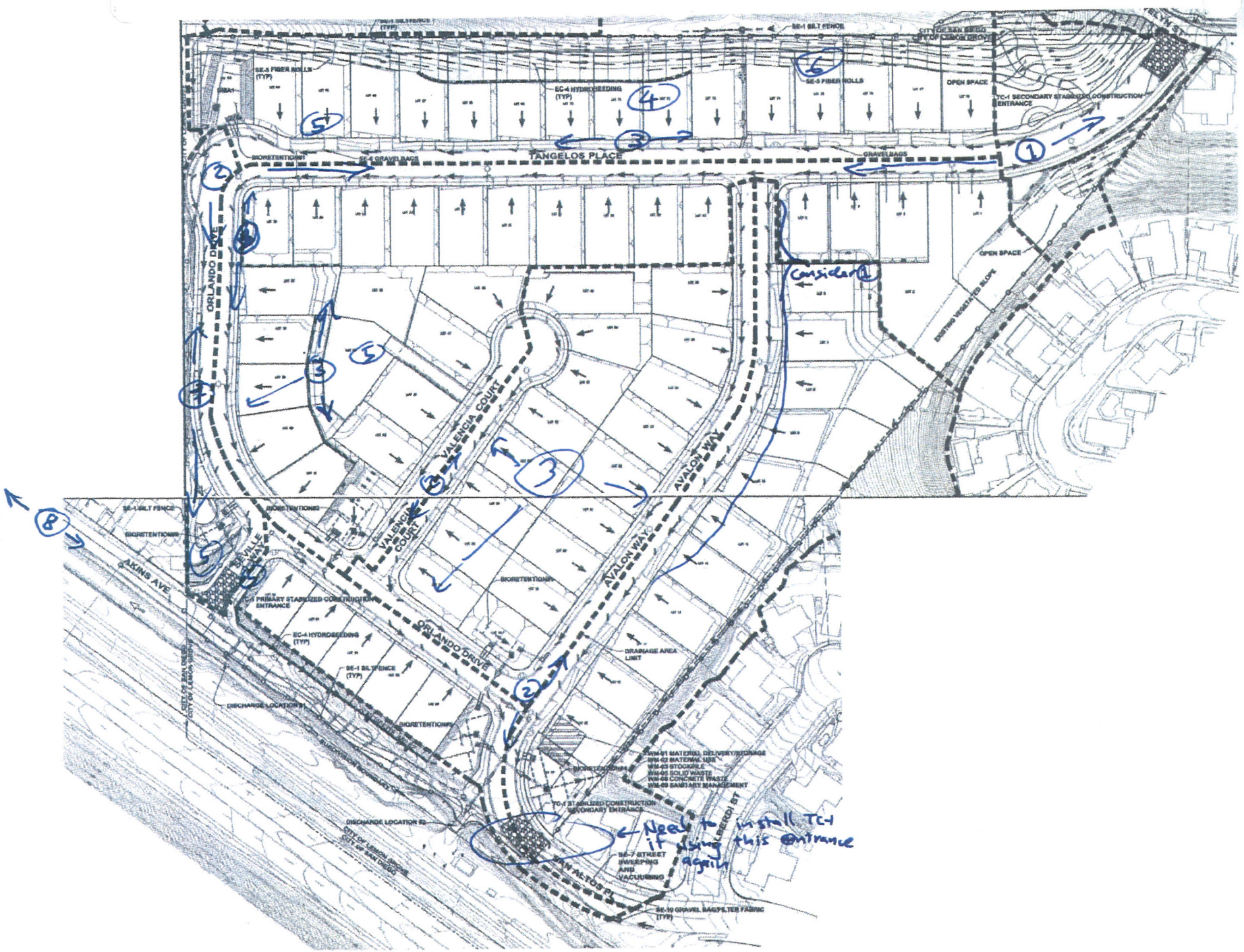

TANGELOS PLACE
ORLANDO DRIVE
VALENCIA COURT
AVALON WAY
SEVILLE WAY
AKINS AVE
OPEN SPACE
EXISTING VEGETATED SLOPE
BIORETENTION
GRAVELBAGS
SE-1 SILT FENCE
SE-5 FIBER ROLLS
EC-4 HYDROSEEDING (TYP)
TC-1 SECONDARY STABILIZED CONSTRUCTION ENTRANCE
TC-1 PRIMARY STABILIZED CONSTRUCTION ENTRANCE
DRAINAGE AREA LIMIT
DISCHARGE LOCATION #1
DISCHARGE LOCATION #2
SE-7 STREET SWEEPING AND VACUUMING
SE-10 GRAVEL BAGS/FILTER FABRIC (TYP)
WM-01 MATERIAL DELIVERY/STORAGE
WM-03 STOCKPILE
WM-05 SOLID WASTE
WM-06 CONCRETE WASTE
WM-09 SANITARY MANAGEMENT
Consider
Need to install TC-1 if using this entrance again

Exhibit No. 8

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD - SAN DIEGO REGION
WATERSHED PROTECTION PROGRAM

FACILITY INSPECTION REPORT

FACILITY: Valencia **INSPECTION DATE/TIME:** 12/15/2014; 10:00 am
WDID/FILE NO.: 937C369143

REPRESENTATIVE(S) PRESENT DURING INSPECTION:

NAME:	Wayne Chiu	AFFILIATION:	San Diego Water Board
NAME:	Ben Anderson	AFFILIATION:	BCA Development, Inc.
NAME:	Tim Anderson	AFFILIATION:	BCA Development, Inc.
NAME:	Donald Sturgeon	AFFILIATION:	Whitson CM
NAME:	Leon Firsht	AFFILIATION:	City of Lemon Grove
NAME:	Gary Harper	AFFILIATION:	City of Lemon Grove

San Altos Lemon Grove LLC
NAME OF OWNER, AGENCY OR PARTY RESPONSIBLE FOR DISCHARGE

BCA Development, Inc.
FACILITY OR DEVELOPER NAME (if different from owner)

5780 Fleet Avenue
Carlsbad, CA 92008
OWNER MAILING ADDRESS

1350 San Altos Place
Lemon Grove, CA 91945
FACILITY ADDRESS

Ben Anderson, 714-966-1544
OWNER CONTACT NAME AND PHONE #

Same
FACILITY OR DEVELOPER CONTACT NAME AND PHONE #

APPLICABLE WATER QUALITY LICENSING REQUIREMENTS:

- ☐ MS4 URBAN RUNOFF REQUIREMENTS
- ☒ CONSTRUCTION GENERAL PERMIT
- ☐ CALTRANS GENERAL PERMIT
- ☐ INDUSTRIAL GENERAL PERMIT
- ☐ GENERAL OR INDIVIDUAL WASTE DISCHARGE REQUIREMENTS OR NPDES
- ☐ GENERAL OR INDIVIDUAL WAIVER OF WASTE DISCHARGE REQUIREMENTS
- ☐ SECTION 401 WATER QUALITY CERTIFICATION
- ☐ CWC SECTION 13264

INSPECTION TYPE (Check One):

- ☐ "A" TYPE COMPLIANCE--COMPREHENSIVE INSPECTION IN WHICH SAMPLES ARE TAKEN. (EPA TYPE S)
- ☐ "B" TYPE COMPLIANCE--A ROUTINE NONSAMPLING INSPECTION. (EPA TYPE C)
- ☐ NONCOMPLIANCE FOLLOW-UP--INSPECTION MADE TO VERIFY CORRECTION OF A PREVIOUSLY IDENTIFIED VIOLATION.
- ☐ ENFORCEMENT FOLLOW-UP--INSPECTION MADE TO VERIFY THAT CONDITIONS OF AN ENFORCEMENT ACTION ARE BEING MET.
- ☒ COMPLAINT--INSPECTION MADE IN RESPONSE TO A COMPLAINT.
- ☐ PRE-REQUIREMENT--INSPECTION MADE TO GATHER INFO. RELATIVE TO PREPARING, MODIFYING, OR RESCINDING REQUIREMENTS.
- ☐ NO EXPOSURE CERTIFICATION (NEC) - VERIFICATION THAT THERE IS NO EXPOSURE OF INDUSTRIAL ACTIVITIES TO STORM WATER.
- ☐ NOTICE OF TERMINATION REQUEST FOR INDUSTRIAL FACILITIES OR CONSTRUCTION SITES - VERIFICATION THAT THE FACILITY OR CONSTRUCTION SITE IS NOT SUBJECT TO PERMIT REQUIREMENTS.
- ☐ COMPLIANCE ASSISTANCE INSPECTION - OUTREACH INSPECTION DUE TO DISCHARGER'S REQUEST FOR COMPLIANCE ASSISTANCE.

INSPECTION FINDINGS:

Y WERE VIOLATIONS NOTED DURING THIS INSPECTION? (YES/NO/PENDING SAMPLE RESULTS)

I. COMPLIANCE HISTORY / PURPOSE OF INSPECTION

On December 2, 2014, the City of Lemon Grove (City) issued a Stop Work/Notice of Violation to the Valencia construction site (WDID 9 37C369143) for failing to implement construction storm water best management practices (BMPs) required by local ordinances. The City's inspection report issued with the Stop Work/Notice of Violation noted inadequate implementation of erosion controls, entrance/exit stabilization, and stockpile management and warned the project manager that a "discharge is imminent" without adequate BMPs. The site was required to stop work and implement BMPs to be prepared for a storm event that occurred on December 3 and 4, 2014.

The site failed to implement BMPs before the storm, resulting in unauthorized discharges of sediment and sediment-laden storm water from the site to the City's municipal separate storm sewer system (MS4). The City issued a second Stop Work/Notice of Violation on December 4, 2014 for the illegal discharges to the City's MS4. The City conducted a follow up inspection on December 9, 2014 and noted the same BMP deficiencies identified before the December 3 and 4, 2014 storm event, as well as additional deficiencies in perimeter sediment controls. The inspection report provided recommendations for locations that needed to be addressed and types of BMPs. The site again failed to implement BMPs before a subsequent storm event that occurred on December 11, 2014, again resulting in unauthorized discharges of sediment and sediment-laden storm water from the site to the City's MS4. On December 11, 2014, the City issued an Administrative Citation to the site requiring BMPs to be implemented by December 15, 2014 before monetary penalties would begin. The Stop Work/Notice of Violation issued on December 2 and 4, 2014 and the Administrative Citation issued on December 11, 2014 by the City are attached to the end of this inspection report.

On the morning of December 12, 2014, the City contacted the San Diego Water Board about the unauthorized discharges of sediment and sediment-laden storm water to their MS4 from the Valencia construction site. According to the City's storm water manager, the site owner was claiming the site was in compliance with the requirements of the Statewide Construction General Storm Water Permit, Order No. 2009-0009-DWQ (CGP) and therefore should be considered in compliance with the City's ordinances. The City's storm water manager requested an inspection from the San Diego Water Board to determine whether the construction site was in compliance with the requirements of the CGP.

Wayne Chiu of the San Diego Water Board performed an inspection of the Valencia construction site for compliance with the requirements CGP. According to the Storm Water Multiple Application & Report Tracking System (SMARTS), the site is a Risk Level 2 construction site, disturbing over 18 acres, and owned by San Alto Lemon Grove LLC. The developer of the site is BCA Development, Inc.

The San Diego Water Board inspector met with Mr. Ben Anderson, the contact for the owner and developer of the site, Mr. Tim Anderson, project manager for the developer,

and Mr. Donald Sturgeon, the Qualified Storm Water Pollution Prevention Plan (SWPPP) Practitioner (QSP) performing the weekly inspections. Also present to observe during the inspection were Mr. Leon Firsht and Mr. Gary Harper, City Engineer and Construction Storm Water Inspector for the City of Lemon Grove, respectively. The San Diego Water Board inspector did not review the SWPPP or other records during the inspection.

II. FINDINGS

1. Several stockpiles observed without adequate containment (See Photo 1). Evidence of erosion and sediment transport from the stockpile observed during the inspection. All construction sites are required to contain and securely protect stockpiled waste material from wind and rain at all times unless actively being used.

2. Construction equipment and vehicles observed without appropriate BMPs (e.g. drip pans) to prevent oil, grease, or fuel to leak in to the ground, storm drains, or surface waters (See Photos 2 and 3). All construction sites are required to prevent oil, grease or fuel to leak in to the ground, storm drains, or surface waters, and to place all equipment and vehicles, which are to be fueled, maintained and stored in a designated area fitted with appropriate BMPs.

3. Several areas were observed to be inactive, or could be scheduled to be inactive, without effective soil cover to control potential erosion. Several completed building pads and several inactive slopes (See Photos 4 through 7) lacked any effective soil cover for erosion control. The lack of erosion controls in these areas contributed to unauthorized sediment discharges from the site (See Photos 9 through 11). All construction sites are required to provide effective soil cover for inactive areas (i.e. areas that have been disturbed and not scheduled to be re-disturbed for at least 14 days) and all finished slopes, open space, utility backfill, and completed lots.

4. Active areas were observed to lack appropriate erosion control BMPs (runoff control and soil stabilization) to prevent erosion during storm events (See Photo 8). The project manager and QSP could not describe any erosion control measures that were in place or were ready to be deployed before the December 3 and 4, 2014 and December 11, 2014 storm events. Risk Level 2 construction sites are required to implement appropriate erosion control BMPs (runoff control and soil stabilization) in conjunction with sediment control BMPs for areas under active construction.

5. Several slopes throughout the site were observed to lack linear sediment controls along the toe and grade breaks of exposed slopes (See Photos 4 through 7). Risk Level 2 construction sites are required to apply linear sediment controls along the toe of the slope, face of the slopes, and at the grade breaks of exposed

slopes to comply with sheet flow lengths given in Table 1 of Attachment D to the CGP.

6. Lack of effective perimeter sediment controls observed which resulted in unauthorized sediment discharges from the site (See Photos 9 through 14). All construction sites are required to establish and maintain effective perimeter controls and stabilize all construction entrances and exits to sufficiently control erosion and sediment discharges from the site.

7. Lack of effective run-on and runoff controls observed within and around the site which contributed to sediment discharges from the site (See Photos 4 and 14). All construction sites are required to effectively manage run-on, all runoff within the site and all runoff that discharges off the site.

III. COMMENTS AND RECOMMENDATIONS

Comments

1. There is evidence that good site management "housekeeping" BMPs were not being adequately implemented (See Findings 1 and 2).

2. There is evidence that erosion controls were not adequately implemented for several inactive areas contributing to discharges of sediment from the site (See Finding 3).

3. There is evidence that erosion controls were not adequately implemented for several active areas prior to storm events contributing to discharges of sediment from the site (See Finding 4).

4. There is evidence that linear sediment controls were not adequately implemented for several exposed slopes contributing to slope erosion and discharges of sediment from the site (See Finding 5).

5. There is evidence that perimeter sediment controls, as well as run-on and runoff controls, were not adequately implemented which contributed to discharges of sediment from the site (See Findings 6 and 7).

6. There was evidence observed during the inspection that the site has not implemented BMPs to meet BCT Technology Based Effluent Limitations (TBELs) under Section V.A.2 of the CGP, as required for all construction sites, which resulted in the unauthorized discharges of sediment and sediment-laden water from the site observed or documented on December 4, 11, and 15, 2014 (See Compliance History discussion and Findings 1 through 7).

7. There is evidence that either the QSP was not adequately identifying and recommending implementation of good site management "housekeeping," erosion control, sediment control, and run-on/runoff control BMPs, or the owner/developer was not directing the implementation of the BMPs as recommended by the QSP.

Recommendations

1. Issue a Notice of Violation for discharges of sediment from the site and failure to implement Risk Level 2 requirements of CGP.

2. Refer the site to the Compliance Assurance Unit to determine whether or not issuing formal enforcement action may be appropriate.

IV. SIGNATURE SECTION

Wayne Chiu		12/15/2014
STAFF INSPECTOR	SIGNATURE	INSPECTION DATE
Eric Becker		
REVIEWED BY SUPERVISOR	SIGNATURE	DATE

SMARTS:

Tech Staff Info & Use	
WDID	937C369143
Place ID	SM-828060
Inspection ID	2024185
Violation ID	855345, 855346



Photo 1

Photo 1 shows soil stockpile without adequate containment. Evidence of erosion and sediment transport along that base of the stockpile. Most stockpiles observed during inspection lacked adequate containment.



Photo 2



Photo 3

Photos 2 and 3 show construction equipment and vehicles without appropriate BMPs (e.g. drip pans) to prevent oil, grease, or fuel to leak in to the ground, storm drains, or surface waters. Most vehicles observed during inspection lacked appropriate BMPs.



Photo 4



Photo 5



Photo 6



Photo 7



Photo 8

Photos 4 through 7 show completed building pads and adjacent slopes without any erosion controls and evidence of significant erosion and sediment transport. **Photo 8** shows evidence of erosion and sediment tranport in unpaved road sloping to locations shown in Photos 9 through 11. Sediment from completed lots and slopes in Photos 4 through 7 transported to road in Photo 8 lacking any erosion control measures during storm events, and inadequate runoff controls to reduce and prevent transport of sediment through site.



Photo 9



Photo 10



Photo 11



Photo 12

Photos 9 through 12 show inadequate implementation of perimeter sediment controls and run-on/runoff controls to prevent discharges of sediment from the site. Photo 9 shows evidence of erosion and sediment transport from road shown in Photo 8 to perimeter with inadequately installed perimeter sediment and runoff controls (i.e. fiber roll not properly trenched and staked). Photos 10 shows evidence of sediment transport from the site beneath the inadequately installed perimeter sediment and runoff controls. Photo 11 shows evidence of sediment transport from the site to MS4 channel protected by silt fence and gravel bags. Photo 12 shows sediment that has been discharged into the MS4 channel due to inadequate implementation of erosion, sediment, and runoff controls by the site.



Photo 13



Photo 14

Photos 13 and 14 show lack of effective perimeter sediment controls and run-on/runoff controls. Photo 13 shows evidence of erosion and sediment transport due to lack of perimeter run-on controls. Photo 14 shows evidence of sediment discharged from the site to the MS4 drainage system due to erosion caused by run-on that then ran off the site due to inadequate perimeter sediment controls and runoff controls.

NOTICE

DATE: 12/2/14
PROJECT: VALENCIA
PROJECT #: GR-1692
ADDRESS: SAN AITOS PL

☒ STOP WORK/NOTICE OF VIOLATION

Stop all other work until erosion control/NPDES deficiencies noted below are corrected. Issuance of this Stop Work Notice will notify the Regional Water Quality Control Board regarding your BMP deficiencies. This may subject you to fines of up to $10,000/day.

☐ CORRECT WORK

Correct noted deficiencies within the specified time frame to avoid a Stop Work Notice:

☐ 24 Hours ☐ 72 Hours ☐ 5 Days ☐ Prior to October 1st, And/Or ☐ Before Rain Event

---

THIS PROJECT IS IN CONFLICT WITH THE FOLLOWING:

☐ City of Lemon Grove Grading Ordinance* ☒ City of Lemon Grove JURMP
☐ Other: _____

THE AREAS OF CONFLICT ARE:

☐ Erosion control is not on site ☐ Erosion control is not per the approved plan
☒ Erosion control is inadequate ☐ Failure to maintain erosion/sediment control device
☐ Other _____

THE FOLLOWING DEFICIENCIES ARE NOTED:

☒ Stabilized construction entrance ☐ Runoff from the site ☐ Desilting basin
☐ Perimeter protection at toe of slope ☐ Waste/materials storage
☐ Concrete washout inadequate, not maintained ☐ No secondary containment
☒ Cover stockpiles ☐ No storm drain inlet/outlet protection ☐ Trash/debris not managed
☐ Cover on sloped and/or flat areas that are inactive for more than 10 days
☐ Other _____

***STOP/ CORRECT WORK ADEQUATELY ADDRESSED (DATE/SIGNATURE)_____

CC: ☒ City Engineer
☒ Engineering
☐ Management Analyst
☐ Code Compliance
☐ Building
☐ RWQCB

ISSUED TO: TIM ANDERSON (VIA EMAIL)
DATE/TIME: 12/2/14 3pm
BY: GARY HARPER
TITLE: ENG. INSPECTOR
PHONE: (619) 454-1272

IF YOU HAVE FURTHER QUESTIONS, PLEASE CALL THE CITY OF LEMON GROVE'S DEVELOPMENT SERVICES DEPARTMENT AT (619) 825-3805.

* Having deficiencies in your erosion control is a violation of the City of Lemon Grove's Grading Ordinance. A violation of the City's Grading Ordinance is a misdemeanor. Each separate day or portion thereof on which a violation exists or is allowed to exist shall constitute a separate offense punishable by the provisions of the Ordinance.

CITY OF LEMON GROVE
3232 Main Street, Lemon Grove, CA 91945

NPDES STORMWATER PROGRAM
CONSTRUCTION STORMWATER COMPLIANCE INSPECTION FORM

Inspector Name /Signature/Date/Time: Harper / [signature] / 12/2/14 / 1pm

Inspection: ☐ Permit-Required Inspection ☐ Follow-up Inspection ☒ Other (Explain) Weekly

Construction Project Priority: ☐ High ☐ Medium ☐ Low

GENERAL INFORMATION

Grading or Building Permit #: GR- 1692

Project Name & Type: VALENCIA, Subdivision

Project Location & Address: SAN AITOS PL

Contractor's Name & Telephone #: Anderson Development (949) 275-6739

Property Owner & Telephone #: SAN AITOS LLC

Is this Project Greater than an Acre? ☒ Yes ☐ No ☐ N/A

If yes: Provide Record of Waste Discharge Identification Number (WDID#): 937C 369143

Does this Project have an NOI/SWPPP Available? ☒ Yes ☐ No ☐ N/A

Is Weather Triggered Action Plan Completed? ☒ Yes ☐ No ☐ N/A

Is Advanced Treatment Implemented Appropriately? ☐ Yes ☐ No ☒ N/A

Is More than 17 Acres of Cleared or Graded Areas Left Exposed at Any Given Time? ☐ Yes ☒ No ☐ N/A

Is 125% of Materials to Install Standby BMPs Available? ☐ Yes ☒ No ☐ N/A

Are Routine Self-Inspections Being Conducted by Developer/Owner? ☒ Yes ☐ No ☐ N/A

Project Site is in What Sub-Watershed: ☐ Chollas Creek 908.22 ☐ Sweetwater River 909.12

Nearest Conveyances or Water Bodies: MS4

BMP	Yes	No	N/A	Description/Explanation	Effective Yes/No
Soil Stabilization and Erosion Prevention					
Is construction site phased/scheduled to address erosion control on a timely basis?	X			CONTRACTOR HYDROSEEDING AS NEEDED, BUT DID NOT SEED AS PLANNED	N
Preservation of existing vegetation?	X				Y
Physical Stabilization: Hydraulic Mulch, Hydroseeding, Soil Binders, Straw Mulch					
Geotextiles, Plastic Covers, Erosion Prevention Blankets, Wood Mulching	X			NOT ENOUGH PLASTIC COVERS FOR STOCKPILES	NO
Site Drainage: Outlet Protection/Slope Drain	X				Y
Inlet/Outlet Protection	Y				Y
Sediment Control/Containment					
Perimeter Protection: Silt Fencing, Gravel Bags, Fiber Rolls	Y				Y

BMP	Yes	No	N/A	Description/Explanation	Effective Yes/No
Storm Drain inlet protection: Sediment Trap, De-silting Basin, Gravel Bag Barrier	Y				Y
Tracking Controls: Stabilized Entrance/Exit Road Stabilization, Tire Wash, Street Sweeping	Y			ENTRANCE NEEDS TO BE CLEANED. ALSO NEED STREET SWEPT	NO
Materials and Equipment Management					
Are materials and wastes stored in a manner that minimizes or eliminates the potential to discharge these materials to the storm drain system, is secondary containment used?	Y				Y
Are material stockpiles protected: covered, contained and located away from non-storm water discharges?	Y			SOME ARE COVERED SOME ARE NOT	NO
Are heavy equipment and vehicles parked in designated areas with permeable surface?	Y				Y
Are appropriate spill response and containment measures kept on the site?	Y				Y
Are wastes managed and stored properly (Solid, liquid, sanitary, concrete, hazardous)	Y				Y
Are concrete washouts properly installed, maintained with no evidence of discharges.	Y				Y
Is timely service and removal provided to prevent waste containers and sanitary facilities from overflowing?	Y				Y
Non-Storm Water Management					
Is the site free of evidence of illegal connections and/or illicit discharges?	Y				Y
Discharge Locations					
Are the discharge locations free of significant erosion or sediment transport?		N		TC-1 IS DOWNSTREAM OF UPPER SITE; NEEDS TO BE CLEANED	NO
Other					
Are there any other potential storm water pollution issues/concerns?	Y			RAIN EVENT TODAY, TC-1 SHOULD BE PROTECTED	NO
Was there any employee or subcontractor training on stormwater BMPs?		N			

VIOLATIONS

- ☐ No violations noted at time of inspection/investigation
- ☐ No violations; however, recommended corrective actions required
  - ☐ Inspection Form as Correct Work Notice ☐ Correct Work Notice Issued on: _____
- ☒ Violation: Illegal Discharge/Illegal Connection/Improper BMPs Implementation
  - ☒ Stop Work Notice Issued on: 12/2/14

RECOMMENDED CORRECTIVE ACTION

SEE STOP WORK NOTICE - DISCHARGE IS IMMINENT IF NOAA FORECAST CORRECT; 100% HEAVY RAIN THIS AFTERNOON.

I CALL TO TIM ANDERSON THIS MORNING AT 9AM. LEFT V. MAIL THAT SITUATION NEEDED ATTENTION ASAP - NO RETURN CALL

NOTICE

DATE: 12/4/2014
PROJECT: VALENCIA
PROJECT #: GR-1692
ADDRESS: SAN ANTOLPL

☑ STOP WORK/NOTICE OF VIOLATION

Stop all other work until erosion control/NPDES deficiencies noted below are corrected. Issuance of this Stop Work Notice will notify the Regional Water Quality Control Board regarding your BMP deficiencies. This may subject you to fines of up to $10,000/day.

☐ CORRECT WORK

Correct noted deficiencies within the specified time frame to avoid a Stop Work Notice:

☐ 24 Hours ☐ 72 Hours ☐ 5 Days ☐ Prior to October 1st, And/Or ☐ Before Rain Event

---

THIS PROJECT IS IN CONFLICT WITH THE FOLLOWING:

☐ City of Lemon Grove Grading Ordinance* ☑ City of Lemon Grove JURMP
☐ Other: _____

THE AREAS OF CONFLICT ARE:

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☒ Erosion control is inadequate ☑ Failure to maintain erosion/sediment control device
☐ Other _____

THE FOLLOWING DEFICIENCIES ARE NOTED:

☒ Stabilized construction entrance ☒ Runoff from the site ☐ Desilting basin
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☐ Cover on sloped and/or flat areas that are inactive for more than 10 days
☒ Other Illegal Discharge

***STOP/ CORRECT WORK ADEQUATELY ADDRESSED (DATE/SIGNATURE)_____

CC: ☑ City Engineer
☑ Engineering
☐ Management Analyst
☐ Code Compliance
☐ Building
☑ RWQCB

ISSUED TO: Tim Anderson (email)
DATE/TIME: 12/4/2014 10AM
BY: Gary Harper
TITLE: Eng. Inspector
PHONE: (619) 454 1272

IF YOU HAVE FURTHER QUESTIONS, PLEASE CALL THE CITY OF LEMON GROVE'S DEVELOPMENT SERVICES DEPARTMENT AT (619) 825-3805.

* Having deficiencies in your erosion control is a violation of the City of Lemon Grove's Grading Ordinance. A violation of the City's Grading Ordinance is a misdemeanor. Each separate day or portion thereof on which a violation exists or is allowed to exist shall constitute a separate offense punishable by the provisions of the Ordinance.

CITY OF LEMON GROVE
ADMINISTRATIVE CITATION

A) TYPE OF VIOLATION

Circle One: (Warning) | 1st Citation $100 | 2nd Citation $200 | 3rd Citation $500 | 4th Citation $1,000

Payment of $ — is due no later than — to the City of Lemon Grove. The City accepts cash, check or credit card.

If the violation is not corrected by the date specified therein and/or payment is not received by the date above, the next level of citation may be issued, other enforcement actions may occur, and penalties may be assessed (25% and interest at the rate of 10% per month). Payment of fine does not excuse or discharge the failure to correct violation identified below.

B) RESPONSIBLE PARTY INFORMATION

Person Cited: Anderson (Last Name) Tim (First Name)

Circle One: Property Owner Tenant Business Owner (Other) Site Representative / Project Manager

Mailing Address: 3194-C2 Airport Loop Drive Costa Mesa, CA 92626

Business Name (if applicable): BCA Development

cc: Phil Downey, Code Enforcement File

C) VIOLATION(S) INFORMATION

Date (Violation Observed): 12/11/14 Time (Violation Observed): 4:00-5:00 P.M.

Location of Violation: 1350 San Altos, LG / Valencia (Street Address) (APN)

Violation(s) Observed (Code Section and Description):

B.48.060 18.08.560 Inadequate BMP's - see attached inspection reports
18.08.170
18.08.180

D) CORRECTION(S) REQUIRED (with date to complete corrections)

Install BMP's per Recommendation's > 12/15/14
Maintain adequate supplies of BMPs 5:00 P.M.

E) SERVICING CITATION INFORMATION

Enforcing Officer Name	Phone No.	Signature	Date
Leon Finstad	619-825-3825		12/11/14

Person Cited – Signature Acknowledging Receipt _____ (Date)

Citation Served (circle one): In Person (By Mail / Email) Posted on Property

This citation may be appealed within thirty (30) days from date of correction identified in Section D. To request an appeal, a Request an Appeal Hearing form (available at City Hall) should be completed and returned to City Hall. In the event a Hardship Waiver is requested, the Request for an Appeal Hearing and Hardship Waiver forms are required within fifteen (15) days from the correction date identified in Section D.

WHITE-ORIGINAL PINK-COPY CITATION CARD-OWNER

8.48.060 Best management practice requirements and general requirements applicable to all dischargers.

A. Applicable Requirements. All dischargers in the city must comply with the generally applicable prohibitions and requirements in Sections 8.48.010 through 8.48.060 of this chapter, and must also comply with any other parts of this chapter (including relevant parts of the Manual) that are applicable to the type of facility or activity owned or operated by that discharger.

B. Minimum Best Management Practices for All Dischargers. All dischargers in the city must install, implement and maintain at least the following minimum BMPs:

1. Eroded Soils. Prior to the rainy season, dischargers must remove or secure any significant accumulations of eroded soils from slopes previously disturbed by clearing or grading, if those eroded soils could otherwise enter the stormwater conveyance system or receiving waters during the rainy season.

2. Pollution Prevention. Dischargers employing ten or more persons on a full-time basis shall implement those stormwater pollution prevention practices that are generally recognized in that discharger's industry or business as being effective and economically advantageous.

3. Prevention of Illegal Discharges. Illicit connections must be eliminated (even if the connection was established pursuant to a valid permit and was legal at the time it was constructed), and illegal discharge practices eliminated.

4. Slopes. Completed slopes that are more than five feet in height, more than two hundred fifty square feet in total area, and steeper than 3:1 (run-to-rise) that have been disturbed at any time by clearing, grading, or landscaping, shall be protected from erosion prior to the first rainy season following completion of the slope, and continuously thereafter.

5. Storage of Materials and Wastes. All materials and wastes with the potential to pollute urban runoff shall be stored in a manner that either prevents contact with rainfall and stormwater, or contains contaminated runoff for treatment and disposal.

6. Use of Materials. All materials with the potential to pollute urban runoff (including, but not limited to, cleaning and maintenance products used outdoors, fertilizers, pesticides and herbicides, etc.) shall be used in accordance with label directions. No such product may be disposed of or rinsed into receiving waters or the stormwater conveyance system.

C. Inspection, Maintenance, Repair and Upgrading of BMPs. BMPs at manned facilities must be inspected by the discharger before and following predicted rain events. BMPs at unmanned facilities must be inspected by the discharger at least once during the rainy season and at least once between each rainy season. These BMPs must be maintained so that they continue to function as designed. BMPs that fail must be repaired as soon as it is safe to do so. If the failure of a BMP indicates that the BMPs in use are inappropriate or inadequate to the circumstances, the BMPs must be modified or upgraded to prevent any further failure in the same or similar circumstances.

D. Stormwater Pollution Prevention Plan. An authorized enforcement official may require a commercial, industrial or land disturbance activity discharger to prepare and submit an SWPPP for approval by that official if: (1) the discharger does not come into compliance with this chapter after one or more warnings (or other enforcement action) that BMPs are inadequate or are not being adequately maintained; or (2) the facility or activity at issue is a significant source of contaminants to receiving waters despite compliance with this

chapter. Any discharger required to submit and to obtain approval of an SWPPP shall install, implement, and maintain the BMPs specified in the approved SWPPP.

The SWPPP shall identify the BMPs that will be used by the discharger to prevent or control pollution of stormwater to the MEP. If the facility is an industrial facility, the SWPPP submitted to the city shall at a minimum meet the requirements of the state NPDES general industrial stormwater permit. If the activity at issue is a construction or land disturbance activity, the SWPPP submitted to the city shall at a minimum meet the requirements of the state NPDES general construction stormwater permit. If a facility required to submit an SWPPP to the city discharges non-stormwater to groundwater, the facility shall obtain an RWQCB permit as required by the State Water Code, and shall describe the requirements of that permit in the SWPPP.

Whenever submission of an SWPPP is required pursuant to this chapter, an authorized enforcement official may take existing city BMPs into account when determining whether the practices proposed in the SWPPP are BMPs that will prevent or control pollution to the required level of MEP.

E. Notification of Spills, Releases and Illegal Discharges. Spills, releases, and illegal discharges of pollutants to receiving waters or to the stormwater conveyance system shall be reported by the discharger as required by all applicable state and federal laws. In addition, any such spills, releases and illegal discharges with the potential to endanger health, safety or the environment shall be reported to the Directors within twenty-four hours after discovery of the spill, release or discharge. If safe to do so, necessary actions shall be taken to contain and minimize the spill, release or illegal discharge.

F. Sampling, Testing, Monitoring and Reporting. Commercial, industrial or land disturbance activity dischargers shall perform the sampling, testing, monitoring and reporting required by this chapter. In addition, an authorized enforcement official may order a discharger to conduct testing or monitoring and to report the results to the city if: (1) the authorized enforcement official determines that testing or monitoring is needed to determine whether BMPs are effectively preventing or reducing pollution in stormwater to the MEP, or to determine whether the facility is a significant source of contaminants to receiving waters; or (2) the authorized enforcement official determines that testing or monitoring is needed to assess the impacts of an illegal discharge on health, safety or the environment; or (3) an illegal discharge has not been eliminated after written notice by an authorized enforcement official; or (4) repeated violations have been documented by written notices from authorized enforcement officials; or (5) the RWQCB requires the city to provide any information related to the discharger's activities.

Testing and monitoring ordered pursuant to this subsection may include the following:

1. Visual monitoring of dry weather flows, wet weather erosion, and/or BMPs;
2. Visual monitoring of premises for spills or discharges;
3. Laboratory analyses of stormwater or non-stormwater discharges for pollutants;
4. Background or baseline monitoring or analysis; and
5. Monitoring of receiving waters or sediments that may be affected by pollutant discharges by the discharger (or by a group of dischargers including the discharger).

The authorized enforcement official may direct the manner in which the results of required testing and monitoring are reported, and may determine when required sampling, testing or monitoring may be discontinued.

G. Mitigation. All illegal discharges must be mitigated within a reasonable period of time to correct or compensate for all damage to the environment caused by the illegal discharge. The authorized enforcement official shall determine whether mitigation measures proposed or completed by the discharger meet this standard. The authorized enforcement official shall require the discharger to submit a mitigation plan and schedule by a specified date prior to taking action, and to submit a summary of completed mitigation by a specified date. Notwithstanding the granting of any period of time to the discharger to correct the damage, the

discharger shall remain liable for some or all of any fines or penalties imposed pursuant to this chapter, or by the RWQCB. (Ord. 369 § 1, 2008)

18.08.170 Erosion control required.

A. Plans for an erosion control system shall be prepared and submitted for the review and approval of the city engineer as a part of any application for a construction permit. The erosion control system shall comply with the requirements of the latest national pollutant discharge elimination system permit, Chapters 8.48 and this chapter to satisfy the requirements for erosion control and eliminate the discharge of sediment and pollutants. The erosion control plan shall include, but not be limited to, the following information:

1. Name, address, and a twenty-four hour phone number of the owner or responsible party, and the person or contractor responsible for installing and maintaining the erosion control system and performing emergency erosion control work;

2. The name, address and signature of the civil engineer or person who prepared the plan;

3. All desilting basins, debris basins, silt traps, and other desilting, velocity retarding and protection facilities necessary to adequately protect the site and downstream properties from erosion and its effects, preserve natural hydrologic features, and preserve riparian buffers and corridors;

4. The streets, easements, drains, and other improvements;

5. The location and placement of gravel bags, diverters, check dams, slope planting, drains, and other erosion controlling devices and measures;

6. Access routes to all such erosion control facilities and how access shall be maintained during inclement weather.

B. Erosion control system standards shall be as follows:

1. The faces of cut-and-fill slopes and the project site shall be prepared and maintained to control against erosion. Where cut slopes are not subject to erosion due to the erosion-resistant character of the materials, such protection may be omitted upon approval of the city engineer.

2. Where necessary, temporary and/or permanent erosion control devices such as desilting basins, check dams, cribbing, riprap, or other devices or methods as approved by the city engineer, shall be employed to control erosion, prevent discharge of sediment, and provide safety.

3. Temporary desilting basins constructed of compacted earth shall be compacted to a relative compaction of ninety percent of maximum density. A gravel bag or plastic spillway must be installed for overflow, as designed by the engineer of work, to avoid failure of the earthen dam. A soils engineering report prepared by the soils engineer, including the type of field-testing performed, location and results of testing shall be submitted to the city engineer for approval upon completion of the desilting basins.

4. Desilting facilities shall be provided at drainage outlets from the graded site, and shall be designed to provide a desilting capacity capable of containing the anticipated runoff for a period of time adequate to allow reasonable settlement of suspended particles.

5. Desilting basins shall be constructed around the perimeter of projects, whenever feasible, and shall provide improved maintenance access from paved roads during wet weather. Grading cost estimates must include maintenance and ultimate removal costs for temporary desilting basins.

6. The erosion control provisions shall take into account drainage patterns during the current and future phases of grading.

7. All removable protective devices shown shall be in place at the end of each working day when there is a fifty percent chance of rain within a forty-eight hour period. If the developer does not provide the required installation or maintenance of erosion control structures within two hours of notification at the twenty-four hour number on the plans, the city engineer may order city crews to do the work or may issue contracts for such work and charge the cost of this work along with reasonable overhead charges to the cash deposits or other instruments implemented for this work without further notification to the owner. No additional work on the project except erosion control work may be performed until the full amount drawn from the deposit is restored by the developer.

8. At any time of year, an inactive site shall be fully protected from erosion and discharges of sediment. Flat areas with less than five percent grade shall be fully covered unless sediment control is provided through desiltation basins at all project discharge points. A site is considered inactive if construction activities have ceased for a period of ten or more consecutive days.

C. No grading work shall be allowed between October 1st and the following April 30th on any site when the city engineer determines that erosion, mudflow or sediment of silt discharge may adversely affect downstream properties, drainage courses, storm drains, streets, easements, or public or private facilities or improvements unless an approved erosion control system has been implemented on the site. If the city determines that it is necessary for the city to cause erosion control measures to be installed or cleanup to be done, the developer shall pay all of the city's direct and indirect costs including extra inspection, supervision, and reasonable overhead charges. (Ord. 371 § 1, 2008)

18.08.180 BMP maintenance.

All BMPs for erosion prevention and sediment control shall be functional at all time. Prior to the rainy season and after each major storm, all source control and structural treatment BMPs shall be inspected to assure the functionality. BMP maintenance shall be conducted throughout the life of the project. (Ord. 371 § 1, 2008)

18.08.560 Responsibility of permittee.

It shall be the responsibility of the permittee to know the conditions and/or restrictions placed on the grading permit and as outlined in applicable sections of this chapter, and as continued on the approved report (s) and to insure that all contractors, subcontractors, employees, agents and consultants are also knowledgeable of the same, and insure that they carry out the proposed work in accordance with the approved plans and specifications and with the requirements of the permit and this chapter. The permittee shall also be responsible to maintain in an obvious and accessible location on the site, a copy of the permit and grading plans bearing the approval of the city engineer. (Ord. 371 § 1, 2008)

Meeting Minutes/Phone Record

CITY OF LEMON GROVE
Engineering Department
3232 Main Street
Lemon Grove, CA 91945
619-825-3811

Date: 12/11/14 5:00 P.M. | Project: Valencia

☐ Meeting ☐ Phone ☒ Site Visit

Attendees: Leon & Gary

Notes: Site inspection to review recommended "Construction BMP Recommendations" from 12/9/14 inspection (attached).

1. No erosion control provided.
2. Insufficient / Improperly installed check dams.
3. Repair & stabilization of gullies not completed.
4. Not completed.
5. Completed.
6. Not visible.
7. Mostly complete.
8. N/A

Page 1 / 1 Initials LE Hours: 1.0

National Weather Service Forecast Office
San Diego, CA

Warnings and/or Advisories In Effect for this Point:
Flash Flood Watch
Wind Advisory
For warnings and/or advisories in effect for adjacent areas to this point, see http://www.wrh.noaa.gov/sgx

Change Table Font Size Increase Decrease

Forecast For Lat/Lon: 32.7370/-117.0200 (Elev. 492 ft)
Lemon Grove CA
Forecast Created at: 6pm PST Dec 11, 2014
Custom Weather Forecast Table

	Thu Dec 11				Fri Dec 12				Sat Dec 13				Sun Dec 14				Mon Dec 15				Tue Dec 16				
Weather				Chance Rain	Slight Chance TStorms and Rain	Rain Showers and TStorms	Likely Rain Showers and TStorms	Likely Rain Showers	Chance Rain Showers										Chance Rain		Likely Rain				C
Daily-Temp	High 67 Low 53				High 63 Low 58				High 63 Low 51				High 65 Low 48				High 64 Low 50				High 64 Low 52				
Chance of Precip	0%	0%	5%	45%	100%	90%	65%	75%	30%	15%	5%	5%	5%	5%	5%	5%	5%	5%	40%	40%	55%	55%	60%	60%	40
Precip	0.00"	0.00"	0.00"	0.01"	0.57"	0.29"	0.06"	0.12"	0.00"	0.00"	0.00"	0.00"	0.00"	0.00"											
12-hr Snow Total	0"		0"		0"		0"		0"																
FRET	0.06"				0.06"				0.05"				0.06"				0.07"				0.07"				
6-Hour	4am	10am	4pm	10pm	4am	10am	4pm	10pm	4am	10am	4pm	10pm	4am	10am	4pm	10pm	4am	10am	4pm	10pm	4am	10am	4pm	10pm	4a
Temp	53	62	65	60	58	61	60	54	52	59	59	52	49	59	61	54	51	59	61	55	53	60	61	55	5
Cloudiness	86%	49%	75%	100%	100%	91%	84%	75%	69%	51%	30%	37%	31%	21%	30%	30%	41%	41%	62%	62%	90%	90%	87%	87%	71
Dewpoint	52	53	54	53	52	54	52	50	49	48	46	46	43	44	44	48	44	43	45	49	47	51	49	51	4
Relative Humdity	94%	73%	67%	78%	79%	77%	73%	88%	89%	69%	61%	81%	80%	57%	52%	81%	79%	57%	54%	81%	82%	72%	63%	88%	89
Wind	S 2	S 7	S 8	S 10	SE 15	W 6	SW 6	W 6	E 2	W 2	NW 5	E 3	E 3	N 1	W 5	E 5	E 6	S 7	SW 7	SE 7	SE 8	S 9	S 7	S 6	S 1
Snow Level (ft)			9317	9161	7608	6313	5478	5212	5704										6701	5923	5850	5993	5805	5704	56

Forecast Weather Table Interface

Select Weather Format	Enter a Location or Click on Map Below
○ Custom Weather Table ○ XML ○ Point Forecast Page ○ Point Forecast Matrix ○ Hourly Tabular Forecast ○ Hourly Weather Graph Interval in Hours: ○ 1 ○ 3 ○ 6 Duration in Days: ○ 1 ○ 2 ○ 3 ○ 4 ○ 5 ○ 6 ○ 7	Search by address; city,state; latitude/longitude... Go

Exhibit No. 9

CITY OF LEMON GROVE

"Best Climate On Earth"

Engineering Services Department

December 16, 2014

Tim Anderson
Project Manager, BCA Development
3194-C2 Airport Loop Drive
Costa Mesa, CA 92626

Subject: Ongoing Stormwater Violations at Valencia Project Site

Dear Tim,

Under the direction of the City of Lemon Grove (City), D-MAX Engineering Inc. conducted a follow-up stormwater compliance inspection early this afternoon at the Valencia project site (site). As you are aware, the site remains under a Stop Work Notice and no work other than implementation of best management practices (BMPs) are allowed. Today's follow-up inspection findings state that the site is still not in compliance. The deficiencies include failure to effectively implement erosion prevention and sediment control BMPs.

The City reiterates that it will not accept any discharges of sediment laden runoff from the site into its storm drain system. Water quality monitoring is being conducted to asses whether or not illegal discharges are occurring from your site during this rain event and future rain events.

Although there are workers continuing to implement BMPs, the City through Municipal Code Section 18.08.170, has the right to contact an erosion control company to implement sufficient BMPs to eliminate sediment discharge from the site. As such, the City is putting you on notice should inadequate BMPS and/or failure of BMPs continue, the City will hire an erosion control company at your cost to prevent illegal discharges from occurring. Alternatively, you may also directly contact and hire an erosion control company to facilitate in bringing your construction site into compliance.

Attached you will find a third citation regarding the failure to install adequate BMPs. A copy of this citation is also being provided to the San Diego Regional Water Quality Control Board.

If you have any questions regarding this matter, please contact me at (619) 825-3825.

Sincerely,

Leon P. Firsht
City Engineer

Copy: Phil Dowley, Bob Rodine, Ben Anderson
File

3232 Main Street Lemon Grove California 91945-1705
619.825.3810 FAX: 619.825.3818 www.ci.lemon-grove.ca.us

CITY OF LEMON GROVE
ADMINISTRATIVE CITATION

A) TYPE OF VIOLATION

Circle One: Warning | 1st Citation $100 | 2nd Citation $200 | 3rd Citation $500 | 4th Citation $1,000

Payment of $ 200 is due no later than 1/12/15 to the City of Lemon Grove.
The City accepts cash, check or credit card.

If the violation is not corrected by the date specified therein and/or payment is not received by the date above, the next level of citation may be issued, other enforcement actions may occur, and penalties may be assessed (25% and interest at the rate of 10% per month). Payment of fine does not excuse or discharge the failure to correct violation identified below.

B) RESPONSIBLE PARTY INFORMATION

Person Cited: Anderson (Last Name) Tim (First Name)

Circle One: Property Owner Tenant Business Owner (Other) Project Manager

Mailing Address: 3194-C2 Airport Loop Road, Costa Mesa, CA 92626

Business Name (if applicable): BCA Development CC: Phil Dowley, Code Enforcement File

C) VIOLATION(S) INFORMATION

Date (Violation Observed): 12/16/14 Time (Violation Observed): 12:25 PM

Location of Violation: 1350 San Altos Place / Valencia (Street Address) (APN)

Violation(s) Observed (Code Section and Description):
8.48.060, 18.08.170, 18.08.180, 18.08560
Follow up inspection re: 12/11/14 citation
See attached report dated 12/16/14 (Tad Nakatani)

D) CORRECTION(S) REQUIRED (with date to complete corrections)
Install BMP's per Recommedations and Permit

E) SERVICING CITATION INFORMATION

Enforcing Officer Name: Leon Firsht Phone No.: 619-825-3825 Signature: [signature] Date: 12/16/14

Person Cited – Signature Acknowledging Receipt _____ (Date)

Citation Served (circle one): In Person (By Mail / Email) n Property

This citation may be appealed within thirty (30) days from date of correction identified in Section D. To request an appeal, a Request an Appeal Hearing form (available at City Hall) should be completed and returned to City Hall. In the event a Hardship Waiver is requested, the Request for an Appeal Hearing and Hardship Waiver forms are required within fifteen (15) days from the correction date identified in Section D.

~~WHITE-ORIGINAL~~ ~~PINK-COPY~~ ~~CITATION CARD-OWNER~~

CITY OF LEMON GROVE
3232 Main Street, Lemon Grove, CA 91945

NPDES STORMWATER PROGRAM
CONSTRUCTION STORMWATER COMPLIANCE INSPECTION FORM

Inspector Name /Signature/Date/Time: TAD NAKATANI 12/16/14 12:25

Inspection: ☐ Permit-Required Inspection ☒ Follow-up Inspection ☐ Other (Explain)____

Construction Project Priority: ☐ High ☒ Medium ☐ Low

GENERAL INFORMATION

Grading or Building Permit #: GR-1697

Project Name & Type: VALENCIA SUBDIVISION

Project Location & Address: SAN ALTOS PLACE

Contractor's Name & Telephone #: ANDERSON DEVELOPMENT (949) 275-6739

Property Owner & Telephone #: SAN ALTOS LLC

Is this Project Greater than an Acre? ☒ Yes ☐ No ☐ N/A

If yes: Provide Record of Waste Discharge Identification Number (WDID#): 937C369143

Does this Project have an NOI/SWPPP Available? ☒ Yes ☐ No ☐ N/A

Is Weather Triggered Action Plan Completed? ☐ Yes ☐ No ☒ N/A

Is Advanced Treatment Implemented Appropriately? ☐ Yes ☐ No ☒ N/A

Is More than 17 Acres of Cleared or Graded Areas Left Exposed at Any Given Time? ☐ Yes ☒ No ☐ N/A

Is 125% of Materials to Install Standby BMPs Available? ☐ Yes ☒ No ☐ N/A

Are Routine Self-Inspections Being Conducted by Developer/Owner? ☒ Yes ☐ No ☐ N/A

Project Site is in What Sub-Watershed: ☒ Chollas Creek 908.22 ☐ Sweetwater River 909.12

Nearest Conveyances or Water Bodies: _____

BMP	Yes	No	N/A	Description/Explanation	Effective Yes/No
Soil Stabilization and Erosion Prevention					
Preservation of existing vegetation?			X		
Physical Stabilization: Hydraulic Mulch, Hydroseeding, Soil Binders, Straw Mulch	X			Numerous gullies still unprotected some pads & slopes still unstabilized	No
Geotextiles, Plastic Covers, Erosion Prevention Blankets, Wood Mulching	X			some plastic covers need to be repositioned/reinstalled	No
Site Drainage: Outlet Protection/Slope Drain		X			
Inlet/Outlet Protection		X			
Sediment Control/Containment					
Perimeter Protection: Silt Fencing, Gravel Bags, Fiber Rolls	X			Additional perimeter & slope protection still needed on west side	No
Storm Drain inlet protection: Sediment Trap, De-silting Basin, Gravel Bag Barrier	X				Yes

BMP	Yes	No	N/A	Description/Explanation	Effective Yes/No
Tracking Controls: Stabilized Entrance/Exit Road Stabilization, Tire Wash, Street Sweeping	X			NE ENTRANCE REMOTELY WILL NOT BE USED FOR VEHICLES. GATE LOCKED & GRAVEL BAGS PLACED	YES
Materials and Equipment Management					
Are materials and wastes stored in a manner that minimizes or eliminates the potential to discharge these materials to the storm drain system, is secondary containment used?	X				YES
Are material stockpiles protected: covered, contained and located away from non-storm water discharges?	X				YES
Are heavy equipment and vehicles parked in designated areas with permeable surface?	X				Yes
Are appropriate spill response and containment measures kept on the site?	X				Yes
Are wastes managed and stored properly (Solid, liquid, sanitary, concrete, hazardous)	X				Yes
Are concrete washouts properly installed, maintained with no evidence of discharges.	X				Yes
Is timely service and removal provided to prevent waste containers and sanitary facilities from overflowing?	X				Yes
Non-Storm Water Management					
Is the site free of evidence of illegal connections and/or illicit discharges?	X			No discharge during inspection but high turbidity during previous storm	YES
Discharge Locations					
Are the discharge locations free of significant erosion or sediment transport?		X		still significant sediment on AKINS	No
Other					
Are there any other potential storm water pollution issues/concerns?	X			Roadway stabilization/check dams incomplete	No
Was there any employee or subcontractor training on stormwater BMPs?			X	Not discussed	

VIOLATIONS

☐ No violations noted at time of inspection/investigation

TN ☒ No violations; however, recommended corrective actions required

TN ☒ Inspection Form as Correct Work Notice ☐ Correct Work Notice Issued on: _____

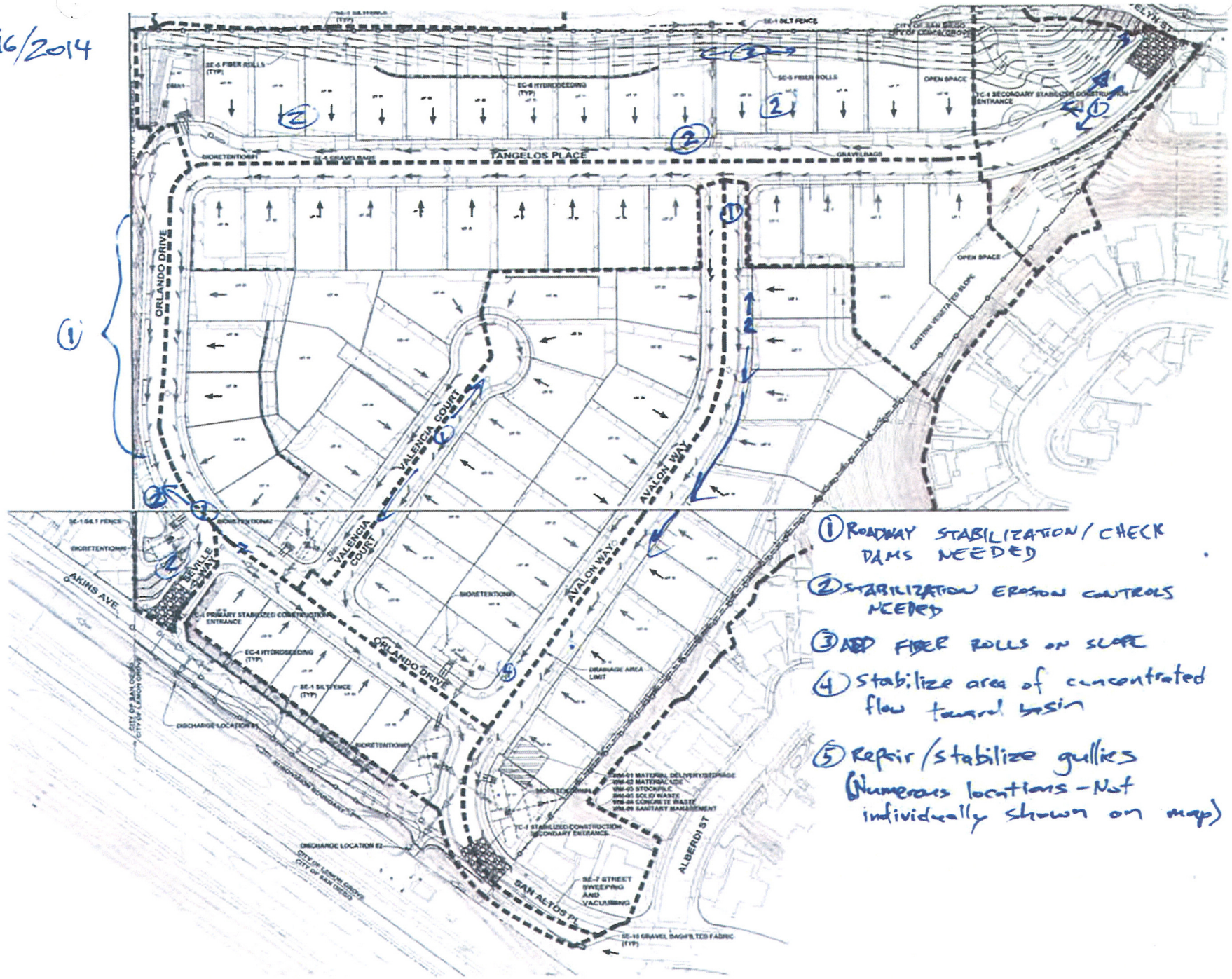
☒ Violation: Illegal Discharge/Illegal Connection/Improper BMPs Implementation

☒ Stop Work Notice Issued on: ONGOING STOP WORK/ADMIN. CITATION

RECOMMENDED CORRECTIVE ACTION

- COMPLETE ROADWAY STABILIZATION & CHECK DAMS. STABILIZE AREA WHERE CONCENTRATED FLOW FROM ROAD IS DIRECTED TO BASIN
- ADD EROSION CONTROLS TO STABILIZE REMAINING PADS, SLOPES AT EDGES OF PADS AND AREA NEAR ENTRANCE ON AKINS
- ADD FIBER ROLLS ON SLOPES ON WESTERN EDGE
- REPAIR & STABILIZE GULLIES THROUGHOUT SITE

12/16/2014



① ROADWAY STABILIZATION / CHECK DAMS NEEDED

② STABILIZATION EROSION CONTROLS NEEDED

③ ADD FIBER ROLLS ON SLOPE

④ Stabilize area of concentrated flow toward basin

⑤ Repair / stabilize gullies (Numerous locations - Not individually shown on map)

Exhibit No. 10

D-MAX Engineering, Inc.
Consultants in Water & Environmental Sciences

Memo

Date: December 17, 2014

To: Malik Tamimi

Cc: Tad Nakatani; John Quenzer

BN

From: Brian Nemerow

Subject: December 17, 2014 Field Visit at Valencia Construction Site

Per the City's request, D-MAX visited the Valencia construction site on the morning of December 17, 2014, following a storm earlier in the morning. Rain had ended a few hours prior to the site visit, and no runoff was observed flowing out from the construction site at the Akins or San Altos entrance/exit locations at the time of the site visit.

