

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD - SAN DIEGO REGION
STORM WATER MANAGEMENT PROGRAM**

FACILITY INSPECTION REPORT

FACILITY: San Diego Unified Port District MS4 **INSPECTION DATE/TIME:** 2/11/2014; 8:30 am

CIWQS Place ID: CW-255177

REPRESENTATIVE(S) PRESENT DURING INSPECTION:

NAME: Wayne Chiu

AFFILIATION: San Diego Water Board

NAME: Allison Vosskuhler

AFFILIATION: San Diego Unified Port District

San Diego Unified Port District
NAME OF OWNER, AGENCY OR PARTY RESPONSIBLE FOR DISCHARGE

FACILITY OR DEVELOPER NAME (if different from owner)

3165 Pacific Highway
San Diego, CA 92112
OWNER MAILING ADDRESS

3165 Pacific Highway
San Diego, CA 92112
FACILITY ADDRESS

Wayne Darbeau, President/CEO
619-686-6200
OWNER CONTACT NAME AND PHONE #

Allison Vosskuhler, Sr Environmental Specialist
619-686-6434
FACILITY OR DEVELOPER CONTACT NAME AND PHONE #

APPLICABLE WATER QUALITY LICENSING REQUIREMENTS:

- | | |
|---|---|
| <input checked="" type="checkbox"/> MS4 URBAN RUNOFF REQUIREMENTS | <input type="checkbox"/> GENERAL OR INDIVIDUAL WASTE DISCHARGE REQUIREMENTS OR NPDES |
| <input type="checkbox"/> CONSTRUCTION GENERAL PERMIT | <input type="checkbox"/> GENERAL OR INDIVIDUAL WAIVER OF WASTE DISCHARGE REQUIREMENTS |
| <input type="checkbox"/> CALTRANS GENERAL PERMIT | <input 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.
- MS4 AUDIT - AN EVALUATION OF AN MS4 PROGRAM OR PROGRAM COMPONENT THAT COULD POSSIBLY LEAD TO ENFORCEMENT. IT MUST INCLUDE A SITE VISIT.

INSPECTION FINDINGS:

Y WERE VIOLATIONS NOTED DURING THIS INSPECTION? (YES/NO/PENDING SAMPLE RESULTS)

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I. BACKGROUND AND PURPOSE

On February 11, 2014, Wayne Chiu from the Regional Water Quality Control Board, San Diego Region (San Diego Water Board) conducted inspections of four construction sites (WDIDs 937C364730 [BAE Systems Pier 4 Project], 937C361850 [North Embarcadero Visionary Plan], 937C346760 [Driscoll/Kettenburg Boatyard Renovation], and 937C346029 [H Street Extension/South Campus Phase III]) under the jurisdiction of the San Diego Unified Port District (Port). The purpose of the inspections was to determine if the sites were implementing BMP in compliance with Construction General Storm Water Permit Order No. 2009-0009-DWQ (CGP), and to conduct an audit to assess whether the Port was implementing its construction management program in compliance with San Diego County Municipal Storm Water Permit, Order No. R9-2007-0001 (MS4 Permit).

The inspections were conducted jointly with Allison Vosskuhler, Senior Environmental Specialist with the Port, and the Port's contractors who conduct MS4 Permit construction storm water inspections for the Port. The inspections were conducted during the rainy season, which is defined in the MS4 Permit as October 1 through April 30 of each year. The findings from the February 11, 2014 construction site inspections and the audit of the Port's construction management program are summarized below.

II. FINDINGS

February 11, 2014 Inspection Findings

1. BAE System Pier 4 Project: The owner of the project is identified in the Storm Water Multiple Application and Report Tracking System (SMARTS) as BAE Systems Ship Repair (BAE). Phil Barlow, Environmental Technician for BAE, and Jay Sullivan, Qualified Storm Water Pollution Prevention Plan (SWPPP) Practitioner (QSP) and Qualified SWPPP Developer (QSD) for the project, were present during the inspection. The project is identified as Risk Level 1 in SMARTS. According to SMARTS, the total area to be disturbed by the project is 1.8 acres. Most of the area within the project's footprint appeared to be exposed or disturbed.

Courtney Wilson of Geosyntec Consultants, consultant for the Port, conducts the inspections of the site for MS4 Permit requirements. Documentation and recordkeeping for the SWPPP appeared to be adequately maintained. Inadequate implementation of perimeter controls to prevent run-on to and run-off from the project's footprint were observed. Inadequate implementation of erosion controls were observed for an area of the project that appeared to be inactive, or could be scheduled to be inactive. Inadequate implementation of perimeter and erosion controls identified during the inspection by the San Diego Water Board did not appear to be identified by the Port inspector during previous inspections.

