

NO CHANGES^{SUP}

I declare under penalty of perjury that I have read the foregoing 104 pages of my testimony, taken on 12/28/2015 (date) at SAN DIEGO (city), CALIFORNIA (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:

[illegible]

Signature of Witness

GARY HARPER
Name Typed or Printed

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

Rev. 3/15/14

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Date: January 5, 2016

To: Gary Harper
Engineering Department
City of Lemon Grove

Subject: ACL Complaint re San Altos – Lemon Grove, LLC

Enclosures: Deposition Transcript

Requested Action: Please review the attached transcript of your deposition, and note any corrections necessary on the correction sheet; then please forward back to this office so that it is received by January 19, 2016.

Please contact Mr. Lough at 760-743-1201 if you have any questions.

Thank you.

LOUNSBERY FERGUSON ALTONA & PEAK, LLP

By: _____
Kathleen Day
Legal Assistant to James P. Lough

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.)
)
)
_____)

THE DEPOSITION OF GARY HARPER, a witness
herein, noticed by Oppen & Varco, LLP,
at 225 Broadway, Suite 1900, San Diego,
California, at 8:28 a.m., on Monday,
December 28, 2015, before R. Jerrod Jones,
CSR 11750, RPR

Litigation Services Number 598612



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2
3
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I N D E X

WITNESS: GARY HARPER
EXAMINATION BY:
MS. BERESFORD

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E X H I B I T S

Exhibit identification within the transcript is
flagged with "[EXH]" as an identifier.

EXHIBIT	DESCRIPTION	IDENTIFIED	MARKED
1	San Altos - Lemon Grove, LLC's Notice of Deposition of Gary Harper and Request for Production of Documents [EXH-1]	7	102
2	E-Mail from Gary Harper to Ben Anderson, et al., dated 7/23/14 [EXH-2]	18	102
3	City of Lemon Grove Notice, Stop Work/Notice of Violation dated 2/2/14 [EXH-3]	20	102
4	City of Lemon Grove Notice, Stop Work/Notice of Violation dated 2/4/14 [EXH-4]	33	102
5	City of Lemon Grove NPDES Stormwater Program Construction Stormwater Compliance Inspection Form dated 12/8/14 [EXH-5]	44	102
6	City of Lemon Grove Notice, Correct Work dated 12/9/14 [EXH-6]	47	102

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EXHIBIT	DESCRIPTION	IDENTIFIED	MARKED
7	City of Lemon Grove Administrative Citation dated 12/11/14 [EXH-7]	56	102
8	CRWQCB, San Diego Region - Watershed Protection Program Facility Inspection Report [EXH-8]	62	102
9	Letter from CRWQCB, San Diego Region to Ben Anderson dated 12/19/2014 [EXH-9]	68	102
10	City of Lemon Grove Notice, Correct Work dated 3/24/15 [EXH-10]	71	102
11	City of Lemon Grove Administrative Citation dated 10/22/15 [EXH-11]	80	102
12	City of Lemon Grove Administrative Citation dated 11/6/15 [EXH-12]	83	102
13	E-Mail from Tad Nakatani to Gary Harper and Malik Tamimi, dated 9/16/15 [EXH-13]	97	102

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1 SAN DIEGO, CALIFORNIA; MONDAY, DECEMBER 28, 2015

2 8:28 A.M.

3
4 GARY HARPER,

5 having been first duly sworn, was
6 examined and testified as follows:

7
8 EXAMINATION

9
10 BY MS. BERESFORD:

11 Q. Good morning, Mr. Harper.

12 A. Hi.

13 Q. My name is Linda Beresford. And I'm one
14 of the attorneys for San Altos, Lemon Grove, LLC, in
15 the matter of the Administrative Civil Liability
16 Complaint Number R9-2015-0110, involving the Regional
17 Water Quality Control Board. And I'll be taking your
18 deposition today.

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

21 A. Gary Harper. G-a-r-y, H-a-r-p-e-r.

22 Q. Have you ever had your deposition taken
23 before?

24 A. Yes.

25 Q. About how many times?

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1 A. Once.

2 Q. And when was that?

3 A. About a month ago.

4 Q. What was that about?

5 A. That was two manufacturers, one was suing
6 the other for proprietary product.

7 Q. Interesting. And did you appear as an
8 individual or as on behalf of the City of Lemon Grove
9 in some capacity?

10 A. On behalf of the City.

11 Q. Okay. Well, then, you should be pretty
12 familiar with the ground rules for depositions. But
13 I'll go over them again today just so that we're all
14 on the same page.

15 So you are here today appearing under oath. We
16 have a court reporter taking down everything that we
17 say. So it's important that you answer questions
18 verbally, as in yes or no, as opposed to nodding or
19 shrugging the shoulders or something like that.

20 Does that make sense?

21 A. Yes.

22 Q. Great. And in order to have an accurate
23 transcript, it's easier, again, for the court
24 reporter if we try to only have one person speak at
25 the same time. So if you could let me finish my

1 question, and then try to answer at that time. And I
2 in turn will also do my best to not speak over you
3 when you are speaking, okay?

4 A. Yes.

5 Q. Please feel free to take a break at any
6 time. Just let me know when you need to do that, or
7 if you want to confer with your attorney at any time.
8 My only request is that if you have -- if I've asked
9 you a question, to please answer the question before
10 we take a break; is that fair?

11 A. Yes.

12 Q. And finally, I apologize, but I do have to
13 ask, have you taken any medication today, or is there
14 any other reason why you can't give your best
15 testimony today?

16 A. No.

17 MS. BERESFORD: Thank you. So this will be
18 Exhibit 1.

19 (Exhibit Number 1 was marked for
20 identification.)

21 BY MS. BERESFORD:

22 Q. That is Exhibit 1. That is a -- have you
23 seen that document before?

24 A. Yes.

25 Q. There are multiple pages. Can you flip

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1 through all of the pages.

2 A. Okay.

3 Q. Have you seen that document before?

4 A. Yes.

5 Q. Can you describe what it is.

6 A. It's a order for me to come and give my
7 deposition, and review records of e-mails and
8 correspondence regarding San Altos.

9 Q. Great. Did you do anything to prepare for
10 today's deposition?

11 A. The only thing I did was collect all of
12 the e-mails from San Altos Company, and the e-mails
13 to the San Altos Company from me and fellow
14 coworkers.

15 Q. Did you talk to anybody about the
16 deposition before today?

17 A. Yes.

18 Q. And who did you talk to?

19 A. I talked to almost everybody at work.

20 Q. And who is that?

21 A. I talked to Leon, who is going to give his
22 deposition later on; Malik Tamimi; Stephanie Boyce.
23 I talked to Jim Lough. I spoke with -- I spoke
24 briefly to Taylor -- Tyler Sandstrom, who works for
25 San Altos. That's it.

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1 Q. Okay. What did you discuss with Leon?

2 A. That I had an 8:30 appointment here; and
3 he had a noontime appointment.

4 Q. And that was it?

5 A. Pretty much, yeah.

6 Q. How about with Mr. Tamimi?

7 A. The same thing. He was helping me get all
8 of the records that was asked for in the deposition,
9 all of the Notices of Violation and the Citations.

10 Q. Did you talk about the case itself at all?

11 A. No. No.

12 Q. And who is Stephanie Boyce?

13 A. She's an Engineering Tech III at work.

14 Q. And what did you talk about with her?

15 A. Pretty much that I had to be here on the
16 28th, which this whole week we have off for
17 Christmas. She was going to take off for a week, and
18 I was going to be here.

19 Q. Well, I apologize for that. We did not
20 dictate the schedule, so it's unfortunate. But thank
21 you for coming today.

22 We know that Mr. Lough produced a lot of
23 documents to our office in response to the request to
24 the City of Lemon Grove. Do you know if there are
25 any documents that you have that you specifically did

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1 not produce for any reason?

2 A. No.

3 Q. All right. Let's do a little background
4 discussion starting with your education. Did you
5 graduate from high school?

6 A. Yes.

7 Q. And where was that?

8 A. Will Crawford High School, San Diego.

9 Q. Did you go to college?

10 A. Yes.

11 Q. And where was that?

12 A. University of California at San Diego.

13 Q. When did you graduate or did you graduate?

14 A. 1999.

15 Q. And what was your degree?

16 A. Literature.

17 Q. Do you have any other degrees?

18 A. I do not.

19 Q. Okay. Can you tell me what your first job
20 was after you graduated from college?

21 A. I worked for my girlfriend's parents'
22 friend's engineering company.

23 Q. We'll just say you worked for an
24 engineering company.

25 A. Okay.

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1 Q. What was the name of that?

2 A. Lien, L-i-e-n, Engineering.

3 Q. And what did you do for them?

4 A. I was a shipping clerk.

5 Q. The things we do for love, huh?

6 A. Yeah.

7 Q. And how long did you work there?

8 A. About a year.

9 Q. Okay. So it was approximately 1999 to
10 2000?

11 A. Yes.

12 Q. And what did you do after that?

13 A. I took classes at the San Diego State
14 University in special inspection. And then I went to
15 work for the City of Poway as an engineering
16 inspector. I'm sorry. I got my certificate in
17 special inspection. Then I went to work for a
18 company called CTE. I don't know what the initials
19 stand for. I worked there for six months. And then
20 I went to work for the City of Poway.

21 Q. When you were in classes at SDSU, were you
22 a full-time student?

23 A. No.

24 Q. Were you working at that time?

25 A. Yes.

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1 Q. And what were you doing?

2 A. I was working at Lien Engineering.

3 Q. And what is a certificate in special
4 inspection?

5 A. Special inspection started with the
6 Northridge earthquake. It's structural inspection
7 for steel, welding, masonry, fireproofing. And as a
8 special inspector, you are assigned to stay on a job
9 site the whole time that any kind of structural
10 building was going on.

11 Q. Okay. What year did you get that
12 certificate?

13 A. It took about two years. You get a
14 certificate in each field for welding, and then for
15 steel and for concrete.

16 Q. Does that program include any training in
17 storm water compliance?

18 A. No.

19 Q. Are you required to do continuing
20 education classes for that certificate?

21 A. No.

22 Q. So after you got your certificate, you
23 said you worked for CTE for approximately six months?

24 A. Yes.

25 Q. Why did you leave there?

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1 A. I was -- Poway had a job as an engineering
2 inspector, and I applied for that.

3 Q. So you started work with the City of Poway
4 approximately when?

5 A. 2003.

6 Q. Okay. And how long were you with them?

7 A. Five years.

8 Q. And why did you leave the City of Poway?

9 A. I was going to start a company with a
10 friend of mine who is an engineer in inspection, but
11 it didn't pan out.

12 Q. And so then what did you do after that?

13 A. I went to work for the City of Lemon Grove
14 as an engineering inspector.

15 Q. And what year did you start with the City
16 of Lemon Grove?

17 A. 2010. 2011.

18 Q. And you've been with them ever since?

19 A. Yes.

20 Q. So this case I'm sure you are aware has to
21 do a lot with storm water issues. What training have
22 you had to inspect a site for storm water issues?

23 A. Periodically at the City of Lemon Grove,
24 they have storm water training. Malik Tamimi heads
25 those meeting, trains us.

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1 Q. How often do you have those meetings?

2 A. I think I've had two in five years.

3 Q. Do you remember what those meetings were
4 about?

5 A. Stormwater.

6 Q. Can you be any more specific?

7 A. I can't. It's been a while.

8 Q. Do you know when the last one was?

9 A. No. I'm sorry.

10 Q. Mr. Tamimi heads those meetings?

11 A. Yes.

12 Q. Did you ever have any guest speakers?

13 A. Yes.

14 Q. Do you know who they were?

15 A. Yes.

16 Q. Can you tell me?

17 A. Yes.

18 Q. Who were they?

19 A. Tad from D-Max, and two other individuals
20 from D-Max. I don't remember who they were.

21 Q. How long were those two trainings?

22 A. Maybe an hour or two.

23 Q. Do you recall if they focused on any
24 specific type of storm water permit?

25 A. No. I'm sorry, I don't.

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1 Q. Well, I know the answers to these, but I'm
2 going to ask them anyway, just to be clear for the
3 record. Are you a qualified storm water
4 professional?

5 A. I don't know.

6 Q. Okay. I was going -- do you know what a
7 qualified storm water professional is?

8 A. I do not.

9 Q. Okay. Do you know what a qualified
10 stormwater -- or a qualified SWPPP developer is?

11 A. I'm not sure.

12 Q. Are you familiar with a document called
13 the General Construction storm water permit?

14 A. I'm not familiar with it.

15 Q. Okay. How many sites have you -- well,
16 let me rephrase.

17 Have you ever inspected any construction sites
18 for storm water compliance?

19 A. Yes.

20 Q. How many sites?

21 A. I'm sorry, but I don't remember. It's
22 many, many.

23 Q. More than ten?

24 A. Yes.

25 Q. More than 20?

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1 A. I don't think so.

2 Q. So approximately ten to 20?

3 A. Yes.

4 Q. When did you start inspecting construction
5 sites for storm water compliance?

6 A. Ten years ago.

7 Q. So when I say inspecting a site for storm
8 water compliance, what does that mean to you? When
9 you are going to a site, you are saying, okay, they
10 are in compliance with something. What are they in
11 compliance with? What are you looking for?

12 A. That the site matches the plans and specs.

13 Q. That the site matches the plans and
14 specifications?

15 A. Yes.

16 Q. Are you aware that the State Water
17 Resources Control Board and its individual Regional
18 Water Quality Control Boards have rules about how
19 construction sites should be maintained to protect
20 water quality?

21 A. Yes.

22 Q. When you go to a site to inspect it, are
23 you inspecting it to see if it meets any of those
24 standards?

25 A. No.

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1 Q. Are you familiar with a document called
2 the Jurisdictional Urban Runoff Management Plan,
3 often referred to as the JURMP?

4 A. Yes.

5 Q. When you go to a site to inspect a site,
6 are you evaluating it for whether or not it complies
7 with the JURMP?

8 Let me rephrase before I go on. Do you know if
9 the City of Lemon Grove has a JURMP?

10 A. Yes.

11 Q. So when you inspect sites in the city of
12 Lemon Grove, are you inspecting them to see if they
13 are in compliance with the City's JURMP?

14 A. Yes.

15 Q. And when you inspect sites in the city of
16 Lemon Grove, are you inspecting them to see if they
17 are in compliance with the City's ordinances?

18 A. Yes.

19 Q. But you are not inspecting the site to see
20 if its compliant with rules set up by the State Water
21 Resources Control Board or the Regional Water Quality
22 Control Board?

23 A. Not specifically.

24 Q. I want to move specifically to talk about
25 the San Altos, Lemon Grove site. They are

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1 constructing a project called Valencia Hills located
2 at 1350 San Altos Place in Lemon Grove. Are you
3 familiar with this project?

4 A. Yes.

5 Q. Okay. So if I refer to it as the site,
6 you'll understand that I mean the Valencia Hills
7 project site?

8 A. Yes.

9 Q. Okay. When was the first time you visited
10 that site?

11 A. I don't remember.

12 MS. BERESFORD: Can you mark that as Exhibit 2.
13 (Exhibit Number 2 was marked for
14 identification.)

15 MS. BERESFORD: Can we go off the record a
16 second?

17 (Discussion off the record.)

18 MS. BERESFORD: Back on the record.

19 BY MS. BERESFORD:

20 Q. Do you recognize this document?

21 A. Yes.

22 Q. Can you describe to me what it is?

23 A. It is an e-mail from me to Ben Anderson.

24 Q. And who is Mr. Anderson?

25 A. He was the representative of the owners

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1 for the site.

2 Q. And what's the date of the e-mail?

3 A. Wednesday, July 23rd, 2014.

4 Q. And from the e-mail, can you tell if you
5 had visited the site?

6 A. Yes.

7 Q. So do you think you had visited the site
8 approximately July 23rd or within a couple of days of
9 that time period?

10 A. Yes.

11 Q. Do you think that was the first time you
12 had visited the site?

13 A. I'm not sure. Sorry.

14 Q. That's okay. Why did you go to the site?

15 A. Because it's a construction site within
16 Lemon Grove.

17 Q. And you visit all construction sites
18 within Lemon Grove?

19 A. Not all.

20 Q. So what's your criteria for when you visit
21 a site?

22 A. If it has a grading permit or not.

23 Q. So if it has a grading permit, you'll go
24 and inspect it?

25 A. Yes.

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1 Q. So you -- is it your recollection that you
2 went out there for that purpose?

3 A. Yes.

4 Q. Do you know if anyone specifically told
5 you to go out there?

6 A. I'm sorry. I don't remember.

7 MS. BERESFORD: Okay. Will you please mark
8 this as Exhibit 3.

9 (Exhibit Number 3 was marked for
10 identification.)

11 BY MS. BERESFORD:

12 Q. I've given you a document that has been
13 marked as Exhibit 3. I know there's a box at the top
14 that says Exhibit Number 2. But for purposes of this
15 deposition, it's Exhibit 3.

16 A. Okay. I've read through it.

17 Q. Thanks. And I apologize, I'm going to ask
18 you a few follow-up questions before we get to
19 Exhibit 3.

20 When you did the training with D-Max, did they
21 hand out any training materials?

22 A. I'm sorry. I don't remember.

23 Q. And who was your superior?

24 A. I'm sorry. Can you repeat that?

25 Q. Who was your boss?

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1 A. Oh, Tim Gabrielson.

2 Q. And who is that?

3 A. It's the Interim City Engineer for Lemon
4 Grove.

5 Q. And who is his boss?

6 A. I'm sorry. Can I turn this off?

7 MS. BERESFORD: Let's go off the record.

8 (Discussion off the record.)

9 MS. BERESFORD: Let's go back on.

10 BY MS. BERESFORD:

11 Q. Who is Mr. Gabrielson's boss?

12 A. Mike James.

13 Q. Does Mr. James have a boss?

14 A. It would be the City -- it would be the --
15 it would be the City Counsel for the City of Lemon
16 Grove at this time.

17 Q. So in terms of departments and who you
18 report to, do you report to Leon Firsht in any
19 capacity?

20 A. Not any more.

21 Q. Did you previously?

22 A. I did.

23 Q. And when was that?

24 A. I think up until about eight months ago.

25 Q. And why has that changed?

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1 A. He left Lemon Grove for another position.

2 Q. Okay. Did he previously hold one of the
3 positions occupied by Mr. Gabrielson or Mr. James?

4 A. Yes.

5 Q. And what position was that?

6 A. City Engineer.

7 Q. So forgive me, was he Mr. James or was he
8 Mr. Gabrielson?

9 A. Can you repeat that. I'm sorry.

10 Q. That's okay. In the chain of command, was
11 he immediately above you, or was he two above you
12 like Mr. James?

13 A. Immediately.

14 Q. Okay. And then how about Mr. Tamimi? Do
15 you report to Mr. Tamimi in any capacity?

16 A. I do not.

17 Q. And you said previously that you inspect
18 sites for compliance with plans and specifications;
19 is that correct?

20 A. That's correct.

21 Q. And can you be a little more specific
22 about what that means? What types of plans and what
23 types of specifications?

24 A. The grading plans for the project, and
25 Greenbook standards, and a standard drawing.

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1 Q. Anything else?

2 A. Stormwater.

3 Q. So when you are inspecting sites for
4 stormwater, what are you comparing them to? What's
5 your guideline for inspecting the site?

6 A. The BMP sheet on the plans and in the
7 specifications.

8 Q. Anything else?

9 A. Not that I can recall.

10 Q. Okay. Great. So let's look at Exhibit 3,
11 which I know that you've looked through previously.

12 A. Yeah.

13 Q. Have you seen this document before?

14 A. Yes.

15 Q. Can you tell me what it is?

16 A. It's a Notice, a Stop Work and Notice of
17 Violation.

18 Q. And who prepared it?

19 A. I did.

20 Q. And was it based on a visit to the site?

21 A. Yes.

22 Q. And when did you visit the site?

23 A. I don't -- I'm not sure. It's either the
24 day before or that morning.

25 Q. Let's look at the photographs. Let's

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1 start on page four, I believe. And there are some
2 photographs dated December 1st. And then when you
3 get to the third page of photographs, there are some
4 dated December 2nd, 2014. Do you see that?

5 A. Yes.

6 Q. Did you take these photographs?

7 A. I think so.

8 Q. But you don't know for sure?

9 A. No.

10 Q. Who else might have taken them?

11 A. Leon, or Tad, or Malik.

12 Q. Do you remember if any of them visited the
13 site with you on these days?

14 A. No.

15 Q. You don't remember, or they weren't with
16 you?

17 A. I don't remember. Sorry.

18 Q. Okay. Why did you go to visit the site
19 on -- well, first, did you visit the site on both
20 December 1st and December 2nd? Do the photographs
21 refresh your recollection?

22 A. I think so.

23 Q. And why did you go out on those days?

24 A. I have to go to each site at least once,
25 twice, three times a week as an engineering

1 inspector.

2 Q. Okay. On the first page of Exhibit 3, it
3 says, "The project is in conflict with the
4 following." And you checked the box, "City of Lemon
5 Grove JURMP." Is that correct?

6 A. Yes.

7 Q. And was that you who checked that box?

8 A. I think so.

9 Q. Who else would have checked it?

10 A. Anyone else above me.

11 Q. So tell me how that works. If you go to
12 visit a site, who fills out the form?

13 A. This form I filled out.

14 Q. Okay. So do you recall if you checked
15 that box or did someone else?

16 A. I think I did.

17 Q. And below it says, "The areas of conflict
18 are," and there is a box checked that says "Erosion
19 control is inadequate."

20 Did you check that box?

21 A. I think so.

22 Q. And what it says next is, "The following
23 deficiencies are noted." And there are two boxes
24 checked, "Stabilized construction entrance" and
25 "Cover stockpiles."

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1 Do you think you checked those boxes?

2 A. I think so.

3 Q. Does it sometimes happen that you bring
4 photographs back, and someone else in the office will
5 fill out a form like this and check boxes?

6 A. No.

7 Q. Is it that someone is on the site with you
8 and checks the box when they are at a site with you?

9 A. Sometimes.

10 Q. And so they check the box. Then you'll
11 still fill out the information that the inspection
12 was done by you?

13 A. Yes.

14 Q. Do you see how on the first page there's
15 highlighting and a red underline?

16 A. Yes.

17 Q. Did you do that?

18 A. I don't think so.

19 Q. Do you know who did?

20 A. I do not.

21 Q. Going to page two and three, again,
22 there's yellow highlighting of certain things. Did
23 you do that?

24 A. I don't remember.

25 Q. Let's go to the pictures. The first page

1 of pictures on December 1st has two pictures with a
2 red box around them, and then text that says, "Lack
3 of erosion control BMPs -- in the upper left-hand
4 corner it says, "Lack of erosion control BMPs on
5 inactive areas."

6 Do you mark and highlight that box this way?

7 A. I don't think so.

8 Q. How about can you look through the
9 photographs and tell me, did you mark any of the
10 pictures with the red boxes, or the boxes with red
11 text?

12 A. I don't think so.

13 Q. Do you know who might have made those
14 changes to the photographs?

15 MR. BOYERS: Objection. It calls for
16 speculation.

17 BY MS. BERESFORD:

18 Q. I'm just asking if you know.

19 A. No.

20 Q. When you -- let's look at the first page
21 of photographs, please. In the upper left-hand
22 corner, there's a photograph dated December 1st,
23 2014, 10:44 a.m. And there's a box above it that
24 says, "Lack of erosion control BMPs on inactive
25 areas."

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1 Did you identify this area as an inactive area?

2 A. It's been so long. I don't remember. I'm
3 sorry.

4 Q. So you don't remember if you marked it
5 active or inactive anywhere?

6 A. No.

7 Q. Do you recall if anyone asked you if it
8 was inactive or active?

9 A. I don't remember.

10 Q. Earlier I referenced a document, the
11 National Pollutant Discharge Elimination System
12 General Permit for Stormwater Discharges Associated
13 with Construction and Land Disturbances Activities.
14 It's also known as the Construction General Storm
15 Water Permit. Are you familiar with the document
16 generally called the Construction General Storm Water
17 Permit?

