



California Regional Water Quality Control Board San Diego Region



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Recipient of the 2004 Environmental Award for Outstanding Achievement from USEPA

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[http:// www.waterboards.ca.gov/sandiego](http://www.waterboards.ca.gov/sandiego)

Linda S. Adams
Secretary for
Environmental Protection

Edmund G. Brown, Jr.
Governor

April 14, 2011

Certified Mail – Return Receipt Requested
Article Number: 7010 1060 0000 4952 7877

Mr. Robert Skands
EC Manager
Pardee Homes
10880 Wilshire Blvd., Suite 1900
Los Angeles, CA 90024

In reply refer to:
CIWQS Place ID: 9 37C349591: carias

Dear Mr. Skands:

**Subject: Notice of Violation No. R9-2011-0044 and Water Code Section 13267
Technical Report, Pacific Highlands Ranch Units 21-22**

Enclosed is Notice of Violation (NOV) No. R9-2011-0044 issued to Pardee Homes for violations of Order No. 2009-0009-DWQ, issued by the State Water Resources Control Board and enforced by the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board). As described in the NOV, the violations are subject to further enforcement pursuant to the California Water Code. The San Diego Water Board reserves the right to take any enforcement action authorized by law.

Water Code Section 13267¹ Technical Reports Are Required by May 16, 2011 and July 29, 2011

Pursuant to Water Code section 13267, **you are hereby required to provide a Technical Report by May 16, 2011** that includes the following information:

1. A description of the measures taken to prevent additional illegal discharges of sediment laden water into Gonzales Canyon Creek.
2. A description of how the violations noted in NOV No. R9-2011-0044 and the Facility Inspection Report dated March 21, 2011 have been corrected, including photo-documentation of the additional best management practices (BMPs) implemented at the site. In addition, please describe any changes made to the site's Storm Water Pollution Prevention Plan.

¹ Water Code section 13267, subdivision (b), allows the Water Boards to conduct investigations and to require technical or monitoring reports from any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste in accordance with the conditions in the section.

3. A Risk Determination Analysis as described in section VIII of Order No. 2009-0009-DWQ. Requirements of the updated Risk Level shall be effective immediately upon completion.

Because the enclosed Facility Inspection Report dated March 21, 2010 shows evidence of impacts to Waters of the U.S., you are required to submit bioassessment monitoring to determine the extent of the impacts and water quality monitoring to assess the effectiveness of BMPs utilized at the site. Pursuant to Water Code section 13267, **you are hereby required to provide a Technical Report by July 29, 2011** that includes the following information:

Bioassessment Monitoring

1. Benthic macroinvertebrate bioassessment monitoring, including physical habitat assessment, demonstrating the extent of impacts to the WARM and WILD beneficial uses of Gonzales Canyon Creek caused by the illegal discharge occurring on March 21, 2011.
2. Sampling shall take place at not less than four locations within Gonzales Canyon Creek in order to gain information regarding the spatial extent of impacts:
 - a. One location upstream of the discharge point identified in Figure 17 of the Facility Inspection Report dated March 21, 2011 (discharge point);
 - b. One location at the discharge point;
 - c. Two locations downstream of the discharge point. These two sampling points should be placed to provide information regarding the extent of the impacts resulting from the sediment discharge occurring on March 21, 2011;
 - d. Field, laboratory, and assessment methods shall conform to guidelines specified in Appendix 3 of Order No. 2009-0009-DWQ;
 - e. All measurements must be Surface Waters Ambient Monitoring Program (SWAMP) compatible.

Effluent and Receiving Water Monitoring

3. For each qualifying rain event² for the duration of coverage under Order No. 2009-0009-DWQ, Pardee Homes shall provide effluent and receiving water quality monitoring for the Pacific Highlands Ranch Units 21-22 construction site. Data shall be provided in the Technical Report due July 29, 2011, and in each annual report due September 1 thereafter. Pardee Homes shall provide the

² A rain event producing precipitation of ½ inch or more at the time of discharge.

effluent and receiving water quality monitoring (pH and turbidity) as described in Attachment E of Order No. 2009-0009-DWQ.