The Port provided a copy of the email sent to BAE with the inspection results. The Port's inspection results identified several corrective actions to be implemented, but did not identify any violations of the Port's ordinances. The email appeared to serve

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as an informal enforcement action that allows BAE to bring the site into compliance with the Port's requirements.

2. North Embarcadero Visionary Plan: The owner of the project is identified in SMARTS as the Port. Robert Veague of USS Cal Builders, General Foreman for the project, and David Chen of Scott Environmental, QSP for the project, were present during the inspection. The project is identified as Risk Level 1 in SMARTS. According to SMARTS, the total area to be disturbed by the project is 9.7 acres. There appeared to be greater than 5 acres of disturbed area during the inspection.

Courtney Wilson of Geosyntec Consultants, consultant for the Port, conducts the inspections of the site for MS4 Permit requirements. Documentation and recordkeeping for the SWPPP appeared to be adequately maintained. Inadequate implementation and/or maintenance of perimeter controls to prevent run-on to and run-off from the project's footprint were observed. Inadequate implementation of erosion controls were observed for several areas of the project that appeared to be inactive, or could be scheduled to be inactive. Inadequate implementation of erosion controls identified during the inspection by the San Diego Water Board did not appear to be identified by the Port inspector during previous inspections.

The Port provided a copy of the email sent to USS Cal Builders with the inspection results. The Port's inspection results identified several corrective actions to be implemented, but did not identify any violations of the Port's ordinances. The email appeared to serve as an informal enforcement action that allows BAE to bring the site into compliance with the Port's requirements.

3. Driscoll/Kettenburg Boatyard Renovation: The owner of the project is identified in SMARTS as the Port. Mike Benedict of Driscoll Boat Works, QSP-delegate for the project, was present during the inspection. The project is identified as Risk Level 2 in SMARTS. According to SMARTS, the total area to be disturbed by the project is 2.4 acres.

Tania Curulla of Geosyntec Consultants, consultant for the Port, conducts the inspections of the site for MS4 Permit requirements. There were no construction activities observed during the inspection and the site is identified as inactive by the Port. Documentation and recordkeeping for the SWPPP appeared to be adequately maintained. Areas with exposed soil have been stabilized with a soil binder. Perimeter controls appeared to be adequately implemented to prevent run-on and runoff. Internal tracking controls appeared to require improvement, but no off-site tracking observed. BMPs appeared to be adequately implemented.

4. H Street Extension/South Campus Phase III: The owner of the project is identified in SMARTS as the Port. Geoff Bohne of LB Civil, Superintendent for the project, and Kelly Doyle of Rick Engineering, QSD for the project, were present during the inspection. The QSP for the project was not available at the time of the inspection. The project is identified as Risk Level 2 in SMARTS. According to SMARTS, the

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total area to be disturbed by the project is 16.3 acres. There appeared to be greater than 5 acres of disturbed area during the inspection.

Kelly Doyle, QSD for the project, is also the consultant for the Port that conducts the inspections of the site for MS4 Permit requirements. Inadequate implementation and/or maintenance of perimeter controls were observed. Inadequate implementation of erosion controls were observed for several areas of the project that appeared to be inactive, or could be scheduled to be inactive. Inadequate implementation or preparation to implement erosion controls for active areas, as required for Risk Level 2 sites, were observed. Inadequate implementation of perimeter and erosion controls identified during the inspection by the San Diego Water Board did not appear to be identified by the Port inspector during previous inspections.

Documentation and recordkeeping for the SWPPP were inadequate. LRP certification and training documentation for contractors and subcontractors were not available in the SWPPP provided during the inspection. QSP inspection reports did not identify inadequate implementation of BMPs identified by the San Diego Water Board. Recent QSP inspection reports did not include BMPs to inspect that are applicable to a Risk Level 2 site.

The Port provided a copy of the email sent to LB Civil with the inspection results. The Port's inspection results identified several corrective actions to be implemented, but did not identify any violations of the Port's ordinances. The email appeared to serve as an informal enforcement action that allows LB Civil to bring the site into compliance with the Port's requirements.