18 A. No.

19 Q. When you go to inspect areas for storm
20 water issues, do you ask people what areas are active
21 areas of construction versus inactive areas of
22 construction?

23 A. I don't understand the question. Can you
24 repeat the question.

25 Q. I will, subject to objection, represent to

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1 you that the Construction General Storm Water Permit
2 discusses differences between active areas and
3 inactive areas. And I'm wondering when you go to
4 inspect construction sites for storm water purposes,
5 are you looking at what is an inactive area versus an
6 active area?

7 A. Yes.

8 Q. And tell me what does that mean to you?
9 What's an inactive area versus an active area?

10 A. That nobody's working on the inactive
11 area; and people are working on the active area,
12 actively grading.

13 Q. Do you talk to the people working on the
14 site about when did you last work on an area? Or is
15 it only what you see that day?

16 A. Both.

17 Q. Okay. So when you went out on
18 December 1st, did you talk to anyone at San Altos
19 about what was an active area versus an inactive
20 area?

21 A. I'm sorry. I don't remember.

22 Q. Can you review -- why don't you review the
23 three pages beforehand. Do you think they identify
24 for you which areas are active versus inactive?

25 A. Okay. Can you repeat the question,

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1 please.

2 Q. I'm wondering if anywhere in your report
3 here you noted which areas were active and which were
4 inactive?

5 A. I don't see it in the report.

6 Q. Do you have any other field notes that you
7 take when you go out to visit a site for this type of
8 inspection?

9 A. No.

10 Q. Do you have a key for the photographs so
11 that when the photographs come back, you know which
12 photographs are for inactive versus active areas?

13 A. I don't understand "key."

14 Q. So you take pictures at the site, and you
15 are looking at pictures later. How would you know
16 whether one was an active area versus an inactive
17 area?

18 A. If it's uncovered or there's nobody
19 working there.

20 Q. If you were to talk to somebody on the
21 site and they said, "We're going to work on that area
22 in three days," would you consider that an active
23 area or an inactive area?

24 MR. BOYERS: Objection. That's an incomplete
25 hypothetical.

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1 THE WITNESS: I don't understand the question.
2 I'm sorry.

3 BY MS. BERESFORD:

4 Q. I'm trying to better understand when you
5 are at a site and you are trying to figure out what's
6 an inactive versus an active area. Does it matter to
7 you if they say, "We're going to work on that area in
8 three or four days," you would call that area an
9 active area or an inactive area?

10 MR. BOYERS: The same objection.

11 THE WITNESS: I'm sorry. I still don't
12 understand what you're asking.

13 BY MS. BERESFORD:

14 Q. To you, is an active area something that
15 somebody is only working on that day?

16 A. No.

17 Q. So what is an active area for you?

18 A. They're areas that are either actively
19 working on or have been actively working on in the
20 last ten days or haven't been disturbed.

21 Q. Okay. So going back to the pictures. You
22 don't recall identifying these as active or inactive;
23 is that correct?

24 A. I don't recall. That's correct.

25 Q. And so do you know how someone would know

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1 looking at the pictures independently? Did anyone
2 call and ask you, "Hey, is this a -- this picture
3 here, is this an inactive area, or is this an active
4 area?"?

5 A. I'm sorry. Can you repeat that.

6 Q. Did anyone call you or meet with you to
7 review these to ask you what area is an active area
8 versus an inactive area?

9 A. No, I don't remember. I'm sorry.

10 Q. And do you know, is there any other way
11 that someone would know looking at the pictures
12 whether an area was active or inactive?

13 A. I'm sorry. Can you repeat that.

14 Q. Sure. If they weren't at the site with
15 you, and they didn't call you to ask, is there some
16 way that someone looking at a picture, for example,
17 this first picture in the upper left-hand corner
18 dated December 1st, 2014, how would someone know that
19 that's an inactive area?

20 MR. BOYERS: Objection. It calls for
21 speculation.

22 THE WITNESS: I don't know.

23 BY MS. BERESFORD:

24 Q. Okay. Did anyone from the Water Board
25 call you to discuss this Exhibit 3 at any time?

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1 A. I don't think so.

2 MS. BERESFORD: Okay. All right. I would like
3 to mark this as our next exhibit. I believe that's
4 Exhibit 4.

5 (Exhibit Number 4 was marked for
6 identification.)

7 BY MS. BERESFORD:

8 Q. So this will be Exhibit 4 for purposes of
9 the deposition, even though at the top it says
10 Exhibit 3. Have you had a chance to review it?

11 A. I have.

12 Q. Have you seen it before?

13 A. I think so.

14 Q. Can you tell me what it is?

15 A. It is a Notice to Stop Work. And it's a
16 Notice of Violation.

17 Q. Did you fill this document out?

18 A. I think so.

19 Q. And what is the date of it?

20 A. December 4th, 2014.

21 Q. And it says -- there's a part of the
22 document that says, "Project is in conflict with the
23 following." And then the box is checked "City of
24 Lemon Grove JURMP." Did you check that box?

25 A. I think so.

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1 Q. And "The areas of conflict are," there are
2 three boxes checked. Do you know if you checked
3 those boxes?

4 A. I think so.

5 Q. And then again, "The following
6 deficiencies are noted." There are four boxes
7 checked. Did you check those boxes?

8 A. I think so.

9 Q. So you had just visited the site on
10 December 1st and 2nd -- is that correct? -- of 2014?

11 A. I'd have to look at the exhibits, but I
12 think so.

13 Q. Okay. And then you went back out on
14 December 4th; is that correct?

15 A. Yes.

16 Q. Why did you go back out so quickly?

17 A. I don't remember.

18 Q. Do you know if someone told you to go out?

19 A. I'm sorry. I don't remember.

20 Q. Okay. If you could take a look at
21 Exhibit 3 for me. There are -- there's an Inspection
22 Form behind it. I don't see a similar Inspection
23 Form associated with Exhibit 4. Did you fill one
24 out?

25 A. I'm sorry. I don't remember.

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1 Q. Okay. Do you know why you might not have
2 filled one out?

3 A. Yes.

4 Q. And why would you not have filled one out
5 that day?

6 A. Rain was imminent, and they had an illegal
7 discharge.

8 Q. So you didn't -- for that reason, you
9 didn't fill out an additional Inspection Form?

10 A. I'm sorry. I don't remember.

11 Q. You know, I apologize, I want to go back
12 to Exhibit 3. That is the December 2nd form again.

13 A. Okay.

14 Q. The second page is called NPDES Storm
15 Water Program Construction Storm Water Compliance
16 Inspection Form. Do you see that?

17 A. Yes.

18 Q. You indicated to me before that you were
19 not doing inspections in accordance with the Regional
20 Board Construction Permit. Is that your correct
21 testimony?

22 A. Yes.

23 Q. So when this form says Construction Storm
24 Water Compliance Inspection Form, what are you
25 looking in a compliance form? What is this form

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1 specific to?

2 A. The grading plans and the terms.

3 Q. Thank you. Let's go back to Exhibit 4,
4 which is the December 4th Inspection Form. Do you
5 see that the first page has yellow highlighting and
6 red underline?

7 A. Yes.

8 Q. Did you make those marks? Did you make
9 that highlighting?

10 A. I don't think so.

11 Q. Okay. Let's go to the next page of
12 photographs. And on the bottom left-hand corner,
13 there's a red box with a comment that says, "Sediment
14 in street." Did you make that?

15 A. I don't think so.

16 Q. Do you know who did?

17 A. I do not.

18 Q. Okay. Let's go to the next page of
19 photographs. There's a box in the upper left-hand
20 corner and text that says, "Lack of erosion control
21 in inactive areas." Did you make that mark?

22 A. I don't think so.

23 Q. Did you identify this photograph as an
24 inactive area anywhere in your report?

25 A. I don't see anything.

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1 Q. Did anyone ask you about this photograph
2 to ask you to identify whether it was an active or
3 inactive area?

4 A. I'm sorry. I don't remember that.

5 Q. Actually, I should have asked this before:
6 Did you take these photographs?

7 A. I think I did.

8 Q. Was anyone at the site with you on this
9 day?

10 I'll be more specific. Did anyone from the
11 City of Lemon Grove come to the site with you this
12 day?

13 A. I'm sorry. I don't remember.

14 Q. Okay. Let's go to the third page of
15 photographs. In the bottom right-hand corner,
16 there's a box called, "Lack of erosion control BMPs
17 on active areas." Do you see that box?

18 A. Yes.

19 Q. Did you make the red outline and text box?

20 A. I don't think so.

21 Q. Did you mark this photograph as an active
22 area in your report anywhere?

23 A. I'm sorry. I don't remember.

24 Q. Do you know if anyone called you to
25 discuss this photograph to figure out which area was

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1 an active area versus inactive area?

2 A. I'm sorry. I don't remember.

3 Q. If you look at the first page, it says
4 there's a CC. And it says, you CCed this report to
5 the City Engineer, Engineering, and the Regional
6 Water Quality Control Board. Do you see that?

7 A. Yes.

8 Q. Did you mark those boxes for that CC?

9 A. I think so.

10 Q. Why did you copy the Water Board?

11 A. Because they had a discharge.

12 Q. Is that your standard practice, that if a
13 construction site has a discharge, you copy the Water
14 Board on your reports?

15 A. Yes, I think so.

16 Q. Had you done it before?

17 A. I don't remember.

18 Q. How many times have you -- have you done
19 it for any other site, do you know?

20 A. Yes.

21 Q. How many other sites?

22 A. I'm sorry. I don't remember.

23 Q. Who told you that if there's a discharge,
24 that you should send a copy to the Water Board?

25 A. Malik.

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1 Q. When did he tell you that?

2 A. I'm sorry. Can you say it again.

3 Q. When did he tell you you should do that?

4 A. I'm sorry. I don't remember.

5 Q. You said that there was an illegal
6 discharge that you noted on the front page?

7 A. Yes.

8 Q. Can you describe to me what that illegal
9 discharge was?

10 A. Sediment in the street.

11 Q. Did you see evidence that the sediment
12 that was in the street was flowing into the storm
13 drain?

14 A. Yes.

15 Q. Can you show me -- are you relying on a
16 picture for that answer?

17 A. No.

18 Q. So can you describe to me what you saw
19 that made you make that determination?

20 A. Walking down the street, and seeing it
21 going into the drain.

22 Q. Let's go to the last page of the
23 photographs. Can you describe to me what these pages
24 of photographs are?

25 A. Yes. They are pictures of erosion and

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1 sediment.

2 Q. Are they from the Valencia Hills site?

3 A. Not all of them.

4 Q. Do you know -- so some of them are from
5 another site?

6 A. Yes.

7 Q. And why are there pictures from other
8 sites in this report?

9 A. Because I wanted to be fair to show that
10 not all of the runoff was from Valencia.

11 Q. So is this 19th Street runoff, was that
12 site adjacent to the Valencia Hills site?

13 A. Yes.

14 Q. So the discharge that you saw going into
15 the storm drain, was that a combination from both
16 sides?

17 A. No.

18 Q. So can you describe to me how this site
19 relates to the Valencia Hills site?

20 A. It's a neighborhood next door.

21 Q. When you say "next door," do you mean
22 immediately adjacent?

23 A. Yes.

24 Q. And what actions did you take with regard
25 to the 19th Street site? Did you do anything about

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1 that site?

2 Oh, I'm sorry. I think maybe the hole punch
3 may have done something. It may be 69th Street as
4 opposed to 19th Street; is that correct?

5 A. That's correct.

6 I may have notified the City of San Diego, but
7 I don't remember.

8 Q. Do you know is this site in the city of
9 San Diego, this 69th Street site?

10 A. Yes.

11 Q. Do you know if you contacted the Water
12 Board about this site, the 69th Street site?

13 A. I don't remember.

14 Q. Who is Tamara O'Neil?

15 A. She's a PE that used to work for the City
16 of Lemon Grove.

17 Q. And what was her role with respect to
18 storm water inspection?

19 A. Staff support.

20 Q. And what does that mean?

21 A. She would help me write citations
22 sometimes.

23 Q. So would you come back from the field with
24 photographs and ask her to help you fill out the
25 paperwork, or would you usually fill out the

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1 paperwork at the site?

2 MR. BOYERS: Objection. Compound.

3 MS. BERESFORD: I will rephrase.

4 BY MS. BERESFORD:

5 Q. Were there times when you came back with
6 photographs and notes and asked her to help you fill
7 out the forms?

8 A. Yes.

9 Q. How many times do you think that happened?

10 A. I'm not sure. I'm sorry.

11 Q. And why would you seek her assistance for
12 that?

13 A. She's an engineer, knows more than I do.

14 Q. Knows more than you do about what?

15 A. Engineering.

16 Q. Okay. I deserved that.

17 A. Sorry.

18 Q. No, would she help you fill out forms for
19 storm water issues?

20 A. Yes.

21 Q. So do you think she knew more about State
22 water compliance than you did?

23 A. I do.

24 Q. And why do you think that?

25 A. Because she's a PE, a Professional

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1 Engineer.

2 Q. Did you ever talk to her about whether she
3 had any specific storm water training?

4 A. No.

5 Q. Did she go to the trainings with D-Max?

6 MR. BOYERS: Objection. It calls for
7 speculation.

8 BY MS. BERESFORD:

9 Q. Were you at the trainings with D-Max?

10 A. Yes.

11 Q. Was she there?

12 A. I'm sorry. I don't remember.

13 Q. Okay. Was her title City Engineer?

14 A. Yes. No, Interim City Engineer.

15 Q. Interim City Engineer? Do you remember
16 about the time she was the Interim City Engineer?

17 A. No.

18 Q. Do you know, is Tamara still with the
19 City?

20 A. She is not.

21 Q. Do you know when she left?

22 A. I don't remember. I'm sorry.

23 Q. Do you know where she is employed now?

24 A. No.

25 MS. BERESFORD: All right. This will be -- if

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1 you could please mark that as Exhibit 5.

2 (Exhibit Number 5 was marked for
3 identification.)

4 MR. LOUGH: How are you doing, Gary?

5 THE WITNESS: I'm doing okay.

6 MR. LOUGH: Can we take a break?

7 THE WITNESS: Sure.

8 MS. BERESFORD: It would be a good time. I was
9 going to suggest it at 10:00, if you hadn't already.

10 MR. LOUGH: Good time or bad? It's up to you,
11 Gary.

12 THE WITNESS: 10:00 will work.

13 MS. BERESFORD: Huh? Do you want to continue?

14 MR. LOUGH: Yeah. No, it's up to him.

15 MS. BERESFORD: You don't need to have that
16 full conversation on there.

17 BY MS. BERESFORD:

18 Q. We will continue. All right. Exhibit 5.
19 Do you recognize the document that I have handed to
20 you, which says Exhibit 4 at the top, but is
21 Exhibit 5 for purposes of this deposition?

22 A. Yes, I think so.

23 Q. And what is it?

24 A. It is a Storm Water Compliance Inspection
25 Form.

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1 Q. Who filled it out?

2 A. I think I did.

3 Q. What is the date of it?

4 A. The 8th of December 2014.

5 Q. Did you visit the site that day?

6 A. I think so.

7 Q. Why did you go back out to the site on
8 December 8th?

9 A. It's a weekly inspection.

10 Q. Did anybody go to the site with you on
11 that day?

12 A. I'm sorry. I don't remember.

13 Q. Do you see the yellow highlighting on the
14 form?

15 A. Yes.

16 Q. Did you make that -- did you make that
17 highlighting?

18 A. I don't think so.

19 Q. On the third page there are photographs.
20 Did you take those photographs?

21 A. I think so.

22 Q. Did you -- three of the photographs have
23 red boxes around them with text on them. Did you
24 make that text?

25 A. I don't think so.

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1 Q. Did anyone call you to ask you about the
2 photographs?

3 A. I don't remember. I'm sorry.

4 Q. Do you -- on the bottom right-hand corner,
5 there's a photograph that says, "Lack of erosion
6 controls in inactive areas."

7 Does your report identify this area as an
8 inactive area anywhere?

9 A. I don't see it in the report.

10 Q. Were there any other notes that are
11 associated with your photographs that would identify
12 which photograph was an active area versus an
13 inactive area?

14 A. I don't see any.

15 Q. In the upper left-hand corner, there's a
16 picture that says, "Uncovered stockpile." Do you see
17 that?

18 A. Yes.

19 Q. Did you talk to anyone at the site about
20 that stockpile?

21 A. I don't remember.

22 Q. Is it possible that that stockpile was
23 going to be moved that day?

24 MR. BOYERS: Objection. It calls for
25 speculation.

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1 THE WITNESS: I don't know.

2 BY MS. BERESFORD:

3 Q. Do you recall if you asked anybody during
4 this inspection about which areas were active and
5 which areas were inactive?

6 A. I don't remember.

7 MS. BERESFORD: Okay. Thanks.

8 Would you please mark that as Exhibit 6.

9 (Exhibit Number 6 was marked for
10 identification.)

11 BY MS. BERESFORD:

12 Q. Do you recognize this document?

13 A. Yes.

14 Q. And what is it?

15 A. It's a Correct Work.

16 Q. Did you fill it out?

17 A. I think so.

18 Q. And what is the date of it?

19 A. December 9th.

20 Q. 2014?

21 A. 2014.

22 Q. Did you visit the site that day?

23 A. Yes, I think so.

24 Q. There are two pages of photographs
25 attached. Did you take those photographs?

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1 A. Yes, I think so.

2 Q. Why did you go back out to the site on
3 December 9?

4 A. I'm sorry. I don't remember going.

5 Q. Did you do the yellow highlighting on the
6 first page?

7 A. I don't think so.

8 Q. So the first page says, "This project is
9 in conflict with the following." And two boxes are
10 checked, "The City of Lemon Grove Grading Ordinance,"
11 and "The City of Lemon Grove JURMP."

12 Did you check those boxes?

13 A. Yes, I think so.

14 Q. And it says, "The areas of conflict are:
15 Erosion control is inadequate."

16 Did you check that box?

17 A. Yes, I did.

18 Q. It says, "The following deficiencies are
19 noted: Cover stockpiles and Cover on sloped and/or
20 flat areas that are inactive for more than ten days."

21 Did you check those boxes?

22 A. Yes.

23 Q. Did you check those independently, or did
24 you check those after conferring with somebody?

25 A. After conferring.

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1 Q. Who did you confer with?

2 A. Tad from D-Max.

3 Q. So you noted that erosion control is
4 inadequate. Can you describe to me what you see in
5 the pictures that you thought the erosion control was
6 inadequate?

7 A. There's evidence of sediment load in the
8 pictures.

9 Q. I'm sorry. Can you say that again.

10 A. There's evidence of sediment load in the
11 pictures.

12 Q. Sediment load?

13 A. Yeah.

14 Q. Picture?

15 A. The second page, middle one on the right.

16 Q. Is that picture with the time stamp of
17 1:39 p.m.? No. I think I'm on a different page than
18 you.

19 A. Yeah, 1:09 p.m.

20 Q. 1:09 p.m.? Anything else that contributed
21 to that finding?

22 A. There's other pictures in here that show
23 erosion, soil erosion.

24 Q. And which ones would you say show that?

25 A. The same page, the top, middle, and right.

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1 Q. Those two?

2 A. Yes.

3 Q. Going back to the first page, it says, the
4 boxes is checked, "over on sloped and/or flat areas
5 that are inactive for more than ten days."

6 How would you know if an area is inactive for
7 more than ten days?

8 A. By looking at the pictures. They have a
9 time stamp on them.

10 Q. So you are saying you compared your
11 pictures to earlier pictures?

12 A. That and talking to the contractor.

13 Q. So you would ask the contractor had you
14 worked on this area -- what kind of question would
15 you ask him to determine that?

16 A. I'd say, "We need to cover this
17 stockpile."

18 And he would say, "It's active."

19 So then the clock starts. You have ten days to
20 cover it.

21 Q. So for some of these areas, let's look at
22 the second page of photographs. Did you ask him
23 specifically whether they had worked on any of those
24 areas recently?

25 A. I'm sorry. I don't remember.

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1 Q. But all of your time was dependant on ten
2 days; is that correct?

3 A. Or around that, yes.

4 Q. I think you said that Mr. Tad Nakatani was
5 on the site with you that day; is that correct?

6 A. Yes.

7 Q. Why did Tad Nakatani go to the site?

8 A. I'm sorry. I don't remember why.

9 Q. Who is Mr. Nakatani?

10 A. He is a consultant to the City of Lemon
11 Grove through his company, D-Max.

12 Q. And what is his role? What is his
13 consultant role?

14 A. Storm water inspection.

15 Q. When did he start working with the City?

16 A. Sometime in the last year. I don't
17 remember when.

18 Q. Do you know why the City hired him? Do
19 you know?

20 A. Yes.

21 Q. Why?

22 A. Because I was getting busier and busier.
23 We needed some relief with the storm water
24 inspections.

25 Q. So why did both of you go to the site that

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1 day?

2 A. I don't remember.

3 Q. With respect to this December 9th Correct
4 Work Notice, did anyone from the Water Board call you
5 to discuss it?

6 A. I don't think so.

7 Q. Were you inspecting other construction
8 sites at the same time in this same time period?

9 A. I think so.

10 Q. Do you recall if you issued other
11 citations or citations to other sites?

12 A. No, I don't remember. I'm sorry.

13 Q. Do you have any recollection at the time
14 of what you thought of the site in terms of storm
15 water controls as compared to other sites?

16 A. I'm sorry. Can you repeat that.

17 Q. Sure. I'm trying to get a sense from you
18 how this site compared to other construction sites at
19 the time. Did you think that this site was typical
20 for what you saw for construction sites or not
21 typical?

22 A. I didn't think it was typical, no.

23 Q. And why was that?

24 A. I thought they were struggling with the
25 BMPs.

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1 Q. How so?

2 A. I didn't think they had enough erosion
3 control on hand to protect the site.

4 Q. Anything else?

5 A. No.

6 Q. Going back to this Exhibit 6, you've
7 checked the box of "Cover stockpiles." At the time
8 do you know if there had been any stockpiles that had
9 not been covered for an extended period of time?

10 A. No, I don't remember.

11 Q. So if you checked a box that said "Cover
12 stockpiles," was it just that a stockpile was not
13 covered that day?

14 A. No.

15 Q. Tell me more about what would -- why would
16 you check that box to "Cover stockpiles"?

17 A. Because I would notice the stockpiles
18 weren't covered in the past. And I talked to Tim and
19 tell him to cover the stockpiles.

20 Q. Was it always the same stockpile, or were
21 they different stockpiles?

22 A. They were different.

23 Q. So is it possible that the stockpile is
24 not covered for a day and then moved, and then it was
25 a different stockpile that was open for a day?

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1 MR. BOYERS: Objection. It calls for
2 speculation.

3 THE WITNESS: I don't understand. Can you --
4 BY MS. BERESFORD:

5 Q. Sure. Do you think a contractor is
6 required by the Construction General Storm Water
7 Permit, the Regional Board's permit, are they
8 required to cover stockpiles every day?

9 MR. BOYERS: Objection. It calls for a legal
10 conclusion.

11 THE WITNESS: I don't know. I'm sorry.
12 BY MS. BERESFORD:

13 Q. Okay. So you go to the site, and you see
14 a stockpile isn't covered -- please correct me if I'm
15 wrong -- you would indicate, "Please cover the
16 stockpile." What if he said, "I'm moving it
17 tomorrow," would you still check the box?

18 A. No.

19 Q. So what would -- in what scenario would
20 you check the box, then? Would you ask him when he's
21 going to move it?

22 A. Yes. I've spoke to him before.

23 Q. And so what would he tell you that you
24 would say, "I'm going to note it as a violation"?

25 A. Can you repeat that?

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1 Q. Sure. I'm trying to understand under what
2 factual scenario would you check this box to cover
3 stockpiles?