The violations documented in the attached NOV and Facility Inspection Report dated March 21, 2011 support the requirement to provide the technical reports. The reports are necessary for the San Diego Water Board to determine the state of compliance with Order No. 2009-0009-DWQ. The reports are also necessary to determine the potential or actual harm to human health or the environment from non-compliance. The burden, including costs of the reports, bears a reasonable relationship to the need for the reports and the benefits to be obtained from them.

Failure to comply with requirements made pursuant to Water Code section 13267, subdivision (b), may result in administrative civil liability pursuant to Water Code section 13268 up to \$1,000 per day.

In making the determination of whether and how to proceed with further enforcement action, the San Diego Water Board will consider both the time it takes to correct the identified violations and the sufficiency of the corrections.

In the subject line of any response, please include the requested **"In reply refer to:"** information located in the heading of this letter. For questions pertaining to the subject matter, please contact Christina Arias at (858) 627-3931 or carias@waterboards.ca.gov.

Respectfully,



DAVID T. BARKER, P.E.
Supervising Water Resource Control Engineer
Surface Waters Basins Branch

Signed under the authority delegated by the Executive Officer

DTB:esb:cma

Enclosures:

1. Notice of Violation No. R9-2011-0044
2. Facility Inspection Report Dated March 21, 2011.

Cc via email: (w/encl.)

Chris Nichols, Pardee Homes

Erika Horn, KCM Group

Lisa Adams, City of San Diego

Joan Brackin, City of San Diego

SMARTS Entries:

SMARTS Entries:	Tech Staff Info & Use
Place/WDID	9 37C349591
Enf ID	405188, 405262
NPDES No.	CAS000002
Violation ID	844329



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PARDEE HOMES

Pacific Highlands Ranch, Units 21-22

WDID No.: 9 37C349591: carias

NOTICE OF VIOLATION No. R9-2011-0044

Violations of Order No. 2009-0009-DWQ
April 14, 2011

PARDEE HOMES 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.

PARDEE HOMES is in violation of State Water Resources Control 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*.

A. Summary of Violations

1. Failure to Comply with Discharge Prohibitions

- a. **Pursuant to Provision III A. of Order No. 2009-0009-DWQ:** Dischargers shall not violate any discharge prohibitions contained in applicable Basin Plans or statewide water quality control plans.
- b. **Pursuant to Provision III B. of Order No. 2009-0009-DWQ:** All discharges are prohibited except for the storm water and non-storm water discharge specifically authorized by this General Permit or another NPDES permit.
- c. **Observations:** On March 21, 2011, the San Diego Water Board inspected the Pacific Highlands Ranch/Units 21-22 construction site (WDID No. 9 37C349591) and found sediment-laden water being discharged from the construction site directly into Gonzales Canyon Creek, tributary to San Dieguito River and Lagoon. Photo-documentation and specific findings regarding this illegal discharge are discussed in the Facility Inspection Report dated December March 21, 2011.

2. Failure to Adequately Implement Good Site Management "Housekeeping"

a. **Pursuant to Provision B.1. of Attachment C to Order No. 2009-0009-DWQ:** Risk Level 1 dischargers shall implement good site management (i.e. "housekeeping") measures for construction materials that could potentially be a threat to water quality if discharged. At a minimum, Risk Level 1 dischargers shall implement the following good housekeeping measures:

B.1.b. Cover and berm loose stockpiled construction material that are not actively being used (i.e. soil, spoils, aggregate, fly-ash, stucco, hydrated lime, etc.).

B.1.c. Store chemicals in watertight containers (with appropriate secondary containment to prevent any spillage or leakage) or in a storage shed (completely enclosed).

B.1.d. Minimize exposure of construction material to precipitation. This does not include materials and equipment that are designed to be outdoors and exposed to environmental conditions (i.e. poles, equipment pads, cabinets, conductors, insulators, bricks, etc.).

b. **Observation:** During the March 21, 2011 inspection, the San Diego Water Board found trash, debris, rusty equipment, uncovered paint cans, and a hazardous waste drum exposed, with no secondary containment, and in contact with storm water. A large stockpile was partly uncovered. Photo-documentation and specific findings are discussed in the Facility Inspection Report dated March 21, 2011.

