



California Regional Water Quality Control Board San Diego Region



Arnold Schwarzenegger
Governor

Over 50 Years Serving San Diego, Orange, and Riverside Counties
Recipient of the 2004 Environmental Award for Outstanding Achievement from U.S. EPA

9174 Sky Park Court, Suite 100, San Diego, California 92123-4353
(858) 467-2952 • Fax (858) 571-6972
<http://www.waterboards.ca.gov/sandiego>

March 2, 2010

City Manager
Mr. Paul Malone, City Manager
City of San Marcos
1 Civic Center Drive
San Marcos, CA 92069-2918

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
7009 1410 0002 2347 7443

In reply refer to:
Place No. CWU:255407:lwalsh

RE: NOTICE OF VIOLATION NO. R9-2010-0022 TO CITY OF SAN MARCOS FOR VIOLATIONS OF ORDER NO. R9-2007-0001

Dear Mr. Malone:

Enclosed is **Notice of Violation (NOV) R9-2010-0022** issued to the City of San Marcos for violations of California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) Order No. R9-2007-0001, National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS0108758, *Waste Discharge Requirements (WDRs) For Discharges Of Urban Runoff Associated From the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds of the County of San Diego, the Incorporated Cities of San Diego County, the San Diego Unified Port District, and the San Diego County Regional Airport Authority* (Order R9-2007-0001).

NOV No. R9-2010-0022 is issued to the City of Marcos for failing to verify, prior to occupancy, that constructed treatment control best management practices (BMPs) at Priority Development Projects (PDP) are in place in compliance with all specifications, plans, permits, ordinances, and Order No. R9-2007-0001.

The City has developed and agreed to fund a Capital Improvement Project (CIP) in which they will install all post construction treatment control BMPs identified as missing during the FY 08/09 site inspections. The City provided a BMP installation schedule that identifies when missing post construction treatment control BMPs at each of the 37 PDPs sites will be installed. The work will occur in two phases. Phase I will begin July 1, 2010. Work during Phase I includes installation of 71 treatment control BMPs and work to request the bonds for those sites identified in Phase II. Phase II will begin July 1, 2011. Work during Phase II includes installation of all remaining treatment control BMPs not installed during Phase I. All work will be completed by June 30, 2012.

Order No. R9-2007-0001 requires the City to ensure that post construction treatment control BMPs were installed at PDP sites prior to the site's developer being granted

California Environmental Protection Agency



Mr. Malone
City of San Marcos
NOV R9-2010-0022

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occupancy in accordance with their Standard Urban Storm Water Mitigation Plan (SUSMP). The City will remain in noncompliance with the requirements of Order No. R9-2007-0001 until all previously identified missing treatment control BMPs are installed. The San Diego Water Board requests that you submit written documentation on or before June 30, 2012 to formally notify the San Diego Water Board that work to install the missing treatment control BMPs is complete.

In the subject line of any response, please include the requested "In reply refer to:" information located in the heading of this letter. Questions pertaining to the issuance of this NOV should be directed to Laurie Walsh at (858)467-2970 or lwalsh@waterboards.ca.gov.

Written correspondence pertaining to this NOV should be directed to the following address:

David Barker, Supervising Water Resource Engineer
Attn: Laurie Walsh
California Regional Water Quality Control Board, San Diego Region
9174 Sky Park Court, Suite 100, San Diego, CA 92123-4340

Respectfully,



David T. Barker, P.E.
Senior Water Resource Control Engineer
Surface Water Basins Branch

DTB:cmc:law

Order No.	R9-2010-0022
CIWQS Place ID	255407
Reg. Measure No.	343174

Enclosures: Notice of Violation R9-2010-0022
City of San Marcos JURMP Field Inspection Report - December 3, 2009

Cc via email: (w/encl.)

Erica Ryan, Stormwater Program Manager (eryan@san-marcos.net)

California Environmental Protection Agency



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March 2, 2010

IN THE MATTER OF:)
)
City Manager)
Mr. Paul Malone)
City of San Marcos)
1 Civic Center Drive)
San Marcos, CA 92069)

NOTICE OF VIOLATION
NO. R9-2010-0022

In reply refer to:
Place No. 255407:lwalsh

WDID No. 9000510S15

Order No. R9-2007-0001, NPDES No. CAS0108758

YOU ARE HEREBY NOTIFIED THAT:

You are in violation of Order No. R9-2007-0001, National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS0108758, *Waste Discharge Requirements (WDRs) For Discharges Of Urban Runoff Associated From the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds of the County of San Diego, the Incorporated Cities of San Diego County, the San Diego Unified Port District, and the San Diego County Regional Airport Authority* for failing to verify, prior to occupancy, that constructed treatment control best management practices (BMPs) at each Priority Development Project (PDP) subject to standard urban storm water mitigation plans (SUSMP) requirements were in place in compliance with all specifications, plans, permits, ordinances, and Order R9-2007-0001.

Such violations may subject you to further enforcement action by the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) including administrative enforcement orders requiring you to cease and desist from violations, or to clean up waste and abate existing or threatened conditions of pollution or nuisance; administrative civil liability in amounts of up to \$10,000 per day per violation; referral to the State Attorney General for injunctive relief; and, referral to the District Attorney for criminal prosecution.

Background

On March 25, 2008 the San Diego Water Board received a Jurisdictional Urban Runoff Management Plan (JURMP) for the City of San Marcos (City). On September 30, 2009, the San Diego Water Board received the City's JURMP Annual Report for fiscal year 08/09. After review of both documents, San Diego Water Board met with City storm water staff on December 3, 2009, to discuss the City's JURMP program and evaluate compliance with Order No. R9-2007-0001. The violation described below is based on the information contained in the City's JURMP and JURMP Annual Report and confirmed at the subsequent meeting with the City.

Summary of Violations:

FAILURE TO VERIFY INSTALLATION OF TREATMENT CONTROL BMPS

1. **Pursuant to Provision D.1.f**: Each Copermittee shall, prior to occupancy of each Priority Development Project, inspect the constructed LID, source control, and treatment control BMPs to verify that they have been constructed in compliance with all specifications, plans, permits, ordinances, and Order R9-2007-0001.

Observation: The City of San Marcos failed to verify, prior to occupancy that constructed treatment control BMPs at each Priority Development Project (PDP) were in place at the PDP in compliance with all specifications, plans, permits, ordinances, and Order R9-2007-0001.

Section 2.4.2.4 of the City's Annual Report states: *"During the treatment BMP verification process, at 37 sites of the sites visited, evidence demonstrated that BMPs were not installed per the project plans and WQTRs."* Post construction treatment control BMPs are designed to remove pollutants from storm water prior to discharge to receiving waters. The City's failure to verify that treatment control BMPs were constructed and installed at PDPs prior to occupancy resulted in a discharge or threatened discharge of waste to receiving waters of the State.

Mr. Paul Malone
City of San Marcos
NOV R9-2010-0022

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Questions pertaining to the issuance of this Notice of Violation should be directed to Laurie Walsh (858) 467-2970 or lwalsh@waterboards.ca.gov.

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David Barker
Supervising Water Resource Control Engineer
Attn: Laurie Walsh
California Regional Water Quality Control Board - San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123-4340



David Barker
Supervising Engineer

3/3/2010
DATE

CIWQS Place ID: 255407
Reg Measure:343174