4 A. If it's more than ten days. If it's
5 uncovered, the original stockpile.

6 Q. On December 9th, had you seen an original
7 stockpile that you knew had been covered -- uncovered
8 for more than ten days?

9 A. I'm sorry. I don't remember.

10 Q. And to you, does it matter whether a
11 stockpile is in an active or inactive area?

12 A. I don't understand the question. I'm
13 sorry.

14 Q. Do you think is there a requirement in
15 terms of covering stockpiles? Does it matter whether
16 the contractor is actively working in that area?

17 A. Yes.

18 Q. So if he's working in the area, he is
19 required to cover the stockpiles?

20 MR. BOYERS: Objection. It calls for a legal
21 conclusion.

22 THE WITNESS: At some point.

23 BY MS. BERESFORD:

24 Q. And when would that be?

25 A. Ten days.

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1 Q. Ten days. So to you, a violation is at
2 ten days?

3 A. Uh-huh.

4 Q. Is that "yes"?

5 A. Yes.

6 MS. BERESFORD: It's 10:01. Should we take a
7 break?

8 MR. BOYERS: Yeah, let's take a break.

9 MS. BERESFORD: All right. We'll go off the
10 record.

11 (A recess was taken.)

12 MS. BERESFORD: Let's go ahead and get started.

13 I'm going to hand you another document, which I
14 believe is Exhibit 7. It's Exhibit 7 to the
15 deposition, even though it says Exhibit 6 at the top.

16 (Exhibit Number 7 was marked for
17 identification.)

18 BY MS. BERESFORD:

19 Q. Please review that document.

20 A. Okay.

21 Q. Have you seen Exhibit 7 before?

22 A. Yes.

23 Q. Can you describe what it is, please.

24 A. It's an Administrative Citation.

25 Q. And who filled it out?

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1 A. Leon Firsht.

2 Q. What is the date of it?

3 A. December 11th, 2014.

4 Q. Did you visit the site on that day?

5 A. I think so, yes.

6 Q. I would like to refer you to the second to
7 the last page of Exhibit 7. At the top of the
8 document it says, "Meeting Minutes/Phone Record." Do
9 you see that?

10 A. Yes.

11 Q. Who filled that out?

12 I can rephrase. Did you fill that out?

13 A. I don't think so.

14 Q. Okay. Do you know who made the site
15 inspection notes?

16 A. I think so.

17 Q. To the best of your knowledge, who do you
18 think made those notes?

19 A. Leon.

20 Q. So if you would like to refer to the prior
21 exhibits; but my notes show that you visited the site
22 on December 1st, December 2nd, December 4th,
23 December 8th, December 9th, and now December 11th.
24 Does that seem correct to you?

25 A. I think so.

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1 Q. So that would be six site visits in
2 11 days; is that correct?

3 A. I think so.

4 Q. Why did you keep going back to the site?

5 A. Because they were struggling with the
6 BMPs.

7 Q. Why did you go back out to the site on the
8 11th?

9 A. It was a follow-up from the 12/9 report.

10 Q. And do you know why Mr. Firsht went to the
11 site?

12 MR. BOYERS: Objection. It calls for
13 speculation.

14 THE WITNESS: No.

15 BY MS. BERESFORD:

16 Q. Did he ask you to meet him there?

17 A. I'm sorry. I don't remember.

18 Q. Or did you ask him to meet you there?

19 A. I don't remember.

20 Q. I'd like to show you a document I'm not
21 going to make an exhibit. I believe that is an
22 inspection that Mr. Nakatani did on December 11th.
23 Does that look correct to you?

24 A. It looks like it.

25 Q. And at the top of that form, Mr. Nakatani

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1 said he went to the site at 9:00 a.m. Does that look
2 correct?

3 A. That's what he wrote, yes.

4 Q. Was Mr. Nakatani at the -- well, let's go
5 back to Exhibit 7 and the meeting minutes. It says
6 that the meeting with you and Leon occurred at
7 approximately either 4:00 or 5:00 p.m. on the 11th.
8 Does that seem correct?

9 A. Yes.

10 Q. Was Mr. Nakatani at the meeting with you
11 and Leon?

12 A. I don't think so.

13 Q. Had you spoken to Mr. Nakatani about the
14 inspection that he did on the 11th before you met
15 with Leon?

16 A. I'm sorry. I don't remember.

17 Q. When you went out on the 11th, I note that
18 you didn't take any pictures. Why not?

19 I should rephrase. Did you take any pictures
20 on the 11th?

21 A. I don't remember.

22 Q. If you had taken pictures, do you think
23 they would have been attached to a report somewhere?

24 A. I think so.

25 Q. I'd like you to look again at

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1 Mr. Nakatani's Inspection Form. On page two, do you
2 see that he checked the box that says "No
3 violations"?

4 A. Yes.

5 Q. Did you discuss with Mr. Firsht why he was
6 going to issue a citation when Mr. Nakatani had noted
7 that there were no violations?

8 A. I'm sorry. I don't remember.

9 MR. BOYERS: Do you have a copy of that exhibit
10 that you are referring to? I don't have a copy. I
11 don't want to take his.

12 MS. BERESFORD: I think you guys can reasonably
13 share. I'm mostly done with it, so --

14 BY MS. BERESFORD:

15 Q. Did you talk to Mr. Firsht at all about
16 why he was issuing a citation?

17 A. No, I don't remember. I'm sorry.

18 Q. Was it Mr. Firsht's prerogative or
19 decision alone as to whether or not to issue an
20 Administrative Citation?

21 I'll rephrase. Do you know if he decided to
22 issue the Administrative Citation by himself, or did
23 you go back to the office and talk to somebody about
24 it before he issued the citation, if you know?

25 A. I don't remember. I'm sorry.

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1 Q. So Mr. Firsht issued an Administrative
2 Citation on the 11th. Was there a reason that you
3 did not also fill out a Correct Work Form for that
4 day?

5 A. No. No.

6 Q. You just decided not to?

7 A. I was following directions of the City
8 Engineer.

9 Q. And what was his direction?

10 A. Issue the citation.

11 Q. And do you know if that was his decision
12 or someone else's decision?

13 A. I don't. I'm sorry.

14 Q. Do you recall, did you ever discuss
15 anything with the Water Board about your site visit
16 on December 11th?

17 A. I don't think I did, no.

18 Q. Do you think someone else in the office
19 did?

20 A. I don't know.

21 Q. Why don't you give that document back to
22 me. Thank you.

23 I'm going to show you another document that I'm
24 not going to make as an exhibit. Have you seen that
25 document before?

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1 A. I'm sorry. I don't remember.

2 Q. Okay. Let me take it back.

3 It appears to be a memo from D-Max Engineering
4 to Mr. Tamimi from a gentleman by the name of John
5 Quenzer or Quenzer, dated December 12, 2014.

6 Does that look like what that document is?

7 A. Yes.

8 Q. That document talks about taking turbidity
9 samples at the site; is that correct?

10 A. Yes.

11 Q. Do you know who asked D-Max to take the
12 turbidity analysis?

13 A. No.

14 Q. Did you ask them to do that?

15 A. No.

16 Q. Do you know who was directing them as to
17 when they should inspect the site?

18 A. Yes.

19 Q. And who was that?

20 A. Malik and Leon.

21 MS. BERESFORD: I will take that back. Thank
22 you.

23 My next document we'll mark as Exhibit 8. And
24 it actually says Exhibit 8 at the top.

25 (Exhibit Number 8 was marked for

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1 identification.)

2 BY MS. BERESFORD:

3 Q. Have you seen this document before?

4 A. I think so.

5 Q. Can you describe to me what it is?

6 A. It's a Facility Inspection Report from the
7 California Regional Water Quality Control Board.

8 Q. And what was the date of this report?

9 I will rephrase. What was the date of the
10 inspection for this report?

11 A. December 15th, 2014.

12 Q. Did a group of people come and inspect the
13 site on that day?

14 A. I think so.

15 Q. Were you part of that group?

16 A. Yes.

17 Q. Do you know if Tad Nakatani was there that
18 day?

19 A. No, I don't remember that.

20 Q. I'd like to go to page two of the report.
21 The first sentence under Compliance History says, "On
22 December 2, 2014, the City of Lemon Grove issued a
23 Stop Work/Notice of Violation to the Valencia
24 construction site."

25 Do you know how the Water Board knew about that

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1 Stop Work Notice?

2 A. Yes.

3 Q. How did they know?

4 A. The City notified them.

5 Q. Do you know who at the City notified them?

6 A. I don't.

7 Q. Did you notify them?

8 A. No.

9 Q. Farther down on page two the third
10 paragraph says, "On the morning of December 12th,
11 2014, the City contacted the San Diego Water Board
12 about the unauthorized discharges of sediment and
13 sediment-laden storm water to their MS4 from the
14 Valencia construction site."

15 Do you know who contacted the Water Board on
16 the morning of December 12th?

17 A. I don't.

18 Q. Do you believe it was you?

19 A. No.

20 Q. The next sentence says, "According to the
21 City's storm water manager, the site owner was
22 claiming the site was in compliance with the
23 requirements of the Statewide Construction Storm
24 Water General Permit."

25 Do you know who the City's storm water manager

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1 is?

2 A. Yes.

3 Q. And who is that?

4 A. It's Malik Tamimi.

5 Q. Have you ever identified yourself as the
6 City's storm water manager?

7 A. No.

8 Q. Okay. Later in that paragraph it says,
9 "The City's storm water manager requested an
10 inspection from the San Diego Water Board."

11 Was that Mr. Tamimi, then, who requested that,
12 do you know?

13 A. I'm sorry. I don't.

14 Q. Did you ever specifically request an
15 inspection from the Water Board?

16 A. No.

17 Q. Are you aware of whether or not the City
18 has ever requested an inspection by the Water Board
19 at a construction site before?

20 A. Yes.

21 Q. And when was that?

22 A. At Valencia.

23 Q. Is Valencia the only site that the City
24 has requested an inspection by the Water Board?

25 MR. BOYERS: Objection. That calls for

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1 speculation.

2 THE WITNESS: I don't know. I'm sorry.

3 BY MS. BERESFORD:

4 Q. To your knowledge, is Valencia the only
5 site that the City has requested an inspection by the
6 Water Board?

7 A. I don't remember. I'm not sure.

8 Q. Did you consider it unusual at the time?

9 A. No.

10 Q. Why not?

11 A. Because they were struggling with their
12 BMPs.

13 Q. Had the City ever had another site that
14 struggled with BMPs?

15 A. Yes.

16 Q. Do you know if anyone requested an
17 inspection by the Water Board of that site?

18 A. I don't.

19 Q. I'd like to go to pages six, seven, eight,
20 and nine of Exhibit 8. They are photographs. Do you
21 know who took those photographs?

22 A. I don't.

23 Q. I'd like to go to page three of the report
24 in the Findings section. Paragraphs three and four
25 talk about areas that are inactive and active areas.

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1 Were you part of any conversations with the
2 site construction manager about which areas were
3 active and which areas were inactive?

4 A. Yes.

5 Q. Can you describe to me those
6 conversations.

7 A. I'm sorry. In what way?

8 Q. Did anybody ask the construction manager,
9 is this an active or inactive area?

10 A. Yes.

11 Q. Do you know who was asking those
12 questions?

13 A. Yes.

14 Q. And who was that?

15 A. It was me.

16 Q. Okay. When you said inactive or active,
17 did you put any time frame around that question? So
18 for example, did you say, have you been working on
19 this area within the past ten days? Or did you just
20 use the words inactive or active?

21 A. No, ten days.

22 Q. So in paragraph three, when you said,
23 "Several areas were observed to be inactive," did you
24 recall defining an area that was inactive was based
25 on your questions about whether they had worked on

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1 the area in the past ten days?

2 A. Are you asking regarding these findings on
3 this report?

4 Q. Yes.

5 A. I don't know.

6 Q. Okay. So on the 15th when this inspection
7 occurred, were there conversations with the site
8 manager about which areas were active and which areas
9 were inactive?

10 A. That I don't know.

11 Q. Okay. So you don't recall specific
12 discussions about those issues during that
13 inspection?

14 A. No.

15 MS. BERESFORD: Okay. Can you please mark this
16 as Exhibit 9.

17 (Exhibit Number 9 was marked for
18 identification.)

19 BY MS. BERESFORD:

20 Q. Have you seen that document before?

21 A. I think so.

22 Q. Can you describe to me what it is?

23 A. It's a Notice of Violation to the Valencia
24 Construction Project.

25 Q. And who issued that?

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1 A. It looks like Eric Becker.

2 Q. And what organization are they with?

3 A. Senior Water Resource Control Engineer,
4 Storm Water Management Unit for the California
5 Regional Water Quality Control Board, San Diego
6 Region.

7 Q. What's the date of that?

8 A. December 19th, 2014.

9 Q. Have you read that document before?

10 A. I've skimmed it.

11 Q. You've skimmed it?

12 A. Yeah.

13 Q. Do you think it generally reflected what
14 happened at the site?

15 A. I don't understand the question. I'm
16 sorry.

17 Q. Did you feel that the Notice of Violation
18 was accurate for what you had observed at the site?

19 A. I don't know.

20 Q. Okay. Thank you. I'm going to ask you to
21 review another document, but I'm not going to make it
22 an exhibit.

23 A. Do you want me to read the whole thing?

24 Q. Have you seen that document before?

25 A. I vaguely remember it, yes.

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1 Q. Can you describe to me what it is?

2 A. It looks like an e-mail from Ben Anderson
3 to Wayne Chiu.

4 Q. And what is the date of it?

5 A. January 1st, 2015.

6 Q. And is there a title of what it is?

7 A. There's a subject.

8 Q. What's the subject?

9 A. "PIN: SM-828060: WCHIUI."

10 Q. Do you know what the purpose of that
11 document is?

12 A. I think so.

13 Q. And what do you think the purpose of it
14 was?

15 A. It's a response from Ben to Wayne.

16 Q. A response about what?

17 A. The Notice of Violation.

18 Q. So did you talk to anybody about that
19 document?

20 A. I don't think so.

21 Q. Do you know -- do you know if anybody at
22 the City ever received a copy of this?

23 A. I think so.

24 Q. Was there any thought at the City about
25 this document?

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1 MR. BOYERS: Objection. Speculation.

2 BY MS. BERESFORD:

3 Q. Did you talk to anybody about this
4 document?

5 A. No.

6 Q. And did you say that you had previously
7 skimmed it?

8 A. Yes.

9 Q. And what did you think about it?

10 A. In what way?

11 Q. You skimmed it. Did you have any thoughts
12 after skimming it?

13 A. No, I didn't.

14 MS. BERESFORD: I believe this is Exhibit 10.

15 (Exhibit Number 10 was marked for
16 identification.)

17 BY MS. BERESFORD:

18 Q. Have you seen this document before?

19 A. Yes, I think so.

20 Q. And what is it?

21 A. It is a Correct Work issued from the City
22 to Valencia.

23 Q. And did you fill this out?

24 A. I think so, yes.

25 Q. And what's the date of it?

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1 A. March 24th, 2015.

2 Q. There are photographs attached; is that
3 correct?

4 A. Yes.

5 Q. Did you take those photographs?

6 A. Yes, I think I did.

7 Q. As you get to the third and fourth pages
8 of photographs, I note that possibly even the last
9 page, some of the photographs are dated March 23rd.
10 Did you go out both days?

11 Well, first of all, if you took the
12 photographs, do you believe that you took the
13 photographs on March 24th, those that are dates
14 stamped March 24th?

15 A. I think so.

16 Q. What about the photographs that are date
17 stamped March 23rd, do you believe you took those?

18 A. Yes, I think so.

19 Q. Do you know why you went out two days in a
20 row?

21 A. No. I'm sorry. I don't remember why.

22 Q. So I have inspection reports from you from
23 December of 2014, and then this report from
24 March 2015. Did you go out to the site in between
25 that period of time?

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1 A. I don't remember. I'm sorry.

2 Q. Is there a reason that you wouldn't have
3 gone for such a long period of time?

4 A. Yes.

5 Q. And what would that reason have been?

6 A. That Tad started doing the inspections.

7 Q. The last page is a document called
8 Inspector's Report. Did you prepare this document?

9 A. Yes, I think so.

10 Q. Did you do it on your own, or did you do
11 it with some assistance from someone at the City?

12 A. I think I did it alone.

13 Q. Under the "Remarks" it says, "Follow-up to
14 Tad's inspection of 3/18/15." Do you see that?

15 A. Yes.

16 Q. If Tad was inspecting the site, do you
17 know why you went back out?

18 A. I don't remember. Sorry.

19 Q. Do you know if someone told you to go out
20 and inspect the site?

21 A. I don't remember that.

22 Q. Now, this Inspector's Report on the last
23 page is different than the Construction Storm Water
24 Compliance Inspection Form that you filled out in
25 December of 2014; is that correct?

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1 A. That's right.

2 Q. Why did you use a different form?

3 A. Because I needed more space to report
4 everything that was going on.

5 Q. Okay. Do you see on the first page it
6 says, "Erosion control is inadequate," and it's
7 highlighted?

8 A. Yes.

9 Q. Did you do that highlighting?

10 A. I don't think so.

11 Q. If you go to the second -- I'm sorry, the
12 last page of photographs, there's a red box and red
13 text that says, "Lack of erosion controls in active
14 areas." Do you see that?

15 A. Yes.

16 Q. Did you make that notation on that
17 photograph?

18 A. No.

19 Q. Does your report anywhere indicate that
20 photograph is of an active area?

21 A. I'm sorry. Can you repeat that one.

22 Q. Did you note anywhere in your report that
23 this photograph reflected "lack of erosion controls
24 in active areas"?

25 A. Yes.

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1 Q. And where did you note that?

2 A. Number six.

3 Q. And how would somebody reading that know
4 that it was this photograph?

5 A. They wouldn't.

6 Q. Did anyone call you from the Regional
7 Board to ask you which photographs demonstrated it?

8 A. No.

9 Q. Did you ask anyone -- it says -- I'm
10 looking at your number six. It says, "Some other
11 areas that seem inactive last week are now active."

12 How did you know that they were inactive the
13 week before?

14 A. From the report, I must have gone out
15 there the week before.

16 Q. Do you think you went out the week before?

17 A. I don't remember.

18 Q. Did you ask anybody about which areas were
19 active or inactive?

20 A. Almost every time I went out there.

21 Q. And to you that meant within ten days?

22 A. Yeah.

23 Q. I'd like to direct your attention to
24 number two on that page. It says, "Concrete waste.
25 Crew did clean concrete waste, although another spill

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1 occurred at lot 23 that was not cleaned up."

2 So in reading this, do you believe that there
3 were two -- for lack of a better term -- spills of
4 concrete waste at the site?

5 A. No.

6 Q. Can you describe to me what that sentence
7 means, then?

8 A. The first concrete waste crew did not
9 clean concrete waste, although it says "another
10 spill."

11 Q. Although it says, correct me if I'm wrong,
12 "Concrete crew did clean concrete waste."

13 A. Yes.

14 Q. "Although another spilled occurred at lot
15 23."

16 A. Yes, it appears there were two spills by
17 that sentence.

18 Q. And by that, do you think that means they
19 cleaned up the first one?

20 A. Yes.

21 Q. Do you have a date of when that might have
22 happened?

23 A. No.

24 Q. It says, "There's another spill that was
25 not cleaned up."

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1 Did you have a date of when that spill may have
2 occurred?

3 A. No.

4 Q. Is it possible that the first concrete
5 waste spill was cleaned in a day?

6 MR. BOYERS: Objection. Speculation.

7 THE WITNESS: I'm sorry. Can you repeat that.

8 BY MS. BERESFORD:

9 Q. So you've indicated earlier yes, you think
10 there were two spills. Is it possible that they
11 could have cleaned a spill in a day's time?

12 MR. BOYERS: The same objection.

13 THE WITNESS: Yes.

14 BY MS. BERESFORD:

15 Q. Going back to number six, talking about
16 erosion control on inactive areas versus active
17 areas. Based on your report and what you see in the
18 photographs, what additional erosion controls on
19 active areas would you have recommended that they
20 use?

21 MR. BOYERS: I'm going to object as leading.

22 MS. BERESFORD: Well, then, I will rephrase.

23 BY MS. BERESFORD:

24 Q. Based on your report and the photographs,
25 do you think they should have implemented more

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1 erosion controls on active areas?

2 A. Yes.

3 Q. And what would those have been?

4 A. Protect the site from discharge from
5 cementitious material discharge. Completely cover
6 the slopes that look like they are complete. Cover
7 the flat areas so there's no erosion control. Store
8 the five-gallon containers in double containment;
9 have self-fence (phonetic) at the top of all slopes;
10 fiber rolls going along the face of the slope to
11 mitigate runoff. And I would say make sure there's
12 no tracking onto the asphalt street out in front of
13 the walks. That's all I could see.

14 Q. With respect to the cementitious waste
15 discharge to the ground --

16 A. Yes.

17 Q. -- do you have any evidence -- or are you
18 aware of whether or not that waste ever went to the
19 storm drain?

20 A. No.

21 Q. Did anyone at the Water Board call you to
22 talk about this report?

23 A. No.

24 Q. Going back to the recommendations that you
25 made for erosion control for active areas. What do

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1 you base those recommendations on? What guidance are
2 you using to come up with those recommendations?

3 A. I thought you said inactive. I'm sorry.

4 Q. Okay. So all of those prior
5 recommendations were for inactive areas?

6 A. Yes.

7 Q. Okay. What would your recommendations for
8 erosion control be for active areas?

9 A. Self-fence (phonetic) at the top slopes;
10 remove the cementitious materials; double contain the
11 five-gallon containers of fluid; double contain the
12 pallet of it looks like Quickset on the page of the
13 pictures; clean up the silt and debris from the
14 construction entrance. I think that's it.

15 Q. And on what guidance are you relying for
16 those recommendations?

17 A. The City of Lemon Grove and the plans,
18 specifications and plans.

19 Q. I notice on the first page it says -- on
20 your inspection it says 3:30. Do you know if that
21 was the beginning or end of your inspection?

22 A. The end.

23 Q. Is it possible that they could have
24 addressed some of those things before the end of the
25 workday?

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1 MR. BOYERS: Objection. Speculation.

2 THE WITNESS: They could, yes.

3 BY MS. BERESFORD:

4 Q. I notice that for March 24, most of your
5 pictures are taken between 8:00 and 9:00 a.m.; is
6 that correct?

7 A. I'm not sure. I'd have to see them.

8 Q. I'm sorry?

9 A. I'd have to see them.

10 Q. It's right there. Exhibit 10, the photos
11 for Exhibit 10 (indicating).

12 A. Yes.

13 Q. That you completed your report at
14 3:30 p.m. Were you on site for those remaining
15 six hours?

16 A. I don't think so.

17 Q. Do you know what was happening in that
18 period of time?

19 A. I don't.

20 MS. BERESFORD: We can mark this Exhibit 11 to
21 the deposition, although it says Exhibit Number 21 at
22 the top.

23 (Exhibit Number 11 was marked for
24 identification.)

25 BY MS. BERESFORD:

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1 Q. Have you seen this document before?

2 A. Yes.

3 Q. And what is it?

4 A. It's a City of Lemon Grove Administrative
5 Citation.

6 Q. And who issued it?

7 A. I did.

8 Q. And what's the date of it?

9 A. October 22nd, 2015.

10 Q. Was it issued on that day, or is that the
11 day that the payment's due? I'll direct you to
12 section E, which has a different date.

13 A. I'm sorry. Ask it again, please.

14 Q. What was the date that you issued this
15 Citation?

16 A. It looks like I issued it on 9/22/15.

17 Q. And we just reviewed an inspection that
18 you did on March 24th. Do you know if you went to
19 the cite any time between March 24th and
20 September 22nd?

21 A. I don't remember.

22 Q. Do you know why you went back out to the
23 site on September 22nd?

24 A. No, I don't.

25 Q. Under D, it says, "Install BMPs per

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1 recommendation, attached report."