3. Failure to Adequately Implement Erosion Control Best Management Practices (BMPs)

a. **Pursuant to Provision D.2. of Attachment C to Order No. 2009-0009-DWQ:** Risk Level 1 dischargers shall provide effective soil cover for inactive areas and all finished slopes, open space, utility backfill, and completed lots.

b. **Observations:** During the March 21, 2011 inspection, the San Diego Water Board found no erosion control BMPs in place throughout much of the construction site. Photo-documentation and specific findings are discussed in the Facility Inspection Report dated March 21, 2011.

4. Failure to Adequately Implement and Repair Sediment Control BMPs

- a. **Pursuant to Provision E.1 of Attachment C to Order No. 2009-0009-DWQ:** Risk Level 1 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. **Pursuant to Provision G.3 of Attachment C to Order No. 2009-0009-DWQ:** Upon identifying failures or other shortcomings, as directed by the Qualified Storm Water Pollution Prevention Plan Practitioner (QSP), Risk Level 1 dischargers shall begin implementing repairs or design changes to BMPs within 72 hours of identification and complete the changes as soon as possible.
- c. **Observations:** During the March 21, 2011, inspection, the San Diego Water Board found that, in multiple locations, silt fences designed for sediment control were ineffective and poorly maintained. Photo-documentation and specific findings are discussed in the Facility Inspection Report dated March 21, 2011.

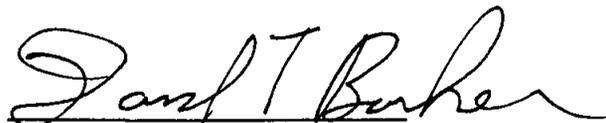
B. Summary of Potential Enforcement Options

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.

Questions pertaining to this Notice of Violation should be directed to Christina Arias at 858-627-3931 or carias@waterboards.ca.gov.



DAVID T. BARKER, P.E.
Supervising Water Resource Control Engineer
Surface Waters Basins Branch

SMARTS Entries
WDID ID: 9 37C349591
Enf. ID: 405188
Violation IDs: 844329

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD - SAN DIEGO REGION
WATERSHED PROTECTION PROGRAM**

FACILITY INSPECTION REPORT

FACILITY: Pacific Highlands Ranch Units 21-22 **INSPECTION DATE/TIME:** 03/21/2011; 1030

WDID/FILE NO.: 9 37C349591

REPRESENTATIVE(S) PRESENT DURING INSPECTION:

NAME: <u>Christina Arias</u>	AFFILIATION: <u>San Diego Water Board</u>
NAME: <u>Joan Brackin</u>	AFFILIATION: <u>City of San Diego</u>
NAME: <u>Igor Levin</u>	AFFILIATION: <u>City of San Diego</u>
NAME: <u>Chris Nichols</u>	AFFILIATION: <u>Pardee Homes</u>
NAME: <u>Erika Horn</u>	AFFILIATION: <u>Pardee Homes</u>

Pardee Homes
NAME OF OWNER, AGENCY OR PARTY RESPONSIBLE FOR DISCHARGE

10880 Wilshire Blvd., Suite 1900
OWNER MAILING ADDRESS

Robert Skands (310) 475-3525
OWNER CONTACT NAME AND PHONE #

FACILITY OR DEVELOPER NAME (if different from owner)

Carmel Valley Rd & Lopellia Meadows Place
FACILITY ADDRESS

Allen Kashani (858) 794-2571
FACILITY OR DEVELOPER CONTACT NAME AND PHONE #

APPLICABLE WATER QUALITY LICENSING REQUIREMENTS:

- | | |
|---|---|
| <input type="checkbox"/> MS4 URBAN RUNOFF REQUIREMENTS | <input type="checkbox"/> GENERAL OR INDIVIDUAL WASTE DISCHARGE REQUIREMENTS OR NPDES |
| <input checked="" type="checkbox"/> CONSTRUCTION GENERAL PERMIT | <input type="checkbox"/> GENERAL OR INDIVIDUAL WAIVER OF WASTE DISCHARGE REQUIREMENTS |
| <input type="checkbox"/> CALTRANS GENERAL PERMIT | <input checked="" type="checkbox"/> SECTION 401 WATER QUALITY CERTIFICATION |
| <input type="checkbox"/> INDUSTRIAL GENERAL PERMIT | <input type="checkbox"/> 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)