Evidence of sediment discharge was observed at the Akins entrance/exit location (Photos 1 and 2) and along the curb farther downstream (Photo 3). A crew from Downstream Services was power washing the curb along Akins to remove accumulated sediment (Photos 4, 5, and 6). This indicates that there likely had been a noticeable sediment discharge earlier in the day. Based on talking with the crew, our understanding is that they were working on behalf of the Valencia project, and they also planned to use a vactor truck to remove accumulated sediment from the downstream storm drain on Akins. The crew was taking measures to prevent discharge of water from power washing, including using a vactor truck to reclaim the water, but a small amount of water was observed discharging to the inlet along Akins. The water was seeping through gravel bags around the inlet and discharge to the storm drain. A sample of the power washing discharge water was collected, and turbidity was measured at 52 NTU.

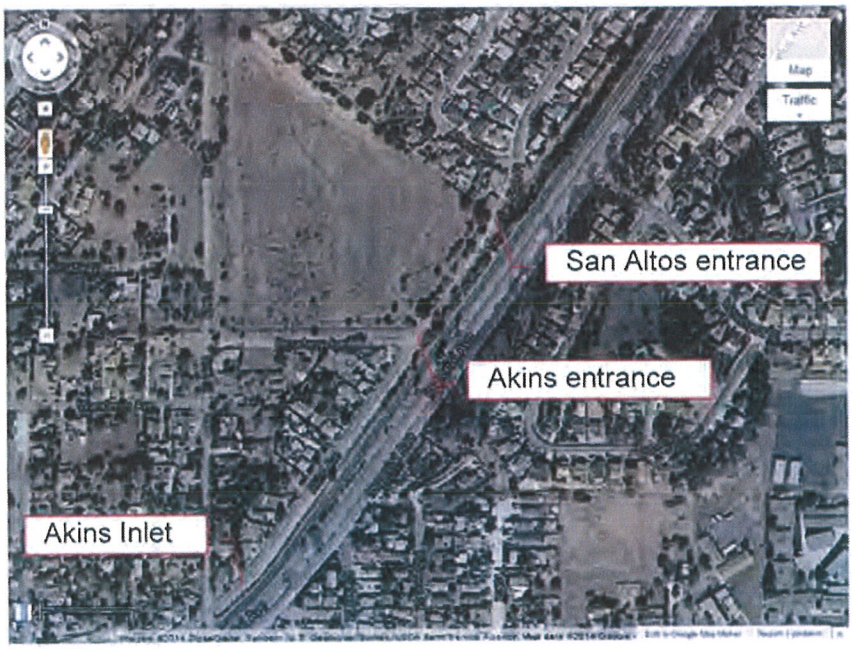


Figure 1. Observation Locations

7220 Trade Street ■ Suite 119 ■ San Diego, CA 92121 ■ (858) 586-6600 ■ Fax (858) 586-6644



Photo 1. Evidence of sediment discharge at Akins entrance/exit



Photo 2. Evidence of sediment discharge at Akins entrance/exit



Photo 3. Sediment accumulation along Akins curb gutter, downstream of Akins entrance/exit



Photo 4. Power washing activity performed by Downstream Services



Photo 5. Power washing activity performed by Downstream Services



Photo 6. Power washing activity performed by Downstream Services

Exhibit No. 11

California Water Boards

Edmund G. Brown Jr.
Governor

Matthew Rodriguez
Secretary for Environmental Protection

California Regional Water Quality Control Board, San Diego Region

December 19, 2014

Via email only

Ben Anderson
San Altos Lemon Grove LLC
5780 Fleet Avenue
Carlsbad, California 92008
bencanderson@bcadevelopment.com

In reply refer to / attn:
SM-828060:wchiu

Subject: Notice of Violation No. R9-2014-0153, Valencia Construction Project, Order No. 2009-0009-DWQ, NPDES Permit No. CAS000002, Construction General Permit

Mr. Anderson:

Enclosed is Notice of Violation (NOV) No. R9-2014-0153 issued to San Altos Lemon Grove LLC for violations of Order No. 2009-0009-DWQ, issued by the California State Water Resources Control Board and overseen 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 January 2, 2014** that confirms the violations have been corrected, identify a date by which the violations were corrected, and description of the actions taken to ensure future violations of Order No. 2009-0009-DWQ will not occur.

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.

Please send any written correspondence in response to this letter to SanDiego@waterboards.ca.gov. These electronic documents must be submitted as a single file, in Portable Document Format (PDF) format, and converted to text searchable format using Optical Character Recognition (OCR). All electronic documents must also include scanned copies of all signature pages; electronic signatures will not be accepted. Electronic documents submitted to the San Diego Water Board must include the following identification numbers in the header or subject line: **PIN: SM-828060:wchiu**.

For questions pertaining to the subject matter, please contact Wayne Chiu at (619) 521-3354 or wchiu@waterboards.ca.gov.

Respectfully,

Eric S. Becker, P.E.
Senior Water Resource Control Engineer
Storm Water Management Unit

ESB:wc

Enclosure: Notice of Violation No. R9-2014-0153

cc (via email only): Tim Anderson, BCA Development (tima@bcadevelopment.com)
Donald Sturgeon, Whitson CM (dsturgeon@whitsoncm.com)
Leon Firsht, City of Lemon Grove (lfirsht@lemongrove.ca.gov)
Gary Harper, City of Lemon Grove (gharper@lemongrove.ca.gov)
Malik Tamimi, City of Lemon Grove (mtamimi@lemongrove.ca.gov)

Tech Staff Info & Use	
Order No.	2009-0009-DWQ
NPDES No.	CAS000002
Place ID	SM-828060
WDID	937C369143
Inspection ID	2024185
Violation ID	855345, 855346
Enforcement ID	417155

December 19, 2014

NOTICE OF VIOLATION
No. R9-2014-0153

Ben Anderson
San Altos Lemon Grove LLC
5780 Fleet Avenue
Carlsbad, California 92008

San Altos Lemon Grove LLC Valencia Construction Project PIN No. SM-828060:wchiu	**Violations of** **Order No. 2009-0009-DWQ, Construction General Permit**

SAN ALTOS LEMON GROVE LLC 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.

SAN ALTOS LEMON GROVE LLC is in violation of State Water Resources Control Board (State Water Board) Order No. 2009-0009-DWQ, NPDES No. CAS000002, *National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities* (Construction General Permit).

A. Summary of Violations

Construction General Permit Violations

1. **Failure to Comply with Discharge Prohibitions for Construction Activities:**

   a. **Pursuant to Provision III.B of State Water Board Order No. 2009-0009-DWQ:** All discharges are prohibited except for the storm water and non-storm water discharges specifically authorized by this General Permit or another NPDES permit.

   b. **Observation:** On December 4, 2014, the San Diego Water Board inspected the Valencia construction site (WDID 937C369143). San Altos Lemon Grove LLC is the

Legally Responsible Person (LRP) enrolled under the Construction General Permit (CGP) for the site. On December 4 and 11, 2014, the City of Lemon Grove documented unauthorized discharges of sediment and sediment-laden storm water from the site due to inadequate implementation of best management practices (BMPs). On December 15, 2014, the San Diego Water Board inspector observed evidence of sediment discharged from the site due to inadequate and ineffective implementation of BMPs, constituting an unauthorized discharge of sediment from the site. See attached December 15, 2014 Facility Inspection Report Photos 9 through 12 and Attachments.

2. **Failure to Comply with Effluent Limitations for Construction Activities:**

   a. **Pursuant to Provision V.A.2 of State Water Board Order No. 2009-0009-DWQ:** Dischargers shall minimize or prevent pollutants in storm water discharges and authorized non-storm water discharges through the use of controls, structures, and management practices that achieve Best Available Technology Economically Achievable (BAT) for toxic and non-conventional pollutants and Best Conventional Pollutant Control Technology (BCT) for conventional pollutants.

   b. **Pursuant to Provision IX and Section A.1.b of Attachment C of State Water Board Order No. 2009-0009-DWQ:** Dischargers shall minimize or prevent pollutants in storm water and authorized non-storm water discharges through the use of controls, structures, and management practices that achieve BAT for toxic and non-conventional pollutants and BCT for conventional pollutants.

   c. **Observation:** During the December 15, 2014 inspection, the San Diego Water Board inspector observed the lack of effective erosion controls, perimeter sediment controls, and run-on and runoff controls required by the CGP, which directly lead to erosion and sedimentation that ultimately resulted in the discharge of sediment from the site observed on December 15, 2014. The discharge was a result of the implementation of controls, structures, and BMPs that do not achieve BCT. See attached December 4, 2014 Facility Inspection Report Photos 1 through 14.

3. **Failure to Implement Good Site Management "Housekeeping" Best Management Practices (BMPs) for Construction Materials and Waste Management:**

   a. **Pursuant to Provision X and Section B.1.a of Attachment D of State Water Board Order No. 2009-0009-DWQ:** Risk Level 2 dischargers are required to cover and berm loose stockpiled construction materials that are not actively being used (i.e. soil, spoils, aggregate, fly-ash, stucco, hydrated lime, etc.).

   b. **Pursuant to Provision X and Section B.2.f of Attachment D of State Water Board Order No. 2009-0009-DWQ:** Risk Level 2 dischargers are required to contain and securely protect stockpiled waste material from wind and rain at all times unless actively being used.

c. **Observation:** During the December 15, 2014 inspection, the San Diego Water Board inspector observed soil stockpiles without adequate cover, berm, containment or protection, resulting in erosion and sediment transport. See attached December 15, 2014 Facility Inspection Report Photo 1.

4. **Failure to Implement Good Site Management "Housekeeping" BMPs for Vehicle Storage and Maintenance:**

   a. **Pursuant to Provision X and Section B.3.a of Attachment D of State Water Board Order No. 2009-0009-DWQ:** Risk Level 2 dischargers are required to prevent oil, grease, or fuel to leak in to the ground, storm drains or surface waters.

   b. **Pursuant to Provision X and Section B.3.b of Attachment D of State Water Board Order No. 2009-0009-DWQ:** Risk Level 2 dischargers are required to place all equipment or vehicles, which are to be fueled, maintained and stored in a designated area fitted with appropriate BMPs.

   c. **Observation:** During the December 15, 2014 inspection, the San Diego Water Board inspector observed several construction vehicles stored without appropriate BMPs to prevent oil, grease or fuel to leak in to the ground, storm drains or surface waters. See attached December 4, 2014 Facility Inspection Report Photos 2 and 3.

5. **Failure to Implement Adequate Erosion Controls for Inactive Areas:**

   a. **Pursuant to Provision X and Section D.2 of Attachment D of State Water Board Order No. 2009-0009-DWQ:** Risk Level 2 dischargers shall provide effective soil cover for inactive areas and all finished slopes, open space, utility backfill, and completed lots.

   b. **Observation:** During the December 15, 2014 inspection, the San Diego Water Board inspector observed several completed building pads and slopes on the site that appeared to be inactive, or could be scheduled to be inactive, without effective soil cover or other BMPs that could prevent erosion. Evidence of erosion and sediment transport due to lack or erosion control measures for inactive areas were observed throughout the site during the inspection. See attached December 15, 2014 Facility Inspection Report Photos 4 through 7.

6. **Failure to Implement Adequate Perimeter Sediment Controls:**

   a. **Pursuant to Provision X and Section E.1 of Attachment D of State Water Board Order No. 2009-0009-DWQ:** Risk Level 2 dischargers shall establish and maintain effective perimeter controls and stabilize all construction entrances and exits to sufficiently control erosion and sediment discharges from the site.

   b. **Observation:** During the December 15, 2014 inspection, the San Diego Water Board inspector observed several areas of the site where perimeter controls were

not established or maintained to sufficiently control erosion and sediment discharges from the site. See attached December 15, 2014 Facility Inspection Report Photos 9 through 14.

7. **Failure to Implement Adequate Erosion Controls for Active Areas:**

   a. **Pursuant to Provision X and Section E.3 of Attachment D of State Water Board Order No. 2009-0009-DWQ:** Risk Level 2 dischargers shall implement appropriate erosion control BMPs (runoff control and soil stabilization) in conjunction with sediment control BMPs for areas under active construction.

   b. **Observation:** During the December 15, 2014 inspection, the San Diego Water Board inspector observed several active areas of the site that did not have appropriate erosion control BMPs in place or ready to be deployed. See attached December 15, 2014 Facility Inspection Report Finding 4 and Photo 8.

8. **Failure to Implement Adequate Linear Sediment Controls for Exposed Slopes:**

   a. **Pursuant to Provision X and Section E.4 of Attachment D of State Water Board Order No. 2009-0009-DWQ:** Risk Level 2 dischargers shall apply linear sediment controls along the toe of the slope, face of the slope, and at the grade breaks of exposed slopes to comply with sheet flow lengths in accordance with Table 1.

   b. **Observation:** During the December 15, 2014 inspection, the San Diego Water Board inspector observed several slopes throughout the site without linear sediment controls along the toe and grade breaks of exposed slopes. See attached December 15, 2014 Facility Inspection Report Photos 4 through 7.

9. **Failure to Implement Adequate Run-on and Runoff Controls:**

   a. **Pursuant to Provision X and Section F of Attachment D of State Water Board Order No. 2009-0009-DWQ:** Risk Level 2 shall effectively manage all run-on, all runoff within the site and all runoff that discharges from the site. Run-on from off site shall be directed away from all disturbed areas or shall collectively be in compliance with the effluent limitations in the CGP.

   b. **Observation:** During the December 15, 2014 inspection, the San Diego Water Board inspector observed a lack of effective runoff controls within the site, and at several areas around the site where perimeter controls were not established or maintained to prevent run-on to and runoff from the site, resulting in sediment being allowed to be discharged in runoff from the site. See attached December 15, 2014 Facility Inspection Report Photos 8 through 14.

B. Summary of Potential Enforcement Options

These violations may subject you to additional enforcement by the San Diego Water Board or State Water Resources Control 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.

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 Wayne Chiu at (619) 521-3354 or wchiu@waterboards.ca.gov.

Eric S. Becker, P.E.
Senior Water Resource Control Engineer
Storm Water Management

ESB:wc

Attachments: Facility Inspection Report dated December 15, 2014

Tech Staff Info & Use	
Place ID	SM-828060
WDID	937C369143
Inspection ID	2024185
Violation ID	855345, 855346
Enforcement ID	417155

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD - SAN DIEGO REGION
WATERSHED PROTECTION PROGRAM

FACILITY INSPECTION REPORT

FACILITY: Valencia **INSPECTION DATE/TIME:** 12/15/2014; 10:00 am
WDID/FILE NO.: 937C369143

REPRESENTATIVE(S) PRESENT DURING INSPECTION:

NAME:	Wayne Chiu	AFFILIATION:	San Diego Water Board
NAME:	Ben Anderson	AFFILIATION:	BCA Development, Inc.
NAME:	Tim Anderson	AFFILIATION:	BCA Development, Inc.
NAME:	Donald Sturgeon	AFFILIATION:	Whitson CM
NAME:	Leon Firsht	AFFILIATION:	City of Lemon Grove
NAME:	Gary Harper	AFFILIATION:	City of Lemon Grove

San Altos Lemon Grove LLC
NAME OF OWNER, AGENCY OR PARTY RESPONSIBLE FOR DISCHARGE

BCA Development, Inc.
FACILITY OR DEVELOPER NAME (if different from owner)

5780 Fleet Avenue
Carlsbad, CA 92008
OWNER MAILING ADDRESS

1350 San Altos Place
Lemon Grove, CA 91945
FACILITY ADDRESS

Ben Anderson, 714-966-1544
OWNER CONTACT NAME AND PHONE #

Same
FACILITY OR DEVELOPER CONTACT NAME AND PHONE #

APPLICABLE WATER QUALITY LICENSING REQUIREMENTS:

- ☐ MS4 URBAN RUNOFF REQUIREMENTS
- ☒ CONSTRUCTION GENERAL PERMIT
- ☐ CALTRANS GENERAL PERMIT
- ☐ INDUSTRIAL GENERAL PERMIT
- ☐ GENERAL OR INDIVIDUAL WASTE DISCHARGE REQUIREMENTS OR NPDES
- ☐ GENERAL OR INDIVIDUAL WAIVER OF WASTE DISCHARGE REQUIREMENTS
- ☐ SECTION 401 WATER QUALITY CERTIFICATION
- ☐ CWC SECTION 13264

INSPECTION TYPE (Check One):

- ☐ "A" TYPE COMPLIANCE--COMPREHENSIVE INSPECTION IN WHICH SAMPLES ARE TAKEN. (EPA TYPE S)
- ☐ "B" TYPE COMPLIANCE--A ROUTINE NONSAMPLING INSPECTION. (EPA TYPE C)
- ☐ NONCOMPLIANCE FOLLOW-UP--INSPECTION MADE TO VERIFY CORRECTION OF A PREVIOUSLY IDENTIFIED VIOLATION.
- ☐ ENFORCEMENT FOLLOW-UP--INSPECTION MADE TO VERIFY THAT CONDITIONS OF AN ENFORCEMENT ACTION ARE BEING MET.
- ☒ COMPLAINT--INSPECTION MADE IN RESPONSE TO A COMPLAINT.
- ☐ PRE-REQUIREMENT--INSPECTION MADE TO GATHER INFO. RELATIVE TO PREPARING, MODIFYING, OR RESCINDING REQUIREMENTS.
- ☐ NO EXPOSURE CERTIFICATION (NEC) - VERIFICATION THAT THERE IS NO EXPOSURE OF INDUSTRIAL ACTIVITIES TO STORM WATER.
- ☐ NOTICE OF TERMINATION REQUEST FOR INDUSTRIAL FACILITIES OR CONSTRUCTION SITES - VERIFICATION THAT THE FACILITY OR CONSTRUCTION SITE IS NOT SUBJECT TO PERMIT REQUIREMENTS.
- ☐ COMPLIANCE ASSISTANCE INSPECTION - OUTREACH INSPECTION DUE TO DISCHARGER'S REQUEST FOR COMPLIANCE ASSISTANCE.

INSPECTION FINDINGS:

Y WERE VIOLATIONS NOTED DURING THIS INSPECTION? (YES/NO/PENDING SAMPLE RESULTS)

I. COMPLIANCE HISTORY / PURPOSE OF INSPECTION

On December 2, 2014, the City of Lemon Grove (City) issued a Stop Work/Notice of Violation to the Valencia construction site (WDID 9 37C369143) for failing to implement construction storm water best management practices (BMPs) required by local ordinances. The City's inspection report issued with the Stop Work/Notice of Violation noted inadequate implementation of erosion controls, entrance/exit stabilization, and stockpile management and warned the project manager that a "discharge is imminent" without adequate BMPs. The site was required to stop work and implement BMPs to be prepared for a storm event that occurred on December 3 and 4, 2014.

The site failed to implement BMPs before the storm, resulting in unauthorized discharges of sediment and sediment-laden storm water from the site to the City's municipal separate storm sewer system (MS4). The City issued a second Stop Work/Notice of Violation on December 4, 2014 for the illegal discharges to the City's MS4. The City conducted a follow up inspection on December 9, 2014 and noted the same BMP deficiencies identified before the December 3 and 4, 2014 storm event, as well as additional deficiencies in perimeter sediment controls. The inspection report provided recommendations for locations that needed to be addressed and types of BMPs. The site again failed to implement BMPs before a subsequent storm event that occurred on December 11, 2014, again resulting in unauthorized discharges of sediment and sediment-laden storm water from the site to the City's MS4. On December 11, 2014, the City issued an Administrative Citation to the site requiring BMPs to be implemented by December 15, 2014 before monetary penalties would begin. The Stop Work/Notice of Violation issued on December 2 and 4, 2014 and the Administrative Citation issued on December 11, 2014 by the City are attached to the end of this inspection report.

On the morning of December 12, 2014, the City contacted the San Diego Water Board about the unauthorized discharges of sediment and sediment-laden storm water to their MS4 from the Valencia construction site. According to the City's storm water manager, the site owner was claiming the site was in compliance with the requirements of the Statewide Construction General Storm Water Permit, Order No. 2009-0009-DWQ (CGP) and therefore should be considered in compliance with the City's ordinances. The City's storm water manager requested an inspection from the San Diego Water Board to determine whether the construction site was in compliance with the requirements of the CGP.

Wayne Chiu of the San Diego Water Board performed an inspection of the Valencia construction site for compliance with the requirements CGP. According to the Storm Water Multiple Application & Report Tracking System (SMARTS), the site is a Risk Level 2 construction site, disturbing over 18 acres, and owned by San Alto Lemon Grove LLC. The developer of the site is BCA Development, Inc.

The San Diego Water Board inspector met with Mr. Ben Anderson, the contact for the owner and developer of the site, Mr. Tim Anderson, project manager for the developer,

and Mr. Donald Sturgeon, the Qualified Storm Water Pollution Prevention Plan (SWPPP) Practitioner (QSP) performing the weekly inspections. Also present to observe during the inspection were Mr. Leon Firsht and Mr. Gary Harper, City Engineer and Construction Storm Water Inspector for the City of Lemon Grove, respectively. The San Diego Water Board inspector did not review the SWPPP or other records during the inspection.

II. FINDINGS

1. Several stockpiles observed without adequate containment (See Photo 1). Evidence of erosion and sediment transport from the stockpile observed during the inspection. All construction sites are required to contain and securely protect stockpiled waste material from wind and rain at all times unless actively being used.

2. Construction equipment and vehicles observed without appropriate BMPs (e.g. drip pans) to prevent oil, grease, or fuel to leak in to the ground, storm drains, or surface waters (See Photos 2 and 3). All construction sites are required to prevent oil, grease or fuel to leak in to the ground, storm drains, or surface waters, and to place all equipment and vehicles, which are to be fueled, maintained and stored in a designated area fitted with appropriate BMPs.

3. Several areas were observed to be inactive, or could be scheduled to be inactive, without effective soil cover to control potential erosion. Several completed building pads and several inactive slopes (See Photos 4 through 7) lacked any effective soil cover for erosion control. The lack of erosion controls in these areas contributed to unauthorized sediment discharges from the site (See Photos 9 through 11). All construction sites are required to provide effective soil cover for inactive areas (i.e. areas that have been disturbed and not scheduled to be re-disturbed for at least 14 days) and all finished slopes, open space, utility backfill, and completed lots.

4. Active areas were observed to lack appropriate erosion control BMPs (runoff control and soil stabilization) to prevent erosion during storm events (See Photo 8). The project manager and QSP could not describe any erosion control measures that were in place or were ready to be deployed before the December 3 and 4, 2014 and December 11, 2014 storm events. Risk Level 2 construction sites are required to implement appropriate erosion control BMPs (runoff control and soil stabilization) in conjunction with sediment control BMPs for areas under active construction.

5. Several slopes throughout the site were observed to lack linear sediment controls along the toe and grade breaks of exposed slopes (See Photos 4 through 7). Risk Level 2 construction sites are required to apply linear sediment controls along the toe of the slope, face of the slopes, and at the grade breaks of exposed

slopes to comply with sheet flow lengths given in Table 1 of Attachment D to the CGP.

6. Lack of effective perimeter sediment controls observed which resulted in unauthorized sediment discharges from the site (See Photos 9 through 14). All construction sites are required to establish and maintain effective perimeter controls and stabilize all construction entrances and exits to sufficiently control erosion and sediment discharges from the site.

7. Lack of effective run-on and runoff controls observed within and around the site which contributed to sediment discharges from the site (See Photos 4 and 14). All construction sites are required to effectively manage run-on, all runoff within the site and all runoff that discharges off the site.

III. COMMENTS AND RECOMMENDATIONS

Comments

1. There is evidence that good site management "housekeeping" BMPs were not being adequately implemented (See Findings 1 and 2).

2. There is evidence that erosion controls were not adequately implemented for several inactive areas contributing to discharges of sediment from the site (See Finding 3).

3. There is evidence that erosion controls were not adequately implemented for several active areas prior to storm events contributing to discharges of sediment from the site (See Finding 4).

4. There is evidence that linear sediment controls were not adequately implemented for several exposed slopes contributing to slope erosion and discharges of sediment from the site (See Finding 5).

5. There is evidence that perimeter sediment controls, as well as run-on and runoff controls, were not adequately implemented which contributed to discharges of sediment from the site (See Findings 6 and 7).

6. There was evidence observed during the inspection that the site has not implemented BMPs to meet BCT Technology Based Effluent Limitations (TBELs) under Section V.A.2 of the CGP, as required for all construction sites, which resulted in the unauthorized discharges of sediment and sediment-laden water from the site observed or documented on December 4, 11, and 15, 2014 (See Compliance History discussion and Findings 1 through 7).

7. There is evidence that either the QSP was not adequately identifying and recommending implementation of good site management "housekeeping," erosion control, sediment control, and run-on/runoff control BMPs, or the owner/developer was not directing the implementation of the BMPs as recommended by the QSP.

Recommendations

1. Issue a Notice of Violation for discharges of sediment from the site and failure to implement Risk Level 2 requirements of CGP.

2. Refer the site to the Compliance Assurance Unit to determine whether or not issuing formal enforcement action may be appropriate.

IV. SIGNATURE SECTION

Wayne Chiu		12/15/2014
STAFF INSPECTOR	SIGNATURE	INSPECTION DATE
Eric Becker	Eric Becker	12/16/14
REVIEWED BY SUPERVISOR	SIGNATURE	DATE

SMARTS:

Tech Staff Info & Use	
WDID	937C369143
Place ID	SM-828060
Inspection ID	2024185
Violation ID	855345, 855346



Photo 1

Photo 1 shows soil stockpile without adequate containment. Evidence of erosion and sediment transport along that base of the stockpile. Most stockpiles observed during inspection lacked adequate containment.



Photo 2



Photo 3

Photos 2 and 3 show construction equipment and vehicles without appropriate BMPs (e.g. drip pans) to prevent oil, grease, or fuel to leak in to the ground, storm drains, or surface waters. Most vehicles observed during inspection lacked appropriate BMPs.



Photo 4



Photo 5



Photo 6



Photo 7



Photo 8

Photos 4 through 7 show completed building pads and adjacent slopes without any erosion controls and evidence of significant erosion and sediment transport. **Photo 8** shows evidence of erosion and sediment tranport in unpaved road sloping to locations shown in Photos 9 through 11. Sediment from completed lots and slopes in Photos 4 through 7 transported to road in Photo 8 lacking any erosion control measures during storm events, and inadequate runoff controls to reduce and prevent transport of sediment through site.



Photo 9



Photo 10



Photo 11



Photo 12

Photos 9 through 12 show inadequate implementation of perimeter sediment controls and run-on/runoff controls to prevent discharges of sediment from the site. Photo 9 shows evidence of erosion and sediment transport from road shown in Photo 8 to perimeter with inadequately installed perimeter sediment and runoff controls (i.e. fiber roll not properly trenched and staked). Photos 10 shows evidence of sediment transport from the site beneath the inadequately installed perimeter sediment and runoff controls. Photo 11 shows evidence of sediment transport from the site to MS4 channel protected by silt fence and gravel bags. Photo 12 shows sediment that has been discharged into the MS4 channel due to inadequate implementation of erosion, sediment, and runoff controls by the site.



Photo 13



Photo 14

Photos 13 and 14 show lack of effective perimeter sediment controls and run-on/runoff controls. Photo 13 shows evidence of erosion and sediment transport due to lack of perimeter run-on controls. Photo 14 shows evidence of sediment discharged from the site to the MS4 drainage system due to erosion caused by run-on that then ran off the site due to inadequate perimeter sediment controls and runoff controls.

NOTICE

DATE: 12/2/14
PROJECT: VALENCIA
PROJECT #: GR-1692
ADDRESS: SAN AITOS PL

☒ STOP WORK/NOTICE OF VIOLATION

Stop all other work until erosion control/NPDES deficiencies noted below are corrected. Issuance of this Stop Work Notice will notify the Regional Water Quality Control Board regarding your BMP deficiencies. This may subject you to fines of up to $10,000/day.

☐ CORRECT WORK

Correct noted deficiencies within the specified time frame to avoid a Stop Work Notice:

☐ 24 Hours ☐ 72 Hours ☐ 5 Days ☐ Prior to October 1st, And/Or ☐ Before Rain Event

---

THIS PROJECT IS IN CONFLICT WITH THE FOLLOWING:

☐ City of Lemon Grove Grading Ordinance* ☒ City of Lemon Grove JURMP
☐ Other: _____

THE AREAS OF CONFLICT ARE:

☐ Erosion control is not on site ☐ Erosion control is not per the approved plan
☒ Erosion control is inadequate ☐ Failure to maintain erosion/sediment control device
☐ Other _____

THE FOLLOWING DEFICIENCIES ARE NOTED:

☒ Stabilized construction entrance ☐ Runoff from the site ☐ Desilting basin
☐ Perimeter protection at toe of slope ☐ Waste/materials storage
☐ Concrete washout inadequate, not maintained ☐ No secondary containment
☒ Cover stockpiles ☐ No storm drain inlet/outlet protection ☐ Trash/debris not managed
☐ Cover on sloped and/or flat areas that are inactive for more than 10 days
☐ Other _____

***STOP/ CORRECT WORK ADEQUATELY ADDRESSED (DATE/SIGNATURE)_____

CC: ☒ City Engineer
☒ Engineering
☐ Management Analyst
☐ Code Compliance
☐ Building
☐ RWQCB

ISSUED TO: Tim Anderson (via Email)
DATE/TIME: 12/2/14 3pm
BY: Gary Harper
TITLE: Eng. Inspector
PHONE: (619) 454-1272

IF YOU HAVE FURTHER QUESTIONS, PLEASE CALL THE CITY OF LEMON GROVE'S DEVELOPMENT SERVICES DEPARTMENT AT (619) 825-3805.

* Having deficiencies in your erosion control is a violation of the City of Lemon Grove's Grading Ordinance. A violation of the City's Grading Ordinance is a misdemeanor. Each separate day or portion thereof on which a violation exists or is allowed to exist shall constitute a separate offense punishable by the provisions of the Ordinance.

CITY OF LEMON GROVE
3232 Main Street, Lemon Grove, CA 91945

NPDES STORMWATER PROGRAM
CONSTRUCTION STORMWATER COMPLIANCE INSPECTION FORM

Inspector Name /Signature/Date/Time: Harper / [signature] / 12/2/14 / 1pm

Inspection: ☐ Permit-Required Inspection ☐ Follow-up Inspection ☒ Other (Explain) WEEKLY

Construction Project Priority: ☐ High ☐ Medium ☐ Low

GENERAL INFORMATION

Grading or Building Permit #: Gr- 1692

Project Name & Type: VALENCIA, SUBDIVISION

Project Location & Address: SAN ALTOS PL

Contractor's Name & Telephone #: ANDERSON DEVELOPMENT (949) 275-6739

Property Owner & Telephone #: SAN ALTOS LLC

Is this Project Greater than an Acre? ☒ Yes ☐ No ☐ N/A

If yes: Provide Record of Waste Discharge Identification Number (WDID#): 937C 369143

Does this Project have an NOI/SWPPP Available? ☒ Yes ☐ No ☐ N/A

Is Weather Triggered Action Plan Completed? ☒ Yes ☐ No ☐ N/A

Is Advanced Treatment Implemented Appropriately? ☐ Yes ☐ No ☒ N/A

Is More than 17 Acres of Cleared or Graded Areas Left Exposed at Any Given Time? ☐ Yes ☒ No ☐ N/A

Is 125% of Materials to Install Standby BMPs Available? ☐ Yes ☒ No ☐ N/A

Are Routine Self-Inspections Being Conducted by Developer/Owner? ☒ Yes ☐ No ☐ N/A

Project Site is in What Sub-Watershed: ☐ Chollas Creek 908.22 ☐ Sweetwater River 909.12

Nearest Conveyances or Water Bodies: MS4

BMP	Yes	No	N/A	Description/Explanation	Effective Yes/No
Soil Stabilization and Erosion Prevention					
Is construction site phased/scheduled to address erosion control on a timely basis?	X		→	CONTRACTOR HYDROSEEDING AS NEEDED, BUT DID NOT	N
Preservation of existing vegetation?	X		→	SEED AS PLANNED	Y
Physical Stabilization: Hydraulic Mulch, Hydroseeding, Soil Binders, Straw Mulch					
Geotextiles, Plastic Covers, Erosion Prevention Blankets, Wood Mulching	X			NOT ENOUGH PLASTIC COVERS FOR STOCKPILES	NO
Site Drainage: Outlet Protection/Slope Drain	X				Y
Inlet/Outlet Protection	Y				Y
Sediment Control/Containment					
Perimeter Protection: Silt Fencing, Gravel Bags, Fiber Rolls	Y				Y

BMP	Yes	No	N/A	Description/Explanation	Effective Yes/No
Storm Drain inlet protection: Sediment Trap, De-silting Basin, Gravel Bag Barrier	Y				Y
Tracking Controls: Stabilized Entrance/Exit Road Stabilization, Tire Wash, Street Sweeping	Y			ENTRANCE NEEDS TO BE CLEANED. ALSO NEED STREET SWEPT	NO
Materials and Equipment Management					
Are materials and wastes stored in a manner that minimizes or eliminates the potential to discharge these materials to the storm drain system, is secondary containment used?	Y				Y
Are material stockpiles protected: covered, contained and located away from non-storm water discharges?	Y			SOME ARE COVERED SOME ARE NOT	NO
Are heavy equipment and vehicles parked in designated areas with permeable surface?	Y				Y
Are appropriate spill response and containment measures kept on the site?	Y				Y
Are wastes managed and stored properly (Solid, liquid, sanitary, concrete, hazardous)	Y				Y
Are concrete washouts properly installed, maintained with no evidence of discharges.	Y				Y
Is timely service and removal provided to prevent waste containers and sanitary facilities from overflowing?	Y				Y
Non-Storm Water Management					
Is the site free of evidence of illegal connections and/or illicit discharges?	Y				Y
Discharge Locations					
Are the discharge locations free of significant erosion or sediment transport?		N		TC-1 IS DOWNSTREAM OF UPPER SITE; NEEDS TO BE CLEANED	NO
Other					
Are there any other potential storm water pollution issues/concerns?	Y			RAIN EVENT TODAY, TC-1 SHOULD BE PROTECTED	NO
Was there any employee or subcontractor training on stormwater BMPs?		N			

VIOLATIONS

- ☐ No violations noted at time of inspection/investigation
- ☐ No violations; however, recommended corrective actions required
  - ☐ Inspection Form as Correct Work Notice ☐ Correct Work Notice Issued on: _____
- ☒ Violation: Illegal Discharge/Illegal Connection/Improper BMPs Implementation
  - ☒ Stop Work Notice Issued on: 12 | 2 | 14

RECOMMENDED CORRECTIVE ACTION

SEE STOP WORK NOTICE - DISCHARGE IS IMMINENT IF NOAA FORECAST CORRECT: 100% HENRY RAIN THIS AFTERNOON.

I CALL TO TIM ANDERSON THIS MORNING AT 9AM. LEFT V. MAIL THAT SITUATION NEEDED ATTENTION ASAP - NO RETURN CALL

NOTICE

DATE: 12/4/2014
PROJECT: VALENCIA
PROJECT #: GIR-1692
ADDRESS: SAN ANTOLPL

☑ STOP WORK/NOTICE OF VIOLATION

Stop all other work until erosion control/NPDES deficiencies noted below are corrected. Issuance of this Stop Work Notice will notify the Regional Water Quality Control Board regarding your BMP deficiencies. This may subject you to fines of up to $10,000/day.

☐ CORRECT WORK

Correct noted deficiencies within the specified time frame to avoid a Stop Work Notice:

☐ 24 Hours ☐ 72 Hours ☐ 5 Days ☐ Prior to October 1st, And/Or ☐ Before Rain Event

---

THIS PROJECT IS IN CONFLICT WITH THE FOLLOWING:

☐ City of Lemon Grove Grading Ordinance* ☑ City of Lemon Grove JURMP
☐ Other: _____

THE AREAS OF CONFLICT ARE:

☐ Erosion control is not on site ☑ Erosion control is not per the approved plan
☑ Erosion control is inadequate ☑ Failure to maintain erosion/sediment control device
☐ Other _____

THE FOLLOWING DEFICIENCIES ARE NOTED:

☑ Stabilized construction entrance ☑ Runoff from the site ☐ Desilting basin
☐ Perimeter protection at toe of slope ☐ Waste/materials storage
☐ Concrete washout inadequate, not maintained ☐ No secondary containment
☑ Cover stockpiles ☐ No storm drain inlet/outlet protection ☐ Trash/debris not managed
☐ Cover on sloped and/or flat areas that are inactive for more than 10 days
☑ Other Illegal Discharge

***STOP/ CORRECT WORK ADEQUATELY ADDRESSED (DATE/SIGNATURE)_____

CC: ☑ City Engineer
☑ Engineering
☐ Management Analyst
☐ Code Compliance
☐ Building
☑ RWQCB

ISSUED TO: Tim Anderson (EMAIL)
DATE/TIME: 12/4/2014 10 AM
BY: Gary Hager
TITLE: Env. Inspector
PHONE: (619) 454 1272

IF YOU HAVE FURTHER QUESTIONS, PLEASE CALL THE CITY OF LEMON GROVE'S DEVELOPMENT SERVICES DEPARTMENT AT (619) 825-3805.

* Having deficiencies in your erosion control is a violation of the City of Lemon Grove's Grading Ordinance. A violation of the City's Grading Ordinance is a misdemeanor. Each separate day or portion thereof on which a violation exists or is allowed to exist shall constitute a separate offense punishable by the provisions of the Ordinance.

CITY OF LEMON GROVE
ADMINISTRATIVE CITATION

A) TYPE OF VIOLATION

Circle One: (Warning) 1st Citation $100 | 2nd Citation $200 | 3rd Citation $500 | 4th Citation $1,000

Payment of $ — is due no later than — to the City of Lemon Grove. The City accepts cash, check or credit card.

If the violation is not corrected by the date specified therein and/or payment is not received by the date above, the next level of citation may be issued, other enforcement actions may occur, and penalties may be assessed (25% and interest at the rate of 10% per month). Payment of fine does not excuse or discharge the failure to correct violation identified below.

B) RESPONSIBLE PARTY INFORMATION

Person Cited: Anderson (Last Name) Tim (First Name)

Circle One: Property Owner Tenant Business Owner (Other) Site Representative / Project Manager

Mailing Address: 3194-C2 Airport Loop Drive Costa Mesa, CA 92626

Business Name (if applicable): BCA Development

cc: Phil Downey, Code Enforcement File

C) VIOLATION(S) INFORMATION

Date (Violation Observed): 12/11/14 Time (Violation Observed): 4:00-5:00 P.M.

Location of Violation: 1350 San Altos, LG / Valencia (Street Address) (APN)

Violation(s) Observed (Code Section and Description):

B.48.060 18.08.560 Inadequate BMP's - see attached inspection reports
18.08.170
18.08.180

D) CORRECTION(S) REQUIRED (with date to complete corrections)

Install BMP's per Recommendations > 12/15/14 5:00 P.M.
Maintain adequate surplus of BMPs

E) SERVICING CITATION INFORMATION

Enforcing Officer Name: Leon Finstad Phone No.: 619-825-3825 Signature: [signature] Date: 12/11/14

Person Cited – Signature Acknowledging Receipt _____ (Date)

Citation Served (circle one): In Person (By Mail / Email) Posted on Property

This citation may be appealed within thirty (30) days from date of correction identified in Section D. To request an appeal, a Request an Appeal Hearing form (available at City Hall) should be completed and returned to City Hall. In the event a Hardship Waiver is requested, the Request for an Appeal Hearing and Hardship Waiver forms are required within fifteen (15) days from the correction date identified in Section D.

WHITE-ORIGINAL PINK-COPY CITATION CARD-OWNER

8.48.060 Best management practice requirements and general requirements applicable to all dischargers.

A. Applicable Requirements. All dischargers in the city must comply with the generally applicable prohibitions and requirements in Sections 8.48.010 through 8.48.060 of this chapter, and must also comply with any other parts of this chapter (including relevant parts of the Manual) that are applicable to the type of facility or activity owned or operated by that discharger.

B. Minimum Best Management Practices for All Dischargers. All dischargers in the city must install, implement and maintain at least the following minimum BMPs:

1. Eroded Soils. Prior to the rainy season, dischargers must remove or secure any significant accumulations of eroded soils from slopes previously disturbed by clearing or grading, if those eroded soils could otherwise enter the stormwater conveyance system or receiving waters during the rainy season.

2. Pollution Prevention. Dischargers employing ten or more persons on a full-time basis shall implement those stormwater pollution prevention practices that are generally recognized in that discharger's industry or business as being effective and economically advantageous.

3. Prevention of Illegal Discharges. Illicit connections must be eliminated (even if the connection was established pursuant to a valid permit and was legal at the time it was constructed), and illegal discharge practices eliminated.

4. Slopes. Completed slopes that are more than five feet in height, more than two hundred fifty square feet in total area, and steeper than 3:1 (run-to-rise) that have been disturbed at any time by clearing, grading, or landscaping, shall be protected from erosion prior to the first rainy season following completion of the slope, and continuously thereafter.

5. Storage of Materials and Wastes. All materials and wastes with the potential to pollute urban runoff shall be stored in a manner that either prevents contact with rainfall and stormwater, or contains contaminated runoff for treatment and disposal.

6. Use of Materials. All materials with the potential to pollute urban runoff (including, but not limited to, cleaning and maintenance products used outdoors, fertilizers, pesticides and herbicides, etc.) shall be used in accordance with label directions. No such product may be disposed of or rinsed into receiving waters or the stormwater conveyance system.

C. Inspection, Maintenance, Repair and Upgrading of BMPs. BMPs at manned facilities must be inspected by the discharger before and following predicted rain events. BMPs at unmanned facilities must be inspected by the discharger at least once during the rainy season and at least once between each rainy season. These BMPs must be maintained so that they continue to function as designed. BMPs that fail must be repaired as soon as it is safe to do so. If the failure of a BMP indicates that the BMPs in use are inappropriate or inadequate to the circumstances, the BMPs must be modified or upgraded to prevent any further failure in the same or similar circumstances.

D. Stormwater Pollution Prevention Plan. An authorized enforcement official may require a commercial, industrial or land disturbance activity discharger to prepare and submit an SWPPP for approval by that official if: (1) the discharger does not come into compliance with this chapter after one or more warnings (or other enforcement action) that BMPs are inadequate or are not being adequately maintained; or (2) the facility or activity at issue is a significant source of contaminants to receiving waters despite compliance with this

chapter. Any discharger required to submit and to obtain approval of an SWPPP shall install, implement, and maintain the BMPs specified in the approved SWPPP.

The SWPPP shall identify the BMPs that will be used by the discharger to prevent or control pollution of stormwater to the MEP. If the facility is an industrial facility, the SWPPP submitted to the city shall at a minimum meet the requirements of the state NPDES general industrial stormwater permit. If the activity at issue is a construction or land disturbance activity, the SWPPP submitted to the city shall at a minimum meet the requirements of the state NPDES general construction stormwater permit. If a facility required to submit an SWPPP to the city discharges non-stormwater to groundwater, the facility shall obtain an RWQCB permit as required by the State Water Code, and shall describe the requirements of that permit in the SWPPP.

Whenever submission of an SWPPP is required pursuant to this chapter, an authorized enforcement official may take existing city BMPs into account when determining whether the practices proposed in the SWPPP are BMPs that will prevent or control pollution to the required level of MEP.

E. Notification of Spills, Releases and Illegal Discharges. Spills, releases, and illegal discharges of pollutants to receiving waters or to the stormwater conveyance system shall be reported by the discharger as required by all applicable state and federal laws. In addition, any such spills, releases and illegal discharges with the potential to endanger health, safety or the environment shall be reported to the Directors within twenty-four hours after discovery of the spill, release or discharge. If safe to do so, necessary actions shall be taken to contain and minimize the spill, release or illegal discharge.

F. Sampling, Testing, Monitoring and Reporting. Commercial, industrial or land disturbance activity dischargers shall perform the sampling, testing, monitoring and reporting required by this chapter. In addition, an authorized enforcement official may order a discharger to conduct testing or monitoring and to report the results to the city if: (1) the authorized enforcement official determines that testing or monitoring is needed to determine whether BMPs are effectively preventing or reducing pollution in stormwater to the MEP, or to determine whether the facility is a significant source of contaminants to receiving waters; or (2) the authorized enforcement official determines that testing or monitoring is needed to assess the impacts of an illegal discharge on health, safety or the environment; or (3) an illegal discharge has not been eliminated after written notice by an authorized enforcement official; or (4) repeated violations have been documented by written notices from authorized enforcement officials; or (5) the RWQCB requires the city to provide any information related to the discharger's activities.

Testing and monitoring ordered pursuant to this subsection may include the following:

1. Visual monitoring of dry weather flows, wet weather erosion, and/or BMPs;
2. Visual monitoring of premises for spills or discharges;
3. Laboratory analyses of stormwater or non-stormwater discharges for pollutants;
4. Background or baseline monitoring or analysis; and
5. Monitoring of receiving waters or sediments that may be affected by pollutant discharges by the discharger (or by a group of dischargers including the discharger).

The authorized enforcement official may direct the manner in which the results of required testing and monitoring are reported, and may determine when required sampling, testing or monitoring may be discontinued.

G. Mitigation. All illegal discharges must be mitigated within a reasonable period of time to correct or compensate for all damage to the environment caused by the illegal discharge. The authorized enforcement official shall determine whether mitigation measures proposed or completed by the discharger meet this standard. The authorized enforcement official shall require the discharger to submit a mitigation plan and schedule by a specified date prior to taking action, and to submit a summary of completed mitigation by a specified date. Notwithstanding the granting of any period of time to the discharger to correct the damage, the

discharger shall remain liable for some or all of any fines or penalties imposed pursuant to this chapter, or by the RWQCB. (Ord. 369 § 1, 2008)

18.08.170 Erosion control required.

A. Plans for an erosion control system shall be prepared and submitted for the review and approval of the city engineer as a part of any application for a construction permit. The erosion control system shall comply with the requirements of the latest national pollutant discharge elimination system permit, Chapters 8.48 and this chapter to satisfy the requirements for erosion control and eliminate the discharge of sediment and pollutants. The erosion control plan shall include, but not be limited to, the following information:

1. Name, address, and a twenty-four hour phone number of the owner or responsible party, and the person or contractor responsible for installing and maintaining the erosion control system and performing emergency erosion control work;

2. The name, address and signature of the civil engineer or person who prepared the plan;

3. All desilting basins, debris basins, silt traps, and other desilting, velocity retarding and protection facilities necessary to adequately protect the site and downstream properties from erosion and its effects, preserve natural hydrologic features, and preserve riparian buffers and corridors;

4. The streets, easements, drains, and other improvements;

5. The location and placement of gravel bags, diverters, check dams, slope planting, drains, and other erosion controlling devices and measures;

6. Access routes to all such erosion control facilities and how access shall be maintained during inclement weather.

B. Erosion control system standards shall be as follows:

1. The faces of cut-and-fill slopes and the project site shall be prepared and maintained to control against erosion. Where cut slopes are not subject to erosion due to the erosion-resistant character of the materials, such protection may be omitted upon approval of the city engineer.

2. Where necessary, temporary and/or permanent erosion control devices such as desilting basins, check dams, cribbing, riprap, or other devices or methods as approved by the city engineer, shall be employed to control erosion, prevent discharge of sediment, and provide safety.

3. Temporary desilting basins constructed of compacted earth shall be compacted to a relative compaction of ninety percent of maximum density. A gravel bag or plastic spillway must be installed for overflow, as designed by the engineer of work, to avoid failure of the earthen dam. A soils engineering report prepared by the soils engineer, including the type of field-testing performed, location and results of testing shall be submitted to the city engineer for approval upon completion of the desilting basins.

4. Desilting facilities shall be provided at drainage outlets from the graded site, and shall be designed to provide a desilting capacity capable of containing the anticipated runoff for a period of time adequate to allow reasonable settlement of suspended particles.

5. Desilting basins shall be constructed around the perimeter of projects, whenever feasible, and shall provide improved maintenance access from paved roads during wet weather. Grading cost estimates must include maintenance and ultimate removal costs for temporary desilting basins.

6. The erosion control provisions shall take into account drainage patterns during the current and future phases of grading.

7. All removable protective devices shown shall be in place at the end of each working day when there is a fifty percent chance of rain within a forty-eight hour period. If the developer does not provide the required installation or maintenance of erosion control structures within two hours of notification at the twenty-four hour number on the plans, the city engineer may order city crews to do the work or may issue contracts for such work and charge the cost of this work along with reasonable overhead charges to the cash deposits or other instruments implemented for this work without further notification to the owner. No additional work on the project except erosion control work may be performed until the full amount drawn from the deposit is restored by the developer.

8. At any time of year, an inactive site shall be fully protected from erosion and discharges of sediment. Flat areas with less than five percent grade shall be fully covered unless sediment control is provided through desiltation basins at all project discharge points. A site is considered inactive if construction activities have ceased for a period of ten or more consecutive days.

C. No grading work shall be allowed between October 1st and the following April 30th on any site when the city engineer determines that erosion, mudflow or sediment of silt discharge may adversely affect downstream properties, drainage courses, storm drains, streets, easements, or public or private facilities or improvements unless an approved erosion control system has been implemented on the site. If the city determines that it is necessary for the city to cause erosion control measures to be installed or cleanup to be done, the developer shall pay all of the city's direct and indirect costs including extra inspection, supervision, and reasonable overhead charges. (Ord. 371 § 1, 2008)

18.08.180 BMP maintenance.

All BMPs for erosion prevention and sediment control shall be functional at all time. Prior to the rainy season and after each major storm, all source control and structural treatment BMPs shall be inspected to assure the functionality. BMP maintenance shall be conducted throughout the life of the project. (Ord. 371 § 1, 2008)

18.08.560 Responsibility of permittee.

It shall be the responsibility of the permittee to know the conditions and/or restrictions placed on the grading permit and as outlined in applicable sections of this chapter, and as continued on the approved report (s) and to insure that all contractors, subcontractors, employees, agents and consultants are also knowledgeable of the same, and insure that they carry out the proposed work in accordance with the approved plans and specifications and with the requirements of the permit and this chapter. The permittee shall also be responsible to maintain in an obvious and accessible location on the site, a copy of the permit and grading plans bearing the approval of the city engineer. (Ord. 371 § 1, 2008)

Meeting Minutes/Phone Record

CITY OF LEMON GROVE
Engineering Department
3232 Main Street
Lemon Grove, CA 91945
619-825-3811

Date: 12/11/14 5:00 P.M. | Project: Valencia

☐ Meeting ☐ Phone ☒ Site Visit

Attendees: Leon & Gary

Notes: Site inspection to review recommended "Construction BMP Recommendations" from 12/9/14 inspection (attached).

(1) No erosion control provided.
(2) Insufficient / Improperly installed check dams.
(3) Repair & stabilization of gullies not completed.
(4) Not completed.
(5) Completed.
(6) Not visible.
(7) Mostly complete.
(8) N/A

Page 1 / 1 Initials LE Hours: 1.0

Get Local Forecast For:
Enter location ... GO
Search Help

XML RSS Feeds
Current Hazards
Watches / Warnings
Outlooks
Submit Report
Current Conditions
Observations
Radar
Satellite
Precipitation
Mapped Weather
Other Hazards
Forecasts
Forecast Discussion
Local Area
Activity Planner
Aviation Weather
Fire Weather
Marine Weather
Severe Weather
Hurricane Center
User Defined Area
Fastlinks
Hydrology
Rivers and Lakes
Forecasts / Obs
Climate
Local
National
Drought
More...
Climate portal
Weather Safety
Preparedness
Weather Radio
SkyWarn™
StormReady
TsunamiReady
Additional Info
Items of Interest
Other Useful Links
Education Resources
COOP Observer

Warnings and/or Advisories In Effect for this Point:
Flash Flood Watch
Wind Advisory
For warnings and/or advisories in effect for adjacent areas to this point, see http://www.wrh.noaa.gov/sgx

Change Table Font Size Increase Decrease

Forecast For Lat/Lon: 32.7370/-117.0200 (Elev. 492 ft)
Lemon Grove CA
Forecast Created at: 6pm PST Dec 11, 2014
Custom Weather Forecast Table

	Thu Dec 11				Fri Dec 12				Sat Dec 13				Sun Dec 14				Mon Dec 15				Tue Dec 16				
Weather			Chance Rain		Slight Chance TStorms and Rain	Rain Showers and TStorms	Likely Rain Showers and TStorms	Likely Rain Showers	Chance Rain Showers										Chance Rain		Likely Rain				C
Daily-Temp	High 67 Low 53				High 63 Low 58				High 63 Low 51				High 65 Low 48				High 64 Low 50				High 64 Low 52				
Chance of Precip	0%	0%	5%	45%	100%	90%	65%	75%	30%	15%	5%	5%	5%	5%	5%	5%	5%	5%	40%	40%	55%	55%	60%	60%	40
Precip	0.00"	0.00"	0.00"	0.01"	0.57"	0.29"	0.06"	0.12"	0.00"	0.00"	0.00"	0.00"	0.00"	0.00"											
12-hr Snow Total	0"		0"		0"		0"		0"																
FRET	0.06"				0.06"				0.05"				0.06"				0.07"				0.07"				
6-Hour	4am	10am	4pm	10pm	4am	10am	4pm	10pm	4am	10am	4pm	10pm	4am	10am	4pm	10pm	4am	10am	4pm	10pm	4am	10am	4pm	10pm	4a
Temp	53	62	65	60	58	61	60	54	52	59	59	52	49	59	61	54	51	59	61	55	53	60	61	55	5
Cloudiness	86%	49%	75%	100%	100%	91%	84%	75%	69%	51%	30%	37%	31%	21%	30%	30%	41%	41%	62%	62%	90%	90%	87%	87%	71
Dewpoint	52	53	54	53	52	54	52	50	49	48	46	46	43	44	44	48	44	43	45	49	47	51	49	51	4
Relative Humdity	94%	73%	67%	78%	79%	77%	73%	88%	89%	69%	61%	81%	80%	57%	52%	81%	79%	57%	54%	81%	82%	72%	63%	88%	89
Wind	S 2	S 7	S 8	S 10	SE 15	W 6	SW 6	W 6	E 2	W 2	NW 5	E 3	E 3	N 1	W 5	E 5	E 6	S 7	SW 7	SE 7	SE 8	S 9	S 7	S 6	S\ 1
Snow Level (ft)			9317	9161	7608	6313	5478	5212	5704										6701	5923	5850	5993	5805	5704	56

Forecast Weather Table Interface

Select Weather Format	Enter a Location or Click on Map Below
○ Custom Weather Table ○ XML ○ Point Forecast Page ○ Point Forecast Matrix ○ Hourly Tabular Forecast ○ Hourly Weather Graph Interval in Hours: ○ 1 ○ 3 ○ 6 Duration in Days: ○ 1 ○ 2 ○ 3 ○ 4 ○ 5 ○ 6 ○ 7	Search by address; city,state; latitude/longitude... Go

CITY OF LEMON GROVE
3232 Main Street, Lemon Grove, CA 91945

NPDES STORMWATER PROGRAM
CONSTRUCTION STORMWATER COMPLIANCE INSPECTION FORM

Inspector Name /Signature/Date/Time: TAD NAKATANI / ~~TAD~~ / 12/11/14 9:00AM

Inspection: ☐ Permit-Required Inspection ☒ Follow-up Inspection ☐ Other (Explain)____

Construction Project Priority: ☐ High ☒ Medium ☐ Low

GENERAL INFORMATION

Grading or Building Permit #: Gr- 1692

Project Name & Type: VALENCIA SUBDIVISION

Project Location & Address: SAN ALTOS PLACE

Contractor's Name & Telephone #: ANDERSON DEVELOPMENT (949) 275-6739

Property Owner & Telephone #: SAN ALTOS LLC

Is this Project Greater than an Acre? ☒ Yes ☐ No ☐ N/A

If yes: Provide Record of Waste Discharge Identification Number (WDID#): 937C369143

Does this Project have an NOI/SWPPP Available? ☒ Yes ☐ No ☐ N/A

Is Weather Triggered Action Plan Completed? ☐ Yes ☐ No ☒ N/A

Is Advanced Treatment Implemented Appropriately? ☐ Yes ☐ No ☒ N/A

Is More than 17 Acres of Cleared or Graded Areas Left Exposed at Any Given Time? ☐ Yes ☒ No ☐ N/A

Is 125% of Materials to Install Standby BMPs Available? ☐ Yes ☒ No ☐ N/A

Are Routine Self-Inspections Being Conducted by Developer/Owner? ☐ Yes ☐ No ☐ N/A

Project Site is in What Sub-Watershed: ☒ Chollas Creek 908.22 ☐ Sweetwater River 909.12

Nearest Conveyances or Water Bodies: _____

BMP	Yes	No	N/A	Description/Explanation	Effective Yes/No
Soil Stabilization and Erosion Prevention					
Preservation of existing vegetation?			X		
Physical Stabilization: Hydraulic Mulch, Hydroseeding, Soil Binders, Straw Mulch	X			Gullies & unstabilized pads still not addressed	No
Geotextiles, Plastic Covers, Erosion Prevention Blankets, Wood Mulching	X			some plastic sheets added but not yet sufficient	No
Site Drainage: Outlet Protection/Slope Drain		X			
Inlet/Outlet Protection	X			See inlet protection comment below	No
Sediment Control/Containment					
Perimeter Protection: Silt Fencing, Gravel Bags, Fiber Rolls	X			Additional fiber rolls not placed on slopes yet	No
Storm Drain inlet protection: Sediment Trap, De-silting Basin, Gravel Bag Barrier	X			Per discussion w/ contractor, they still need to add gravel bag inlet protection	No

BMP	Yes	No	N/A	Description/Explanation	Effective Yes/No
Tracking Controls: Stabilized Entrance/Exit Road Stabilization, Tire Wash, Street Sweeping	X			NE entrance still not stabilized but not currently in use	No
Materials and Equipment Management					
Are materials and wastes stored in a manner that minimizes or eliminates the potential to discharge these materials to the storm drain system, is secondary containment used?	X				Yes
Are material stockpiles protected: covered, contained and located away from non-storm water discharges?	X			still need to protect all stockpiles	No
Are heavy equipment and vehicles parked in designated areas with permeable surface?	X				Yes
Are appropriate spill response and containment measures kept on the site?	X				Yes
Are wastes managed and stored properly (Solid, liquid, sanitary, concrete, hazardous)	X				Yes
Are concrete washouts properly installed, maintained with no evidence of discharges.	X				Yes
Is timely service and removal provided to prevent waste containers and sanitary facilities from overflowing?	X				Yes
Non-Storm Water Management					
Is the site free of evidence of illegal connections and/or illicit discharges?	X				Yes
Discharge Locations					
Are the discharge locations free of significant erosion or sediment transport?		X		still need to clean sediment on Akins	No
Other					
Are there any other potential storm water pollution issues/concerns?	X			Roadway stabilization still needed	No
Was there any employee or subcontractor training on stormwater BMPs?			X		

VIOLATIONS

- ☐ No violations noted at time of inspection/investigation
- ☒ No violations; however, recommended corrective actions required
  - ☒ Inspection Form as Correct Work Notice ☐ Correct Work Notice Issued on: _____
- ☐ Violation: Illegal Discharge/Illegal Connection/Improper BMPs Implementation
  - ☐ Stop Work Notice Issued on: _____

RECOMMENDED CORRECTIVE ACTION

FLOW ALONG SOUTHERN EDGE OF SITE HAS BEEN REDIRECTED AWAY FROM THE CORNER. ALL OTHER CORRECTIVE ACTIONS FROM THE 12/9/14 INSPECTION HAVE NOT YET BEEN ADDRESSED. REFER TO THAT INSPECTION FOR FULL DESCRIPTION OF CORRECTIVE ACTIONS.