2 Do you know where the report is?

3 A. No, I don't.

4 Q. Do you believe that you prepared a report?

5 A. I don't think I did.

6 Q. What are the Code sections that are
7 referenced here?

8 A. The City of Lemon Grove Municipal Code.

9 Q. Do you know what those Code sections are
10 about?

11 A. Not off the top of my head.

12 Q. Under section C it says violations were
13 observed on September 15th. Is it possible that you
14 went to the site on the 15th and issued the Citation
15 on the 22nd?

16 A. It could be.

17 Q. Do you know why there would be a week's
18 delay in issuing the Citation?

19 A. I don't.

20 Q. Did you talk with anybody at the City
21 about your visit on September 15th?

22 A. I don't remember.

23 Q. Was it your decision to issue the
24 Citation?

25 A. I don't remember.

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1 Q. Have you issued other Citations for \$1,000
2 to construction sites?

3 A. I don't think so.

4 Q. Do you know why you did so in this
5 instance?

6 A. No, I don't remember.

7 Q. What was the evidence of discharge?

8 A. I think it might be Tad's report.

9 Q. Did he inspect the site on the 15th with
10 you?

11 A. He might have.

12 Q. And do you recall yourself what that
13 discharge was?

14 A. No.

15 Q. Did anybody at the Water Board call you to
16 ask you what that evidence of discharge was?

17 A. No.

18 MS. BERESFORD: Okay. This will be Exhibit 12.
19 (Exhibit Number 12 was marked for
20 identification.)

21 BY MS. BERESFORD:

22 Q. Have you seen this document before?

23 A. Yes.

24 Q. And what is it?

25 A. It's a City of Lemon Grove Administrative

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1 Citation.

2 Q. And who issued it?

3 A. I did.

4 Q. And what was the date that the Citation
5 was issued?

6 A. October 5th, 2015.

7 Q. And was it based on a site inspection?

8 A. Yes.

9 Q. And what was the date of the inspection?

10 A. October 5th, 2015.

11 Q. So I see in your Violation Information it
12 says the violation is "Per grading plans and per
13 grading permit. Site is not in compliance with sheet
14 11A."

15 Did you bring the grading permit or grading
16 plan? Do we know if that was produced?

17 MR. BOYERS: I don't recall.

18 THE WITNESS: I didn't.

19 BY MS. BERESFORD:

20 Q. Was there a reason why not?

21 A. I don't have a reason, no. I'm sorry.

22 Q. Okay. Do you remember what those
23 violations were for?

24 A. Not specifically.

25 Q. Let's go through the pictures. Did you

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1 take these photographs?

2 A. I think I did.

3 Q. Describe to me what you see in this first
4 photograph.

5 A. In what way? I'm sorry.

6 Q. Do you think this photograph shows a
7 violation of some kind?

8 A. Yes.

9 Q. And what is that?

10 A. There is erosion. There's soil erosion.

11 Q. And what is that a violation of?

12 A. The City of Lemon Grove Municipal Code,
13 and --

14 Q. Do you know what that Code says?

15 A. Not specifically.

16 Q. And what is the erosion that you see? I'm
17 not trying to be difficult. I'm just not sure that I
18 see it.

19 A. Oh, dirt on the street.

20 Q. Dirt on the street?

21 A. Yes.

22 Q. Okay. Anything else?

23 A. The slope's uncovered, it appears that
24 way. There's no check-downs on the future sidewalk
25 area at the bottom of the photograph. And there's

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1 only one fiber roll. And it's being used for a
2 purpose, as I understand, it's not intended.

3 Q. I'm sorry. Could you say that again.

4 A. The fiber roll is being used for a purpose
5 which I understand is not intended to be used.

6 Q. Can you describe that a little bit more
7 for me.

8 A. On the side of the hill are stockpile.
9 Normally it's the fiber roll to make the hillside or
10 the stockpile in smaller bits to be able to manage
11 for erosion control. It made a giant stockpile a
12 small stockpile, all of these little stockpiles.

13 Q. Anything else?

14 A. No.

15 Q. Let's go to the second picture. What does
16 this picture convey?

17 A. It looks like there's sediment in the
18 gutter.

19 Q. Is that it?

20 A. No. There's also -- it looks like there's
21 no check-downs on the future sidewalk area. And the
22 hillside is denated (phonetic) but it's not covered.

23 Q. Do you know if this is an active or
24 inactive area?

25 A. I don't.

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1 Q. How about the next one? What does that
2 picture convey? I should say, what are the
3 violations that you see in that picture?

4 A. There's erosion out in the street in the
5 curb and gutter, and the stockpile is not covered.

6 Q. Do you know if this was an active or
7 inactive area?

8 A. I don't remember.

9 Q. And the violations you noticed, those are
10 violations of what?

11 A. The plans and specs of the Municipal Code.

12 Q. Let's go to the next picture. Just to be
13 clear, I have that as the fourth picture with the
14 house.

15 A. Yes.

16 Q. What are the violations you see there?

17 A. The gravel bags are -- have been
18 destroyed. I see erosion in the right side of the
19 picture between the houses. And the construction
20 entrance isn't per plan.

21 Q. Do you see any sediment in the street?

22 A. I can't tell by this picture.

23 Q. And do you know if this was an active or
24 inactive area?

25 A. It looks like it's active.

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1 Q. How about the fifth picture? What do you
2 see? Well, what are the violations that you would
3 see here?

4 A. The gravel bags are destroyed. It appears
5 that there's runoff in the storm drain -- I mean, in
6 the curb and gutter area between the asphalt and the
7 concrete.

8 Q. Anything else?

9 A. There's no inlet protection. That's all.

10 Q. Okay. And how about the last picture?

11 A. It looks like there's sediment in the
12 street. There's no cover on the -- on the soil on
13 the pads. And I don't see any check dams.

14 Q. Could the check dams be farther down?

15 A. It could.

16 Q. Do you know if this is an active or
17 inactive area?

18 A. No.

19 Q. You don't know?

20 A. I don't know.

21 Q. Did anybody at the Water Board ever call
22 you to discuss this report?

23 A. No.

24 Q. You noted that the violations you were
25 noting were violations of City of Lemon Grove

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1 ordinance and the JURMP and the grading plans.

2 A. Yes.

3 Q. Do you know if those issues would also be
4 violations of the Construction Storm Water Permit?

5 MR. BOYERS: Objection. It calls for a legal
6 conclusion.

7 THE WITNESS: I don't know.

8 BY MS. BERESFORD:

9 Q. Did anyone at the Water Board talk to you
10 about how violations of -- the alleged violations of
11 the grading plan would be violations of the
12 Construction General Storm Water Permit?

13 A. I don't think so.

14 Q. Going back to Exhibit 12, the third
15 picture. At the top -- actually, I should say
16 there's writing at the top. Is that your writing?

17 A. Yes.

18 Q. It says "Stockpile." Did you talk to
19 anyone about the status of that stockpile?

20 A. I don't remember.

21 Q. Did you know if they were going to move it
22 that day?

23 A. No.

24 Q. Other than -- well, let me rephrase.
25 Did you talk to Wayne Chiu during the

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1 December 15th site inspection?

2 A. Can I look back at the exhibits?

3 Q. Of course you can.

4 A. That's Exhibit Number 8?

5 Q. Yes, I believe so.

6 A. I think so.

7 Q. You spoke with him during that inspection?

8 A. Yes.

9 Q. Have you ever spoken to him any other time
10 about this site?

11 A. I don't think so.

12 Q. Have you ever discussed the site with
13 Frank Melbourn?

14 A. No.

15 Q. Have you ever discussed this site with
16 anyone else at the Water Board?

17 A. No.

18 Q. Have you ever had another construction
19 site -- have you ever been involved with another
20 construction site that was subject to an
21 administrative liability from the Regional Board?

22 A. I don't understand the question.

23 Q. So we're here today because the Regional
24 Board has issued a complaint against Valencia Hills
25 for storm water violations. I'm wondering if you

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1 know if you've ever been an inspector or involved in
2 a site that has also received a complaint from the
3 Water Board for a storm water violation?

4 A. Yes, I think so.

5 Q. And do you know which site that was?

6 A. Yes, it's called Citronica 2.

7 Q. I'm sorry?

8 A. Citronica, C-i-t-r-o-n-i-c-a, 1 and 2.

9 Q. Do you know if the Regional Board sought
10 penalties for that site?

11 A. No.

12 Q. You do not know?

13 A. (Witness shakes head.)

14 Q. Did you do inspections on that site?

15 A. Yes.

16 Q. How big was that site compared to this
17 site?

18 A. Can you --

19 Q. In total size, I guess I'm saying. Do you
20 have an acreage comparison or housing number
21 comparison?

22 A. I think Citronica was about an acre, an
23 acre and a half. And Valencia is almost 15 acres or
24 something like that, 15 or 16.

25 Q. How would you say the storm water control

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1 on the two sites compare?

2 A. In what way?

3 Q. Do you think they were similar? What were
4 the violations you saw at Citronica?

5 A. I don't remember exactly what it was, but
6 I think it was mostly housekeeping. I don't think it
7 was discharging.

8 Q. Do you know when that civil liability was
9 issued for Citronica?

10 A. Can you tell me what civil liability is?

11 Q. Sure. Do you know if the Water Board
12 sought penalties from Citronica?

13 A. I don't remember.

14 Q. Do you remember approximately when that
15 interaction occurred?

16 A. Maybe a couple of years ago.

17 Q. Okay. Are you aware that the Water Board
18 is seeking penalties for over \$800,000 at the
19 Valencia Hills site?

20 A. Yes.

21 Q. Are you aware of any other projects where
22 the Water Board has sought those levels of penalties?

23 A. I think so.

24 Q. Can you tell me what those are?

25 A. A project in Mira Mesa.

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1 Q. What was that one called?

2 A. I don't remember.

3 Q. Were you an inspector on that site?

4 A. No.

5 Q. What makes you think about that site? Or
6 what do you know about that site? Sorry.

7 A. Just people talking, inspectors talking.

8 Q. Do you recall what happened at that site?

9 A. No.

10 Q. What type of a project was it?

11 A. I don't know.

12 Q. Do you remember approximately when it was?

13 A. Maybe three years ago.

14 Q. Any other sites that you are aware of that
15 you've heard of the Water Board seeking this level of
16 penalties?

17 A. No.

18 Q. I think I'm -- do you know where in Mira
19 Mesa that project was?

20 A. Right off the 15, Mira Mesa Boulevard.

21 Q. And do you know if they sought -- do you
22 think they sought penalties in that case, in the Mira
23 Mesa case?

24 A. That's just what I heard.

25 Q. And do you know when that was?

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1 A. I don't remember.

2 MS. BERESFORD: Okay. I think I'm mostly done.
3 I'd like to suggest that we take a quick break,
4 review everything, make sure I don't have anything
5 else. I don't know if David is going to have any
6 questions.

7 MR. BOYERS: I'll think about it on the break.
8 I don't think so.

9 MS. BERESFORD: Okay. All right.

10 (A recess was taken.)

11 MS. BERESFORD: Let's go back on the record so
12 we can wrap this up.

13 BY MS. BERESFORD:

14 Q. Do you recall if there was a water main
15 break at the site in August of 2014?

16 A. I think so, yes.

17 Q. Did you report that incident to the
18 Regional Water Quality Control Board?

19 A. No.

20 Q. What do you recall about the water main
21 break?

22 A. Just that, that there was a water main
23 break. I'm sorry.

24 Q. That's okay. Did you feel like there was
25 anything unusual about it?

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1 A. Yeah, from what I can recall.

2 Q. And what's that?

3 A. The contractor hit the water main with a
4 backhoe.

5 Q. Has that ever happened on a site that
6 you've had before?

7 A. Yes.

8 Q. For other sites, do you know if anybody
9 reported that to the Regional Water Quality Control
10 Board?

11 A. I don't know.

12 Q. Going to Exhibit 11, which was the
13 Citation that you issued on September 22nd, 2015.
14 Did you talk to anyone at the City before you issued
15 that Citation?

16 A. I think I did.

17 Q. And who did you talk to?

18 A. I'm sorry. I don't remember.

19 Q. What would you have discussed?

20 A. Probably whether or not to issue a
21 Citation or not.

22 Q. And let's go to Exhibit 12. That was
23 October 5th where again, you issued a Citation. Did
24 you talk to anybody at the City about that?

25 A. I'm sorry. Which?

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1 Q. Exhibit 12. Did you talk to anyone at the
2 City before you issued that citation?

3 A. Procedurally I would have to, but I don't
4 recall a conversation.

5 Q. Tell me procedurally, then, how does that
6 work? Do you have to check with someone before you
7 issue a Citation?

8 A. Yes.

9 Q. Who would that be?

10 A. My supervisor.

11 Q. And who was that?

12 A. I don't recall. It would be either Tamara
13 or Leon. So November --

14 Q. This is September and October of 2015.

15 A. It would be either Leon or Tamara.

16 Q. Do you know if these Citations are under
17 appeal with the City?

18 A. I know that some of them are. I don't
19 know if it's this one specifically.

20 Q. Going back to the Citations, though. Then
21 ultimately, it's the decision of your supervisor as
22 to whether or not to issue those?

23 A. That's correct.

24 Q. Do you know if they have to check with
25 anybody?

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1 A. I do not.

2 MS. BERESFORD: Okay. I would like to make
3 this -- I think this is Exhibit 13. I apologize. I
4 only have one copy.

5 (Exhibit Number 13 was marked for
6 identification.)

7 THE WITNESS: Okay.

8 BY MS. BERESFORD:

9 Q. Can you state what it is?

10 I should rephrase. Have you seen this document
11 before?

12 A. I think I have.

13 Q. Can you say what it is?

14 A. It's an e-mail.

15 Q. From whom?

16 A. From Tad Nakatani.

17 Q. To whom?

18 A. To myself, and Malik to me.

19 Q. And what's the date of it?

20 A. September 16th, 2015.

21 Q. Can you read the text of the e-mail.

22 A. "Hi Gary, here are the draft instruction
23 forms for the three sites I went to yesterday. I
24 have not yet filed out the Violations section shown
25 below. Would you like me to still fill out the

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1 'Inspection Form as Correct Work Notice' option, or
2 do you plan to go with anything more for any of the
3 sites?"

4 Q. Was the Valencia Hills site one of the
5 inspection forms attached to that e-mail?

6 A. Yes.

7 Q. So is Tad asking as to whether or not he
8 should say something is a violation?

9 MR. BOYERS: Objection. Speculation.

10 THE WITNESS: Can you ask me that again.

11 BY MS. BERESFORD:

12 Q. What do you think Tad is asking in that
13 e-mail?

14 MR. BOYERS: The same objection.

15 THE WITNESS: He's asking, "Would you like me
16 to still fill out the 'Inspection Form as Correct
17 Work Notice' option?"

18 BY MS. BERESFORD:

19 Q. So what does that mean? Is he asking you
20 which box he should check?

21 MR. BOYERS: Objection. Speculation.

22 THE WITNESS: I think so.

23 BY MS. BERESFORD:

24 Q. Was that common for him to do?

25 A. Common in what way?

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1 Q. For the other reports, Inspection Reports
2 that he filled out, did he ask you which box he
3 should check?

4 A. No.

5 Q. Do you know if he asked other people at
6 the City which box he should check?

7 A. Well, it looks like Malik is CCed on here.

8 Q. So for other reports, do you know if he
9 asked Malik which box he should check?

10 A. I don't know.

11 Q. So for other reports, had he asked you
12 which box he should check?

13 A. I'm not sure. I don't think so.

14 Q. What was he hired to do?

15 A. Consultant to take my place as the storm
16 water -- in the storm water inspections.

17 Q. So he was hired to do storm water
18 inspections?

19 A. Yes.

20 Q. And do you know why he wouldn't be able to
21 make the decision on his own as to whether or not
22 there was a violation?

23 A. No.

24 (Discussion off the record.)

25 BY MS. BERESFORD:

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1 Q. Did you respond to this e-mail, do you
2 recall?

3 A. No, I don't remember.

4 Q. Had you before told Tad which boxes he
5 should check on other inspections?

6 A. No.

7 Q. Had you talked about it when you guys
8 did -- did you ever inspect a site together?

9 A. Yes.

10 Q. And during those inspections, did you tell
11 him at the conclusion of that what he should do?

12 A. No.

13 MS. BERESFORD: I don't have any other
14 questions right now.

15 Do you?

16 MR. BOYERS: No.

17 MS. BERESFORD: Jim, do you?

18 MR. LOUGH: No.

19 MS. BERESFORD: I think the parties stipulated
20 that the original transcript will come to the offices
21 of Oppen & Varco, who will then forward it to
22 Mr. Lough to coordinate with Mr. Harper for his
23 review. The parties will discuss the timeline review
24 based on the schedule that we hope to get from the
25 Regional Board by the end of the day.

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1 MR. LOUGH: Call me before you do it. I may
2 have to have you messenger it to City Hall -- my
3 office is in Escondido -- because you are in a hurry.

4 MS. BERESFORD: No problem. Maybe it will be
5 sent electronically, so --

6 MR. LOUGH: Yeah.

7 MS. BERESFORD: And the Regional Board will
8 independently work with the court reporter. If you
9 want to order a transcript, he will send a copy to
10 you at the same time. If Mr. Harper has any changes,
11 we will send those to you as soon as reasonably
12 possible.

13 THE WITNESS: Are you talking about this week?
14 Because there's no receptionist at City Hall this
15 week. It's closed.

16 MR. LOUGH: If it's this week, it will go to
17 me. If it's next week, you can send it straight to
18 City Hall.

19 MS. BERESFORD: But it might be electronic.

20 MR. LOUGH: You can send them to me, and I can
21 forward them to Mr. Harper's e-mail.

22 MS. BERESFORD: Okay. We will do that.

23 Is that acceptable to you?

24 THE REPORTER: Sure.

25 MS. BERESFORD: Okay.

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1 MR. BOYERS: I'm fine with that.

2 MS. BERESFORD: I'm done. Thank you very much
3 for your time today. We appreciate it.

4 (Discussion off the record.)

5 THE REPORTER: Sir, would you like to order a
6 copy of these?

7 MR. BOYERS: Yes, I would.

8 (Exhibit Numbers 1 through 13 were marked
9 for identification.)

10 (The deposition concluded at 12:04 p.m.)
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I declare under penalty of perjury under
the laws of the State of California that the
foregoing is true and correct.

Executed at _____, California,
on _____.

GARY HARPER

1 STATE OF CALIFORNIA) ss
2

3 I, R. Jerrod Jones, CSR 11750, do hereby declare:
4

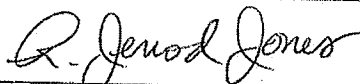
5 That, prior to being examined, the witness named in
6 the foregoing deposition was by me duly sworn pursuant
7 to Section 2093(b) and 2094 of the Code of Civil
8 Procedure;
9

10 That said deposition was taken down by me in
11 shorthand at the time and place therein named and
12 thereafter reduced to text under my direction.
13

14 I further declare that I have no interest in the
15 event of the action.
16

17 I declare under penalty of perjury under the laws
18 of the State of California that the foregoing is true
19 and correct.
20

21 WITNESS my hand this 29th day of
22 December, 2015

23 

24 R. Jerrod Jones, CSR 11750
25



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Harper, Gary

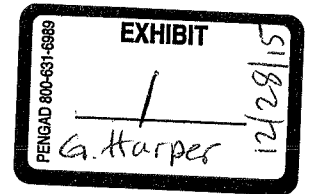


Litigation SERVICES

Job: 598612

Exhibit: 00001





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:) **SAN ALTOS – LEMON GROVE, LLC'S**
ADMINISTRATIVE CIVIL LIABILITY COMPLAINT) **NOTICE OF DEPOSITION OF GARY**
No. R9-2015-0110) **HARPER AND REQUEST FOR**
AGAINST SAN ALTOS – LEMON GROVE, LLC) **PRODUCTION OF DOCUMENTS**
Date: December 28, 2015
Time: 8:30 a.m.
Place: Law Offices of Oppper & Varco LLP
225 Broadway, Suite 1900
San Diego, CA 92101

TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

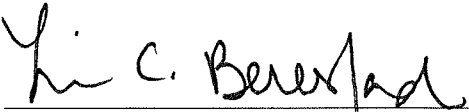
PLEASE TAKE NOTICE that on December 28, 2015 at 8:30 a.m., San Altos – Lemon Grove, LLC will take the deposition of Gary Harper in accordance with the enclosed subpoena. This deposition will take place at the law firm of Oppper & Varco, LLP, located at 225 Broadway, Suite 1900, San Diego, CA 92101, before 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.

1 YOU ARE FURTHER NOTIFIED that San Altos-Lemon Grove, LLC requests that Gary
2 Harper produce the documents identified in Attachment A to this Notice of Deposition and
3 Request for Production of Documents.

4
5 Dated: December 10, 2015

OPPER & VARCO LLP

6
7 

8 Linda C. Beresford
9 Attorney for San Altos – Lemon Grove, LLC
10
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EXHIBIT A

1 S. WAYNE ROSENBAUM (SBN 182456)
2 OPPER & VARCO, LLP
225 Broadway, Suite 1900
San Diego, California 92101
3 Telephone: 619.231.5858
Facsimile: 619.231.5853
4 Email: swr@envirolawyer.com

5 Attorney for San Altos – Lemon Grove, LLC

6 BEFORE THE CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD

7 SAN DIEGO REGION

8 IN THE MATTER OF:

9 **Administrative Civil Liability Complaint**
10 **No. R9-2015-0110 Against San Altos – Lemon Grove, LLC**

AFFIDAVIT IN SUPPORT OF SUBPOENA FOR
DOCUMENTS AND THINGS FROM GARY
HARPER

11 1. I, S. Wayne Rosenbaum, declare that I am counsel for San Altos – Lemon Grove, LLC (“San
12 Altos”), a Designated Party in the above-entitled matter.

13 2. On December 4, 2015, the Advisory Team for the California Regional Water Quality Control
14 Board, San Diego Region (“Advisory Team”) issued the Final Hearing Procedures for ACLC R9-2015-0110. (“Final
15 Hearing Procedures”), which included a list of deadlines (the “Schedule”) prior to the currently scheduled hearing
16 date of February 10, 2016.

17 3. The Schedule requires San Altos submit “All evidence (other than witness testimony to be
18 presented orally at the hearing) that the Designated Party would like the San Diego Water Board to consider” by
19 January 4, 2016.

20 4. Good cause exists for the production of the document described below because such evidence is
21 probative of the veracity of the alleged violations of the Complaint.

22 5. As an Engineering Inspector for the City of Lemon Grove, Gary Harper has, or should have, the
23 documents described below in his possession or control.

24 6. The exact documents to be produced include:

25 a. All records and documents, including, but not limited to, inspection reports, notices of
26 violation, administrative citations, stop work notices, correct work notices, field notes, photographs, audio
27

28 AFFIDAVIT IN SUPPORT OF SUBPOENA FOR DOCUMENTS AND THINGS FROM GARY HARPER

1 or video recordings, phone logs, and internal communications, including emails, related to inspections that
2 occurred at the San Altos -- Lemon Grove, LLC Valencia Hills Construction Site on the following dates:

3 December 1, 2014

4 December 2, 2014

5 December 3, 2014

6 December 4, 2014

7 December 5, 2014

8 December 6, 2014

9 December 7, 2014

10 December 8, 2014

11 December 9, 2014

12 December 11, 2014

13 December 12, 2014

14 December 15, 2014

15 December 16, 2014

16 December 17, 2014

17 December 31, 2014

18 January 6, 2015

19 January 7, 2015

20 January 8, 2015

21 January 9, 2015

22 January 10, 2015

23 January 11, 2015

24 January 12, 2015

25 January 13, 2015

26 March 1, 2015

27
28 AFFIDAVIT IN SUPPORT OF SUBPOENA FOR DOCUMENTS AND THINGS FROM GARY HARPER

1	March 18, 2015
2	March 19, 2015
3	March 20, 2015
4	March 21, 2015
5	March 22, 2015
6	March 23, 2015
7	March 24, 2015
8	March 25, 2015
9	March 26, 2015
10	March 27, 2015
11	March 28, 2015
12	March 29, 2015
13	March 30, 2015
14	March 31, 2015
15	April 1, 2015
16	May 8, 2015
17	May 9, 2015
18	May 10, 2015
19	May 11, 2015
20	May 12, 2015
21	May 13, 2015
22	May 14, 2015
23	May 15, 2015
24	September 15, 2015
25	October 5, 2015

AFFIDAVIT IN SUPPORT OF SUBPOENA FOR DOCUMENTS AND THINGS FROM GARY HARPER

19, 2015.

of March 6, 2014 through October 19, 2015.

experience.

of specialized software.