Facility: Pacific Highlands Ranch Units 21 & 22
Inspection Date: 03/21/2011

I. COMPLIANCE HISTORY / PURPOSE OF INSPECTION

On March 21, 2011, Christina Arias of the San Diego Water Board performed a routine inspection of the Pacific Highlands Ranch Units 21 & 22 construction site. This 15 acre site is one of several master developments by Pardee Homes in the Carmel Valley area of San Diego. This site is located north of Carmel Valley Road on Lopellia Meadows Place. The project abuts Gonzales Canyon Creek to the North, which drains to San Dieguito River and Lagoon. Photos of the site are attached and identified as Figures 1-28.

Multiple violations of the General Construction Permit, Order No. 2009-0009-DWQ, were noted (see specific Findings below). Representatives from the City of San Diego (City) Storm Water Pollution Prevention Program and Field Engineering were called onsite to assist with the inspection. On March 22, 2011, the City issued a stop work order to Pardee Homes until the BMP deficiencies noted during the inspection were remedied.

It was raining at the beginning of the inspection and the NOAA rain gauge at Poway recorded 1.23 inches of rain on March 21, 2011.

II. FINDINGS

1. The site lacked erosion control BMPs. According to Chris Nichols, Off Site Superintendent for Pardee Homes, the site was rough graded between July and September 2010. Mr. Nichols stated that erosion control had been applied to the perimeters of the building pads in October 2010. At the time of the inspection, the slopes had essentially no erosion control, and deep rills had formed (see Figures 1-7).
2. The site also lacked adequate sediment control BMPs. Silt fences on the perimeter of the building pads were stressed in several areas (see Figures 8-10) and have not been adequately maintained. Storm drain inlets were lined with gravel bags, but this provided inadequate protection. There was no evidence that filter fabric or other barrier protection had been used (Figure 11).
3. Some stockpiles were uncovered (see Figure 12).
4. Finished slopes on the north side of the project site lacked erosion control and deep rills had formed. Some fiber rolls were buried in sediment, ineffective, and had not been maintained (Figures 14-16).
5. An outfall on the north side of the project was discharging turbid water directly into Gonzales Canyon Creek. A silt fence around the creek was ineffective at keeping sediment out of the creek (see Figures 17-21).
6. Gabions and a culvert had been installed in the creek (Figure 24). A Section 401 Certification is required for these types of impacts. Pardee could not provide a copy of a 401 Certification during the inspection.

Facility: Pacific Highlands Ranch Units 21 &22
 Inspection Date: 03/21/2011

7. The north end of the project (cul-de-sac over culvert) was used as a storage area. An empty drum for hazardous waste was found, in addition to rusty material, rusty and uncovered paint cans, and trash (Figures 25-28).
8. The site lacked adequate BMPs to prevent storm water contact with trash, construction debris, and hazardous materials. For example, a can of spray paint was found in a trench used to drain a building pad (Figure 10). Trash was found on the stream banks on the downstream side of the culvert, which may have originated from the equipment storage area (Figures 23-24).

III. RECOMMENDATIONS AND ADDITIONAL COMMENTS

1. Given the size of the construction site, volume of disturbed sediment, and proximity to Gonzales Canyon Creek, Pardee needs to implement adequate sediment and erosion control BMPs to prevent storm water contact with trash, construction debris, and hazardous materials.
2. Measures need to be implemented immediately to eliminate the illegal discharge of sediment and other pollutants to the creek.
3. To date, Pardee has not provided a copy of a Clean Water Act Section 401 Certification allowing impacts to the creek. It is unknown whether or not the permanent features in the creek (gabions, culvert) were placed illegally or pursuant to a 401 Certification.
4. These findings will be used to evaluate compliance with Order No. 2009-0009-DWQ.
5. This site is considered Risk Level 1 because it was an existing project under Order No. 99-08-DWQ. The Risk Level should be re-evaluated given the potential for discharges and negative impacts to the adjacent creek.