CITY OF LEMON GROVE
3232 Main Street, Lemon Grove, CA 91945

NPDES STORMWATER PROGRAM
CONSTRUCTION STORMWATER COMPLIANCE INSPECTION FORM

Inspector Name /Signature/Date/Time: TAD NAKATANI 12/9/14 1:00pm

Inspection: ☒ Permit-Required Inspection ☐ Follow-up Inspection ☐ Other (Explain)____

Construction Project Priority: ☒ High ☒ Medium ☐ Low

GENERAL INFORMATION

Grading or Building Permit #: Gr 1692

Project Name & Type: VALENCIA SUBDIVISION

Project Location & Address: SAN ALTOS PLACE

Contractor's Name & Telephone #: ANDERSON DEVELOPMENT (949) 275-6739

Property Owner & Telephone #: SAN ALTOS LLC

Is this Project Greater than an Acre? ☒ Yes ☐ No ☐ N/A

If yes: Provide Record of Waste Discharge Identification Number (WDID#): 937C369143

Does this Project have an NOI/SWPPP Available? ☒ Yes ☐ No ☐ N/A

Is Weather Triggered Action Plan Completed? ☐ Yes ☐ No ☒ N/A

Is Advanced Treatment Implemented Appropriately? ☐ Yes ☐ No ☒ N/A

Is More than 17 Acres of Cleared or Graded Areas Left Exposed at Any Given Time? ☐ Yes ☐ No ☐ N/A

Is 125% of Materials to Install Standby BMPs Available? ☐ Yes ☒ No ☐ N/A

Are Routine Self-Inspections Being Conducted by Developer/Owner? ☐ Yes ☐ No ☐ N/A

Project Site is in What Sub-Watershed: ☒ Chollas Creek 908.22 ☐ Sweetwater River 909.12

Nearest Conveyances or Water Bodies: _____

BMP	Yes	No	N/A	Description/Explanation	Effective Yes/No
Soil Stabilization and Erosion Prevention					
Preservation of existing vegetation?			X		
Physical Stabilization: Hydraulic Mulch, Hydroseeding, Soil Binders, Straw Mulch	X			Gullies through edges of hydroseeding some pads not seeded, within road grading	No
Geotextiles, Plastic Covers, Erosion Prevention Blankets, Wood Mulching		X			
Site Drainage: Outlet Protection/Slope Drain		X			
Inlet/Outlet Protection		X			
Sediment Control/Containment					
Perimeter Protection: Silt Fencing, Gravel Bags, Fiber Rolls	X			Additional fiber rolls needed on western slope	No
Storm Drain inlet protection: Sediment Trap, De-silting Basin, Gravel Bag Barrier		X			

BMP	Yes	No	N/A	Description/Explanation	Effective Yes/No
Tracking Controls: Stabilized Entrance/Exit Road Stabilization, Tire Wash, Street Sweeping	X			NE entrance lacks stabilization	No
Materials and Equipment Management					
Are materials and wastes stored in a manner that minimizes or eliminates the potential to discharge these materials to the storm drain system, is secondary containment used?	X				Yes
Are material stockpiles protected: covered, contained and located away from non-storm water discharges?	X			several unprotected stockpiles	No
Are heavy equipment and vehicles parked in designated areas with permeable surface?	X				Yes
Are appropriate spill response and containment measures kept on the site?	X				Yes
Are wastes managed and stored properly (Solid, liquid, sanitary, concrete, hazardous)	X				Yes
Are concrete washouts properly installed, maintained with no evidence of discharges.	X				Yes
Is timely service and removal provided to prevent waste containers and sanitary facilities from overflowing?	X				Yes
Non-Storm Water Management					
Is the site free of evidence of illegal connections and/or illicit discharges?	X				Yes
Discharge Locations					
Are the discharge locations free of significant erosion or sediment transport?		X		Large amount of sediment on roadway SE of site	No
Other					
Are there any other potential storm water pollution issues/concerns?	X			Roadways within project are unstabilized and show signs of erosion	No
Was there any employee or subcontractor training on stormwater BMPs?			X		

VIOLATIONS

- ☐ No violations noted at time of inspection/investigation
- ☒ No violations; however, recommended corrective actions required
  - ☒ Inspection Form as Correct Work Notice ☐ Correct Work Notice Issued on: _____
- ☐ Violation: Illegal Discharge/Illegal Connection/Improper BMPs Implementation
  - ☐ Stop Work Notice Issued on: _____

RECOMMENDED CORRECTIVE ACTION

- Add erosion controls to all disturbed areas inactive for 14 days, including roadways not currently in use.
- Cover & protect stockpiles
- Repair/protect gullies that have formed on slopes
- Redirect flow near southeast corner so it does not flow toward damaged wall
- Sweep road outside of construction entrance
- Install check dams of stabilization on roadways prior to rain

Construction BMP Recommendations

Site: VALENCIA SUBDIVISION Date: 12/9/14

Recommendations:

① • Add erosion control to road segment (eg northern corner) that are not in use. Can be hydroseeded or stabilized with gravel.

② • For roads that are in use, add check dams prior to rain. Ensure proper installation to prevent rills from forming underneath BMP if using fiber rolls

③ • Repair & stabilize gullies in slopes on edges of pads. May consider using erosion control blankets.

④ • A couple pads on western side do not appear hydroseeded. Add hydroseed or other erosion control

⑤ • Cover & protect stockpiles. Some stockpiles near entrance are only partially covered. Others to the west are completely uncovered

⑥ • Ensure that enough BMP materials are kept on site. Not enough fiber rolls were on site

⑦ • Redirect flow along the southern side of site. It currently is causing erosion along the road and directs flow to a damaged wall. Direct away from wall and break up flow with check dams to prevent erosion

⑧ • Sweep road to remove sediment

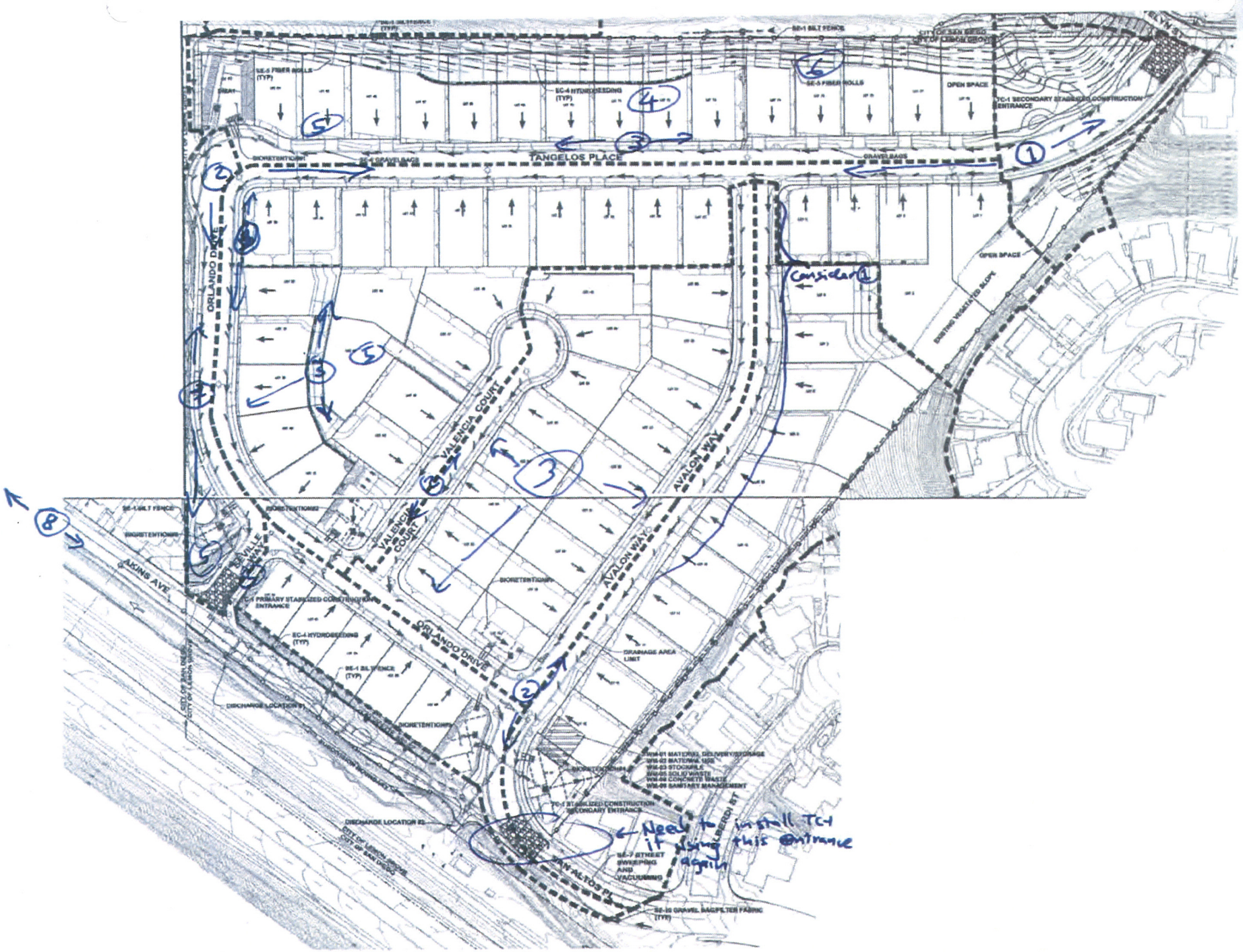

TANGELOS PLACE
ORLANDO DRIVE
VALENCIA COURT
AVALON WAY
AVALON WAY
OPEN SPACE
OPEN SPACE
EXISTING VEGETATED SLOPE
TC-1 SECONDARY STABILIZED CONSTRUCTION ENTRANCE
SE-5 FIBER ROLLS (TYP)
SE-5 FIBER ROLLS
EC-4 HYDROSEEDING (TYP)
SE-1 SILT FENCE
SE-1 SILT FENCE
GRAVEL BAGS
GRAVEL BAGS
BIORETENTION#1
BIORETENTION#2
BIORETENTION#3
BIORETENTION#4
SE-1 SILT FENCE
SE-1 SILT FENCE (TYP)
SE-1 SILT FENCE (TYP)
SE-1 SILT FENCE
SE-1 SILT FENCE
SE-1 SILT FENCE

Exhibit No. 12

D-MAX Engineering, Inc.
Consultants in Water & Environmental Sciences

Memo

Date: December 31, 2014

To: Leon Firsht, Malik Tamimi

Cc: Tad Nakatani

From: John Quenzer JQ

Subject: December 31, 2014 Field Visit at Valencia Construction Site

D-MAX visited the Valencia construction site on the morning of December 31, 2014, following a storm earlier the previous night. Rain had ended a few hours prior to the site visit, and no runoff was observed flowing out from the construction site at the time of the site visit.

Ponded water was observed at the Akins Avenue entrance/exit location and behind several sets of gravel bags installed along Akins Avenue. Samples were collected from the ponded water at the Akins Avenue entrance/exit (Photo 1) and from ponded water behind the first set of gravel bags downstream of the Akins Avenue exit/entrance (Photos 2 and 3). Turbidity was measure at 250 NTU in the first sample (Akins entrance/exit), and 235 NTU in the second sample (first set of gravel bags along Akins).

Some sediment had settled out at the bottom of the pools of water in both of the locations at which samples were collected, and care was taken not to disturb the settled sediment when samples were taken. Note that because water had been pooled and sediment had settled out over time, the turbidity results as given above are likely lower than the turbidity of the discharge that had occurred earlier when it was raining. To approximate that effect, the settled sediment at the Akins entrance/exit location was disturbed, and a sample was taken a few minutes later. The turbidity of that sample was 998 NTU.

Observations farther downstream along the curb indicated that in some places sediment had been conveyed around gravel bag installations. Photo 4 gives an example of this. Sediment accumulation was also noted along Akins Avenue, close to the storm drain inlet.

7220 Trade Street ■ Suite 119 ■ San Diego, CA 92121 ■ (858) 586-6600 ■ Fax (858) 586-6644



Figure 1. Map of Site and Immediate Vicinity



Photo 1. Ponded Water at Akins Avenue Entrance/Exit



Photos 2 &3. Ponded Water at First Set of Gravel Bags Downstream of Akins Avenue Entrance/Exit (Looking downstream and upstream, respectively)



Photo 4. Evidence of Discharge Carrying Sediment around Gravel Bags along Akins Avenue



Photo 5. Sediment Accumulation along Akins Avenue, Close to Inlet

Exhibit No. 13

CITY OF LEMON GROVE
3232 Main Street, Lemon Grove, CA 91945

NPDES STORMWATER PROGRAM
CONSTRUCTION STORMWATER COMPLIANCE INSPECTION FORM

Inspector Name /Signature/Date/Time: TAD NAKATANI T.N. 8/18/15 7:30AM

Inspection: ☑ Permit-Required Inspection ☐ Follow-up Inspection ☐ Other (Explain)____

Construction Project Priority: ☐ High ☑ Medium ☐ Low

GENERAL INFORMATION

Grading or Building Permit #: GR-1692

Project Name & Type: VALENCIA SUBDIVISION

Project Location & Address: SAN ALTOS PL

Contractor's Name & Telephone #: ANDERSON DEVELOPMENT (949) 275-6739

Property Owner & Telephone #: SAN ALTOS LLC

Is this Project Greater than an Acre? ☑ Yes ☐ No ☐ N/A

If yes: Provide Record of Waste Discharge Identification Number (WDID#): 937C369143

Does this Project have an NOI/SWPPP Available? ☑ Yes ☐ No ☐ N/A

Is Weather Triggered Action Plan Completed? ☐ Yes ☐ No ☑ N/A

Is Advanced Treatment Implemented Appropriately? ☐ Yes ☐ No ☑ N/A

Is More than 17 Acres of Cleared or Graded Areas Left Exposed at Any Given Time? ☐ Yes ☑ No ☐ N/A

Is 125% of Materials to Install Standby BMPs Available? ☐ Yes ☑ No ☐ N/A

Are Routine Self-Inspections Being Conducted by Developer/Owner? ☑ Yes ☐ No ☐ N/A

Project Site is in What Sub-Watershed: ☑ Chollas Creek 908.22 ☐ Sweetwater River 909.12

Nearest Conveyances or Water Bodies: ENCANTO CHANNEL TO CHOLLAS CREEK

BMP	Yes	No	N/A	Description/Explanation	Effective Yes/No
Soil Stabilization and Erosion Prevention					
Preservation of existing vegetation?			X		
Physical Stabilization: Hydraulic Mulch, Hydroseeding, Soil Binders, Straw Mulch	X			several slopes & inactive areas lack erosion control	No
Geotextiles, Plastic Covers, Erosion Prevention Blankets, Wood Mulching	X			covers not in place on all sidewalls and at basin inlets	No
Site Drainage: Outlet Protection/Slope Drain		X			
Inlet/Outlet Protection		X			
Sediment Control/Containment					
Perimeter Protection: Silt Fencing, Gravel Bags, Fiber Rolls	X			Inadequate perimeter controls at NW & SE corners silt fences not installed on western lot	No
Storm Drain inlet protection: Sediment Trap, De-silting Basin, Gravel Bag Barrier	X			Drain on Avalon lacks protection	No

BMP	Yes	No	N/A	Description/Explanation	Effective Yes/No
Tracking Controls: Stabilized Entrance/Exit Road Stabilization, Tire Wash, Street Sweeping	X			Multiple entrances need replacement/repair at TC-1. Driveways lack adequate tracking controls per plans. Sediment on roadways	No
Materials and Equipment Management					
Are materials and wastes stored in a manner that minimizes or eliminates the potential to discharge these materials to the storm drain system, is secondary containment used?	X			some liquids stored without secondary containment	No
Are material stockpiles protected: covered, contained and located away from non-storm water discharges?	X			Numerous uncovered stockpiles but no indication that they are inactive	Yes
Are heavy equipment and vehicles parked in designated areas with permeable surface?	X				Yes
Are appropriate spill response and containment measures kept on the site?	X			some vehicles lack drip pans	No
Are wastes managed and stored properly (Solid, liquid, sanitary, concrete, hazardous)	X				Yes
Are concrete washouts properly installed, maintained with no evidence of discharges.	X			Concrete waste observed on ground outside of washouts	No
Is timely service and removal provided to prevent waste containers and sanitary facilities from overflowing?	X				Yes
Non-Storm Water Management					
Is the site free of evidence of illegal connections and/or illicit discharges?	X				Yes
Discharge Locations					
Are the discharge locations free of significant erosion or sediment transport?	X				Yes
Other					
Are there any other potential storm water pollution issues/concerns?		X			
Was there any employee or subcontractor training on stormwater BMPs?		X	X	Not discussed	

VIOLATIONS

- ☐ No violations noted at time of inspection/investigation
- ☒ No violations; however, recommended corrective actions required
  - ☒ Inspection Form as Correct Work Notice ☐ Correct Work Notice Issued on: _____
- ☐ Violation: Illegal Discharge/Illegal Connection/Improper BMPs Implementation
  - ☐ Stop Work Notice Issued on: _____

RECOMMENDED CORRECTIVE ACTION

SEE NEXT PAGE FOR RECOMMENDATIONS

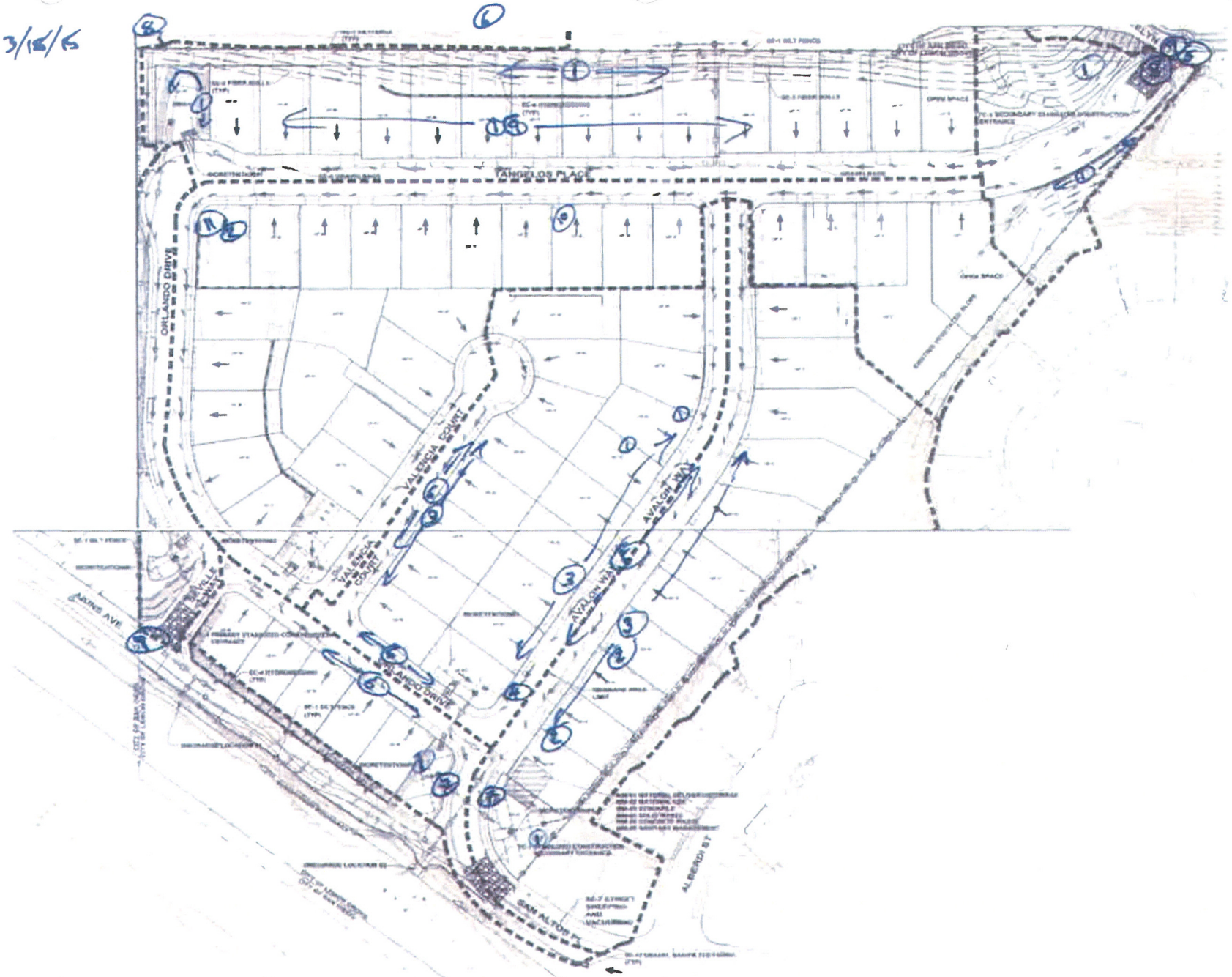
Construction BMP Recommendations

Site: VALENCIA Date: 3/18/15

Recommendations:

1. IMPLEMENT ADEQUATE EROSION CONTROLS ON SLOPES & SIDEWALLS
2. CLEAN UP CONCRETE WASTE OBSERVED AT MULTIPLE LOCATIONS AND ENSURE THAT ALL EMPLOYEES USE WASHOUTS PROPERLY
3. IMPLEMENT ADEQUATE TRACKING CONTROLS IN DRIVEWAY TRANSITIONS FROM PAVEMENT TO EXPOSED LOTS
4. PROTECT INLET AND SURROUNDING AREA OF EXPOSED SOIL
5. SWEEP/CLEAN SEDIMENT FROM ROADWAY
6. IMPLEMENT ADEQUATE EROSION CONTROLS ON EXPOSED INACTIVE AREAS
7. PROVIDE STABILIZATION AT INLETS TO BASINS
8. REPLACE/REFRESH STABILIZED CONSTRUCTION ENTRANCE
9. IMPLEMENT ADEQUATE PERIMETER CONTROL BMPS
10. ENSURE THAT DRIP PANS ARE PLACED UNDER VEHICLES WHEN NOT IN USE
11. PROVIDE SECONDARY CONTAINMENT FOR LIQUID STORAGE

3/18/15


TAHOE LOS PLACE
ORLANDO DRIVE
VALENCIA COURT
AVALON WAY
MILANO DRIVE
SAN ALTOS PL
ALBERDI ST
AMINE AVE
































03/18/2015 07:22















Failure to cover and provide secondary containment.







Exhibit No. 14

CITY OF LEMON GROVE
ADMINISTRATIVE CITATION

A) TYPE OF VIOLATION

Circle One: Warning | 1st Citation $100 | 2nd Citation $200 | 3rd Citation $500 | 4th Citation $1,000

Payment of $ 500 is due no later than 4/19/15 to the City of Lemon Grove. The City accepts cash, check or credit card.

If the violation is not corrected by the date specified therein and/or payment is not received by the date above, the next level of citation may be issued, other enforcement actions may occur, and penalties may be assessed (25% and interest at the rate of 10% per month). Payment of fine does not excuse or discharge the failure to correct violation identified below.

B) RESPONSIBLE PARTY INFORMATION

Person Cited: Anderson (Last Name) Tim (First Name)

Circle One: Property Owner Tenant Business Owner (Other) Project Manager

Mailing Address: 3194-C2 Airport Loop Road, Costa Mesa, CA 92626

Business Name (if applicable): BCA Development CC: Phil Dowley, Code Enforcement File

C) VIOLATION(S) INFORMATION

Date (Violation Observed): 3/18/15 Time (Violation Observed): 7:30 AM

Location of Violation: 1350 San Altos Place / Valencia (Street Address) (APN)

Violation(s) Observed (Code Section and Description):
8.48.060, 18.08.170, 18.08.180, 18.08.560 Concrete discharge to ground.
Follow up inspection re: 3/18/15
See attached report dated 3/5/15 (Tad Nakatani)

D) CORRECTION(S) REQUIRED (with date to complete corrections)

Install BMP's per Recommedations and Permit
Correct by 3/23/15 5P.M.

E) SERVICING CITATION INFORMATION

Enforcing Officer Name: Leon Firsht Phone No.: 619-825-3825 Signature: [signature] Date: 3/19/15

Person Cited – Signature Acknowledging Receipt _____ (Date)

Citation Served (circle one): In Person (By Mail / Email) n Property

This citation may be appealed within thirty (30) days from date of correction identified in Section D. To request an appeal, a Request an Appeal Hearing form (available at City Hall) should be completed and returned to City Hall. In the event a Hardship Waiver is requested, the Request for an Appeal Hearing and Hardship Waiver forms are required within fifteen (15) days from the correction date identified in Section D.

~~WHITE ORIGINAL~~ ~~PINK COPY~~ ~~CITATION CARD OWNER~~


03/18/2015 06:35


03/18/2015 06:46

Exhibit No. 15

NOTICE

DATE: 3/24/15
PROJECT: VALENCIA
PROJECT #: GR-1692
ADDRESS: SAN ALTOS

☐ STOP WORK

Stop all other work until erosion control/NPDES deficiencies noted below are corrected. Issuance of this Stop Work Notice will notify the Regional Water Quality Control Board regarding your BMP deficiencies. This may subject you to fines of up to $10,000/day.

☒ CORRECT WORK

Correct noted deficiencies within the specified time frame to avoid a Stop Work Notice:

☐ 24 Hours ☒ 72 Hours ☐ 5 Days ☐ Prior to October 1st, And/Or ☐ Before Rain Event

---

THIS PROJECT IS IN CONFLICT WITH THE FOLLOWING:

☒ City of Lemon Grove Grading Ordinance* ☒ City of Lemon Grove JURMP
☒ Other: PROJECT PLANS, SHEETS 11A, 12, 13,

THE AREAS OF CONFLICT ARE:

☐ Erosion control is not on site ☒ Erosion control is not per the approved plan
☒ Erosion control is inadequate ☐ Failure to maintain erosion/sediment control device
☐ Other

THE FOLLOWING DEFICIENCIES ARE NOTED:

☒ Stabilized construction entrance ☐ Runoff from the site ☐ Desilting basin
☒ Perimeter protection ~~at toe of slope~~ ☒ Waste/materials storage
☐ Concrete washout inadequate, not maintained ☐ No secondary containment
☐ Cover stockpiles ☐ No storm drain inlet/outlet protection ☐ Trash/debris not managed
☐ Cover on sloped and/or flat areas that are inactive for more than 10 days
☐ Other

***STOP/ CORRECT WORK ADEQUATELY ADDRESSED (DATE/SIGNATURE)

CC: ☒ City Engineer
☒ Engineering
☐ Management Analyst
☐ Code Compliance
☐ Building
☐ RWQCB

ISSUED TO: TIM ADERSON VIA EMAIL
DATE/TIME: 3/24/15 3:30 pm
BY: GARY HARPER
TITLE: ENG. INSPECTOR
PHONE: (619) 454-1272

IF YOU HAVE FURTHER QUESTIONS, PLEASE CALL THE CITY OF LEMON GROVE'S DEVELOPMENT SERVICES DEPARTMENT AT (619) 825-3805.

* Having deficiencies in your erosion control is a violation of the City of Lemon Grove's Grading Ordinance. A violation of the City's Grading Ordinance is a misdemeanor. Each separate day or portion thereof on which a violation exists or is allowed to exist shall constitute a separate offense punishable by the provisions of the Ordinance.


03/24/2015 08:41 AM

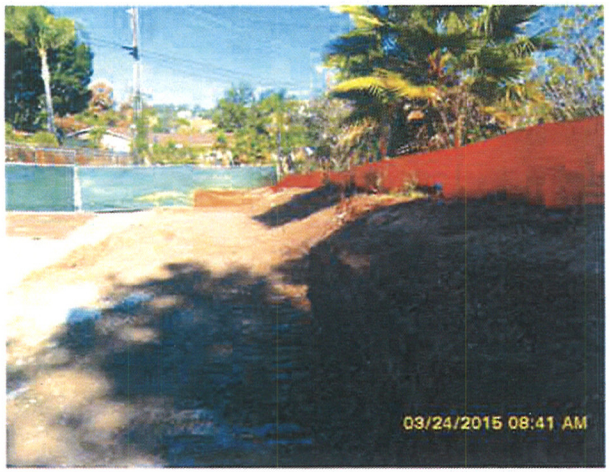

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03/24/2015 08:36 AM







Failure to cover and provide secondary containment.














03/24/2015 08:06 AM


03/23/2015 08:56 AM


03/23/2015 08:42 AM


03/24/2015 08:07 AM


03/24/2015 08:03 AM


03/23/2015 08:44 AM


03/24/2015 08:07 AM


03/24/2015 08:05 AM


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03/24/2015 08:31 AM

Lack of erosion controls in active areas.





INSPECTOR'S REPORT

CITY OF LEMON GROVE
Engineering Department
3232 Main Street
Lemon Grove, CA 91945
619-825-3810

	Date: 3/24/15	Hours: 2.5
Project: Valencia	Project No.: GR-1692	
Developer: BCA	Inspector: Harper	Contract Day:
Location: San Altos	Weather: Clear/Warm	

MANPOWER AND EQUIPMENT

Grading Contractor:	Underground Contractor:	Other Contractors:
Cal West: Stormwater	Koloa & Ortega	New Point Homes (Kirk), Anderson Development (Tim)
Equipment:	Equipment:	Equipment:

Remarks: Developer's Supervisor Onsite: ☒ Y ☐ N

Follow up to Tad's inspection3/18/15 and citations issued by the City to Anderson Development last week and items to be corrected yesterday by 5pm.

Attached "Construction BMP Recommendations" noted:

1. Erosion control on slopes and sidewalks: although crews are addressing items, some are not complete, such as western slope, northwest shear cut, west sidewalk areas of Orlando and Valencia Ct.
2. Concrete waste: crew did clean concrete waste, although another spill occurred at lot 23 that was not cleaned up.
3. Tracking controls at lot driveways: most have been destroyed by vehicles. Tim and Kirk asked a couple weeks ago if they could substitute shaker plates for the rock detail, sheet 11A. Responded that they needed to submit plan to engineering.
4. Inlet protection: 1 inlet has protection while the inlet at Avalon does not.
5. Street sweeping: streets are fairly clean and Kirk advised that streets are swept every Saturday.
6. Erosion control on exposed inactive areas: as in #1, exposed areas along Orlando and Valencia Ct. needs protection. Some other areas that seemed inactive last week are now active. The site changes almost daily as there is a large number of grading equipment and workers onsite.
7. Provide stabilization at inlets to basins: see #4.
8. Stabilized construction entrance: southwest 69th/Broadway has no TC-1, northwest 69th TC-1 needs to be cleaned of debris, TC-1 at Avalon/Tangelos Pl. looks acceptable.
9. Perimeter control: Crews are repairing/replacing silt fence and fiber rolls, although not complete.
10. Drip pans: most vehicles have drip pans, however one piece of equipment parked at 69th st. TC-1 did not.
11. Secondary containment: stack of 5 gallon drums of asphaltic material is still exposed at southwest area. New placement of two 55 gallon drums of diesel fuel with pump at Avalon/Tangelos Pl. needs to have secondary containment.

Because of concrete spill that wasn't cleaned up at lot 23, citation to be issued.

Because items addressed in 2nd citation were not addressed by due date of last night, but crews are actively mitigating, correct work to be issued.

Exhibit No. 16

CITY OF LEMON GROVE
ADMINISTRATIVE CITATION

A) TYPE OF VIOLATION

Circle One: Warning | 1st Citation $100 | 2nd Citation $200 | 3rd Citation $500 | 4th Citation (~~$1,000~~)

Payment of $ 1,000 is due no later than 4/25/15 to the City of Lemon Grove.
The City accepts cash, check or credit card.

If the violation is not corrected by the date specified therein and/or payment is not received by the date above, the next level of citation may be issued, other enforcement actions may occur, and penalties may be assessed (25% and interest at the rate of 10% per month). Payment of fine does not excuse or discharge the failure to correct violation identified below.

B) RESPONSIBLE PARTY INFORMATION

Person Cited: Anderson (Last Name) Tim (First Name)

Circle One: Property Owner Tenant Business Owner (Other) Project Manager

Mailing Address: 3194-C2 Airport Loop Road, Costa Mesa, CA 92626

Business Name (if applicable): BCA Development CC: Phil Dowley, Code Enforcement File

C) VIOLATION(S) INFORMATION

Date (Violation Observed): 3/24/15 Time (Violation Observed): 8:31 AM

Location of Violation: 1350 San Altos Place / Valencia (Street Address) (APN)

Violation(s) Observed (Code Section and Description):
8.48.040
Illegal Discharges of cementious material - Lot 23:
See photos.

D) CORRECTION(S) REQUIRED (with date to complete corrections)

Clean up cementious material immediately. Verbal direction given 3/24/15.

E) SERVICING CITATION INFORMATION

Enforcing Officer Name	Phone No	Signature	Date
Tamara O'Neal	619-825-3821		

Person Cited – Signature Acknowledging Receipt _____ (Date)

Citation Served (circle one): In Person (By Mail / Email) n Property

This citation may be appealed within thirty (30) days from date of correction identified in Section D. To request an appeal, a Request an Appeal Hearing form (available at City Hall) should be completed and returned to City Hall. In the event a Hardship Waiver is requested, the Request for an Appeal Hearing and Hardship Waiver forms are required within fifteen (15) days from the correction date identified in Section D.

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Exhibit No. 17

CITY OF LEMON GROVE
ADMINISTRATIVE CITATION

A) TYPE OF VIOLATION

Circle One: Warning | 1st Citation $100 | 2nd Citation $200 | 3rd Citation $500 | 4th Citation (~~$1,000~~)

Payment of $ 1,000 is due no later than 5/1/15 to the City of Lemon Grove. The City accepts cash, check or credit card.

If the violation is not corrected by the date specified therein and/or payment is not received by the date above, the next level of citation may be issued, other enforcement actions may occur, and penalties may be assessed (25% and interest at the rate of 10% per month). Payment of fine does not excuse or discharge the failure to correct violation identified below.

B) RESPONSIBLE PARTY INFORMATION

Person Cited: Anderson (Last Name) Tim (First Name)

Circle One: Property Owner Tenant Business Owner (Other) Project Manager

Mailing Address: 3194-C2 Airport Loop Road, Costa Mesa, CA 92626

Business Name (if applicable): BCA Development CC: Phil Dowley, Code Enforcement File

C) VIOLATION(S) INFORMATION

Date (Violation Observed): 4/1/15 Time (Violation Observed): 12:25 PM

Location of Violation: 1350 San Altos Place / Valencia (Street Address) (APN)

Violation(s) Observed (Code Section and Description):

8.48.040

Illegal Discharges of cementious material - See photos.

D) CORRECTION(S) REQUIRED (with date to complete corrections)

Clean up cementious material immediately. Verbal direction given 4/1/15.

E) SERVICING CITATION INFORMATION

Enforcing Officer Name: Tamara O'Neal Phone No.: 619-825-3800 Signature: [signature] Date: 4/1/15

Person Cited – Signature Acknowledging Receipt _____ (Date)

Citation Served (circle one): In Person (By Mail / Email) n Property

This citation may be appealed within thirty (30) days from date of correction identified in Section D. To request an appeal, a Request an Appeal Hearing form (available at City Hall) should be completed and returned to City Hall. In the event a Hardship Waiver is requested, the Request for an Appeal Hearing and Hardship Waiver forms are required within fifteen (15) days from the correction date identified in Section D.

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04/01/2015 12:27 PM


04/01/2015 12:28 PM


04/01/2015 12:28 PM


04/01/2015 12:26 PM


04/01/2015 12:24 PM


04/01/2015 12:24 PM


04/01/2015 12:26 PM


04/01/2015 12:25 PM

Exhibit No. 18

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD - SAN DIEGO REGION
WATERSHED PROTECTION PROGRAM

FACILITY INSPECTION REPORT

FACILITY: Valencia Hills **INSPECTION DATE/TIME:** May 8, 2015; 19:00 **WDID/FILE NO.:** 93 7C369143

REPRESENTATIVE(S) PRESENT DURING INSPECTION:

NAME: Frank Melbourn AFFILIATION: San Diego Water Board

NAME: Unnamed Security Guard AFFILIATION: Unknown

San Altos-Lemon Grove, LLC NAME OF OWNER, AGENCY OR PARTY RESPONSIBLE FOR DISCHARGE	BCA Development, Inc. FACILITY OR DEVELOPER NAME (if different from owner)
5780 Fleet Avenue Carlsbad, CA 92008 OWNER MAILING ADDRESS	1350 San Altos Place Lemon Grove, CA 91945 FACILITY ADDRESS
Ben Anderson, 714-966-1544 OWNER CONTACT NAME AND PHONE #	Same FACILITY OR DEVELOPER CONTACT NAME AND PHONE #

APPLICABLE WATER QUALITY LICENSING REQUIREMENTS:

- ☐ MS4 URBAN RUNOFF REQUIREMENTS
- ☒ CONSTRUCTION GENERAL PERMIT
- ☐ CALTRANS GENERAL PERMIT
- ☐ INDUSTRIAL GENERAL PERMIT
- ☐ GENERAL OR INDIVIDUAL WASTE DISCHARGE REQUIREMENTS OR NPDES
- ☐ GENERAL OR INDIVIDUAL WAIVER OF WASTE DISCHARGE REQUIREMENTS
- ☐ SECTION 401 WATER QUALITY CERTIFICATION
- ☐ CWC SECTION 13264

INSPECTION TYPE (Check One):

- ☐ "A" TYPE COMPLIANCE--COMPREHENSIVE INSPECTION IN WHICH SAMPLES ARE TAKEN. (EPA TYPE S)
- ☐ "B" TYPE COMPLIANCE--A ROUTINE NONSAMPLING INSPECTION. (EPA TYPE C)
- ☒ NONCOMPLIANCE FOLLOW-UP--INSPECTION MADE TO VERIFY CORRECTION OF A PREVIOUSLY IDENTIFIED VIOLATION.
- ☐ ENFORCEMENT FOLLOW-UP--INSPECTION MADE TO VERIFY THAT CONDITIONS OF AN ENFORCEMENT ACTION ARE BEING MET.
- ☐ COMPLAINT--INSPECTION MADE IN RESPONSE TO A COMPLAINT.
- ☐ PRE-REQUIREMENT--INSPECTION MADE TO GATHER INFO. RELATIVE TO PREPARING, MODIFYING, OR RESCINDING REQUIREMENTS.
- ☐ NO EXPOSURE CERTIFICATION (NEC) - VERIFICATION THAT THERE IS NO EXPOSURE OF INDUSTRIAL ACTIVITIES TO STORM WATER.
- ☐ NOTICE OF TERMINATION REQUEST FOR INDUSTRIAL FACILITIES OR CONSTRUCTION SITES - VERIFICATION THAT THE FACILITY OR CONSTRUCTION SITE IS NOT SUBJECT TO PERMIT REQUIREMENTS.
- ☐ COMPLIANCE ASSISTANCE INSPECTION - OUTREACH INSPECTION DUE TO DISCHARGER'S REQUEST FOR COMPLIANCE ASSISTANCE.

INSPECTION FINDINGS:

Y WERE VIOLATIONS NOTED DURING THIS INSPECTION? (YES/NO/PENDING SAMPLE RESULTS)

I. COMPLIANCE HISTORY / PURPOSE OF INSPECTION

On August 14, 2014, the City of Lemon Grove (City) notified the San Diego Water Board of an unauthorized non-storm water discharge to the City's Municipal Separate Storm Sewer System (MS4) from the Site caused by a contractor hitting a 12-inch water main. On August 15, 2014, the San Diego Water Board issued a Staff Enforcement Letter (SEL) via email to San Altos-Lemon Grove, LLC (Discharger) notifying them that the non-storm water discharge from the Site was an unauthorized discharge, with a request for additional information. The Qualified SWPPP[1] Practitioner (QSP) estimated that approximately 31,000 gallons of potable water discharged through the Site, and was "brown and sediment laden" when it discharged from the Site.

On December 2, 2014, the City issued a Stop Work/Notice of Violation to the Site for failing to implement Best Management Practices (BMPs) required by local storm water ordinances. The City's inspection form issued with the Stop Work/Notice of Violation noted inadequate implementation of erosion controls, entrance/exit stabilization, and stockpile management and warned the project manager that a "discharge is imminent" without adequate BMPs. The Discharger was required to stop work and implement BMPs to be prepared for a storm event that was expected to occur on December 3 and 4, 2014. The Discharger failed to implement BMPs before the storm, resulting in unauthorized discharges of sediment and sediment laden storm water runoff from the Site to an unnamed tributary to Chollas Creek. The City issued a second Stop Work/Notice of Violation to the Discharger on December 4, 2014, for the illegal discharges to the City's MS4.

The City conducted a follow up inspection of the Site on December 9, 2014, and noted the same BMP deficiencies identified before the December 3 and 4, 2014, storm event, as well as additional deficiencies in perimeter sediment controls. The City's inspection form identified areas to be addressed by the Discharger and recommended appropriate BMPs.

The Discharger again failed to implement BMPs before a storm event on December 11, 2014, and again it resulted in unauthorized discharges of sediment and sediment laden storm water from the Site to an unnamed tributary to Chollas Creek. On December 11, 2014, the City issued an Administrative Citation to the Discharger requiring BMPs to be implemented by December 15, 2014, before monetary penalties would begin. On the morning of December 12, 2014, the City contacted the San Diego Water Board about the unauthorized discharges of sediment and sediment-laden storm water to their MS4 from the Site. According to the City, the Discharger claimed the Site was in compliance with the requirements of the Construction Storm Water Permit; therefore the Discharger should be considered in compliance with the City's storm water ordinance. The City requested an inspection from the San Diego Water Board to determine compliance with the Construction Storm Water Permit.

[1] Storm Water Pollution Prevention Plan (SWPPP).

On December 15, 2014, San Diego Water Board inspector, Wayne Chiu inspected the Site for compliance with the Construction Storm Water Permit. During the inspection, the San Diego Water Board inspector found evidence of inadequate implementation of stockpile management, vehicle storage and maintenance, erosion control, sediment control, run-on and runoff control, and inspection, maintenance, and repair requirements. The San Diego Water Board inspector also found evidence of inadequate implementation of additional erosion control and sediment controls required for Risk Level 2 construction sites. On December 19, 2014, the San Diego Water Board issued Notice of Violation No. R9-2014-0153 to the Discharger and requested a written response demonstrating that the violations were corrected. The Discharger provided a written response, dated January 1, 2015.

On January 26, 2015, the City provided written notification to the San Diego Water Board that the Stop Work had been removed for the Site with a summary of inspections and enforcement conducted by the City between December 2, 2014, and January 22, 2015. Between December 16, 2014, and January 19, 2015, a contractor to the City continued to inspect the Site to track BMP implementation progress. Based on an inspection conducted on January 6, 2015, the contractor to the City indicated most of the major BMP deficiencies had been addressed. The contractor to the City indicated removal of the Stop Work is appropriate in a January 16, 2015, memo to the City. The City removed the Stop Work on January 22, 2015.

On March 27, 2015, the San Diego Water Board conducted a follow up inspection to determine if the Site had adequately implemented BMPs that achieve BAT and BCT for a Risk Level 2 construction site. While standing at the intersection of Orlando Drive and Seville Way, San Diego Water Board Inspector, Frank Melbourn, warned Discharger representatives that the then failure to have erosion and sediment control BMPs on Seville Way was a violation of the Construction Storm Water Permit, and would likely result in a sediment discharge if there were to be a rain event. Discharger representatives claimed that if the Site were to have another rain event, they would build a dirt berm at the top of Seville Way to prevent runoff from discharging down Seville Way. Overall, the San Diego Water Board inspector, Wayne Chiu, found that the Discharger implemented corrective actions that largely addressed the violations identified in Notice of Violation No. R9-2015-0153.

II. FINDINGS

1. The Site received approximately 0.5 inches of rain in the last 24 hours. Muddy sediment runoff was observed on Orlando Drive in two places, and also at the intersection of Orlando Drive and Valencia Court. The sediment came off of graded housing pads with ineffective or non-existent erosion and sediment control BMPs.

2. Several areas were observed to be inactive, or could be scheduled to be inactive, without effective soil cover to control erosion. The lack of erosion controls in these areas contributed to unauthorized sediment discharges from the site. All construction sites are required to provide effective soil cover for inactive areas

(i.e. areas that have been disturbed and not scheduled to be re-disturbed for at least 14 days) and all finished slopes, open space, utility backfill, and completed lots.

3. Active areas were observed to lack appropriate erosion control BMPs (runoff control and soil stabilization) to prevent erosion during storm events. Risk Level 2 construction sites are required to implement appropriate erosion control BMPs (runoff control and soil stabilization) in conjunction with sediment control BMPs for areas under active construction.

4. Several slopes throughout the site were observed without linear sediment controls along the toe and grade breaks of exposed slopes. Risk Level 2 construction sites are required to apply linear sediment controls along the toe of the slope, face of the slopes, and at the grade breaks of exposed slopes to comply with sheet flow lengths given in Table 1 of Attachment D to the Construction Storm Water Permit.

5. Seville Way is a short steep graded dirt street without erosion or sediment control BMPs. The failure to control the runoff from Seville Way resulted in a direct discharge into an unnamed tributary to Chollas Creek. Lack of effective perimeter sediment controls resulted in an unauthorized sediment discharge from the site. All construction sites are required to establish and maintain effective perimeter controls and stabilize all construction entrances and exits to sufficiently control erosion and sediment discharges from the site.

6. Lack of effective run-on and runoff controls observed within and around the site which contributed to sediment discharges from the site. All construction sites are required to effectively manage run-on, all runoff within the site and all runoff that discharges off the site.

III. COMMENTS AND RECOMMENDATIONS

Comments

1. There were no site storm water or construction personnel present to correct deficient/failed BMPs or to cleanup discharged sediment. There were two security guards on site.

2. There is evidence that erosion controls were not adequately implemented for several inactive areas contributing to discharges of sediment from the site.

3. There is evidence that erosion controls were not adequately implemented for several active areas prior to storm events contributing to discharges of sediment from the site.

4. There is evidence that linear sediment controls were not adequately implemented for several exposed slopes contributing to slope erosion and discharges of sediment from the site.

5. There is evidence that perimeter sediment controls, as well as run-on and runoff controls, were not adequately implemented which contributed to discharges of sediment from the site.

6. There was evidence observed during the inspection that the site has not implemented BMPs to meet BCT Technology Based Effluent Limitations (TBELs) under Section V.A.2 of the CGP, as required for all construction sites, which resulted in the unauthorized discharges of sediment and sediment-laden water from the site.

7. There is evidence that either the QSP was not adequately identifying and recommending implementation of good site management "housekeeping," erosion control, sediment control, and run-on/runoff control BMPs, or the owner/developer was not directing the implementation of the BMPs as recommended by the QSP.

8. Failure to implement Rain Event Action Plan (REAP).

Recommendations

1. Issue a Notice of Violation for discharges of sediment from the site and failure to implement Risk Level 2 requirements of CGP.

2. Refer the site to the Compliance Assurance Unit to determine whether or not issuing formal enforcement action may be appropriate.

IV. SIGNATURE SECTION

Frank Melbourn	Frank Melbourn	May 8, 2015
STAFF INSPECTOR	SIGNATURE	INSPECTION DATE
Chiara Clemente		5/12/15
REVIEWED BY SUPERVISOR	SIGNATURE	DATE

SMARTS:

Tech Staff Info & Use	
WDID	937C369143
Place ID	SM-828060
Inspection ID	2025608
Violation ID	857231 & 857232



Photograph No. 1: 20150508_191716.jpg, taken by Frank Melbourn, San Diego Water Board

Photograph No. 1 looks west at Orlando Drive from San Altos Place. The photograph displays a sediment discharge from disturbed construction areas into the street. The sediment was an inch thick in some areas. Displayed slopes in the photograph show signs of erosion, and were lacking erosion and sediment control BMPs at their base. Parkway strips failed to have sediment control BMPs. There was no site personnel available to cleanup discharged sediment or maintain/reinforce failed BMPs. There was an absence of run-on/run-off control BMPs. For example there were no gravel bag chevrons or check dams along the street to slow down the runoff flow.



Photograph No. 2: 20150508_191734.jpg, taken by Frank Melbourn, San Diego Water Board

Photograph No. 2 looks southwest at Orlando Drive from San Altos Place. The photograph displays a sediment discharge from disturbed construction areas into the street. The photograph also displays unprotected (absent erosion control BMPs) disturbed soil and a lack of sediment controls above street gutters. The gravel bags deployed to protect the storm drain inlet were ineffective as evidenced by the turbid sediment laden storm water on the inside edges of the gravel bags. Again the use of gravel bag chevrons could have been implemented in the street.



Photograph No. 3: 20150508_191955.jpg, taken by Frank Melbourn, San Diego Water Board

Photograph No. 3 looks northeast at the corner of Valencia Court and Orlando Drive from Orlando Drive. The photograph displays a sediment discharge from disturbed construction areas into the street. Except the area with plastic sheeting, displayed slopes in the photograph show signs of erosion, and were lacking erosion and sediment control BMPs at their base.



Photograph No. 4: 20150508_192214.jpg, taken by Frank Melbourn, San Diego Water Board

Photograph No. 4 looks northwest up Seville Way from Akins Avenue. The photograph displays disturbed soil without erosion control BMPs and sediment control BMPs.



Photograph No. 5: 20150508_192234.jpg, taken by Frank Melbourn, San Diego Water Board

Photograph No. 5 looks southeast onto the unnamed tributary to Chollas Creek from the intersection of Seville Way and Akins Avenue. The photograph displays the sediment discharge point between the gap (identified by red arrow) in the site perimeter control BMPs into the unnamed tributary. A buildup of eroded sediment from the site can be seen at the base of the gravel bags.



Photograph No. 6: 20150508_192253.jpg, taken by Frank Melbourn, San Diego Water Board

Photograph No. 6 looks northeast onto Akins Avenue from the intersection of Akins Avenue and Seville Way. The photograph displays disturbed soil without erosion control BMPs and sediment control BMPs. The photograph also displays perimeter control BMPs on the right hand side.

Exhibit No. 19

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD - SAN DIEGO REGION
WATERSHED PROTECTION PROGRAM

FACILITY INSPECTION REPORT

FACILITY: Valencia
WDID/FILE NO.: 937C369143

INSPECTION DATE/TIME: 5/13/2015; 11:30 am

REPRESENTATIVE(S) PRESENT DURING INSPECTION:

NAME: Wayne Chiu — AFFILIATION: San Diego Water Board
NAME: Frank Melbourn — AFFILIATION: San Diego Water Board
NAME: _____ — AFFILIATION: _____

San Altos Lemon Grove LLC
NAME OF OWNER, AGENCY OR PARTY RESPONSIBLE FOR DISCHARGE

BCA Development, Inc.
FACILITY OR DEVELOPER NAME (if different from owner)

5780 Fleet Avenue
Carlsbad, CA 92008
OWNER MAILING ADDRESS

1350 San Altos Place
Lemon Grove, CA 91945
FACILITY ADDRESS

Ben Anderson, 714-966-1544
OWNER CONTACT NAME AND PHONE #

Same
FACILITY OR DEVELOPER CONTACT NAME AND PHONE #

APPLICABLE WATER QUALITY LICENSING REQUIREMENTS:

- ☐ MS4 URBAN RUNOFF REQUIREMENTS
- ☒ CONSTRUCTION GENERAL PERMIT
- ☐ CALTRANS GENERAL PERMIT
- ☐ INDUSTRIAL GENERAL PERMIT
- ☐ GENERAL OR INDIVIDUAL WASTE DISCHARGE REQUIREMENTS OR NPDES
- ☐ GENERAL OR INDIVIDUAL WAIVER OF WASTE DISCHARGE REQUIREMENTS
- ☐ SECTION 401 WATER QUALITY CERTIFICATION
- ☐ CWC SECTION 13264

INSPECTION TYPE (Check One):

- ☐ "A" TYPE COMPLIANCE--COMPREHENSIVE INSPECTION IN WHICH SAMPLES ARE TAKEN. (EPA TYPE S)
- ☐ "B" TYPE COMPLIANCE--A ROUTINE NONSAMPLING INSPECTION. (EPA TYPE C)
- ☒ NONCOMPLIANCE FOLLOW-UP--INSPECTION MADE TO VERIFY CORRECTION OF A PREVIOUSLY IDENTIFIED VIOLATION.
- ☐ ENFORCEMENT FOLLOW-UP--INSPECTION MADE TO VERIFY THAT CONDITIONS OF AN ENFORCEMENT ACTION ARE BEING MET.
- ☐ COMPLAINT--INSPECTION MADE IN RESPONSE TO A COMPLAINT.
- ☐ PRE-REQUIREMENT--INSPECTION MADE TO GATHER INFO. RELATIVE TO PREPARING, MODIFYING, OR RESCINDING REQUIREMENTS.
- ☐ NO EXPOSURE CERTIFICATION (NEC) - VERIFICATION THAT THERE IS NO EXPOSURE OF INDUSTRIAL ACTIVITIES TO STORM WATER.
- ☐ NOTICE OF TERMINATION REQUEST FOR INDUSTRIAL FACILITIES OR CONSTRUCTION SITES - VERIFICATION THAT THE FACILITY OR CONSTRUCTION SITE IS NOT SUBJECT TO PERMIT REQUIREMENTS.
- ☐ COMPLIANCE ASSISTANCE INSPECTION - OUTREACH INSPECTION DUE TO DISCHARGER'S REQUEST FOR COMPLIANCE ASSISTANCE.

INSPECTION FINDINGS:

Y — WERE VIOLATIONS NOTED DURING THIS INSPECTION? (YES/NO/PENDING SAMPLE RESULTS)

I. COMPLIANCE HISTORY / PURPOSE OF INSPECTION

On December 2, 2014, the City of Lemon Grove (City) issued a Stop Work/Notice of Violation to the Valencia construction site (WDID 9 37C369143) for failing to implement construction storm water best management practices (BMPs) required by local ordinances. The City's inspection report issued with the Stop Work/Notice of Violation noted inadequate implementation of erosion controls, entrance/exit stabilization, and stockpile management and warned the project manager that a "discharge is imminent" without adequate BMPs. The site was required to stop work and implement BMPs to be prepared for a storm event that occurred on December 3 and 4, 2014.

The site failed to implement BMPs before the storm, resulting in unauthorized discharges of sediment and sediment-laden storm water from the site to the City's municipal separate storm sewer system (MS4). The City issued a second Stop Work/Notice of Violation on December 4, 2014 for the illegal discharges to the City's MS4. The City conducted a follow up inspection on December 9, 2014 and noted the same BMP deficiencies identified before the December 3 and 4, 2014 storm event, as well as additional deficiencies in perimeter sediment controls. The inspection report provided recommendations for locations that needed to be addressed and types of BMPs. The site again failed to implement BMPs before a subsequent storm event that occurred on December 11, 2014, again resulting in unauthorized discharges of sediment and sediment-laden storm water from the site to the City's MS4. On December 11, 2014, the City issued an Administrative Citation to the site requiring BMPs to be implemented by December 15, 2014 before monetary penalties would begin. The Stop Work/Notice of Violation issued on December 2 and 4, 2014 and the Administrative Citation issued on December 11, 2014 by the City are attached to the end of this inspection report.

On December 15, 2014, Wayne Chiu of the San Diego Water Board inspected the site for compliance with the requirements of the Statewide Construction General Storm Water Permit, Order No. 2009-0009-DWQ (CGP). According to the Storm Water Multiple Application & Report Tracking System (SMARTS), the site is a Risk Level 2 construction site, disturbing over 18 acres, and owned by San Alto Lemon Grove LLC. The developer of the site is BCA Development, Inc. During the inspection, the San Diego Water Board observed evidence of inadequate implementation of stockpile management, vehicle storage and maintenance, erosion control, sediment control, run-on and runoff control, and inspection, maintenance, and repair requirements. In addition, there was evidence of inadequate implementation of additional erosion and sediment controls required for Risk Level 2 construction sites. On December 19, 2014, the San Diego Water Board issued Notice of Violation No. R9-2014-0153 to the Discharger and requested a written response demonstrating that the violations were corrected. The Discharger provided a written response, dated January 1, 2015. On January 26, 2015, the City provided written notification to the San Diego Water Board that the Stop Work had been removed for the site on January 22, 2015.