I declare under penalty of perjury that the foregoing is true and correct.

Dated this 10th of December, 2015.

Attorney for San Altos - Lemon Grove, LLC

**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.): S. Wayne Rosenbaum, Esq. Oppen & Varco LLP 225 Broadway, Suite 1900, San Diego, CA 92101 Phone: (619) 231-5858 Fax: (619) 231-5853 E-Mail: swr@envirolawyer.com REPRESENTING: San Altos - Lemon Grove, LLC		FOR REGIONAL WATER BOARD USE ONLY
TITLE OF THE PROCEEDING: Administrative Civil Liability Complaint No. R9-2015-0110		
<input checked="" type="checkbox"/> SUBPOENA <input type="checkbox"/> RE HEARING <input checked="" type="checkbox"/> SUBPOENA DUCES TECUM <input checked="" type="checkbox"/> RE DEPOSITION		

THE PEOPLE OF THE STATE OF CALIFORNIA, TO (name): GARY HARPER

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: December 28, 2015	Time: 8:30 AM PST
b. Address: 225 Broadway, Suite 1900, 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. ☒ 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
-----------------------------	-------------------------------------

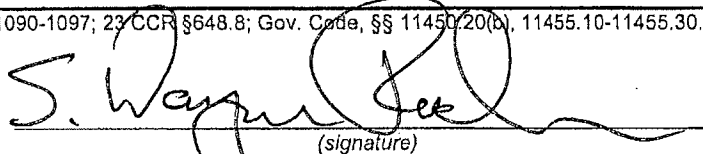
(Gov. Code, § 11450.20(a); Code Civ. Proc., § 1985.2.)

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 10, 2015


 (signature)

Name: S. Wayne Rosenbaum

Title: Partner - Oppen & Varco LLP
 Attorney for San Altos - Lemon Grove, LLC

PROOF OF SERVICE OF SUBPOENA

(Gov. Code, § 11440.20; Code Civ. Proc., §§ 1987, 1987.5, 1988, 1989, 2015.3, 2015.5.)

1. I served this ☒ subpoena ☐ subpoena duces tecum and supporting affidavit by:

☐ personally delivering a copy to the person served as follows:

a. Person served (name):	b. Date of delivery:
c. Address where served:	d. Time of delivery:
e. Witness fees and mileage both ways (check one): (1) <input type="checkbox"/> were paid. Amount: \$ _____ (2) <input checked="" type="checkbox"/> were not paid. (3) <input type="checkbox"/> were tendered to the witness's public entity employer as required by Government Code § 68097.2. The amount tendered was \$ _____	f. Fees for service. Amount: \$ _____

- ☐ delivering true copies thereof by certified mail, return receipt requested, to the address as shown below.
☐ delivering true copies thereof enclosed in a sealed envelope to a messenger for immediate personal delivery to the address as shown below.
☐ delivering true copies thereof enclosed in a sealed envelope to a mail delivery service for overnight delivery to the address as shown below. [Specify name of mail service and tracking no.: _____]
☐ Other method allowed by Gov. Code §11440.20. Specify: _____

Address where served:

2. I certify that I received this ☐ subpoena ☐ subpoena duces tecum for service on _____ Date _____

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on:

Date	at (place)	Signature
		, California

(For California sheriff, marshal, or constable use only)

I certify that the foregoing is true and correct and that this certificate is executed on:

Date	at (place)	Signature
		, California

NOTE: THE ATTORNEY OR PARTY WITHOUT AN ATTORNEY REQUESTING THIS SUBPOENA MUST PROVIDE A COPY OF THE SUBPOENA TO EVERY PARTY IN THE HEARING, AND FILE A COPY WITH THE REGIONAL WATER QUALITY CONTROL BOARD. THE COPY PROVIDED TO THE REGIONAL WATER QUALITY CONTROL BOARD MUST BE ACCOMPANIED BY A CERTIFICATE OF SERVICE LISTING THE NAMES AND ADDRESSES OF PARTIES WHO WERE PROVIDED COPIES IN ACCORDANCE WITH GOVERNMENT CODE § 11440.20. (Gov. Code, § 11440.20; Cal. Code Regs., tit. 23, § 648.4(c).) (Send 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 Dr., Suite 100, San Diego, CA 92108.)

1 S. WAYNE ROSENBAUM (SBN 182456)
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3 Telephone: 619.231.5858
Facsimile: 619.231.5853
4 Email: swr@envirolawyer.com

5 Attorney for San Altos – Lemon Grove, LLC

6 BEFORE THE CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD

7 SAN DIEGO REGION

8 IN THE MATTER OF;

9 **Administrative Civil Liability Complaint**
10 **No. R9-2015-0110 Against San Altos – Lemon Grove, LLC**

AFFIDAVIT IN SUPPORT OF SUBPOENA FOR
DOCUMENTS AND THINGS FROM GARY
HARPER

11 1. I, S. Wayne Rosenbaum, declare that I am counsel for San Altos – Lemon Grove, LLC (“San
12 Altos”), a Designated Party in the above-entitled matter.

13 2. On December 4, 2015, the Advisory Team for the California Regional Water Quality Control
14 Board, San Diego Region (“Advisory Team”) issued the Final Hearing Procedures for ACLC R9-2015-0110. (“Final
15 Hearing Procedures”), which included a list of deadlines (the “Schedule”) prior to the currently scheduled hearing
16 date of February 10, 2016.

17 3. The Schedule requires San Altos submit “All evidence (other than witness testimony to be
18 presented orally at the hearing) that the Designated Party would like the San Diego Water Board to consider” by
19 January 4, 2016.

20 4. Good cause exists for the production of the document described below because such evidence is
21 probative of the veracity of the alleged violations of the Complaint.

22 5. As an Engineering Inspector for the City of Lemon Grove, Gary Harper has, or should have, the
23 documents described below in his possession or control.

24 6. The exact documents to be produced include:

25 a. All records and documents, including, but not limited to, inspection reports, notices of
26 violation, administrative citations, stop work notices, correct work notices, field notes, photographs, audio
27

28 AFFIDAVIT IN SUPPORT OF SUBPOENA FOR DOCUMENTS AND THINGS FROM GARY HARPER

1 or video recordings, phone logs, and internal communications, including emails, related to inspections that
2 occurred at the San Altos – Lemon Grove, LLC Valencia Hills Construction Site on the following dates:

3 December 1, 2014

4 December 2, 2014

5 December 3, 2014

6 December 4, 2014

7 December 5, 2014

8 December 6, 2014

9 December 7, 2014

10 December 8, 2014

11 December 9, 2014

12 December 11, 2014

13 December 12, 2014

14 December 15, 2014

15 December 16, 2014

16 December 17, 2014

17 December 31, 2014

18 January 6, 2015

19 January 7, 2015

20 January 8, 2015

21 January 9, 2015

22 January 10, 2015

23 January 11, 2015

24 January 12, 2015

25 January 13, 2015

26 March 1, 2015

1	March 18, 2015
2	March 19, 2015
3	March 20, 2015
4	March 21, 2015
5	March 22, 2015
6	March 23, 2015
7	March 24, 2015
8	March 25, 2015
9	March 26, 2015
10	March 27, 2015
11	March 28, 2015
12	March 29, 2015
13	March 30, 2015
14	March 31, 2015
15	April 1, 2015
16	May 8, 2015
17	May 9, 2015
18	May 10, 2015
19	May 11, 2015
20	May 12, 2015
21	May 13, 2015
22	May 14, 2015
23	May 15, 2015
24	September 15, 2015
25	October 5, 2015

AFFIDAVIT IN SUPPORT OF SUBPOENA FOR DOCUMENTS AND THINGS FROM GARY HARPER

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. Harper and/or the City of Lemon Grove to San Altos – Lemon Grove, LLC from March 6, 2014 to October 19, 2015.

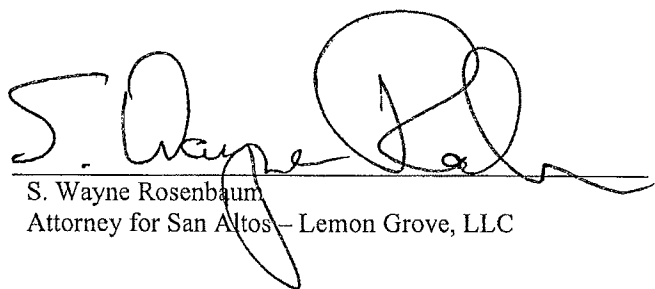
c. Any documents, contracts, work orders, requests for services, communications or records thereof including but not limited to emails, or invoices related to inspections, testing, report writing, or materials related to services rendered by D-Max Engineering, Inc. on behalf of the City of Lemon Grove 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. Harper'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

Harper, Gary



Litigation
SERVICES

Job: 598612

Exhibit: 00002



From: Gary Harper
Sent: Wednesday, July 23, 2014 10:57 AM
To: 'Ben Anderson'
Cc: Tracy Robb; Malik Tamimi; Leon Firsht; Tamara Oneal; rjuarez@minnali.com
Subject: Stormwater Correct Work
Attachments: LG-ECOPY01_LDAPMAIL_07232014-084910.PDF

Follow Up Flag: Follow up
Flag Status: Flagged

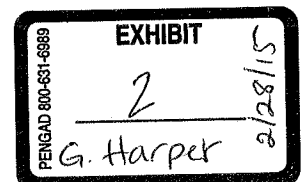
Ben,

I spoke with Tim a couple of days ago regarding dirt clods on Akins, and told him that this written correct work was coming. This correct will turn into a stop work if the street is not clean by end of business tomorrow; the site will be shut down and only erosion/sediment control work can be done.

Please have your QSP take a look at the current entrance and advise how you could modify so the situation doesn't escalate. You may have to install a tire wash or something similar.

Thanks,

Gary



Harper, Gary



Litigation
SERVICES

Job: 598612

Exhibit: 00003

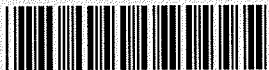
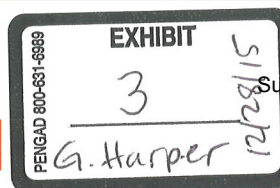




Exhibit No. 2



March 9, 2016
Item 12
Supporting Document No. 091

NOTICE

DATE: 12/2/14
PROJECT: VALENCIA
PROJECT #: GR-1692
ADDRESS: SAN ANTONIO 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: Sr. 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 #: GC-1692

Project Name & Type: VALENCIA, Subdivision

Project Location & Address: SAN AITOJ PL

Contractor's Name & Telephone #: Anderson Development (949) 275-6739

Property Owner & Telephone #: SAN AITOJ 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: M 54

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?	<input checked="" type="checkbox"/>			Contractor Hydroseeding AS NEEDED, BUT DID NOT SEED AS PLANNED	<input checked="" type="checkbox"/>
Preservation of existing vegetation?	<input checked="" type="checkbox"/>				<input checked="" type="checkbox"/>
Physical Stabilization: Hydraulic Mulch, Hydroseeding, Soil Binders, Straw Mulch					
Geotextiles, Plastic Covers, Erosion Prevention Blankets, Wood Mulching	<input checked="" type="checkbox"/>			NOT ENOUGH PLASTIC COVERS FOR STOCKPILES	<input checked="" type="checkbox"/>
Site Drainage: Outlet Protection/Slope Drain	<input checked="" type="checkbox"/>				<input checked="" type="checkbox"/>
Inlet/Outlet Protection	<input checked="" type="checkbox"/>				<input checked="" type="checkbox"/>
Sediment Control/Containment					
Perimeter Protection: Silt Fencing, Gravel Bags, Fiber Rolls	<input checked="" type="checkbox"/>				<input checked="" type="checkbox"/>

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 SWEEP	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

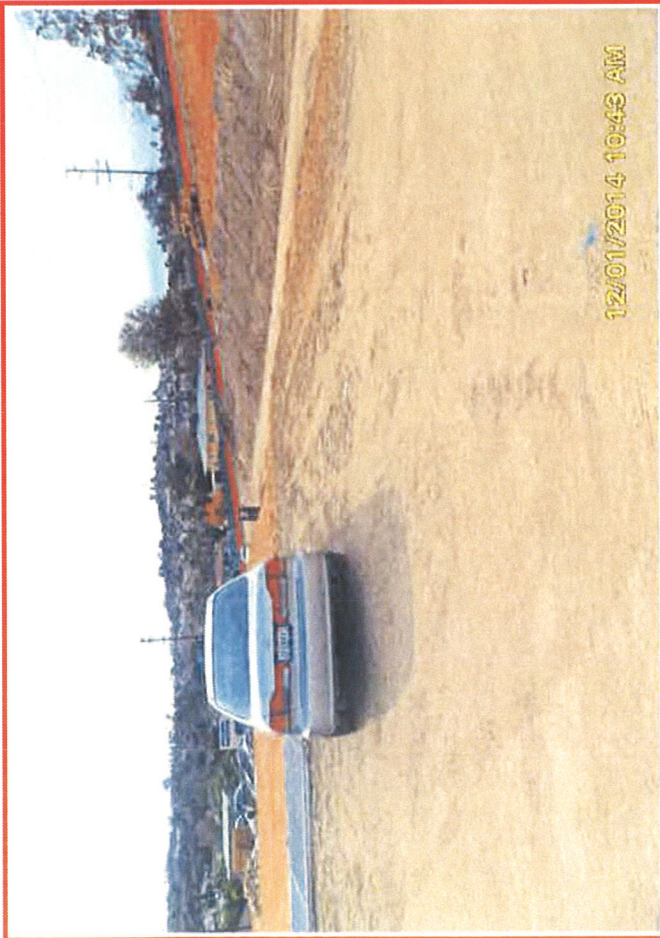
SEE STOP WORK NOTICE - Discharge is
IMMINENT IF NOAA FORECAST CORRECT: 100% Heavy
RAIN THIS AFTERNOON.
I CALL TO TIM ANGLISON THIS MORNING AT 9AM.
LEFT V. MAIL THAT SITUATION NEEDED ATTENTION ASAP- NO
RETURN CALL

Lack of eroision control BMPs on inactive areas.



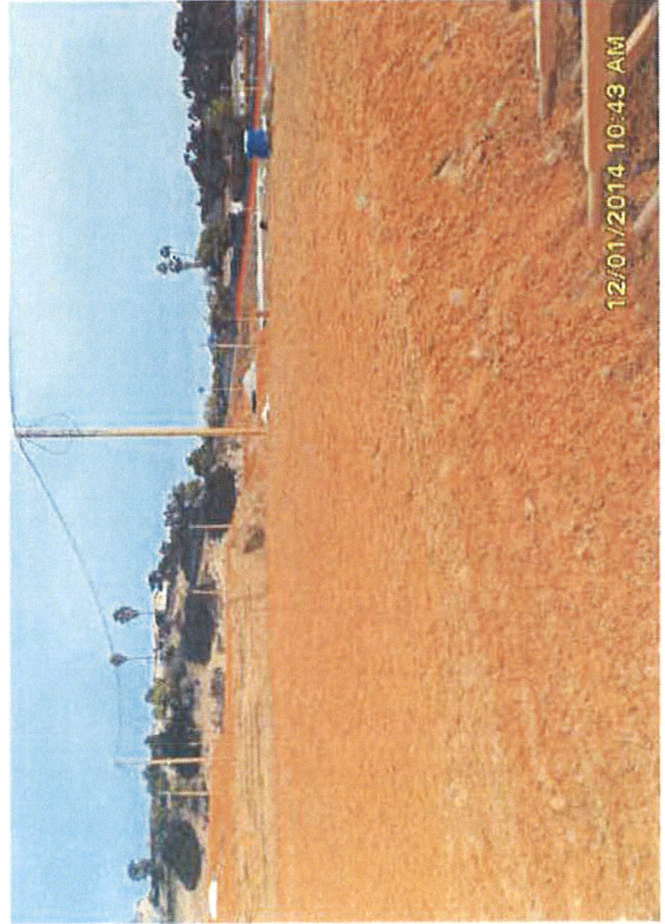
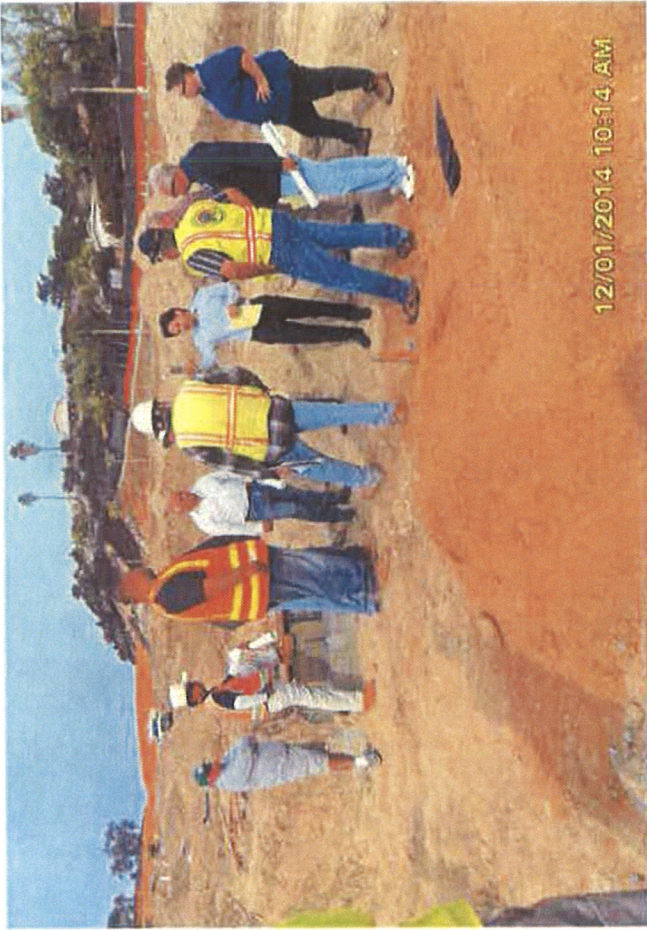
Lack of eroision control BMPs on active areas.

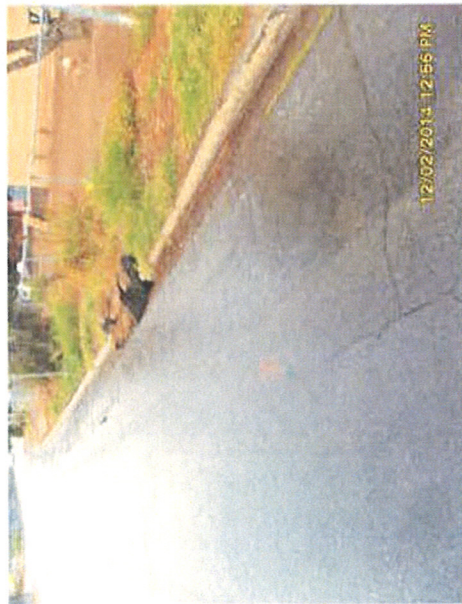




Lack of eroision control BMPs on inactive areas.



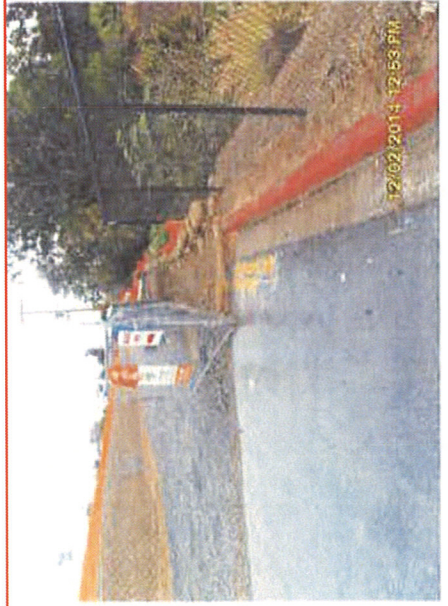




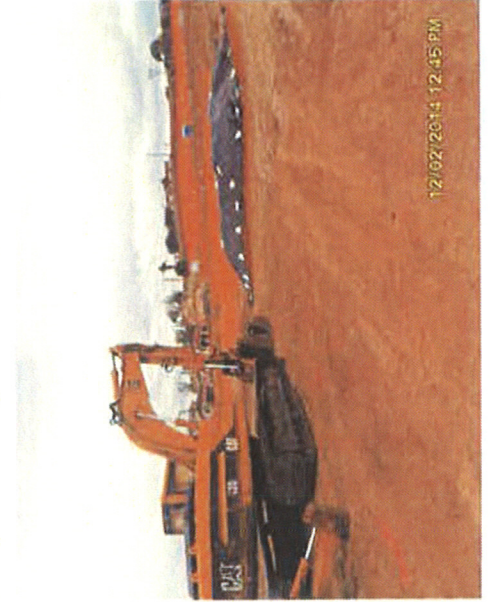
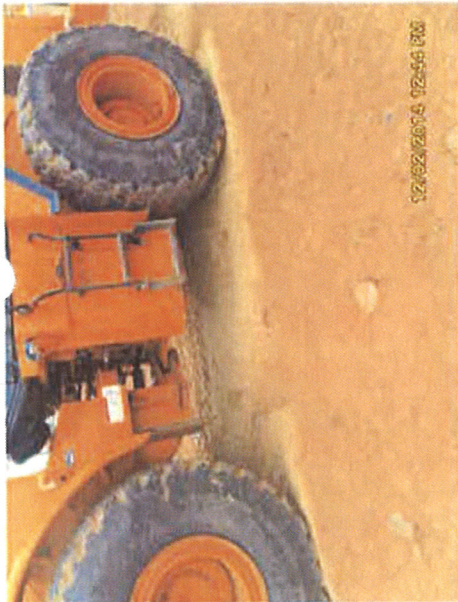
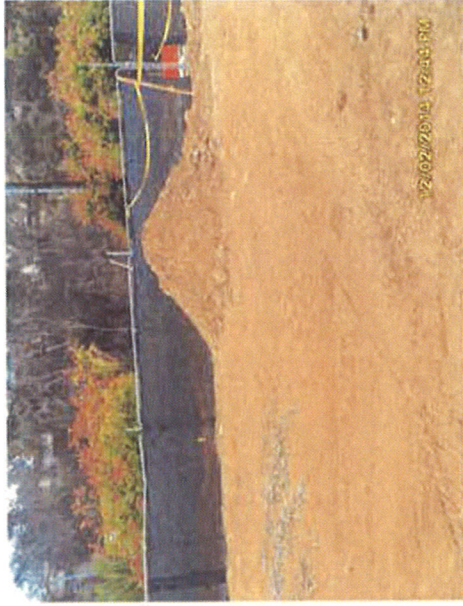
Unprotected stockpile.