IV. SIGNATURE SECTION

Christina Arias
 STAFF INSPECTOR

Christina Arias
 SIGNATURE

3/21/11
 INSPECTION DATE

Eric Becker
 REVIEWED BY SUPERVISOR

Eric Becker
 SIGNATURE

3/28/11
 DATE

SMARTS:

Tech Staff Info & Use	
Application ID. WDID	9 37C349591
Inspection ID	2011081
Violation ID	844329

Facility: Pacific Highlands Ranch Units 21 & 22

Inspection Date: 03/21/2011



Disturbed sediment area has no visible erosion control

Figure 1. Construction site; looking south towards Carmel Valley Rd.



Note side of building pad has eroded away

Figure 2. Construction site building pad; looking north towards creek

Facility: Pacific Highlands Ranch Units 21 & 22
Inspection Date: 03/21/2011



Note streaking in sediment indicating erosion

Figure 3. Construction site building pad; looking north towards creek



Building pad sides have deep rills

Figure 4. Construction site building pad; looking east from Lopellia Meadows Place

Facility: Pacific Highlands Ranch Units 21 & 22

Inspection Date: 03/21/2011



Figure 5. Construction site building pad—looking east



Figure 6. Construction site building pads—looking south

Facility: Pacific Highlands Ranch Units 21 &22
Inspection Date: 03/21/2011



Figure 7. Construction site building pads and unpaved road



Turbid water is seen downstream of silt fence.

Figure 8. Ineffective silt fence

Facility: Pacific Highlands Ranch Units 21 &22

Inspection Date: 03/21/2011



Note silt fence is heavily loaded and in danger of collapse

Figure 9. Silt fence—looking north



Area designed to convey drainage is blocked and also has spray paint can

Figure 10. Trench on perimeter of building pad

Facility: Pacific Highlands Ranch Units 21 & 22

Inspection Date: 03/21/2011



Note inlet has no protection. Streaking of sediment on pavement indicates preferential pathway towards drain.

Figure 11. Downstream storm drain inlet



Figure 12. Partially uncovered stockpile

Facility: Pacific Highlands Ranch Units 21 & 22

Inspection Date: 03/21/2011



Figure 13. Gonzales Canyon Creek looking upstream from culvert



Rill erosion evident on dirt road.

Figure 14. Dirt road leading to creek

Facility: Pacific Highlands Ranch Units 21 &22
Inspection Date: 03/21/2011



Figure 17. Outfall from project site



Figure 18. Looking downstream from outfall

Facility: Pacific Highlands Ranch Units 21 &22
Inspection Date: 03/21/2011



Figure 19. Gonzales Canyon Creek downstream of outfall



Note sandbar has formed within creek

Figure 20. Gonzales Canyon Creek downstream of outfall

Facility: Pacific Highlands Ranch Units 21 &22
Inspection Date: 03/21/2011



Figure 21. Gonzales Canyon Creek downstream of outfall



Figure 22. Gonzales Canyon Creek—downstream of culvert

Facility: Pacific Highlands Ranch Units 21 & 22
Inspection Date: 03/21/2011



Close up of trash from Fig. 22. Note this is same type of can shown in Fig. 10.

Figure 23. Trash found on stream bank in vicinity of culvert and storage area



Trash found trapped on gabions

Figure 24. Gonzales Canyon Creek downstream of culvert; gabions

Facility: Pacific Highlands Ranch Units 21 &22

Inspection Date: 03/21/2011



Figure 25. Debris/equipment storage area on top of culvert



Figure 26. Closeup of debris/storage area

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature <input type="checkbox"/> Agent <input type="checkbox"/> Addressee X</p> <p>B. Received by (Printed Name) C. Date of Delivery</p>
<p>1. Article Addressed to:</p> <p>Mr. Robert Skands EC Manager Pardee Homes 10880 Wilshire Blvd, Ste 1900 Los Angeles, CA 90024</p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p> <p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>2. Article Number (Transfer from service label)</p>	<p>7010 1060 0000 4952 7877</p>

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City, State, ZIP+4 **Los Angeles CA 90024**

PS Form 3800, August 2006
 PS Form 3800, August 2006

See Reverse for Instructions
 See Reverse for Instructions