On March 27, 2015, the San Diego Water Board conducted a follow up inspection to determine if the site had adequately implemented BMPs that achieve BAT and BCT for a Risk Level 2 construction site. While standing at the intersection of Orlando Drive and Seville Way on the site, San Diego Water Board inspector, Frank Melbourn, warned Discharger representatives that the failure to have erosion and sediment control BMPs on Seville Way was a violation of the CGP, and would likely result in a sediment discharge from the site if there were to be a rain event. Discharger representatives claimed that if the site were to have another rain event, they would build a dirt berm at the top of Seville Way to prevent runoff from discharging down Seville Way. San Diego Water Board inspector, Wayne Chiu, found that the Discharger implemented corrective actions that largely addressed the violations identified in Notice of Violation No. R9-2015-0153.

On May 8, 2015, Frank Melbourn of the San Diego Water Board inspected the site following a rain event of approximately 0.5 inches. The inspector observed inadequate implementation of erosion controls in several inactive areas and active areas, perimeter sediment controls, linear sediment controls on several slopes, and run-on and runoff controls within and around the site. Evidence of sediment transport through the site observed on paved streets within the site, and an unauthorized discharge of sediment from the site to the Encanto Channel (a tributary to Chollas Creek) and Akins Road adjacent to the site.

On May 13, 2015, Wayne Chiu and Frank Melbourn of the San Diego Water Board conducted a subsequent inspection to determine if the site was implementing BMPs in preparation for a rain event forecasted for the following day.

II. FINDINGS

1. Several stockpiles observed without adequate containment (See Photos 1 and 2). All construction sites are required to contain and securely protect stockpiled waste material from wind and rain at all times unless actively being used.

2. Construction equipment and vehicles observed without appropriate BMPs (e.g. drip pans) to prevent oil, grease, or fuel to leak in to the ground, storm drains, or surface waters (See Photo 3). All construction sites are required to prevent oil, grease or fuel to leak in to the ground, storm drains, or surface waters, and to place all equipment and vehicles, which are to be fueled, maintained and stored in a designated area fitted with appropriate BMPs.

3. Several areas were observed to be inactive, or could be scheduled to be inactive, without effective soil cover to control potential erosion. Several completed building pads and several inactive slopes (See Photos 4 through 6) lacked any effective soil cover for erosion control. All construction sites are required to provide effective soil cover for inactive areas (i.e. areas that have been disturbed and not scheduled to be re-disturbed for at least 14 days) and all finished slopes, open space, utility backfill, and completed lots.

4. Active areas were observed to lack appropriate erosion control BMPs (runoff control and soil stabilization) to prevent erosion during storm events (See Photos 7 through 12). Risk Level 2 construction sites are required to implement appropriate erosion control BMPs (runoff control and soil stabilization) in conjunction with sediment control BMPs for areas under active construction.

5. Several slopes throughout the site were observed to lack linear sediment controls along the toe and grade breaks of exposed slopes (See Photos 1, 5, 6, 8, 9, 11, and 12). Risk Level 2 construction sites are required to apply linear sediment controls along the toe of the slope, face of the slopes, and at the grade breaks of exposed slopes to comply with sheet flow lengths given in Table 1 of Attachment D to the CGP.

6. Lack of effective perimeter sediment controls observed (See Photos 13 and 14). All construction sites are required to establish and maintain effective perimeter controls and stabilize all construction entrances and exits to sufficiently control erosion and sediment discharges from the site.

7. Lack of effective run-on and runoff controls observed within and around the site (See Photos 7 through 14). All construction sites are required to effectively manage run-on, all runoff within the site and all runoff that discharges off the site.

8. There were no personnel on site that appeared to be implementing BMPs to prepare for the forecasted rain event, such as erosion control measures or controls within the site to reduce sheet flow runoff lengths in active areas, or inspecting the perimeter controls for areas requiring additional attention, repairs, or maintenance.

III. COMMENTS AND RECOMMENDATIONS

Comments

1. There is evidence that good site management "housekeeping" BMPs were not being adequately implemented (See Findings 1 and 2).

2. There is evidence that erosion controls were not adequately implemented for several inactive areas contributing to discharges of sediment from the site (See Finding 3).

3. There is evidence that erosion controls were not adequately implemented for several active areas prior to storm events (See Finding 4).

4. There is evidence that linear sediment controls were not adequately implemented for several exposed slopes (See Finding 5).

5. There is evidence that perimeter sediment controls, as well as run-on and runoff controls, were not adequately implemented (See Findings 6 and 7).

6. There is evidence that either the QSP was not adequately identifying and recommending implementation of good site management "housekeeping," erosion control, sediment control, and run-on/runoff control BMPs, or the owner/developer was not directing the implementation of the BMPs as recommended by the QSP (See Finding 8).

7. There was evidence observed during the inspection that the site has not implemented BMPs to meet BCT Technology Based Effluent Limitations (TBELs) under Section V.A.2 of the CGP, as required for all construction sites, which resulted in the unauthorized discharges of sediment and sediment-laden water from the site observed or documented on December 4, 11, and 15, 2014 (See Compliance History discussion and Findings 1 through 8).

Recommendations

The Discharger has failed to maintain compliance with the requirements of the CGP even after repeated enforcement actions by the City of Lemon Grove and the San Diego Water Board. A formal enforcement action should be issued to the Discharger for this continued and repeated noncompliance with the requirements of the CGP.

IV. SIGNATURE SECTION

Wayne Chiu	Wayne Chiu	5/13/2015
STAFF INSPECTOR	SIGNATURE	INSPECTION DATE
Eric Becker	Eric Becker	5/20/15
REVIEWED BY SUPERVISOR	SIGNATURE	DATE

SMARTS:

Tech Staff Info & Use	
WDID	937C369143
Place ID	SM-828060
Inspection ID	2025695
Violation ID	857243



Photo 1



Photo 2

Photos 1 and 2 shows soil stockpiles covered with black plastic without adequate containment. Slope in Photo 1 covered with white plastic lacks linear sediment controls at the based and at grade break along top of slope.



Photo 3

Photo 3 shows construction vehicle without appropriate BMPs (e.g. drip pans) to prevent oil, grease, or fuel to leak in to the ground, storm drains, or surface waters.



Photo 4



Photo 5



Photo 6

Photos 4 through 6 show several inactive areas, or areas that can be made to be inactive, lacking any effective soil cover. Photo 4 shows a completed lot that could have been stabilized with an effective soil cover and protected from activity. Photo 5 shows a slope that appeared to be inactive and potentially finished without effective soil cover. Photo 6 shows a slope in front of a building being constructed that could have been stabilized with an effective soil cover and made to be inactive.



Photo 7



Photo 8



Photo 9



Photo 10



Photo 11



Photo 12

Photos 9 through 12 showed several active areas of the site that lacked any evidence of soil stabilization measures ready to be implemented to reduce erosion potential or other measures to reduce sheet flow lengths. Photos 8, 9, 11, and 12 are slopes toward where runoff would flow toward a low point and perimeter of the site.



Photo 13



Photo 14

Photos 13 and 14 show areas of the perimeter where additional attention, repair, or maintenance is necessary to ensure the site has effective perimeter sediment controls to prevent erosion and sediment discharges from the site.

Exhibit No. 20

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD - SAN DIEGO REGION
WATERSHED PROTECTION PROGRAM

FACILITY INSPECTION REPORT

FACILITY: Valencia Hills **INSPECTION DATE/TIME:** May 15, 2015; 13:30 **WDID/FILE NO.:** 93 7C369143

REPRESENTATIVE(S) PRESENT DURING INSPECTION:

NAME: Frank Melbourn AFFILIATION: San Diego Water Board

NAME: Tim Anderson, Site Superintendent AFFILIATION: New Pointe Communities, Inc.

NAME: Tyler Sandstrom, Project Manager AFFILIATION: New Pointe Communities, Inc.

San Altos-Lemon Grove, LLC
NAME OF OWNER, AGENCY OR PARTY RESPONSIBLE FOR DISCHARGE

BCA Development, Inc.
FACILITY OR DEVELOPER NAME (if different from owner)

5780 Fleet Avenue
Carlsbad, CA 92008
OWNER MAILING ADDRESS

1350 San Altos Place
Lemon Grove, CA 91945
FACILITY ADDRESS

Ben Anderson, 714-966-1544
OWNER CONTACT NAME AND PHONE #

Same
FACILITY OR DEVELOPER CONTACT NAME AND PHONE #

APPLICABLE WATER QUALITY LICENSING REQUIREMENTS:

- ☐ MS4 URBAN RUNOFF REQUIREMENTS
- ☒ CONSTRUCTION GENERAL PERMIT
- ☐ CALTRANS GENERAL PERMIT
- ☐ INDUSTRIAL GENERAL PERMIT
- ☐ GENERAL OR INDIVIDUAL WASTE DISCHARGE REQUIREMENTS OR NPDES
- ☐ GENERAL OR INDIVIDUAL WAIVER OF WASTE DISCHARGE REQUIREMENTS
- ☐ SECTION 401 WATER QUALITY CERTIFICATION
- ☐ CWC SECTION 13264

INSPECTION TYPE (Check One):

- ☐ "A" TYPE COMPLIANCE--COMPREHENSIVE INSPECTION IN WHICH SAMPLES ARE TAKEN. (EPA TYPE S)
- ☐ "B" TYPE COMPLIANCE--A ROUTINE NONSAMPLING INSPECTION. (EPA TYPE C)
- ☒ NONCOMPLIANCE FOLLOW-UP--INSPECTION MADE TO VERIFY CORRECTION OF A PREVIOUSLY IDENTIFIED VIOLATION.
- ☐ ENFORCEMENT FOLLOW-UP--INSPECTION MADE TO VERIFY THAT CONDITIONS OF AN ENFORCEMENT ACTION ARE BEING MET.
- ☐ COMPLAINT--INSPECTION MADE IN RESPONSE TO A COMPLAINT.
- ☐ PRE-REQUIREMENT--INSPECTION MADE TO GATHER INFO. RELATIVE TO PREPARING, MODIFYING, OR RESCINDING REQUIREMENTS.
- ☐ NO EXPOSURE CERTIFICATION (NEC) - VERIFICATION THAT THERE IS NO EXPOSURE OF INDUSTRIAL ACTIVITIES TO STORM WATER.
- ☐ NOTICE OF TERMINATION REQUEST FOR INDUSTRIAL FACILITIES OR CONSTRUCTION SITES - VERIFICATION THAT THE FACILITY OR CONSTRUCTION SITE IS NOT SUBJECT TO PERMIT REQUIREMENTS.
- ☐ COMPLIANCE ASSISTANCE INSPECTION - OUTREACH INSPECTION DUE TO DISCHARGER'S REQUEST FOR COMPLIANCE ASSISTANCE.

INSPECTION FINDINGS:

Y WERE VIOLATIONS NOTED DURING THIS INSPECTION? (YES/NO/PENDING SAMPLE RESULTS)

I. COMPLIANCE HISTORY / PURPOSE OF INSPECTION

Follow-up to May 13, 2015, San Diego Water Board inspection to determine if Best Management Practices (BMPs) were deployed, and if so were they effective and in compliance with the State Water Resources Control Board's General Construction Storm Water Permit, Order No. 2009-0009-DWQ, NPDES No. CAS000002, as amended by Order Nos. 2010-0014-DWQ and 2012-0006-DWQ (Permit), during the storm event of May 14-15, 2015.

II. FINDINGS

1. During the inspection, the sky was mostly cloudy with sporadic sprinkles. There were light winds; and the temperature was in the low 60's (Fahrenheit). The National Oceanic and Atmospheric Administration (NOAA) weather station for La Mesa reported receiving 0.74 inches of precipitation on May 15, 2015; and 0.11 inches on May 14, 2015. The NOAA Lemon Grove station did not collect weather information; therefore the closest NOAA station to Lemon Grove was cited.

2. I met Tim Anderson (949-275-6739), site superintendent for New Pointe Communities, Inc., at the site and I received permission from him to walk the site and to take photographs during the site inspection. Tim informed me that New Pointe Communities, Inc. had taken over for BCA Development, Inc., and that Bob Rowdine of Guardian Capital Realty will be submitting a Change of Information (COI) form. We walked the 19-acre site together and stopped at various points along the way to discuss the effectiveness of installed BMPs, identify areas that were out of compliance, and to discuss options for employing BMPs to come into compliance with the Permit. Tim stated that he had been on site since 6 a.m., and that he and his work crews had been adjusting BMPs throughout the day to improve their effectiveness during the storm event. Around 1:40 p.m., we were joined by Tyler Sandstrom.

3. Many flat graded areas have no erosion or sediment control measures in violation of the Permit (Attachment D §§ D.2 and E.3). Tim assured me during the walk through that next week he will spray the areas with a soil stabilizer. Tim also expressed confidence that the dirt berms on the north end of Tangelos Place and at the north end of Seville Way will hold back accumulated storm water runoff and eroded sediment. Tim additionally said that Tangelos Place will be paved next week.

4. A few gravel bag chevrons were observed on Orlando Drive and Avalon Way. There was evidence of trapped sediment behind the chevrons. I recommended that Tim consider increasing the number of chevrons in order to slow down the runoff and trap more sediment. I also pointed out that sediment in the street indicates the need for erosion control measures on the graded areas of the site. At most there were three chevrons on the north side of Avalon Way. After the inspection, while I was in my office, I reviewed the site's Storm Water Pollution Prevention Plan (SWPPP) that was uploaded to the SMARTS database, and it indicated that there should be 14 chevrons.

5. Parkway planters and front yards along Avalon Way had no erosion control measures and many erosion rills were observed. Gravel bags were employed at the lowest ends of the parkway planters and front yards to contain sediment. I discussed the use of sprayed soil stabilization here with Tim. Tim stated that the parkway planters and front yards will be landscaped within the next few weeks. Again the BMPs noted in the SWPPP were not installed in the field at the site.

6. Additional gravel bags (to increase freeboard) were added at the creek crossing near the San Altos Place site entrance in an attempt to prevent sediment discharges into the creek. I advised Tim to consider spraying the graded areas with soil stabilization.

7. Gravel bags were placed in front of the storm drain inlet located at the east end of Akins Avenue. This was also done for the large storm drain inlet along the south end of Tangelos Place.

8. The ripped white plastic stockpile covers on the south side of Seville Way have been replaced with black plastic.

III. COMMENTS

Comments

1. There is evidence that either the QSP was not adequately identifying and recommending implementation of good site management "housekeeping," erosion control, sediment control, and run-on/runoff control BMPs, or the owner/developer was not directing the implementation of the BMPs as recommended by the QSP.

2. The majority of the BMPs specified in the SWPPP have not been installed in the field.

IV. SIGNATURE SECTION

Frank Melbourn	Frank Melbourn	May 22, 2015
STAFF INSPECTOR	SIGNATURE	INSPECTION DATE
Eric Becker	Eric Becker	5/26/15
REVIEWED BY SUPERVISOR	SIGNATURE	DATE

SMARTS:

Tech Staff Info & Use	
WDID	937C369143
Place ID	SM-828060
Inspection ID	2025772
Violation ID	857267



Photograph No. 1: IMG_0350.jpg, taken by Frank Melbourn, San Diego Water Board

Photograph No. 1 looks north from Tangelos Place onto Evelyn Street (behind green fence). The photograph displays an earthen berm holding back storm water runoff and eroded sediment. The soil on this side of the construction site is highly erosive. Sprayed erosion control can be seen on the slopes, as well as fiber rolls for sediment control. Large gravel and a rocker plate are installed at the site entrance as sediment controls. There was an absence of erosion controls on the graded street. There were no sediment controls but for the earthen berm.



Photograph No. 2: IMG_0354.jpg, taken by Frank Melbourn, San Diego Water Board

Photograph No. 2 looks south down Tangelos Place. The photograph displays a muddy thoroughfare without erosion and sediment control measures. Some, but not all of the stockpiles are covered with black plastic.



Photograph No. 3: IMG_0356.jpg, taken by Frank Melbourn, San Diego Water Board

Photograph No. 3 looks southeast down Avalon Way. The photograph displays sediment buildup behind a gravel back chevron or check dam in the gutter. Gravel bags were also used as sediment controls on this house lot to decrease the sediment discharge to the curb. The downhill storm drain inlet is connected to an on-site sediment basin. Spraying a soil stabilizer on the graded housing pads would reduce the erosive threat and sediment load to the street and basin.



Photograph No. 4: IMG_0359.jpg, taken by Frank Melbourn, San Diego Water Board

Photograph No. 4 looks northeast and upstream of the creek from the creek crossing near the San Altos Place entrance. The photograph displays the addition of a row of gravel bags to reduce the likelihood of a sediment discharge to the creek. Spraying the area with a soil stabilizer would greatly reduce the threat of a sediment discharge to the creek.



Photograph No. 5: IMG_0366.jpg, taken by Frank Melbourn, San Diego Water Board

Photograph No. 5 looks west from the south end of Tangelos Place at a storm drain inlet protected with gravel bags. There are no erosion or sediment control measures on Tangelos Place. Erosion rills and sediment buildup are displayed.

Exhibit No. 21

CITY OF LEMON GROVE
ADMINISTRATIVE CITATION

A) TYPE OF VIOLATION

Circle One: Warning | 1st Citation $100 | 2nd Citation $200 | 3rd Citation $500 | (4th Citation $1,000)

Payment of $ 1,000.00 is due no later than 10/22/2015 to the City of Lemon Grove. The City accepts cash, check or credit card.

If the violation is not corrected by the date specified therein and/or payment is not received by the date above, the next level of citation may be issued, other enforcement actions may occur, and penalties may be assessed (25% and interest at the rate of 10% per month). Payment of fine does not excuse or discharge the failure to correct violation identified below.

B) RESPONSIBLE PARTY INFORMATION

Person Cited: ANDERSON (Last Name) TIM (First Name)

Circle One: Property Owner Tenant Business Owner (Other) SITE representative PROJECT MANAGER

Mailing Address: 3194-62 AIRPORT LOOP DRIVE, COSTA MESA, CA 92626

Business Name (if applicable): NEW POINT HOMES

CC: PHIL DOWLEY, CODE ENFORCEMENT FILE

C) VIOLATION(S) INFORMATION

Date (Violation Observed): 9/15/2015 Time (Violation Observed): 2pm

Location of Violation: 1350 SAN AITOS PL/VALENCIA (Street Address) (APN)

Violation(s) Observed (Code Section and Description):

8.48.060 18.08.560 INADEQUITE BMP'S - SEE ATTACHED INSPECTION
18.08.170 EVIDENCE OF DISCHARGE REPORTS
18.08.180

D) CORRECTION(S) REQUIRED (with date to complete corrections)

INSTALL BMP'S PER RECOMMENDATIONS, ATTACHED REPORT

E) SERVICING CITATION INFORMATION

Enforcing Officer Name: Gary Harper Phone No.: 619 454-1272 Signature: [signature] Date: 9/22/15

Person Cited – Signature Acknowledging Receipt: [signature] 9/22/15 (Date)

Citation Served (circle one): (In Person) By Mail Posted on Property

This citation may be appealed within thirty (30) days from date of correction identified in Section D. To request an appeal, a Request an Appeal Hearing form (available at City Hall) should be completed and returned to City Hall. In the event a Hardship Waiver is requested, the Request for an Appeal Hearing and Hardship Waiver forms are required within fifteen (15) days from the correction date identified in Section D.

WHITE-ORIGINAL PINK-COPY CITATION CARD ~~OWNER~~ Developer

Exhibit No. 22

CITY OF LEMON GROVE
3232 Main Street, Lemon Grove, CA 91945

NPDES STORMWATER PROGRAM
CONSTRUCTION STORMWATER COMPLIANCE INSPECTION FORM

Inspector Name /Signature/Date/Time: TAD NAKATANI 9/15/15 2:00PM

Inspection: ☒ Permit-Required Inspection ☐ Follow-up Inspection ☐ Other (Explain)____

Construction Project Priority: ☒ High ☐ Medium ☐ Low

Approximate rainfall since last inspection: ~.8 inches

GENERAL INFORMATION

Grading or Building Permit #: GR-1692

Project Name & Type: Valencia Subdivision

Project Location & Address: San Altos Place

Contractor's Name & Telephone #: Anderson Development (949) 275-6739

Property Owner & Telephone #: San Altos LLC

Is this Project Greater than an Acre? ☒ Yes ☐ No ☐ N/A

If yes: Provide Record of Waste Discharge Identification Number (WDID#): 937C369143

Does this Project have an NOI/SWPPP Available? ☒ Yes ☐ No ☐ N/A

Is Weather Triggered Action Plan Completed? ☐ Yes ☐ No ☒ N/A

Is More than 17 Acres of Cleared or Graded Areas Left Exposed at Any Given Time? ☐ Yes ☒ No ☐ N/A TN

Sufficient Standby BMPs Onsite to Protect Site Within 48 Hours of Predicted Storm? ☐ Yes ☒ No ☐ N/A

Are Routine Self-Inspections Being Conducted by Developer/Owner? ☒ Yes ☐ No ☐ N/A

Project Site is in What Sub-Watershed: ☒ Chollas Creek 908.22 ☐ Sweetwater River 909.12

BMP	Yes	No	N/A	Description/Explanation	Effective Yes/No
Soil Stabilization and Erosion Prevention					
Preservation of existing vegetation?			X		
Physical Stabilization: Hydraulic Mulch, Hydroseeding, Soil Binders, Straw Mulch	X			Significant areas lack erosion control. Evidence of erosion throughout site	No
Geotextiles, Plastic Covers, Erosion Prevention Blankets, Wood Mulching	X			" "	No
Site Drainage: Outlet Protection/Slope Drain			X		
Inlet/Outlet Protection			X		
Sediment Control/Containment					
Perimeter Protection: Silt Fencing, Gravel Bags, Fiber Rolls	X			Some spots lack perimeter control (silt fence)	No
Storm Drain inlet protection: Sediment Trap, De-silting Basin, Gravel Bag Barrier	X			No inlet protection on drain near SE corner	No
Tracking Controls: Stabilized Entrance/Exit Road Stabilization, Tire Wash, Street Sweeping	X			Significant sediment on streets within project & in gutter on Akins. TC#1 needed on all driveways where vehicles will be driving	No

BMP	Yes	No	N/A	Description/Explanation	Effective Yes/No
Materials and Equipment Management					
Are materials and wastes stored in a manner that minimizes or eliminates the potential to discharge these materials to the storm drain system, is secondary containment used?	X				Yes
Are material stockpiles protected: covered, contained and located away from non-storm water discharges?	X			Some small sediment piles are not protected	No
Are heavy equipment and vehicles parked in designated areas with permeable surface?	X				Yes
Are appropriate spill response and containment measures kept on the site?	X				Yes
Are wastes managed and stored properly (Solid, liquid, sanitary, concrete, hazardous)		X		Some litter/waste throughout site	No
Are concrete washouts properly installed, maintained with no evidence of discharges.	X				Yes
Is timely service and removal provided to prevent waste containers and sanitary facilities from overflowing?	X				Yes
Non-Storm Water Management					
Is the site free of evidence of illegal connections and/or illicit discharges?	X				Yes
Discharge Locations					
Are the discharge locations free of significant erosion or sediment transport?		X		Some sediment in road and gutter near SE corner	No
Other					
Are there any other potential storm water pollution issues/concerns?	X			Sediment will need to be cleaned out of basins & erosion around inlets needs repair	No
Was there any employee or subcontractor training on stormwater BMPs?				Not discussed	

RECOMMENDED CORRECTIVE ACTION

SEE NEXT PAGE

Have any corrective actions from the previous inspection NOT been implemented? ☒ Yes ☐ No ☐ NA

If NO, and if it has been more than 30 days since the corrective action was originally required, explain why more than 30 days was necessary to resolve the deficiency: less than 30 days since previous insp.

VIOLATIONS

- ☐ No violations noted at time of inspection/investigation
- ☐ No violations; however, recommended corrective actions required
  - ☐ Inspection Form as Correct Work Notice ☐ Correct Work Notice Issued on: _____
- ☒ Violation: Illegal Discharge/Illegal Connection/Improper BMPs Implementation
  - ☐ Stop Work Notice Issued on: _____
- ☐ Violation

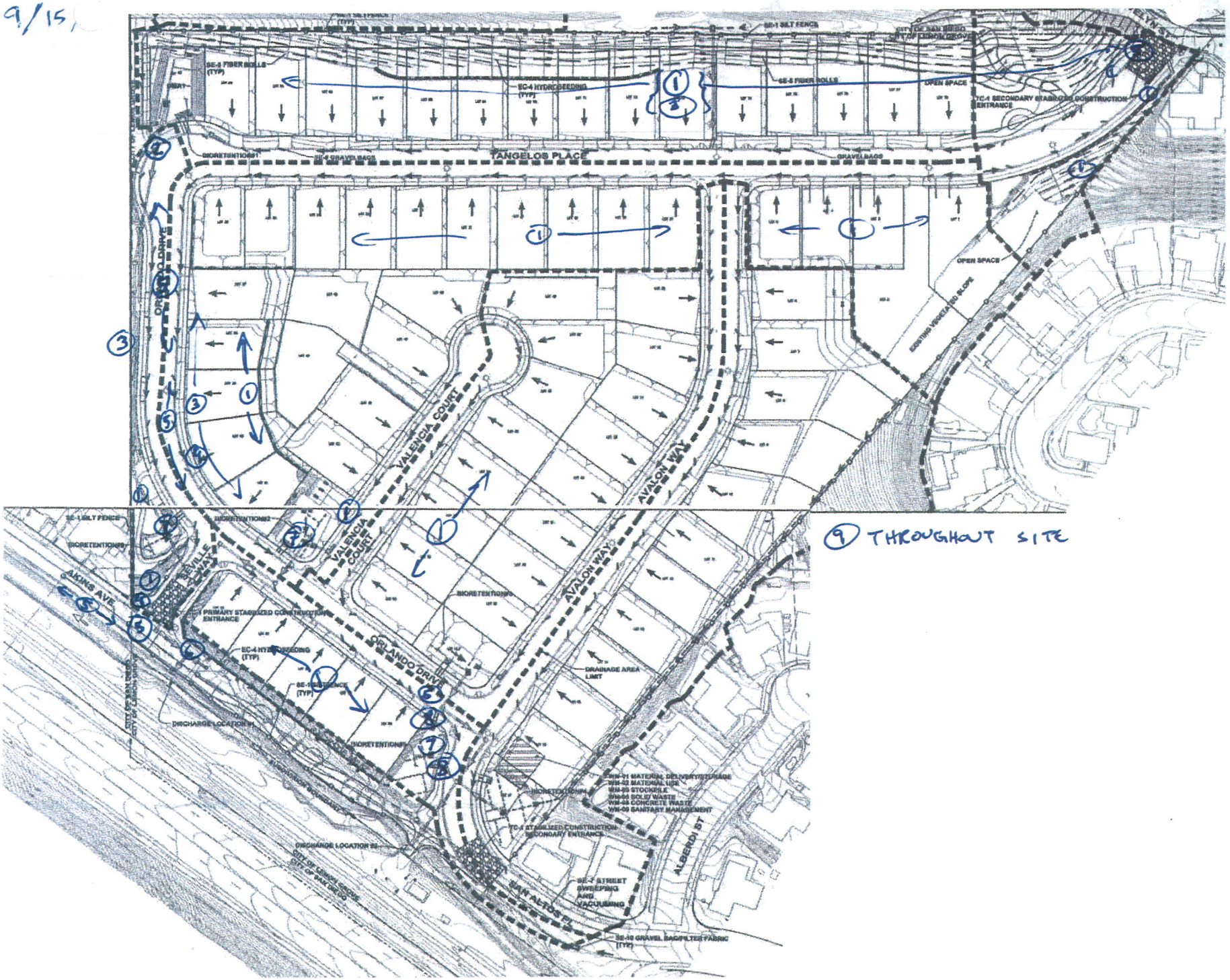
Construction BMP Recommendations

Site: VALENCIA Date: 9/15/15

Recommendations:

1. UTILIZE EROSION CONTROLS ON ALL DISTURBED AREAS PRIOR TO RAIN EVENTS, OR WHEN THEY ARE INACTIVE, WHICHEVER COMES FIRST
2. PROTECT EXPOSED AREA FROM RUN-ON AND MAKE SURE AREA IS FULLY COVERED
3. ADD/IMPROVE PERIMETER CONTROLS
4. ADD TC-1 IF VEHICLES WILL BE DRIVING ACROSS DRIVEWAY
5. CLEAN SEDIMENT OUT OF ROADWAYS & GUTTER
6. ADD INLET PROTECTION
7. CLEAN SEDIMENT OUT OF BIORETENTION BASINS. SIGNIFICANT ACCUMULATION, ESPECIALLY BY INLETS
8. REPAIR EROSION BY BASIN INLETS. ALSO RECOMMEND CLEARING OBSTRUCTIONS IN OUTLET RISER STRUCTURE
9. PICK UP TRASH!!

9/15



(9) THROUGHOUT SITE

Exhibit No. 23

D-MAX Engineering, Inc.
Consultants in Water & Environmental Sciences

Memo

Date: January 16, 2015

To: Leon Firsht, Malik Tamimi

Cc: John Quenzer

From: Tad Nakatani

Subject: Summary of Inspections and Sampling at Valencia Construction Site between December 9, 2014 and January 14, 2015

Per the City's request, D-MAX conducted multiple visits to the Valencia construction site to perform inspections and to collect storm water runoff samples. Table 1 summarizes the dates of all inspection and sampling visits.

Table 1. Inspection and Sampling Attempt Dates

Date	Activity
12/9/2014	Inspection
12/11/2014	Inspection
12/12/2014	Sampling
12/16/2014	Inspection
12/17/2014	Sampling
12/31/2014	Sampling
1/6/2015	Inspection
1/14/2015	Inspection

Summary of Inspections

Several significant BMP deficiencies were observed during the initial inspection on December 9, when the site was already under a Stop Work Notice from the City. Most significantly, there were several areas that lacked adequate erosion control BMPs, and there was also evidence of concentrated flows being directed to unstabilized areas, causing significant erosion. D-MAX documented these deficiencies and provided BMP recommendations as requested by the City. D-MAX re-inspected the site two days later on December 11 and observed that the majority of the deficiencies had not been corrected. On December 12, D-MAX visited the site during a rain event and collected samples of runoff from the site. Turbidity measurements were above 500 NTU for two samples taken near the southeast corner of the site and were above 400 NTU for a sample taken near the northeast corner of the site.

During the next inspection on December 16, some additional BMP deficiencies had been addressed, but the progress was still not sufficient. D-MAX returned to the site the following day to attempt to collect a sample, but the rain had already stopped, and no runoff sample was collected. D-MAX did observe sediment on the roadway outside of the southeast corner of the

site. A power-washing contractor was in the process of cleaning the road when D-MAX visited the site. D-MAX returned to the site on the morning of December 31 to attempt to collect another runoff sample, but once again the rain had stopped several hours before the site visit. D-MAX observed some sediment in the roadway again, but it appeared to be less than during the previous visit. D-MAX sampled water ponded at two locations just outside the southeast corner of the site. Turbidity was measured at 250 NTU and 235 NTU at these locations, but these measurements likely do not accurately reflect the turbidity of runoff since there had been time for sediment to settle out.

During the inspection on January 6, D-MAX observed that most of the major BMP deficiencies had been addressed, but a few still remained unresolved.

D-MAX performed its most recent inspection on January 14. D-MAX's assessment from this inspection is that the developer has made sufficient improvements to the site, and it is appropriate to lift the Stop Work Notice. There were some minor BMP deficiencies during the January 14 inspection, and the developer will still be required to address these promptly. However, the major deficiencies that led to the Stop Work Notice have been addressed, and the overall state of the site has been improved to the point where it no longer poses the severe risk of sediment discharges that it did in December.

Table 2 provides a summary of the different BMP deficiencies observed during inspections as well as the corrective actions that had been implemented as of January 14, 2015.

Table 2. Summary of BMP Deficiencies Observed and Corrective Actions Taken

BMP Deficiency	Corrective Action(s) Taken
Several lots lacked adequate erosion control BMPs.	Additional lots were hydroseeded. Some smaller areas were protected with plastic sheeting
Numerous slopes on the edges of lots were not sufficiently stabilized and protected from concentrated flows, and rills/gullies had formed.	Slopes were repaired where possible. BMPs were added upstream of slopes to prevent concentrated flows. Plastic sheeting was used in select areas to create protected spillways where concentrated flows could not be eliminated. Improved growth of hydroseed on slopes was also observed. All of the larger rills were addressed, but a few small rills still remained on January 14. The developer is required to address these areas still.
Sidewalls at the edges of lots also lacked erosion controls and several showed signs of erosion.	Sidewalls were protected with plastic sheeting.
Portions of the slope on the western edge of the site lacked full stabilization.	Additional fiber rolls were installed. Plastic sheeting was used to create protected spillways in areas where upstream contours were causing flows to concentrate.
Dirt roadways lacked sufficient stabilization and sediment controls.	Roads were compacted and large berms were built on them. A portion of the road that is inactive was hydroseeded.
Runoff from a significant portion of the site was being directed as concentrated flow to an unstabilized area in the site's southeast corner.	The developer built up an embankment to redirect flows away from this area and toward a settling area.
Some stockpiles lacked adequate cover	Covers were put on stockpiles.
The developer did not have sufficient quantities of BMP materials on site.	Additional gravel bags, fiber rolls, and silt fences were delivered to the site.
A significant amount of sediment was observed along the roadway at the southeast corner of the site.	Sweeping did not effectively remove all sediment, so a power-washing contractor was hired and removed the sediment from the road.
Gravel bag inlet protection BMPs were not always in place	Gravel bags were put in place to protect on-site and downstream off-site inlets.
Filter fabric used as part of inlet protection became potentially clogged by hydroseeding materials	Filter fabric was replaced.
Stockpiles were placed close to a drain inlet. The inlet is elevated above the ground height in that area, decreasing the risk of discharge, but stockpiles still need to be relocated away from the drain.	This deficiency was first observed on January 6. On January 14, the stockpiles had been covered, but they had not been moved sufficiently far enough away from the drain inlet. The developer is still required to address this item.
Sediment control BMPs were lacking or damaged in places.	A significant amount of additional silt fences and gravel bags were added to the site perimeter and the perimeters of lots.



Photo 1. Lot lacking erosion control BMPs



Photo 2. Hydroseed added to a lot



Photo 3. Evidence of erosion at edge of a lot



Photo 4. Rills filled in, area re-hydroseeded, silt fence added to perimeter of lot.



Photo 5. Sidewall without adequate erosion control



Photo 6Sidewall protected with plastic sheeting.

Exhibit No. 24

CITY OF LEMON GROVE
3232 Main Street, Lemon Grove, CA 91945

NPDES STORMWATER PROGRAM
CONSTRUCTION STORMWATER COMPLIANCE INSPECTION FORM

Inspector Name /Signature/Date/Time: TAD NAKATANI 1/6/15 10:30AM

Inspection: ☐ Permit-Required Inspection ☒ Follow-up Inspection ☐ Other (Explain)____

Construction Project Priority: ☐ High ☒ Medium ☐ Low

GENERAL INFORMATION

Grading or Building Permit #: GR-1692

Project Name & Type: VALENCIA SUBDIVISION

Project Location & Address: SAN ALTOS PLACE

Contractor's Name & Telephone #: ANDERSON DEVELOPMENT (949) 275-6739

Property Owner & Telephone #: SAN ALTOS LLC

Is this Project Greater than an Acre? ☒ Yes ☐ No ☐ N/A

If yes: Provide Record of Waste Discharge Identification Number (WDID#): 937C369143

Does this Project have an NOI/SWPPP Available? ☒ Yes ☐ No ☐ N/A

Is Weather Triggered Action Plan Completed? ☐ Yes ☐ No ☒ N/A

Is Advanced Treatment Implemented Appropriately? ☐ Yes ☐ No ☒ N/A

Is More than 17 Acres of Cleared or Graded Areas Left Exposed at Any Given Time? ☐ Yes ☒ No ☐ N/A

Is 125% of Materials to Install Standby BMPs Available? Unclear: Have additional silt fences but may need more after installing on more lots ☐ Yes ☐ No ☐ N/A

Are Routine Self-Inspections Being Conducted by Developer/Owner? ☒ Yes ☐ No ☐ N/A

Project Site is in What Sub-Watershed: ☒ Chollas Creek 908.22 ☐ Sweetwater River 909.12

Nearest Conveyances or Water Bodies: ENCANTO CHANNEL TO CHOLLAS CREEK

BMP	Yes	No	N/A	Description/Explanation	Effective Yes/No
Soil Stabilization and Erosion Prevention					
Preservation of existing vegetation?			X		
Physical Stabilization: Hydraulic Mulch, Hydroseeding, Soil Binders, Straw Mulch	X			Area near Aking entrance not fully stabilized. Several gullies untreated	No
Geotextiles, Plastic Covers, Erosion Prevention Blankets, Wood Mulching	X			Additional gravel bags needed at base of plastic spillway on south side. Sidewalls lack plastic covering	No
Site Drainage: Outlet Protection/Slope Drain		X			
Inlet/Outlet Protection		X			
Sediment Control/Containment					
Perimeter Protection: Silt Fencing, Gravel Bags, Fiber Rolls	X			Additional fiber rolls needed on slope on west side	No
Storm Drain inlet protection: Sediment Trap, De-silting Basin, Gravel Bag Barrier	X			Fabric on drain in basin clogged with hydroseed. Bags along Akins have been removed & not replaced yet	No

BMP	Yes	No	N/A	Description/Explanation	Effective Yes/No
Tracking Controls: Stabilized Entrance/Exit Road Stabilization, Tire Wash, Street Sweeping	X				Yes
Materials and Equipment Management					
Are materials and wastes stored in a manner that minimizes or eliminates the potential to discharge these materials to the storm drain system, is secondary containment used?	X				Yes
Are material stockpiles protected: covered, contained and located away from non-storm water discharges?	X			Uncovered stockpiles reported as active	Yes
Are heavy equipment and vehicles parked in designated areas with permeable surface?	X				Yes
Are appropriate spill response and containment measures kept on the site?	X				Yes
Are wastes managed and stored properly (Solid, liquid, sanitary, concrete, hazardous)	X				Yes
Are concrete washouts properly installed, maintained with no evidence of discharges.	X				Yes
Is timely service and removal provided to prevent waste containers and sanitary facilities from overflowing?	X				Yes
Non-Storm Water Management					
Is the site free of evidence of illegal connections and/or illicit discharges?	X				Yes
Discharge Locations					
Are the discharge locations free of significant erosion or sediment transport?	X				Yes
Other					
Are there any other potential storm water pollution issues/concerns?	X			stockpiles are too close to drain in NE Basin. Need to be moved or removed	No
Was there any employee or subcontractor training on stormwater BMPs?			X	Not Discussed	

VIOLATIONS

- ☐ No violations noted at time of inspection/investigation
- ☐ No violations; however, recommended corrective actions required
  - ☐ Inspection Form as Correct Work Notice ☐ Correct Work Notice Issued on: _____
- ☒ Violation: Illegal Discharge/Illegal Connection/Improper BMPs Implementation
  - ☒ Stop Work Notice Issued on: Ongoing stop work/ Admin. citation

RECOMMENDED CORRECTIVE ACTION

See next page for recommendations

Construction BMP Recommendations

Site: VALENCIA SUBDIVISION Date: 1/6/15

Recommendations: (See MAP ON NEXT PAGE FOR LOCATIONS)

1. FULLY STABILIZE AREA. UTILIZE OTHER EROSION CONTROL BMPs (E.G. VISQUENE OR EROSION CONTROL BLANKETS) IF HYDROSEED GROWTH IS NOT SUFFICIENT
2. CLEAN OR REPLACE FILTER FABRIC
3. MOVE OR REMOVE STOCKPICES THAT ARE ADJACENT TO DRAIN
4. REPAIR GULLIES AND PREVENT CONCENTRATED FLOW TO AREA
5. REPAIR & STABILIZE SLOPE
6. USE EROSION CONTROLS TO STABILIZE EXPOSED SIDEWALLS. CONSIDER METHODS OTHER THAN HYDROSEED SINCE THERE IS EVIDENCE OF FAILURE
7. STABILIZE AREA IF INACTIVE OR RAIN IN FORECAST
8. ADD GRAVEL BAGS AT BOTTOM OF SPILLWAY
9. REPLACE GRAVEL BAGS ALONG AKINS


TANGELOS PLACE
ORLANDO DRIVE
VALENCIA COURT
AVALON WAY
OPEN SPACE
AKINS AVE.
SAN ALTOS PL.
ALBERDI ST
SE-1 SILT FENCE
SE-5 FIBER ROLLS
SE-7 STREET SWEEPING AND VACUUMING
DRAINAGE LOCATION 86
CITY OF LEMON GROVE
CITY OF SAN DIEGO

Exhibit No. 25

CITY OF LEMON GROVE
3232 Main Street, Lemon Grove, CA 91945

NPDES STORMWATER PROGRAM
CONSTRUCTION STORMWATER COMPLIANCE INSPECTION FORM

Inspector Name /Signature/Date/Time: TAD NAKATANI 1/14/15 7:15AM

Inspection: ☐ Permit-Required Inspection ☒ Follow-up Inspection ☐ Other (Explain)____

Construction Project Priority: ☐ High ☒ Medium ☐ Low

GENERAL INFORMATION

Grading or Building Permit #: GR-1692

Project Name & Type: VALENCIA SUBDIVISION

Project Location & Address: SAN ALTOS PLACE

Contractor's Name & Telephone #: ANDERSON DEVELOPMENT (949) 275-6739

Property Owner & Telephone #: SAN ALTOS LLC

Is this Project Greater than an Acre? ☒ Yes ☐ No ☐ N/A

If yes: Provide Record of Waste Discharge Identification Number (WDID#): 937C369143

Does this Project have an NOI/SWPPP Available? ☒ Yes ☐ No ☐ N/A

Is Weather Triggered Action Plan Completed? ☐ Yes ☐ No ☒ N/A

Is Advanced Treatment Implemented Appropriately? ☐ Yes ☐ No ☒ N/A

Is More than 17 Acres of Cleared or Graded Areas Left Exposed at Any Given Time? ☐ Yes ☒ No ☐ N/A

Is 125% of Materials to Install Standby BMPs Available? ☒ Yes ☐ No ☐ N/A

Are Routine Self-Inspections Being Conducted by Developer/Owner? ☒ Yes ☐ No ☐ N/A

Project Site is in What Sub-Watershed: ☒ Chollas Creek 908.22 ☐ Sweetwater River 909.12

Nearest Conveyances or Water Bodies: ENCANTO CHANNEL TO CHOLLAS CREEK

BMP	Yes	No	N/A	Description/Explanation	Effective Yes/No
Soil Stabilization and Erosion Prevention					
Preservation of existing vegetation?			X		
Physical Stabilization: Hydraulic Mulch, Hydroseeding, Soil Binders, Straw Mulch	X			Some areas near Alvin where hydro-seeding has not grown. Some remaining ~~gullies~~ rills on edges of lots & slopes	No
Geotextiles, Plastic Covers, Erosion Prevention Blankets, Wood Mulching	X			Most sidewalks have been covered but a couple in the northern part of site lack protection	No
Site Drainage: Outlet Protection/Slope Drain		X			
Inlet/Outlet Protection		X			
Sediment Control/Containment					
Perimeter Protection: Silt Fencing, Gravel Bags, Fiber Rolls	X			Broken silt fence near San Altos	No
Storm Drain inlet protection: Sediment Trap, De-silting Basin, Gravel Bag Barrier					

BMP	Yes	No	N/A	Description/Explanation	Effective Yes/No
Tracking Controls: Stabilized Entrance/Exit Road Stabilization, Tire Wash, Street Sweeping	X				Yes
Materials and Equipment Management					
Are materials and wastes stored in a manner that minimizes or eliminates the potential to discharge these materials to the storm drain system, is secondary containment used?	X				Yes
Are material stockpiles protected: covered, contained and located away from non-storm water discharges?		X		wood/scrap pile should be removed or protected	NO
Are heavy equipment and vehicles parked in designated areas with permeable surface?	X				Yes
Are appropriate spill response and containment measures kept on the site?	X				Yes
Are wastes managed and stored properly (Solid, liquid, sanitary, concrete, hazardous)	X				Yes
Are concrete washouts properly installed, maintained with no evidence of discharges.	X				Yes
Is timely service and removal provided to prevent waste containers and sanitary facilities from overflowing?	X				Yes
Non-Storm Water Management					
Is the site free of evidence of illegal connections and/or illicit discharges?	X				Yes
Discharge Locations					
Are the discharge locations free of significant erosion or sediment transport?	X				Yes
Other					
Are there any other potential storm water pollution issues/concerns?	X			Stockpiles are located too close to drain in NE Basin. Remove or relocate them outside of basin	No
Was there any employee or subcontractor training on stormwater BMPs?			X	not discussed	

VIOLATIONS

- ☐ No violations noted at time of inspection/investigation
- ☐ No violations; however, recommended corrective actions required
  - ☐ Inspection Form as Correct Work Notice ☐ Correct Work Notice Issued on: _____
- ☒ Violation: Illegal Discharge/Illegal Connection/Improper BMPs Implementation
  - ☒ Stop Work Notice Issued on: ongoing stop work/Admin. citation

RECOMMENDED CORRECTIVE ACTION

See next page for recommendations

Construction BMP Recommendations

Site: VALENCIA SUBDIVISION Date: 1/14/15

Recommendations:

1. STABILIZE REMAINING SMALL AREAS THAT LACK FULL HYDROSEED OR VISQUENE COVER
2. INSTALL EROSION CONTROLS ON REMAINING SIDEWALLS
3. REMOVE THE STOCKPILES THAT ARE NEAR THE DRAIN OR RELOCATE THEM OUTSIDE OF THE BASIN
4. REPAIR BROKEN SILT FENCE
5. STABILIZE AREA IF INACTIVE OR RAIN IN FORECAST
6. REMOVE OR PROTECT WOOD/SCRAP PILE
7. REPAIR MINOR RILLS AND PROTECT AGAINST CONCENTRATED FLOWS IN THE AREA

1/14/15


SE-5 FIBER ROLLS (TYP)
SE-1 SILT FENCE
CITY OF SAN DIEGO
CITY OF LEMON GROVE
EC-4 HYDROSEEDING (TYP)
SE-5 FIBER ROLLS
OPEN SPACE
TC-1 SECONDARY STABILIZED CONSTRUCTION ENTRANCE
TANGELOS PLACE
BIORETENTION
SE-5 GRAVEL BAGS
GRAVELBAGS
ORLANDO DRIVE
VALENCIA COURT
AVALON WAY
OPEN SPACE
EXISTING VEGETATED SLOPE
SE-1 SILT FENCE
BIORETENTION
SEVILLE AVENUE
AKINS AVE.
TC-4 PRIMARY STABILIZED CONSTRUCTION ENTRANCE
EC-4 HYDROSEEDING (TYP)
SE-1 SILT FENCE (TYP)
DISCHARGE LOCATION 1
DISCHARGE LOCATION 2
DRAINAGE AREA LIMIT
WM-01 MATERIAL DELIVERY/STORAGE
WM-02 MATERIAL USE
WM-05 STOCKPILE
WM-06 SOLID WASTE
WM-08 CONCRETE WASTE
WM-09 SANITARY MANAGEMENT
TC-1 STABILIZED CONSTRUCTION SECONDARY ENTRANCE
DISCHARGE LOCATION 3
CITY OF UNION GROVE
CITY OF SAN DIEGO
SAN ALTOS PL
SE-7 STREET SWEEPING AND VACUUMING
ALBERDI ST
SE-10 GRAVEL BAG/FILTER FABRIC (TYP)

Exhibit No. 26

CITY OF LEMON GROVE
ADMINISTRATIVE CITATION

A) TYPE OF VIOLATION

Circle One: Warning | 1st Citation $100 | 2nd Citation $200 | 3rd Citation $500 | 4th Citation $1,000 (6TH)

Payment of $ 1,000- is due no later than NOV 6, 2015 to the City of Lemon Grove. The City accepts cash, check or credit card.

If the violation is not corrected by the date specified therein and/or payment is not received by the date above, the next level of citation may be issued, other enforcement actions may occur, and penalties may be assessed (25% and interest at the rate of 10% per month). Payment of fine does not excuse or discharge the failure to correct violation identified below.

B) RESPONSIBLE PARTY INFORMATION

Person Cited: ANDERSON (Last Name) TIM (First Name)

Circle One: Property Owner Tenant Business Owner Other Developer

Mailing Address: 3194-62 AIRPORT LOOP DR. COSTA MESA, CA 92626

Business Name (if applicable): NEW POINT HOMES

C) VIOLATION(S) INFORMATION

Date (Violation Observed): OCT 5, 2015 Time (Violation Observed): 2:30PM

Location of Violation: SAN AITOL (VALENCIA) (Street Address) (APN)

Violation(s) Observed (Code Section and Description):
PER GRADING PLANS, # [redacted] 2671, GRADING PERMIT # 2014-01, SITE IS NOT IN COMPLIANCE WITH SHEET 11A, "EROSION CONTROL NOTES." SEE PHOTOS

D) CORRECTION(S) REQUIRED (with date to complete corrections)

17 DAYS OR BEFORE RAIN EVENT, SITE TO BE IN SUBSTANTIAL COMPLIANCE WITH GRADING PLANS

E) SERVICING CITATION INFORMATION

Enforcing Officer Name	Phone No.	Signature	Date
GARY HARPER	(619) 454-1272		OCT 5, 2015

Person Cited – Signature Acknowledging Receipt _____ (Date)

Citation Served (circle one): In Person | By Mail EMAIL | Posted on Property

This citation may be appealed within thirty (30) days from date of correction identified in Section D. To request an appeal, a Request an Appeal Hearing form (available at City Hall) should be completed and returned to City Hall. In the event a Hardship Waiver is requested, the Request for an Appeal Hearing and Hardship Waiver forms are required within fifteen (15) days from the correction date identified in Section D.

WHITE-ORIGINAL PINK-COPY CITATION CARD-OWNER

EROSION SEDIMENT CONTROL VALENCIA OCT 5, 2015



Erosion / Sediment Control Valencia Oct 5, 2015



Erosion Control / Stockpile Valencia Oct 5, 2015



VALENCIA OCT 5, 2015 FAILURE TO MAINTAIN BMP'S, EROSION CONTROL



BMP FAILURE VALENCIA OCT 5, 2015



EROSION CONTROL VALENCIA OCT 5, 2015



Exhibit No. 27
Site: Valencia Hills

Penalty Methodology Decisions
R9-2015-0110

Discharge Violation: Potential for Harm

Violations	Harm/Potential Harm to Benficial Uses [0 -5]	Physical, Chemical, Biological or Thermal Characteristics [0 -4]	Susceptibility to Cleanup or Abatement [0 or 1]	Total Potential for Harm [0 - 10]
Violation 1	3	2	1	6

Discharge Violation

Violations	Total Potential for Harm [0 - 10]	Deviation from Requirement [minor, moderate, major]	Total per Day	Days of Violation	Statutory Max per [WC § 13385]	Culpability [0.5 - 1.5]	Cleanup and Cooperation [0.75 - 1.5]	History of Violations	Liability Amount	Economic Benefit	Liability Minimum	Liability Maximum
Violation 1	6	major	0.22	6	$10,000	1.3	1.1	1.0	**$18,876**	$9,476	$10,424	$60,000

Non-Discharge Violations

Violations	Potential for Harm minor, moderate, major	Deviation from Requirement [minor, moderate, major]	Total per Day	Days of Violation	Statutory Max per [WC § 13385]	Culpability [0.5 - 1.5]	Cleanup and Coopeartion [0.75 - 1.5]	History of Violations	Liability Amount	Economic Benefit	Liability Minimum	Liability Maximum
Violation 2	moderate	moderate	0.35	10	$10,000	1.3	1.1	1.0	**$50,050**	$1,088	$1,197	$100,000
Violation 3	moderate	major	0.55	2	$10,000	1.3	1.1	1.0	**$15,730**	$823	$905	$20,000
Violation 4	moderate	major	0.55	22	$10,000	1.3	1.1	1.0	**$173,030**	$5,966	$6,563	$220,000
Violation 5	moderate	moderate	0.35	14	$10,000	1.3	1.1	1.0	**$70,070**	$2,175	$2,393	$140,000
Violation 6	moderate	major	0.55	22	$10,000	1.3	1.1	1.0	**$173,030**	$5,966	$6,563	$220,000
Violation 7	moderate	major	0.55	9	$10,000	1.3	1.1	1.0	**$70,785**	$700	$770	$90,000
Violation 8	moderate	moderate	0.35	7	$10,000	1.3	1.1	1.0	**$35,035**	$420	$462	$70,000
Violation 9	moderate	moderate	0.35	10	$10,000	1.3	1.1	1.0	**$50,050**	$211	$232	$100,000
Violation 10	moderate	moderate	0.35	3	$10,000	1.3	1.0	1.0	**$13,650**	$420	$462	$30,000
Violation 11	minor	moderate	0.25	9	$10,000	1.3	1.1	1.0	**$32,175**	$315	$347	$90,000
Violation 12	major	moderate	0.55	7	$10,000	1.3	1.1	1.0	**$55,055**	$1,985	$2,184	$70,000
Violation 13	minor	major	0.35	15	$10,000	1.3	1.1	1.0	**$75,075**	$378	$416	$150,000
												$1,360,000

Ability to Pay & Continue in Business	
[Yes, No, Partly, Unknown]	Other
Yes	N/A

Other Factors as Justice May Require	
Costs of Investigation & Enforcement	Other
$15,763	N/A

Total Liabilities
$832,611

Total Liability (All liabilities plus staff costs)
$848,374

Exhibit No. 28

Economic Benefit Calculation and Supporting Documentation

San Altos Lemon Grove, LLC - Valencia Hills (Region 9 - San Diego)

Caution: Use this spreadsheet as an "information only tool". It is not linked to BEN and will do no calculations.
Please check with the ORPP economist Madalene Ransom (916 322-8417) before using this information to run BEN .
And, contact your OE attorney before using the BEN results in preparing an ACLC or other actions that may in any way be controversial.

Compliance Action (List the actions which would have prevented the violation)	One-Time Nondepreciable Expenditure			Annual Cost		Non-Compliance Date	Compliance Date	Penalty Payment Date	Benefit of Noncompliance
	Amount	Date[1]	Delayed?[2]	Amount	Date[1]				
1. Discharges: Spray three acres of bonded fiber matrix ($4,000/acre), install 500 gravel bags ($1/ea.) and install 1,000 feet of Fiber Rolls ($1/ft.).	$13,500	11/1/2009	N	$0		12/1/2014	12/16/2015	12/16/2015	$9,476
2. Stockpiles: Install 500 feet of fiber rolls ($1/ft.) and 15,000 square feet (5x3,000) of plastic ($0.07/square feet).	$1,550	11/1/2009	N	$0		12/2/2014	12/16/2015	12/16/2015	$1,088
3. Vehicles: Install 5 drip pads ($257.14 ea.).	$1,286	1/21/2015	N	$0		12/15/2014	12/16/2015	12/16/2015	$823
4. Erosion Inactive: Spray two acres of bonded fiber matrix ($4,000/acre), and install 500 gravel bags ($1/ea.).	$8,500	11/1/2009	N	$0		12/1/2014	12/16/2015	12/16/2015	$5,966
5. Perimeter Sediment BMPs: Install 500 feet of fiber rolls ($1/ft.), 200 gravel bags ($1/ea.), and a stabilized entrance ($2,400 ea.).	$3,100	11/1/2009	N	$0		12/4/2014	5/15/2015	12/16/2015	$2,175
6. Erosion Active: Spray two acres of bonded fiber matrix ($4,000/acre) and install 500 feet of fiber rolls ($1/ft.).	$8,500	11/1/2009	N	$0		12/1/2014	12/16/2015	12/16/2015	$5,966
7. Linear Sediment: Install 1,000 feet of fiber rolls ($1/ft.)	$1,000	11/1/2009	N	$0		12/15/2014	12/16/2015	12/16/2015	$700
8. Run-On/Runoff: Install 500 feet of fiber rolls ($1/ft.) and 100 gravel bags ($1/bag).	$600	11/1/2009	N	$0		12/15/2014	12/16/2015	12/16/2015	$420
9. Remove Sed Roads: Four hours of street sweeping ($75/hr.).	$300	11/1/2009	N	$0		12/2/2014	12/8/2014	12/16/2015	$211
10. Storm Drain Inlet Protection: Install and maintain inlet protection ($200/ea.).	$600	11/1/2009	N	$0		12/8/2014	12/9/2014	12/16/2015	$420
11. Waste Stockpiles: Install 175 feet fiber rolls ($1/ft.) and 4,000 sq. ft. of plastic ($0.07/square feet).	$455	11/1/2009	N	$0		1/6/2015	1/15/2015	12/16/2015	$315
12. Chemical Storage:	$3,213	9/2/2015	N	$0		3/18/2015	3/25/2015	12/16/2015	$1,985
13. Concrete Waste: Rent one concrete washout bin (delivery $475 plus 8% fuel surcharge, and $7/day).	$618	9/15/2014	N	$0		3/18/2015	3/25/2015	12/16/2015	$378
Totals							**calculated by BEN**		**$29,923**

Cost Index for Inflation:		PCI		PCI	See Table 1 below for Index choices.	Date/Time of Information:

Income Tax Schedule:	C	See Table 2 below for choices.
Discount/Compound Rate:	7.5%	This percentage provided by BEN
Source: USEPA BEN Model:	Version 5.5.0	
Person gathering information:	Frank Melbourn	

[1] Date cost estimate was made.