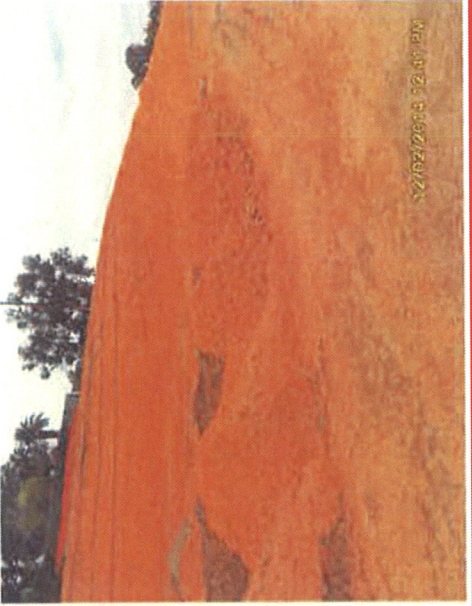
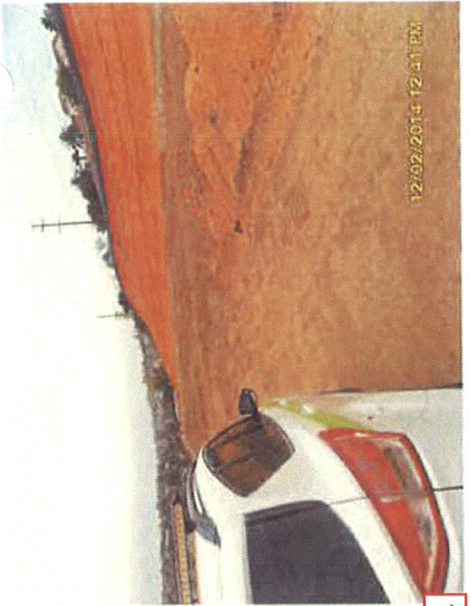


Lack of erosion control BMPs on inactive areas.



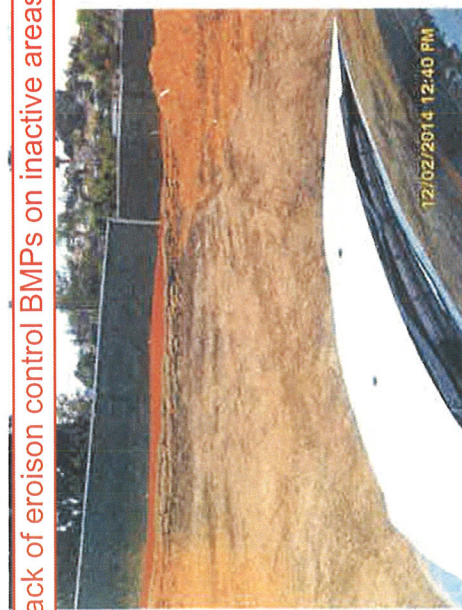
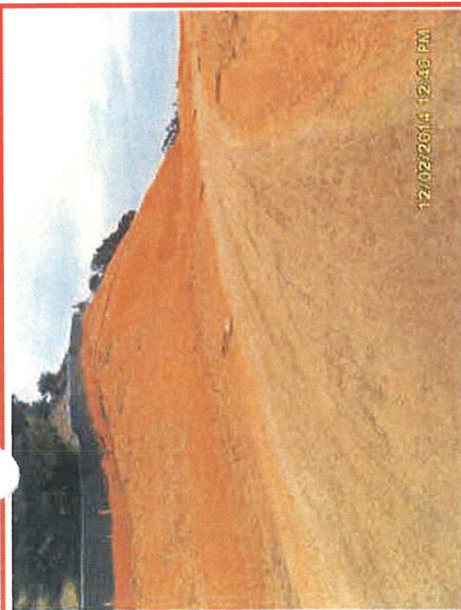
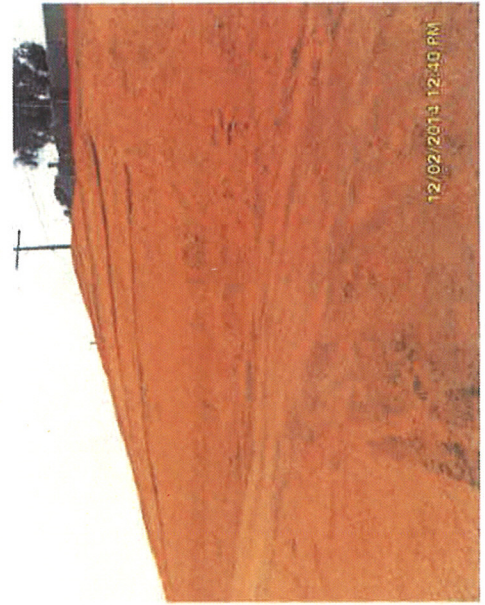
Stockpiles lack coverage and perimeter containment.





Lack of erosion control BMPs on active areas.

Lack of erosion control BMPs on inactive areas.



Lack of erosion control BMPs on inactive areas.



Harper, Gary



Litigation
SERVICES

Job: 598612

Exhibit: 00004





Exhibit No. 3

NOTICE

DATE: 12/4/2014
PROJECT: VALENCIA
PROJECT #: GIR-1692
ADDRESS: SAN ANTONIO 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

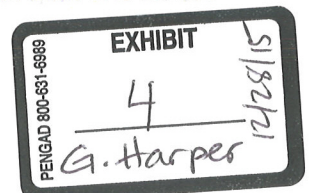
***STOP/ CORRECT WORK ADEQUATELY ADDRESSED (DATE/SIGNATURE) _____

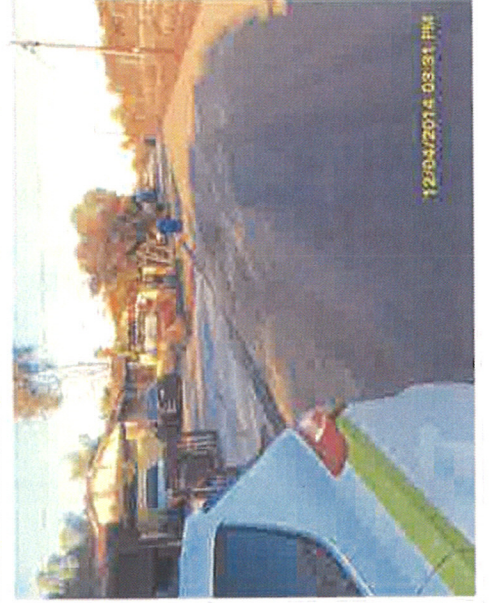
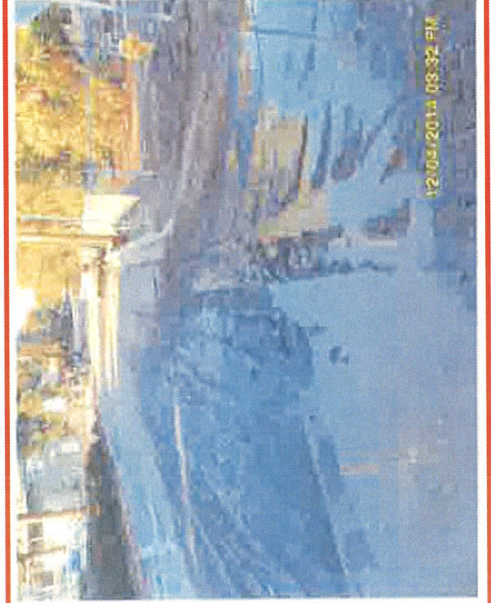
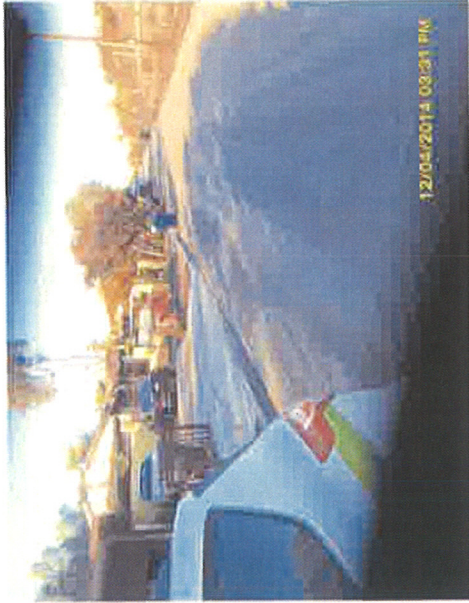
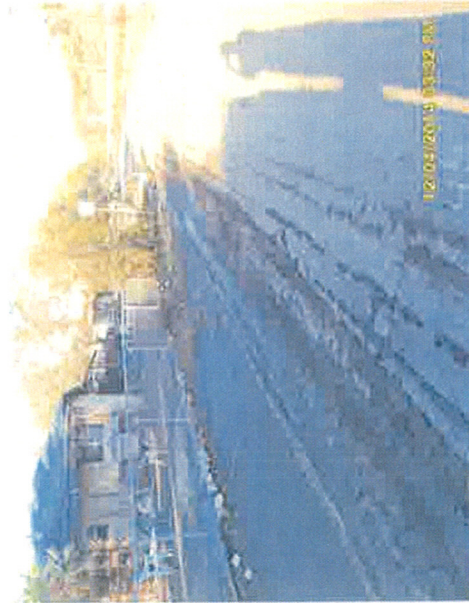
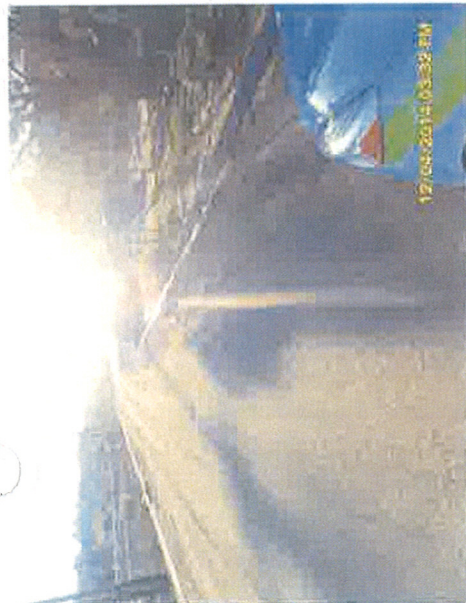
- CC: ☒ City Engineer
☒ Engineering
☐ Management Analyst
☐ Code Compliance
☐ Building
☒ RWQCB

ISSUED TO: Tim Anderson (email)
DATE/TIME: 12/4/2014 10AM
BY: GARY HARPER
TITLE: ENG. INSPECTOR
PHONE: (619) 454 1272

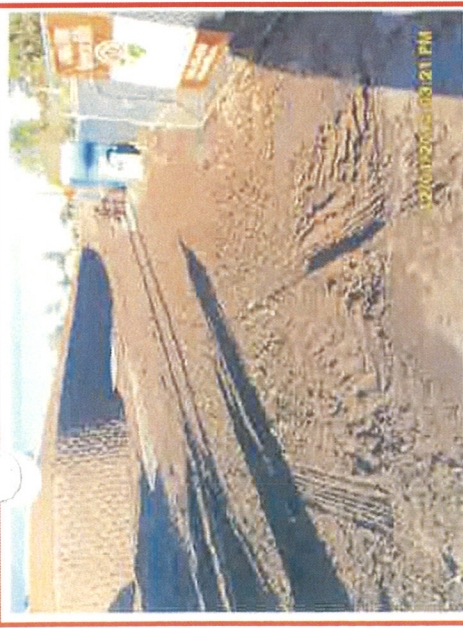
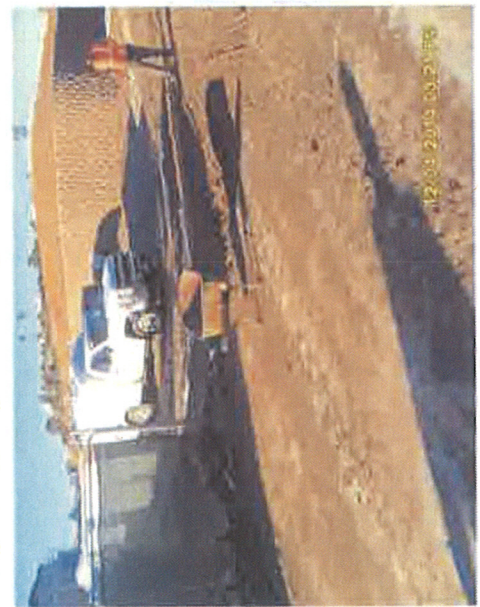
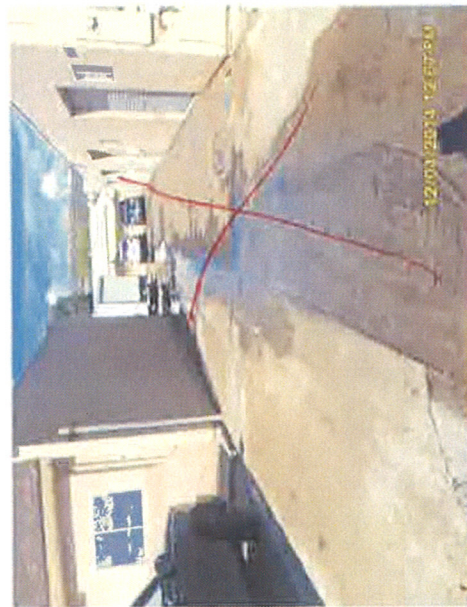
IF YOU HAVE FURTHER QUESTIONS, PLEASE
CALL THE CITY OF LEMON GROVE'S
DEVELOPMENT SERVICES DEPARTMENT AT
(619) 825-3805.

* 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.





Sediment in street.



Lack of erosion control in inactive areas.



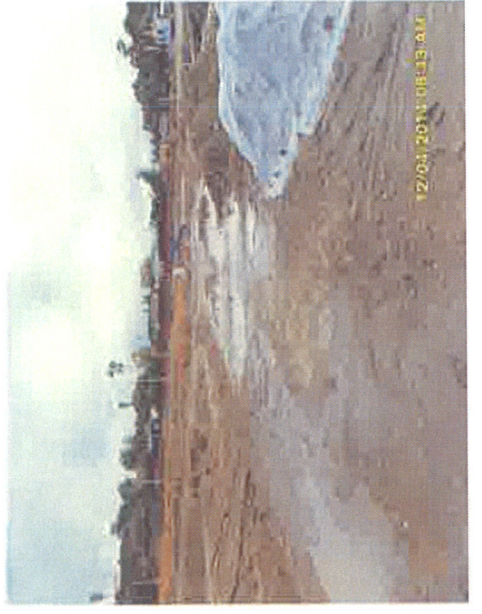
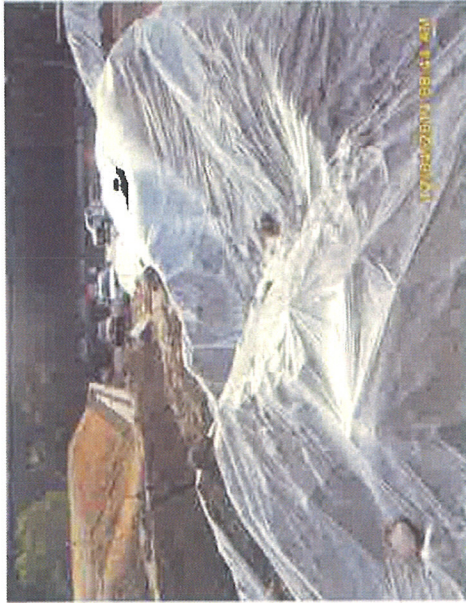
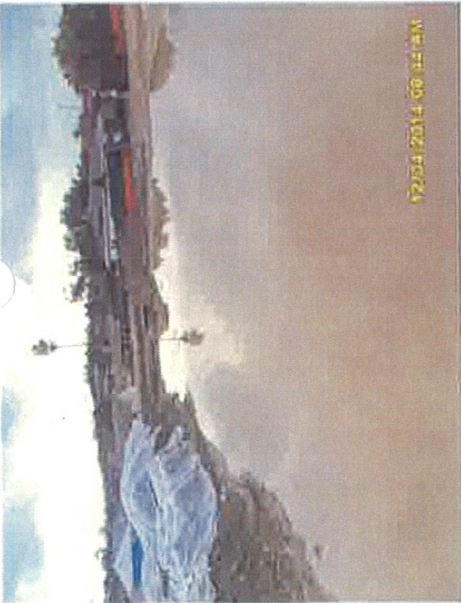


Lack of erosion control BMPs on active areas.



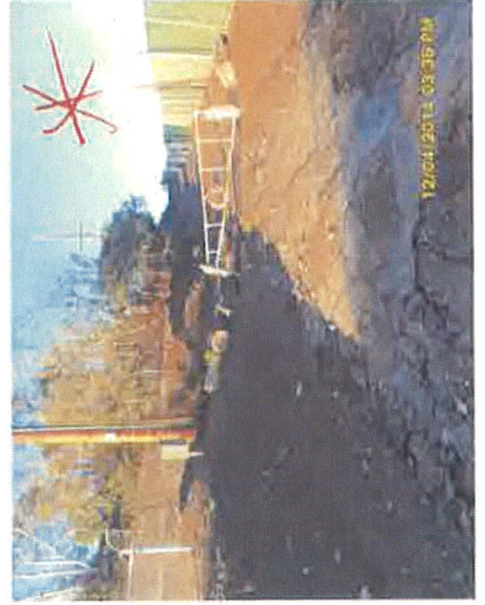
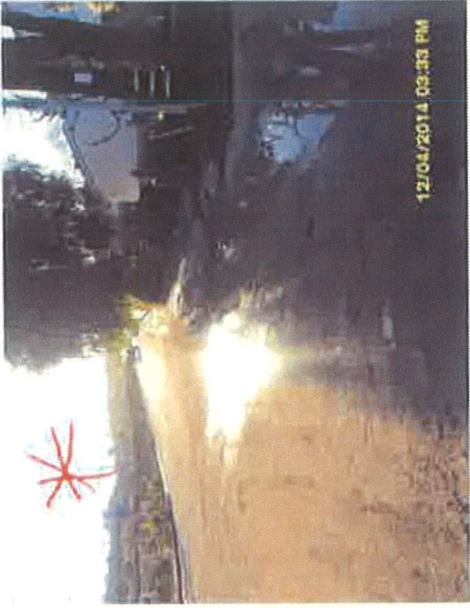
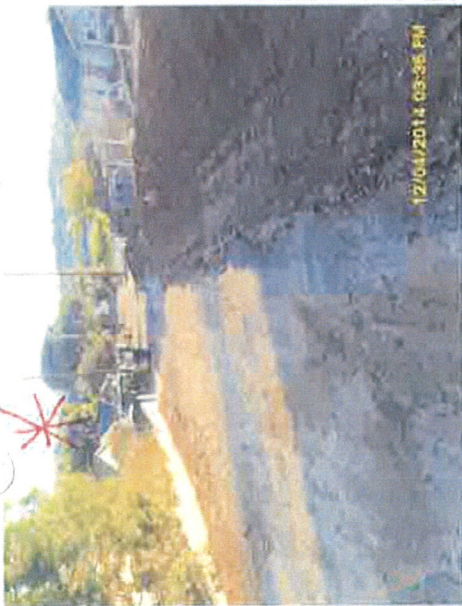
Sediment in street.

Although stockpile is partially covered it lacks perimeter containment.





* = CITY OF SAN DIEGO 10TH ST RUNOFF. NOT VAKNCIA



Harper, Gary



Litigation
SERVICES

Job: 598612

Exhibit: 00005



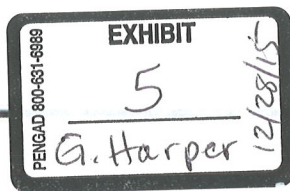


Exhibit No. 4

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 /G.H./ 12/8/14 10:00 am

Inspection: ☐ Permit-Required Inspection ☐ Follow-up Inspection ☒ Other (Explain) Weekly (pre storm)

Construction Project Priority: ☐ High ☒ Medium ☐ Low Friday = 95%

GENERAL INFORMATION

Grading or Building Permit #: Gr-1692

Project Name & Type: Valencia, Homes

Project Location & Address: SAN AITO'S PLACE

Contractor's Name & Telephone #: ANDERSON DEV (949) 275-673

Property Owner & Telephone #: SAN AITO'S 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: MSH

BMP	Yes	No	N/A	Description/Explanation	Effective Yes/No
Soil Stabilization and Erosion Prevention					
Preservation of existing vegetation?	<u>Y</u>			<u>on w/ slopes</u>	<u>Y</u>
Physical Stabilization: Hydraulic Mulch, Hydroseeding, Soil Binders, Straw Mulch	<u>Y</u>			<u>HYDROSEED TODAY</u>	<u>Y</u>
Geotextiles, Plastic Covers, Erosion Prevention Blankets, Wood Mulching	<u>Y</u>				
Site Drainage: Outlet Protection/Slope Drain					
Inlet/Outlet Protection					
Sediment Control/Containment					
Perimeter Protection: Silt Fencing, Gravel Bags, Fiber Rolls	<u>Y</u>				<u>N</u>
Storm Drain inlet protection: Sediment Trap, De-silting Basin, Gravel Bag Barrier	<u>Y</u>			<u>inlet to be cleaned</u>	<u>N</u>

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	
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

NOT WRITTEN LAST WEEK, CONSTRUCTOR WORKING ON ITEMS.

Uncovered stockpile.



Lack of erosion controls in inactive areas.