Construction Management Program Audit Findings

5. Pursuant to section C.1 of the MS4 Permit, the Port is required to establish, maintain, and enforce adequate legal authority to control pollutant discharges into and from its MS4 through ordinance, statute, permit, contract or similar means. Pursuant to section D.2.a.(1) of the MS4 Permit, the Port is required upgrade its grading ordinances, and other ordinances as necessary to achieve full compliance with the MS4 Permit. According to section 5.3 of the Port's Jurisdictional Urban Runoff Management Program (JURMP), dated March 2008, the Port does not have a grading ordinance because: a) "*mass grading activities are generally not necessary...because the tidelands are relatively flat and, thus most sites are ready for buildings*"; and b) "*there is no private property on the Port's jurisdiction.*"

Section 5.2 of the JURMP states that the approval of a development or improvement project includes the imposition of environmental mitigation measures as necessary, to address development related impacts. The mitigation measures address the construction phase of development including the type of impacts that a grading ordinance would typically address.

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6. Pursuant to section D.2.c.(1) of the MS4 Permit, the Port is required to designate a minimum set of BMPs and other measures to be implemented at all construction sites. The designated set of minimum BMPs required by the MS4 Permit include, among others:
- a) Minimization of areas that are cleared and graded to only the portion of the site that is necessary for construction;
 - b) Minimization of expose time of disturbed soil areas;
 - c) Minimization of grading during the wet season and correlation of grading with seasonal dry weather periods to the extent feasible;
 - d) Limitation of grading to a maximum disturbed area as determined by the Copermittee before either temporary or permanent erosion controls are implemented to prevent storm water pollution, which may be temporarily increased by a set amount if the individual site is in compliance with applicable storm water regulations and the site has adequate control practices to prevent storm water pollution;
 - e) Temporary stabilization and reseeding of disturbed soil areas as rapidly as feasible;
 - f) Retention, reduction, and proper management of all pollutant discharges to the maximum extent practicable (MEP);
 - g) Erosion prevention, to be used as the most important measure for keeping sediment on site during construction, but never as the single method;
 - h) Sediment controls, to be used as a supplement to erosion prevention for keeping sediment on site during construction;
 - i) Slope stabilization on all inactive slopes during the rainy season and during rain events during the dry season; and
 - j) Slope stabilization on all active slopes during rain events regardless of the season.

Section 5.4.1 identifies the minimum BMPs to be required for all construction sites *“depending on their applicability to the activity at hand.”* The JURMP specifies that *“[e]rosion prevention is to be used as the most important measure for keeping sediment on site during construction, but never as the single method. Further, sediment controls, are to be used as a supplement to erosion prevention for keeping sediment on-site during construction.”*

Section 5.4.3 states that *“the Port restricts the size of a project’s total disturbed area (DSA) to 5 acres during the rainy season and 17 acres during the non-rainy season”* and *“[t]he Port has the option to temporarily increase these limits if the site is in compliance with applicable stormwater regulations and the site has adequate control practices to prevent stormwater pollution.”* Additionally, Section 5.4.3 states *“[r]un-on controls shall be in place prior to opening any additional DSA.”*

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7. Pursuant to sections D.2.a.(2)(a)-(b) of the MS4 Permit, prior to approval and issuance of local construction and grading permits, the Port must require all individual proposed construction sites to implement designated BMPs and other measures so that pollutant discharges from the site will be reduced to the MEP, and verify that the projects storm water management plan (e.g. SWPPP) complies with their grading ordinance, and other ordinances, and the requirements of the MS4 Permit. The San Diego Water Board inspector reviewed the SWPPPs available on SMARTS and noted the following deficiencies:
- a) For the North Embarcadero Visionary Plan and H Street/South Campus Phase III projects, there were no requirements in the SWPPPs to minimize areas cleared and graded, minimize exposure times, or limit grading to a maximum DSA of 5 acres during the rainy season, or any discussion that would allow a temporary increase in the size of disturbed soil areas beyond the maximum. There was no evidence in the SWPPPs that the scheduling erosion control BMP was required by the Port to be implemented to minimize areas cleared and graded, minimize exposure times, or limit the DSA to 5 acres.
 - b) There were no requirements to minimize grading during the wet season and correlation of grading with seasonal dry weather periods to the extent feasible. There was no evidence in the SWPPPs that erosion prevention was required by the Port to be used as the most important measure for keeping sediment on site during construction, or the scheduling erosion control BMP was required to be implemented to limit grading before or during rain events.
8. Pursuant to section D.2.c.(3), the Port is required to implement, or require implementation of the designated minimum BMPs and any additional measures necessary to comply with the MS4 Permit at each construction site within its jurisdiction year round. Pursuant to section D.2.d of the MS4 Permit, the Port is required to inspect construction sites for compliance with its local ordinances, permits, and the requirements of the MS4 Permit. The Port's construction storm water inspection program failed to identify the following deficiencies in the implementation of the designated minimum BMPs required by the JURMP and MS4 Permit for all construction sites:
- a) The Port's inspectors did not require the sites to minimize areas cleared and graded, minimize exposure times, or limit the disturbed area to 5 acres during the rainy season (see Findings 2 and 4).
 - b) The Port's inspectors did not require at least one site inspected to have run-on controls in place prior to opening any additional DSA (see Finding 1).
 - c) The Port's inspectors did not require temporary stabilizing and reseeding of DSAs as rapidly as feasible (see Findings 1, 2, and 4).