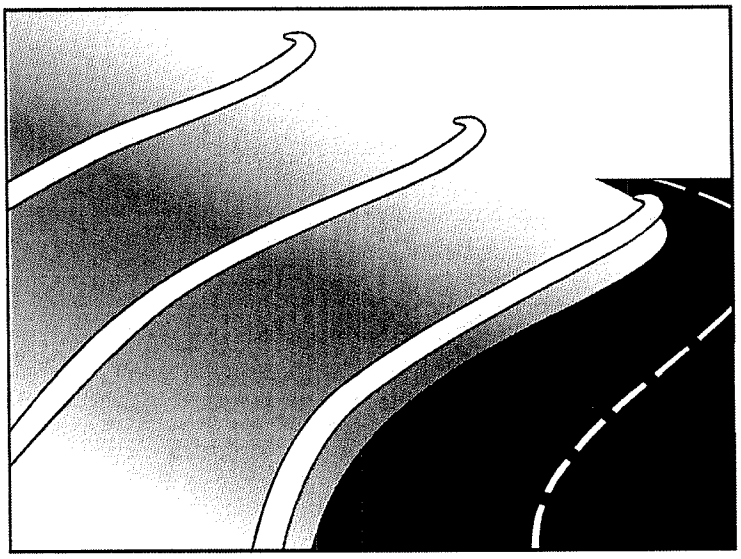
[2] Enter "y" if delayed, and "n" if avoided.

Violation No. 1

Unauthorized Discharge of Sediment
(6 days)

Fiber Rolls

SE-5



Categories

EC	Erosion Control	☒
SE	Sediment Control	☑
TC	Tracking Control	
WE	Wind Erosion Control	
NS	Non-Stormwater Management Control	
WM	Waste Management and Materials Pollution Control	

Legend:

☑ **Primary Category**

☒ **Secondary Category**

Description and Purpose

A fiber roll consists of straw, coir, or other biodegradable materials bound into a tight tubular roll wrapped by netting, which can be photodegradable or natural. Additionally, gravel core fiber rolls are available, which contain an imbedded ballast material such as gravel or sand for additional weight when staking the rolls are not feasible (such as use as inlet protection). When fiber rolls are placed at the toe and on the face of slopes along the contours, they intercept runoff, reduce its flow velocity, release the runoff as sheet flow, and provide removal of sediment from the runoff (through sedimentation). By interrupting the length of a slope, fiber rolls can also reduce sheet and rill erosion until vegetation is established.

Targeted Constituents

Sediment	☑
Nutrients	
Trash	
Metals	
Bacteria	
Oil and Grease	
Organics	

Potential Alternatives

SE-1 Silt Fence

SE-6 Gravel Bag Berm

SE-8 Sandbag Barrier

SE-14 Biofilter Bags

Suitable Applications

Fiber rolls may be suitable:

- Along the toe, top, face, and at grade breaks of exposed and erodible slopes to shorten slope length and spread runoff as sheet flow.
- At the end of a downward slope where it transitions to a steeper slope.
- Along the perimeter of a project.
- As check dams in unlined ditches with minimal grade.
- Down-slope of exposed soil areas.
- At operational storm drains as a form of inlet protection.

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- Around temporary stockpiles.

Limitations

- Fiber rolls are not effective unless trenched in and staked.
- Not intended for use in high flow situations.
- Difficult to move once saturated.
- If not properly staked and trenched in, fiber rolls could be transported by high flows.
- Fiber rolls have a very limited sediment capture zone.
- Fiber rolls should not be used on slopes subject to creep, slumping, or landslide.
- Rolls typically function for 12-24 months depending upon local conditions.

Implementation

Fiber Roll Materials

- Fiber rolls should be prefabricated.
- Fiber rolls may come manufactured containing polyacrylamide (PAM), a flocculating agent within the roll. Fiber rolls impregnated with PAM provide additional sediment removal capabilities and should be used in areas with fine, clayey or silty soils to provide additional sediment removal capabilities. Monitoring may be required for these installations.
- Fiber rolls are made from weed free rice straw, flax, or a similar agricultural material bound into a tight tubular roll by netting.
- Typical fiber rolls vary in diameter from 9 in. to 20 in. Larger diameter rolls are available as well.

Installation

- Locate fiber rolls on level contours spaced as follows:
  - Slope inclination of 4:1 (H:V) or flatter: Fiber rolls should be placed at a maximum interval of 20 ft.
  - Slope inclination between 4:1 and 2:1 (H:V): Fiber Rolls should be placed at a maximum interval of 15 ft. (a closer spacing is more effective).
  - Slope inclination 2:1 (H:V) or greater: Fiber Rolls should be placed at a maximum interval of 10 ft. (a closer spacing is more effective).
- Prepare the slope before beginning installation.
- Dig small trenches across the slope on the contour. The trench depth should be ¼ to 1/3 of the thickness of the roll, and the width should equal the roll diameter, in order to provide area to backfill the trench.

- It is critical that rolls are installed perpendicular to water movement, and parallel to the slope contour.
- Start building trenches and installing rolls from the bottom of the slope and work up.
- It is recommended that pilot holes be driven through the fiber roll. Use a straight bar to drive holes through the roll and into the soil for the wooden stakes.
- Turn the ends of the fiber roll up slope to prevent runoff from going around the roll.
- Stake fiber rolls into the trench.
  - Drive stakes at the end of each fiber roll and spaced 4 ft maximum on center.
  - Use wood stakes with a nominal classification of 0.75 by 0.75 in. and minimum length of 24 in.
- If more than one fiber roll is placed in a row, the rolls should be overlapped, not abutted.
- See typical fiber roll installation details at the end of this fact sheet.

Removal

- Fiber rolls can be left in place or removed depending on the type of fiber roll and application (temporary vs. permanent installation). Typically, fiber rolls encased with plastic netting are used for a temporary application because the netting does not biodegrade. Fiber rolls used in a permanent application are typically encased with a biodegradeable material and are left in place. Removal of a fiber roll used in a permanent application can result in greater disturbance.
- Temporary installations should only be removed when up gradient areas are stabilized per General Permit requirements, and/or pollutant sources no longer present a hazard. But, they should also be removed before vegetation becomes too mature so that the removal process does not disturb more soil and vegetation than is necessary.

Costs

Material costs for regular fiber rolls range from $20 - $30 per 25 ft roll.

Material costs for PAM impregnated fiber rolls range between 7.00-$9.00 per linear foot, based upon vendor research.

Inspection and Maintenance

- BMPs must be inspected in accordance with General Permit requirements for the associated project type and risk level. It is recommended that at a minimum, BMPs be inspected weekly, prior to forecasted rain events, daily during extended rain events, and after the conclusion of rain events.
- Repair or replace split, torn, unraveling, or slumping fiber rolls.
- If the fiber roll is used as a sediment capture device, or as an erosion control device to maintain sheet flows, sediment that accumulates in the BMP should be periodically removed

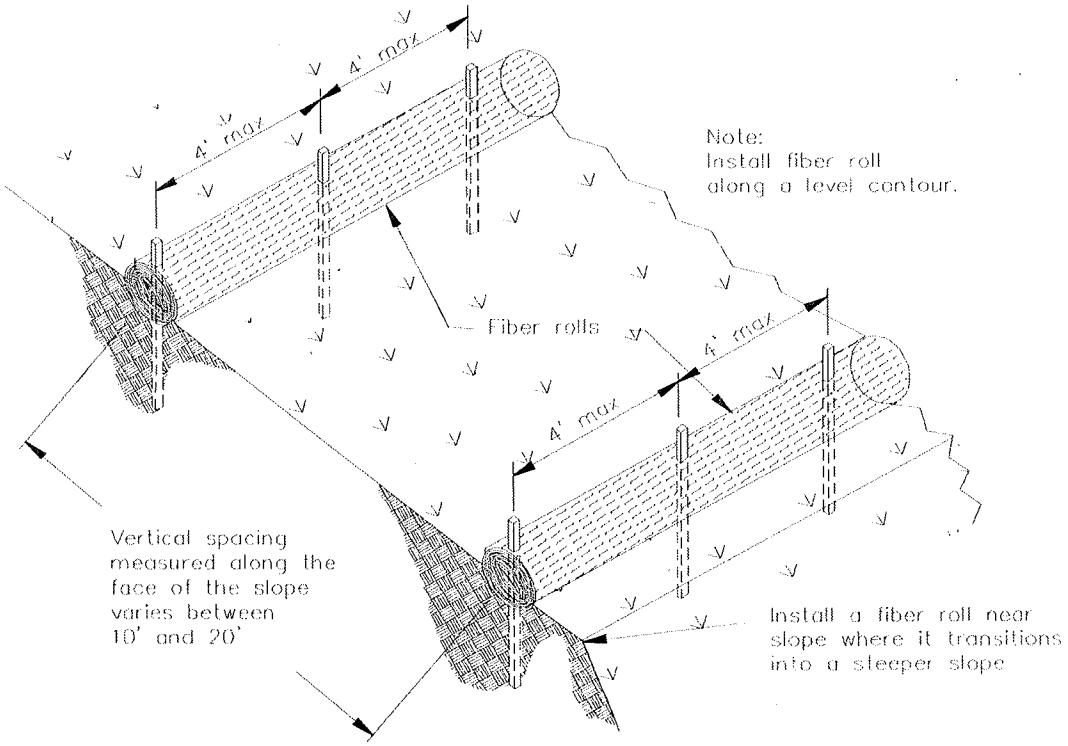
in order to maintain BMP effectiveness. Sediment should be removed when sediment accumulation reaches one-third the designated sediment storage depth.

- If fiber rolls are used for erosion control, such as in a check dam, sediment removal should not be required as long as the system continues to control the grade. Sediment control BMPs will likely be required in conjunction with this type of application.
- Repair any rills or gullies promptly.

References

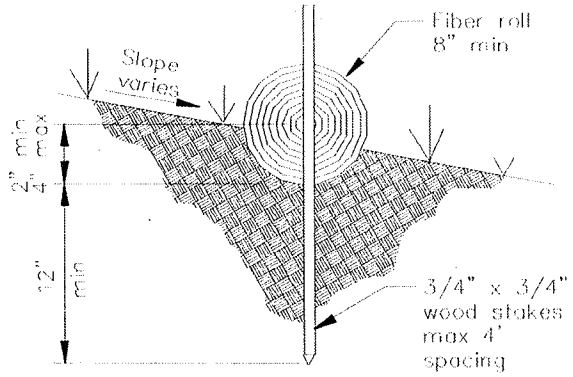
Stormwater Quality Handbooks - Construction Site Best Management Practices (BMPs) Manual, State of California Department of Transportation (Caltrans), March 2003.

Erosion and Sediment Control Manual, Oregon Department of Environmental Quality, February 2005.



TYPICAL FIBER ROLL INSTALLATION

N.T.S.

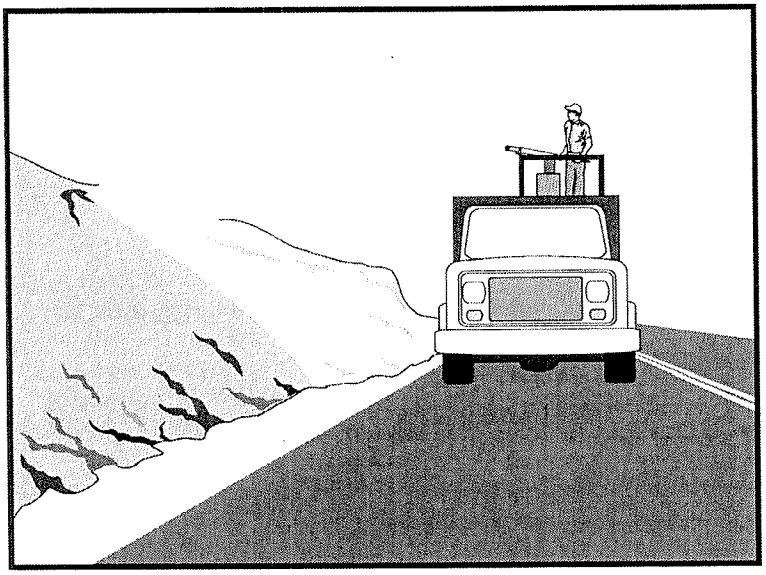


ENTRENCHMENT DETAIL

N.T.S.

Hydraulic Mulch

EC-3



Categories

EC	Erosion Control	☑
SE	Sediment Control	
TC	Tracking Control	
WE	Wind Erosion Control	☒
NS	Non-Stormwater Management Control	
WM	Waste Management and Materials Pollution Control	

Legend:

☑ **Primary Category**

☒ **Secondary Category**

Targeted Constituents

Sediment	☑
Nutrients	
Trash	
Metals	
Bacteria	
Oil and Grease	
Organics	

Potential Alternatives

EC-4 Hydroseeding

EC-5 Soil Binders

EC-6 Straw Mulch

EC-7 Geotextiles and Mats

EC-8 Wood Mulching

EC-14 Compost Blanket

EC-16 Non-Vegetative Stabilization

Description and Purpose

Hydraulic Mulch consists of various types of fibrous materials mixed with water and sprayed onto the soil surface in slurry form to provide a layer of temporary protection from wind and water erosion.

Suitable Applications

Hydraulic mulch as a temporary, stand alone, erosion control BMP is suitable for disturbed areas that require temporary protection from wind and water erosion until permanent soil stabilization activities commence. Examples include:

- Rough-graded areas that will remain inactive for longer than permit-required thresholds (e.g., 14 days) or otherwise require stabilization to minimize erosion or prevent sediment discharges.
- Soil stockpiles.
- Slopes with exposed soil between existing vegetation such as trees or shrubs.
- Slopes planted with live, container-grown vegetation or plugs.
- Slopes burned by wildfire.

Hydraulic mulch can also be applied to augment other erosion control BMPs such as:

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- In conjunction with straw mulch (see EC-6 Straw Mulch) where the rate of hydraulic mulch is reduced to 100-500 lbs per acre and the slurry is applied over the straw as a tackifying agent to hold the straw in place.
- Supplemental application of soil amendments, such as fertilizer, lime, gypsum, soil bio-stimulants or compost.

Limitations

In general, hydraulic mulch is not limited by slope length, gradient or soil type. However, the following limitations typically apply:

- Most hydraulic mulch applications, particularly bonded fiber matrices (BFMs), require at least 24 hours to dry before rainfall occurs.
- Temporary applications (i.e., without a vegetative component) may require a second application in order to remain effective for an entire rainy season.
- Treatment areas must be accessible to hydraulic mulching equipment.
- Availability of water sources in remote areas for mixing and application.
- As a stand-alone temporary BMP, hydraulic mulches may need to be re-applied to maintain their erosion control effectiveness, typically after 6-12 months depending on the type of mulch used.
- Availability of hydraulic mulching equipment may be limited just prior to the rainy season and prior to storms due to high demand.
- Cellulose fiber mulches alone may not perform well on steep slopes or in course soils.

Implementation

- Where feasible, it is preferable to prepare soil surfaces prior to application by roughening embankments and fill areas with a crimping or punching type roller or by track walking.
- The majority of hydraulic mulch applications do not necessarily require surface/soil preparation (See EC-15 Soil Preparation) although in almost every case where re-vegetation is included as part of the practice, soil preparation can be beneficial. One of the advantages of hydraulic mulch over other erosion control methods is that it can be applied in areas where soil preparation is precluded by site conditions, such as steep slopes, rocky soils, or inaccessibility.
- Avoid mulch over spray onto roads, sidewalks, drainage channels, existing vegetation, etc.
- Hydraulic mulching is generally performed utilizing specialized machines that have a large water-holding/mixing tank and some form of mechanical agitation or other recirculation method to keep water, mulch and soil amendments in suspension. The mixed hydraulic slurry can be applied from a tower sprayer on top of the machine or by extending a hose to areas remote from the machine.

- Where possible apply hydraulic mulch from multiple directions to adequately cover the soil. Application from a single direction can result in shadowing, uneven coverage and failure of the BMP.
- Hydraulic mulch can also include a vegetative component, such as seed, rhizomes, or stolons (see EC-4 Hydraulic Seed).
- Typical hydraulic mulch application rates range from 2,000 pounds per acre for standard mulches (SMs) to 3,500 pounds per acre for BFMs. However, the required amount of hydraulic mulch to provide adequate coverage of exposed topsoil may appear to exceed the standard rates when the roughness of the soil surface is changed due to soil preparation methods (see EC-15 Soil Preparation) or by slope gradient.
- Other factors such as existing soil moisture and soil texture can have a profound effect on the amount of hydraulic mulch required (i.e. application rate) applied to achieve an erosion-resistant covering.
- Avoid use of mulch without a tackifier component, especially on slopes.
- Mulches used in the hydraulic mulch slurry can include:
  - Cellulose fiber
  - Thermally-processed wood fibers
  - Cotton
  - Synthetics
  - Compost (see EC-14, Compost Blanket)
- Additional guidance on the comparison and selection of temporary slope stabilization methods is provided in Appendix F of the Handbook.

Categories of Hydraulic Mulches

Standard Hydraulic Mulch (SM)

Standard hydraulic mulches are generally applied at a rate of 2,000 pounds per acre and are manufactured containing around 5% tackifier (i.e. soil binder), usually a plant-derived guar or psyllium type. Most standard mulches are green in color derived from food-color based dyes.

Hydraulic Matrices (HM) and Stabilized Fiber Matrices (SFM)

Hydraulic matrices and stabilized fiber matrices are slurries which contain increased levels of tackifiers/soil binders; usually 10% or more by weight. HMs and SFMs have improved performance compared to a standard hydraulic mulch (SM) because of the additional percentage of tackifier and because of their higher application rates, typically 2,500 – 4,000 pounds per acre. Hydraulic matrices can include a mixture of fibers, for example, a 50/50 blend of paper and wood fiber. In the case of an SFM, the tackifier/soil binder is specified as a polyacrylamide (PAM).

Bonded Fiber Matrix (BFM)

Bonded fiber matrices (BFMs) are hydraulically-applied systems of fibers, adhesives (typically guar based) and chemical cross-links. Upon drying, the slurry forms an erosion-resistant blanket that prevents soil erosion and promotes vegetation establishment. The cross-linked adhesive in the BFM should be biodegradable and should not dissolve or disperse upon re-wetting. BFMs are typically applied at rates from 3,000 to 4,000 lbs/acre based on the manufacturer's recommendation. BFMs should not be applied immediately before, during or immediately after rainfall or if the soil is saturated. Depending on the product, BFMs typically require 12 to 24 hours to dry and become effective.

Mechanically-Bonded Fiber Matrices (MBFM)

Mechanically-bonded fiber matrices (MBFMs) are hydraulically applied systems similar to BFM that use crimped synthetic fibers and PAM and are typically applied to a slope at a higher application rate than a standard BFM.

Hydraulic Compost Matrix (HCM)

Hydraulic compost matrix (HCM) is a field-derived practice whereby finely graded or sifted compost is introduced into the hydraulic mulch slurry. A guar-type tackifier can be added for steeper slope applications as well as any specified seed mixtures. A HCM can help to accelerate seed germination and growth. HCMs are particularly useful as an in-fill for three-dimensional re-vegetation geocomposites, such as turf reinforcement mats (TRM) (see EC-7 Geotextiles and Mats).

Costs

Average installed costs for hydraulic mulch categories are is provided in Table 1, below.

Table 1
HYDRAULIC MULCH BMPs
INSTALLED COSTS

BMP	Installed Cost/Acre
Standard Hydraulic Mulching (SM)	$1,700 - $3,600 per acre
Hydraulic Matrices (HM) and Stabilized Fiber Matrices	
Guar-based	$2,000 - $4,000 per acre
PAM-based	$2,500 - $5,610 per acre
Bonded Fiber Matrix (BFM)	$3,900 - $6,900 per acre
Mechanically Bonded Fiber Matrix (MBFM)	$4,500 - $6,000 per acre
Hydraulic Compost Matrix (HCM)	$3,000 - $3,500 per acre

Source: Caltrans Soil Stabilization BMP Research for Erosion and Sediment Controls, July 2007

Inspection and Maintenance

- Maintain an unbroken, temporary mulched ground cover throughout the period of construction when the soils are not being reworked.
- BMPs must be inspected in accordance with General Permit requirements for the associated project type and risk level. It is recommended that at a minimum, BMPs be inspected

weekly, prior to forecasted rain events, daily during extended rain events, and after the conclusion of rain events.

- Areas where erosion is evident should be repaired and BMPs re-applied as soon as possible. Care should be exercised to minimize the damage to protected areas while making repairs, as any area damaged will require re-application of BMPs.
- Compare the number of bags or weight of applied mulch to the area treated to determine actual application rates and compliance with specifications.

References

Soil Stabilization BMP Research for Erosion and Sediment Controls: Cost Survey Technical Memorandum, State of California Department of Transportation (Caltrans), July 2007.

Controlling Erosion of Construction Sites, Agricultural Information #347, U.S. Department of Agriculture (USDA), Natural Resources Conservation Service (NRCS) (formerly Soil Conservation Service – SCS).

Guides for Erosion and Sediment Control in California, USDA Soils Conservation Service, January 1991.

Manual of Standards of Erosion and Sediment Control Measures, Association of Bay Area Governments, May 1995.

Sedimentation and Erosion Control, An Inventory of Current Practices Draft, US EPA, April 1990.

Soil Erosion by Water, Agriculture Information Bulletin #513, U.S. Department of Agriculture, Soil Conservation Service.

Stormwater Quality Handbooks Construction Site Best Management Practices (BMPs) Manual, State of California Department of Transportation (Caltrans), March 2003.

Guidance Document: Soil Stabilization for Temporary Slopes, State of California Department of Transportation (Caltrans), November 1999

Stormwater Management of the Puget Sound Basin, Technical Manual, Publication #91-75, Washington State Department of Ecology, February 1992.

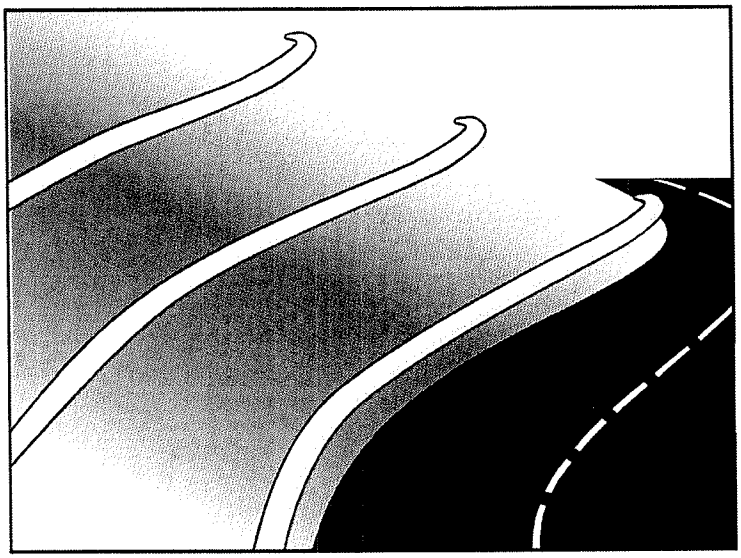
Water Quality Management Plan for the Lake Tahoe Region, Volume II, Handbook of Management Practices, Tahoe Regional Planning Agency, November 1988.

Violation No. 2

Failure to Implement Material Stockpile BMPs
(10 days)

Fiber Rolls

SE-5



Categories

EC	Erosion Control	☒
SE	Sediment Control	☑
TC	Tracking Control	
WE	Wind Erosion Control	
NS	Non-Stormwater Management Control	
WM	Waste Management and Materials Pollution Control	

Legend:

☑ **Primary Category**

☒ **Secondary Category**

Description and Purpose

A fiber roll consists of straw, coir, or other biodegradable materials bound into a tight tubular roll wrapped by netting, which can be photodegradable or natural. Additionally, gravel core fiber rolls are available, which contain an imbedded ballast material such as gravel or sand for additional weight when staking the rolls are not feasible (such as use as inlet protection). When fiber rolls are placed at the toe and on the face of slopes along the contours, they intercept runoff, reduce its flow velocity, release the runoff as sheet flow, and provide removal of sediment from the runoff (through sedimentation). By interrupting the length of a slope, fiber rolls can also reduce sheet and rill erosion until vegetation is established.

Targeted Constituents

Sediment	☑
Nutrients	
Trash	
Metals	
Bacteria	
Oil and Grease	
Organics	

Potential Alternatives

SE-1 Silt Fence

SE-6 Gravel Bag Berm

SE-8 Sandbag Barrier

SE-14 Biofilter Bags

Suitable Applications

Fiber rolls may be suitable:

- Along the toe, top, face, and at grade breaks of exposed and erodible slopes to shorten slope length and spread runoff as sheet flow.
- At the end of a downward slope where it transitions to a steeper slope.
- Along the perimeter of a project.
- As check dams in unlined ditches with minimal grade.
- Down-slope of exposed soil areas.
- At operational storm drains as a form of inlet protection.

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- Around temporary stockpiles.

Limitations

- Fiber rolls are not effective unless trenched in and staked.
- Not intended for use in high flow situations.
- Difficult to move once saturated.
- If not properly staked and trenched in, fiber rolls could be transported by high flows.
- Fiber rolls have a very limited sediment capture zone.
- Fiber rolls should not be used on slopes subject to creep, slumping, or landslide.
- Rolls typically function for 12-24 months depending upon local conditions.

Implementation

Fiber Roll Materials

- Fiber rolls should be prefabricated.
- Fiber rolls may come manufactured containing polyacrylamide (PAM), a flocculating agent within the roll. Fiber rolls impregnated with PAM provide additional sediment removal capabilities and should be used in areas with fine, clayey or silty soils to provide additional sediment removal capabilities. Monitoring may be required for these installations.
- Fiber rolls are made from weed free rice straw, flax, or a similar agricultural material bound into a tight tubular roll by netting.
- Typical fiber rolls vary in diameter from 9 in. to 20 in. Larger diameter rolls are available as well.

Installation

- Locate fiber rolls on level contours spaced as follows:
  - Slope inclination of 4:1 (H:V) or flatter: Fiber rolls should be placed at a maximum interval of 20 ft.
  - Slope inclination between 4:1 and 2:1 (H:V): Fiber Rolls should be placed at a maximum interval of 15 ft. (a closer spacing is more effective).
  - Slope inclination 2:1 (H:V) or greater: Fiber Rolls should be placed at a maximum interval of 10 ft. (a closer spacing is more effective).
- Prepare the slope before beginning installation.
- Dig small trenches across the slope on the contour. The trench depth should be ¼ to 1/3 of the thickness of the roll, and the width should equal the roll diameter, in order to provide area to backfill the trench.

- It is critical that rolls are installed perpendicular to water movement, and parallel to the slope contour.
- Start building trenches and installing rolls from the bottom of the slope and work up.
- It is recommended that pilot holes be driven through the fiber roll. Use a straight bar to drive holes through the roll and into the soil for the wooden stakes.
- Turn the ends of the fiber roll up slope to prevent runoff from going around the roll.
- Stake fiber rolls into the trench.
  - Drive stakes at the end of each fiber roll and spaced 4 ft maximum on center.
  - Use wood stakes with a nominal classification of 0.75 by 0.75 in. and minimum length of 24 in.
- If more than one fiber roll is placed in a row, the rolls should be overlapped, not abutted.
- See typical fiber roll installation details at the end of this fact sheet.

Removal

- Fiber rolls can be left in place or removed depending on the type of fiber roll and application (temporary vs. permanent installation). Typically, fiber rolls encased with plastic netting are used for a temporary application because the netting does not biodegrade. Fiber rolls used in a permanent application are typically encased with a biodegradeable material and are left in place. Removal of a fiber roll used in a permanent application can result in greater disturbance.
- Temporary installations should only be removed when up gradient areas are stabilized per General Permit requirements, and/or pollutant sources no longer present a hazard. But, they should also be removed before vegetation becomes too mature so that the removal process does not disturb more soil and vegetation than is necessary.

Costs

Material costs for regular fiber rolls range from $20 - $30 per 25 ft roll.

Material costs for PAM impregnated fiber rolls range between 7.00-$9.00 per linear foot, based upon vendor research.

Inspection and Maintenance

- BMPs must be inspected in accordance with General Permit requirements for the associated project type and risk level. It is recommended that at a minimum, BMPs be inspected weekly, prior to forecasted rain events, daily during extended rain events, and after the conclusion of rain events.
- Repair or replace split, torn, unraveling, or slumping fiber rolls.
- If the fiber roll is used as a sediment capture device, or as an erosion control device to maintain sheet flows, sediment that accumulates in the BMP should be periodically removed

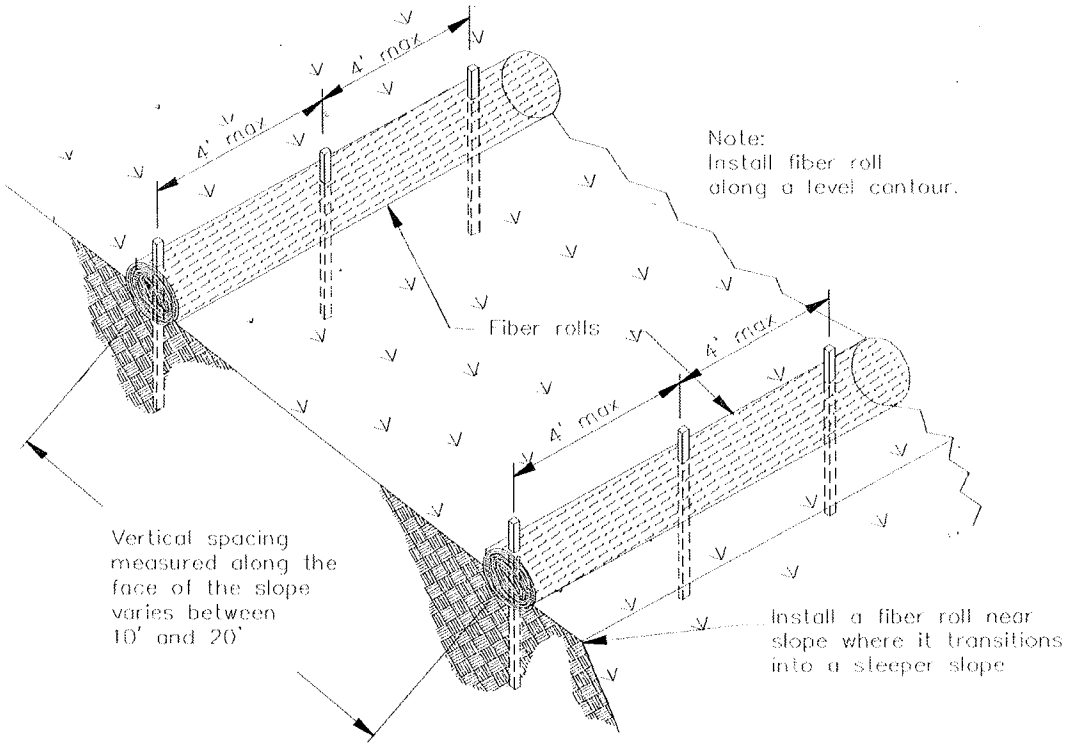
in order to maintain BMP effectiveness. Sediment should be removed when sediment accumulation reaches one-third the designated sediment storage depth.

- If fiber rolls are used for erosion control, such as in a check dam, sediment removal should not be required as long as the system continues to control the grade. Sediment control BMPs will likely be required in conjunction with this type of application.
- Repair any rills or gullies promptly.

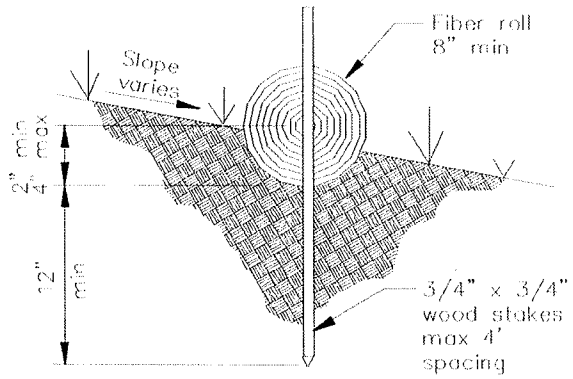
References

Stormwater Quality Handbooks - Construction Site Best Management Practices (BMPs) Manual, State of California Department of Transportation (Caltrans), March 2003.

Erosion and Sediment Control Manual, Oregon Department of Environmental Quality, February 2005.



TYPICAL FIBER ROLL INSTALLATION
N.T.S.



ENTRENCHMENT DETAIL
N.T.S.



Click image for a larger view.
Hover to zoom in.

Polar Plastics 6-Mil Clear Poly Reinforced Plastic Sheeting - 20' x 50' Roll

Model Number: 5680090 | Menards® SKU: 5680090
Variation: Clear

MADE IN U.S.A.

Online Price
$74.98

Description

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Online Availability

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Quantity 1

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Description & Documents

For everything from simple dust protection to heavy-duty construction projects, Polar Plastics has a fitting solution. Their strong, durable plastics come in a variety of sizes, thicknesses and colors to perfectly meet the requirements of your project. This reinforced sheeting is the epitome of strength when it comes to plastic sheeting. With two layers of low-density polyethylene and hundreds of nylon strings forming a diamond scrim pattern, this sheeting makes a great long-term cover for heavy-duty equipment or the perfect dust and debris shield. Use as much or as little as you need!

- Two layers of low-density polyethylene with nylon strings running through and between
- Reinforced diamond scrim pattern is ideal for heavy-duty applications
- Commonly used for building enclosures, crawl spaces and as a long-lasting equipment cover
- Reinforced design stops tears and punctures
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- Made in USA
- 6-mil thickness is the nominal size

Dimensions: 20' x 50'

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Violation No. 3

Failure to Implement Vehicle Fluid Leak BMPs
(2 days)

DAWG
YOUR PARTNER FOR
ABSORBENTS, SPILL CONTROL, & FLOOR SAFETY

Drip Pillow Berm™

Capture small leaks and drips easily



Have a small leak, drip or spill? Our Drip Pillow Berm comes in four sizes to capture small leaks and drips and with its stable weighted base, it will not tip or splash in windy conditions if used outdoors. Grommets in the corners provide attachment points. Eliminates nuisance drips under vehicles, hydraulic lines or equipment.

- Weighted unit can withstand up to 40 mph winds
- Folds easy for storage or transport
- Measures 38"L x 42"W x 3'H
- Absorbs 4 gallons
- Weighs 7 lbs

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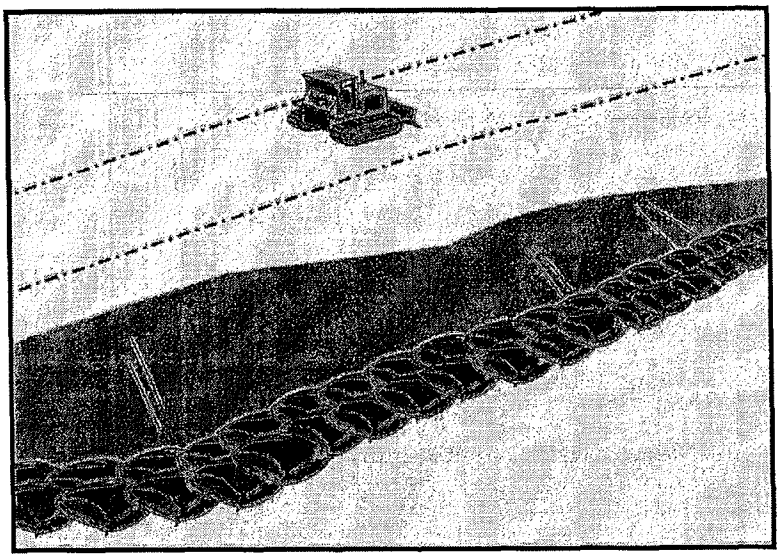
Drip Pillow Berm™

Preview	Item Number	Description	Units	Price Per Unit		QTY
	BERM404	Drip Pillow Berm	Each	1+ $300.00	4+ $257.14	In Stock

Violation No. 4

Failure to Implement Erosion Control BMPs in Inactive Areas
(22 days)

Sandbag Barrier SE-8



Categories		
EC	Erosion Control	☒
SE	Sediment Control	☑
TC	Tracking Control	
WE	Wind Erosion Control	
NS	Non-Stormwater Management Control	
WM	Waste Management and Materials Pollution Control	

Legend:
☑ **Primary Category**
☒ **Secondary Category**

Description and Purpose

A sandbag barrier is a series of sand-filled bags placed on a level contour to intercept or to divert sheet flows. Sandbag barriers placed on a level contour pond sheet flow runoff, allowing sediment to settle out.

Suitable Applications

Sandbag barriers may be suitable:

- As a linear sediment control measure:
  - Below the toe of slopes and erodible slopes.
  - As sediment traps at culvert/pipe outlets.
  - Below other small cleared areas.
  - Along the perimeter of a site.
  - Down slope of exposed soil areas.
  - Around temporary stockpiles and spoil areas.
  - Parallel to a roadway to keep sediment off paved areas.
  - Along streams and channels.
- As linear erosion control measure:
  - Along the face and at grade breaks of exposed and erodible slopes to shorten slope length and spread runoff as sheet flow.

Targeted Constituents	
Sediment	☑
Nutrients	
Trash	
Metals	
Bacteria	
Oil and Grease	
Organics	

Potential Alternatives
SE-1 Silt Fence
SE-5 Fiber Rolls
SE-6 Gravel Bag Berm
SE-14 Biofilter Bags

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- At the top of slopes to divert runoff away from disturbed slopes.
- As check dams across mildly sloped construction roads.

Limitations

- It is necessary to limit the drainage area upstream of the barrier to 5 acres.
- Sandbags are not intended to be used as filtration devices.
- Easily damaged by construction equipment.
- Degraded sandbags may rupture when removed, spilling sand.
- Sand is easily transported by runoff if bag is damaged or ruptured.
- Installation can be labor intensive.
- Durability of sandbags is somewhat limited and bags may need to be replaced when installation is required for longer than 6 months. When used to detain concentrated flows, maintenance requirements increase.
- Burlap should not be used for sandbags.

Implementation

General

A sandbag barrier consists of a row of sand-filled bags placed on a level contour. When appropriately placed, a sandbag barrier intercepts and slows sheet flow runoff, causing temporary ponding. The temporary ponding allows sediment to settle. Sand-filled bags have limited porosity, which is further limited as the fine sand tends to quickly plug with sediment, limiting or completely blocking the rate of flow through the barrier. If a porous barrier is desired, consider SE-1, Silt Fence, SE-5, Fiber Rolls, SE-6, Gravel Bag Berms or SE-14, Biofilter Bags. Sandbag barriers also interrupt the slope length and thereby reduce erosion by reducing the tendency of sheet flows to concentrate into rivulets which erode rills, and ultimately gullies, into disturbed, sloped soils. Sandbag barriers are similar to gravel bag berms, but less porous. Generally, sandbag barriers should be used in conjunction with temporary soil stabilization controls up slope to provide effective erosion and sediment control.

Design and Layout

- Locate sandbag barriers on a level contour.
- When used for slope interruption, the following slope/sheet flow length combinations apply:
  - Slope inclination of 4:1 (H:V) or flatter: Sandbags should be placed at a maximum interval of 20 ft, with the first row near the slope toe.
  - Slope inclination between 4:1 and 2:1 (H:V): Sandbags should be placed at a maximum interval of 15 ft. (a closer spacing is more effective), with the first row near the slope toe.

    Slope inclination 2:1 (H:V) or greater: Sandbags should be placed at a maximum interval of 10 ft. (a closer spacing is more effective), with the first row near the slope toe.

- Turn the ends of the sandbag barrier up slope to prevent runoff from going around the barrier.
- Allow sufficient space up slope from the barrier to allow ponding, and to provide room for sediment storage.
- For installation near the toe of the slope, sand bag barriers should be set back from the slope toe to facilitate cleaning. Where specific site conditions do not allow for a set-back, the sand bag barrier may be constructed on the toe of the slope. To prevent flows behind the barrier, bags can be placed perpendicular to a berm to serve as cross barriers.
- Drainage area should not exceed 5 acres.
- Stack sandbags at least three bags high.
- Butt ends of bags tightly.
- Overlap butt joints of row beneath with each successive row.
- Use a pyramid approach when stacking bags.
- In non-traffic areas
  - Height = 18 in. maximum
  - Top width = 24 in. minimum for three or more layer construction
  - Side slope = 2:1 (H:V) or flatter
- In construction traffic areas
  - Height = 12 in. maximum
  - Top width = 24 in. minimum for three or more layer construction.
  - Side slopes = 2:1 (H:V) or flatter.
- See typical sandbag barrier installation details at the end of this fact sheet.

Materials

- ***Sandbag Material:*** Sandbag should be woven polypropylene, polyethylene or polyamide fabric, minimum unit weight of 4 ounces/yd^2, Mullen burst strength exceeding 300 lb/in^2 in conformance with the requirements in ASTM designation D3786, and ultraviolet stability exceeding 70% in conformance with the requirements in ASTM designation D4355. Use of burlap is not an acceptable substitute, as sand can more easily mobilize out of burlap.
- ***Sandbag Size:*** Each sand-filled bag should have a length of 18 in., width of 12 in., thickness of 3 in., and mass of approximately 33 lbs. Bag dimensions are nominal, and may vary based on locally available materials.

- ***Fill Material:*** All sandbag fill material should be non-cohesive, Class 3 (Caltrans Standard Specification, Section 25) permeable material free from clay and deleterious material, such as recycled concrete or asphalt..

Costs

Empty sandbags cost $0.25 - $0.75. Average cost of fill material is $8 per yd^3. Additional labor is required to fill the bags. Pre-filled sandbags are more expensive at $1.50 - $2.00 per bag. These costs are based upon vendor research.

Inspection and Maintenance

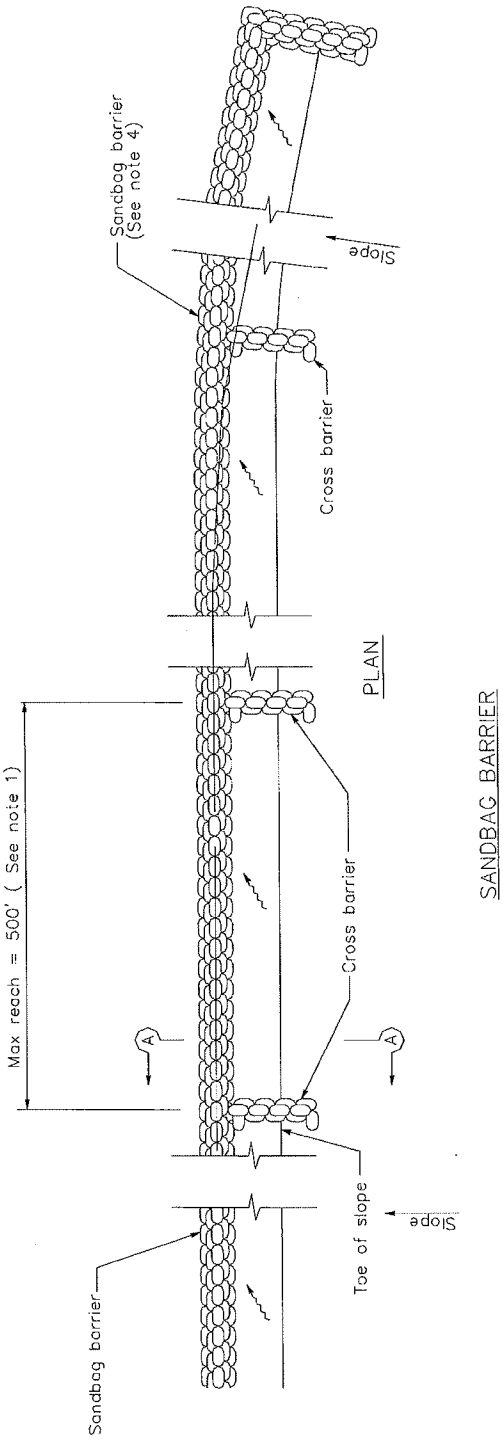
- BMPs must be inspected in accordance with General Permit requirements for the associated project type and risk level. It is recommended that at a minimum, BMPs be inspected weekly, prior to forecasted rain events, daily during extended rain events, and after the conclusion of rain events.
- Sandbags exposed to sunlight will need to be replaced every two to three months due to degradation of the bags.
- Reshape or replace sandbags as needed.
- Repair washouts or other damage as needed.
- Sediment that accumulates behind the BMP should be periodically removed in order to maintain BMP effectiveness. Sediment should be removed when the sediment accumulation reaches one-third of the barrier height.
- Remove sandbags when no longer needed and recycle sand fill whenever possible and properly dispose of bag material. Remove sediment accumulation, and clean, re-grade, and stabilize the area.

References

Standard Specifications for Construction of Local Streets and Roads, California Department of Transportation (Caltrans), July 2002.

Stormwater Quality Handbooks - Construction Site Best Management Practices (BMPs) Manual, State of California Department of Transportation (Caltrans), March 2003.

Erosion and Sediment Control Manual, Oregon Department of Environmental Quality, February 2005.

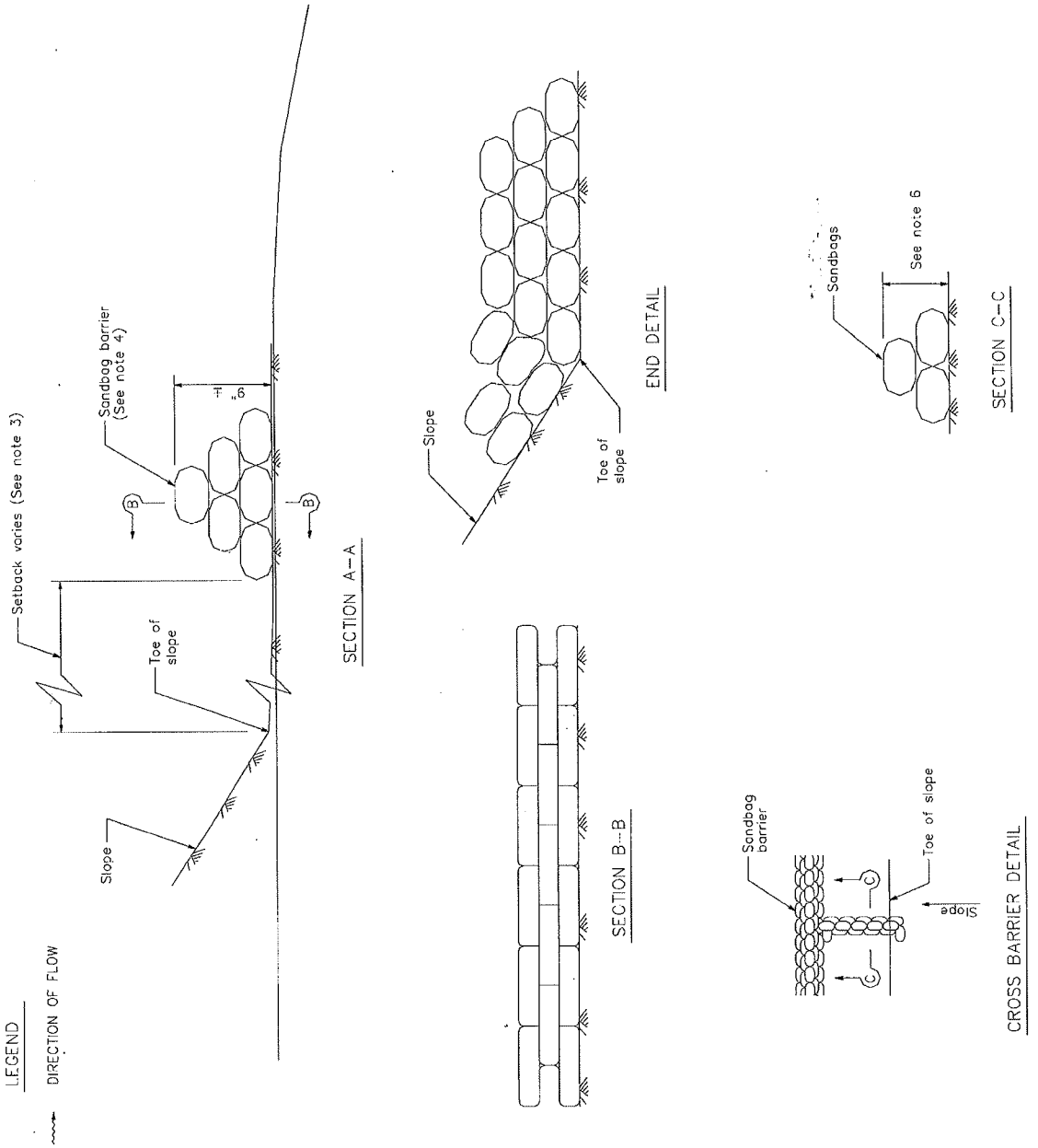


SANDBAG BARRIER

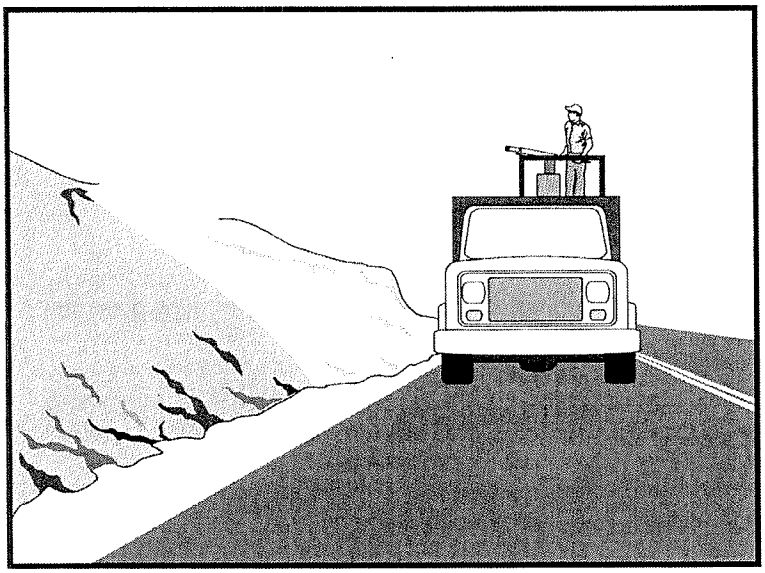
NOTES

1. Construct the length of each reach so that the change in base elevation along the reach does not exceed 1/2 the height of the linear barrier. In no case shall the reach length exceed 500'.
2. Place sandbags tightly.
3. Dimension may vary to fit field condition.
4. Sandbag barrier shall be a minimum of 3 bags high.
5. The end of the barrier shall be turned up slope.
6. Cross barriers shall be a min of 1/2 and a max of 2/3 the height of the linear barrier.
7. Sandbag rows and layers shall be staggered to eliminate gaps.

Sandbag Barrier SE-8



Hydraulic Mulch EC-3



Categories

EC	Erosion Control	☑
SE	Sediment Control	
TC	Tracking Control	
WE	Wind Erosion Control	☒
NS	Non-Stormwater Management Control	
WM	Waste Management and Materials Pollution Control	

Legend:

☑ **Primary Category**

☒ **Secondary Category**

Targeted Constituents

Sediment	☑
Nutrients	
Trash	
Metals	
Bacteria	
Oil and Grease	
Organics	

Potential Alternatives

EC-4 Hydroseeding

EC-5 Soil Binders

EC-6 Straw Mulch

EC-7 Geotextiles and Mats

EC-8 Wood Mulching

EC-14 Compost Blanket

EC-16 Non-Vegetative Stabilization

Description and Purpose

Hydraulic Mulch consists of various types of fibrous materials mixed with water and sprayed onto the soil surface in slurry form to provide a layer of temporary protection from wind and water erosion.

Suitable Applications

Hydraulic mulch as a temporary, stand alone, erosion control BMP is suitable for disturbed areas that require temporary protection from wind and water erosion until permanent soil stabilization activities commence. Examples include:

- Rough-graded areas that will remain inactive for longer than permit-required thresholds (e.g., 14 days) or otherwise require stabilization to minimize erosion or prevent sediment discharges.
- Soil stockpiles.
- Slopes with exposed soil between existing vegetation such as trees or shrubs.
- Slopes planted with live, container-grown vegetation or plugs.
- Slopes burned by wildfire.

Hydraulic mulch can also be applied to augment other erosion control BMPs such as:

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- In conjunction with straw mulch (see EC-6 Straw Mulch) where the rate of hydraulic mulch is reduced to 100-500 lbs per acre and the slurry is applied over the straw as a tackifying agent to hold the straw in place.
- Supplemental application of soil amendments, such as fertilizer, lime, gypsum, soil bio-stimulants or compost.

Limitations

In general, hydraulic mulch is not limited by slope length, gradient or soil type. However, the following limitations typically apply:

- Most hydraulic mulch applications, particularly bonded fiber matrices (BFMs), require at least 24 hours to dry before rainfall occurs.
- Temporary applications (i.e., without a vegetative component) may require a second application in order to remain effective for an entire rainy season.
- Treatment areas must be accessible to hydraulic mulching equipment.
- Availability of water sources in remote areas for mixing and application.
- As a stand-alone temporary BMP, hydraulic mulches may need to be re-applied to maintain their erosion control effectiveness, typically after 6-12 months depending on the type of mulch used.
- Availability of hydraulic mulching equipment may be limited just prior to the rainy season and prior to storms due to high demand.
- Cellulose fiber mulches alone may not perform well on steep slopes or in course soils.

Implementation

- Where feasible, it is preferable to prepare soil surfaces prior to application by roughening embankments and fill areas with a crimping or punching type roller or by track walking.
- The majority of hydraulic mulch applications do not necessarily require surface/soil preparation (See EC-15 Soil Preparation) although in almost every case where re-vegetation is included as part of the practice, soil preparation can be beneficial. One of the advantages of hydraulic mulch over other erosion control methods is that it can be applied in areas where soil preparation is precluded by site conditions, such as steep slopes, rocky soils, or inaccessibility.
- Avoid mulch over spray onto roads, sidewalks, drainage channels, existing vegetation, etc.
- Hydraulic mulching is generally performed utilizing specialized machines that have a large water-holding/mixing tank and some form of mechanical agitation or other recirculation method to keep water, mulch and soil amendments in suspension. The mixed hydraulic slurry can be applied from a tower sprayer on top of the machine or by extending a hose to areas remote from the machine.

- Where possible apply hydraulic mulch from multiple directions to adequately cover the soil. Application from a single direction can result in shadowing, uneven coverage and failure of the BMP.
- Hydraulic mulch can also include a vegetative component, such as seed, rhizomes, or stolons (see EC-4 Hydraulic Seed).
- Typical hydraulic mulch application rates range from 2,000 pounds per acre for standard mulches (SMs) to 3,500 pounds per acre for BFMs. However, the required amount of hydraulic mulch to provide adequate coverage of exposed topsoil may appear to exceed the standard rates when the roughness of the soil surface is changed due to soil preparation methods (see EC-15 Soil Preparation) or by slope gradient.
- Other factors such as existing soil moisture and soil texture can have a profound effect on the amount of hydraulic mulch required (i.e. application rate) applied to achieve an erosion-resistant covering.
- Avoid use of mulch without a tackifier component, especially on slopes.
- Mulches used in the hydraulic mulch slurry can include:
  - Cellulose fiber
  - Thermally-processed wood fibers
  - Cotton
  - Synthetics
  - Compost (see EC-14, Compost Blanket)
- Additional guidance on the comparison and selection of temporary slope stabilization methods is provided in Appendix F of the Handbook.

Categories of Hydraulic Mulches

Standard Hydraulic Mulch (SM)

Standard hydraulic mulches are generally applied at a rate of 2,000 pounds per acre and are manufactured containing around 5% tackifier (i.e. soil binder), usually a plant-derived guar or psyllium type. Most standard mulches are green in color derived from food-color based dyes.

Hydraulic Matrices (HM) and Stabilized Fiber Matrices (SFM)

Hydraulic matrices and stabilized fiber matrices are slurries which contain increased levels of tackifiers/soil binders; usually 10% or more by weight. HMs and SFMs have improved performance compared to a standard hydraulic mulch (SM) because of the additional percentage of tackifier and because of their higher application rates, typically 2,500 – 4,000 pounds per acre. Hydraulic matrices can include a mixture of fibers, for example, a 50/50 blend of paper and wood fiber. In the case of an SFM, the tackifier/soil binder is specified as a polyacrylamide (PAM).

Bonded Fiber Matrix (BFM)

Bonded fiber matrices (BFMs) are hydraulically-applied systems of fibers, adhesives (typically guar based) and chemical cross-links. Upon drying, the slurry forms an erosion-resistant blanket that prevents soil erosion and promotes vegetation establishment. The cross-linked adhesive in the BFM should be biodegradable and should not dissolve or disperse upon re-wetting. BFMs are typically applied at rates from 3,000 to 4,000 lbs/acre based on the manufacturer's recommendation. BFMs should not be applied immediately before, during or immediately after rainfall or if the soil is saturated. Depending on the product, BFMs typically require 12 to 24 hours to dry and become effective.

Mechanically-Bonded Fiber Matrices (MBFM)

Mechanically-bonded fiber matrices (MBFMs) are hydraulically applied systems similar to BFM that use crimped synthetic fibers and PAM and are typically applied to a slope at a higher application rate than a standard BFM.

Hydraulic Compost Matrix (HCM)

Hydraulic compost matrix (HCM) is a field-derived practice whereby finely graded or sifted compost is introduced into the hydraulic mulch slurry. A guar-type tackifier can be added for steeper slope applications as well as any specified seed mixtures. A HCM can help to accelerate seed germination and growth. HCMs are particularly useful as an in-fill for three-dimensional re-vegetation geocomposites, such as turf reinforcement mats (TRM) (see EC-7 Geotextiles and Mats).

Costs

Average installed costs for hydraulic mulch categories are is provided in Table 1, below.