Harper, Gary



Litigation
SERVICES

Job: 598612

Exhibit: 00006





Exhibit No. 5

NOTICE

DATE: 12/9/14
PROJECT: VALENCIA
PROJECT #: GR-1692
ADDRESS: SAN ALTO 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*
☐ Other: _____

☒ City of Lemon Grove JURMP

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: _____

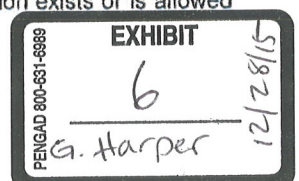
***STOP/ CORRECT WORK ADEQUATELY ADDRESSED (DATE/SIGNATURE) _____

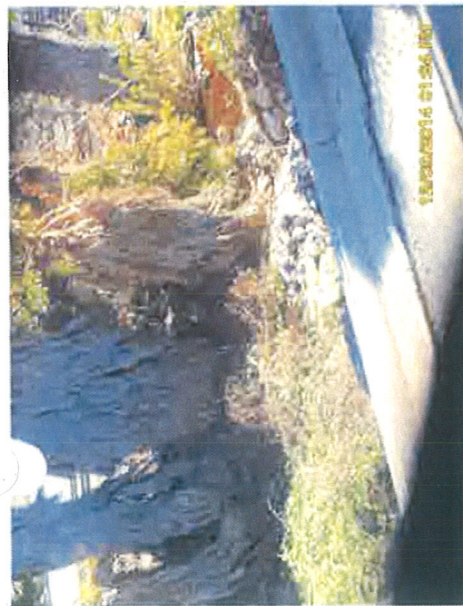
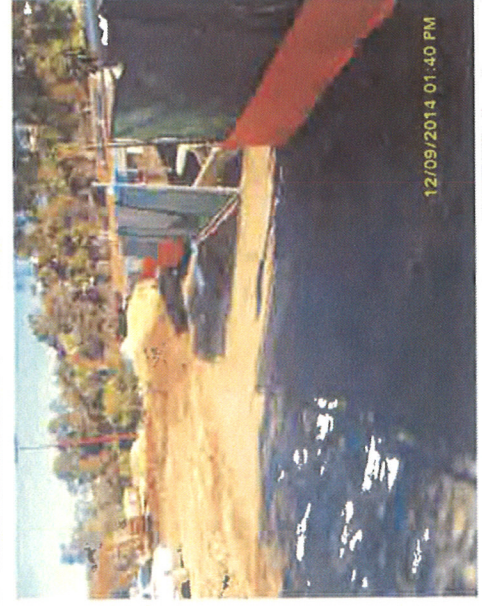
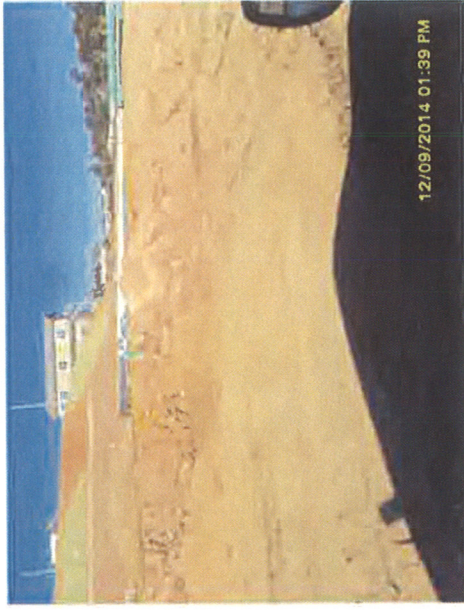
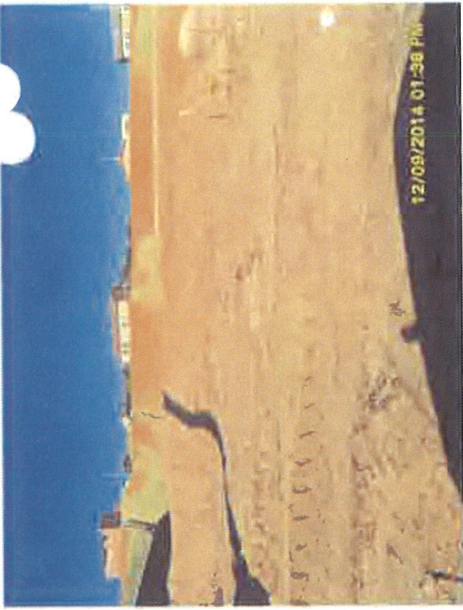
CC: ☒ City Engineer
☒ Engineering
☐ Management Analyst
☐ Code Compliance
☐ Building
☐ RWQCB

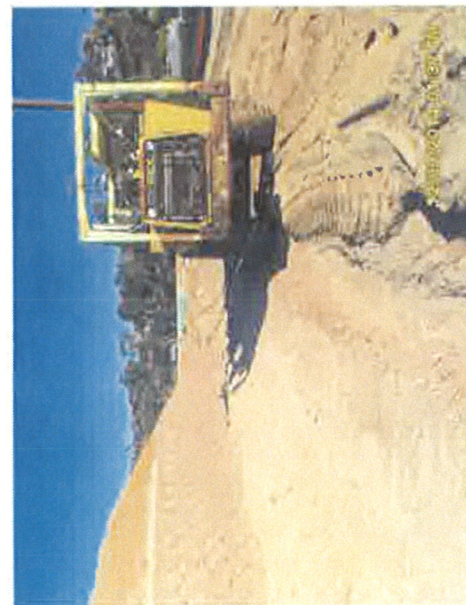
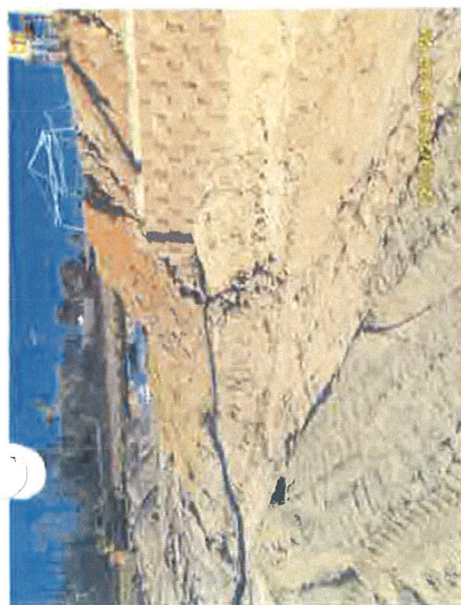
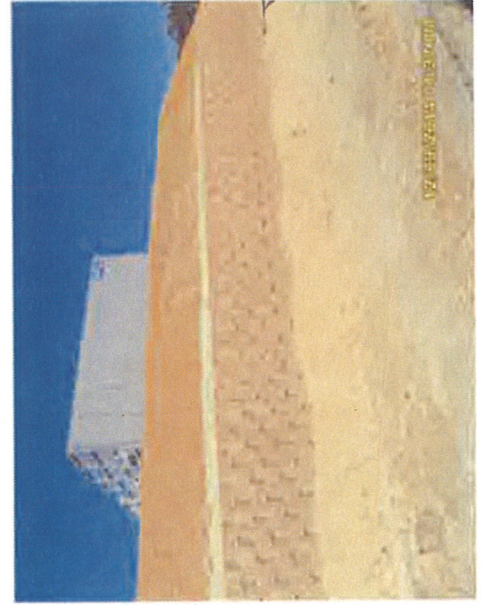
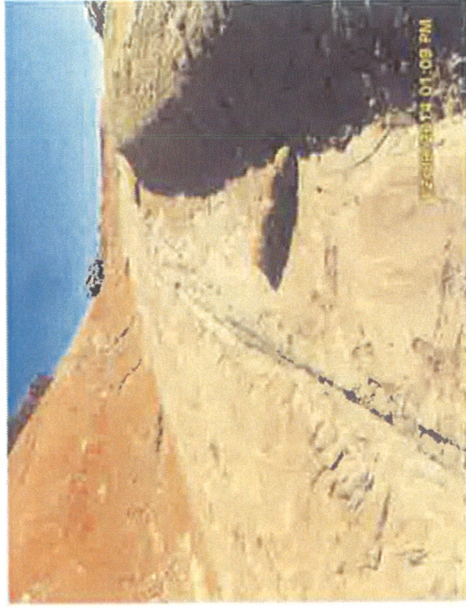
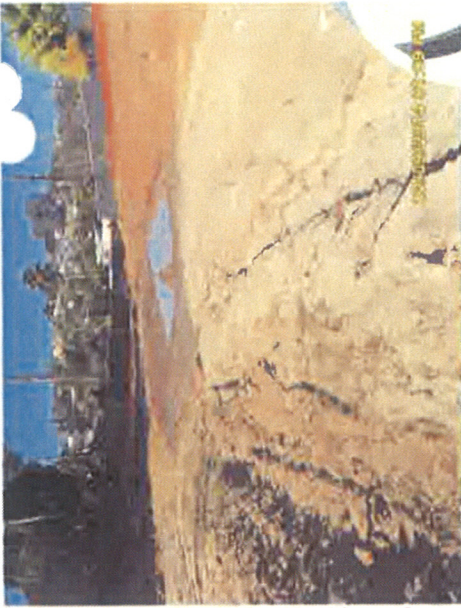
ISSUED TO: TIM ANDERSON VIA EMAIL
DATE/TIME: 12/9/14 6:30 PM
BY: GARY HARPER
TITLE: ENG. INSPECTOR
PHONE: (619) 454-1272

IF YOU HAVE FURTHER QUESTIONS, PLEASE
CALL THE CITY OF LEMON GROVE'S
DEVELOPMENT SERVICES DEPARTMENT AT
(619) 825-3805.

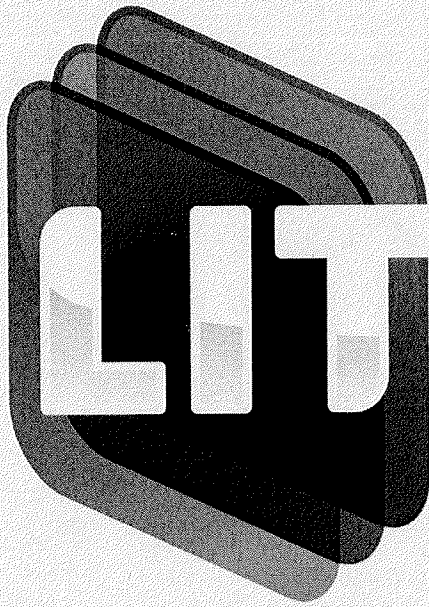
* Having deficiencies in your erosion control is a violation of the City of Lemon Grove's Grading Ordinance. A violation of the City's Grading Ordinance is a misdemeanor. Each separate day or portion thereof on which a violation exists or is allowed to exist shall constitute a separate offense punishable by the provisions of the Ordinance.







Harper, Gary



Litigation SERVICES

Job: 598612

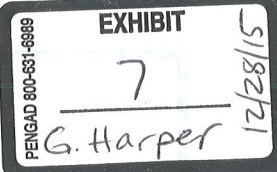
Exhibit: 00007





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 Tim
(Last Name) (First Name)
Circle One: ☐ Property Owner ☐ Tenant ☐ Business Owner ☒ Other Site Representative
Mailing Address: 3194-C2 Airport Loop Drive 1 Project Manager
Business Name (if applicable): Corta Mesa, CA 92626
BCT Development

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.4B.060 18.08.560 Inadequate BMP's - see
18.08.170 attached inspection reports
18.08.180

D) CORRECTION(S) REQUIRED (with date to complete corrections)

Install BMP's per Recommendation's 12/15/14
Maintain adequate surplus of BMP's 5:00 P.M.

E) SERVICING CITATION INFORMATION

Enforcing Officer Name Leon Fingst 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

Lemon Grove Municipal Code							
Up	Previous	Next	Main		Search	Print	No Frames
Title 8 HEALTH AND SAFETY							
Chapter 8.48 STORMWATER MANAGEMENT AND DISCHARGE CONTROL							

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)

Lemon Grove Municipal Code							
Up	Previous	Next	Main		Search	Print	No Frames
Title 18 CITYWIDE REGULATIONS							
Chapter 18.08 EXCAVATION AND GRADING							
Article II. Permits and Fees							

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 or 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.

Lemon Grove Municipal Code							
Up	Previous	Next	Main		Search	Print	No Frames
<u>Title 18 CITYWIDE REGULATIONS</u>							
<u>Chapter 18.08 EXCAVATION AND GRADING</u>							
<u>Article II. Permits and Fees</u>							

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.

Lemon Grove Municipal Code							
Up	Previous	Next	Main		Search	Print	No Frames
Title 18 CITYWIDE REGULATIONS							
Chapter 18.08 EXCAVATION AND GRADING							
Article V. Grading Operations							

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
<input type="checkbox"/> Meeting <input type="checkbox"/> Phone <input checked="" type="checkbox"/> 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	

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San Diego, CA

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[Fastlinks](#)
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[Climate](#)
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[National](#)
[Drought](#)
[More...](#)
[Climate portal](#)
[Weather Safety](#)
[Preparedness](#)
[Weather Radio](#)
[SkyWarn™](#)
[StormReady](#)
[TsunamiReady](#)
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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>

Search

+

☐ WR ☐ NWS ☐ ALL NOAA

Go

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 Rain Rain and Showers TStorms	Likely Rain Showers and TStorms	Chance Rain Rain and Showers	Chance Rain	Likely Rain
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% 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" 0.00" 0.00"		
12-hr Snow Total	0" 0" 0" 0"	0" 0" 0" 0"	0" 0" 0" 0"	0" 0" 0" 0"		
FRET	0.06"	0.06"	0.05"	0.06"	0.07"	0.07"
6-Hour Temp	4am 10am 4pm 10pm 53 62 65 60	4am 10am 4pm 10pm 58 61 60 54	4am 10am 4pm 10pm 52 59 59 52	4am 10am 4pm 10pm 54 59 61 54	4am 10am 4pm 10pm 51 59 61 55	4am 10am 4pm 10pm 53 60 61 55
Cloudiness	86% 49% 75% 100%	100% 91% 84% 75%	69% 51% 30% 37%	41% 41% 30% 30%	41% 41% 62% 62%	90% 90% 87% 87%
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
Relative Humidity	94% 73% 67% 78%	77% 73% 88%	89% 69% 61% 81%	80% 57% 52% 81%	79% 57% 54% 81%	82% 72% 63% 88%
Wind	S S S S 2 7 8 10	SE W W SW W 15 6 6 6	E W NW E E N W E 2 2 5 3 3 1 5 5	E S SW SE SE S 6 7 7 7 8 9 7 6	E S SW SE SE S 6 7 7 7 8 9 7 6	E S S S 6 7 6 1
Snow Level (ft)	9317 9161	7608 6313 5478 5212	5704		6701 5923 5850 5993 5805 5704 561	

Forecast Weather Table Interface

Select Weather Format

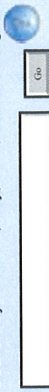
- ☐ Custom Weather Table
☐ XML
☐ Point Forecast Page
☐ Point Forecast Matrix
☐ Hourly Tabular Forecast
☐ Hourly Weather Graph

Interval in Hours: 0 1 0 3 0 6

Duration in Days: 0 1 0 2 0 3 0 4 0 5 0 6 0 7

Enter a Location or Click on Map Below

Search by address, city, state, latitude/longitude...



Harper, Gary



Litigation SERVICES

Job: 598612

Exhibit: 00008



Exhibit No. 8

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

FACILITY INSPECTION REPORT

FACILITY: Valencia
WDID/FILE NO.: 937C369143

INSPECTION DATE/TIME: 12/15/2014; 10:00 am

REPRESENTATIVE(S) PRESENT DURING INSPECTION:

NAME: Wayne Chiu
NAME: Ben Anderson
NAME: Tim Anderson
NAME: Donald Sturgeon
NAME: Leon Firsh
NAME: Gary Harper

AFFILIATION: San Diego Water Board
AFFILIATION: BCA Development, Inc.
AFFILIATION: BCA Development, Inc.
AFFILIATION: Whitson CM
AFFILIATION: City of Lemon Grove
AFFILIATION: City of Lemon Grove

San Altos Lemon Grove LLC
NAME OF OWNER, AGENCY OR PARTY RESPONSIBLE FOR DISCHARGE

5780 Fleet Avenue
Carlsbad, CA 92008
OWNER MAILING ADDRESS

Ben Anderson, 714-966-1544
OWNER CONTACT NAME AND PHONE #

BCA Development, Inc.
FACILITY OR DEVELOPER NAME (if different from owner)

1350 San Altos Place
Lemon Grove, CA 91945
FACILITY ADDRESS

Same
FACILITY OR DEVELOPER CONTACT NAME AND PHONE #

APPLICABLE WATER QUALITY LICENSING REQUIREMENTS:

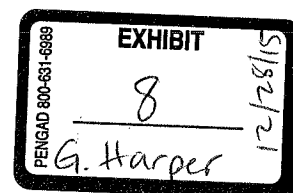
- | | |
|---|---|
| <input type="checkbox"/> MS4 URBAN RUNOFF REQUIREMENTS | <input type="checkbox"/> GENERAL OR INDIVIDUAL WASTE DISCHARGE REQUIREMENTS OR NPDES |
| <input checked="" type="checkbox"/> CONSTRUCTION GENERAL PERMIT | <input type="checkbox"/> GENERAL OR INDIVIDUAL WAIVER OF WASTE DISCHARGE REQUIREMENTS |
| <input type="checkbox"/> CALTRANS GENERAL PERMIT | <input 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: Valencia
Inspection Date: 12/15/2014

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,

Facility: Valencia
Inspection Date: 12/15/2014

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

Facility: Valencia
Inspection Date: 12/15/2014

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).

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD-SAN DIEGO REGION

Page 5 of 9

Facility: Valencia
Inspection Date: 12/15/2014

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

Facility: Valencia
Inspection Date: 12/15/2014



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.

Facility: Valencia
Inspection Date: 12/15/2014



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 transport 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.

Facility: Valencia
Inspection Date: 12/15/2014



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.

Facility: Valencia
Inspection Date: 12/15/2014



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.



Exhibit No. 11



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**.

Mr. Anderson
San Altos Lemon Grove LLC

- 2 -

December 19, 2014
Notice of Violation No. R9-2014-0153

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

Harper, Gary



Litigation
SERVICES

Job: 598612

Exhibit: 00009





Exhibit No. 11



EDWARD 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
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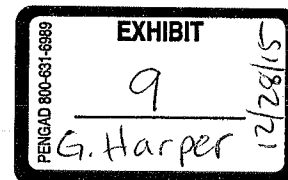
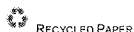
Please provide a written response **by January 2, 2014** that confirms the violations have been corrected, identify a date by which the violations were corrected, and description of the actions taken to ensure future violations of Order No. 2009-0009-DWQ will not occur.

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.

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HENRY ABARBANEL, CHAIR | DAVID GIBSON, EXECUTIVE OFFICER

2375 Northside Drive, Suite 100, San Diego, CA 92108-2700 | (619) 516-1990 | www.waterboards.ca.gov/sandiego



Mr. Anderson
San Altos Lemon Grove LLC

- 2 -

December 19, 2014
Notice of Violation No. R9-2014-0153

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



California Regional Water Quality Control Board, San Diego Region

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 of 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.

Mr. Anderson
Notice of Violation No. R9-2014-0153

- 5 -

December 19, 2014

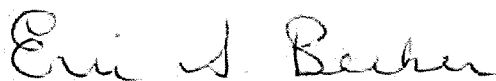
B. Summary of Potential Enforcement Options

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

Harper, Gary



Litigation
SERVICES

Job: 598612

Exhibit: 00010

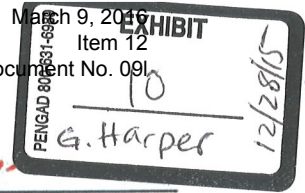




Exhibit No. 15

NOTICE

Supporting Document No. 091



DATE: 3/24/15
PROJECT: VALANCIA
PROJECT #: GR-1692
ADDRESS: SAN AITAS

☐ 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 1/A, 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 _____

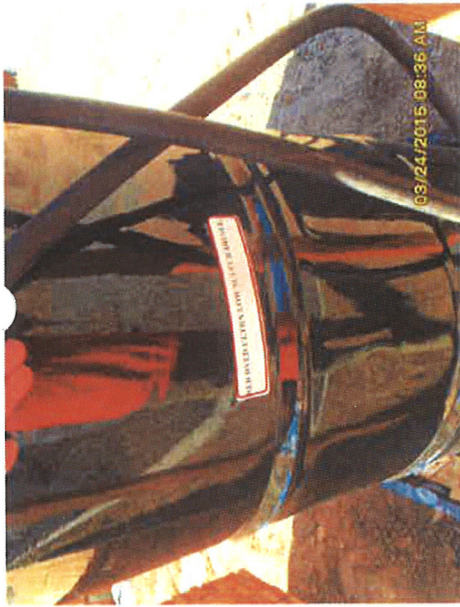
***STOP/ CORRECT WORK ADEQUATELY ADDRESSED (DATE/SIGNATURE) _____

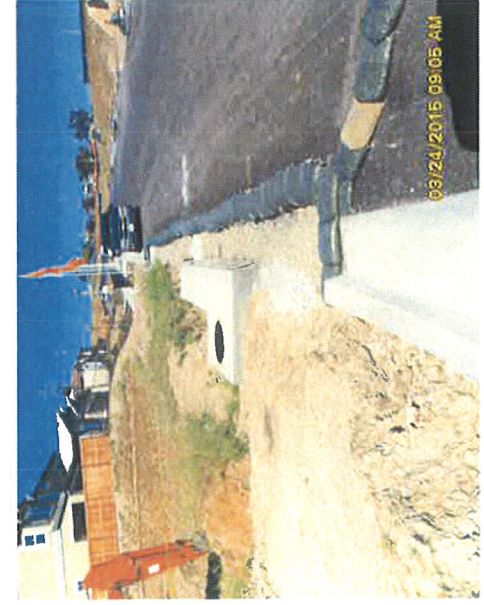
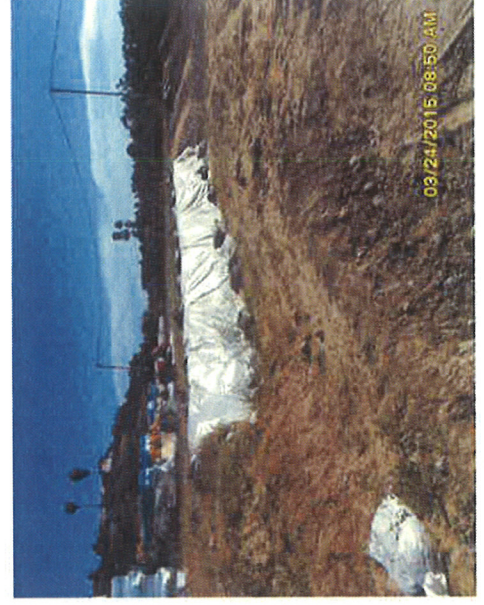
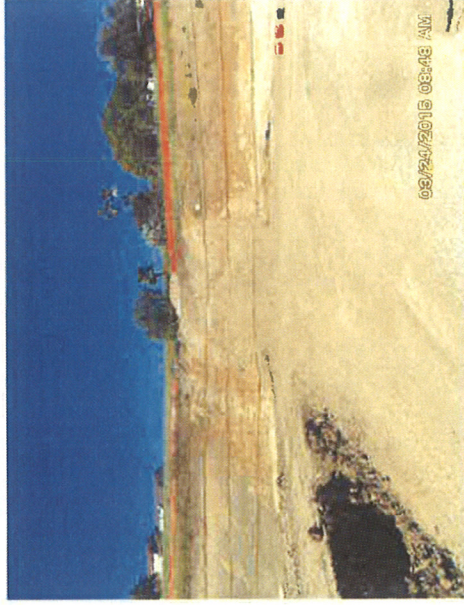
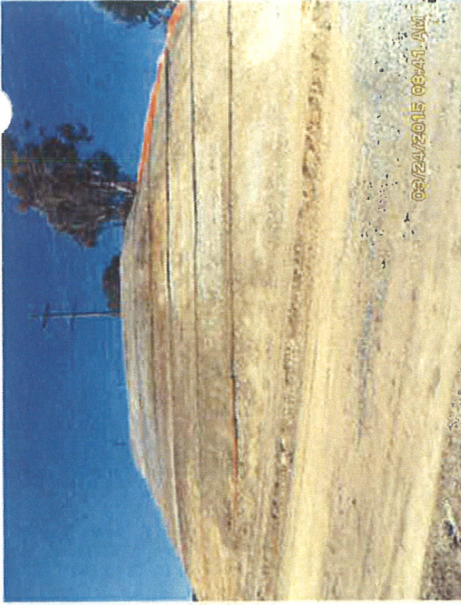
- CC: ☒ City Engineer
☒ Engineering
☐ Management Analyst
☐ Code Compliance
☐ Building
☐ RWQCB

ISSUED TO: Tim Anderson via Email
DATE/TIME: 3/24/15 3:30 pm
BY: Gary Harper
TITLE: Eng. Inspector
PHONE: (619) 454-1272

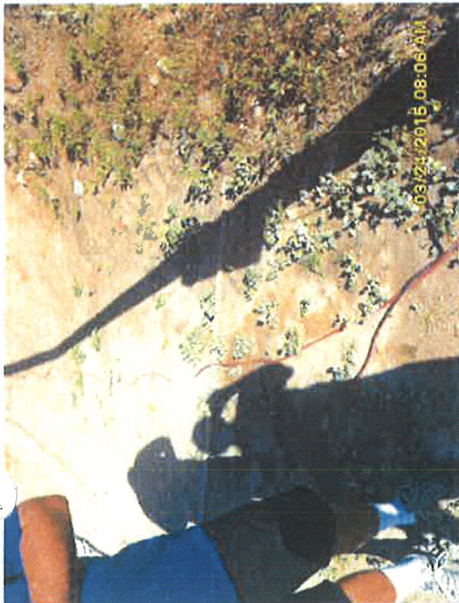
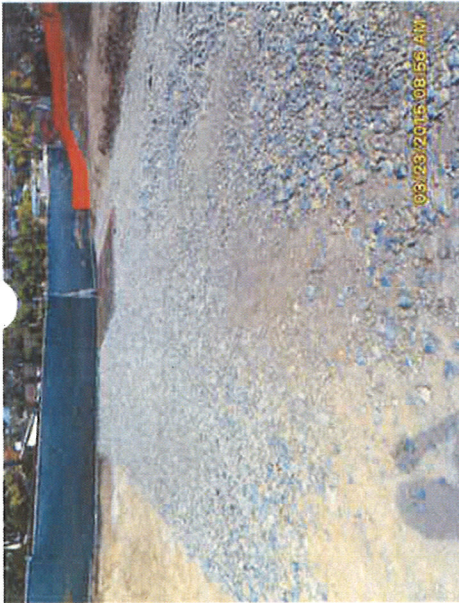
IF YOU HAVE FURTHER QUESTIONS, PLEASE
CALL THE CITY OF LEMON GROVE'S
DEVELOPMENT SERVICES DEPARTMENT AT
(619) 825-3805.