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- d) The Port's inspectors did not require the implementation of erosion prevention to be used as the most important measure for keeping sediment on site during construction (see Findings 1, 2, and 4).
- e) By not requiring implementation of several designated minimum BMPs required by the JURMP and MS4 Permit, the Port's inspectors did not require the implementation of BMPs to retain, reduce, and properly manage all pollutant discharges to the MEP (see Findings 1, 2, and 4).
9. Pursuant to section D.2.e of the MS4 Permit, the Port is required to implement an escalating enforcement process that achieves prompt corrective actions at construction sites for violations of the Port's water quality protection requirements and ordinances. There was no evidence that the Port was implementing an enforcement process because the Port's inspectors were not identifying applicable violations during inspections (see Findings 1, 2, and 4).
10. Pursuant to section D.5.b.(1) of the MS4 Permit, the Port is required to implement an education program so that its planning and development review staff have an understanding of storm water management plan (e.g. SWPPP) development and review and source control BMPs. Education of the Port's planning and development review staff was not implemented or inadequate, as evidenced by SWPPPs approved by the Port staff that do not include the designated minimum BMPs for construction sites (see Finding 7).
11. Pursuant to section D.5.b.(2) of the MS4 Permit, the Port is required to implement an education program so that its construction, building, code enforcement, and grading review staffs, inspectors, and other responsible construction staff have an understanding of Federal, state, and local water quality laws and regulations applicable to construction and grading activities, and proper implementation of erosion and sediment control and other BMPs to minimize impacts to receiving waters from construction activities. Education of the Port's construction, building, code enforcement, and grading review staffs, inspectors, and other responsible construction staff was not implemented or inadequate as evidenced by the lack of enforcement actions issued by the Port's inspectors for violations of the requirements of the CGP (i.e. state regulations) and the Port's designated minimum BMP requirements (i.e. run-on and erosion controls required by JURMP and MS4 Permit).

RECOMMENDATIONS AND ADDITIONAL COMMENTS

Comments

1. It is not clear whether or not the Port has established adequate legal authority that can be enforced to control pollutant discharges into and from its MS4 through ordinance, statute, permit, contract or similar means, especially for construction projects where the Port is the owner of the project.

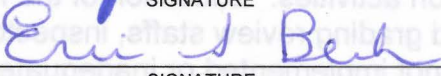
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- For the four construction sites under the Port's jurisdiction inspected by the San Diego Water Board, the Port's implementation of its construction management program is not in compliance with the requirements of sections D.2.a.(2)(a)-(b), D.2.c.(3), D.2.d, D.2.e, D.5.b.(1) and D.5.b.(2) of the MS4 Permit.

Recommendations

- It is recommended that the Port be allowed to explain whether adequate legal authority has been established, and the enforcement mechanisms that the Port utilizes to enforce its legal authority to control pollutant discharges into and from its MS4 for construction projects where the Port is the owner of the project.
- It is recommended that the Port be allowed to provide recommendations for bringing its construction management program into compliance with the requirements of the MS4 Permit. Recommendations should include proposed modifications to the construction management program implementation processes, and documentation that will be developed to demonstrate the requirements of the MS4 Permit are being adequately implemented.
- In the event the Port does not bring its construction management program into compliance with the requirements of the MS4 Permit within a reasonable period of time, it is recommended that the San Diego Water Board initiate additional enforcement actions to compel the Port to come into compliance with the requirements of the MS4 Permit.

III. SIGNATURE SECTION

Wayne Chiu		2/11/2014
STAFF INSPECTOR	SIGNATURE	INSPECTION DATE
Eric Becker		3/4/14
REVIEWED BY SUPERVISOR	SIGNATURE	DATE

SMARTS:

Tech Staff Info & Use	
Place ID	255177
Reg Measure ID	214387
Inspection ID	15512971
Violation ID	964289