Table 1
HYDRAULIC MULCH BMPs
INSTALLED COSTS

BMP	Installed Cost/Acre
Standard Hydraulic Mulching (SM)	$1,700 - $3,600 per acre
Hydraulic Matrices (HM) and Stabilized Fiber Matrices	
Guar-based	$2,000 - $4,000 per acre
PAM-based	$2,500 - $5,610 per acre
Bonded Fiber Matrix (BFM)	$3,900 - $6,900 per acre
Mechanically Bonded Fiber Matrix (MBFM)	$4,500 - $6,000 per acre
Hydraulic Compost Matrix (HCM)	$3,000 - $3,500 per acre

Source: Caltrans Soil Stabilization BMP Research for Erosion and Sediment Controls, July 2007

Inspection and Maintenance

- Maintain an unbroken, temporary mulched ground cover throughout the period of construction when the soils are not being reworked.
- BMPs must be inspected in accordance with General Permit requirements for the associated project type and risk level. It is recommended that at a minimum, BMPs be inspected

weekly, prior to forecasted rain events, daily during extended rain events, and after the conclusion of rain events.

- Areas where erosion is evident should be repaired and BMPs re-applied as soon as possible. Care should be exercised to minimize the damage to protected areas while making repairs, as any area damaged will require re-application of BMPs.
- Compare the number of bags or weight of applied mulch to the area treated to determine actual application rates and compliance with specifications.

References

Soil Stabilization BMP Research for Erosion and Sediment Controls: Cost Survey Technical Memorandum, State of California Department of Transportation (Caltrans), July 2007.

Controlling Erosion of Construction Sites, Agricultural Information #347, U.S. Department of Agriculture (USDA), Natural Resources Conservation Service (NRCS) (formerly Soil Conservation Service – SCS).

Guides for Erosion and Sediment Control in California, USDA Soils Conservation Service, January 1991.

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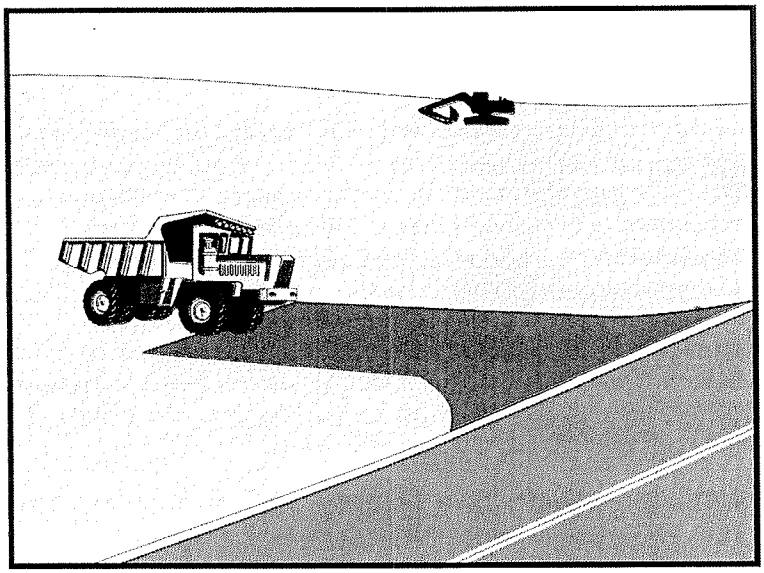
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Violation No. 5

Failure to Implement Perimeter Sediment Control BMPs
(14 days)

Stabilized Construction Entrance/Exit TC-1



Categories		
EC	Erosion Control	☒
SE	Sediment Control	☒
TC	Tracking Control	☑
WE	Wind Erosion Control	
NS	Non-Stormwater Management Control	
WM	Waste Management and Materials Pollution Control	

Legend:
☑ **Primary Objective**
☒ **Secondary Objective**

Targeted Constituents	
Sediment	☑
Nutrients	
Trash	
Metals	
Bacteria	
Oil and Grease	
Organics	

Potential Alternatives

None

Description and Purpose

A stabilized construction access is defined by a point of entrance/exit to a construction site that is stabilized to reduce the tracking of mud and dirt onto public roads by construction vehicles.

Suitable Applications

Use at construction sites:

- Where dirt or mud can be tracked onto public roads.
- Adjacent to water bodies.
- Where poor soils are encountered.
- Where dust is a problem during dry weather conditions.

Limitations

- Entrances and exits require periodic top dressing with additional stones.
- This BMP should be used in conjunction with street sweeping on adjacent public right of way.
- Entrances and exits should be constructed on level ground only.
- Stabilized construction entrances are rather expensive to construct and when a wash rack is included, a sediment trap of some kind must also be provided to collect wash water runoff.

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Stabilized Construction Entrance/Exit TC-1

Implementation

General

A stabilized construction entrance is a pad of aggregate underlain with filter cloth located at any point where traffic will be entering or leaving a construction site to or from a public right of way, street, alley, sidewalk, or parking area. The purpose of a stabilized construction entrance is to reduce or eliminate the tracking of sediment onto public rights of way or streets. Reducing tracking of sediments and other pollutants onto paved roads helps prevent deposition of sediments into local storm drains and production of airborne dust.

Where traffic will be entering or leaving the construction site, a stabilized construction entrance should be used. NPDES permits require that appropriate measures be implemented to prevent tracking of sediments onto paved roadways, where a significant source of sediments is derived from mud and dirt carried out from unpaved roads and construction sites.

Stabilized construction entrances are moderately effective in removing sediment from equipment leaving a construction site. The entrance should be built on level ground. Advantages of the Stabilized Construction Entrance/Exit is that it does remove some sediment from equipment and serves to channel construction traffic in and out of the site at specified locations. Efficiency is greatly increased when a washing rack is included as part of a stabilized construction entrance/exit.

Design and Layout

- Construct on level ground where possible.
- Select 3 to 6 in. diameter stones.
- Use minimum depth of stones of 12 in. or as recommended by soils engineer.
- Construct length of 50 ft or maximum site will allow, and 10 ft minimum width or to accommodate traffic.
- Rumble racks constructed of steel panels with ridges and installed in the stabilized entrance/exit will help remove additional sediment and to keep adjacent streets clean.
- Provide ample turning radii as part of the entrance.
- Limit the points of entrance/exit to the construction site.
- Limit speed of vehicles to control dust.
- Properly grade each construction entrance/exit to prevent runoff from leaving the construction site.
- Route runoff from stabilized entrances/exits through a sediment trapping device before discharge.
- Design stabilized entrance/exit to support heaviest vehicles and equipment that will use it.

Stabilized Construction Entrance/Exit TC-1

- Select construction access stabilization (aggregate, asphaltic concrete, concrete) based on longevity, required performance, and site conditions. Do not use asphalt concrete (AC) grindings for stabilized construction access/roadway.
- If aggregate is selected, place crushed aggregate over geotextile fabric to at least 12 in. depth, or place aggregate to a depth recommended by a geotechnical engineer. A crushed aggregate greater than 3 in. but smaller than 6 in. should be used.
- Designate combination or single purpose entrances and exits to the construction site.
- Require that all employees, subcontractors, and suppliers utilize the stabilized construction access.
- Implement SE-7, Street Sweeping and Vacuuming, as needed.
- All exit locations intended to be used for more than a two-week period should have stabilized construction entrance/exit BMPs.

Inspection and Maintenance

- Inspect and verify that activity–based BMPs are in place prior to the commencement of associated activities. While activities associated with the BMPs are under way, inspect BMPs in accordance with General Permit requirements for the associated project type and risk level. It is recommended that at a minimum, BMPs be inspected weekly, prior to forecasted rain events, daily during extended rain events, and after the conclusion of rain events.
- Inspect local roads adjacent to the site daily. Sweep or vacuum to remove visible accumulated sediment.
- Remove aggregate, separate and dispose of sediment if construction entrance/exit is clogged with sediment.
- Keep all temporary roadway ditches clear.
- Check for damage and repair as needed.
- Replace gravel material when surface voids are visible.
- Remove all sediment deposited on paved roadways within 24 hours.
- Remove gravel and filter fabric at completion of construction

Costs

Average annual cost for installation and maintenance may vary from $1,200 to $4,800 each, averaging $2,400 per entrance. Costs will increase with addition of washing rack, and sediment trap. With wash rack, costs range from $1,200 - $6,000 each, averaging $3,600 per entrance.

References

Manual of Standards of Erosion and Sediment Control Measures, Association of Bay Area Governments, May 1995.

Stabilized Construction Entrance/Exit TC-1

National Management Measures to Control Nonpoint Source Pollution from Urban Areas, USEPA Agency, 2002.

Proposed Guidance Specifying Management Measures for Sources of Nonpoint Pollution in Coastal Waters, Work Group Working Paper, USEPA, April 1992.

Stormwater Quality Handbooks Construction Site Best Management Practices (BMPs) Manual, State of California Department of Transportation (Caltrans), November 2000.

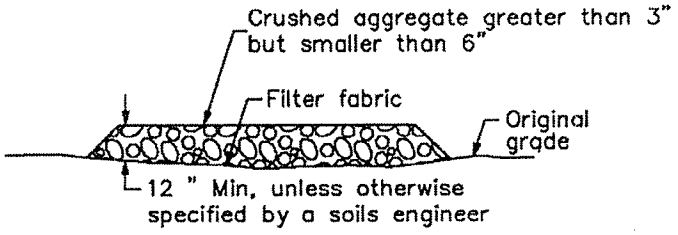
Stormwater Management of the Puget Sound Basin, Technical Manual, Publication #91-75, Washington State Department of Ecology, February 1992.

Virginia Erosion and Sedimentation Control Handbook, Virginia Department of Conservation and Recreation, Division of Soil and Water Conservation, 1991.

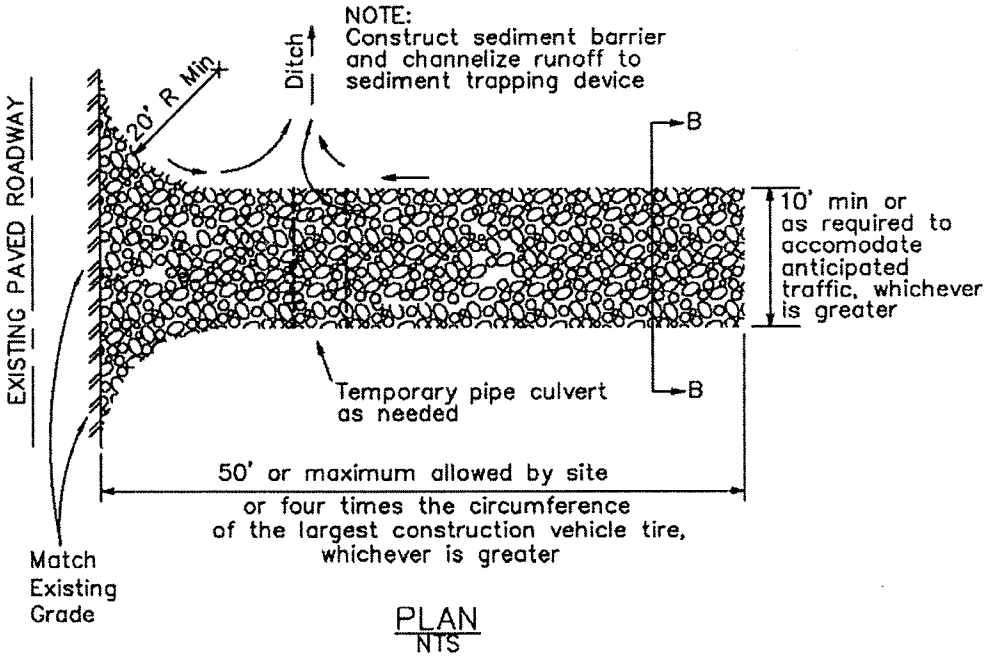
Guidance Specifying Management Measures for Nonpoint Pollution in Coastal Waters, EPA 840-B-9-002, USEPA, Office of Water, Washington, DC, 1993.

Water Quality Management Plan for the Lake Tahoe Region, Volume II, Handbook of Management Practices, Tahoe Regional Planning Agency, November 1988.

Stabilized Construction Entrance/Exit TC-1

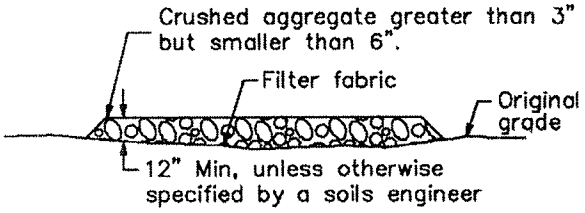


SECTION B–B
NTS

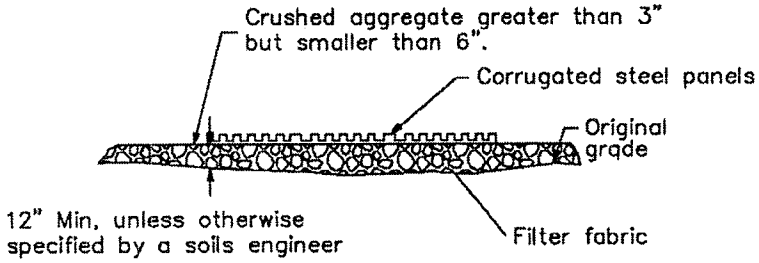


PLAN
NTS

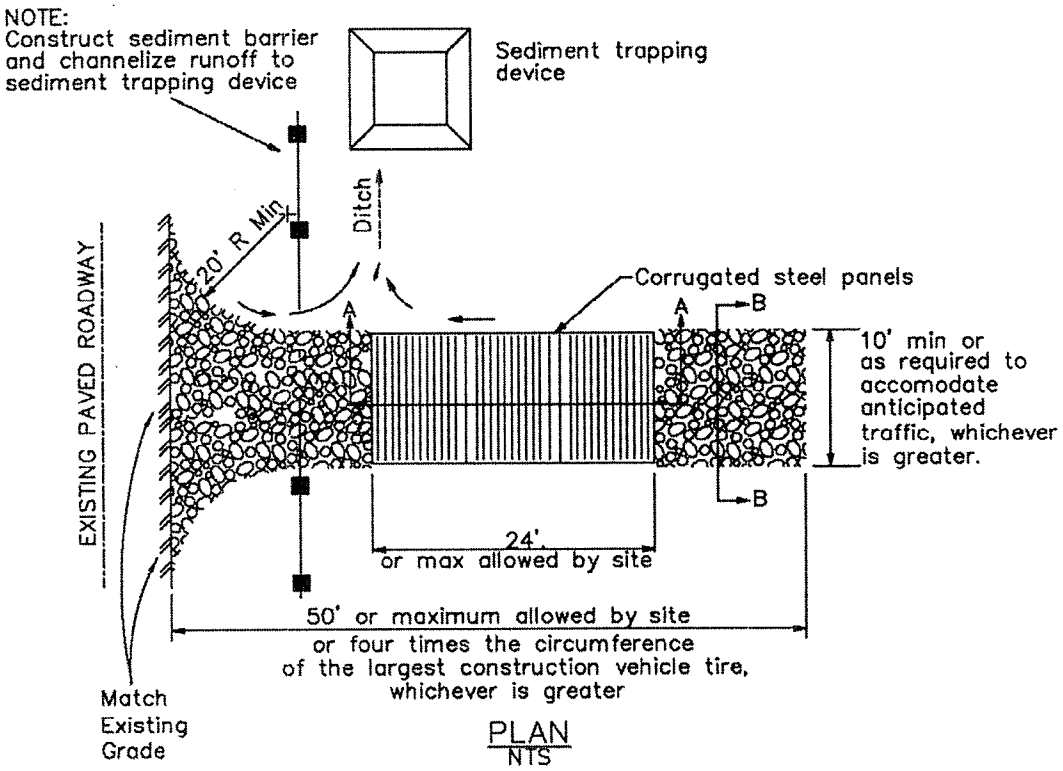
Stabilized Construction Entrance/Exit TC-1



SECTION B–B
NTS

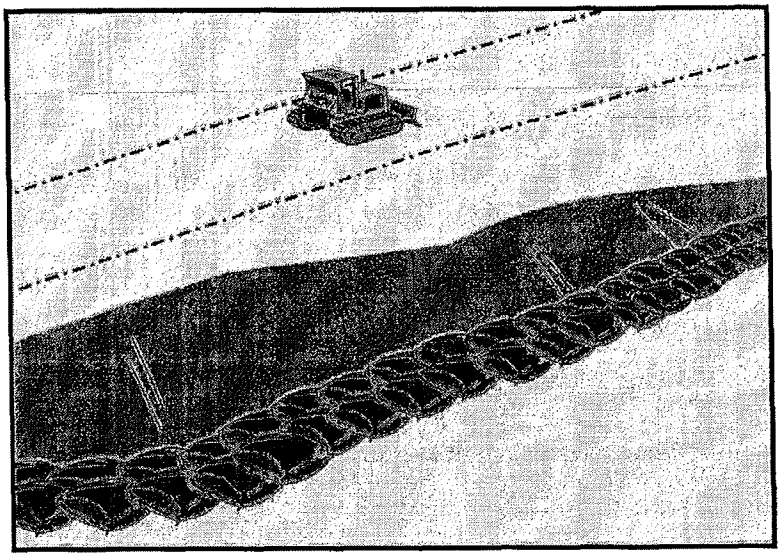


SECTION A–A
NOT TO SCALE



PLAN
NTS

Sandbag Barrier SE-8



Categories		
EC	Erosion Control	☒
SE	Sediment Control	☑
TC	Tracking Control	
WE	Wind Erosion Control	
NS	Non-Stormwater Management Control	
WM	Waste Management and Materials Pollution Control	

Legend:
☑ **Primary Category**
☒ **Secondary Category**

Description and Purpose

A sandbag barrier is a series of sand-filled bags placed on a level contour to intercept or to divert sheet flows. Sandbag barriers placed on a level contour pond sheet flow runoff, allowing sediment to settle out.

Suitable Applications

Sandbag barriers may be suitable:

- As a linear sediment control measure:
  - Below the toe of slopes and erodible slopes.
  - As sediment traps at culvert/pipe outlets.
  - Below other small cleared areas.
  - Along the perimeter of a site.
  - Down slope of exposed soil areas.
  - Around temporary stockpiles and spoil areas.
  - Parallel to a roadway to keep sediment off paved areas.
  - Along streams and channels.
- As linear erosion control measure:
  - Along the face and at grade breaks of exposed and erodible slopes to shorten slope length and spread runoff as sheet flow.

Targeted Constituents	
Sediment	☑
Nutrients	
Trash	
Metals	
Bacteria	
Oil and Grease	
Organics	

Potential Alternatives
SE-1 Silt Fence
SE-5 Fiber Rolls
SE-6 Gravel Bag Berm
SE-14 Biofilter Bags

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- At the top of slopes to divert runoff away from disturbed slopes.
- As check dams across mildly sloped construction roads.

Limitations

- It is necessary to limit the drainage area upstream of the barrier to 5 acres.
- Sandbags are not intended to be used as filtration devices.
- Easily damaged by construction equipment.
- Degraded sandbags may rupture when removed, spilling sand.
- Sand is easily transported by runoff if bag is damaged or ruptured.
- Installation can be labor intensive.
- Durability of sandbags is somewhat limited and bags may need to be replaced when installation is required for longer than 6 months. When used to detain concentrated flows, maintenance requirements increase.
- Burlap should not be used for sandbags.

Implementation

General

A sandbag barrier consists of a row of sand-filled bags placed on a level contour. When appropriately placed, a sandbag barrier intercepts and slows sheet flow runoff, causing temporary ponding. The temporary ponding allows sediment to settle. Sand-filled bags have limited porosity, which is further limited as the fine sand tends to quickly plug with sediment, limiting or completely blocking the rate of flow through the barrier. If a porous barrier is desired, consider SE-1, Silt Fence, SE-5, Fiber Rolls, SE-6, Gravel Bag Berms or SE-14, Biofilter Bags. Sandbag barriers also interrupt the slope length and thereby reduce erosion by reducing the tendency of sheet flows to concentrate into rivulets which erode rills, and ultimately gullies, into disturbed, sloped soils. Sandbag barriers are similar to gravel bag berms, but less porous. Generally, sandbag barriers should be used in conjunction with temporary soil stabilization controls up slope to provide effective erosion and sediment control.

Design and Layout

- Locate sandbag barriers on a level contour.
- When used for slope interruption, the following slope/sheet flow length combinations apply:
  - Slope inclination of 4:1 (H:V) or flatter: Sandbags should be placed at a maximum interval of 20 ft, with the first row near the slope toe.
  - Slope inclination between 4:1 and 2:1 (H:V): Sandbags should be placed at a maximum interval of 15 ft. (a closer spacing is more effective), with the first row near the slope toe.

    Slope inclination 2:1 (H:V) or greater: Sandbags should be placed at a maximum interval of 10 ft. (a closer spacing is more effective), with the first row near the slope toe.

- Turn the ends of the sandbag barrier up slope to prevent runoff from going around the barrier.
- Allow sufficient space up slope from the barrier to allow ponding, and to provide room for sediment storage.
- For installation near the toe of the slope, sand bag barriers should be set back from the slope toe to facilitate cleaning. Where specific site conditions do not allow for a set-back, the sand bag barrier may be constructed on the toe of the slope. To prevent flows behind the barrier, bags can be placed perpendicular to a berm to serve as cross barriers.
- Drainage area should not exceed 5 acres.
- Stack sandbags at least three bags high.
- Butt ends of bags tightly.
- Overlap butt joints of row beneath with each successive row.
- Use a pyramid approach when stacking bags.
- In non-traffic areas
  - Height = 18 in. maximum
  - Top width = 24 in. minimum for three or more layer construction
  - Side slope = 2:1 (H:V) or flatter
- In construction traffic areas
  - Height = 12 in. maximum
  - Top width = 24 in. minimum for three or more layer construction.
  - Side slopes = 2:1 (H:V) or flatter.
- See typical sandbag barrier installation details at the end of this fact sheet.

Materials

- ***Sandbag Material:*** Sandbag should be woven polypropylene, polyethylene or polyamide fabric, minimum unit weight of 4 ounces/yd^2, Mullen burst strength exceeding 300 lb/in^2 in conformance with the requirements in ASTM designation D3786, and ultraviolet stability exceeding 70% in conformance with the requirements in ASTM designation D4355. Use of burlap is not an acceptable substitute, as sand can more easily mobilize out of burlap.
- ***Sandbag Size:*** Each sand-filled bag should have a length of 18 in., width of 12 in., thickness of 3 in., and mass of approximately 33 lbs. Bag dimensions are nominal, and may vary based on locally available materials.

- ***Fill Material:*** All sandbag fill material should be non-cohesive, Class 3 (Caltrans Standard Specification, Section 25) permeable material free from clay and deleterious material, such as recycled concrete or asphalt..

Costs

Empty sandbags cost $0.25 - $0.75. Average cost of fill material is $8 per yd^3. Additional labor is required to fill the bags. Pre-filled sandbags are more expensive at $1.50 - $2.00 per bag. These costs are based upon vendor research.

Inspection and Maintenance

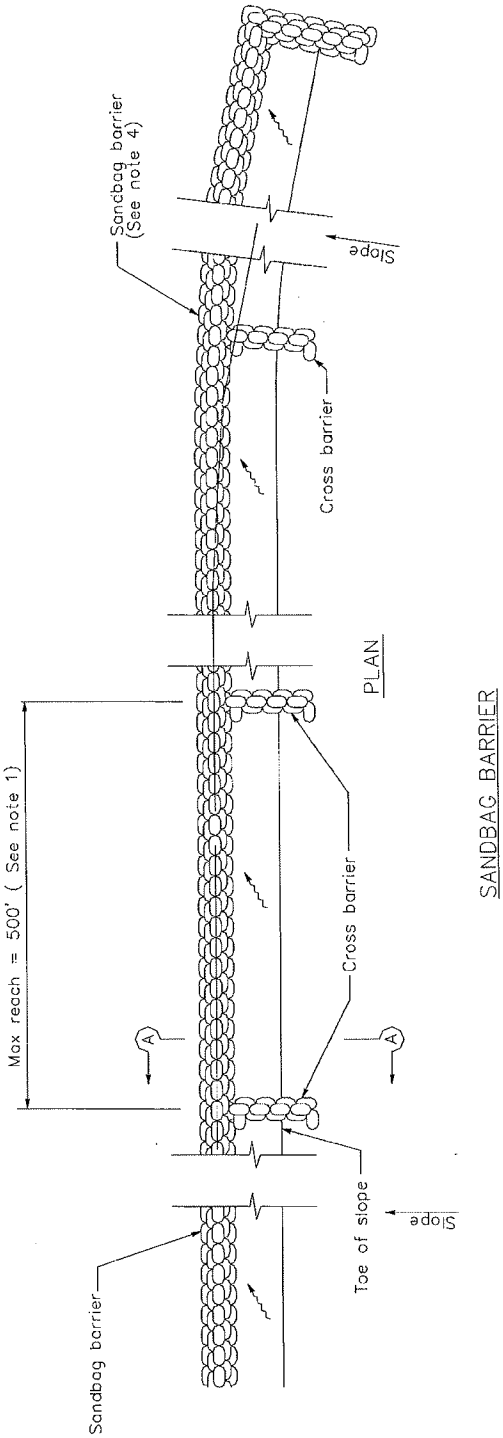
- BMPs must be inspected in accordance with General Permit requirements for the associated project type and risk level. It is recommended that at a minimum, BMPs be inspected weekly, prior to forecasted rain events, daily during extended rain events, and after the conclusion of rain events.
- Sandbags exposed to sunlight will need to be replaced every two to three months due to degradation of the bags.
- Reshape or replace sandbags as needed.
- Repair washouts or other damage as needed.
- Sediment that accumulates behind the BMP should be periodically removed in order to maintain BMP effectiveness. Sediment should be removed when the sediment accumulation reaches one-third of the barrier height.
- Remove sandbags when no longer needed and recycle sand fill whenever possible and properly dispose of bag material. Remove sediment accumulation, and clean, re-grade, and stabilize the area.

References

Standard Specifications for Construction of Local Streets and Roads, California Department of Transportation (Caltrans), July 2002.

Stormwater Quality Handbooks - Construction Site Best Management Practices (BMPs) Manual, State of California Department of Transportation (Caltrans), March 2003.

Erosion and Sediment Control Manual, Oregon Department of Environmental Quality, February 2005.

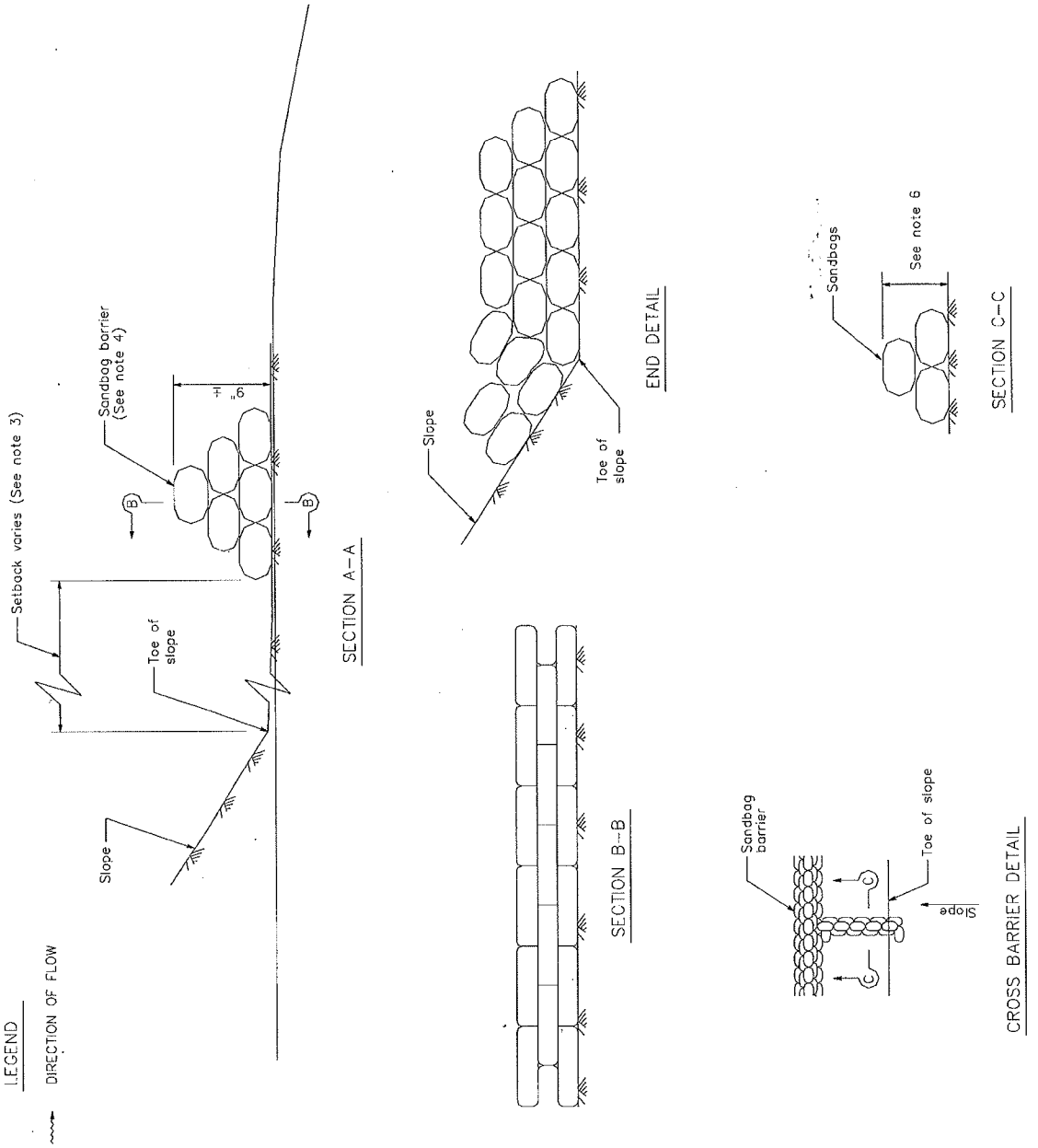


SANDBAG BARRIER

NOTES

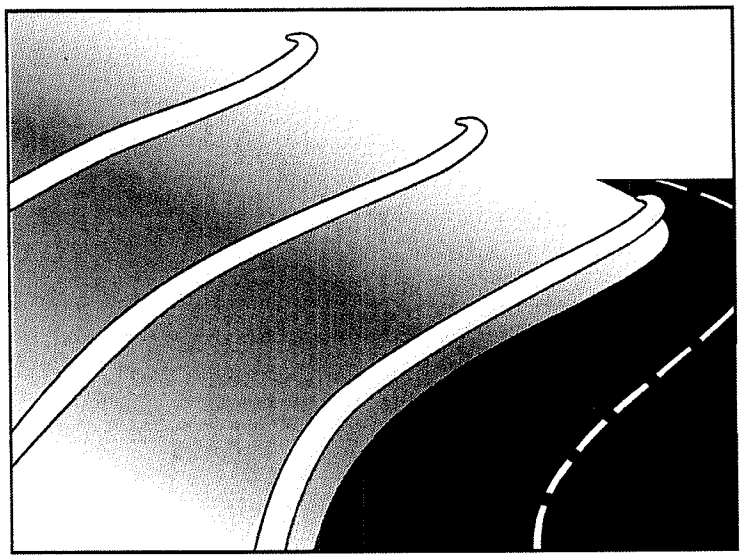
1. Construct the length of each reach so that the change in base elevation along the reach does not exceed 1/2 the height of the linear barrier. In no case shall the reach length exceed 500'.
2. Place sandbags tightly.
3. Dimension may vary to fit field condition.
4. Sandbag barrier shall be a minimum of 3 bags high.
5. The end of the barrier shall be turned up slope.
6. Cross barriers shall be a min of 1/2 and a max of 2/3 the height of the linear barrier.
7. Sandbag rows and layers shall be staggered to eliminate gaps.

Sandbag Barrier SE-8



Fiber Rolls

SE-5



Categories

EC	Erosion Control	☒
SE	Sediment Control	☑
TC	Tracking Control	
WE	Wind Erosion Control	
NS	Non-Stormwater Management Control	
WM	Waste Management and Materials Pollution Control	

Legend:

☑ **Primary Category**

☒ **Secondary Category**

Description and Purpose

A fiber roll consists of straw, coir, or other biodegradable materials bound into a tight tubular roll wrapped by netting, which can be photodegradable or natural. Additionally, gravel core fiber rolls are available, which contain an imbedded ballast material such as gravel or sand for additional weight when staking the rolls are not feasible (such as use as inlet protection). When fiber rolls are placed at the toe and on the face of slopes along the contours, they intercept runoff, reduce its flow velocity, release the runoff as sheet flow, and provide removal of sediment from the runoff (through sedimentation). By interrupting the length of a slope, fiber rolls can also reduce sheet and rill erosion until vegetation is established.

Targeted Constituents

Sediment	☑
Nutrients	
Trash	
Metals	
Bacteria	
Oil and Grease	
Organics	

Potential Alternatives

SE-1 Silt Fence

SE-6 Gravel Bag Berm

SE-8 Sandbag Barrier

SE-14 Biofilter Bags

Suitable Applications

Fiber rolls may be suitable:

- Along the toe, top, face, and at grade breaks of exposed and erodible slopes to shorten slope length and spread runoff as sheet flow.
- At the end of a downward slope where it transitions to a steeper slope.
- Along the perimeter of a project.
- As check dams in unlined ditches with minimal grade.
- Down-slope of exposed soil areas.
- At operational storm drains as a form of inlet protection.

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- Around temporary stockpiles.

Limitations

- Fiber rolls are not effective unless trenched in and staked.
- Not intended for use in high flow situations.
- Difficult to move once saturated.
- If not properly staked and trenched in, fiber rolls could be transported by high flows.
- Fiber rolls have a very limited sediment capture zone.
- Fiber rolls should not be used on slopes subject to creep, slumping, or landslide.
- Rolls typically function for 12-24 months depending upon local conditions.

Implementation

Fiber Roll Materials

- Fiber rolls should be prefabricated.
- Fiber rolls may come manufactured containing polyacrylamide (PAM), a flocculating agent within the roll. Fiber rolls impregnated with PAM provide additional sediment removal capabilities and should be used in areas with fine, clayey or silty soils to provide additional sediment removal capabilities. Monitoring may be required for these installations.
- Fiber rolls are made from weed free rice straw, flax, or a similar agricultural material bound into a tight tubular roll by netting.
- Typical fiber rolls vary in diameter from 9 in. to 20 in. Larger diameter rolls are available as well.

Installation

- Locate fiber rolls on level contours spaced as follows:
  - Slope inclination of 4:1 (H:V) or flatter: Fiber rolls should be placed at a maximum interval of 20 ft.
  - Slope inclination between 4:1 and 2:1 (H:V): Fiber Rolls should be placed at a maximum interval of 15 ft. (a closer spacing is more effective).
  - Slope inclination 2:1 (H:V) or greater: Fiber Rolls should be placed at a maximum interval of 10 ft. (a closer spacing is more effective).
- Prepare the slope before beginning installation.
- Dig small trenches across the slope on the contour. The trench depth should be ¼ to 1/3 of the thickness of the roll, and the width should equal the roll diameter, in order to provide area to backfill the trench.

- It is critical that rolls are installed perpendicular to water movement, and parallel to the slope contour.
- Start building trenches and installing rolls from the bottom of the slope and work up.
- It is recommended that pilot holes be driven through the fiber roll. Use a straight bar to drive holes through the roll and into the soil for the wooden stakes.
- Turn the ends of the fiber roll up slope to prevent runoff from going around the roll.
- Stake fiber rolls into the trench.
  - Drive stakes at the end of each fiber roll and spaced 4 ft maximum on center.
  - Use wood stakes with a nominal classification of 0.75 by 0.75 in. and minimum length of 24 in.
- If more than one fiber roll is placed in a row, the rolls should be overlapped, not abutted.
- See typical fiber roll installation details at the end of this fact sheet.

Removal

- Fiber rolls can be left in place or removed depending on the type of fiber roll and application (temporary vs. permanent installation). Typically, fiber rolls encased with plastic netting are used for a temporary application because the netting does not biodegrade. Fiber rolls used in a permanent application are typically encased with a biodegradeable material and are left in place. Removal of a fiber roll used in a permanent application can result in greater disturbance.
- Temporary installations should only be removed when up gradient areas are stabilized per General Permit requirements, and/or pollutant sources no longer present a hazard. But, they should also be removed before vegetation becomes too mature so that the removal process does not disturb more soil and vegetation than is necessary.

Costs

Material costs for regular fiber rolls range from $20 - $30 per 25 ft roll.

Material costs for PAM impregnated fiber rolls range between 7.00-$9.00 per linear foot, based upon vendor research.

Inspection and Maintenance

- BMPs must be inspected in accordance with General Permit requirements for the associated project type and risk level. It is recommended that at a minimum, BMPs be inspected weekly, prior to forecasted rain events, daily during extended rain events, and after the conclusion of rain events.
- Repair or replace split, torn, unraveling, or slumping fiber rolls.
- If the fiber roll is used as a sediment capture device, or as an erosion control device to maintain sheet flows, sediment that accumulates in the BMP should be periodically removed

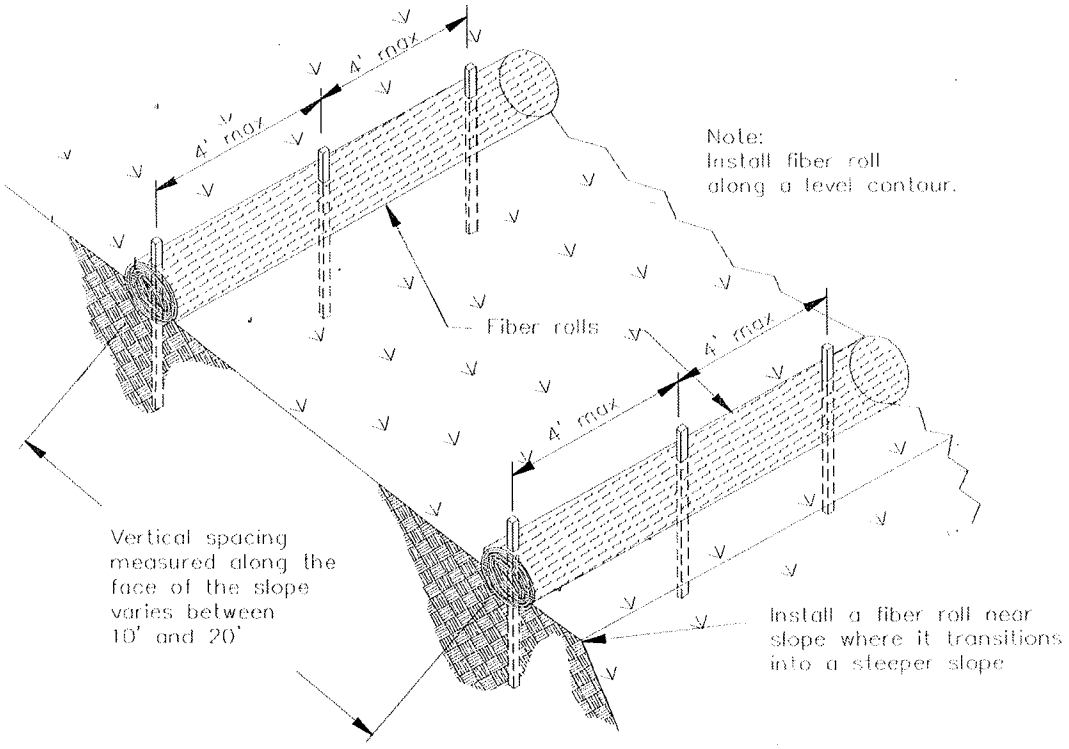
in order to maintain BMP effectiveness. Sediment should be removed when sediment accumulation reaches one-third the designated sediment storage depth.

- If fiber rolls are used for erosion control, such as in a check dam, sediment removal should not be required as long as the system continues to control the grade. Sediment control BMPs will likely be required in conjunction with this type of application.
- Repair any rills or gullies promptly.

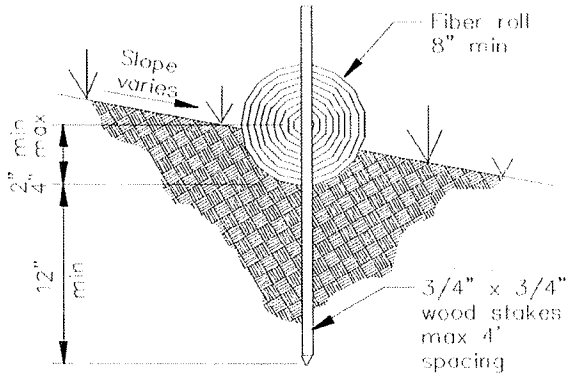
References

Stormwater Quality Handbooks - Construction Site Best Management Practices (BMPs) Manual, State of California Department of Transportation (Caltrans), March 2003.

Erosion and Sediment Control Manual, Oregon Department of Environmental Quality, February 2005.



TYPICAL FIBER ROLL INSTALLATION
N.T.S.

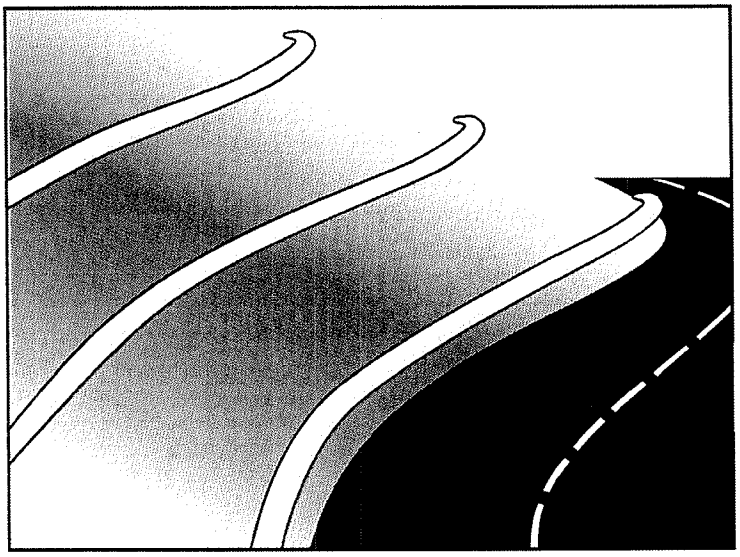


ENTRENCHMENT DETAIL
N.T.S.

Violation No. 6

Failure to Implement Erosion Control BMPs in Active Areas
(22 days)

Fiber Rolls SE-5



Categories

EC	Erosion Control	☒
SE	Sediment Control	☑
TC	Tracking Control	
WE	Wind Erosion Control	
NS	Non-Stormwater Management Control	
WM	Waste Management and Materials Pollution Control	

Legend:

☑ **Primary Category**

☒ **Secondary Category**

Description and Purpose

A fiber roll consists of straw, coir, or other biodegradable materials bound into a tight tubular roll wrapped by netting, which can be photodegradable or natural. Additionally, gravel core fiber rolls are available, which contain an imbedded ballast material such as gravel or sand for additional weight when staking the rolls are not feasible (such as use as inlet protection). When fiber rolls are placed at the toe and on the face of slopes along the contours, they intercept runoff, reduce its flow velocity, release the runoff as sheet flow, and provide removal of sediment from the runoff (through sedimentation). By interrupting the length of a slope, fiber rolls can also reduce sheet and rill erosion until vegetation is established.

Targeted Constituents

Sediment	☑
Nutrients	
Trash	
Metals	
Bacteria	
Oil and Grease	
Organics	

Potential Alternatives

SE-1 Silt Fence

SE-6 Gravel Bag Berm

SE-8 Sandbag Barrier

SE-14 Biofilter Bags

Suitable Applications

Fiber rolls may be suitable:

- Along the toe, top, face, and at grade breaks of exposed and erodible slopes to shorten slope length and spread runoff as sheet flow.
- At the end of a downward slope where it transitions to a steeper slope.
- Along the perimeter of a project.
- As check dams in unlined ditches with minimal grade.
- Down-slope of exposed soil areas.
- At operational storm drains as a form of inlet protection.

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- Around temporary stockpiles.

Limitations

- Fiber rolls are not effective unless trenched in and staked.
- Not intended for use in high flow situations.
- Difficult to move once saturated.
- If not properly staked and trenched in, fiber rolls could be transported by high flows.
- Fiber rolls have a very limited sediment capture zone.
- Fiber rolls should not be used on slopes subject to creep, slumping, or landslide.
- Rolls typically function for 12-24 months depending upon local conditions.

Implementation

Fiber Roll Materials

- Fiber rolls should be prefabricated.
- Fiber rolls may come manufactured containing polyacrylamide (PAM), a flocculating agent within the roll. Fiber rolls impregnated with PAM provide additional sediment removal capabilities and should be used in areas with fine, clayey or silty soils to provide additional sediment removal capabilities. Monitoring may be required for these installations.
- Fiber rolls are made from weed free rice straw, flax, or a similar agricultural material bound into a tight tubular roll by netting.
- Typical fiber rolls vary in diameter from 9 in. to 20 in. Larger diameter rolls are available as well.

Installation

- Locate fiber rolls on level contours spaced as follows:
  - Slope inclination of 4:1 (H:V) or flatter: Fiber rolls should be placed at a maximum interval of 20 ft.
  - Slope inclination between 4:1 and 2:1 (H:V): Fiber Rolls should be placed at a maximum interval of 15 ft. (a closer spacing is more effective).
  - Slope inclination 2:1 (H:V) or greater: Fiber Rolls should be placed at a maximum interval of 10 ft. (a closer spacing is more effective).
- Prepare the slope before beginning installation.
- Dig small trenches across the slope on the contour. The trench depth should be ¼ to 1/3 of the thickness of the roll, and the width should equal the roll diameter, in order to provide area to backfill the trench.

- It is critical that rolls are installed perpendicular to water movement, and parallel to the slope contour.
- Start building trenches and installing rolls from the bottom of the slope and work up.
- It is recommended that pilot holes be driven through the fiber roll. Use a straight bar to drive holes through the roll and into the soil for the wooden stakes.
- Turn the ends of the fiber roll up slope to prevent runoff from going around the roll.
- Stake fiber rolls into the trench.
  - Drive stakes at the end of each fiber roll and spaced 4 ft maximum on center.
  - Use wood stakes with a nominal classification of 0.75 by 0.75 in. and minimum length of 24 in.
- If more than one fiber roll is placed in a row, the rolls should be overlapped, not abutted.
- See typical fiber roll installation details at the end of this fact sheet.

Removal

- Fiber rolls can be left in place or removed depending on the type of fiber roll and application (temporary vs. permanent installation). Typically, fiber rolls encased with plastic netting are used for a temporary application because the netting does not biodegrade. Fiber rolls used in a permanent application are typically encased with a biodegradeable material and are left in place. Removal of a fiber roll used in a permanent application can result in greater disturbance.
- Temporary installations should only be removed when up gradient areas are stabilized per General Permit requirements, and/or pollutant sources no longer present a hazard. But, they should also be removed before vegetation becomes too mature so that the removal process does not disturb more soil and vegetation than is necessary.

Costs

Material costs for regular fiber rolls range from $20 - $30 per 25 ft roll.

Material costs for PAM impregnated fiber rolls range between 7.00-$9.00 per linear foot, based upon vendor research.

Inspection and Maintenance

- BMPs must be inspected in accordance with General Permit requirements for the associated project type and risk level. It is recommended that at a minimum, BMPs be inspected weekly, prior to forecasted rain events, daily during extended rain events, and after the conclusion of rain events.
- Repair or replace split, torn, unraveling, or slumping fiber rolls.
- If the fiber roll is used as a sediment capture device, or as an erosion control device to maintain sheet flows, sediment that accumulates in the BMP should be periodically removed

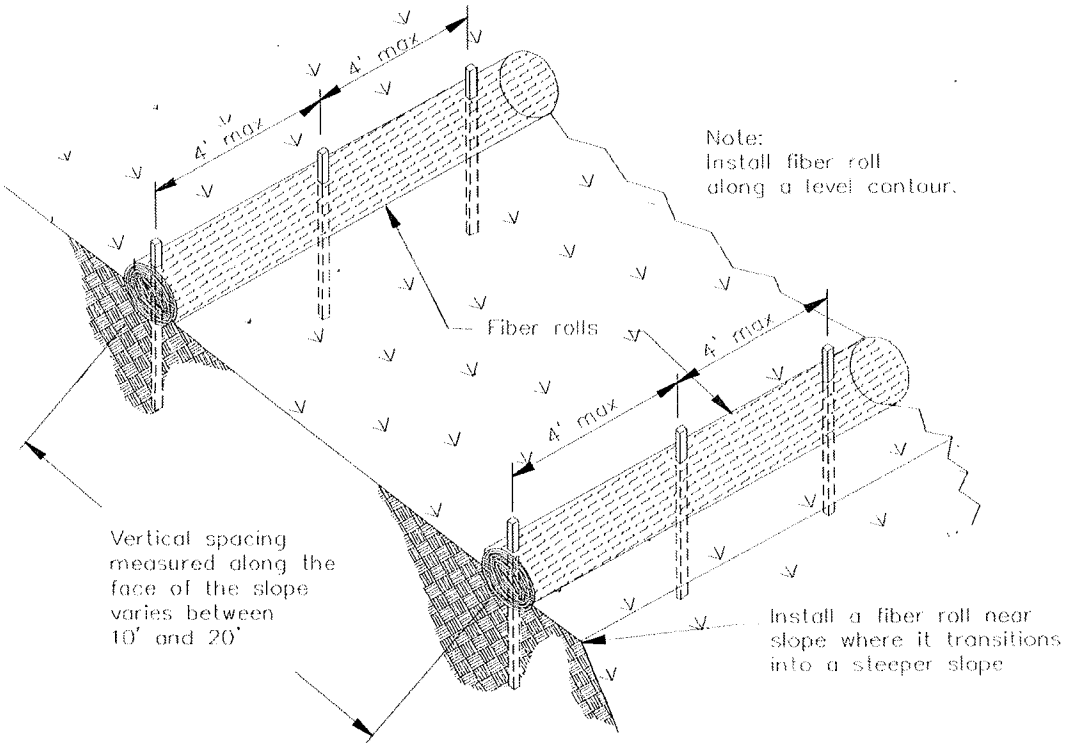
in order to maintain BMP effectiveness. Sediment should be removed when sediment accumulation reaches one-third the designated sediment storage depth.

- If fiber rolls are used for erosion control, such as in a check dam, sediment removal should not be required as long as the system continues to control the grade. Sediment control BMPs will likely be required in conjunction with this type of application.
- Repair any rills or gullies promptly.

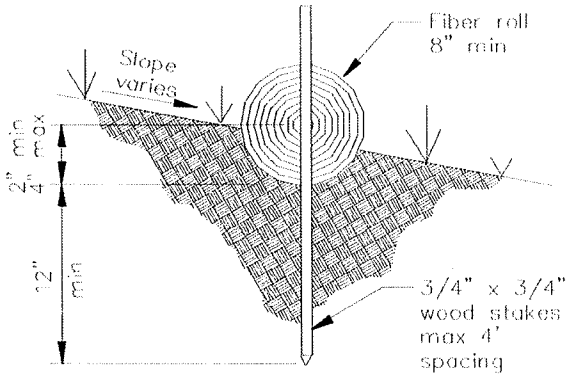
References

Stormwater Quality Handbooks - Construction Site Best Management Practices (BMPs) Manual, State of California Department of Transportation (Caltrans), March 2003.

Erosion and Sediment Control Manual, Oregon Department of Environmental Quality, February 2005.

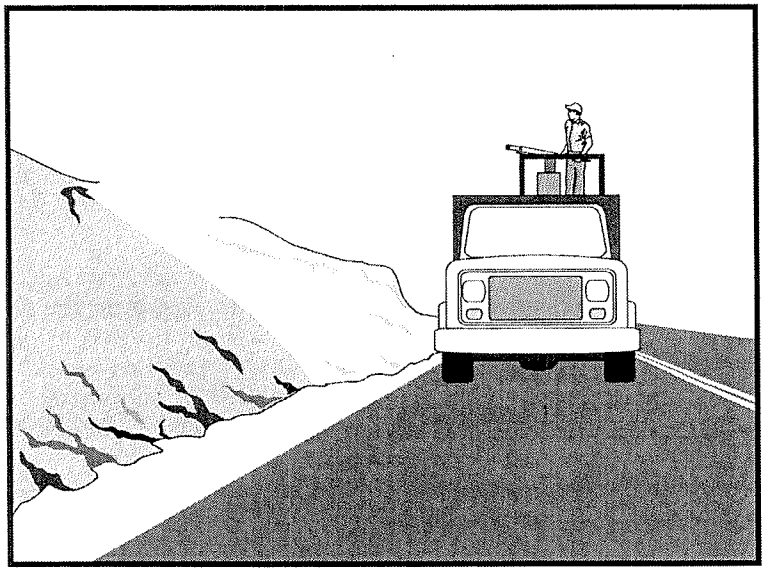


TYPICAL FIBER ROLL INSTALLATION
N.T.S.



ENTRENCHMENT DETAIL
N.T.S.

Hydraulic Mulch EC-3



Description and Purpose

Hydraulic Mulch consists of various types of fibrous materials mixed with water and sprayed onto the soil surface in slurry form to provide a layer of temporary protection from wind and water erosion.

Suitable Applications

Hydraulic mulch as a temporary, stand alone, erosion control BMP is suitable for disturbed areas that require temporary protection from wind and water erosion until permanent soil stabilization activities commence. Examples include:

- Rough-graded areas that will remain inactive for longer than permit-required thresholds (e.g., 14 days) or otherwise require stabilization to minimize erosion or prevent sediment discharges.
- Soil stockpiles.
- Slopes with exposed soil between existing vegetation such as trees or shrubs.
- Slopes planted with live, container-grown vegetation or plugs.
- Slopes burned by wildfire.

Hydraulic mulch can also be applied to augment other erosion control BMPs such as:

Categories

EC	Erosion Control	☑
SE	Sediment Control	
TC	Tracking Control	
WE	Wind Erosion Control	☒
NS	Non-Stormwater Management Control	
WM	Waste Management and Materials Pollution Control	

Legend:

☑ **Primary Category**

☒ **Secondary Category**

Targeted Constituents

Sediment	☑
Nutrients	
Trash	
Metals	
Bacteria	
Oil and Grease	
Organics	

Potential Alternatives

EC-4 Hydroseeding

EC-5 Soil Binders

EC-6 Straw Mulch

EC-7 Geotextiles and Mats

EC-8 Wood Mulching

EC-14 Compost Blanket

EC-16 Non-Vegetative Stabilization

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- In conjunction with straw mulch (see EC-6 Straw Mulch) where the rate of hydraulic mulch is reduced to 100-500 lbs per acre and the slurry is applied over the straw as a tackifying agent to hold the straw in place.
- Supplemental application of soil amendments, such as fertilizer, lime, gypsum, soil bio-stimulants or compost.

Limitations

In general, hydraulic mulch is not limited by slope length, gradient or soil type. However, the following limitations typically apply:

- Most hydraulic mulch applications, particularly bonded fiber matrices (BFMs), require at least 24 hours to dry before rainfall occurs.
- Temporary applications (i.e., without a vegetative component) may require a second application in order to remain effective for an entire rainy season.
- Treatment areas must be accessible to hydraulic mulching equipment.
- Availability of water sources in remote areas for mixing and application.
- As a stand-alone temporary BMP, hydraulic mulches may need to be re-applied to maintain their erosion control effectiveness, typically after 6-12 months depending on the type of mulch used.
- Availability of hydraulic mulching equipment may be limited just prior to the rainy season and prior to storms due to high demand.
- Cellulose fiber mulches alone may not perform well on steep slopes or in course soils.

Implementation

- Where feasible, it is preferable to prepare soil surfaces prior to application by roughening embankments and fill areas with a crimping or punching type roller or by track walking.
- The majority of hydraulic mulch applications do not necessarily require surface/soil preparation (See EC-15 Soil Preparation) although in almost every case where re-vegetation is included as part of the practice, soil preparation can be beneficial. One of the advantages of hydraulic mulch over other erosion control methods is that it can be applied in areas where soil preparation is precluded by site conditions, such as steep slopes, rocky soils, or inaccessibility.
- Avoid mulch over spray onto roads, sidewalks, drainage channels, existing vegetation, etc.
- Hydraulic mulching is generally performed utilizing specialized machines that have a large water-holding/mixing tank and some form of mechanical agitation or other recirculation method to keep water, mulch and soil amendments in suspension. The mixed hydraulic slurry can be applied from a tower sprayer on top of the machine or by extending a hose to areas remote from the machine.

- Where possible apply hydraulic mulch from multiple directions to adequately cover the soil. Application from a single direction can result in shadowing, uneven coverage and failure of the BMP.
- Hydraulic mulch can also include a vegetative component, such as seed, rhizomes, or stolons (see EC-4 Hydraulic Seed).
- Typical hydraulic mulch application rates range from 2,000 pounds per acre for standard mulches (SMs) to 3,500 pounds per acre for BFMs. However, the required amount of hydraulic mulch to provide adequate coverage of exposed topsoil may appear to exceed the standard rates when the roughness of the soil surface is changed due to soil preparation methods (see EC-15 Soil Preparation) or by slope gradient.
- Other factors such as existing soil moisture and soil texture can have a profound effect on the amount of hydraulic mulch required (i.e. application rate) applied to achieve an erosion-resistant covering.
- Avoid use of mulch without a tackifier component, especially on slopes.
- Mulches used in the hydraulic mulch slurry can include:
  - Cellulose fiber
  - Thermally-processed wood fibers
  - Cotton
  - Synthetics
  - Compost (see EC-14, Compost Blanket)
- Additional guidance on the comparison and selection of temporary slope stabilization methods is provided in Appendix F of the Handbook.

Categories of Hydraulic Mulches

Standard Hydraulic Mulch (SM)

Standard hydraulic mulches are generally applied at a rate of 2,000 pounds per acre and are manufactured containing around 5% tackifier (i.e. soil binder), usually a plant-derived guar or psyllium type. Most standard mulches are green in color derived from food-color based dyes.