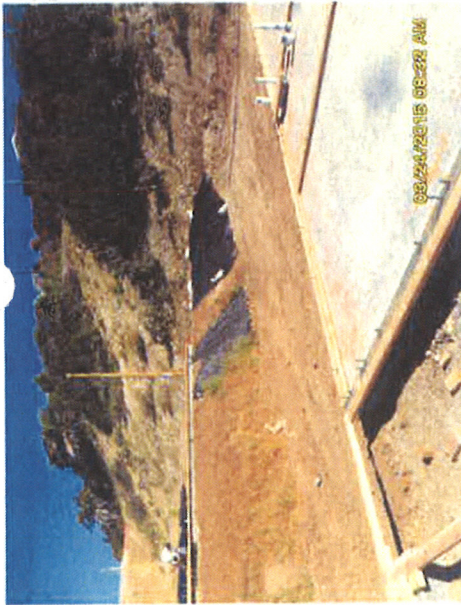
* Having deficiencies in your erosion control is a violation of the City of Lemon Grove's Grading Ordinance. A violation of the City's Grading Ordinance is a misdemeanor. Each separate day or portion thereof on which a violation exists or is allowed to exist shall constitute a separate offense punishable by the provisions of the Ordinance.





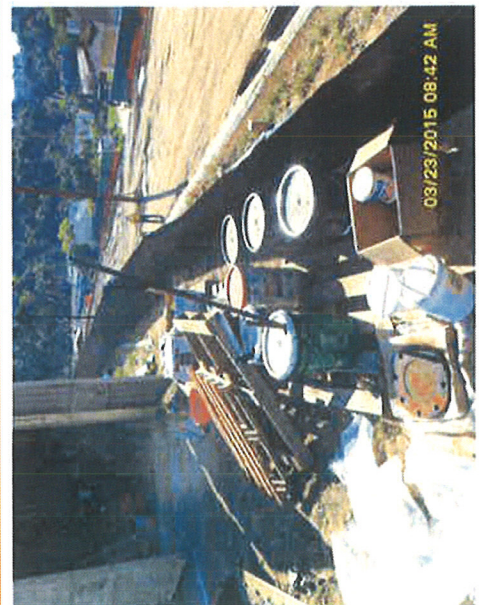
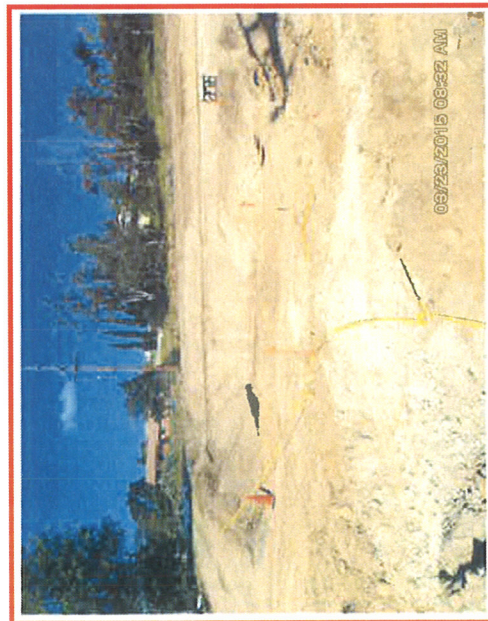
Failure to cover and provide secondary containment.







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

Project: Valencia		Date: 3/24/15	Hours: 2.5
Developer: BCA		Project No.: GR-1692	
Location: San Altos		Inspector: Harper	Contract Day:
		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: <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	
<p>Follow up to Tad's inspection 3/18/15 and citations issued by the City to Anderson Development last week and items to be corrected yesterday by 5pm.</p> <p>Attached "Construction BMP Recommendations" noted:</p> <ol style="list-style-type: none">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. <p>Because of concrete spill that wasn't cleaned up at lot 23, citation to be issued.</p> <p>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.</p>			

Harper, Gary



Litigation
SERVICES

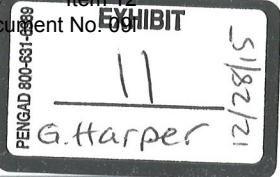
Job: 598612

Exhibit: 00011





Exhibit No. 21

March 9, 2016
Item 12
Supporting Document No. 001CITY OF LEMON GROVE
ADMINISTRATIVE CITATION

A) TYPE OF VIOLATION

Circle One: Warning 1st Citation \$100 2nd Citation \$200 3rd Citation \$500 4th Citation \$1,000Payment 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

Mailing Address: 3194-62 AIRPORT LOOP DRIVE, COSTA MESA, CA 92626

Business Name (if applicable): NEW POINT HOMES
CC: Phil Dowley, CODE ENFORCEMENT FIK

C) VIOLATION(S) INFORMATION

Date (Violation Observed): 9/15/2015 Time (Violation Observed): 2pm

Location of Violation: 1350 SAN ANTON PL/VALENCIA (Street Address) (APN)

Violation(s) Observed (Code Section and Description):
8.48.060 18.08.060 INADEQUATE 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. 615 454-1272 Signature [Signature] Date 9/22/15

Person Cited - Signature Acknowledging Receipt [Signature] (Date) 9/22/15

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 DEVELOPER OWNER

Harper, Gary



Litigation
SERVICES

Job: 598612

Exhibit: 00012





Exhibit No. 26

March 9, 2016

Item 12

EXHIBIT

Supporting Document No. 091

PENGAD 800-68892

G. Harper

12/28/15

CITY OF LEMON GROVE ADMINISTRATIVE CITATION

A) TYPE OF VIOLATION

Circle One: Warning 1st Citation \$100 2nd Citation \$200 3rd Citation \$500 6th Citation \$1,000

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): 2:30 PM

Location of Violation: SAN ANTONIO (VALENCIA) (Street Address) (APN)

Violation(s) Observed (Code Section and Description):
PER GRADING PLANS, # 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: GARY HARPER Phone No. 619 454-1272 Signature [Signature] Date OCT 5, 2015

Person Cited - Signature Acknowledging Receipt _____ (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

EROSION SEDIMENT CONTROL VALUING OCT 5, 2015



Erosion / sediment control Valencia ACS, 2015



EROSION CONTROL / STOCKPILE VALANCIA OCT 5, 2015



Valencia Oct 5, 2015 Failure to Minimize Baps, Erosion Control



Bwp Failure Lakewood Oct 5, 2015



Erosion Control Valencia Oct 5, 2015



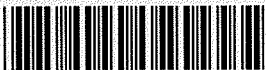
Harper, Gary



Litigation
SERVICES

Job: 598612

Exhibit: 00013



From: Tad Nakatani [tnakatani@dmxinc.com]
Sent: Wednesday, September 16, 2015 10:55 AM
To: Gary Harper
Cc: Malik Tamimi
Subject: Construction Inspection Reports - Draft
Attachments: Golden Doors Inspection 2105-09-15.pdf; Valencia Inspection 2105-09-15.pdf; Vernon Ranch Inspection 2105-09-15.pdf

Hi Gary,

Here are the draft inspection forms for the three sites I went to yesterday. I have not yet filled out the Violations section shown below. Would you like me to still fill out the "Inspection Form as Correct Work Notice" option, or do you plan to go with anything more for any of the sites?

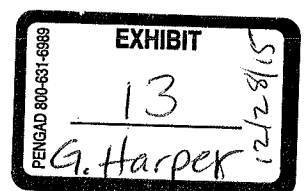
VIOLATIONS

- ☐ 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

Photos are available here:

<https://onedrive.live.com/redir?resid=A3F1E0BB256DBF45!1953&authkey=!AKqffLY9S50sHDQ&ithint=folder%2czip>
(They're still uploading right now, so you may need to wait a couple minutes to download them)

Tad Nakatani | D-Max Engineering, Inc.
7220 Trade Street | Suite 119 | San Diego, California 92121
Phone: 858.586.6600 ext 17 | Fax: 858.586.6644 | Email: tnakatani@dmxinc.com





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] 3/15/15 1:30 PM

Inspection: ☒ Permit-Required Inspection ☐ Follow-up Inspection ☐ Other (Explain) _____

Construction Project Priority: ☐ High ☐ Medium ☒ Low

Approximate rainfall since last inspection: _____ inches N/A: 1st inspection by D-Max

GENERAL INFORMATION

Grading or Building Permit #: _____

Project Name & Type: GOLDEN DOORS

Project Location & Address: NW CORNER OF GOLDEN AVE & WASHINGTON

Contractor's Name & Telephone #: _____

Property Owner & Telephone #: _____

Is this Project Greater than an Acre? ☐ Yes ☒ No ☐ N/A

If yes: Provide Record of Waste Discharge Identification Number (WDID#): _____

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

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
unknown. No one present during insp.

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?	<input checked="" type="checkbox"/>				
Physical Stabilization: Hydraulic Mulch, Hydroseeding, Soil Binders, Straw Mulch		<input checked="" type="checkbox"/>		<u>Exposed areas lack stabilization. Significant erosion observed.</u>	<u>No</u>
Geotextiles, Plastic Covers, Erosion Prevention Blankets, Wood Mulching		<input checked="" type="checkbox"/>		<u>" "</u>	<u>No</u>
Site Drainage: Outlet Protection/Slope Drain			<input checked="" type="checkbox"/>		
Inlet/Outlet Protection		<input checked="" type="checkbox"/>		<u>Gravel bags below outlet pipe but evidence of sediment getting through</u>	<u>No</u>
Sediment Control/Containment					
Perimeter Protection: Silt Fencing, Gravel Bags, Fiber Rolls	<input checked="" type="checkbox"/>			<u>Damaged silt fence</u>	<u>No</u>
Storm Drain inlet protection: Sediment Trap, De-silting Basin, Gravel Bag Barrier			<input checked="" type="checkbox"/>		
Tracking Controls: Stabilized Entrance/Exit Road Stabilization, Tire Wash, Street Sweeping	<input checked="" type="checkbox"/>			<u>No TC at Golden Ave entrance</u>	<u>No</u>

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		trash/waste on ground	No
Are material stockpiles protected: covered, contained and located away from non-storm water discharges?		X		Sediment piles 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		Equipment lacks drip pans	No
Are wastes managed and stored properly (Solid, liquid, sanitary, concrete, hazardous)		X		trash/waste on ground	No
Are concrete washouts properly installed, maintained with no evidence of discharges.			X		
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		Evidence of sediment discharging to downstream storm drain	No
Other					
Are there any other potential storm water pollution issues/concerns?		X			
Was there any employee or subcontractor training on stormwater BMPs?			X	NA: No personnel present to discuss	

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: _____

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: GOLDEN DOORS

Date: 9/15/15

Recommendations:

- ① UTILIZE EROSION CONTROL BMPs ON DISTURBED AREAS
- ② REPAIR SILT FENCE
- ③ INSTALL TRACKING CONTROL BMP AT ENTRANCE ALONG GOLDEN AVE IN ACCORDANCE WITH THE EROSION CONTROL PLAN
- ④ PROPERLY STORE LITTER/WASTE
- ⑤ ENSURE THAT ANY SEDIMENT STOCKPILES ARE PROTECTED WHEN INACTIVE AND PRIOR TO RAIN
- ⑥ PLACE DRIP PANS UNDER EQUIPMENT
- ⑦ PREVENT SEDIMENT FROM DISCHARGING TO DRAIN LOCATED TO THE NORTH OF DEVELOPMENT



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

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?			<input checked="" type="checkbox"/>		
Physical Stabilization: Hydraulic Mulch, Hydroseeding, Soil Binders, Straw Mulch	<input checked="" type="checkbox"/>			Significant areas lack erosion control. Evidence of erosion throughout site	No
Geotextiles, Plastic Covers, Erosion Prevention Blankets, Wood Mulching	<input checked="" type="checkbox"/>			" "	No
Site Drainage: Outlet Protection/Slope Drain			<input checked="" type="checkbox"/>		
Inlet/Outlet Protection			<input checked="" type="checkbox"/>		
Sediment Control/Containment					
Perimeter Protection: Silt Fencing, Gravel Bags, Fiber Rolls	<input checked="" type="checkbox"/>			Some spots lack perimeter control (silt fence)	No
Storm Drain inlet protection: Sediment Trap, De-silting Basin, Gravel Bag Barrier	<input checked="" type="checkbox"/>			No inlet protection on drain near SE corner	No
Tracking Controls: Stabilized Entrance/Exit Road Stabilization, Tire Wash, Street Sweeping	<input checked="" type="checkbox"/>			Significant sediment on streets within project & in gutter on Alamo. Tire 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

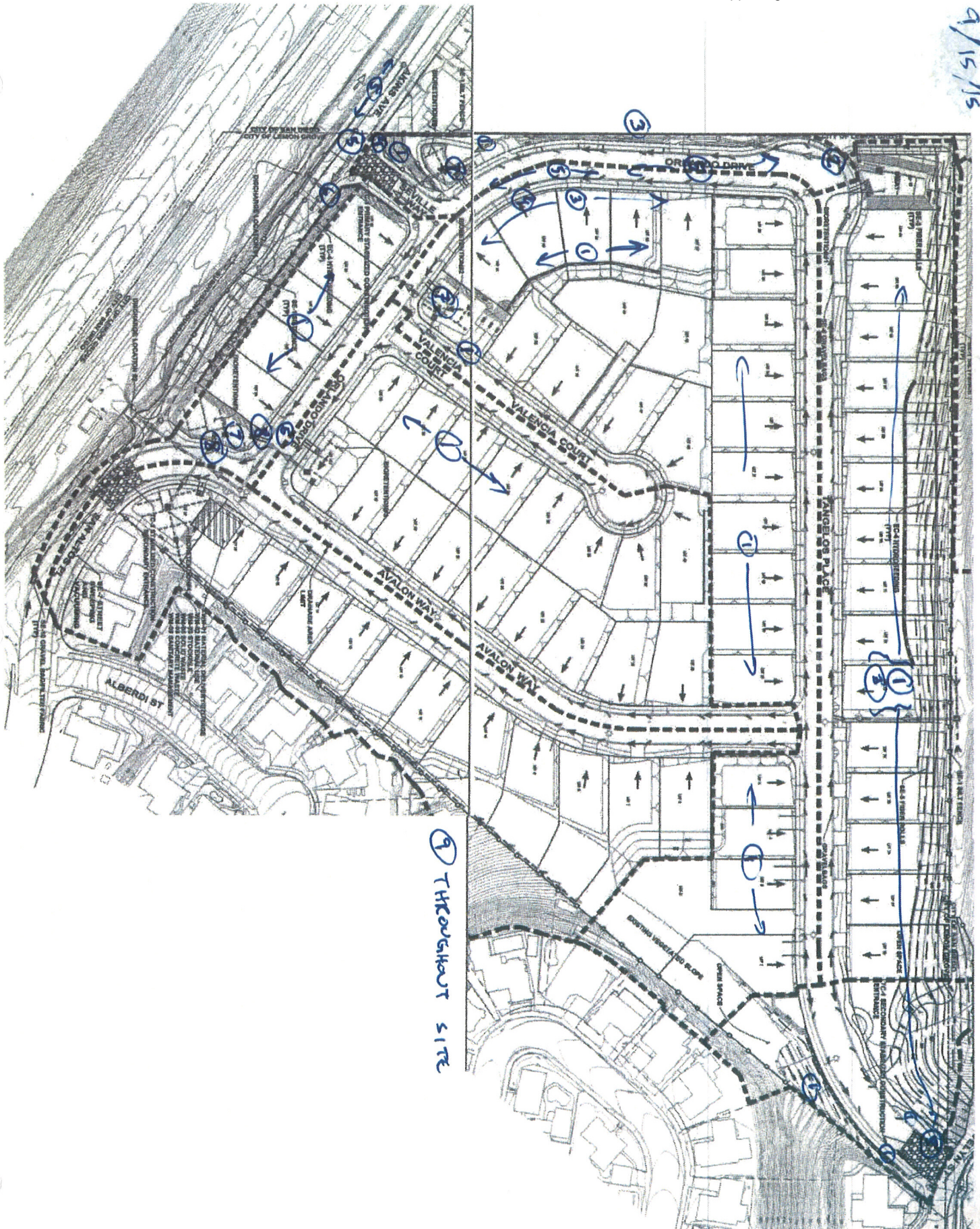
Site: VALENCIA

Date: 9/15/15

Recommendations:

- ① UTILIZE EROSION CONTROLS ON ALL DISTURBED AREAS PRIOR TO RAIN EVENTS, OR WHEN THEY ARE NACTIVE, 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

9/15/15



9 THROUGHOUT SITE



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 9/15/15 3:00PM

Inspection: ☒ Permit-Required Inspection ☐ Follow-up Inspection ☐ Other (Explain) _____

Construction Project Priority: ☐ High ☒ Medium ☐ Low

Approximate rainfall since last inspection: ~0.8 inches

GENERAL INFORMATION

Grading or Building Permit #: GR-1695

Project Name & Type: Vernon Ranch Subdivision

Project Location & Address: 7012 & 7024 Mt. Vernon

Contractor's Name & Telephone #: Anderson Development (949) 275-6739

Property Owner & Telephone #: Mt. Vernon - Lemon Grove LLC

Is this Project Greater than an Acre? ☒ Yes ☐ No ☐ N/A

If yes: Provide Record of Waste Discharge Identification Number (WDID#): 937C371670

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

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?			<input checked="" type="checkbox"/>		
Physical Stabilization: Hydraulic Mulch, Hydroseeding, Soil Binders, Straw Mulch	<input checked="" type="checkbox"/>			May need to add stabilizer on southern edge	No
Geotextiles, Plastic Covers, Erosion Prevention Blankets, Wood Mulching		<input checked="" type="checkbox"/>			
Site Drainage: Outlet Protection/Slope Drain			<input checked="" type="checkbox"/>		
Inlet/Outlet Protection			<input checked="" type="checkbox"/>		
Sediment Control/Containment					
Perimeter Protection: Silt Fencing, Gravel Bags, Fiber Rolls	<input checked="" type="checkbox"/>			Evidence of sediment transport beyond silt fence along southern perimeter	No
Storm Drain inlet protection: Sediment Trap, De-silting Basin, Gravel Bag Barrier		<input checked="" type="checkbox"/>			
Tracking Controls: Stabilized Entrance/Exit Road Stabilization, Tire Wash, Street Sweeping	<input checked="" type="checkbox"/>			TC-1 lacks sufficient rock	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				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				
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		Evidence of sediment transport beyond southern & western perimeter	No
Other					
Are there any other potential storm water pollution issues/concerns?	X			sediment-laden water seeping through western wall	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: TC-1 still not installed per SWPPP. Contractor says they will be paving the area soon

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: VERNON RANCH

Date: 9/15/15

Recommendations:

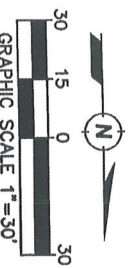
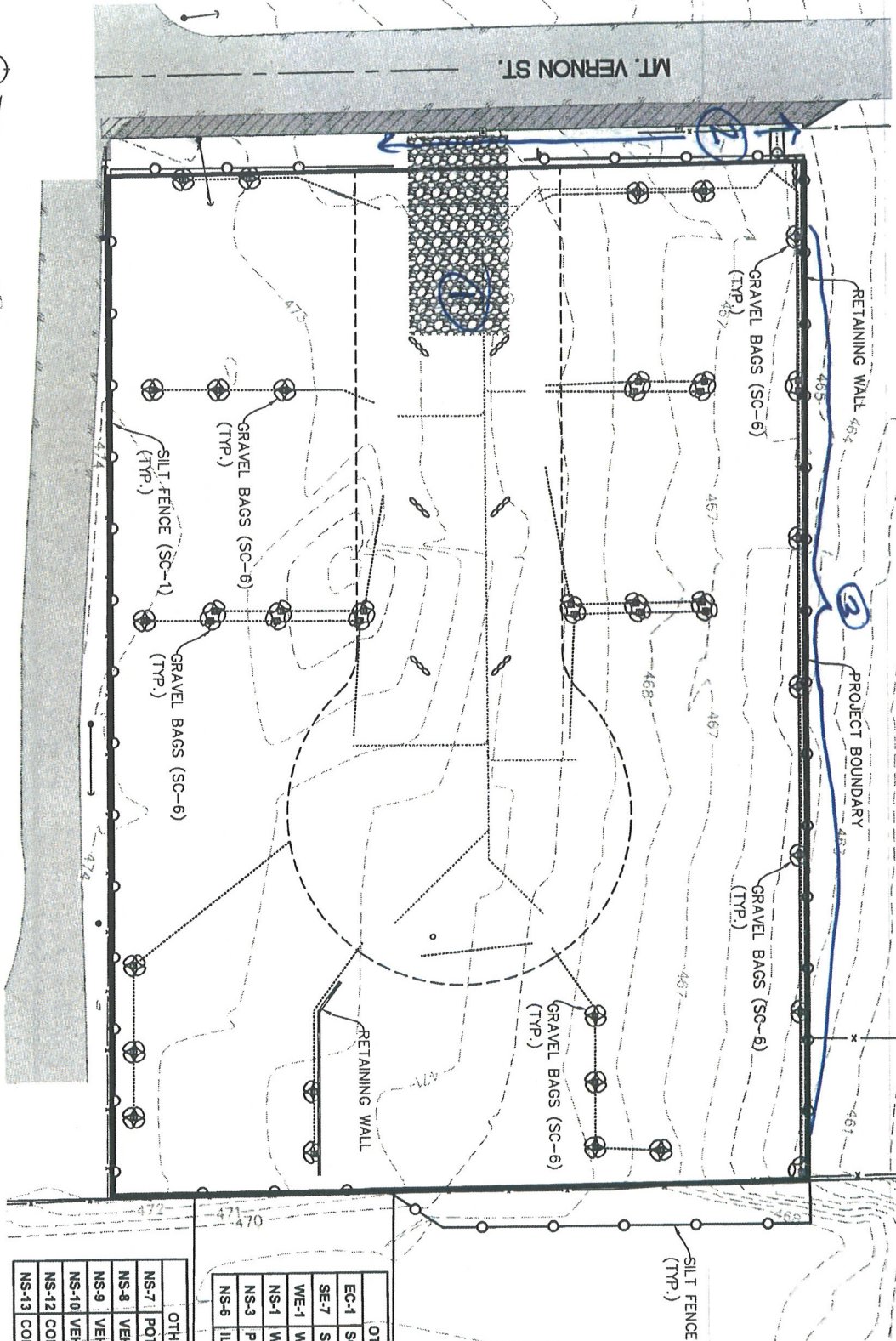
① ADD SUFFICIENT ROCK TO TC 1 AT SITE ENTRANCE

② EMPLOY ADEQUATE COMBINATION OF EROSION AND PERIMETER CONTROLS TO PREVENT SEDIMENT TRANSPORT ALONG SOUTHERN EDGE OF SITE

③ ELIMINATE SEDIMENT-LADEN WATER SEEPING THROUGH WALL ALONG WESTERN PERIMETER

SWPPP SITE MAP - GRADING & LAND DEVELOPMENT PHASE (PHASE 1, RETAINING WALLS)

9/15/15



7012 & 7024 Mt. Vernon
LEMON GROVE, CA 91945

Walsh Engineering & Surveying, Inc.
 607 Aldwych Road, El Cajon, CA 92020
 (619) 588-6747 (619) 792-1232 Fax

ORIGINAL: 11-19-14	
REVISION No.	DATE
1	
2	
3	

OTHER BMP's TO BE USED	
EC-1	SCHEDULING
SE-7	STREET SWEEPING & VACUUMING
WE-1	WIND EROSION CONTROL
NS-1	WATER CONSERVATION PRACTICES
NS-3	PAVING & GRINDING OPERATIONS
NS-6	ILLEGAL CONNECTION / DISCHARGE

OTHER BMP's TO BE USED	
NS-7	POTABLE WATER / IRRIGATION
NS-8	VEHICLE & EQUIPMENT CLEANING
NS-9	VEHICLE & EQUIPMENT FUELING
NS-10	VEHICLE & EQUIPMENT MAINTENANCE
NS-12	CONCRETE CURING
NS-13	CONCRETE FINISHING