Hydraulic Matrices (HM) and Stabilized Fiber Matrices (SFM)

Hydraulic matrices and stabilized fiber matrices are slurries which contain increased levels of tackifiers/soil binders; usually 10% or more by weight. HMs and SFMs have improved performance compared to a standard hydraulic mulch (SM) because of the additional percentage of tackifier and because of their higher application rates, typically 2,500 – 4,000 pounds per acre. Hydraulic matrices can include a mixture of fibers, for example, a 50/50 blend of paper and wood fiber. In the case of an SFM, the tackifier/soil binder is specified as a polyacrylamide (PAM).

Bonded Fiber Matrix (BFM)

Bonded fiber matrices (BFMs) are hydraulically-applied systems of fibers, adhesives (typically guar based) and chemical cross-links. Upon drying, the slurry forms an erosion-resistant blanket that prevents soil erosion and promotes vegetation establishment. The cross-linked adhesive in the BFM should be biodegradable and should not dissolve or disperse upon re-wetting. BFMs are typically applied at rates from 3,000 to 4,000 lbs/acre based on the manufacturer's recommendation. BFMs should not be applied immediately before, during or immediately after rainfall or if the soil is saturated. Depending on the product, BFMs typically require 12 to 24 hours to dry and become effective.

Mechanically-Bonded Fiber Matrices (MBFM)

Mechanically-bonded fiber matrices (MBFMs) are hydraulically applied systems similar to BFM that use crimped synthetic fibers and PAM and are typically applied to a slope at a higher application rate than a standard BFM.

Hydraulic Compost Matrix (HCM)

Hydraulic compost matrix (HCM) is a field-derived practice whereby finely graded or sifted compost is introduced into the hydraulic mulch slurry. A guar-type tackifier can be added for steeper slope applications as well as any specified seed mixtures. A HCM can help to accelerate seed germination and growth. HCMs are particularly useful as an in-fill for three-dimensional re-vegetation geocomposites, such as turf reinforcement mats (TRM) (see EC-7 Geotextiles and Mats).

Costs

Average installed costs for hydraulic mulch categories are is provided in Table 1, below.

Table 1
HYDRAULIC MULCH BMPs
INSTALLED COSTS

BMP	Installed Cost/Acre
Standard Hydraulic Mulching (SM)	$1,700 - $3,600 per acre
Hydraulic Matrices (HM) and Stabilized Fiber Matrices	
Guar-based	$2,000 - $4,000 per acre
PAM-based	$2,500 - $5,610 per acre
Bonded Fiber Matrix (BFM)	$3,900 - $6,900 per acre
Mechanically Bonded Fiber Matrix (MBFM)	$4,500 - $6,000 per acre
Hydraulic Compost Matrix (HCM)	$3,000 - $3,500 per acre

Source: Caltrans Soil Stabilization BMP Research for Erosion and Sediment Controls, July 2007

Inspection and Maintenance

- Maintain an unbroken, temporary mulched ground cover throughout the period of construction when the soils are not being reworked.
- BMPs must be inspected in accordance with General Permit requirements for the associated project type and risk level. It is recommended that at a minimum, BMPs be inspected

weekly, prior to forecasted rain events, daily during extended rain events, and after the conclusion of rain events.

- Areas where erosion is evident should be repaired and BMPs re-applied as soon as possible. Care should be exercised to minimize the damage to protected areas while making repairs, as any area damaged will require re-application of BMPs.
- Compare the number of bags or weight of applied mulch to the area treated to determine actual application rates and compliance with specifications.

References

Soil Stabilization BMP Research for Erosion and Sediment Controls: Cost Survey Technical Memorandum, State of California Department of Transportation (Caltrans), July 2007.

Controlling Erosion of Construction Sites, Agricultural Information #347, U.S. Department of Agriculture (USDA), Natural Resources Conservation Service (NRCS) (formerly Soil Conservation Service – SCS).

Guides for Erosion and Sediment Control in California, USDA Soils Conservation Service, January 1991.

Manual of Standards of Erosion and Sediment Control Measures, Association of Bay Area Governments, May 1995.

Sedimentation and Erosion Control, An Inventory of Current Practices Draft, US EPA, April 1990.

Soil Erosion by Water, Agriculture Information Bulletin #513, U.S. Department of Agriculture, Soil Conservation Service.

Stormwater Quality Handbooks Construction Site Best Management Practices (BMPs) Manual, State of California Department of Transportation (Caltrans), March 2003.

Guidance Document: Soil Stabilization for Temporary Slopes, State of California Department of Transportation (Caltrans), November 1999

Stormwater Management of the Puget Sound Basin, Technical Manual, Publication #91-75, Washington State Department of Ecology, February 1992.

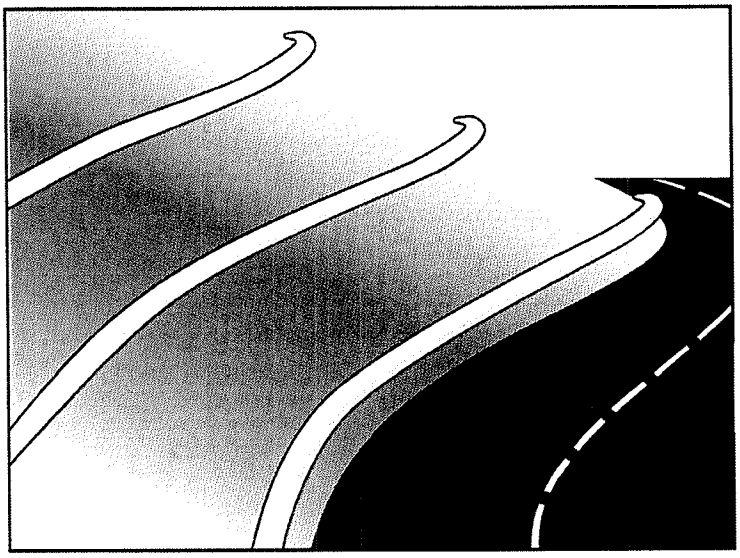
Water Quality Management Plan for the Lake Tahoe Region, Volume II, Handbook of Management Practices, Tahoe Regional Planning Agency, November 1988.

Violation No. 7

Failure to Apply Linear Sediment Controls (9 days)

Fiber Rolls

SE-5



Categories

EC	Erosion Control	☒
SE	Sediment Control	☑
TC	Tracking Control	
WE	Wind Erosion Control	
NS	Non-Stormwater Management Control	
WM	Waste Management and Materials Pollution Control	

Legend:

☑ **Primary Category**

☒ **Secondary Category**

Description and Purpose

A fiber roll consists of straw, coir, or other biodegradable materials bound into a tight tubular roll wrapped by netting, which can be photodegradable or natural. Additionally, gravel core fiber rolls are available, which contain an imbedded ballast material such as gravel or sand for additional weight when staking the rolls are not feasible (such as use as inlet protection). When fiber rolls are placed at the toe and on the face of slopes along the contours, they intercept runoff, reduce its flow velocity, release the runoff as sheet flow, and provide removal of sediment from the runoff (through sedimentation). By interrupting the length of a slope, fiber rolls can also reduce sheet and rill erosion until vegetation is established.

Targeted Constituents

Sediment	☑
Nutrients	
Trash	
Metals	
Bacteria	
Oil and Grease	
Organics	

Potential Alternatives

SE-1 Silt Fence

SE-6 Gravel Bag Berm

SE-8 Sandbag Barrier

SE-14 Biofilter Bags

Suitable Applications

Fiber rolls may be suitable:

- Along the toe, top, face, and at grade breaks of exposed and erodible slopes to shorten slope length and spread runoff as sheet flow.
- At the end of a downward slope where it transitions to a steeper slope.
- Along the perimeter of a project.
- As check dams in unlined ditches with minimal grade.
- Down-slope of exposed soil areas.
- At operational storm drains as a form of inlet protection.

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- Around temporary stockpiles.

Limitations

- Fiber rolls are not effective unless trenched in and staked.
- Not intended for use in high flow situations.
- Difficult to move once saturated.
- If not properly staked and trenched in, fiber rolls could be transported by high flows.
- Fiber rolls have a very limited sediment capture zone.
- Fiber rolls should not be used on slopes subject to creep, slumping, or landslide.
- Rolls typically function for 12-24 months depending upon local conditions.

Implementation

Fiber Roll Materials

- Fiber rolls should be prefabricated.
- Fiber rolls may come manufactured containing polyacrylamide (PAM), a flocculating agent within the roll. Fiber rolls impregnated with PAM provide additional sediment removal capabilities and should be used in areas with fine, clayey or silty soils to provide additional sediment removal capabilities. Monitoring may be required for these installations.
- Fiber rolls are made from weed free rice straw, flax, or a similar agricultural material bound into a tight tubular roll by netting.
- Typical fiber rolls vary in diameter from 9 in. to 20 in. Larger diameter rolls are available as well.

Installation

- Locate fiber rolls on level contours spaced as follows:
  - Slope inclination of 4:1 (H:V) or flatter: Fiber rolls should be placed at a maximum interval of 20 ft.
  - Slope inclination between 4:1 and 2:1 (H:V): Fiber Rolls should be placed at a maximum interval of 15 ft. (a closer spacing is more effective).
  - Slope inclination 2:1 (H:V) or greater: Fiber Rolls should be placed at a maximum interval of 10 ft. (a closer spacing is more effective).
- Prepare the slope before beginning installation.
- Dig small trenches across the slope on the contour. The trench depth should be ¼ to 1/3 of the thickness of the roll, and the width should equal the roll diameter, in order to provide area to backfill the trench.

- It is critical that rolls are installed perpendicular to water movement, and parallel to the slope contour.
- Start building trenches and installing rolls from the bottom of the slope and work up.
- It is recommended that pilot holes be driven through the fiber roll. Use a straight bar to drive holes through the roll and into the soil for the wooden stakes.
- Turn the ends of the fiber roll up slope to prevent runoff from going around the roll.
- Stake fiber rolls into the trench.
  - Drive stakes at the end of each fiber roll and spaced 4 ft maximum on center.
  - Use wood stakes with a nominal classification of 0.75 by 0.75 in. and minimum length of 24 in.
- If more than one fiber roll is placed in a row, the rolls should be overlapped, not abutted.
- See typical fiber roll installation details at the end of this fact sheet.

Removal

- Fiber rolls can be left in place or removed depending on the type of fiber roll and application (temporary vs. permanent installation). Typically, fiber rolls encased with plastic netting are used for a temporary application because the netting does not biodegrade. Fiber rolls used in a permanent application are typically encased with a biodegradeable material and are left in place. Removal of a fiber roll used in a permanent application can result in greater disturbance.
- Temporary installations should only be removed when up gradient areas are stabilized per General Permit requirements, and/or pollutant sources no longer present a hazard. But, they should also be removed before vegetation becomes too mature so that the removal process does not disturb more soil and vegetation than is necessary.

Costs

Material costs for regular fiber rolls range from $20 - $30 per 25 ft roll.

Material costs for PAM impregnated fiber rolls range between 7.00-$9.00 per linear foot, based upon vendor research.

Inspection and Maintenance

- BMPs must be inspected in accordance with General Permit requirements for the associated project type and risk level. It is recommended that at a minimum, BMPs be inspected weekly, prior to forecasted rain events, daily during extended rain events, and after the conclusion of rain events.
- Repair or replace split, torn, unraveling, or slumping fiber rolls.
- If the fiber roll is used as a sediment capture device, or as an erosion control device to maintain sheet flows, sediment that accumulates in the BMP should be periodically removed

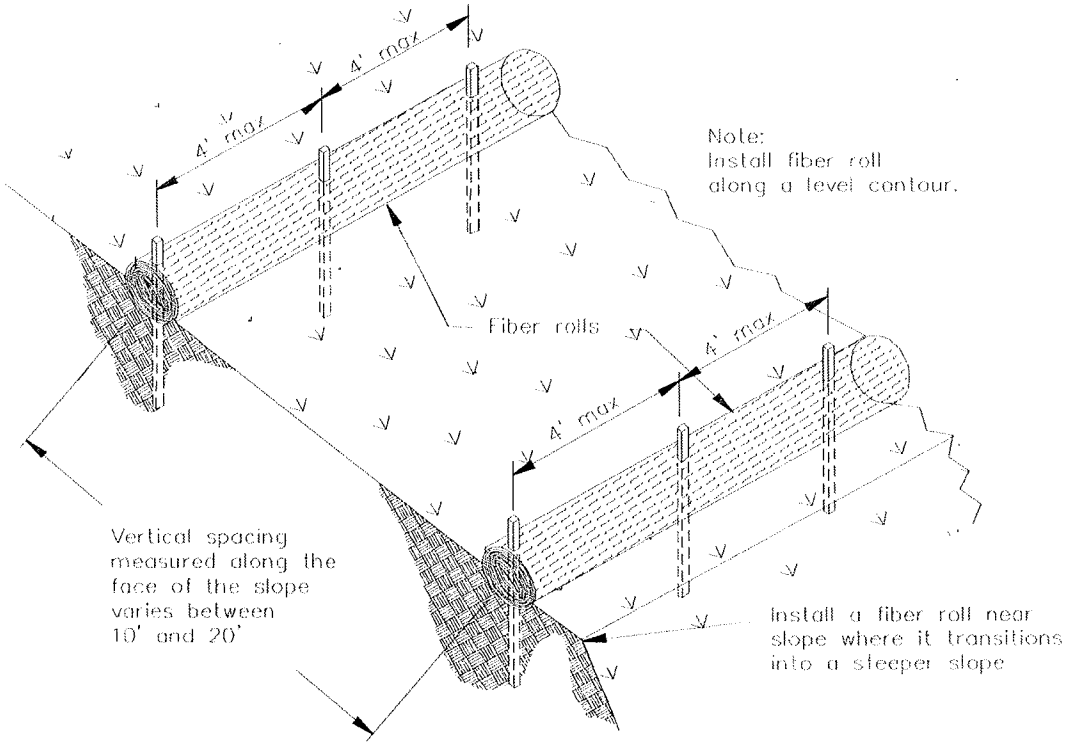
in order to maintain BMP effectiveness. Sediment should be removed when sediment accumulation reaches one-third the designated sediment storage depth.

- If fiber rolls are used for erosion control, such as in a check dam, sediment removal should not be required as long as the system continues to control the grade. Sediment control BMPs will likely be required in conjunction with this type of application.
- Repair any rills or gullies promptly.

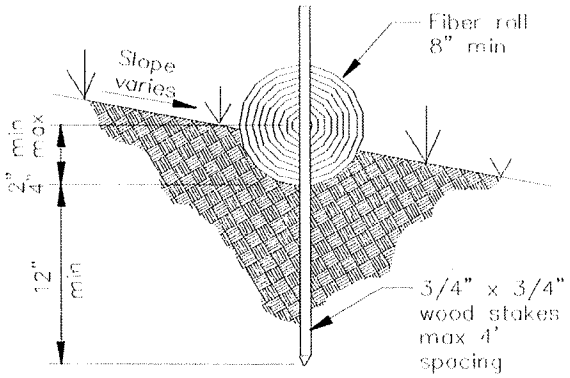
References

Stormwater Quality Handbooks - Construction Site Best Management Practices (BMPs) Manual, State of California Department of Transportation (Caltrans), March 2003.

Erosion and Sediment Control Manual, Oregon Department of Environmental Quality, February 2005.



TYPICAL FIBER ROLL INSTALLATION
N.T.S.

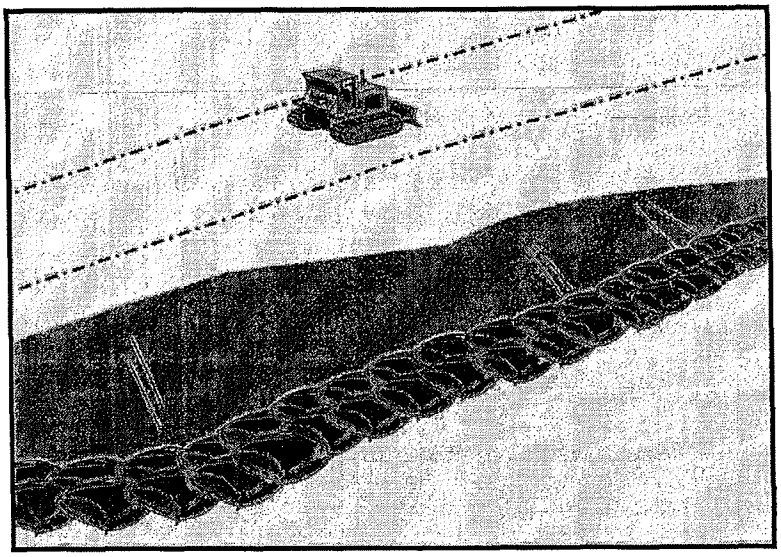


ENTRENCHMENT DETAIL
N.T.S.

Violation No. 8

Failure to Manage Run-On and Runoff
(7 days)

Sandbag Barrier SE-8



Categories

EC	Erosion Control	☒
SE	Sediment Control	☑
TC	Tracking Control	
WE	Wind Erosion Control	
NS	Non-Stormwater Management Control	
WM	Waste Management and Materials Pollution Control	

Legend:
☑ **Primary Category**
☒ **Secondary Category**

Targeted Constituents

Sediment	☑
Nutrients	
Trash	
Metals	
Bacteria	
Oil and Grease	
Organics	

Potential Alternatives

SE-1 Silt Fence
SE-5 Fiber Rolls
SE-6 Gravel Bag Berm
SE-14 Biofilter Bags

Description and Purpose

A sandbag barrier is a series of sand-filled bags placed on a level contour to intercept or to divert sheet flows. Sandbag barriers placed on a level contour pond sheet flow runoff, allowing sediment to settle out.

Suitable Applications

Sandbag barriers may be suitable:

- As a linear sediment control measure:
  - Below the toe of slopes and erodible slopes.
  - As sediment traps at culvert/pipe outlets.
  - Below other small cleared areas.
  - Along the perimeter of a site.
  - Down slope of exposed soil areas.
  - Around temporary stockpiles and spoil areas.
  - Parallel to a roadway to keep sediment off paved areas.
  - Along streams and channels.
- As linear erosion control measure:
  - Along the face and at grade breaks of exposed and erodible slopes to shorten slope length and spread runoff as sheet flow.

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- At the top of slopes to divert runoff away from disturbed slopes.
- As check dams across mildly sloped construction roads.

Limitations

- It is necessary to limit the drainage area upstream of the barrier to 5 acres.
- Sandbags are not intended to be used as filtration devices.
- Easily damaged by construction equipment.
- Degraded sandbags may rupture when removed, spilling sand.
- Sand is easily transported by runoff if bag is damaged or ruptured.
- Installation can be labor intensive.
- Durability of sandbags is somewhat limited and bags may need to be replaced when installation is required for longer than 6 months. When used to detain concentrated flows, maintenance requirements increase.
- Burlap should not be used for sandbags.

Implementation

General

A sandbag barrier consists of a row of sand-filled bags placed on a level contour. When appropriately placed, a sandbag barrier intercepts and slows sheet flow runoff, causing temporary ponding. The temporary ponding allows sediment to settle. Sand-filled bags have limited porosity, which is further limited as the fine sand tends to quickly plug with sediment, limiting or completely blocking the rate of flow through the barrier. If a porous barrier is desired, consider SE-1, Silt Fence, SE-5, Fiber Rolls, SE-6, Gravel Bag Berms or SE-14, Biofilter Bags. Sandbag barriers also interrupt the slope length and thereby reduce erosion by reducing the tendency of sheet flows to concentrate into rivulets which erode rills, and ultimately gullies, into disturbed, sloped soils. Sandbag barriers are similar to gravel bag berms, but less porous. Generally, sandbag barriers should be used in conjunction with temporary soil stabilization controls up slope to provide effective erosion and sediment control.

Design and Layout

- Locate sandbag barriers on a level contour.
- When used for slope interruption, the following slope/sheet flow length combinations apply:
  - Slope inclination of 4:1 (H:V) or flatter: Sandbags should be placed at a maximum interval of 20 ft, with the first row near the slope toe.
  - Slope inclination between 4:1 and 2:1 (H:V): Sandbags should be placed at a maximum interval of 15 ft. (a closer spacing is more effective), with the first row near the slope toe.

    Slope inclination 2:1 (H:V) or greater: Sandbags should be placed at a maximum interval of 10 ft. (a closer spacing is more effective), with the first row near the slope toe.

- Turn the ends of the sandbag barrier up slope to prevent runoff from going around the barrier.
- Allow sufficient space up slope from the barrier to allow ponding, and to provide room for sediment storage.
- For installation near the toe of the slope, sand bag barriers should be set back from the slope toe to facilitate cleaning. Where specific site conditions do not allow for a set-back, the sand bag barrier may be constructed on the toe of the slope. To prevent flows behind the barrier, bags can be placed perpendicular to a berm to serve as cross barriers.
- Drainage area should not exceed 5 acres.
- Stack sandbags at least three bags high.
- Butt ends of bags tightly.
- Overlap butt joints of row beneath with each successive row.
- Use a pyramid approach when stacking bags.
- In non-traffic areas
  - Height = 18 in. maximum
  - Top width = 24 in. minimum for three or more layer construction
  - Side slope = 2:1 (H:V) or flatter
- In construction traffic areas
  - Height = 12 in. maximum
  - Top width = 24 in. minimum for three or more layer construction.
  - Side slopes = 2:1 (H:V) or flatter.
- See typical sandbag barrier installation details at the end of this fact sheet.

Materials

- ***Sandbag Material:*** Sandbag should be woven polypropylene, polyethylene or polyamide fabric, minimum unit weight of 4 ounces/yd^2, Mullen burst strength exceeding 300 lb/in^2 in conformance with the requirements in ASTM designation D3786, and ultraviolet stability exceeding 70% in conformance with the requirements in ASTM designation D4355. Use of burlap is not an acceptable substitute, as sand can more easily mobilize out of burlap.
- ***Sandbag Size:*** Each sand-filled bag should have a length of 18 in., width of 12 in., thickness of 3 in., and mass of approximately 33 lbs. Bag dimensions are nominal, and may vary based on locally available materials.

- ***Fill Material:*** All sandbag fill material should be non-cohesive, Class 3 (Caltrans Standard Specification, Section 25) permeable material free from clay and deleterious material, such as recycled concrete or asphalt..

Costs

Empty sandbags cost $0.25 - $0.75. Average cost of fill material is $8 per yd^3. Additional labor is required to fill the bags. Pre-filled sandbags are more expensive at $1.50 - $2.00 per bag. These costs are based upon vendor research.

Inspection and Maintenance

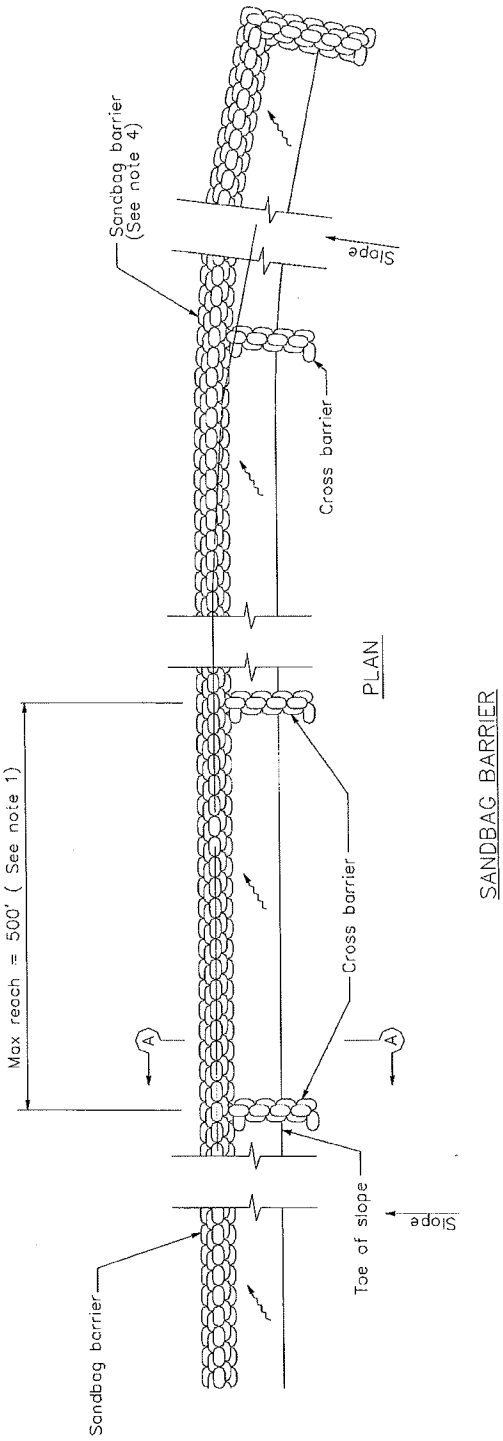
- BMPs must be inspected in accordance with General Permit requirements for the associated project type and risk level. It is recommended that at a minimum, BMPs be inspected weekly, prior to forecasted rain events, daily during extended rain events, and after the conclusion of rain events.
- Sandbags exposed to sunlight will need to be replaced every two to three months due to degradation of the bags.
- Reshape or replace sandbags as needed.
- Repair washouts or other damage as needed.
- Sediment that accumulates behind the BMP should be periodically removed in order to maintain BMP effectiveness. Sediment should be removed when the sediment accumulation reaches one-third of the barrier height.
- Remove sandbags when no longer needed and recycle sand fill whenever possible and properly dispose of bag material. Remove sediment accumulation, and clean, re-grade, and stabilize the area.

References

Standard Specifications for Construction of Local Streets and Roads, California Department of Transportation (Caltrans), July 2002.

Stormwater Quality Handbooks - Construction Site Best Management Practices (BMPs) Manual, State of California Department of Transportation (Caltrans), March 2003.

Erosion and Sediment Control Manual, Oregon Department of Environmental Quality, February 2005.

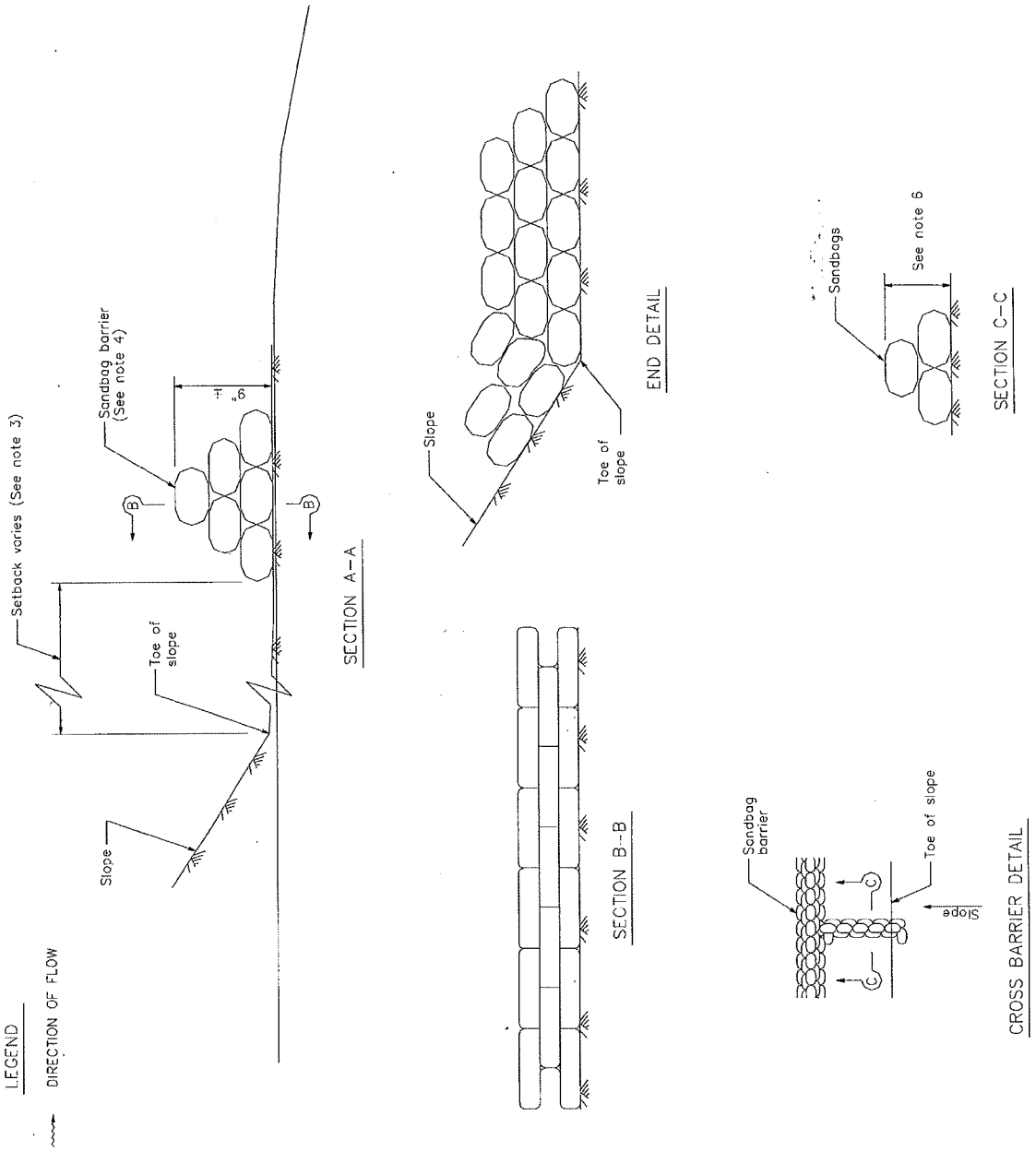


SANDBAG BARRIER

NOTES

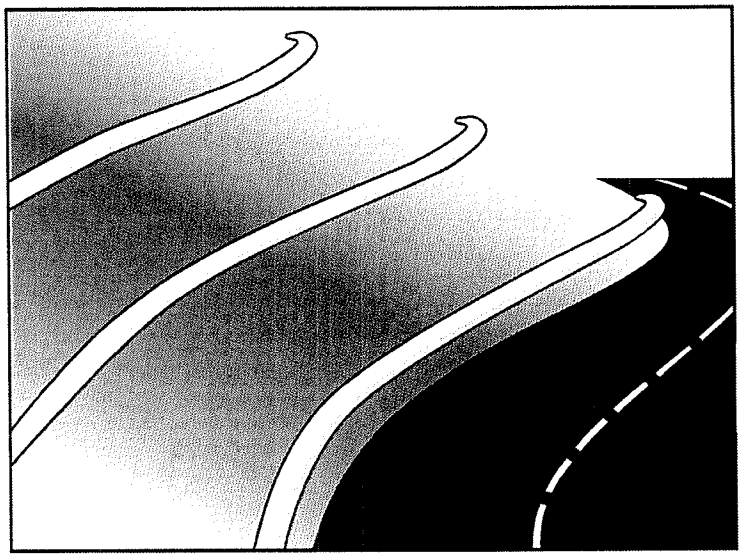
1. Construct the length of each reach so that the change in base elevation along the reach does not exceed 1/2 the height of the linear barrier. In no case shall the reach length exceed 500'.
2. Place sandbags tightly.
3. Dimension may vary to fit field condition.
4. Sandbag barrier shall be a minimum of 3 bags high.
5. The end of the barrier shall be turned up slope.
6. Cross barriers shall be a min of 1/2 and a max of 2/3 the height of the linear barrier.
7. Sandbag rows and layers shall be staggered to eliminate gaps.

Sandbag Barrier SE-8



Fiber Rolls

SE-5



Categories

EC	Erosion Control	☒
SE	Sediment Control	☑
TC	Tracking Control	
WE	Wind Erosion Control	
NS	Non-Stormwater Management Control	
WM	Waste Management and Materials Pollution Control	

Legend:

☑ **Primary Category**

☒ **Secondary Category**

Description and Purpose

A fiber roll consists of straw, coir, or other biodegradable materials bound into a tight tubular roll wrapped by netting, which can be photodegradable or natural. Additionally, gravel core fiber rolls are available, which contain an imbedded ballast material such as gravel or sand for additional weight when staking the rolls are not feasible (such as use as inlet protection). When fiber rolls are placed at the toe and on the face of slopes along the contours, they intercept runoff, reduce its flow velocity, release the runoff as sheet flow, and provide removal of sediment from the runoff (through sedimentation). By interrupting the length of a slope, fiber rolls can also reduce sheet and rill erosion until vegetation is established.

Targeted Constituents

Sediment	☑
Nutrients	
Trash	
Metals	
Bacteria	
Oil and Grease	
Organics	

Potential Alternatives

SE-1 Silt Fence

SE-6 Gravel Bag Berm

SE-8 Sandbag Barrier

SE-14 Biofilter Bags

Suitable Applications

Fiber rolls may be suitable:

- Along the toe, top, face, and at grade breaks of exposed and erodible slopes to shorten slope length and spread runoff as sheet flow.
- At the end of a downward slope where it transitions to a steeper slope.
- Along the perimeter of a project.
- As check dams in unlined ditches with minimal grade.
- Down-slope of exposed soil areas.
- At operational storm drains as a form of inlet protection.

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- Around temporary stockpiles.

Limitations

- Fiber rolls are not effective unless trenched in and staked.
- Not intended for use in high flow situations.
- Difficult to move once saturated.
- If not properly staked and trenched in, fiber rolls could be transported by high flows.
- Fiber rolls have a very limited sediment capture zone.
- Fiber rolls should not be used on slopes subject to creep, slumping, or landslide.
- Rolls typically function for 12-24 months depending upon local conditions.

Implementation

Fiber Roll Materials

- Fiber rolls should be prefabricated.
- Fiber rolls may come manufactured containing polyacrylamide (PAM), a flocculating agent within the roll. Fiber rolls impregnated with PAM provide additional sediment removal capabilities and should be used in areas with fine, clayey or silty soils to provide additional sediment removal capabilities. Monitoring may be required for these installations.
- Fiber rolls are made from weed free rice straw, flax, or a similar agricultural material bound into a tight tubular roll by netting.
- Typical fiber rolls vary in diameter from 9 in. to 20 in. Larger diameter rolls are available as well.

Installation

- Locate fiber rolls on level contours spaced as follows:
  - Slope inclination of 4:1 (H:V) or flatter: Fiber rolls should be placed at a maximum interval of 20 ft.
  - Slope inclination between 4:1 and 2:1 (H:V): Fiber Rolls should be placed at a maximum interval of 15 ft. (a closer spacing is more effective).
  - Slope inclination 2:1 (H:V) or greater: Fiber Rolls should be placed at a maximum interval of 10 ft. (a closer spacing is more effective).
- Prepare the slope before beginning installation.
- Dig small trenches across the slope on the contour. The trench depth should be ¼ to 1/3 of the thickness of the roll, and the width should equal the roll diameter, in order to provide area to backfill the trench.

- It is critical that rolls are installed perpendicular to water movement, and parallel to the slope contour.
- Start building trenches and installing rolls from the bottom of the slope and work up.
- It is recommended that pilot holes be driven through the fiber roll. Use a straight bar to drive holes through the roll and into the soil for the wooden stakes.
- Turn the ends of the fiber roll up slope to prevent runoff from going around the roll.
- Stake fiber rolls into the trench.
  - Drive stakes at the end of each fiber roll and spaced 4 ft maximum on center.
  - Use wood stakes with a nominal classification of 0.75 by 0.75 in. and minimum length of 24 in.
- If more than one fiber roll is placed in a row, the rolls should be overlapped, not abutted.
- See typical fiber roll installation details at the end of this fact sheet.

Removal

- Fiber rolls can be left in place or removed depending on the type of fiber roll and application (temporary vs. permanent installation). Typically, fiber rolls encased with plastic netting are used for a temporary application because the netting does not biodegrade. Fiber rolls used in a permanent application are typically encased with a biodegradeable material and are left in place. Removal of a fiber roll used in a permanent application can result in greater disturbance.
- Temporary installations should only be removed when up gradient areas are stabilized per General Permit requirements, and/or pollutant sources no longer present a hazard. But, they should also be removed before vegetation becomes too mature so that the removal process does not disturb more soil and vegetation than is necessary.

Costs

Material costs for regular fiber rolls range from $20 - $30 per 25 ft roll.

Material costs for PAM impregnated fiber rolls range between 7.00-$9.00 per linear foot, based upon vendor research.

Inspection and Maintenance

- BMPs must be inspected in accordance with General Permit requirements for the associated project type and risk level. It is recommended that at a minimum, BMPs be inspected weekly, prior to forecasted rain events, daily during extended rain events, and after the conclusion of rain events.
- Repair or replace split, torn, unraveling, or slumping fiber rolls.
- If the fiber roll is used as a sediment capture device, or as an erosion control device to maintain sheet flows, sediment that accumulates in the BMP should be periodically removed

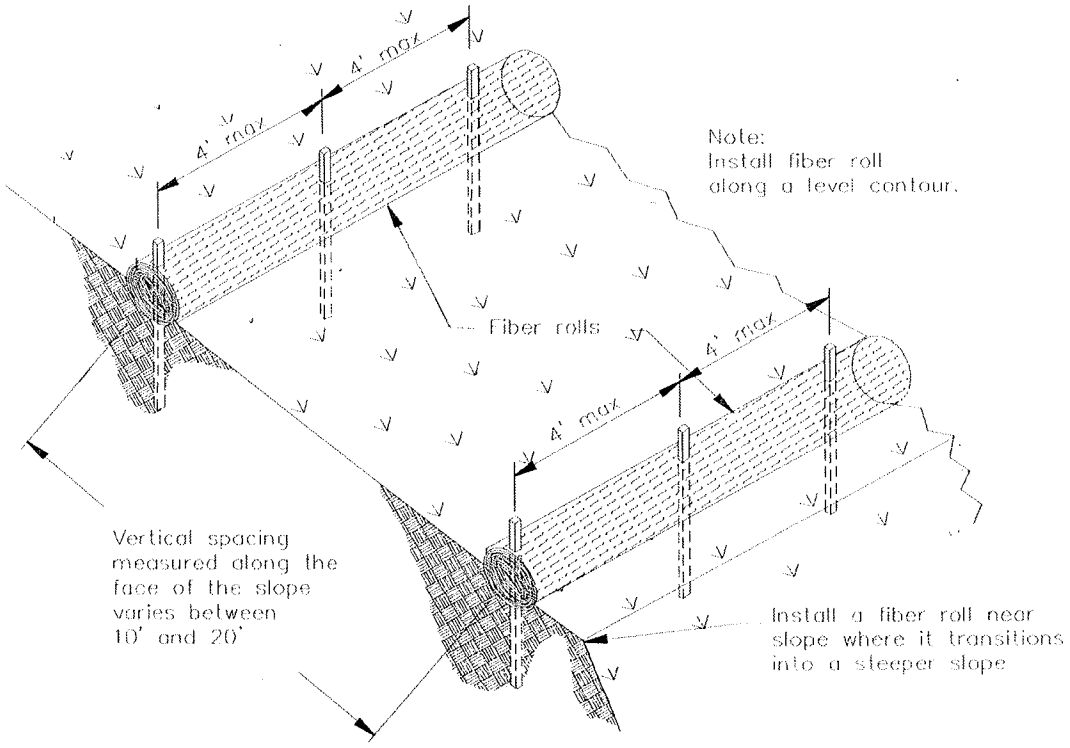
in order to maintain BMP effectiveness. Sediment should be removed when sediment accumulation reaches one-third the designated sediment storage depth.

- If fiber rolls are used for erosion control, such as in a check dam, sediment removal should not be required as long as the system continues to control the grade. Sediment control BMPs will likely be required in conjunction with this type of application.
- Repair any rills or gullies promptly.

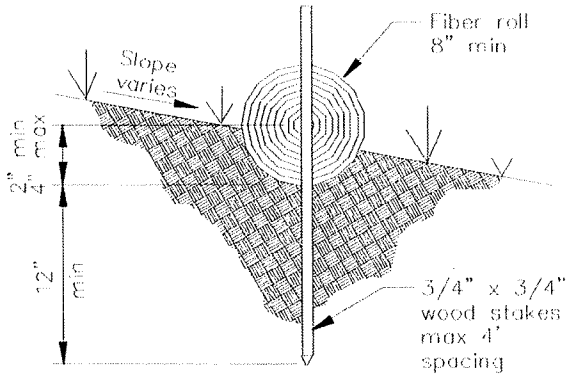
References

Stormwater Quality Handbooks - Construction Site Best Management Practices (BMPs) Manual, State of California Department of Transportation (Caltrans), March 2003.

Erosion and Sediment Control Manual, Oregon Department of Environmental Quality, February 2005.



TYPICAL FIBER ROLL INSTALLATION
N.T.S.

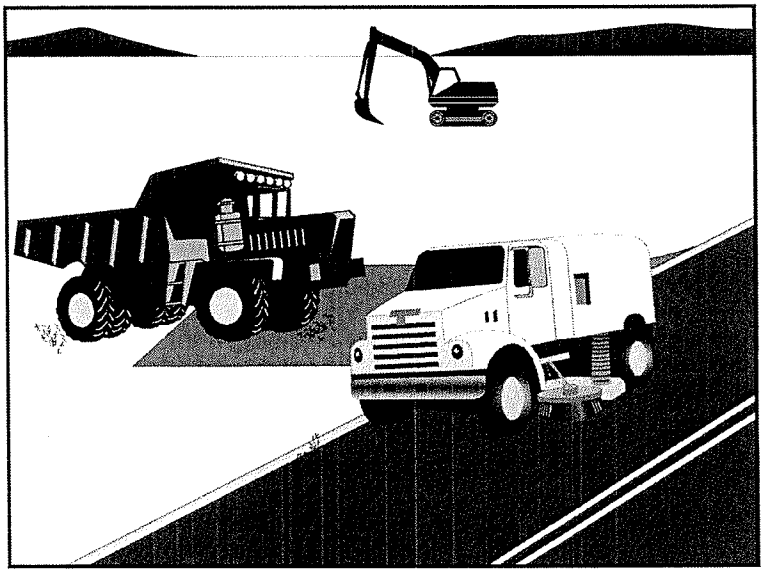


ENTRENCHMENT DETAIL
N.T.S.

Violation No. 9

Failure to Remove Sediment or Other Construction Materials from Roads (10 days)

Street Sweeping and Vacuuming SE-7



Categories

EC	Erosion Control	
SE	Sediment Control	☒
TC	Tracking Control	☑
WE	Wind Erosion Control	
NS	Non-Stormwater Management Control	
WM	Waste Management and Materials Pollution Control	

Legend:
☑ **Primary Objective**
☒ **Secondary Objective**

Targeted Constituents

Sediment	☑
Nutrients	
Trash	☑
Metals	
Bacteria	
Oil and Grease	☑
Organics	

Potential Alternatives

None

Description and Purpose

Street sweeping and vacuuming includes use of self-propelled and walk-behind equipment to remove sediment from streets and roadways, and to clean paved surfaces in preparation for final paving. Sweeping and vacuuming prevents sediment from the project site from entering storm drains or receiving waters.

Suitable Applications

Sweeping and vacuuming are suitable anywhere sediment is tracked from the project site onto public or private paved streets and roads, typically at points of egress. Sweeping and vacuuming are also applicable during preparation of paved surfaces for final paving.

Limitations

Sweeping and vacuuming may not be effective when sediment is wet or when tracked soil is caked (caked soil may need to be scraped loose).

Implementation

- Controlling the number of points where vehicles can leave the site will allow sweeping and vacuuming efforts to be focused, and perhaps save money.
- Inspect potential sediment tracking locations daily.
- Visible sediment tracking should be swept or vacuumed on a daily basis.
- Do not use kick brooms or sweeper attachments. These tend to spread the dirt rather than remove it.

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- If not mixed with debris or trash, consider incorporating the removed sediment back into the project

Costs

Rental rates for self-propelled sweepers vary depending on hopper size and duration of rental. Expect rental rates from $58/hour (3 yd^3 hopper) to $88/hour (9 yd^3 hopper), plus operator costs. Hourly production rates vary with the amount of area to be swept and amount of sediment. Match the hopper size to the area and expect sediment load to minimize time spent dumping.

Inspection and Maintenance

- Inspect BMPs in accordance with General Permit requirements for the associated project type and risk level. It is recommended that at a minimum, BMPs be inspected weekly, prior to forecasted rain events, daily during extended rain events, and after the conclusion of rain events.
- When actively in use, points of ingress and egress must be inspected daily.
- When tracked or spilled sediment is observed outside the construction limits, it must be removed at least daily. More frequent removal, even continuous removal, may be required in some jurisdictions.
- Be careful not to sweep up any unknown substance or any object that may be potentially hazardous.
- Adjust brooms frequently; maximize efficiency of sweeping operations.
- After sweeping is finished, properly dispose of sweeper wastes at an approved dumpsite.

References

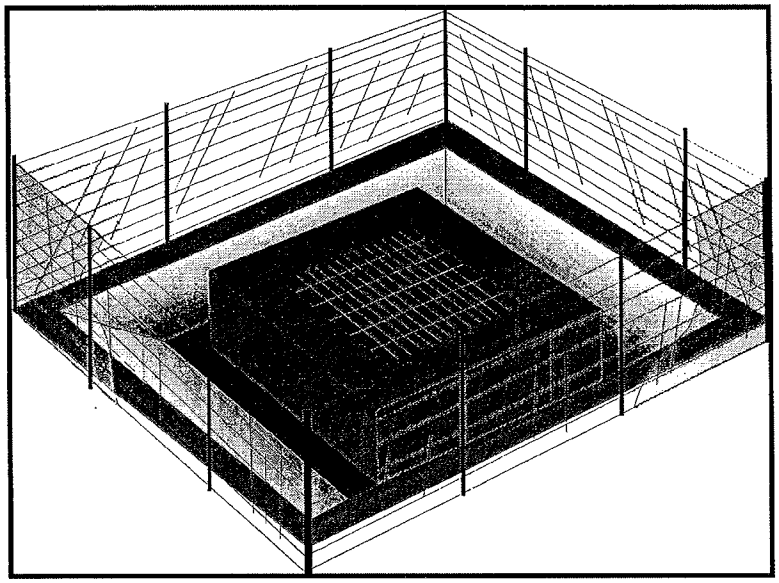
Stormwater Quality Handbooks - Construction Site Best Management Practices (BMPs) Manual, State of California Department of Transportation (Caltrans), November 2000.

Labor Surcharge and Equipment Rental Rates, State of California Department of Transportation (Caltrans), April 1, 2002 – March 31, 2003.

Violation No. 10

Failure to Protect Storm Drain Inlets
(3 days)

Storm Drain Inlet Protection SE-10



Categories		
EC	Erosion Control	
SE	Sediment Control	☑
TC	Tracking Control	
WE	Wind Erosion Control	
NS	Non-Stormwater Management Control	
WM	Waste Management and Materials Pollution Control	

Legend:
☑ **Primary Category**
☒ **Secondary Category**

Targeted Constituents	
Sediment	☑
Nutrients	
Trash	☒
Metals	
Bacteria	
Oil and Grease	
Organics	

Potential Alternatives

SE-1 Silt Fence
SE-5 Fiber Rolls
SE-6 Gravel Bag Berm
SE-8 Sandbag Barrier
SE-14 Biofilter Bags

Description and Purpose

Storm drain inlet protection consists of a sediment filter or an impounding area in, around or upstream of a storm drain, drop inlet, or curb inlet. Storm drain inlet protection measures temporarily pond runoff before it enters the storm drain, allowing sediment to settle. Some filter configurations also remove sediment by filtering, but usually the ponding action results in the greatest sediment reduction. Temporary geotextile storm drain inserts attach underneath storm drain grates to capture and filter storm water.

Suitable Applications

Every storm drain inlet receiving runoff from unstabilized or otherwise active work areas should be protected. Inlet protection should be used in conjunction with other erosion and sediment controls to prevent sediment-laden stormwater and non-stormwater discharges from entering the storm drain system.

Limitations

- Drainage area should not exceed 1 acre.
- In general straw bales should not be used as inlet protection.
- Requires an adequate area for water to pond without encroaching into portions of the roadway subject to traffic.

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- Sediment removal may be inadequate to prevent sediment discharges in high flow conditions or if runoff is heavily sediment laden. If high flow conditions are expected, use other onsite sediment trapping techniques in conjunction with inlet protection.
- Frequent maintenance is required.
- Limit drainage area to 1 acre maximum. For drainage areas larger than 1 acre, runoff should be routed to a sediment-trapping device designed for larger flows. See BMPs SE-2, Sediment Basin, and SE-3, Sediment Traps.
- Excavated drop inlet sediment traps are appropriate where relatively heavy flows are expected, and overflow capability is needed.

Implementation

General

Inlet control measures presented in this handbook should not be used for inlets draining more than one acre. Runoff from larger disturbed areas should be first routed through SE-2, Sediment Basin or SE-3, Sediment Trap and/or used in conjunction with other drainage control, erosion control, and sediment control BMPs to protect the site. Different types of inlet protection are appropriate for different applications depending on site conditions and the type of inlet. Alternative methods are available in addition to the methods described/shown herein such as prefabricated inlet insert devices, or gutter protection devices.

Design and Layout

Identify existing and planned storm drain inlets that have the potential to receive sediment-laden surface runoff. Determine if storm drain inlet protection is needed and which method to use.

- The key to successful and safe use of storm drain inlet protection devices is to know where runoff that is directed toward the inlet to be protected will pond or be diverted as a result of installing the protection device.
  - Determine the acceptable location and extent of ponding in the vicinity of the drain inlet. The acceptable location and extent of ponding will influence the type and design of the storm drain inlet protection device.
  - Determine the extent of potential runoff diversion caused by the storm drain inlet protection device. Runoff ponded by inlet protection devices may flow around the device and towards the next downstream inlet. In some cases, this is acceptable; in other cases, serious erosion or downstream property damage can be caused by these diversions. The possibility of runoff diversions will influence whether or not storm drain inlet protection is suitable; and, if suitable, the type and design of the device.
- The location and extent of ponding, and the extent of diversion, can usually be controlled through appropriate placement of the inlet protection device. In some cases, moving the inlet protection device a short distance upstream of the actual inlet can provide more efficient sediment control, limit ponding to desired areas, and prevent or control diversions.

Storm Drain Inlet Protection SE-10

- Six types of inlet protection are presented below. However, it is recognized that other effective methods and proprietary devices exist and may be selected.
  - Silt Fence: Appropriate for drainage basins with less than a 5% slope, sheet flows, and flows under 0.5 cfs.
  - Excavated Drop Inlet Sediment Trap: An excavated area around the inlet to trap sediment (SE-3).
  - Gravel bag barrier: Used to create a small sediment trap upstream of inlets on sloped, paved streets. Appropriate for sheet flow or when concentrated flow may exceed 0.5 cfs, and where overtopping is required to prevent flooding.
  - Block and Gravel Filter: Appropriate for flows greater than 0.5 cfs.
  - Temporary Geotextile Storm drain Inserts: Different products provide different features. Refer to manufacturer details for targeted pollutants and additional features.
  - Biofilter Bag Barrier: Used to create a small retention area upstream of inlets and can be located on pavement or soil. Biofilter bags slowly filter runoff allowing sediment to settle out. Appropriate for flows under 0.5 cfs.
- Select the appropriate type of inlet protection and design as referred to or as described in this fact sheet.
- Provide area around the inlet for water to pond without flooding structures and property.
- Grates and spaces around all inlets should be sealed to prevent seepage of sediment-laden water.
- Excavate sediment sumps (where needed) 1 to 2 ft with 2:1 side slopes around the inlet.

Installation

- ***DI Protection Type 1 - Silt Fence*** - Similar to constructing a silt fence; see BMP SE-1, Silt Fence. Do not place fabric underneath the inlet grate since the collected sediment may fall into the drain inlet when the fabric is removed or replaced and water flow through the grate will be blocked resulting in flooding. See typical Type 1 installation details at the end of this fact sheet.
  1. Excavate a trench approximately 6 in. wide and 6 in. deep along the line of the silt fence inlet protection device.
  2. Place 2 in. by 2 in. wooden stakes around the perimeter of the inlet a maximum of 3 ft apart and drive them at least 18 in. into the ground or 12 in. below the bottom of the trench. The stakes should be at least 48 in.
  3. Lay fabric along bottom of trench, up side of trench, and then up stakes. See SE-1, Silt Fence, for details. The maximum silt fence height around the inlet is 24 in.
  4. Staple the filter fabric (for materials and specifications, see SE-1, Silt Fence) to wooden stakes. Use heavy-duty wire staples at least 1 in. in length.

5. Backfill the trench with gravel or compacted earth all the way around.

- ***DI Protection Type 2 - Excavated Drop Inlet Sediment Trap*** - Install filter fabric fence in accordance with DI Protection Type 1. Size excavated trap to provide a minimum storage capacity calculated at the rate 67 yd^3/acre of drainage area. See typical Type 2 installation details at the end of this fact sheet.

- ***DI Protection Type 3 - Gravel bag*** - Flow from a severe storm should not overtop the curb. In areas of high clay and silts, use filter fabric and gravel as additional filter media. Construct gravel bags in accordance with SE-6, Gravel Bag Berm. Gravel bags should be used due to their high permeability. See typical Type 3 installation details at the end of this fact sheet.

  1. Construct on gently sloping street.
  2. Leave room upstream of barrier for water to pond and sediment to settle.
  3. Place several layers of gravel bags – overlapping the bags and packing them tightly together.
  4. Leave gap of one bag on the top row to serve as a spillway. Flow from a severe storm (e.g., 10 year storm) should not overtop the curb.

- ***DI Protection Type 4 – Block and Gravel Filter*** - Block and gravel filters are suitable for curb inlets commonly used in residential, commercial, and industrial construction. See typical Type 4 installation details at the end of this fact sheet.

  1. Place hardware cloth or comparable wire mesh with 0.5 in. openings over the drop inlet so that the wire extends a minimum of 1 ft beyond each side of the inlet structure. If more than one strip is necessary, overlap the strips. Place woven geotextile over the wire mesh.
  2. Place concrete blocks lengthwise on their sides in a single row around the perimeter of the inlet, so that the open ends face outward, not upward. The ends of adjacent blocks should abut. The height of the barrier can be varied, depending on design needs, by stacking combinations of blocks that are 4 in., 8 in., and 12 in. wide. The row of blocks should be at least 12 in. but no greater than 24 in. high.
  3. Place wire mesh over the outside vertical face (open end) of the concrete blocks to prevent stone from being washed through the blocks. Use hardware cloth or comparable wire mesh with 0.5 in. opening.
  4. Pile washed stone against the wire mesh to the top of the blocks. Use 0.75 to 3 in.

- ***DI Protection Type 5 – Temporary Geotextile Insert (proprietary)*** – Many types of temporary inserts are available. Most inserts fit underneath the grate of a drop inlet or inside of a curb inlet and are fastened to the outside of the grate or curb. These inserts are removable and many can be cleaned and reused. Installation of these inserts differs between manufacturers. Please refer to manufacturer instruction for installation of proprietary devices.

- ***DI Protection Type 6 - Biofilter bags*** – Biofilter bags may be used as a substitute for gravel bags in low-flow situations. Biofilter bags should conform to specifications detailed in SE-14, Biofilter bags.

    1. Construct in a gently sloping area.
    2. Biofilter bags should be placed around inlets to intercept runoff flows.
    3. All bag joints should overlap by 6 in.
    4. Leave room upstream for water to pond and for sediment to settle out.
    5. Stake bags to the ground as described in the following detail. Stakes may be omitted if bags are placed on a paved surface.

Costs

- Average annual cost for installation and maintenance of DI Type 1-4 and 6 (one year useful life) is $200 per inlet.
- Temporary geotextile inserts are proprietary and cost varies by region. These inserts can often be reused and may have greater than 1 year of use if maintained and kept undamaged. Average cost per insert ranges from $50-75 plus installation, but costs can exceed $100. This cost does not include maintenance.

Inspection and Maintenance

- BMPs must be inspected in accordance with General Permit requirements for the associated project type and risk level. It is recommended that at a minimum, BMPs be inspected weekly, prior to forecasted rain events, daily during extended rain events, and after the conclusion of rain events.
- Silt Fences. If the fabric becomes clogged, torn, or degrades, it should be replaced. Make sure the stakes are securely driven in the ground and are in good shape (i.e., not bent, cracked, or splintered, and are reasonably perpendicular to the ground). Replace damaged stakes. At a minimum, remove the sediment behind the fabric fence when accumulation reaches one-third the height of the fence or barrier height.
- Gravel Filters. If the gravel becomes clogged with sediment, it should be carefully removed from the inlet and either cleaned or replaced. Since cleaning gravel at a construction site may be difficult, consider using the sediment-laden stone as fill material and put fresh stone around the inlet. Inspect bags for holes, gashes, and snags, and replace bags as needed. Check gravel bags for proper arrangement and displacement.
- Sediment that accumulates in the BMP should be periodically removed in order to maintain BMP effectiveness. Sediment should be removed when the sediment accumulation reaches one-third of the barrier height.
- Inspect and maintain temporary geotextile insert devices according to manufacturer's specifications.
- Remove storm drain inlet protection once the drainage area is stabilized.

- Clean and regrade area around the inlet and clean the inside of the storm drain inlet, as it should be free of sediment and debris at the time of final inspection.

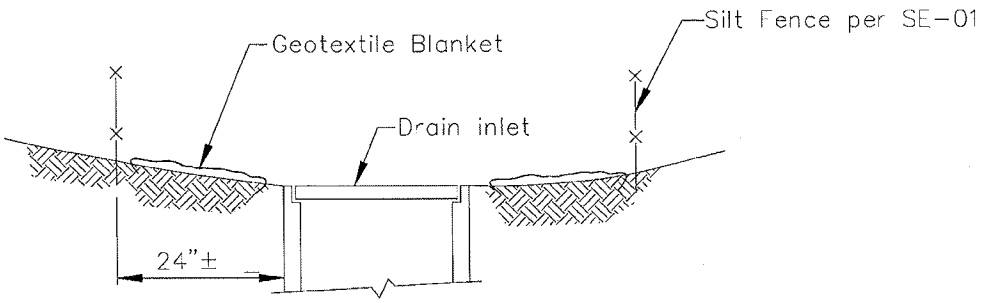
References

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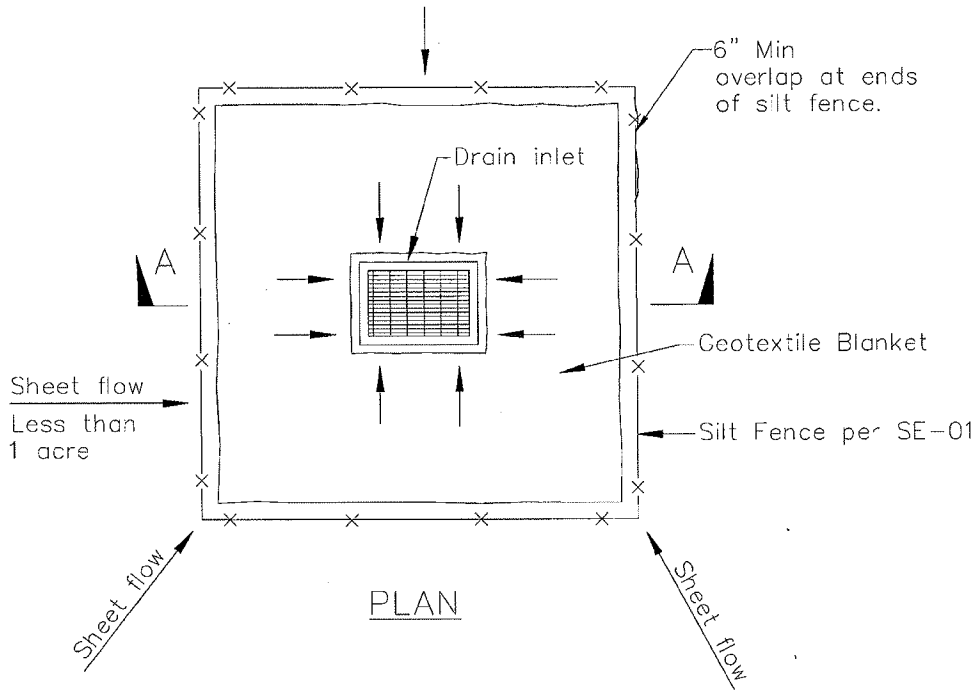
Stormwater Management Manual for The Puget Sound Basin, Washington State Department of Ecology, Public Review Draft, 1991.

Erosion and Sediment Control Manual, Oregon Department of Environmental Quality, February 2005.

Storm Drain Inlet Protection SE-10



SECTION A–A



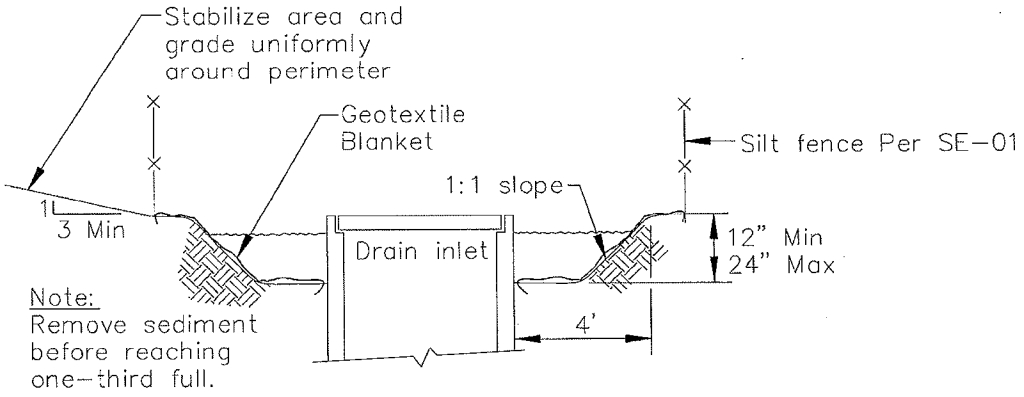
PLAN

DI PROTECTION TYPE 1
NOT TO SCALE

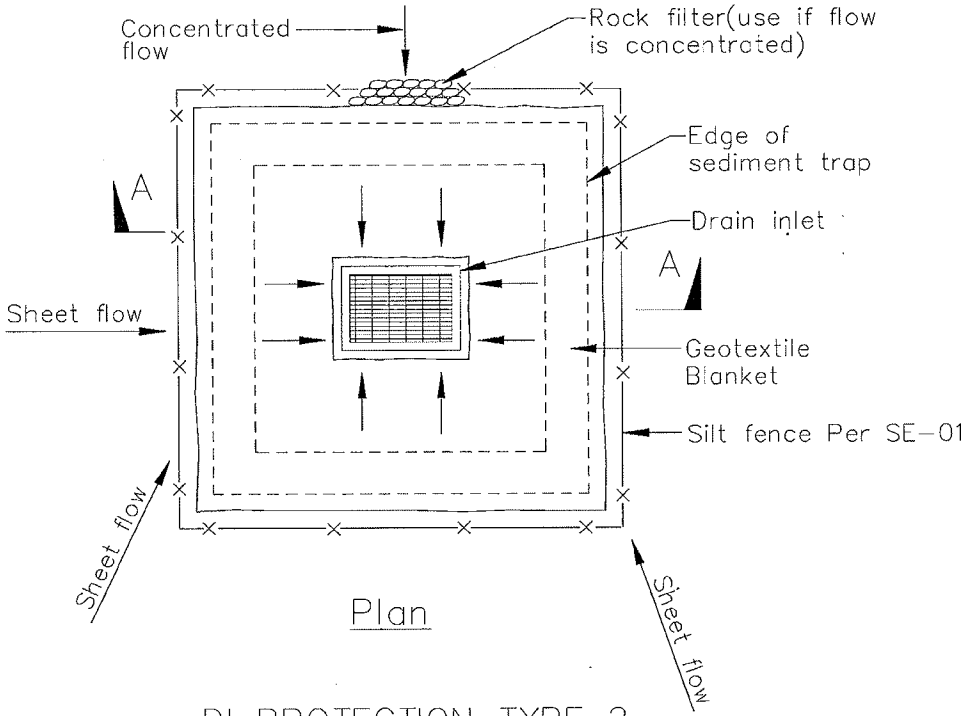
NOTES:

1. For use in areas where grading has been completed and final soil stabilization and seeding are pending.
2. Not applicable in paved areas.
3. Not applicable with concentrated flows.

Storm Drain Inlet Protection SE-10



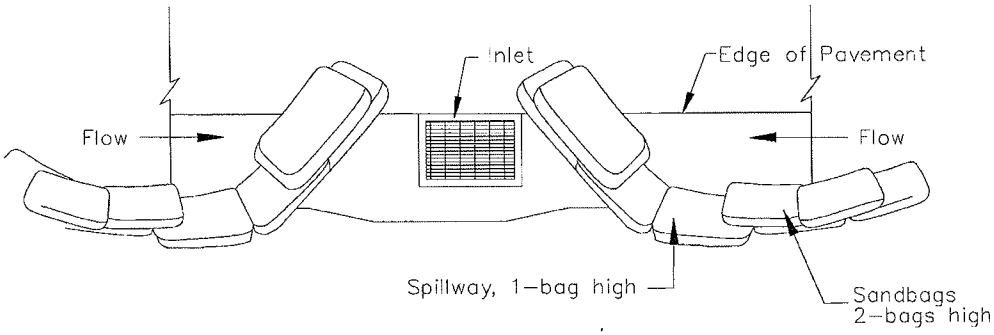
Section A-A



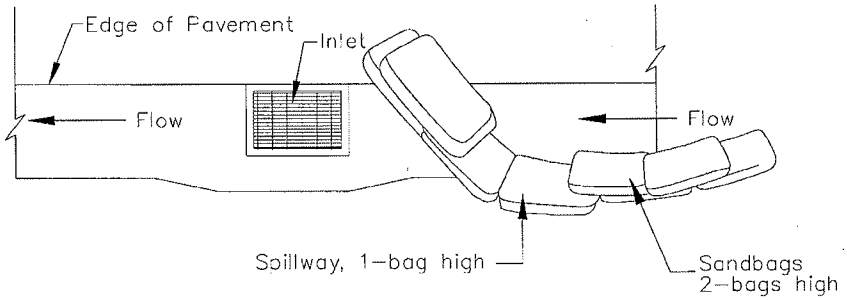
Plan

DI PROTECTION TYPE 2
NOT TO SCALE

Notes
1. For use in cleared and grubbed and in graded areas.
2. Shape basin so that longest inflow area faces longest length of trap.
3. For concentrated flows, shape basin in 2:1 ratio with length oriented towards direction of flow.



TYPICAL PROTECTION FOR INLET ON SUMP



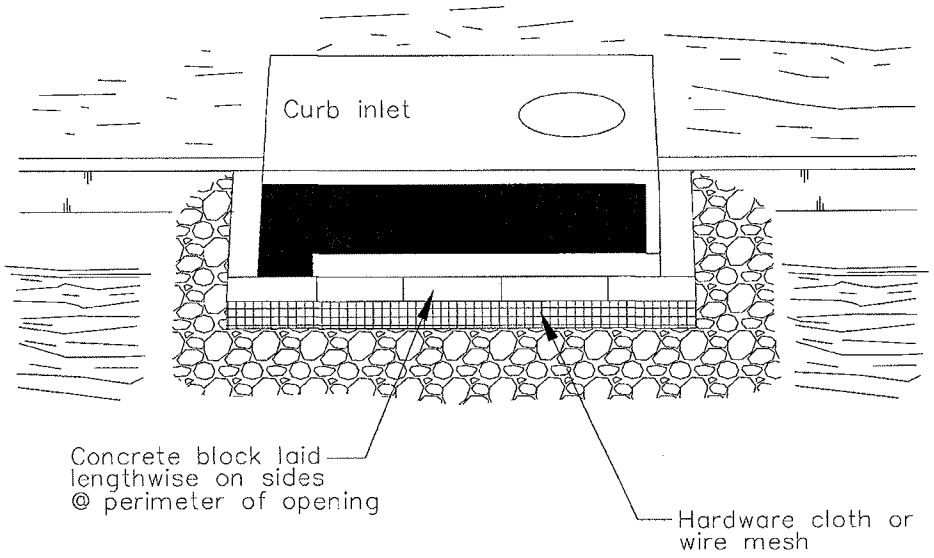
TYPICAL PROTECTION FOR INLET ON GRADE

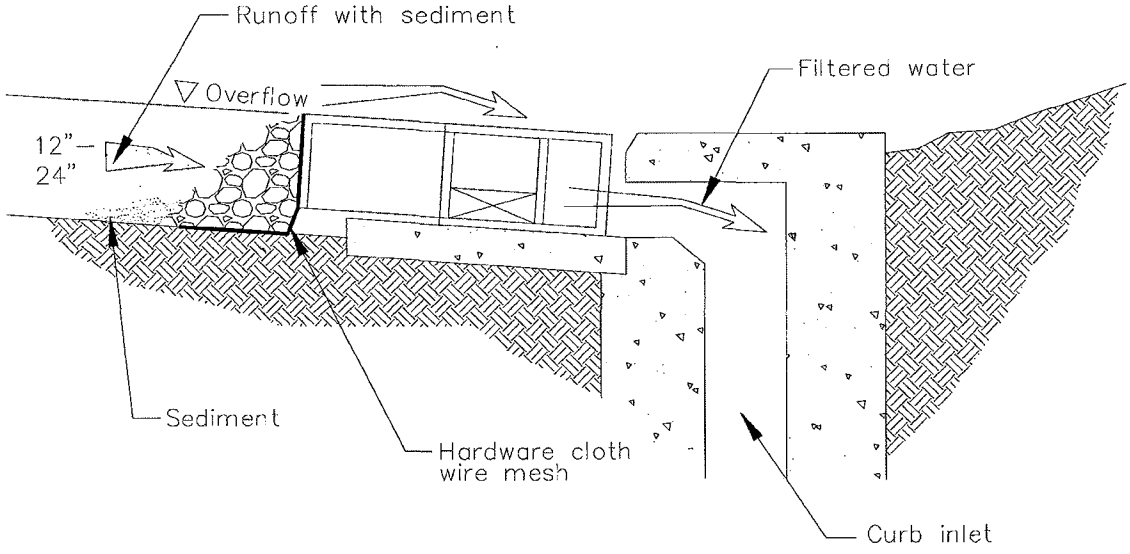
NOTES:

1. Intended for short-term use.
2. Use to inhibit non-storm water flow.
3. Allow for proper maintenance and cleanup.
4. Bags must be removed after adjacent operation is completed
5. Not applicable in areas with high silts and clays without filter fabric.

DI PROTECTION TYPE 3
NOT TO SCALE

Storm Drain Inlet Protection SE-10





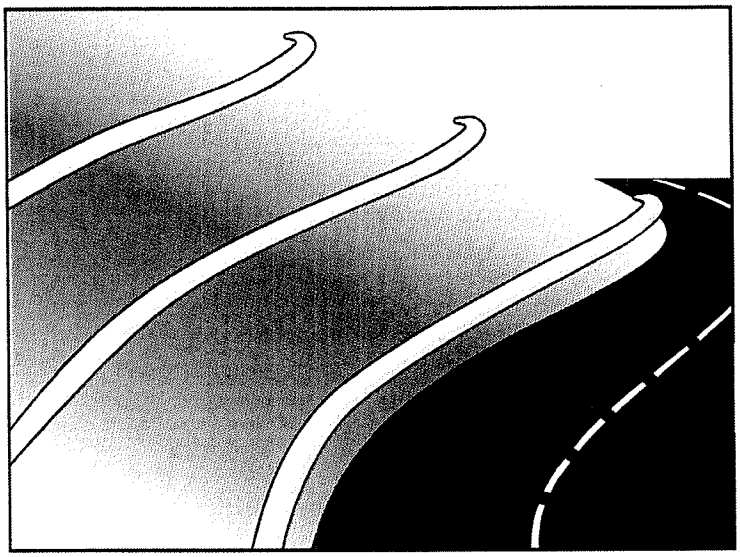
DI PROTECTION – TYPE 4
NOT TO SCALE

Violation No. 11

Failure to Contain and Securely Protect Stockpiled Waste Material from Wind and Rain (9 days)

Fiber Rolls

SE-5



Categories

EC	Erosion Control	☒
SE	Sediment Control	☑
TC	Tracking Control	
WE	Wind Erosion Control	
NS	Non-Stormwater Management Control	
WM	Waste Management and Materials Pollution Control	

Legend:

☑ **Primary Category**

☒ **Secondary Category**

Description and Purpose

A fiber roll consists of straw, coir, or other biodegradable materials bound into a tight tubular roll wrapped by netting, which can be photodegradable or natural. Additionally, gravel core fiber rolls are available, which contain an imbedded ballast material such as gravel or sand for additional weight when staking the rolls are not feasible (such as use as inlet protection). When fiber rolls are placed at the toe and on the face of slopes along the contours, they intercept runoff, reduce its flow velocity, release the runoff as sheet flow, and provide removal of sediment from the runoff (through sedimentation). By interrupting the length of a slope, fiber rolls can also reduce sheet and rill erosion until vegetation is established.

Targeted Constituents

Sediment	☑
Nutrients	
Trash	
Metals	
Bacteria	
Oil and Grease	
Organics	

Potential Alternatives

SE-1 Silt Fence

SE-6 Gravel Bag Berm

SE-8 Sandbag Barrier

SE-14 Biofilter Bags

Suitable Applications

Fiber rolls may be suitable:

- Along the toe, top, face, and at grade breaks of exposed and erodible slopes to shorten slope length and spread runoff as sheet flow.
- At the end of a downward slope where it transitions to a steeper slope.
- Along the perimeter of a project.
- As check dams in unlined ditches with minimal grade.
- Down-slope of exposed soil areas.
- At operational storm drains as a form of inlet protection.

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- Around temporary stockpiles.

Limitations

- Fiber rolls are not effective unless trenched in and staked.
- Not intended for use in high flow situations.
- Difficult to move once saturated.
- If not properly staked and trenched in, fiber rolls could be transported by high flows.
- Fiber rolls have a very limited sediment capture zone.
- Fiber rolls should not be used on slopes subject to creep, slumping, or landslide.
- Rolls typically function for 12-24 months depending upon local conditions.

Implementation

Fiber Roll Materials

- Fiber rolls should be prefabricated.
- Fiber rolls may come manufactured containing polyacrylamide (PAM), a flocculating agent within the roll. Fiber rolls impregnated with PAM provide additional sediment removal capabilities and should be used in areas with fine, clayey or silty soils to provide additional sediment removal capabilities. Monitoring may be required for these installations.
- Fiber rolls are made from weed free rice straw, flax, or a similar agricultural material bound into a tight tubular roll by netting.
- Typical fiber rolls vary in diameter from 9 in. to 20 in. Larger diameter rolls are available as well.

Installation

- Locate fiber rolls on level contours spaced as follows:
  - Slope inclination of 4:1 (H:V) or flatter: Fiber rolls should be placed at a maximum interval of 20 ft.
  - Slope inclination between 4:1 and 2:1 (H:V): Fiber Rolls should be placed at a maximum interval of 15 ft. (a closer spacing is more effective).
  - Slope inclination 2:1 (H:V) or greater: Fiber Rolls should be placed at a maximum interval of 10 ft. (a closer spacing is more effective).
- Prepare the slope before beginning installation.
- Dig small trenches across the slope on the contour. The trench depth should be ¼ to 1/3 of the thickness of the roll, and the width should equal the roll diameter, in order to provide area to backfill the trench.

- It is critical that rolls are installed perpendicular to water movement, and parallel to the slope contour.
- Start building trenches and installing rolls from the bottom of the slope and work up.
- It is recommended that pilot holes be driven through the fiber roll. Use a straight bar to drive holes through the roll and into the soil for the wooden stakes.
- Turn the ends of the fiber roll up slope to prevent runoff from going around the roll.
- Stake fiber rolls into the trench.
  - Drive stakes at the end of each fiber roll and spaced 4 ft maximum on center.
  - Use wood stakes with a nominal classification of 0.75 by 0.75 in. and minimum length of 24 in.
- If more than one fiber roll is placed in a row, the rolls should be overlapped, not abutted.
- See typical fiber roll installation details at the end of this fact sheet.

Removal

- Fiber rolls can be left in place or removed depending on the type of fiber roll and application (temporary vs. permanent installation). Typically, fiber rolls encased with plastic netting are used for a temporary application because the netting does not biodegrade. Fiber rolls used in a permanent application are typically encased with a biodegradeable material and are left in place. Removal of a fiber roll used in a permanent application can result in greater disturbance.
- Temporary installations should only be removed when up gradient areas are stabilized per General Permit requirements, and/or pollutant sources no longer present a hazard. But, they should also be removed before vegetation becomes too mature so that the removal process does not disturb more soil and vegetation than is necessary.

Costs

Material costs for regular fiber rolls range from $20 - $30 per 25 ft roll.

Material costs for PAM impregnated fiber rolls range between 7.00-$9.00 per linear foot, based upon vendor research.

Inspection and Maintenance

- BMPs must be inspected in accordance with General Permit requirements for the associated project type and risk level. It is recommended that at a minimum, BMPs be inspected weekly, prior to forecasted rain events, daily during extended rain events, and after the conclusion of rain events.
- Repair or replace split, torn, unraveling, or slumping fiber rolls.
- If the fiber roll is used as a sediment capture device, or as an erosion control device to maintain sheet flows, sediment that accumulates in the BMP should be periodically removed

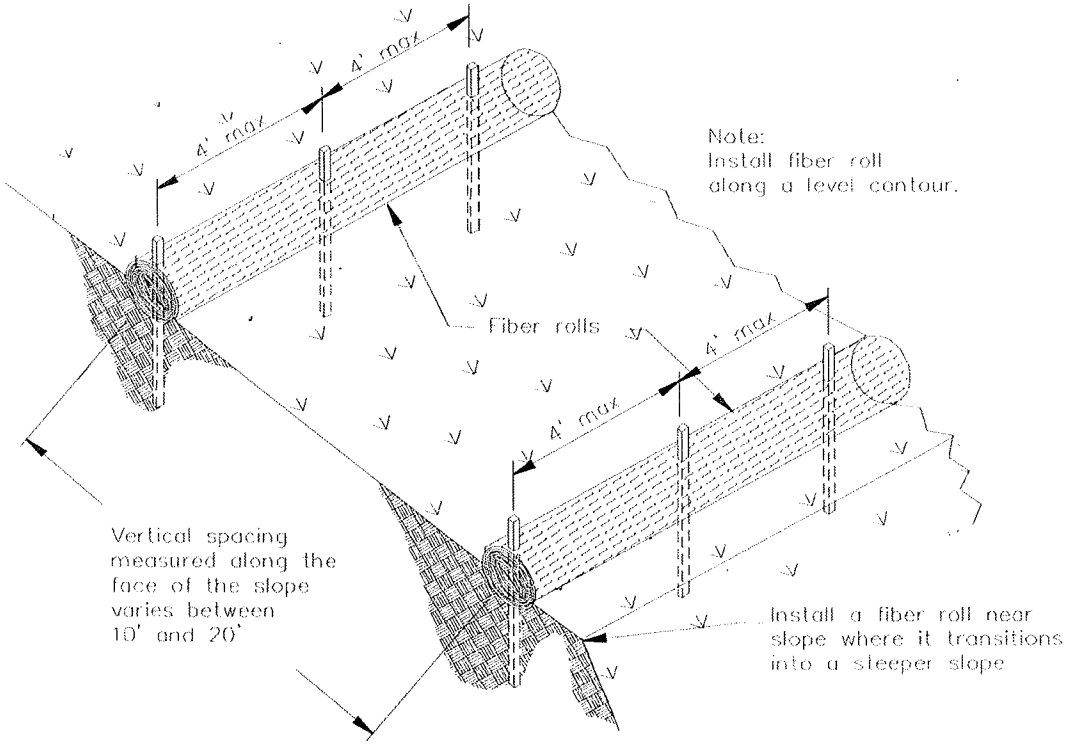
in order to maintain BMP effectiveness. Sediment should be removed when sediment accumulation reaches one-third the designated sediment storage depth.

- If fiber rolls are used for erosion control, such as in a check dam, sediment removal should not be required as long as the system continues to control the grade. Sediment control BMPs will likely be required in conjunction with this type of application.
- Repair any rills or gullies promptly.

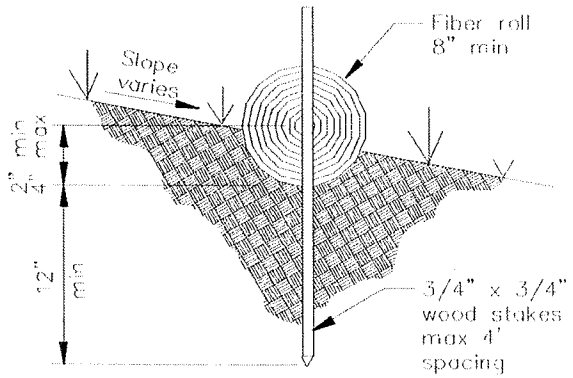
References

Stormwater Quality Handbooks - Construction Site Best Management Practices (BMPs) Manual, State of California Department of Transportation (Caltrans), March 2003.

Erosion and Sediment Control Manual, Oregon Department of Environmental Quality, February 2005.



TYPICAL FIBER ROLL INSTALLATION
N.T.S.



ENTRENCHMENT DETAIL
N.T.S.



Click image for a larger view.
Hover to zoom in.

Polar Plastics 6-Mil Clear Poly Reinforced Plastic Sheeting - 20' x 50' Roll

Model Number: 5680090 | Menards® SKU: 5680090
Variation: Clear

MADE IN U.S.A.

Online Price
$74.98

Description

Add to Compare | Add to Gift Registry

Online Availability

- Ship to Home
  Available for immediate shipment
- Ship to Store - Free!

Quantity 1

Add to Cart

Add to My List

Store Availability

Enter Your ZIP Code for Store Information

Description & Documents

For everything from simple dust protection to heavy-duty construction projects, Polar Plastics has a fitting solution. Their strong, durable plastics come in a variety of sizes, thicknesses and colors to perfectly meet the requirements of your project. This reinforced sheeting is the epitome of strength when it comes to plastic sheeting. With two layers of low-density polyethylene and hundreds of nylon strings forming a diamond scrim pattern, this sheeting makes a great long-term cover for heavy-duty equipment or the perfect dust and debris shield. Use as much or as little as you need!

- Two layers of low-density polyethylene with nylon strings running through and between
- Reinforced diamond scrim pattern is ideal for heavy-duty applications
- Commonly used for building enclosures, crawl spaces and as a long-lasting equipment cover
- Reinforced design stops tears and punctures
- Perfect for weather, water and dust protection
- Made in USA
- 6-mil thickness is the nominal size

Dimensions: 20' x 50'

MSDS Document: 101025_001.pdf 106044_001.pdf

To read PDF files, you need the Adobe Acrobat Reader 6.0 or higher. If you don't have it, click here and download it for free from Adobe's site.

Please Note: Prices, promotions, styles and availability may vary by store and online. While we do our best to provide accurate item availability information, we cannot guarantee in-stock status and availability as inventory is sold and received continuously throughout the day. Inventory last updated 8/17/2015 at 5:00am EST. Online orders and products purchased in-store qualify for rebate redemption. Rebates are provided in the form of a merchandise credit check which can only be used in a Menards® store.

Guests Who Viewed This Item Also Viewed These Products



Polar Plastics 6-Mil Clear Poly All-Purpose Plastic Sheeting - 20' x 100' Roll

$72.98



Polar Plastics 6-Mil Clear Poly Reinforced Plastic Sheeting - 12' x 100' Roll

$84.98

Violation No. 12

Failure to Properly Store Chemicals
(7 days)

PIG® Poly Storage Shed

#PAK754 - Containment Shed • Use With Steel Drums Only • 75 gal. Sump Capacity



Stack two pallets of four drums each inside this storage shed to free up some floor space at your facility.

- Provides 75 gallons of containment and protected storage for up to eight 55-gallon drums (two stacked pallets)
- Low-density polyethylene (LDPE) construction with UV inhibitors resists UV rays, rust, corrosion and most chemicals
- Molded door vents help reduce fumes and interior condensation
- Removable grates provide easy access to the sump
- Forklift access from all sides makes the empty shed easy to move
- Lockable to help keep contents secure (lock included)

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PIG and the PIG logo are trademarks in the U.S. and other countries.

PAK754 Product Option Information

Item #	Description	Dimensions	Weight	Pricing Qty: 1+
PAK754-BWG	Black with Gray	62.5" W x 90" D x 93" H	500 lbs.	$3,213.00

Metric Equivalent

Item #	Description	Dimensions	Weight	Pricing Qty: 1+
PAK754-BWG	Black with Gray	158.8cm W x 2.3m D x 2.4m H	226.8 kg	$3,213.00

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PAK754 Specifications

Load Capacity UDL:	8000 lbs.
Sump Capacity:	75 gal.
Access:	2 Hinged Doors
Containment Type:	Containment Shed
Fork Truck Access:	Four-way Fork Truck Access
Groundable for Flammables:	No
Interior Dimensions:	57" W x 78" H x 70" D
Number of Containers:	8 Drums
Type of Container:	Steel Drums Only
Sold as:	1 each
# per Pallet:	1
Composition:	Polyethylene
UNSPSC:	24101905

PAK754 Metric Equivalent

Load Capacity UDL:	3628.8 kg
Sump Capacity:	283.9 L

Technical Information

Warnings & Restrictions:
Flammables Notice
If using this product with flammable liquids, please consider the regulations that apply to storage and handling of flammable liquids and the safety of this application, specifically flammable vapors, static discharge and heat sources. For further assistance, please call Technical Services.

Regulations and Compliance:
40 CFR 264.175 - Hazardous waste containment systems must be free of structural cracks or gaps, be designed to keep spilled liquids from remaining in contact with the container, prevent run-on and "have sufficient capacity to contain 10% of the volume of the containers, or the volume of the largest container, whichever is greater."

40 CFR 122.26 - When applying for a National Pollutant Discharge Elimination System (NPDES) permit, facilities must have a plan in place that describes actions, procedures, control techniques, management practices and equipment available to prevent illegal discharge of pollutants into waterways.

40 CFR 112.7 - SPCC planning requirements state that facilities subject to these regulations must have written plans in place discussing the products, countermeasures and procedures that are in place, or will be taken by the facility to prevent discharge of oil into waters of the United States.

Technical Documents:
(Available at **newpig.com**)
Product Data Sheet (PDS)
Chemical Compatibility (CCG)

pig EXCLUSIVE!

PAK754 Accessories

You might like...	Item Number
 Ramp for PIG® Poly Storage Shed	PAK755

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Violation No. 13

Failure to Prevent Discharge of Concrete Waste
to the Ground
(15 days)

American CONCRETE WASHOUTS

1 (800) 788-0355

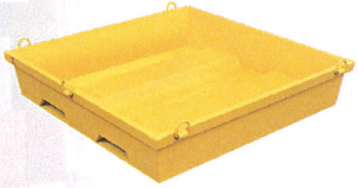
CONCRETE, PAINT & DRYWALL WASHOUT SERVICE PROVIDER



Concrete Washout (Ramped)
20' L X 8' W Ramps Folded
26' L X 8' W Ramps Extended
Capacity - 900 Gallons
Estimate 1 Washout for 350 Poured Yards of Concrete.
Used for Pump and Mixer Truck Washout.



Concrete Washout (Ramp less)
12' L X 8' W X 2' H
Capacity - 1300 Gallons
Limited Availability - Call for Info
Estimate 1 Washout for 400 Poured yards of concrete.



Washout Pan (Pump Truck Washout)
72" L x 72" W x 14"H
Capacity - 242 Gallons
Five Rigging "D" Rings
Angled Floor I Load Tested 25,000 LBS
Engineering Calculations Available
Currently Available in CA Only



Paint & Drywall Washouts
5' L X 4' W x 3'D
Capacity - 448 Gallons
Currently Not Available in Texas

American Concrete Washouts is a licensed, registered California public works #1000021973 Service Provider and Micro Small Business. We are an industry leading, permitted service provider for concrete, paint, drywall, tile, morter, grout and stucco washout water.

Unlike any other washout service provider, we offer both the ramp & ramp less style EPA compliant, portable, watertight, patented Concrete Washout System (CWS).

Our six yard CWS on average will accommodate a 350 cubic yard pour, approximately 36 mixer trucks and 2 pump trucks. Ramps, allow both the pump & mixer trucks to utilize the same washout.

We also offer crane rated pump pans - see the WashoutPan price list for service and rental pricing.

Established in 2004, we are the industries first and trusted service provider for infrastructure, military, commercial & residential projects.

Our customers include: Kiewit, Sundt, Hensel Phelps, McCarthy, Flatiron, Granite, Balfour Beatty, Coffman, Shea, Skanska and Austin Commercial to name a few.

Compliance with LEED and diversion programs are easy with our digital receipts emailed upon request.

As the preferred service provider, we not only properly handle and recycle the concrete washout material, we properly handle and recycle the caustic, high PH water collected.

Our roll off trucks have a built in vacuum system, allowing us to usually service a washout with a single truck.



www.AmericanConcreteWashouts.com email: Reef@AmericanConcreteWashouts.com

American CONCRETE WASHOUTS

1 (800) 788-0355

Please provide three (3) working days notice for service requests.

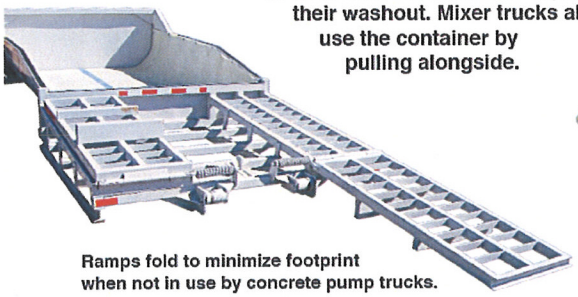
2015 CONCRETE WASHOUT SERVICE COST

SAN DIEGO, CA

Washout cost are listed by distance and include delivery, a Washout Water Vacuum up to 300 gallons at removal or swap and recycling of the solids. We never charge for mileage, removal, tonnage fees, environmental fees or recycle documentation. Additional Water Vacuums and Same Site Relocates are available. Never line our containers with plastic as they are watertight and will result in landfill charges. We *DO NOT* accept saw cutting or grindings.

Cost by Radius from Mission Valley / San Diego	Within 20 miles	20 to 40 Miles	40 to 60 Miles
Concrete Washout (Ramp or Rampless)	$475	$525	$575
300 Gallon Vacuum at Removal or Swap	$0	$0	$0
Removal / Pull	$0	$0	$0
Daily Rental	$7	$7	$7
Fuel Surcharge (Variable)	8% +/-	8% +/-	8% +/-
Environmental / Mileage / Diversion	$0	$0	$0
Same Day Service Fee	$175	$175	$175
Additional Water Vacuums / Relocates / Canceled Service	$275	$325	$375
RAPIDGate Requirement Surcharge	$25 Per Service	$25 Per Service	$25 Per Service
Trash / Plastic / Saw Cuttings / Dirt / Rebar / Wire Mesh Anything but Concrete (Placed in Bin)	$75 Per Ton Fine	$75 Per Ton Fine	$75 Per Ton Fine

Ramps allow concrete pump trucks the ability to back onto the container capturing their washout. Mixer trucks also use the container by pulling alongside.



Ramps fold to minimize footprint when not in use by concrete pump trucks.



Rampless models also available.



Ramped concrete washout for both concrete mixer, pump trucks and more.

www.SanDiegoConcreteWashouts.com email: Reef@AmericanConcreteWashouts.com

American CONCRETE WASHOUTS

1 (800) 788-0355

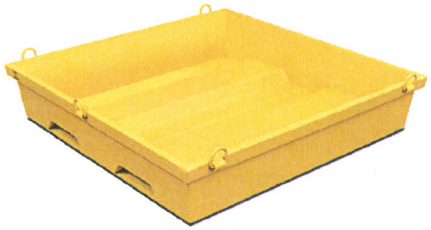
Please provide three (3) working days notice for service requests.

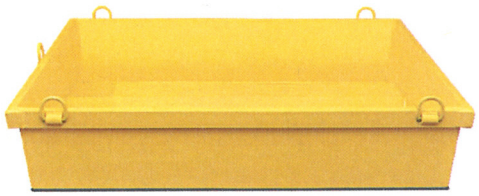
72"x72"x14" WASHOUTPAN ONE YARD PAN SERVICE COST

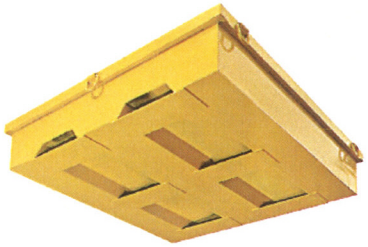
SAN DIEGO, CA

Washout cost are listed by distance and include delivery, a Washout Water Vacuum up to 300 gallons at removal or swap and recycling of the solids. We never charge for mileage, removal, tonnage fees, environmental fees or recycle documentation. Additional Water Vacuums and Same Site Relocates are available. Never line our containers with plastic as they are watertight and will result in landfill charges. We accept concrete washout and clean broken concrete only. We *DO NOT* accept saw cutting or grindings.

Cost by Radius from Mission Valley / San Diego	Within 20 miles	20 to 40 Miles	40 to 60 Miles
Delivery 72"x72"x14" - Up to three pans for one price	$275	$325	$375
300 Gallon Vacuum at Removal or Swap	$0	$0	$0
Removal or Swap - Up to three pans for one price	$275	$325	$375
Daily Rental Per Pan	$3	$3	$3
Fuel Surcharge	10% +/-	10% +/-	10% +/-
Environmental / Mileage / Diversion	$0	$0	$0
Same Day Service Fee	$175	$175	$175
Additional Water Vacuums / Relocates / Canceled Service	$275	$325	$375
RAPIDGate Requirement Surcharge	$25 Per Service	$25 Per Service	$25 Per Service
Trash / Plastic / Saw Cuttings / Dirt / Rebar / Wire Mesh Anything but Concrete (Placed in Bin)	$75 Per Ton Fine	$75 Per Ton Fine	$75 Per Ton fine
Replacement Value of Lost or Damaged Pan	$1899 each		







- High strength 1/4" steel floors
- High strength 7 gauge steel walls
- Hand welded with continuous seams
- Five 18,500 lbs. rated lifting/rigging "D" rings
- Load tested at 25,000 lbs. – Maximum weight 12,500 lbs.
- Engineer rated – calculation packets available
- 11" Wide angled enclosed fork pockets, spaced 40" OD to OD and will fit most adjustable lifts
- Tapered interior walls for easy release of materials
- Pans nest inside of each

American CONCRETE WASHOUTS

CONCRETE, PAINT AND DRYWALL WASHOUT SERVICES

1 (800) 788-0355

Please provide three (3) working days notice for service requests.

448 GALLON PAINT / DRYWALL WASHOUT STATION w/ WORK GRATE SERVICE COST

SAN DIEGO, CA

Our 448 gallon Paint Washout Station is designed for the paint, drywall, tile, and stucco trades. Made from steel construction with two-way forklift channels and work grate for tool washout, our washout system has proven to be the best available technology for construction sites.

Cost by Radius from Mission Valley / San Diego	Within 20 miles	20 to 40 Miles	40 to 60 Miles
448 Gallon Paint / Drywall Washout - Per Trip	$275	$325	$375
Removal / Pull - Per Container	$275	$325	$375
Daily Rental	$5	$5	$5
Fuel Surcharge	10% +/-	10% +/-	10% +/-
Environmental / Mileage / Diversion	$0	$0	$0
Same Day Service Fee	$175	$175	$175
Additional Water Vacuums / Relocates / Canceled Trip	$275	$325	$375
RAPIDGate Requirement Surcharge	$25 Per Service	$25 Per Service	$25 Per Service
Anything but Latex Paint or Drywall Washout (Placed in Bin)	$75 Per Ton Fine	$75 Per Ton Fine	$75 Per Ton Fine



Exhibit No. 29
Staff Cost Summary
March 2015 through September 2015

Staff hours as of September 30, 2015.

STAFF	HOURS	MONTHLY SALARY	Hourly	Hourly total	Benefits	Total
CCLEMENTE	1.75	$9,899	$57.11	$99.94	$43.19	$143.13
EBECKER	1.25	$10,501	$60.58	$75.73	$32.72	$108.45
FMELBOURN	196.50	$8,915	$51.43	$10,106.72	$4,367.11	$14,473.83
JSMITH	1.75	$12,620	$72.81	$127.42	$55.06	$182.47
WCHIU	10.00	$8,915	$51.43	$514.34	$222.24	$736.58
JHAAS	1.25	$11,447	$66.04	$82.55	$35.67	$118.22
	212.50		**TOTAL COSTS**			**$15,762.69**

Melbourn, Frank - Vol. 1



Litigation
SERVICES

Job: 600096

Exhibit: 00004







APPENDIX 5:
Glossary

Active Areas of Construction
All areas subject to land surface disturbance activities related to the project including, but not limited to, project staging areas, immediate access areas and storage areas. All previously active areas are still considered active areas until final stabilization is complete. [The construction activity Phases used in this General Permit are the Preliminary Phase, Grading and Land Development Phase, Streets and Utilities Phase, and the Vertical Construction Phase.]

Active Treatment System (ATS)
A treatment system that employs chemical coagulation, chemical flocculation, or electrocoagulation to aid in the reduction of turbidity caused by fine suspended sediment.

Acute Toxicity Test
A chemical stimulus severe enough to rapidly induce a negative effect; in aquatic toxicity tests, an effect observed within 96 hours or less is considered acute.

Air Deposition
Airborne particulates from construction activities.

Approved Signatory
A person who has been authorized by the Legally Responsible Person to sign, certify, and electronically submit Permit Registration Documents, Notices of Termination, and any other documents, reports, or information required by the General Permit, the State or Regional Water Board, or U.S. EPA. The Approved Signatory must be one of the following:

1. For a corporation or limited liability company: 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 limited liability company; or (b) the manager of the facility if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

2. For a partnership or sole proprietorship: a general partner or the proprietor, respectively;

3. For a municipality, State, Federal, or other public agency: a principal executive officer, ranking elected official, city manager, council president, or any other authorized public employee with managerial responsibility over the

Exhibit 4
WITNESS: Melbourn
DATE: 1/13/16 Rptr: DMD
Shelburne Sherr
Court Reporters

construction or land disturbance project (including, but not limited to, project manager, project superintendent, or resident engineer);

4. For the military: any military officer or Department of Defense civilian, acting in an equivalent capacity to a military officer, who has been designated;

5. For a public university: an authorized university official;

6. For an individual: the individual, because the individual acts as both the Legally Responsible Person and the Approved Signatory; or

7. For any type of entity not listed above (e.g. trusts, estates, receivers): an authorized person with managerial authority over the construction or land disturbance project.

Beneficial Uses
As defined in the California Water Code, beneficial uses of the waters of the state that may be protected against quality degradation include, but are not limited to, domestic, municipal, agricultural and industrial supply; power generation; recreation; aesthetic enjoyment; navigation; and preservation and enhancement of fish, wildlife, and other aquatic resources or preserves.

Best Available Technology Economically Achievable (BAT)
As defined by USEPA, BAT is a technology-based standard established by the Clean Water Act (CWA) as the most appropriate means available on a national basis for controlling the direct discharge of toxic and nonconventional pollutants to navigable waters. The BAT effluent limitations guidelines, in general, represent the best existing performance of treatment technologies that are economically achievable within an industrial point source category or subcategory.

Best Conventional Pollutant Control Technology (BCT)
As defined by USEPA, BCT is a technology-based standard for the discharge from existing industrial point sources of conventional pollutants including biochemical oxygen demand (BOD), total suspended sediment (TSS), fecal coliform, pH, oil and grease.

Best Professional Judgment (BPJ)
The method used by permit writers to develop technology-based NPDES permit conditions on a case-by-case basis using all reasonably available and relevant data.

Best Management Practices (BMPs)
BMPs are scheduling of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants. BMPs also include treatment requirements, operating procedures,

and practices to control site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

Chain of Custody (COC)
Form used to track sample handling as samples progress from sample collection to the analytical laboratory. The COC is then used to track the resulting analytical data from the laboratory to the client. COC forms can be obtained from an analytical laboratory upon request.

Coagulation
The clumping of particles in a discharge to settle out impurities, often induced by chemicals such as lime, alum, and iron salts.

Common Plan of Development
Generally a contiguous area where multiple, distinct construction activities may be taking place at different times under one plan. A plan is generally defined as any piece of documentation or physical demarcation that indicates that construction activities may occur on a common plot. Such documentation could consist of a tract map, parcel map, demolition plans, grading plans or contract documents. Any of these documents could delineate the boundaries of a common plan area. However, broad planning documents, such as land use master plans, conceptual master plans, or broad-based CEQA or NEPA documents that identify potential projects for an agency or facility are not considered common plans of development.

Daily Average Discharge
The discharge of a pollutant measured during any 24-hour period that reasonably represents a calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the daily discharge is calculated as the total mass of the pollutant discharged during the day. For pollutants with limitations expressed in other units of measurement (e.g., concentration) the daily discharge is calculated as the average measurement of the pollutant throughout the day (40 CFR 122.2). In the case of pH, the pH must first be converted from a log scale.

Debris
Litter, rubble, discarded refuse, and remains of destroyed inorganic anthropogenic waste.

Direct Discharge
A discharge that is routed directly to waters of the United States by means of a pipe, channel, or ditch (including a municipal storm sewer system), or through surface runoff.

Discharger
The Legally Responsible Person (see definition) or entity subject to this General Permit.

Dose Rate (for ATS)
In exposure assessment, dose (e.g. of a chemical) per time unit (e.g. mg/day), sometimes also called dosage.

Drainage Area
The area of land that drains water, sediment, pollutants, and dissolved materials to a common outlet.

Effluent
Any discharge of water by a discharger either to the receiving water or beyond the property boundary controlled by the discharger.

Effluent Limitation
Any numeric or narrative restriction imposed on quantities, discharge rates, and concentrations of pollutants which are discharged from point sources into waters of the United States, the waters of the contiguous zone, or the ocean.

Erosion
The process, by which soil particles are detached and transported by the actions of wind, water, or gravity.

Erosion Control BMPs
Vegetation, such as grasses and wildflowers, and other materials, such as straw, fiber, stabilizing emulsion, protective blankets, etc., placed to stabilize areas of disturbed soils, reduce loss of soil due to the action of water or wind, and prevent water pollution.

Field Measurements
Testing procedures performed in the field with portable field-testing kits or meters.

Final Stabilization
All soil disturbing activities at each individual parcel within the site have been completed in a manner consistent with the requirements in this General Permit.

First Order Stream
Stream with no tributaries.

Flocculants
Substances that interact with suspended particles and bind them together to form flocs.

Good Housekeeping BMPs
BMPs designed to reduce or eliminate the addition of pollutants to construction site runoff through analysis of pollutant sources, implementation of proper handling/disposal practices, employee education, and other actions.

Grading Phase (part of the Grading and Land Development Phase)
Includes reconfiguring the topography and slope including; alluvium removals; canyon cleanouts; rock undercuts; keyway excavations; land form grading; and stockpiling of select material for capping operations.

Hydromodification
Hydromodification is the alteration of the hydrologic characteristics of coastal and non-coastal waters, which in turn could cause degradation of water resources. Hydromodification can cause excessive erosion and/or sedimentation rates, causing excessive turbidity, channel aggradation and/or degradation.

Identified Organisms
Organisms within a sub-sample that is specifically identified and counted.

Inactive Areas of Construction
Areas of construction activity that are not active and those that have been active and are not scheduled to be re-disturbed for at least 14 days.

Index Period
The period of time during which bioassessment samples must be collected to produce results suitable for assessing the biological integrity of streams and rivers. Instream communities naturally vary over the course of a year,and sampling during the index period ensures that samples are collected during a time frame when communities are stable so that year-to-year consistency is obtained. The index period approach provides a cost-effective alternative to year-round sampling. Furthermore, sampling within the appropriate index period will yield results that are comparable to the assessment thresholds or criteria for a given region, which are established for the same index period. Because index periods differ for different parts of the state, it is essential to know the index period for your area.

K Factor
The soil erodibility factor used in the Revised Universal Soil Loss Equation (RUSLE). It represents the combination of detachability of the soil, runoff potential of the soil, and the transportability of the sediment eroded from the soil.

Legally Responsible Person
The Legally Responsible Person (LRP) will typically be the project proponent. The categories of persons or entities that are eligible to serve as the LRP are set forth below. For any construction or land disturbance project where multiple persons or entities are eligible to serve as the LRP, those persons or entities

shall select a single LRP. In exceptional circumstances, a person or entity that qualifies as the LRP may provide written authorization to another person or entity to serve as the LRP. In such a circumstance, the person or entity that provides the authorization retains all responsibility for compliance with the General Permit. Except as provided in category 2(d), a contractor who does not satisfy the requirements of any of the categories below is not qualified to be an LRP.

The following persons or entities may serve as an LRP:

1. A person, company, agency, or other entity that possesses a real property interest (including, but not limited to, fee simple ownership, easement, leasehold, or other rights of way) in the land upon which the construction or land disturbance activities will occur for the regulated site.

2. In addition to the above, the following persons or entities may also serve as an LRP:

    a. For linear underground/overhead projects, the utility company, municipality, or other public or private company or agency that owns or operates the LUP;

    b. For land controlled by an estate or similar entity, the person who has day-to-day control over the land (including, but not limited to, a bankruptcy trustee, receiver, or conservator);

    c. For pollution investigation and remediation projects, any potentially responsible party that has received permission to conduct the project from the holder of a real property interest in the land; or

    d. For U.S. Army Corp of Engineers projects, the U.S. Army Corps of Engineers may provide written authorization to its bonded contractor to serve as the LRP, provided, however, that the U.S. Army Corps of Engineers is also responsible for compliance with the general permit, as authorized by the Clean Water Act or the Federal Facilities Compliance Act.

Likely Precipitation Event
Any weather pattern that is forecasted to have a 50% or greater chance of producing precipitation in the project area. The discharger shall obtain likely precipitation forecast information from the National Weather Service Forecast Office (e.g., by entering the zip code of the project's location at http://www.srh.noaa.gov/forecast).

Maximum Allowable Threshold Concentration (MATC)
The allowable concentration of residual, or dissolved, coagulant/flocculant in effluent. The MATC shall be coagulant/flocculant-specific, and based on toxicity

testing conducted by an independent, third-party laboratory. A typical MATC would be:

The MATC is equal to the geometric mean of the NOEC (No Observed Effect Concentration) and LOEC (Lowest Observed Effect Concentration) Acute and Chronic toxicity results for most sensitive species determined for the specific coagulant. The most sensitive species test shall be used to determine the MATC.

Natural Channel Evolution
The physical trend in channel adjustments following a disturbance that causes the river to have more energy and degrade or aggrade more sediment. Channels have been observed to pass through 5 to 9 evolution types. Once they pass though the suite of evolution stages, they will rest in a new state of equilibrium.

Non-Storm Water Discharges
Discharges are discharges that do not originate from precipitation events. They can include, but are not limited to, discharges of process water, air conditioner condensate, non-contact cooling water, vehicle wash water, sanitary wastes, concrete washout water, paint wash water, irrigation water, or pipe testing water.

Non-Visible Pollutants
Pollutants associated with a specific site or activity that can have a negative impact on water quality, but cannot be seen though observation (ex: chlorine). Such pollutants being discharged are not authorized.

Numeric Action Level (NAL)
Level is used as a warning to evaluate if best management practices are effective and take necessary corrective actions. Not an effluent limit.

Original Sample Material
The material (i.e., macroinvertebrates, organic material, gravel, etc.) remaining after the subsample has been removed for identification.

pH
Unit universally used to express the intensity of the acid or alkaline condition of a water sample. The pH of natural waters tends to range between 6 and 9, with neutral being 7. Extremes of pH can have deleterious effects on aquatic systems.

Post-Construction BMPs
Structural and non-structural controls which detain, retain, or filter the release of pollutants to receiving waters after final stabilization is attained.

Preliminary Phase (Pre-Construction Phase - Part of the Grading and Land Development Phase)
Construction stage including rough grading and/or disking, clearing and grubbing operations, or any soil disturbance prior to mass grading.

Project

Qualified SWPPP Developer
Individual who is authorized to develop and revise SWPPPs.

Qualified SWPPP Practitioner
Individual assigned responsibility for non-storm water and storm water visual observations, sampling and analysis, and responsibility to ensure full compliance with the permit and implementation of all elements of the SWPPP, including the preparation of the annual compliance evaluation and the elimination of all unauthorized discharges.

Qualifying Rain Event
Any event that produces 0.5 inches or more precipitation with a 48 hour or greater period between rain events.

R Factor
Erosivity factor used in the Revised Universal Soil Loss Equation (RUSLE). The R factor represents the erosivity of the climate at a particular location. An average annual value of R is determined from historical weather records using erosivity values determined for individual storms. The erosivity of an individual storm is computed as the product of the storm's total energy, which is closely related to storm amount, and the storm's maximum 30-minute intensity.

Rain Event Action Plan (REAP)
Written document, specific for each rain event, that when implemented is designed to protect all exposed portions of the site within 48 hours of any likely precipitation event.

Remaining Sub sampled Material
The material (e.g., organic material, gravel, etc.) that remains after the organisms to be identified have been removed from the subsample for identification. (Generally, no macroinvertebrates are present in the remaining subsampled material, but the sample needs to be checked and verified using a complete Quality Assurance (QA) plan)

Routine Maintenance
Activities intended to maintain the original line and grade, hydraulic capacity, or original purpose of a facility.

Runoff Control BMPs
Measures used to divert runon from offsite and runoff within the site.

Run-on
Discharges that originate offsite and flow onto the property of a separate project site.

Revised Universal Soil Loss Equation (RUSLE)
Empirical model that calculates average annual soil loss as a function of rainfall and runoff erosivity, soil erodibility, topography, erosion controls, and sediment controls.

Sampling and Analysis Plan
Document that describes how the samples will be collected, under what conditions, where and when the samples will be collected, what the sample will be tested for, what test methods and detection limits will be used, and what methods/procedures will be maintained to ensure the integrity of the sample during collection, storage, shipping and testing (i.e., quality assurance/quality control protocols).

Sediment
Solid particulate matter, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, gravity, or ice and has come to rest on the earth's surface either above or below sea level.

Sedimentation
Process of deposition of suspended matter carried by water, wastewater, or other liquids, by gravity. It is usually accomplished by reducing the velocity of the liquid below the point at which it can transport the suspended material.

Sediment Control BMPs
Practices that trap soil particles after they have been eroded by rain, flowing water, or wind. They include those practices that intercept and slow or detain the flow of storm water to allow sediment to settle and be trapped (e.g., silt fence, sediment basin, fiber rolls, etc.).

Settleable Solids (SS)
Solid material that can be settled within a water column during a specified time frame. It is typically tested by placing a water sample into an Imhoff settling cone and then allowing the solids to settle by gravity for a given length of time. Results are reported either as a volume (mL/L) or a mass (mg/L) concentration.

Sheet Flow
Flow of water that occurs overland in areas where there are no defined channels where the water spreads out over a large area at a uniform depth.

Site

Soil Amendment
Any material that is added to the soil to change its chemical properties, engineering properties, or erosion resistance that could become mobilized by storm water.

Streets and Utilities Phase
Construction stage including excavation and street paving, lot grading, curbs, gutters and sidewalks, public utilities, public water facilities including fire hydrants, public sanitary sewer systems, storm sewer system and/or other drainage improvements.

Structural Controls
Any structural facility designed and constructed to mitigate the adverse impacts of storm water and urban runoff pollution

Suspended Sediment Concentration (SSC)
The measure of the concentration of suspended solid material in a water sample by measuring the dry weight of all of the solid material from a known volume of a collected water sample. Results are reported in mg/L.

Total Suspended Solids (TSS)
The measure of the suspended solids in a water sample includes inorganic substances, such as soil particles and organic substances, such as algae, aquatic plant/animal waste, particles related to industrial/sewage waste, etc. The TSS test measures the concentration of suspended solids in water by measuring the dry weight of a solid material contained in a known volume of a sub-sample of a collected water sample. Results are reported in mg/L.

Toxicity
The adverse response(s) of organisms to chemicals or physical agents ranging from mortality to physiological responses such as impaired reproduction or growth anomalies.

Turbidity
The cloudiness of water quantified by the degree to which light traveling through a water column is scattered by the suspended organic and inorganic particles it contains. The turbidity test is reported in Nephelometric Turbidity Units (NTU) or Jackson Turbidity Units (JTU).

Vertical Construction Phase
The Build out of structures from foundations to roofing, including rough landscaping.

Waters of the United States
Generally refers to surface waters, as defined by the federal Environmental Protection Agency in 40 C.F.R. § 122.2.[1]

Water Quality Objectives (WQO)
Water quality objectives are defined in the California Water Code as limits or levels of water quality constituents or characteristics, which are established for the reasonable protection of beneficial uses of water or the prevention of nuisance within a specific area.

[1] The application of the definition of "waters of the United States" may be difficult to determine; there are currently several judicial decisions that create some confusion. If a landowner is unsure whether the discharge must be covered by this General Permit, the landowner may wish to seek legal advice.

Melbourn, Frank - Vol. 1



Litigation
SERVICES

Job: 600096

Exhibit: 00005







Exhibit 5
WITNESS: Melbourn
DATE: 1/13/16 Rptr: DMD
Shelburne Sherr
Court Reporters

Section 3
Erosion and Sediment Control BMPs

3.1 Erosion Control

Erosion control is any source control practice that protects the soil surface and prevents soil particles from being detached by rainfall, flowing water, or wind. Erosion control consists of using project scheduling and planning to reduce soil or vegetation disturbance (particularly during the rainy season), preventing or reducing erosion potential by diverting or controlling drainage, as well as preparing and stabilizing disturbed soil areas. Erosion control BMPs that can be used to fulfill these objectives are shown in Table 3-1. It should be noted that several additional BMPs, such as Check Dams (SE-4) and Fiber Rolls (SE-5) can be used for erosion control, by reducing slope length or steepness, as well as for sediment control (i.e., perimeter control or retention of sediment). These BMPs have been included in this handbook as sediment control BMPs and are shown in **Table 3-2**.

Table 3-1 Erosion Control BMPs

BMP#	BMP Name
EC-1	Scheduling
EC-2	Preservation of Existing Vegetation
EC-3	Hydraulic Mulch[1, 5]
EC-4	Hydroseeding[1, 5]
EC-5	Soil Binders[1, 5]
EC-6	Straw Mulch[1, 5]
EC-7	Geotextiles & Mats[1, 5]
EC-8	Wood Mulching[4]
EC-9	Earth Dikes and Drainage Swales
EC-10	Velocity Dissipation Devices[4, 5]
EC-11	Slope Drains[4]
EC-12	Streambank Stabilization[4]
EC-13	Reserved[2]
EC-14	Compost Blankets[3, 5]
EC-15	Soil Preparation / Roughening[3]
EC-16	Non-Vegetative Stabilization[3, 5]

1) BMP fact sheet updated in 2009
2) BMP fact sheet removed in 2009 (formerly PAM)
3) New BMP fact sheet added in 2009
4) BMP fact sheet updated in 2011
5) BMP fact sheet updated in 2012

All inactive soil disturbed areas on the project site, and most active areas prior to the onset of rain, must be protected from erosion. Soil disturbed areas may include relatively flat areas as well as slopes. Typically, steep slopes and large exposed areas require the most robust erosion controls; flatter slopes and smaller areas still require protection, but less costly materials may be appropriate for these areas, allowing savings to be directed to the more robust BMPs for steep slopes and large exposed areas. Additional guidance on the selection of temporary slope stabilization methods is provided in Appendix F. To be effective, erosion control BMPs for slopes at disturbed areas must be protected from concentrated flows.

Some erosion control BMPs can be used effectively to temporarily prevent erosion by concentrated flows. These BMPs, used alone or in combination, prevent erosion by intercepting, diverting, conveying, and discharging concentrated flows in a manner that prevents soil detachment and transport. Temporary concentrated flow conveyance controls may be required to direct run-on around or through the project in a non-erodible fashion. Temporary concentrated flow conveyance controls include the following BMPs: