


ERRATA SHEET

I declare under penalty of perjury that I have read the foregoing 88 pages of my testimony, taken on 12/29/2015 (date) at San Diego (city), CA (state), and that the same is a true record of the testimony given by me at the time and place herein above set forth, with the following exceptions:

Page	Line	Should read:	Reason for Change:** (See below before completion)
<u>9</u>	<u>9</u>	<u>John Quenzer and John Draminski</u>	
<u>10</u>	<u>13</u>	<u>I have a degree in ecology, behavior, and</u>	
<u>12</u>	<u>8</u>	<u>D-Max, my current company. And I started with DMax</u>	
<u>19</u>	<u>12</u>	<u>Engineering. And then I had some - just reviewing</u>	
<u>19</u>	<u>13</u>	<u>past inspection materials and reading documents</u>	
<u>20</u>	<u>21</u>	<u>our company typically does for, like, the</u>	
<u>20</u>	<u>22</u>	<u>industrial/commercial inspections</u>	
<u>29</u>	<u>20</u>	<u>I think the time stamps are off on one day</u>	
<u>43</u>	<u>22</u>	<u>John Quenzer, December 26, 2014.</u>	
<u>81</u>	<u>3</u>	<u>yes, I agree that Exhibit 16 does - indicating</u>	

Date: 1/18/16


Signature of Witness

Tad Nakatani

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.

Job No. _____

Rev. 3/15/14

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 TAD NAKATANI, a witness
herein, noticed by Oppen & Varco, LLP,
at 225 Broadway, Suite 1900, San Diego,
California, at 8:42 a.m., on Tuesday,
December 29, 2015, before R. Jerrod Jones,
CSR 11750, RPR

Job Number 598613



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2
3
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I N D E X

WITNESS: TAD NAKATANI

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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 Tad Nakatani and Request for Production of Documents [EXH-1]	7	88
2	NPDES Stormwater Program Construction Stormwater Compliance Inspection Form dated 12/9/14 [EXH-2]	22	88
3	NPDES Stormwater Program Construction Stormwater Compliance Inspection Form dated 12/11/14 [EXH-3]	30	88
4	City of Lemon Grove Notice, Administrative Citation dated 12/11/14 [EXH-4]	31	88
5	D-Max Engineering Memo dated 12/12/14 [EXH-5]	33	88
6	NPDES Stormwater Program Construction Stormwater Compliance Inspection Form dated 12/16/14 [EXH-6]	37	88

1	7	E-Mail From Malik Tamimi to John Quenzer dated 12/16/14 [EXH-7]	43	88
2				
3	8	D-Max Engineering Memo dated 12/17/14 [EXH-8]	45	88
4				
5	9	D-Max Engineering Memo dated 12/31/14 [EXH-9]	47	88
6	10	NPDES Stormwater Program Construction Stormwater Compliance Inspection Form dated 1/6/15 [EXH-10]	48	88
7				
8				
9	11	NPDES Stormwater Program Construction Stormwater Compliance Inspection Form dated 1/14/15 [EXH-11]	54	88
10				
11	12	D-Max Engineering Memo dated 1/16/15 [EXH-12]	58	88
12				
13	13	E-Mail from Leon Firsht to Tad Nakatani dated 2/4/15 [EXH-13]	64	88
14				
15	14	NPDES Stormwater Program Construction Stormwater Compliance Inspection Form dated 3/18/15 [EXH-14]	66	88
16				
17	15	NPDES Stormwater Program Construction Stormwater Compliance Inspection Form dated 4/29/15 [EXH-15]	70	88
18				
19				
20	16	E-Mail From Tad Nakatani to Malik Tamimi dated 9/14/15 [EXH-16]	71	88
21				
22	17	E-Mail From Tad Nakatani to Gary Harper dated 9/16/15 [EXH-17]	73	88
23				
24	18	NPDES Stormwater Program Construction Stormwater Compliance Inspection Form dated 9/15/15 [EXH-15]	74	88
25				

1 SAN DIEGO, CALIFORNIA; TUESDAY, DECEMBER 29, 2015

2 8:42 A.M.

3
4 TAD NAKATANI,
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. Nakatani.

12 A. Hi.

13 Q. My name is Linda Beresford. I'm one of
14 the attorneys for San Altos-Lemon Grove, LLC,
15 representing them in the matter of the Administrative
16 Civil Liability Complaint Number R9-2015-0110, issued
17 by the Regional Water Quality Control Board.

18 Would you state your name and spell it for the
19 record.

20 A. Tad Nakatani, T-a-d, N-a-k-a-t-a-n-i.

21 Q. Thank you. Have you had your deposition
22 taken before?

23 A. No.

24 Q. There's a few ground rules that I'd like
25 to go over with you, just to try to make the process

1 go a little more smoothly. We are here today at a
2 hearing under oath. We have a court reporter taking
3 down everything that we say. So when I ask a
4 question, if it's possible, please try to respond
5 verbally, "yes," "no," a sentence, rather than a
6 shrug or "uh-huh," things that are difficult to read
7 on a transcript. Understood?

8 A. Yes.

9 Q. Okay. And in order to have an accurate
10 transcript, it's important that you understand my
11 question and I understand your answer. So if
12 possible, we'll try to have one person speaking at a
13 time. So if you can wait for me to finish my
14 question; and I, in turn, will also do my best and
15 wait for you to finish your answer before we stop
16 speaking -- before I start speaking so that we're not
17 talking over each other.

18 Do you understand?

19 A. Yes.

20 Q. Please feel free to take a break at any
21 time. The only thing I ask is that if I have a
22 question pending before you, that you answer the
23 question before we take a break; is that understood?

24 A. Yes.

25 Q. Okay. And finally, I'm sorry, but I do

1 have to ask: Are you taking any medication, or is
2 there any other reason why you can't give your best
3 testimony today?

4 A. No.

5 Okay. Great.

6 MS. BERESFORD: If you could please mark that
7 as Exhibit 1.

8 (Exhibit Number 1 was marked for
9 identification.)

10 BY MS. BERESFORD:

11 Q. Would you please review that.

12 A. Is this the full copy on the back?

13 Q. One document is your Notice of Deposition
14 with the Request for Production of Documents. And
15 one should be the Subpoena with the Request for
16 Production. It's my understanding that the Request
17 for Production of Documents are identical for both
18 the Notice of Deposition and the Subpoena.

19 A. Okay.

20 Q. But my first question is, have you seen
21 that document before?

22 A. Yes.

23 Q. Okay. Can you identify for the record
24 what it is?

25 A. I forgot what just called it, but the --

1 but it's my understanding that this is my Subpoena to
2 appear today, and a list of documents to be provided.

3 Q. Okay. Thank you.

4 A. Yes.

5 Q. Did you bring any documents with you
6 today?

7 A. We worked with Jim last week to -- he
8 asked us to give it to them on DVD.

9 Are you Wayne, by the way?

10 MR. ROSENBAUM: Yes.

11 THE WITNESS: He said he would talk to Wayne
12 and let us know.

13 MR. LOUGH: We added theirs. It's on the
14 CD-ROM we gave you.

15 BY MS. BERESFORD:

16 Q. So it's your testimony that all of the
17 documents that you have responsive to that, you
18 provided to Mr. Lough to produce with the City of
19 Lemon Grove's documents?

20 A. Yes. I believe they were on different
21 DVDs but submitted to him.

22 I'm guessing you gave those at the same time.

23 Q. Okay. In your review of documents, did
24 you identify any documents that you thought were
25 possibly responsive but you did not produce for some

1 reason?

2 A. No, not that I'm aware of.

3 Q. Did you do anything else to prepare for
4 your deposition today?

5 A. We did have a brief meeting with Jim and
6 some people from Lemon Grove.

7 Q. Did you talk to anybody at D-Max about the
8 deposition?

9 A. John Quenzer and John Zrinski.

10 Q. What was that discussion about?

11 A. Mostly we were -- we coordinated getting
12 all of the documents together mainly because it was a
13 lot of overlap. And then yeah, I guess just general
14 discussion of what we needed to do, to show up and
15 then bring and stuff like that.

16 Q. Okay. Did you review any documents
17 specifically to prepare for today?

18 A. Just what I kind of may have glanced over
19 in pulling in all of the e-mails mostly, I guess.

20 Q. Okay.

21 A. Yeah. So not an actual thorough review of
22 any of the documents that were listed on here.

23 Q. Okay. Thanks. I would like to talk about
24 your education a little bit.

25 A. Okay.

1 Q. Where did you graduate from high school?

2 A. Glendale High School in Glendale,
3 California.

4 Q. And then did you go to college?

5 A. Yes.

6 Q. Where was that?

7 A. UC San Diego.

8 Q. Did you graduate?

9 A. Yes.

10 Q. What year was that?

11 A. 2004.

12 Q. What was your degree?

13 A. I had a degree in ecology behavior in
14 evolution, and psychology as a second.

15 Q. Interesting. Do you have any advanced
16 degrees?

17 A. I have a master's.

18 Q. And what is that in?

19 A. That's in animal behavior from UC Davis.

20 Q. When you did get that degree?

21 A. I believe 2008.

22 Q. Is that a master's of science?

23 A. Yes.

24 Q. Okay. Do you have any other advanced
25 degrees besides that?

1 A. No.

2 Q. What was your first job after you finished
3 your master's at UC Davis?

4 A. I had a -- I had an internship, like a
5 full-time internship with the Air Resources Board in
6 Sacramento. Although I don't technically remember --
7 so that was through the summer, from about June to
8 September. I don't remember if my degree award date
9 was actually June or September. It technically may
10 not have been after; it may have been during.

11 Q. That's okay. Let me back up a little bit.
12 Did you work in between the time you graduated from
13 UCSD and went to UC Davis?

14 A. Yes.

15 Q. What did you do during that period?

16 A. I worked as a biostatistician for one
17 year; and I worked in biotech for the second year;
18 and then began grad school after two years, I
19 believe.

20 Q. Where were you a biostatistician?

21 A. The Virtual Reality Medical Center. It
22 sounds fake, I know.

23 Q. Where was that?

24 A. That was in San Diego.

25 Q. And then, I'm sorry, you were a biotech?

1 A. Yeah. I was a biotech technician, I guess
2 would be the title, at Diazyme Laboratories, also in
3 San Diego.

4 Q. When you completed your internship with
5 the Air Resources Board, what did you do after that?

6 A. I moved back to San Diego in the fall and
7 began applying for jobs. And then I interviewed with
8 D-Max, my parent company. And I started with D-Max
9 in I believe January of '09.

10 Q. What was your first position with D-Max?

11 A. Staff scientist, I believe.

12 Q. And what did you do as a staff scientist?

13 A. I don't know all of it. I did under --
14 with that job title, because I don't recall exactly
15 how long I had that one. But I -- I mean, do you
16 want a list of some of the tasks I can think of?

17 Q. Did you do any storm water inspections as
18 a staff scientist?

19 A. Yes.

20 Q. So you started doing storm water
21 inspections in 2009 as a staff scientist?

22 A. Yes.

23 Q. What type of training did you have -- or
24 did you have any training before you did storm water
25 inspections as a staff scientist?

1 A. Yeah. We did -- we did field training
2 with other staff, more experienced staff members.

3 Q. And was that all the training you received
4 at that time?

5 A. I mean, there's probably some additional,
6 you know, like just reading materials that they gave
7 to new people to start with, you know, with permits
8 and stuff like that.

9 Q. What type of storm water inspections were
10 you doing at that time?

11 A. Initially it was industrial/commercial,
12 the beginning. Probably also some treatment control
13 BMP or structural BMP, maintenance verification
14 inspections. Yeah, that was probably after a couple
15 of months. Yeah, that probably was performed under
16 that same job title.

17 Q. Okay. How long were you a staff
18 scientist?

19 A. I don't remember.

20 Q. Do you remember what your next title was?

21 A. I believe there's Staff Scientist II was
22 the next level.

23 Q. Do you do similar type of storm water
24 inspections as a Staff Scientist II?

25 A. Probably. I would say there was probably

1 less industrial/commercial inspections and more of
2 the structural, postconstruction BMPs as I
3 progressed. I don't know where that picks up with
4 the job titles, honestly.

5 Q. Okay. About how many inspections a year
6 did you do as a Staff Scientist I, a Staff Scientist
7 II?

8 A. I have no idea.

9 Q. More than five?

10 A. Yeah.

11 Q. More than ten?

12 A. Yeah. So I guess I would say probably --
13 so if I were to be doing a full time, let's say I
14 worked one week and I'm doing all five days, fully
15 dedicated to inspections, I would probably while
16 doing industrial/commercial I could do about 20 to 30
17 in a week. And then if it were in treatment control
18 or structural, postconstruction, less than that
19 maybe, 15 to 25 a week, so -- but I don't at this
20 point recall how much of my time was on just
21 inspections.

22 Q. Okay. Who were you doing the inspections
23 for?

24 A. Like, who was my supervisor; or who was my
25 client?

1 Q. Who were your clients?

2 A. The City of San Diego was the main one.
3 So the bulk was probably done for them. At various
4 times we -- I have also done inspections for probably
5 the City of National City. Do you want like a
6 complete list, or as complete as I can give you right
7 now?

8 Q. Were you acting mostly as a subcontractor
9 for cities?

10 A. Yes.

11 Q. And during that time, were you doing
12 inspections for the General Construction Storm Water
13 Permit?

14 A. No, not in the early years.

15 Q. Okay. What was your title after you were
16 a Staff Scientist II?

17 A. I believe Assistant Project Scientist.

18 Q. And do you know when you became an
19 Assistant Project Scientist?

20 A. No.

21 Q. Do you think it was one year ago or
22 approximately --

23 A. No, multiple years ago. I don't remember
24 which one.

25 Q. And did you do storm water inspections as

1 an Assistant Project Scientist?

2 A. Yes. I believe I did some, but probably
3 the more supervising of the inspections under that
4 title.

5 Q. Were you either performing or supervising
6 inspections for the Construction General Storm Water
7 Permit?

8 A. Under that job title, I don't know. Let
9 me think on that one. Probably. I don't know
10 exactly when a transition -- the next title would be
11 Project Scientist, which is my current one. So I
12 would guess probably under that title is when I was
13 doing some construction stuff, but I'm really not
14 sure. I don't know when the job titles synced up
15 with different actions.

16 Q. Okay. But you're a Project Scientist now?

17 A. Yes.

18 Q. Do you know when you became a Project
19 Scientist?

20 A. No.

21 Q. Your parents must not ask you too many
22 questions as they ask me.

23 Approximately how long do you -- would you
24 estimate that you have been a Project Scientist?

25 A. Oh, gosh. Probably within the last two

1 years. That's about -- I can vaguely remember joking
2 with a coworker that the new job title didn't mean
3 that much to me. So that's -- it didn't really
4 change what I was doing work-wise. So yeah, I don't
5 have a good recollection of when that official change
6 was.

7 Q. Okay. But you just indicated that your
8 duties didn't really change that much, or did they?
9 Can you elaborate. What did you do as --

10 A. I think if you are talking about like the
11 different jobs, like tasks I'm working on, I think
12 that really would be something that changed more with
13 different contracts that my company had, as opposed
14 to what my job title was. Because a lot of the
15 contracts we have are for, you know, just several
16 months or something.

17 So if we had a six months -- a six-month
18 contract to do a certain task, then that's really
19 what determined like we're doing this project with
20 the Lemon Grove construction program. So that kind
21 of determined what I was doing more so than my job
22 title.

23 Q. Okay.

24 A. At that point, yeah.

25 Q. Over the past two years, did you do any

1 inspections for the Construction General Storm Water
2 Permit?

3 A. Yes.

4 Q. For whom were you doing those inspections?

5 A. So I did constructions for the City of
6 Lemon Grove. And I also did construction -- or I did
7 inspection as a QSP for Marathon General, a
8 contractor for a project in Santee.

9 Q. So you just indicated to me that you are a
10 Qualified Storm Water Professional, QSP; is that
11 correct?

12 A. I believe the P is Practitioner, right?
13 But yeah, QSP.

14 Q. Okay. When did you become a QSP?

15 A. Let's see. I believe that was on my
16 resume. Do you have that? I could -- I don't recall
17 offhand. But it should be on the resume that was on
18 the DVD from Jim.

19 Q. Okay. Do you think it was approximately a
20 year ago?

21 A. No. It was a few years ago. In my head
22 I've sort of got 2012, but I don't know if that's
23 correct or not. But it was multiple years ago.

24 Q. Okay. Are you a Qualified SWPPP
25 Developer, a QSD?

1 A. Yes.

2 Q. Do you know when?

3 A. That would be the same date.

4 Q. Okay. What specific training have you had
5 for storm water compliance investigations?

6 A. Specific to construction, or just in
7 general storm water compliance?

8 Q. Let's talk about just construction for
9 now.

10 A. Okay. Let's see. I had the QSP/QSD
11 training, which I took that with I believe Rick
12 Engineering. And then I had some -- just my year of
13 pass inspection material and reading with documents,
14 like with coworkers.

15 Q. Did you go to any of the specific training
16 that the Water Board has put on?

17 A. No.

18 Q. Are you a Trainer of Record?

19 A. No.

20 Q. Okay. Can you describe the relationship
21 between D-Max and the City of Lemon Grove for me?

22 A. Yes. So D-Max was hired by the City of
23 Lemon Grove. Specific to this project, they hired us
24 to do inspections of construction sites. D-Max also
25 has some additional contracts with the City to do

1 other storm water work as well.

2 Q. When was D-Max specifically hired to do
3 inspection of construction sites?

4 A. I believe this particular contract -- I
5 mean, I don't know when all of the contracting
6 documentation was finalized. I believe my first time
7 out there was December of last year, December 2014.

8 Q. Okay. Do you know why they hired D-Max
9 for that purpose?

10 A. I believe initially it was I think two
11 sites. They wanted us to come in and do inspections
12 of -- construction inspections of two sites.

13 Q. Did anyone specifically say why they
14 wanted you to do that?

15 A. So I guess I didn't -- I don't think I
16 spoke to the City at the time. It would be -- John
17 Quenzer was my supervisor. So I don't know exactly
18 what was said specifically, other than the City
19 wanted our assistance just to provide, you know,
20 basically our assessment of the site, similar to what
21 the water company typically does for, like, a
22 municipal construction inspection.

23 Q. Who was your primary contact at the City?

24 A. At first or --

25 Q. At first and then later.

1 A. I think honestly, that's sort of been
2 unclear or changing --

3 Q. Okay.

4 A. -- at times. So I'm -- I believe -- I
5 mean, Leon was the one sort of -- Leon Firsht was in
6 charge of it. So I think he was probably the main
7 contact initially. But I don't know honestly if the
8 contract was between the City and D-Max was kind of
9 done through by Malik or Leon. Because I know Malik,
10 you know, is the one who is most involved in storm
11 water. He's the one typically in contact with our
12 company more frequently about contracts. So I don't
13 know which one of them reached out to us initially.

14 Q. Okay. But throughout the course of the
15 contract, you had both -- you had contact with
16 Mr. Firsht and Mr. Malik Tamimi?

17 A. Yes.

18 Q. Who else at the City did you talk to or
19 meet with specifically about this site?

20 A. Gary Harper probably would be the person
21 that I had contact with by phone or e-mail, and also
22 just he was on site many of the times I was there
23 too. So who else? Let's see. Tamara O'Neil. J.J.
24 Arrington was more recently. Let's see. Those were
25 the main ones. I'm just trying to think. I'm going

1 through City staff. I think Dave I may have had
2 contact with, but I don't think related to this
3 project. I don't think.

4 Q. Okay.

5 A. That probably covers the main contacts.

6 Q. I understand Miss O'Neil is not with the
7 City of Lemon Grove anymore. Do you know anything
8 about that?

9 A. That's correct.

10 Q. Do you know where she is?

11 A. I do not.

12 Q. Who is Mr. Arrington?

13 A. J.J. or Jeremiah, he's a -- I believe he's
14 an engineer, some sort of engineering title. I don't
15 know exactly what the title is. He hasn't been there
16 that long, probably just -- I believe he started in
17 2015 sometime.

18 MS. BERESFORD: Okay. If you could please mark
19 this as Exhibit 2.

20 (Exhibit Number 2 was marked for
21 identification.)

22 MR. BOYERS: Do you have another copy? I know
23 it's in there somewhere.

24 (Discussion off the record.)

25 MR. BOYERS: Okay. Perfect. Thank you.

1 BY MS. BERESFORD:

2 Q. Have you seen this document before?

3 A. Yes.

4 Q. Can you tell me what it is?

5 A. It's my Inspection Form from December 9th,
6 2014.

7 Q. So did you visit the site on December 9,
8 2014?

9 A. Yes.

10 Q. And you prepared this form following that
11 site visit?

12 A. Uh-huh. Yes. Oh, actually, on your
13 earlier question when you asked about why was I asked
14 to go out there, I'm pretty confident that I was told
15 by John Quenzer that the City had -- specifically was
16 having problems with the Valencia site. So they
17 wanted us to come in. So I think I was initially
18 told that.

19 I don't know if I was told of previous issues.
20 I don't know if there was even issues with the --
21 involvement with the Regional Board before that. I
22 don't know. But I know I was told that it was a site
23 they were having problems with.

24 Q. Okay. I see at the top it says, "First
25 permit required inspection." What is the permit that

1 you were referring to there?

2 A. I believe that is referring to the General
3 Construction Permit. Although, I pretty much was
4 just using that option as a -- I would say it's not
5 really, you know, something that we're -- excuse me.
6 That wouldn't be the General Construction Permit. I
7 believe that one is referring to the Municipal
8 Permit.

9 But I don't know that this is necessarily
10 meaning that we're doing this inspection to meet the
11 inspection frequency requirement of the Municipal
12 Permit. My understanding of this box was just sort
13 of that that's a, hey, this is our sort of a routine
14 inspection that we're doing for the City.

15 Q. Okay. When you were asked or when you
16 went to go inspect the site, what was the standard
17 that you were comparing it against? Were you doing
18 an inspection per the Construction General Storm
19 Water Permit; or were you inspecting the site in
20 accordance with the City's Jurisdictional Urban
21 Runoff Management Plan?

22 A. So this would be in accordance with the
23 City's standards.

24 Q. So you were inspecting it in accordance
25 with the city's JURMP?

1 A. Yeah. Or actually, they have a lot in
2 their Municipal Code as well.

3 Q. But when you were inspecting, you were not
4 inspecting for purposes of the Construction General
5 Storm Water Permit, correct?

6 A. Correct. My intention was to be doing it
7 for the City in accordance with the City standards.

8 Q. Okay. And then the next line says,
9 "Construction Project Priority."

10 A. Uh-huh.

11 Q. It looks like originally you checked
12 "High." Did you scratch that out and then check
13 "Medium"?

14 A. Yes.

15 Q. Can you describe what happened there a
16 little bit for me.

17 A. Well, I don't honestly remember exactly
18 why I initially checked "High." But that priority is
19 something that the City assigns to it. So I -- I
20 just may have found out initially I believed it was
21 high; and then found out from the City that they had
22 assigned a medium priority to it, maybe. I don't
23 know the exact thought process at that point.

24 Q. Okay. Sure. On the second page of the
25 document, you indicated that there were no

1 violations; is that correct?

2 A. Yes, that's what's indicated there.

3 Q. And is this your handwriting at the bottom
4 of the Recommended Corrective Action?

5 A. Yes. Yes, it is.

6 Q. Does this inspection document discuss
7 whether or not there were concerns with BMPs with
8 respect to active versus inactive areas?

9 A. Yes, there is a mention of inactive areas.

10 Q. Can you point out to me where that
11 reference is?

12 A. I noticed one under one comment on the
13 Recommended Corrective Actions on page two, the first
14 one there mentions inactive areas.

15 Q. Can you read that sentence to me.

16 A. "Add erosion control to all disturbed
17 areas inactive for ten days, including roadways not
18 currently in use."

19 Q. So when you were evaluating an active
20 versus inactive area, your evaluation was whether it
21 was active or inactive for a ten-day period; is that
22 correct?

23 A. In this instance, that appears to be
24 correct.

25 Q. And how would you have known whether an

1 area was active or inactive for ten days?

2 A. At this point I would not have.

3 Q. You didn't ask anybody?

4 A. I don't recall. Let me see. Yeah, I
5 don't recall.

6 Q. Towards the top of the page, there's a
7 column. I think it's the third one down on page two.
8 It says, "Are material stockpiles protected, covered,
9 contained, and located away from non-storm water
10 discharges?" Do you see that?

11 A. Uh-huh.

12 Q. Then you checked "yes"?

13 A. Uh-huh.

14 Q. And then it says, "Several unprotected
15 stockpiles." Do you see that?

16 A. Uh-huh.

17 Q. Did you talk to anyone about how long the
18 stockpiles have been there, or when they were going
19 to go away, or anything like that?

20 A. I couldn't tell you for a particular
21 inspection whether or not I spoke to someone about
22 that, you know, unless I have a specific note about
23 it.

24 Q. So if you saw a stockpile, is it possible
25 it could have been moved later that day?

1 A. Yes. Yeah.

2 Q. Is it possible that the same stockpile
3 could have been moved the day before?

4 MR. BOYERS: Objection. Speculation.

5 BY MS. BERESFORD:

6 Q. I will rephrase. If you went out and did
7 an inspection and you saw a stockpile, did you have
8 any knowledge of when that stockpile was placed
9 there?

10 A. I may or may not have spoken to someone on
11 site during the inspection. But I can't tell just
12 from my notes at this point whether or not that's the
13 case.

14 Q. So for these stockpiles, you can't tell me
15 whether or not you knew when those stockpiles were
16 created?

17 A. Let's see. Someone may have told me when
18 it was created or last active, but they may not have.
19 I don't know at this point.

20 Q. Okay. Did you discuss this inspection
21 with anybody?

22 A. I don't know. I would say there was --
23 I'm not sure. Gary Harper may have been there during
24 that inspection, as he was there for many of them.
25 But just from looking at these forms, I can't tell

1 who either from the City or from the developer that
2 may or may not have spoken to on site.

3 Q. Did anybody from the Water Board ever call
4 you to talk about this inspection?

5 A. I don't believe so.

6 Q. Okay. How come you don't have any
7 pictures?

8 A. There are photos. Those were on the DVD.

9 Q. You took photos when you went on every
10 inspection?

11 A. I believe there were photos that
12 corresponded with each Inspection Form.

13 Q. Did you take photos when you went?

14 A. Yes.

15 Q. Were they dated or time stamped in any
16 way?

17 A. Yes. I believe they should have date and
18 time stamps on each one from every inspection.

19 Q. Okay.

20 A. I think the time stamps are on Monday,
21 whenever the time change happened; otherwise, it
22 would be accurate.

23 Q. The time change throughout the date?

24 A. The time is off by an hour.

25 Q. Just the time?

1 A. Yeah.

2 MS. BERESFORD: Okay. We can mark this as
3 Exhibit 3, please.

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

6 BY MS. BERESFORD:

7 Q. Have you seen this document before?

8 A. Yes.

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

10 A. This is my Inspection Form from
11 December 11th, 2014.

12 Q. And that's the inspection of the site?

13 A. Yes.

14 Q. And when we say the site, we mean the
15 Valencia Hills construction project on San Altos
16 Place; is that correct?

17 A. Correct.

18 Q. I should have defined that earlier.
19 You indicated, again, that there were no
20 violations after this inspection; is that correct?

21 A. Yes, that is what's indicated.

22 Q. Is that your handwriting at the bottom of
23 that page?

24 A. Yes.

25 Q. I only ask because it looks different from

1 the handwriting on the December 9th inspection.

2 A. Oh.

3 Q. Do you recall if you discussed this
4 inspection with Gary Harper or Leon Firsht?

5 A. I do not recall.

6 Q. Did you discuss this inspection with
7 anyone from the Water Board?

8 A. I don't believe so.

9 Q. Do you know whether or not a citation was
10 issued by the City of Lemon Grove on December 11th?

11 A. I don't know.

12 MS. BERESFORD: We'll mark that as Exhibit 4.
13 It says Exhibit Number 6 at the top of the document,
14 but for purposes of this deposition it's Exhibit 4.

15 (Exhibit Number 4 was marked for
16 identification.)

17 BY MS. BERESFORD:

18 Q. Have you seen that document before?

19 A. I'm not sure.

20 Q. Can you --

21 A. There's -- I'm sorry. Go ahead.

22 Q. Can you state for the record what it is?

23 A. It's an Administrative Citation from the
24 City of Lemon Grove.

25 Q. What is the date of it?

1 A. The date of violation observed is
2 12/11/14.

3 Q. And there's -- may I see it for a moment?
4 On the violation observed, it says, "See attached
5 report." Do you see that writing?

6 A. The "Inadequate BMPs - see attached
7 Inspection Reports"?

8 Q. Yes. Do you see that language?

9 A. Yes.

10 Q. Do you know whose reports those were?

11 A. I do not know for sure. It's likely that
12 those were mine, but I'm not sure.

13 Q. Do you recall if Mr. Firsht talked to you
14 about issuing a citation?

15 A. I don't recall.

16 Q. Does it surprise you that they issued a
17 citation based on a report that you did that day that
18 indicated there were no violations?

19 MR. BOYERS: Objection. It misstates his
20 testimony.

21 BY MS. BERESFORD:

22 Q. I'll go back. In your inspection of
23 December 11th, it notes that there are no violations;
24 is that correct?

25 A. Yes, that's what's indicated there.

1 Q. Did they talk to you about why they were
2 going to issue a citation that day when you had a
3 report that said no violations?

4 A. At this point, I don't recall if we had
5 any conversations.

6 MS. BERESFORD: Okay. We'll make this
7 Exhibit 5. This is the December 12th, D-Max Memo.

8 (Exhibit Number 5 was marked for
9 identification.)

10 (Discussion off the record.)

11 BY MS. BERESFORD:

12 Q. Have you seen this document before?

13 A. Yes.

14 Q. And can you please state what it is.

15 A. This is a Memo from D-Max reporting the
16 sampling results from the 12th of December 2014.

17 Q. Do you know who asked for turbidity
18 sampling?

19 A. Someone at the City. It would likely be
20 Malik or Leon. I'm not sure.

21 Q. Do you think turbidity data can support a
22 violation of the General Construction Permit?

23 MR. BOYERS: Objection. It calls for a legal
24 conclusion. Speculation.

25 BY MS. BERESFORD:

1 Q. You can still answer.

2 A. Can you restate the question?

3 Q. Sure. Can turbidity data be used to
4 support a violation of the General Construction
5 Permit?

6 MR. BOYERS: The same objections.

7 BY MS. BERESFORD:

8 Q. It's okay. He can object.

9 A. Okay.

10 Q. You generally are still supposed to
11 answer, unless someone directs you not to answer.

12 A. Okay. So you are saying legally? You are
13 asking if legally a turbidity sample --

14 Q. I'll rephrase. How is turbidity data used
15 when evaluating compliance with the General
16 Construction Storm Water Permit?

17 MR. BOYERS: Objection. It calls for
18 speculation.

19 THE WITNESS: I mean, the -- I mean, that's not
20 really what we were doing. This was for the City,
21 not for the General Construction Permit. So I'm not
22 really sure how that would be used.

23 BY MS. BERESFORD:

24 Q. Okay. What was the point of taking the
25 turbidity data?

1 A. That was -- I think that that was really
2 from -- a question for the requester from the City.
3 We were just wanting to know what the turbidity was.

4 Q. Okay.

5 A. Yeah.

6 Q. No one discussed with you why they wanted
7 to collect turbidity data?

8 A. Well, they wanted to know their turbidity.
9 I mean, they may have wanted to look at it in
10 relation to the actual levels from the General
11 Construction Permit, but I'm not sure. That's --
12 that's their --

13 Q. Right. I'm trying to find out if anybody
14 had a specific conversation with you about why they
15 wanted it?

16 A. The request for sampling was most likely a
17 conversation between the City and John Quenzer for
18 this one I would guess.

19 Q. Okay.

20 A. I believe in most cases of sampling, that
21 that's who would be involved in the conversation from
22 D-Max.

23 Q. Okay. Were you involved in this sampling
24 effort at all?

25 A. No, I don't believe so.

1 Q. And do you recall if you were on site on
2 December 12th?

3 A. I don't recall. But I most likely not, if
4 I don't have an Inspection Form for that date.

5 Q. Okay. Were you aware that the Water Board
6 inspected the site on December 15, 2014?

7 A. At this point, not by memory.

8 Q. I'll provide that for you to refresh your
9 recollection. We're not going to make it an exhibit.

10 A. Okay.

11 Q. I'm referring, however, to the document
12 that has Exhibit Number 8 at the top.

13 A. Okay.

14 Q. Did you hear any discussion that
15 inspection was going to occur?

16 A. Prior to the inspection?

17 Q. Yes.

18 A. At this point, I don't remember.

19 Q. Do you know why a representative from
20 D-Max wasn't participating in that inspection?

21 A. We were only at an inspection if we were
22 asked to be there by the City.

23 Q. All right. Let me take that back.

24 And just to close the loop on that, then, since
25 you were not there, the presumption is that the City

1 did not ask you to attend; is that correct?

2 A. Most likely, yes. I believe that to be
3 true.

4 MS. BERESFORD: Okay. Let's mark that as
5 Exhibit 6. This is Mr. Nakatani's Inspection of
6 December 16th.

7 (Exhibit Number 6 was marked for
8 identification.)

9 (Discussion off the record.)

10 BY MS. BERESFORD:

11 Q. Have you seen this document before?

12 A. Yes.

13 Q. Can you please identify it for me?

14 MR. BOYERS: Can we wait until I have a copy?

15 MR. J. ROSENBAUM: I'll go make copies.

16 MR. BOYERS: Okay. It's part of the Regional
17 Board's Exhibit 9. Go ahead.

18 MS. BERESFORD: I thought you had one.

19 MR. BOYERS: I know. I needed it in front of
20 me when you were asking him questions. Thank you for
21 waiting.

22 BY MS. BERESFORD:

23 Q. Could you please identify what this is?

24 A. This is the Inspection Form from
25 December 16th, 2014.

1 Q. So did you visit the site on that day?

2 A. Yes.

3 Q. Why did you go back out to the site on
4 that day?

5 A. Most likely it was because the City asked
6 me to go on that day.

7 Q. Do you recall if they said why?

8 A. I don't recall.

9 Q. Okay. Do you see that there's some yellow
10 highlighting on that document?

11 A. Yes.

12 Q. Did you make that highlighting?

13 A. No.

14 Q. Do you know who did?

15 A. No.

16 Q. Does this report discuss failure to have
17 erosion control BMPs in inactive and active areas?

18 A. I don't see specific mention of active
19 versus inactive.

20 Q. Do you recall if you discussed with anyone
21 at the site on that day --

22 A. I don't recall.

23 Q. Let me finish my question.

24 A. Sorry.

25 Q. I guess you didn't recall talking about it

1 at all. But just to be clear, did you talk to anyone
2 at the site that day about which areas were active
3 and which areas were inactive?

4 A. I don't recall what, if any, conversations
5 I had on that day.

6 Q. And to be clear, you were talking about
7 active versus inactive; from your mind, that's
8 whether or not they were doing work in that area
9 within the past ten days; is that correct?

10 A. Say that again, please.

11 Q. In defining the difference between an
12 active versus an inactive area, when you're
13 evaluating that, is that based on whether they have
14 done work there in the past ten days, or do you have
15 a different standard?

16 A. Yes. I believe that that's what I was --
17 that was the time frame for defining inactive area.

18 Q. Ten days was the time frame?

19 A. I believe so.

20 Q. Okay. On the second page of your report,
21 if you would look under "Violations."

22 A. Uh-huh.

23 Q. It looks like originally you had checked
24 the box of "No Violations."

25 A. Uh-huh.

1 Q. And then that changed. Can you explain to
2 me what happened there?

3 A. I don't know for sure what the history of
4 that was. But I would say that the Violations
5 section was -- that's something that basically the
6 City staff was making decisions on typically. So
7 that would be usually something that would be told to
8 me by, you know, discussion, either in the field or a
9 phone call, or it could be in an e-mail.

10 Q. Were there instances where the City told
11 you to change a recommendation from a "No Violation"
12 to a "Violation"?

13 A. Well, typically I would be getting input
14 from them first. So it's not a case where I would
15 say, I believe it is this; and the City would say
16 change your -- change what you marked.

17 It would be -- although there may have been
18 times when I've thought I think they want me to write
19 this, but then they said, hey. And when I checked in
20 with them, they said we want it to be, you know,
21 considered as such. But I don't know in this
22 particular case what that exact history was.

23 Q. Would they have given you input on whether
24 or not they thought something was a violation when
25 they hadn't on -- on a day when they hadn't had a

1 representative -- their own representative at the
2 site? Does that make sense?

3 MR. BOYERS: Objection. Speculation.

4 BY MS. BERESFORD:

5 Q. I will rephrase. Did they ever ask you --
6 I'll start again.

7 Did they ever have a discussion about whether
8 something was a violation or not when you were the
9 only person who had visited the site that day?

10 A. I don't recall.

11 Q. Do you know if anybody visited the site
12 with you on December 16th?

13 A. I don't remember.

14 Q. Were there times that you were the only
15 person inspecting the site?

16 A. Yes.

17 Q. Did they always have input on whether or
18 not you checked violation or not?

19 A. Who do you mean by "they"?

20 Q. The City.

21 A. I would say that as far as a discussion,
22 we -- there was not a discussion every single time.
23 So yes, there were times when I'd fill out the form,
24 including the "Violation" section without a
25 discussion with the City.

1 I would say typically that was done when, you
2 know, when things were similar to a previous
3 situation where I had had that conversation. So I
4 could fill out the form in a similar way based on
5 similar situations.

6 Q. Can you explain to me why it was --
7 whether or not there was a violation up to
8 discussion? And let me give you a little more
9 information. I would think if you go to the site and
10 you see something, and it either is or it is not a
11 violation of the Municipal Code or the JURMP. Am I
12 incorrect on that assumption?

13 A. I would say that my understanding in
14 filling out these forms is that I was brought on to
15 assess the adequacy of the BMPs. But it wasn't my
16 role to determine what was considered a violation or
17 not. That was the City's role still.

18 Q. Do other cities work in a similar fashion?

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

21 THE WITNESS: I'm not --

22 BY MS. BERESFORD:

23 Q. Based on your experience, have you had
24 similar experiences with other cities wanting to have
25 notice if there's been a violation?

1 A. I have not had experience with other
2 cities where that has been the case.

3 Q. Did you ever discuss this December 16th
4 inspection with anyone from the Water Board?

5 A. I don't believe so.

6 MS. BERESFORD: Does someone have the time?

7 MR. ROSENBAUM: It is ten of 10:00.

8 MS. BERESFORD: Why don't we take a five-minute
9 break. We're going to go off the record.

10 (A recess was taken.)

11 (Mr. Lough exits the conference room.)

12 MS. BERESFORD: Back on the record.

13 Can we please mark this as Exhibit 7.

14 (Exhibit Number 7 was marked for
15 identification.)

16 BY MS. BERESFORD:

17 Q. Have you seen this document before?

18 A. Most likely. I appear to be CCed on it,
19 yeah.

20 Q. Can you describe what it is?

21 A. This is an e-mail from Malik to me and to
22 John Anderson, December 26, 2014.

23 Q. What is the time on the e-mail?

24 A. 10:53 a.m.

25 Q. And what time did you inspect the site on

1 December 16th? I will refer you to Exhibit 6.

2 A. 12:25.

3 Q. So was Mr. Tamimi asking for an Inspection
4 Report before you had performed the inspection?

5 MR. BOYERS: Objection. Speculation.

6 THE WITNESS: Am I still to answer this?

7 BY MS. BERESFORD:

8 Q. Yes.

9 A. I believe -- let me read this e-mail a
10 second. I believe in this e-mail, he is requesting
11 that I perform the inspection.

12 Q. And why does he want the report?

13 MR. BOYERS: Objection. Speculation.

14 THE WITNESS: I don't know.

15 BY MS. BERESFORD:

16 Q. Can you read the first sentence.

17 A. "John....we would like the follow-up
18 inspection today so that we can attach it to our
19 enforcement letter that we will be drafting today."

20 Q. So he was asking for an Inspection Report
21 to attach to an enforcement letter? Is that what the
22 first sentence says?

23 MR. BOYERS: Objection. Speculation.

24 THE WITNESS: He says he's asking for an
25 inspection so that we can attach it to our

1 enforcement letter.

2 BY MS. BERESFORD:

3 Q. So he was planning on attaching an
4 Inspection Report to the enforcement letter before
5 the inspection occurred; is that correct?

6 MR. BOYERS: Objection. Speculation.

7 THE WITNESS: I'm not sure what he was
8 planning.

9 MS. BERESFORD: Okay. We will mark this as
10 Exhibit 8. Exhibit 8 to the deposition says Exhibit
11 Number 10 at the top of the document.

12 (Exhibit Number 8 was marked for
13 identification.)

14 BY MS. BERESFORD:

15 Q. Have you seen this document before?

16 A. Yes.

17 Q. Could you please state what it is?

18 A. It's a memo from D-Max to Malik Tamimi on
19 December 17th.

20 Q. What is the purpose of the memo?

21 A. This is reporting Brian Nemerow's field
22 visit on December 17th.

23 Q. Who is Mr. Nemerow?

24 A. He's a former employee of D-Max.

25 Q. Do you know where he is now?

1 A. Employment-wise?

2 Q. Yes.

3 A. The City of the Vista. Wait. No. Yes.

4 Yes, Vista.

5 Q. It's okay. What was his role at D-Max?

6 A. As in his job title, or the tasks that he
7 performed?

8 Q. Job title is fine.

9 A. Probably Staff Scientist II I would guess,
10 not positive.

11 Q. Previously you had stated that Mr. Quenzer
12 is your supervisor?

13 A. Correct.

14 Q. So then Mr. Nemerow was a subordinate to
15 you? Did you supervise him?

16 A. Yes, I did on some projects. I don't
17 recall in this particular one if he was working more
18 under John Quenzer or myself. I would wager he was
19 probably -- yeah, I think he was working more under
20 John Quenzer for this particular task, since John was
21 the one that did the previous sampling.

22 Q. Okay. Were you on site on December 17th,
23 2014?

24 A. Not that I know of. Unless there's an
25 Inspection Form from that day that I filled out, it's

1 unlikely.

2 MS. BERESFORD: Let's make this Exhibit 9.
3 This will be Exhibit 9 to the deposition, although
4 the document says Exhibit 12 at the top.

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

7 BY MS. BERESFORD:

8 Q. Have you seen this document before?

9 A. Yes.

10 Q. Can you please describe what it is.

11 A. This is a memo from D-Max to the City of
12 Lemon Grove on December 31st, 2014, reporting a field
13 visit on December 31st.

14 Q. I would like to refer you both to -- well,
15 first, let's talk about Exhibit 8. There's some
16 highlighting on Exhibit 8.

17 A. Uh-huh.

18 Q. Did you do that highlighting?

19 A. No.

20 Q. And there's highlighting on Exhibit 9.
21 Did you do any of that?

22 A. No.

23 Q. Okay. Have you ever taken turbidity
24 samples?

25 A. Yes.

1 Q. I'd like to direct you to the third
2 paragraph of this memo.

3 A. Exhibit 9?

4 Q. Yes, please.

5 A. Uh-huh.

6 Q. The last sentence says, "To approximate a
7 certain effect," I'm paraphrasing there, "the settled
8 sediment at the Akins entrance/exit location was
9 disturbed, and a sample was taken a few minutes
10 later."

11 Do you think that follows a proper sampling
12 protocol to take a turbidity sample?

13 A. Let me finish reading here. Okay. Can
14 you repeat the question, please.

15 Q. Do you think that's a proper sampling
16 protocol, to disturb the puddle and then take the
17 sample?

18 A. Not that I'm aware of.

19 Q. Do you know if you were on site on
20 December 31st?

21 A. I don't believe I was.

22 MS. BERESFORD: Okay. Could you please mark
23 this as Exhibit 10.

24 (Exhibit Number 10 was marked for
25 identification.)

1 BY MS. BERESFORD:

2 Q. Have you seen that document before?

3 A. Yes.

4 Q. Can you identify it for me, please?

5 A. This is my Inspection Report from
6 January 6, 2015.

7 Q. And that's for the site?

8 A. Yes.

9 Q. Do you know why you went to inspect the
10 site on January 6th?

11 A. It would be either because the City
12 requested specifically I go out that time, or they
13 had previously requested that I inspect it at a
14 normally-scheduled date.

15 Q. Is there anything in this document that
16 reports the weather conditions?

17 A. No, I don't believe so. Unless I happen
18 to have a note somewhere in here that kind of hints
19 at the weather, there's not a -- a field that is
20 specific to the weather.

21 Q. I'd like to direct you to page two. The
22 third row down it says, "Are material stockpiles
23 protected, covered, contained, and located away from
24 all storm water discharges?" Do you see that?

25 A. Uh-huh.

1 Q. And can you read your description there?

2 A. "Uncovered stockpiles reported as active."

3 Q. Does anything in this report indicate
4 whether the stockpiles were exposed to wind or rain?

5 A. You mean currently, or in the past couple
6 of days, or are you talking about in the future if
7 there were rain or --

8 Q. At the date of this inspection.

9 A. I don't -- I do not see any notes so far
10 about wind or rain occurring at that time. Do you
11 want me to review all of my notes?

12 Q. Please.

13 A. Okay. I don't see any notes indicating
14 there was any wind or rain at the time of this
15 inspection.

16 Q. Okay. Is there any discussion about
17 whether there was wind or rain the previous day or
18 the next day?

19 A. I'm sorry. Repeat the question, please.

20 Q. Does this report discuss whether there was
21 wind or rain, the stockpiles were exposed to wind or
22 rain the previous day or the next day?

23 A. I don't see an indication in here that
24 from my notes that there was rain on the previous
25 day. As far as the following day, I don't see any

1 indication that there was rain in the forecast
2 necessarily for the next day.

3 Q. Do you have any other additional field
4 notes for your inspections that are not attached
5 here?

6 A. No.

7 Q. Okay. I think there's -- is there
8 highlighting on your Exhibit 10?

9 A. Yes.

10 Q. Did you do that highlighting?

11 A. No.

12 Q. Do you know who did?

13 A. No.

14 Q. Does anything in this report discuss
15 erosion controls for inactive or active areas?

16 A. Let me see. Yes, the note about
17 stockpiles on page two does discuss it as active.
18 And then note number seven on the third page refers
19 to "Stabilize area if inactive or rain is
20 forecasted."

21 Q. Okay. Let's go to the third page, your
22 first comment, number one. It says, "Fully
23 stabilized area. Utilize other erosion control
24 BMPs." Do you see that?

25 A. Uh-huh.

1 Q. And then you have a map attached.

2 A. Uh-huh.

3 Q. Is the one on the map attached to that?

4 A. Uh-huh.

5 Q. Do you know if that area one was an active
6 or inactive area?

7 A. I don't recall whether it stated it at
8 that time. I would say that based on my notes there,
9 it sounds like it was inactive. But I don't recall
10 exactly what --

11 Q. Do you recall if you asked anybody that
12 day whether an area was active or inactive?

13 A. I don't recall. However, I did notice
14 that that stockpile question did say that they
15 reported something as active, which does indicate
16 there was some conversation with the contractor or
17 their representatives that day.

18 Q. But looking at number one today, you don't
19 know whether that area was active or inactive?

20 A. I couldn't say for sure. I would say
21 based on the note, likely. But yeah, I can't
22 recall --

23 Q. Okay.

24 A. -- by memory on any given day whether some
25 particular area was active or inactive.

1 Q. And then number seven says, "Stabilize
2 area if inactive."

3 A. Uh-huh.

4 Q. Is that specific to any specific area?

5 A. Yes. There's an area on the page four
6 that looks like it would be the upper left-hand
7 corner of the page.

8 Q. So do you know on the date of inspection,
9 was the area active or inactive?

10 A. I don't know. I would say based on that
11 note on seven, that would be -- I think that note
12 would be something I would typically write of an area
13 that was currently active or I couldn't determine.

14 Q. Or you couldn't determine?

15 A. Right.

16 Q. Okay.

17 A. Yeah, that -- yeah.

18 Q. Okay. I'm not going to mark this as an
19 exhibit, but I would like you to take a look at that
20 document. Do you know if you've seen this document
21 before?

22 A. I don't think I have.

23 Q. Okay. For the record, it's an e-mail
24 dated January 1, 2015 to Mr. Chiu. If you haven't
25 seen it before, then I won't ask you any questions

1 about it.

2 Going back to your inspection of January 6th,
3 which was Exhibit 10, did you discuss this inspection
4 with anyone at the Water Board?

5 A. I don't believe so.

6 MS. BERESFORD: All right. And let's mark that
7 as Exhibit 11, please. It's Exhibit Number 25 at the
8 top of the document, and Exhibit Number 11 to the
9 deposition.

10 (Exhibit Number 11 was marked for
11 identification.)

12 BY MS. BERESFORD:

13 Q. Have you seen this document before?

14 A. Yes.

15 Q. And what is it?

16 A. This is my Inspection Report from
17 January 14th, 2015.

18 Q. Your inspection of the site?

19 A. Yes.

20 Q. Okay. There's highlighting on this
21 document. Did you do that?

22 A. No.

23 Q. Okay. I'd like to go to page two, and the
24 third row down talking about stockpiles. Can you
25 read your comments to me there.

1 A. It says, "Wood/scrap pile should be
2 removed or protected."

3 Q. And then there's another discussion about
4 stockpiles the second-to-last row up.

5 A. Uh-huh.

6 Q. Can you read that to me, please.

7 A. "Stockpiles are located too close to drain
8 in northeast basin. Remove or relocate them outside
9 of basin."

10 Q. Does anything in this report talk about
11 whether the stockpiles are exposed to wind and rain?

12 A. I don't see anything indicating
13 information about rain or wind at the time of the
14 inspection.

15 Q. The comment about the "stockpiles are
16 located too close to the drain in the northeast
17 basin," if you go back to Exhibit 10, and look at
18 that same row.

19 A. Uh-huh.

20 Q. Do you know if those were the same
21 stockpiles?

22 A. I believe so. I don't know for sure from
23 memory; but I do recall an issue with that stockpile
24 not getting moved for multiple inspections. So I
25 believe that's the stockpile that I'm thinking of.

1 Q. Do you know if you talked to anyone about
2 whether the stockpiles had been moved?

3 A. I don't recall for sure. But from the
4 January 6th inspection, again, I would say it's
5 likely I talked to the contractor or their
6 representative, based on the note I had about a
7 stockpile being reported as active.

8 Q. Do you --

9 A. And that was on the 6th.

10 Q. Do you normally note in your Inspection
11 Reports anywhere if you've talked to anyone about
12 anything?

13 A. No. There's no field for that. Yeah, so
14 I will sometimes make a note, such as the one on the
15 6th, that suggested that there was a conversation,
16 but there's no --

17 Q. -- specific documentation?

18 A. Yeah, place. Whatever time you indicate
19 whether or not you spoke to someone.

20 Q. Does anything in your January 14th
21 Inspection Report identify whether a specific area is
22 inactive?

23 A. Let's see. I don't see any specific
24 indication that a particular area is inactive in my
25 notes here.

1 Q. So I see a note on five. Note five here
2 on the third page it says, "Stabilize area if
3 inactive or rain in forecast."

4 When you wrote that, do you know if you knew
5 whether area five was inactive or not?

6 A. Similar to what I said on Exhibit 10. I
7 would say that that note is something I would
8 typically write if it was either active, or I just
9 couldn't determine with certainty whether or not it
10 was active.

11 Q. Okay. On page two of this inspection, you
12 checked the box that there was a violation.

13 A. Uh-huh.

14 Q. Do you know what the basis for that was?

15 A. I believe that that was something the City
16 asked me to indicate. I'm basing this on looking at
17 the last couple exhibits from that time period that
18 are marked in the similar -- the similar way of that
19 same note about the ongoing Stop Work
20 Notice/Administrative Citation.

21 I believe that was a conversation or e-mail or
22 phone call at some point where they said to check
23 that as -- mark the "Violation" section that way for
24 that time period while they had a Citation or Stop
25 Notice or whatever it was.

1 Q. As of January 14, your inspection January
2 14, did you think that the storm water controls at
3 the site were in better condition than when you
4 inspected the site in December?

5 A. I don't recall at this point.

6 Q. Based on your reports, can you say whether
7 or not you thought it was in better condition?

8 MR. BOYERS: Objection. Vague as to "better
9 condition."

10 THE WITNESS: Yeah, can you clarify?

11 MS. BERESFORD: Sure. Let's go to the next
12 exhibit and we can go from there. So this will be
13 Exhibit 12. Exhibit 12 to the deposition is
14 indicated as Exhibit 23 at the top.

15 (Exhibit Number 12 was marked for
16 identification.)

17 BY MS. BERESFORD:

18 Q. Have you seen this document before?

19 A. Yes.

20 Q. Can you please describe what it is.

21 A. This is a Memo that I sent to the City on
22 January 16th, 2015, summarizing inspections and
23 sampling from December and January.

24 Q. Based on this Memo, can you say whether
25 you thought the storm water, the BMPs, and other

1 protections at the site were better at the site in
2 January than they were in December?

3 A. I would say that compared to early
4 December, like the December 9th time, that they did
5 implement a significant number of BMPs that they
6 had -- that had been deficient before. So yes, they
7 did improve several of the deficiencies they had,
8 specifically with erosion control in December -- or
9 December 9th.

10 Q. And your last inspection of the site was
11 January 14; is that correct?

12 A. Prior to this letter, I believe so.

13 Q. I'd like to go to the third page of the
14 Memo. The second row up discusses stockpiles. Do
15 you see that?

16 A. "The stockpiles were placed close to a
17 drain inlet." That one?

18 Q. Yes.

19 A. Yes.

20 Q. If you move to the next column over, the
21 second sentence says, "On January 14, the stockpiles
22 had been covered." Do you see that?

23 A. Yes.

24 Q. Do you know the date when the stockpiles
25 had been covered?

1 A. I don't know the exact date they were
2 placed on there.

3 Q. Is it possible that they had been covered
4 on January 13th?

5 MR. BOYERS: Objection. Speculation.

6 THE WITNESS: Let me see on my January. Yeah,
7 I guess from these materials, all I can tell is that
8 they were -- it sounds like they were not covered on
9 the 6th, and they were covered when I returned on the
10 14th. I don't know the timing of anything in
11 between.

12 BY MS. BERESFORD:

13 Q. Let's go back to your January 14th
14 inspection.

15 A. Okay.

16 Q. And your January 6th inspection. Let's go
17 to the second page there.

18 A. Uh-huh.

19 Q. On January 6th, which is Exhibit 10, in
20 the third row down it says, "Uncovered stockpiles
21 reported as active." Do you see that?

22 A. Yes.

23 Q. And then on January 14th, on Exhibit 11,
24 on the third row down, can you say again what that
25 says to me.

1 A. "Wood/scrap piles should be removed or
2 protected."

3 Q. Do you think that's the same stockpile
4 that you were talking about on January 6th?

5 A. Probably not, I would wager.

6 Q. Okay.

7 A. I would --

8 Q. At some point --

9 A. Can you hold on a second, so I can see if
10 I can find the corresponding part on the map?

11 Q. Sure.

12 A. So the one on January 14th of 2015?

13 Q. Yes.

14 A. That was wood/scrap pile. As it's shown
15 on the map, that is not in the same location as the
16 one that -- that's not the same stockpile that is
17 referred to on the January 16th report about being
18 placed too close to the drain. Those are two
19 separate stockpiles.

20 Q. Okay. And is there any note about the
21 stockpiles near the drain, about whether those were
22 covered or not?

23 A. Not specifically. It is possible on the
24 January 6th report that the uncovered stockpiles
25 reported as active may be referring to that, or may

1 be referring to that and others, or may be referring
2 to --

3 Q. Not referring to it at all?

4 A. I can't tell just from looking at that
5 January 6th report.

6 Q. Okay. Based on your Memo, a stockpile was
7 not covered on January 6th.

8 A. Wait. Actually, does that say --
9 actually, based on the Memo in that line we were
10 reading, the second from the last row, it doesn't
11 specifically state that it was uncovered on the 6th.

12 "Stockpiles were placed close to a drain inlet.
13 The inlet is elevated above the ground height in that
14 area."

15 This deficiency was observed on January 6th.
16 So based on reading that, this deficiency seems to be
17 referring to the proximity to the drain, rather than
18 to any coverage or lack thereof.

19 Q. Okay.

20 A. So yeah, that's what that one's referring
21 to, I believe. "On January 14th the stockpiles had
22 been covered, but they had not been moved
23 sufficiently far enough away from the drain inlet."

24 So yeah, to me that means they were covered on
25 the 14th. Just from reading this part alone, I can't

1 tell that it's necessarily the case that that one
2 particular stockpile was or was not covered on the
3 6th.

4 Q. Okay. And then if we go up a little bit
5 higher, about the middle, there's a row that says,
6 the first column, it says, "Some stockpiles lacked
7 adequate cover." And then you say, "Covers were put
8 on stockpiles."

9 Do you see that?

10 A. Yes.

11 Q. Do you know if there are any corresponding
12 dates as to those observations?

13 A. From looking at this, I can't tell.
14 Typically that type of thing changes frequently. So
15 yeah, that could correspond to multiple different
16 inspections from this stack and multiple different
17 stockpiles (indicating).

18 Q. Okay. I think if you look on the pages
19 relating to the pictures, there are some things that
20 are highlighted. Do you do any of those highlights?

21 A. No, I didn't.

22 MR. BOYERS: Can we clarify what exhibit we're
23 looking at?

24 MS. BERESFORD: I'm sorry. I'm on Exhibit 12.
25 All of this last questioning was regarding Exhibit

1 12.

2 MR. BOYERS: Thank you.

3 BY MS. BERESFORD:

4 Q. Did you do the highlighting on Exhibit 12?

5 A. I did not do it.

6 Q. Was there highlighting on Exhibit 11?

7 A. Yes.

8 Q. Did you do that highlighting?

9 A. No, I did not.

10 Q. Did you ever discuss your inspection of
11 January 14th, Exhibit 11, with anyone from the Water
12 Board?

13 A. I don't believe so.

14 Q. Did you ever discuss Exhibit 12, your
15 January 16th Memo, with anyone from the Water Board?

16 A. No. I don't believe so, no.

17 MS. BERESFORD: Can we please mark this as
18 Exhibit 13.

19 (Exhibit Number 13 was marked for
20 identification.)

21 BY MS. BERESFORD:

22 Q. Have you seen this before?

23 A. Yes.

24 Q. Can you please describe what it is?

25 A. This is an e-mail from Leon Firsht to me

1 on February 4th, 2015.

2 Q. Can you explain to me the -- your
3 question?

4 A. So the first e-mail to Leon, I asked -- I
5 was asking him how he -- which of the checked boxes
6 at the top of the form he wanted me to check off.

7 Q. And what does that mean? What does that
8 matter?

9 A. As far as what does it matter? I'd say
10 that's a question for the City on how they handle it.
11 I don't know if they handle those any differently
12 based on how that's marked.

13 Q. Okay. And he says, "Permit required."

14 A. Uh-huh.

15 Q. Did that mean anything to you?

16 A. Similar to what we talked about earlier.
17 I believe that is referring to the Municipal Permit.
18 But I don't necessarily think it's -- I think it's
19 basically more -- what I gather it's interpreted more
20 this is sort of a routine, as opposed to the next
21 option, which is the follow-up.

22 Q. But to the extent it refers to the permit,
23 your interpretation is that it was referring to the
24 Municipal Permit?

25 A. Yeah. That's my -- that's what I would

1 guess. I don't know that I received a clarification
2 from the City one way or the other at any point,
3 though.

4 MS. BERESFORD: Okay. Can we please mark this
5 as inspection -- Exhibit 14.

6 THE WITNESS: Can I take a quick bathroom
7 break?

8 MS. BERESFORD: Yes. We will go off the
9 record.

10 (A recess was taken.)

11 MS. BERESFORD: Back on the record.

12 Let's mark this, then, as Exhibit Number 14.
13 This is Exhibit Number 14 to the deposition. This is
14 Exhibit Number 13 in the documents.

15 (Exhibit Number 14 was marked for
16 identification.)

17 BY MS. BERESFORD:

18 Q. Do you recognize this document?

19 A. Yes. This is my Inspection Form from the
20 site. It looks like March 18th, 2015. I think
21 that's a 3.

22 Q. If you go to your third page, will that
23 help you find the date?

24 A. Yes, 3/18/15.

25 Q. If we could go to the second page of the

1 Inspection Report. You indicated that there were no
2 violations; is that correct?

3 A. Yes, that is what is put there.

4 Q. And going up to sort of the central area,
5 there's a column that says, "Are wastes managed and
6 stored properly? (Solid, liquid, sanitary, concrete,
7 hazardous)."

8 And you checked that box "yes"; is that
9 correct?

10 A. Let's see. Yes.

11 Q. Now, the next line down it says, "Are
12 concrete washouts properly installed, maintained with
13 no evidence of discharges?"

14 You've checked the box "yes"; is that correct?

15 A. Uh-huh.

16 Q. And then you have some comments; is that
17 correct?

18 A. Correct.

19 Q. And what does that say?

20 A. "Concrete waste observed on ground outside
21 of washouts."

22 Q. There are some pictures attached to this
23 report; is that correct?

24 A. Yes.

25 Q. Did you take those pictures?

1 A. I don't know.

2 Q. Do you know if there's a picture -- let's
3 go to the third page of your report. It says number
4 two, "Clean up concrete waste observed at multiple
5 locations, and ensure that all employees use washouts
6 properly."

7 Do you see that comment?

8 A. Which number are you reading?

9 Q. Number two.

10 A. Yes, I see that.

11 Q. Do you know if there are any pictures that
12 support that statement?

13 A. I see one that potentially does. So if
14 we're on the photos, the second page of photos, the
15 bottom left corner, to me there appears to be a
16 washout there. It's very difficult to tell from this
17 small photo, but that may be one of the areas
18 referenced there. Because it looks like there may be
19 some concrete material outside of the washout in the
20 foreground of the picture there.

21 Q. Are there any other photos that address
22 that comment?

23 A. Not that I can tell in these pictures.

24 Q. Did you see any evidence that the concrete
25 or waste actually discharged to the storm drain?

1 A. I don't recall. Let me review my notes to
2 see there's anything indicating that. I do not see
3 notes so far that indicate a discharge to the storm
4 drain.

5 Q. If you go to page two of your report,
6 there's a column, a row that says, "Are the discharge
7 locations -- I'm sorry, above that, "Is the site free
8 of evidence of illegal connections and/or illicit
9 discharges?" Do you see that?

10 A. Uh-huh.

11 Q. And checked the box "yes," correct?

12 A. Yes.

13 Q. So you noticed some concrete waste
14 discharged to the ground, but you indicated that the
15 site was free of illicit discharges; is that correct?

16 A. It's free of evidence of illegal
17 connections or discharges, yes.

18 Q. And is there any highlighting on your
19 exhibit?

20 A. No.

21 Q. Did you make that highlighting?

22 A. No.

23 Q. There's some comments with boxes around
24 the photographs. Do you see that?

25 A. Yes, I see that.

1 Q. Did you make those comments?

2 A. No, I don't believe so.

3 Q. Did you discuss this Inspection Report
4 with anyone from the Water Board?

5 A. I don't believe so.

6 Q. Do you know when -- the concrete waste to
7 the ground that you noted in this report, do you know
8 when that was cleaned up?

9 A. I'm not remembering, no.

10 MS. BERESFORD: Can we mark this as Exhibit 15,
11 please.

12 (Exhibit Number 15 was marked for
13 identification.)

14 BY MS. BERESFORD:

15 Q. Can you identify this document for me?

16 A. This is my Inspection Form from the site
17 on April 29th, 2015.

18 Q. Can you go to page two.

19 A. Uh-huh.

20 Q. Did you note if there were any violations?

21 A. There's no violations noted at the time.

22 Q. No violations?

23 A. Correct.

24 Q. And did you get recommendations for a
25 Correct Work?

1 A. Let's see. I do have some recommendations
2 on page three.

3 Q. But on page two, you didn't indicate that
4 there were recommended corrective actions required;
5 is that correct?

6 A. I did not check the "No violations;
7 however, recommended corrective actions required"
8 box. I did not check that. I do not know how the
9 City presented it to the contractor, though.

10 MS. BERESFORD: Okay. Let's go to Exhibit --
11 this will be Exhibit Number 16.

12 (Exhibit Number 16 was marked for
13 identification.)

14 Josh, could you please go make a copy of that
15 quickly.

16 Let's go off the record for a second.

17 (Discussion off the record.)

18 BY MS. BERESFORD:

19 Q. Have you seen this document before?

20 A. Yes.

21 Q. Can you please --

22 I'm sorry. We're back on.

23 THE REPORTER: That's okay. I started typing.

24 BY MS. BERESFORD:

25 Q. Can you please state what it is.

1 A. This is an e-mail thread between myself
2 and Malik Tamimi. The last e-mail was
3 September 14th, 2015.

4 Q. Can you please read the second paragraph
5 of your e-mail dated September 14th to Mr. Tamimi.

6 A. The 10:32 a.m. one at the top?

7 Q. Yes.

8 A. Okay. The second paragraph?

9 Q. Yes. Can you please read the first two
10 sentences.

11 A. "There were some deficiencies at Valencia
12 last time I was there, but nothing too horrible by
13 Valencia standards. They had actually done a pretty
14 good job of addressing the deficiencies from their
15 previous inspection. And the latest deficiencies
16 were mostly new ones around areas of recent
17 activity."

18 Q. So based on this, did you think that they
19 had done a good job addressing the deficiencies at
20 the site?

21 A. I guess, yes. I wrote that they had done
22 a pretty good job of addressing deficiencies from the
23 previous inspection. So yes, I would say that at
24 that time, I did think they did a good job of
25 addressing deficiencies.

1 MS. BERESFORD: Okay. Let's mark this as
2 Exhibit 17.

3 (Exhibit Number 17 was marked for
4 identification.)

5 BY MS. BERESFORD:

6 Q. Have you seen this document before?

7 A. Yes.

8 Q. What is the cover page?

9 A. It's an e-mail from myself to Gary Harper
10 on September 16th, 2015.

11 Q. And was anything attached to this e-mail?

12 A. Yes. There were inspection forms for
13 Valencia, as well as two other sites.

14 Q. An inspection for what date?

15 A. September 15th of 2015.

16 Q. If you look at the September 15th
17 Inspection Form for the site that was attached to
18 this e-mail, and you go to the bottom of page two,
19 there's nothing indicating whether there are
20 violations or not; is that correct?

21 A. Correct.

22 Q. And what is your e-mail asking?

23 A. I was asking Gary I believe how he wanted
24 that to be filled out. Yeah, I was asking him how he
25 wanted me to fill that out.

1 Q. Did Gary accompany you on your site
2 inspection on September 15th?

3 A. I don't recall. There is a chance he did.

4 MS. BERESFORD: Can we please mark this as
5 Exhibit 18. Exhibit 18 says Exhibit Number 22 at the
6 top.

7 (Exhibit Number 18 was marked for
8 identification.)

9 BY MS. BERESFORD:

10 Q. Have you seen this document before?

11 A. Yes.

12 Q. And what is this?

13 A. This is my Inspection Form of the site
14 from September 15th, 2015.

15 Q. And how does it differ from the document
16 that was attached to your September 16th e-mail?

17 A. So far I have noticed that the "Violation"
18 section on page two has been filled out. And it is
19 checked off for violation.

20 Q. Was that your decision?

21 A. I believe it was a City decision in
22 response to the e-mail included in Exhibit 17.

23 Q. So do you know what the violation of the
24 Municipal Code was?

25 A. I'm not sure what they went with there.

1 That would probably be a Gary or Malik question,
2 since it was one of them that made that decision.

3 Q. Do you know what you noted here that was a
4 violation of the JURMP?

5 A. Let me see what they have here. Yeah,
6 just from looking at this, on September 15th, I don't
7 know if exactly when -- it sounds like there was a
8 rain event, but I don't know exactly when it was.
9 But I can't tell from here for sure if there was some
10 sort of BMP deficiency that was a violation of the
11 JURMP.

12 Q. I'd like you to look at page two. The
13 second row down it says, "Are material stockpiles
14 protected and covered?"

15 A. Uh-huh.

16 Q. Your note says, "Some small sediment piles
17 are not protected." What's a difference between a
18 sediment pile and a stockpile?

19 A. I'm not sure if I was referring here to
20 something that may have been, you know, not
21 necessarily an intentional stockpile for, you know, a
22 traditional stockpile use, but just an area where
23 some dirt had been piled up incidentally.

24 That may have been what I was referring to
25 there. That's just kind of speculation, though,

1 based on my note. I think I might refer to something
2 like that, but I'm not positive at this point.

3 Q. Having used the term sediment pile instead
4 of stockpile, is that something different to you,
5 then? It's not a stockpile?

6 A. I would say it could technically be
7 considered different. But the -- when it comes to a
8 storm water BMP, we'd be talking about similar
9 processes that would lead to, you know, erosion or
10 sediment transport. So for BMP purposes, I would
11 feel it's appropriate to treat them similarly.

12 Q. Do you know if you saw a discharge of
13 storm water with sediment in it from the site on this
14 date?

15 A. I believe -- let's see. I believe I just
16 saw sediment that was in the gutter, according to
17 this note here, and not necessarily discharge
18 actively, actively leaving the site when I was there.

19 Q. Is there anything in this report that
20 identifies which areas are active or inactive?

21 A. Page three has a mention of inactive, but
22 it's not referring to any specific area I don't
23 think. Oh, wait. Let me see. Yeah, not really
24 referring to a specific area, but to many lots
25 throughout the site. That's the only mention I'm

1 seeing of active and inactive.

2 Q. You say -- previously you said you saw
3 sediment in the gutter.

4 A. Uh-huh.

5 Q. Do you remember if you saw sediment
6 leaving an adjacent property on Akins Street?

7 A. I don't know. I would say I definitely
8 saw the potential for that. But I don't think I
9 actually saw -- you know, like I didn't see storm
10 water actively discharging from the site itself.
11 Likewise, I didn't see it discharging off the
12 adjacent properties because it wasn't discharging
13 there.

14 Q. Did the neighbor's property on Akins
15 Street have exposed dirt?

16 A. Yes, I believe some of the ones along
17 Akins did.

18 Q. Are there any portions of this document
19 highlighted on your copy?

20 A. No, not this one.

21 Q. Do you know if you ever discussed this
22 inspection with the Water Board?

23 A. I don't believe so.

24 Q. Have you ever discussed this site with
25 Mr. Chiu from the Water Board?

1 A. I did -- I was on site one time when he
2 was there doing an inspection. So I would assume we
3 had some brief conversation. But I think other than
4 that day, I don't recall ever discussing the site
5 with him.

6 Q. Okay. Have you ever met Mr. Melbourn with
7 the Water Board?

8 A. Just that one time he was there that same
9 day, both Frank and --

10 Q. Have you ever discussed this site with him
11 other than that one-time inspection?

12 A. No. No. Not that I can think of.

13 Q. When you were on site during that
14 inspection, did they ask you any questions about your
15 prior Inspection Reports?

16 A. I don't believe they asked any questions
17 about those. I know Wayne mentioned that he had
18 received those, but I don't recall any questions
19 about those inspections.

20 Q. Have you ever discussed the site with
21 anyone else at the Water Board?

22 A. No.

23 Q. Have you ever been involved with any other
24 sites that were subject to an Administrative Civil
25 Liability Complaint from the Water Board for storm

1 water violations?

2 A. For construction?

3 Q. Yes.

4 A. No, I haven't.

5 Q. For any other type of storm water
6 violations?

7 A. I have worked with the City of San Diego
8 on their postconstruction structural BMP program.
9 They had received an ACL, I believe, for that.

10 Q. Okay. Are you aware that the Water Board
11 is seeking penalties of over \$800,000 for this site?

12 A. Yes.

13 Q. Are you aware of any other Water Board
14 enforcement action seeking a similar amount of
15 penalties?

16 A. I believe there was one. I've heard of
17 some they had against a couple of cities. I think
18 the City of San Diego and Encinitas I think I've
19 heard of.

20 Q. Any other private construction sites?

21 A. Not that I'm -- not that I'm aware of,
22 really.

23 MS. BERESFORD: Okay. Let's go off the record.

24 (Discussion off the record.)

25 MS. BERESFORD: I am ready to go on when

1 Mr. Nakatani is ready.

2 THE WITNESS: Okay. I'm ready. I just wanted
3 to correct or clarify in looking again at Exhibit 18.
4 I think you had asked if there was any JURMP
5 violations. I think potentially, yeah, I see now
6 that there had been some rain.

7 And I did have notes indicating at that time
8 that there weren't -- there were some deficiencies
9 regarding some erosion and sediment control. So I
10 think it is a potential, yes, that there may have
11 been some violations of the JURMP regarding erosion
12 and sediment control, BMP requirements.

13 BY MS. BERESFORD:

14 Q. Okay. Can I ask you to take a look again
15 at Exhibit 16.

16 A. Sure.

17 Q. And that's your e-mail?

18 A. Yeah.

19 Q. Where you thought that they had done a
20 pretty good job addressing their deficiencies?

21 A. Yeah. But yeah, I would say --

22 Q. And then you went down --

23 A. Yeah. It doesn't say that they had
24 resolved everything, though, necessarily. So yeah, I
25 can't tell for sure looking at these exactly, you

1 know, okay, at the time when it was falling on site,
2 if everything was free of any BMP deficiencies. But
3 yes, I agree that the Exhibit 16 does -- implicating
4 that they were doing a pretty good job compared to
5 their past history in resolving deficiencies. But
6 it's also not saying that they were completely free
7 of everything.

8 Q. Okay. And when you were out on the site
9 on the 15th, was it actually raining at that point in
10 time?

11 A. I don't think so. Based on what I can
12 remember and the note, that I saw sediment in the
13 gutter. So yeah, I think -- I think from looking at
14 this, I think this was right after it rained. But
15 like we talked about before, that was not recorded on
16 here.

17 MS. BERESFORD: Okay. Sounds good.

18 Do you have some questions?

19 I'm sorry. I have one more.

20 BY MS. BERESFORD:

21 Q. Based on your inspections, have you seen
22 any site that you thought was 100 percent perfect
23 100 percent of the time?

24 A. 100 percent of the time?

25 Q. Right.

1 A. As in 100 percent of the time from the
2 start of the project to the end of the project?

3 Q. Yes.

4 A. Not that I have seen so far.

5 Q. Is it your experience that when you are
6 inspecting a site, you can almost always come up with
7 additional recommendations?

8 A. From my experience, I would say I can
9 usually come up with recommendations of ways to
10 improve things, yes.

11 MS. BERESFORD: Okay. Thanks very much.

12
13 EXAMINATION

14
15 BY MR. BOYERS:

16 Q. I have a few questions. Let's start with
17 Exhibit 2. If you could look at Exhibit 2.

18 A. Okay.

19 Q. And that's a copy of your December 9, 2014
20 inspection of the site.

21 A. Uh-huh.

22 Q. First, I'd like you to look at the boxes
23 two-thirds of the way down on the front page.
24 There's a number of boxes indicated in gray: "BMP,"
25 "Yes," "No," "N/A," "Description/Explanation" and

1 "Effective Yes or No."

2 A. Uh-huh.

3 Q. Can you explain to me the meaning of the
4 second box over from the left, the meaning the BMP
5 yes versus no?

6 A. I believe that is just indicating whether
7 or not they're implementing that type of BMP.

8 Q. Okay. Is it possible -- and I see that
9 you've done this on a number of occasions -- where
10 you mark that box "yes," but the "Effective" box
11 "no"?

12 A. Correct. That's correct. I do find the
13 column headings a bit confusing on these. But in
14 general, yeah, I feel that the column on the far
15 right, the "Effective yes/no" is the one that's more
16 indicative of a problem. Because, you know, just
17 asking if yes or no is BMP present, as I interpret
18 the other columns to be asking, doesn't necessarily
19 mean that it's there everywhere it needs to be and
20 implemented properly. So I believe that that's the
21 intention of the form is to capture that, so --

22 Q. Is it fair to say that although the box
23 indicates a BMP, the "yes" on the left may be
24 checked, that doesn't necessarily mean that there's a
25 violation, in your opinion, of either the JURMP or

1 the City code?

2 A. The "yes" box?

3 Q. Correct.

4 A. Yeah, I would say that's true. It does
5 not necessarily mean there's a violation.

6 Q. That a better indication of whether
7 there's a violation, in your opinion, or not is the
8 box on the right "Effective, yes or no," in the
9 description column?

10 A. I would say that the "yes or no" is my
11 indication of adequacy of the BMP, as we've discussed
12 before. The violation issue is sort of a one handled
13 by the City.

14 Q. Okay. And looking back at my notes, with
15 respect to your testimony as to how you filled out
16 these forms, you indicated that you were inspecting
17 in accordance with the City's JURMP and the City's
18 code, correct?

19 A. Yes.

20 Q. And that were not looking for compliance
21 with the construction general permit, correct?

22 A. Yes.

23 Q. Specifically on Exhibit 2, but this will
24 relate to other exhibits as well, in the "Violations"
25 section, when you indicate "no violations," is it

1 fair to say you are not making any determination as
2 to whether there's a violation of the Construction
3 General Permit or not?

4 A. I would -- I would say that that part
5 is -- is something that the City is mainly
6 determining. So I would say they are working within
7 the context of their general Municipal Code in
8 determining, from what I've heard from them, that's
9 what they are going off of when they are calling
10 things a violation or not.

11 Q. In your discussions with the City, did
12 they indicate to you that their intent was when
13 filling out the "Violations" box, they wanted to
14 indicate whether there was a violation of a
15 Construction General Permit or not?

16 A. I don't think they ever indicated that to
17 me.

18 Q. Okay. Let's look at Exhibit 3. This is
19 related to your inspection of December 11, 2014 at
20 the site.

21 A. Uh-huh.

22 Q. Here you also indicate in the "Violations"
23 section, you checked "No violations."

24 A. Uh-huh.

25 Q. And again, I want to make -- I want to ask

1 whether you were making a determination here when you
2 checked this box whether there's a violation of the
3 Construction General Permit or not?

4 A. I would, again, say that that's how
5 that's -- has been determined by the City more. But
6 my understanding is that that's not based on the
7 General Construction Permit.

8 Q. Okay. If you could then just look at
9 Exhibit 14, Exhibit 15, and Exhibit 17. And I'll
10 indicate that Exhibit 14 and 15 also have the "No
11 violations" box noted.

12 A. Uh-huh.

13 Q. And I'll ask, is it the same testimony
14 with respect to that as the prior exhibits?

15 A. Yes, it is the same.

16 Q. And then quickly, my last question is with
17 respect to Exhibit 16, if you could pull out 16. 16,
18 the e-mail from September 14th at 10:32 a.m., the
19 second paragraph reads, "There were some deficiencies
20 at Valencia last time I was there, but nothing too
21 horrible by Valencia standards."

22 Do you see that?

23 A. Yes.

24 Q. And those are your words?

25 A. Yes.

1 Q. Can you tell me or explain to me what you
2 mean by "Valencia standards"?

3 A. I believe I was just referring to in the
4 past there had been various times where they had
5 deficiencies that had not been corrected. So by
6 "Valencia standards," I was kind of referring to
7 their past compliance history and sometimes resolving
8 deficiencies; but a lot of times not, not promptly
9 usually. So it would get resolved or go away.

10 MR. BOYERS: Thank you. I never know when
11 you're done.

12 THE WITNESS: Sorry.

13 MR. BOYERS: Okay. That's all I have. Thanks.

14 THE WITNESS: Okay.

15 MS. BERESFORD: All right. We will conclude
16 this as we have with other deposition transcripts.
17 We're agreeing that Oppen and Varco can take custody
18 of the original transcript.

19 We will forward that to Mr. Nakatani with a
20 request for him to review in less than 30 days.
21 We'll work on a schedule that's agreeable to you.
22 You'll return those -- if you have any changes,
23 you'll return those to us. We will share those with
24 the Water Board.

25 We'll maintain custody of the original. If the

1 original is lost, the Water Board agrees that a copy
2 can be used in its place.

3 MR. BOYERS: That's fine.

4 MS. BERESFORD: All right. I think we
5 are done.

6 Oh, do you need to know if he's going to order?

7 MR. BOYERS: We will order.

8 THE REPORTER: Thanks.

9 MS. BERESFORD: We are done.

10 (Exhibit Numbers 1 through 18 were marked
11 for identification.)

12 (The deposition concluded at 11:53 a.m.)
13
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25

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 _____.

TAD NAKATANI

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.

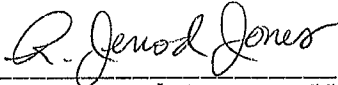
16

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 31st day of
22 December, 2015.

23

24 
R. Jerrod Jones, CSR 11750

25



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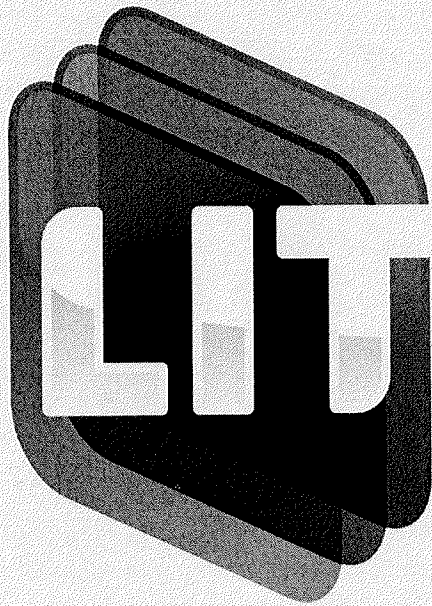
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EXHIBITS

Nakatami, Tad



Litigation
SERVICES

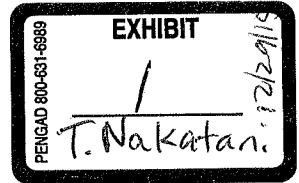
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Exhibit: 00001



1 **OPPER & VARCO, LLP**
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4 ATTORNEYS FOR SAN ALTOS – LEMON GROVE, LLC



5
6
7
8 **CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD**
9 **SAN DIEGO REGION**

10
11 IN THE MATTER OF:) **SAN ALTOS – LEMON GROVE, LLC'S**
12 ADMINISTRATIVE CIVIL LIABILITY COMPLAINT) **NOTICE OF DEPOSITION OF TAD**
No. R9-2015-0110) **NAKATAMI AND REQUEST FOR**
13 AGAINST SAN ALTOS – LEMON GROVE, LLC) **PRODUCTION OF DOCUMENTS**
14) Date: December 29, 2015
15) Time: 8:30 a.m.
16) Place: Law Offices of Oppen & Varco LLP
225 Broadway, Suite 1900
San Diego, CA 92101

17 TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

18 PLEASE TAKE NOTICE that on December 29, 2015 at 8:30 a.m., San Altos – Lemon
19 Grove, LLC will take the deposition of Tad Nakatami in accordance with the enclosed subpoena.
20 This deposition will take place at the law firm of Oppen & Varco, LLP, located at 225 Broadway,
21 Suite 1900, San Diego, CA 92101, before a certified reporter or person authorized to administer
22 oaths who is present at the specified time and place. Said deposition will continue from day to
23 day, Saturdays, Sundays and holidays excepted, until completed.

24 YOU ARE FURTHER NOTIFIED that the deposition may also be recorded by videotape
25 as authorized by the Code of civil Procedure section 2025.340 and Plaintiff reserves the right to
26 use any videotaped portion of the deposition testimony at a hearing in this matter. The
27 deposition may also be recorded through such means as to provide the instant display of the
28 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 Tad
2 Nakatami 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 
9 Linda C. Beresford
Attorney for San Altos – Lemon Grove, LLC

EXHIBIT A

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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 TAD
NAKATAMI

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 Employee of D-Max Engineering, Inc. providing on-call Storm Water inspection services
23 for the City of Lemon Grove, Tad Nakatami has, or should have, the documents described below in his possession
24 or control.

25 6. The exact documents to be produced include:
26
27

28 AFFIDAVIT IN SUPPORT OF SUBPOENA FOR DOCUMENTS AND THINGS FROM TAD NAKATAMI

1 a. All records and documents, including, but not limited to, inspection reports, notices of
2 violation, administrative citations, stop work notices, correct work notices, field notes, photographs, audio
3 or video recordings, phone logs, and internal communications, including emails, related to inspections that
4 occurred at the San Altos – Lemon Grove, LLC Valencia Hills Construction Site on the following dates:

5 December 1, 2014

6 December 2, 2014

7 December 3, 2014

8 December 4, 2014

9 December 5, 2014

10 December 6, 2014

11 December 7, 2014

12 December 8, 2014

13 December 9, 2014

14 December 11, 2014

15 December 12, 2014

16 December 15, 2014

17 December 16, 2014

18 December 17, 2014

19 December 31, 2014

20 January 6, 2015

21 January 7, 2015

22 January 8, 2015

23 January 9, 2015

24 January 10, 2015

25 January 11, 2015

26 January 12, 2015

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

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**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 checked="" type="checkbox"/> SUBPOENA DUCES TECUM	<input type="checkbox"/> RE HEARING <input checked="" type="checkbox"/> RE DEPOSITION

THE PEOPLE OF THE STATE OF CALIFORNIA, TO (name): TAD NAKATAMI

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 29, 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
-----------------------------	-------------------------------------

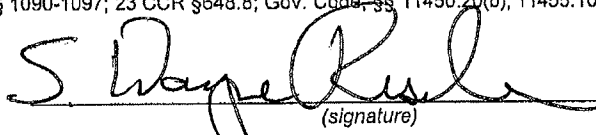
(Gov. Code, § 11450.20(a); Code Civ. Proc., § 1985.2.)

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 § 88097.2. 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)
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 TAD
NAKATAMI

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 Employee of D-Max Engineering, Inc. providing on-call Storm Water inspection services
23 for the City of Lemon Grove, Tad Nakatami has, or should have, the documents described below in his possession
24 or control.

25 6. The exact documents to be produced include:
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28 AFFIDAVIT IN SUPPORT OF SUBPOENA FOR DOCUMENTS AND THINGS FROM TAD NAKATAMI

1 a. All records and documents, including, but not limited to, inspection reports, notices of
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3 or video recordings, phone logs, and internal communications, including emails, related to inspections that
4 occurred at the San Altos – Lemon Grove, LLC Valencia Hills Construction Site on the following dates:

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20	May 10, 2015
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25	May 15, 2015
26	September 15, 2015

27

28

AFFIDAVIT IN SUPPORT OF SUBPOENA FOR DOCUMENTS AND THINGS FROM TAD NAKATAMI

October 5, 2015

b. Any additional records and documents, including, but not limited to, inspection reports, notices of violation, administrative citations, stop work notices, correct work notices, field notes, photographs, audio or video recordings, phone logs, and internal communications, including emails, related to inspections that occurred at the San Altos – Lemon Grove, LLC Valencia Hills Construction Site, regardless of whether or not the inspection led to the issuance of a formal report, notice, or citation from Mr. Nakatami 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. Nakatami'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

Nakatami, Tad



Litigation
SERVICES

Job: 598613

Exhibit: 00002





CITY OF LEMON GROVE
3232 Main Street, Lemon Grove, CA 91945

NPDES STORMWATER PROGRAM CONSTRUCTION STORMWATER COMPLIANCE INSPECTION FORM

Inspector Name /Signature/Date/Time: TAD NAKATANI 12/9/14 1:00 pm

Inspection: ☒ Permit-Required Inspection ☐ Follow-up Inspection ☐ Other (Explain) _____

Construction Project Priority: ☒ High ☒ Medium ☐ Low

GENERAL INFORMATION

Grading or Building Permit #: Gr-1692

Project Name & Type: VALENCIA SUBDIVISION

Project Location & Address: SAN ALTOS PLACE

Contractor's Name & Telephone #: ANDERSON DEVELOPMENT (949) 275-6739

Property Owner & Telephone #: SAN ALTOS LLC

Is this Project Greater than an Acre? ☒ Yes ☐ No ☐ N/A

If yes: Provide Record of Waste Discharge Identification Number (WDID#): 9370369143

Does this Project have an NOI/SWPPP Available? ☒ Yes ☐ No ☐ N/A

Is Weather Triggered Action Plan Completed? ☐ Yes ☐ No ☒ N/A

Is Advanced Treatment Implemented Appropriately? ☐ Yes ☐ No ☒ N/A

Is More than 17 Acres of Cleared or Graded Areas Left Exposed at Any Given Time? ☐ Yes ☐ No ☐ N/A

Is 125% of Materials to Install Standby BMPs Available? ☐ Yes ☒ No ☐ N/A

Are Routine Self-Inspections Being Conducted by Developer/Owner? ☐ Yes ☐ No ☐ N/A

Project Site is in What Sub-Watershed: ☒ Chollas Creek 908.22 ☐ Sweetwater River 909.12

Nearest Conveyances or Water Bodies: _____

BMP	Yes	No	N/A	Description/Explanation	Effective Yes/No
Soil Stabilization and Erosion Prevention					
Preservation of existing vegetation?			<input checked="" type="checkbox"/>		
Physical Stabilization: Hydraulic Mulch, Hydroseeding, Soil Binders, Straw Mulch	<input checked="" type="checkbox"/>			Gullies through edges of hydroseeding Some gullies not seeded, northern road eroding	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"/>			Additional fiber rolls needed on western slope	No
Storm Drain inlet protection: Sediment Trap, De-silting Basin, Gravel Bag Barrier		<input checked="" type="checkbox"/>			

BMP	Yes	No	N/A	Description/Explanation	Effective Yes/No
Tracking Controls: Stabilized Entrance/Exit Road Stabilization, Tire Wash, Street Sweeping	X			NE entrance lacks stabilization	No
Materials and Equipment Management					
Are materials and wastes stored in a manner that minimizes or eliminates the potential to discharge these materials to the storm drain system, is secondary containment used?	X				Yes
Are material stockpiles protected: covered, contained and located away from non-storm water discharges?	X			Several un unprotected stockpiles	No
Are heavy equipment and vehicles parked in designated areas with permeable surface?	X				Yes
Are appropriate spill response and containment measures kept on the site?	X				Yes
Are wastes managed and stored properly (Solid, liquid, sanitary, concrete, hazardous)	X				Yes
Are concrete washouts properly installed, maintained with no evidence of discharges.	X				Yes
Is timely service and removal provided to prevent waste containers and sanitary facilities from overflowing?	X				Yes
Non-Storm Water Management					
Is the site free of evidence of illegal connections and/or illicit discharges?	X				Yes
Discharge Locations					
Are the discharge locations free of significant erosion or sediment transport?		X		Large amount of sediment on roadway SE of site	No
Other					
Are there any other potential storm water pollution issues/concerns?	X			Roadways within project are unstabilized and show signs of erosion	No
Was there any employee or subcontractor training on stormwater BMPs?			X		

VIOLATIONS

- ☐ No violations noted at time of inspection/investigation
☒ No violations; however, recommended corrective actions required
☒ Inspection Form as Correct Work Notice ☐ Correct Work Notice Issued on: _____
☐ Violation: Illegal Discharge/Illegal Connection/Improper BMPs Implementation
☐ Stop Work Notice Issued on: _____

RECOMMENDED CORRECTIVE ACTION

- Add erosion controls to all ^{disturbed} areas inactive for 10 days, including roadways not currently in use.
- Cover & protect stockpiles
- Repair/protect gullies that have formed on slopes
- Redirect flow near southeast corner so it does not flow toward damaged wall
- Sweep road outside of construction entrance
- Install check dams of stabilization on roadways prior to rain

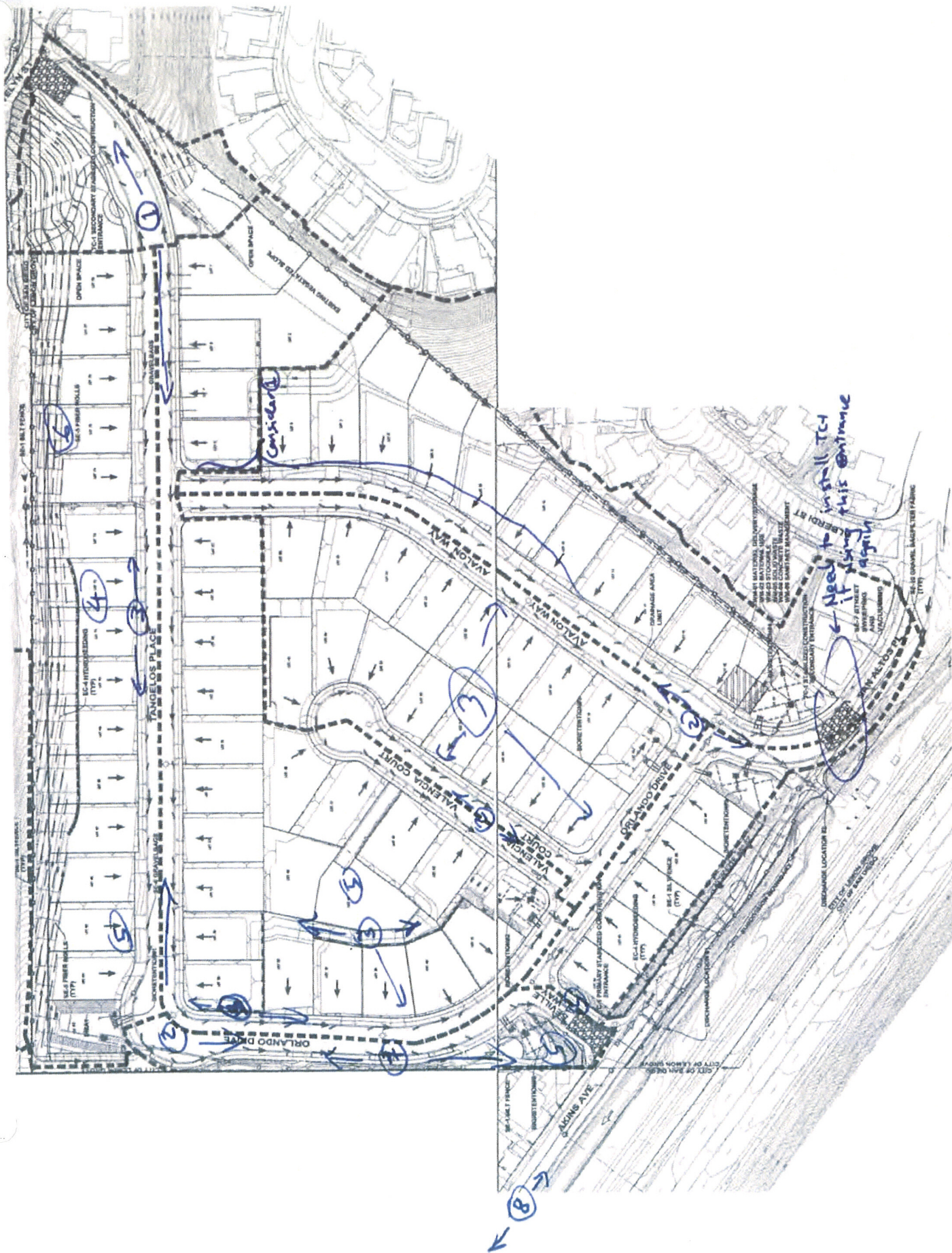
Construction BMP Recommendations

Site: VALENCIA SUBDIVISION

Date: 12/9/14

Recommendations:

- ① • Add erosion control to road segment (eg northern corner) that are not in use. Can be hydroseeded or stabilized with gravel.
- ② • For roads that are in use, add check dams prior to rain. Ensure proper installation to prevent rills from forming underneath BMP if using fiber rolls
- ③ • Repair ^{stabilize} gullies in slopes on edges of pads. May consider using erosion control blankets.
- ④ • A couple pads on western side do not appear hydroseeded. Add hydroseed or other erosion control
- ⑤ • Cover & protect stockpiles. Some stockpiles near entrance are only partially covered. Others to the west are completely uncovered
- ⑥ • Ensure that enough BMP materials are kept on site. Not enough fiber rolls were on site
- ⑦ • Redirect flow along the southern side of site. It currently is causing erosion along the road and directs flow to a damaged wall. Direct away from wall and break up flow with check dams to prevent erosion
- ⑧ • Sweep road to remove sediment



Nakatami, Tad



Litigation
SERVICES

Job: 598613

Exhibit: 00003





CITY OF LEMON GROVE
3232 Main Street, Lemon Grove, CA 91945

NPDES STORMWATER PROGRAM CONSTRUCTION STORMWATER COMPLIANCE INSPECTION FORM

Inspector Name /Signature/Date/Time: TAD NAKATANI / [Signature] / 12/11/14 9:00AM

Inspection: ☐ Permit-Required Inspection ☒ Follow-up Inspection ☐ Other (Explain) _____

Construction Project Priority: ☐ High ☒ Medium ☐ Low

GENERAL INFORMATION

Grading or Building Permit #: Gr-1692

Project Name & Type: VALENCIA SUBDIVISION

Project Location & Address: SAN ALTOS PLACE

Contractor's Name & Telephone #: ANDERSON DEVELOPMENT (949) 275-6739

Property Owner & Telephone #: SAN ALTOS LLC

Is this Project Greater than an Acre? ☒ Yes ☐ No ☐ N/A

If yes: Provide Record of Waste Discharge Identification Number (WDID#): 937C369143

Does this Project have an NOI/SWPPP Available? ☒ Yes ☐ No ☐ N/A

Is Weather Triggered Action Plan Completed? ☐ Yes ☐ No ☒ N/A

Is Advanced Treatment Implemented Appropriately? ☐ Yes ☐ No ☒ N/A

Is More than 17 Acres of Cleared or Graded Areas Left Exposed at Any Given Time? ☐ Yes ☒ No ☐ N/A

Is 125% of Materials to Install Standby BMPs Available? ☐ Yes ☒ No ☐ N/A

Are Routine Self-Inspections Being Conducted by Developer/Owner? ☐ Yes ☐ No ☐ N/A

Project Site is in What Sub-Watershed: ☒ Chollas Creek 908.22 ☐ Sweetwater River 909.12

Nearest Conveyances or Water Bodies: _____

BMP	Yes	No	N/A	Description/Explanation	Effective Yes/No
Soil Stabilization and Erosion Prevention					
Preservation of existing vegetation?			<input checked="" type="checkbox"/>		
Physical Stabilization: Hydraulic Mulch, Hydroseeding, Soil Binders, Straw Mulch	<input checked="" type="checkbox"/>			Grullies & unstabilized ponds still not addressed	No
Geotextiles, Plastic Covers, Erosion Prevention Blankets, Wood Mulching	<input checked="" type="checkbox"/>			some plastic sheets added but not yet sufficient	No
Site Drainage: Outlet Protection/Slope Drain		<input checked="" type="checkbox"/>			
Inlet/Outlet Protection	<input checked="" type="checkbox"/>			see inlet protection comment below	No
Sediment Control/Containment					
Perimeter Protection: Silt Fencing, Gravel Bags, Fiber Rolls	<input checked="" type="checkbox"/>			Additional fiber rolls not placed on slopes yet	No
Storm Drain inlet protection: Sediment Trap, De-silting Basin, Gravel Bag Barrier	<input checked="" type="checkbox"/>			Per discussion w/contractor, they still need to add gravel bag inlet protection	No

PENGAD 800-831-6989

EXHIBIT

3

T. Nakatani, 12/29/15

BMP	Yes	No	N/A	Description/Explanation	Effective Yes/No
Tracking Controls: Stabilized Entrance/Exit Road Stabilization, Tire Wash, Street Sweeping	X			NE entrance still not stabilized but not currently in use	No
Materials and Equipment Management					
Are materials and wastes stored in a manner that minimizes or eliminates the potential to discharge these materials to the storm drain system, is secondary containment used?	X				Yes
Are material stockpiles protected: covered, contained and located away from non-storm water discharges?	X			still need to protect all stockpiles	No
Are heavy equipment and vehicles parked in designated areas with permeable surface?	X				Yes
Are appropriate spill response and containment measures kept on the site?	X				Yes
Are wastes managed and stored properly (Solid, liquid, sanitary, concrete, hazardous)	X				Yes
Are concrete washouts properly installed, maintained with no evidence of discharges.	X				Yes
Is timely service and removal provided to prevent waste containers and sanitary facilities from overflowing?	X				Yes
Non-Storm Water Management					
Is the site free of evidence of illegal connections and/or illicit discharges?	X				Yes
Discharge Locations					
Are the discharge locations free of significant erosion or sediment transport?		X		still need to clean sediment on Akins	No
Other					
Are there any other potential storm water pollution issues/concerns?	X			Roadway stabilization still needed	No
Was there any employee or subcontractor training on stormwater BMPs?			X		

VIOLATIONS

- ☐ No violations noted at time of inspection/investigation
☒ No violations; however, recommended corrective actions required
☒ Inspection Form as Correct Work Notice ☐ Correct Work Notice Issued on: _____
☐ Violation: Illegal Discharge/Illegal Connection/Improper BMPs Implementation
☐ Stop Work Notice Issued on: _____

RECOMMENDED CORRECTIVE ACTION

FLOW ALONG SOUTHERN EDGE OF SITE HAS BEEN REDIRECTED AWAY FROM THE CORNER. ALL OTHER CORRECTIVE ACTIONS FROM THE 12/9/14 INSPECTION HAVE NOT YET BEEN ADDRESSED. REFER TO THAT INSPECTION FOR FULL DESCRIPTION OF CORRECTIVE ACTIONS.

Nakatami, Tad



Litigation
SERVICES

Job: 598613

Exhibit: 00004





Exhibit No. 6

CITY OF LEMON GROVE
ADMINISTRATIVE CITATION

PENGAD 800-631-6989

EXHIBIT

4

T. Nakatani

A) TYPE OF VIOLATION

Circle One:

Warning

1st Citation
\$1002nd Citation
\$2003rd Citation
\$5004th Citation
\$1,000

Payment of \$ _____ is due no later than _____ to the City of Lemon Grove.
The City accepts cash, check or credit card.

If the violation is not corrected by the date specified therein and/or payment is not received by the date above, the next level of citation may be issued, other enforcement actions may occur, and penalties may be assessed (25% and interest at the rate of 10% per month). Payment of fine does not excuse or discharge the failure to correct violation identified below.

B) RESPONSIBLE PARTY INFORMATION

Person Cited:

Anderson
(Last Name)Tim
(First Name)

Circle One:

Property Owner

Tenant

Business Owner

Other

Site Representative

Mailing Address:

3194-C2

Airport Loop Drive

1 Project Manager

Business Name (if applicable):

Corta Mesa, CA 92626
BCA 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.48.060

18.08.560

Inadequate BMP's - see
attached inspection reports

18.08.170

18.08.180

D) CORRECTION(S) REQUIRED (with date to complete corrections)

Install BMP's per Recommendation's

Maintain adequate surplus of BMP's

12/15/14

5:00 P.M.

E) SERVICING CITATION INFORMATION

Enforcing Officer Name

Leon Fingst

Phone No.

619-825-3825

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

Nakatami, Tad



Litigation
SERVICES

Job: 598613

Exhibit: 00005



D-MAX Engineering, Inc.

Consultants in Water & Environmental Sciences



Memo

Date: December 12, 2014

To: Malik Tamimi

Cc: Tad Nakatani

From: John Quenzer

IQ

Subject: December 12, 2014 Sampling at Valencia Construction Site

Per the City's request, D-MAX collected samples of runoff from the Valencia construction site. Samples were taken at the Akins Avenue and San Altos Place entrance/exit locations to the site (sites Valencia_Akins and Valencia_SanAltos, respectively). A sample of runoff from a residential portion of Lemon Grove flow south/southwest toward the San Altos entrance exit was also taken to assess background conditions (site Background_SanAltos). Because gravel bags were noted along Akins Avenue from the site discharge point down to the nearest storm drain inlet, a sample was also taken downstream of the last set of gravel bags, just before the water entered the inlet (site Akins_Inlet). Figure 1 and photos 1 through 3 show the sampling locations.

Each sample was collected and analyzed for turbidity using a calibrated field meter. Most of the site runoff appears to be discharging via the Akins Avenue discharge point (Valencia_Akins). Note that two different samples were taken from site Valencia_Akins, about an hour apart, to see if runoff characteristics would vary over time. Only a minimal difference in turbidity was observed between the two samples. The sample taken at the inlet along Akins Avenue (Akins_Inlet) had somewhat lower turbidity, likely due to the use of gravel bags along the curb between the site and the inlet, but the turbidity levels were still not substantially lower. Results are summarized in the table below, and photos of the samples in clear containers are presented as photos 4 through 6.

Table 1. Sampling Results

Site	Sample Date	Sample Time	Turbidity (NTU)
Valencia_Akins	12/12/2014	11:05	505
Background_SanAltos	12/12/2014	11:26	18.73
Valencia_SanAltos	12/12/2014	11:27	427
Valencia_Akins	12/12/2014	11:55	513
Akins_Inlet	12/12/2014	11:58	477

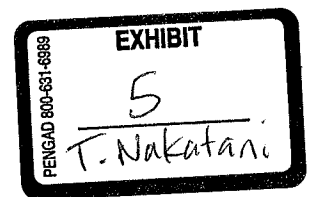




Figure 1. Sampling Locations



Photo 1. Site Valencia_Akins



Photo 2. Sites Valencia_SanAltos (red arrow) and Background_SanAltos (yellow arrow)



Photo 3. Site Akins_Inlet



Photo 4. First Sample (11:05) from Site Valencia_Akins



Photo 5. Samples from Sites Background_SanAltos (left) and Valencia_SanAltos (right)



Photo 6. Second Sample from Site Valencia_Akins (11:58, left) and Sample from Site Akins_Inlet (right)

Nakatami, Tad



Litigation
SERVICES

Job: 598613

Exhibit: 00006





CITY OF LEMON GROVE

3232 Main Street, Lemon Grove, CA 91945

NPDES STORMWATER PROGRAM CONSTRUCTION STORMWATER COMPLIANCE INSPECTION FORM

Inspector Name /Signature/Date/Time: TAD NAKATANI 12/16/14 12:25

Inspection: ☐ Permit-Required Inspection ☒ Follow-up Inspection ☐ Other (Explain) _____

Construction Project Priority: ☐ High ☒ Medium ☐ Low

GENERAL INFORMATION

Grading or Building Permit #: GR-1697

Project Name & Type: VALENCIA SUBDIVISION

Project Location & Address: SAN ALTOS PLACE

Contractor's Name & Telephone #: ANDERSON DEVELOPMENT (949) 275-6739

Property Owner & Telephone #: SAN ALTOS LLC

Is this Project Greater than an Acre? ☒ Yes ☐ No ☐ N/A

If yes: Provide Record of Waste Discharge Identification Number (WDID#): 937C369143

Does this Project have an NOI/SWPPP Available? ☒ Yes ☐ No ☐ N/A

Is Weather Triggered Action Plan Completed? ☐ Yes ☐ No ☒ N/A

Is Advanced Treatment Implemented Appropriately? ☐ Yes ☐ No ☒ N/A

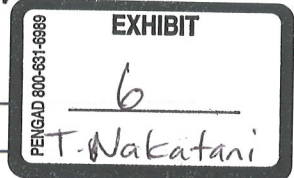
Is More than 17 Acres of Cleared or Graded Areas Left Exposed at Any Given Time? ☐ Yes ☒ No ☐ N/A

Is 125% of Materials to Install Standby BMPs Available? ☐ Yes ☒ No ☐ N/A

Are Routine Self-Inspections Being Conducted by Developer/Owner? ☒ Yes ☐ No ☐ N/A

Project Site is in What Sub-Watershed: ☒ Chollas Creek 908.22 ☐ Sweetwater River 909.12

Nearest Conveyances or Water Bodies: _____



BMP	Yes	No	N/A	Description/Explanation	Effective Yes/No
Soil Stabilization and Erosion Prevention					
Preservation of existing vegetation?			<input checked="" type="checkbox"/>		
Physical Stabilization: Hydraulic Mulch, Hydroseeding, Soil Binders, Straw Mulch	<input checked="" type="checkbox"/>			Numerous gullies still unprotected Some pads & slopes still unstabilized	No
Geotextiles, Plastic Covers, Erosion Prevention Blankets, Wood Mulching	<input checked="" type="checkbox"/>			Some plastic covers need to be repositioned/reinstalled	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"/>			Additional perimeter & slope protection still needed esp. on west side	No
Storm Drain inlet protection: Sediment Trap, De-silting Basin, Gravel Bag Barrier	<input checked="" type="checkbox"/>				Yes

BMP	Yes	No	N/A	Description/Explanation	Effective Yes/No
Tracking Controls: Stabilized Entrance/Exit Road Stabilization, Tire Wash, Street Sweeping	X			NE ENTRANCE PERMANENTLY WILL NOT BE USED FOR VEHICLES. GATE LOCKED & GRAVEL PADS PLACED	Yes
Materials and Equipment Management					
Are materials and wastes stored in a manner that minimizes or eliminates the potential to discharge these materials to the storm drain system, is secondary containment used?	X				Yes
Are material stockpiles protected: covered, contained and located away from non-storm water discharges?	X				Yes
Are heavy equipment and vehicles parked in designated areas with permeable surface?	X				Yes
Are appropriate spill response and containment measures kept on the site?	X				Yes
Are wastes managed and stored properly (Solid, liquid, sanitary, concrete, hazardous)	X				Yes
Are concrete washouts properly installed, maintained with no evidence of discharges.	X				Yes
Is timely service and removal provided to prevent waste containers and sanitary facilities from overflowing?	X				Yes
Non-Storm Water Management					
Is the site free of evidence of illegal connections and/or illicit discharges?	X			No discharge during inspection but high turbidity during previous storm	Yes
Discharge Locations					
Are the discharge locations free of significant erosion or sediment transport?		X		Still significant sediment on AKINS	No
Other					
Are there any other potential storm water pollution issues/concerns?	X			Roadway stabilization/check dams in complete	No
Was there any employee or subcontractor training on stormwater BMPs?			X	Not discussed	

VIOLATIONS

☐ No violations noted at time of inspection/investigation

☒ No violations; however, recommended corrective actions required

☒ Inspection Form as Correct Work Notice ☐ Correct Work Notice Issued on: _____

☒ Violation: Illegal Discharge/Illegal Connection/Improper BMPs Implementation

☒ Stop Work Notice Issued on: ONGOING STOP WORK/ADMIN. CITATION

RECOMMENDED CORRECTIVE ACTION

- COMPLETE ROADWAY STABILIZATION & CHECK DAMS. STABILIZE AREA WHERE CONCENTRATED FLOW FROM ROAD IS DIRECTED TO BASIN
- ADD EROSION CONTROLS TO STABILIZE REMAINING PADS, SLOPES AT EDGES OF PADS AND AREA NEAR ENTRANCE ON AKINS
- ADD FIBER ROLLS ON SLOPES ON WESTERN EDGE
- REPAIR & STABILIZE GULLIES THROUGHOUT SITE

12/16/2014



- ① ROADWAY STABILIZATION/CHECK DAMS NEEDED
- ② STABILIZATION EROSION CONTROLS NEEDED
- ③ ADD FIBER ROLLS ON SLOPE
- ④ STABILIZE area of concentrated flow toward basin
- ⑤ Repair/stabilize gullies
(Numerous locations - Not individually shown on map)

Nakatami, Tad



Litigation
SERVICES

Job: 598613

Exhibit: 00007



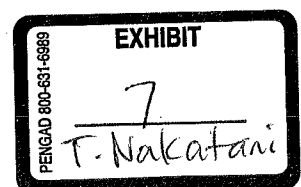
John Quenzer

From: Malik Tamimi [mtamimi@lemongrove.ca.gov]
Sent: Tuesday, December 16, 2014 10:53 AM
To: jquenzer@dmxinc.com
Cc: 'Tad Nakatani'
Subject: Valencia

John....we would like the follow-up inspection today so that we can attach it to our enforcement letter that we will be drafting today. Tad can do the inspection on his own unless he really needs to talk to Gary or needs Gary to accompany him. Also, can you be on standby to conduct the same turbidity monitoring if it rains tomorrow?

Thank you

-Malik



Nakatami, Tad



Litigation
SERVICES

Job: 598613

Exhibit: 00008



D-MAX Engineering, Inc.

Consultants in Water & Environmental Sciences

**Memo****Date:** December 17, 2014**To:** Malik Tamimi**Cc:** Tad Nakatani; John Quenzer**From:** Brian Nemerow**Subject:** December 17, 2014 Field Visit at Valencia Construction Site

Per the City's request, D-MAX visited the Valencia construction site on the morning of December 17, 2014, following a storm earlier in the morning. Rain had ended a few hours prior to the site visit, and no runoff was observed flowing out from the construction site at the Akins or San Altos entrance/exit locations at the time of the site visit.

Evidence of sediment discharge was observed at the Akins entrance/exit location (Photos 1 and 2) and along the curb farther downstream (Photo 3). A crew from Downstream Services was power washing the curb along Akins to remove accumulated sediment (Photos 4, 5, and 6). This indicates that there likely had been a noticeable sediment discharge earlier in the day. Based on talking with the crew, our understanding is that they were working on behalf of the Valencia project, and they also planned to use a vactor truck to remove accumulated sediment from the downstream storm drain on Akins. The crew was taking measures to prevent discharge of water from power washing, including using a vactor truck to reclaim the water, but a small amount of water was observed discharging to the inlet along Akins. The water was seeping through gravel bags around the inlet and discharge to the storm drain. A sample of the power washing discharge water was collected, and turbidity was measured at 52 NTU.



Figure 1. Observation Locations

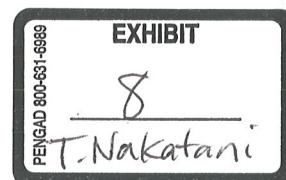




Photo 1. Evidence of sediment discharge at Akins entrance/exit



Photo 2. Evidence of sediment discharge at Akins entrance/exit



Photo 3. Sediment accumulation along Akins curb gutter, downstream of Akins entrance/exit



Photo 4. Power washing activity performed by Downstream Services



Photo 5. Power washing activity performed by Downstream Services



Photo 6. Power washing activity performed by Downstream Services

Nakatami, Tad



Litigation
SERVICES

Job: 598613

Exhibit: 00009



D-MAX Engineering, Inc.

Consultants in Water & Environmental Sciences

**Memo****Date:** December 31, 2014**To:** Leon Firsht, Malik Tamimi**Cc:** Tad Nakatani**From:** John Quenzer**Subject:** December 31, 2014 Field Visit at Valencia Construction Site

D-MAX visited the Valencia construction site on the morning of December 31, 2014, following a storm earlier the previous night. Rain had ended a few hours prior to the site visit, and no runoff was observed flowing out from the construction site at the time of the site visit.

Ponded water was observed at the Akins Avenue entrance/exit location and behind several sets of gravel bags installed along Akins Avenue. Samples were collected from the ponded water at the Akins Avenue entrance/exit (Photo 1) and from ponded water behind the first set of gravel bags downstream of the Akins Avenue exit/entrance (Photos 2 and 3). Turbidity was measured at 250 NTU in the first sample (Akins entrance/exit), and 235 NTU in the second sample (first set of gravel bags along Akins).

Some sediment had settled out at the bottom of the pools of water in both of the locations at which samples were collected, and care was taken not to disturb the settled sediment when samples were taken. Note that because water had been pooled and sediment had settled out over time, the **turbidity results as given above are likely lower than the turbidity of the discharge** that had occurred earlier when it was raining. To approximate that effect, the settled sediment at the Akins entrance/exit location was disturbed, and a sample was taken a few minutes later. The turbidity of that sample was 998 NTU.

Observations farther downstream along the curb indicated that in some places sediment had been conveyed around gravel bag installations. Photo 4 gives an example of this. Sediment accumulation was also noted along Akins Avenue, close to the storm drain inlet.

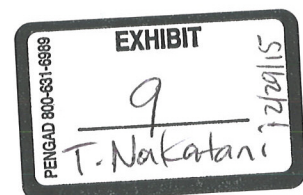




Figure 1. Map of Site and Immediate Vicinity



Photo 1. Ponded Water at Akkins Avenue Entrance/Exit



Photos 2 & 3. Ponded Water at First Set of Gravel Bags Downstream of Akins Avenue Entrance/Exit (Looking downstream and upstream, respectively)



Photo 4. Evidence of Discharge Carrying Sediment around Gravel Bags along Akins Avenue



Photo 5. Sediment Accumulation along Akins Avenue, Close to Inlet

Nakatami, Tad



Litigation
SERVICES

Job: 598613

Exhibit: 00010





Exhibit No. 24

CITY OF LEMON GROVE

3232 Main Street, Lemon Grove, CA 91945

**NPDES STORMWATER PROGRAM
CONSTRUCTION STORMWATER COMPLIANCE INSPECTION FORM**Inspector Name /Signature/Date/Time: TAD NAKATANI 1/6/15 10:30AMInspection: ☐ Permit-Required Inspection ☒ Follow-up Inspection ☐ Other (Explain) _____Construction Project Priority: ☐ High ☒ Medium ☐ Low**GENERAL INFORMATION**Grading or Building Permit #: GR-1692Project Name & Type: VALENCIA SUBDIVISIONProject Location & Address: SAN ALTOS PLACEContractor's Name & Telephone #: ANDERSON DEVELOPMENT (949) 275-6739Property Owner & Telephone #: SAN ALTOS LLCIs this Project Greater than an Acre? ☒ Yes ☐ No ☐ N/AIf yes: Provide Record of Waste Discharge Identification Number (WDID#): 937C369143Does this Project have an NOI/SWPPP Available? ☒ Yes ☐ No ☐ N/AIs Weather Triggered Action Plan Completed? ☐ Yes ☐ No ☒ N/AIs Advanced Treatment Implemented Appropriately? ☐ Yes ☐ No ☒ N/AIs More than 17 Acres of Cleared or Graded Areas Left Exposed at Any Given Time? ☐ Yes ☒ No ☐ N/AIs 125% of Materials to Install Standby BMPs Available? Unclear: Have additional silt fences but may need more after installing on more lots ☐ Yes ☐ No ☐ N/AAre Routine Self-Inspections Being Conducted by Developer/Owner? ☒ Yes ☐ No ☐ N/AProject Site is in What Sub-Watershed: ☒ Chollas Creek 908.22 ☐ Sweetwater River 909.12Nearest Conveyances or Water Bodies: ENCANTO CHANNEL TO CHOLLAS CREEK

BMP	Yes	No	N/A	Description/Explanation	Effective Yes/No
Soil Stabilization and Erosion Prevention					
Preservation of existing vegetation?			X		
Physical Stabilization: Hydraulic Mulch, Hydroseeding, Soil Binders, Straw Mulch	X			Area near Akins entrance not fully stabilized. Several gullies unprotected.	No
Geotextiles, Plastic Covers, Erosion Prevention Blankets, Wood Mulching	X			Additional gravel bags needed at base of plastic spillway on south side. Sidewalls lack plastic covering.	No
Site Drainage: Outlet Protection/Slope Drain		X			
Inlet/Outlet Protection		X			
Sediment Control/Containment					
Perimeter Protection: Silt Fencing, Gravel Bags, Fiber Rolls	X			Additional fiber rolls needed on slope on west side.	No
Storm Drain inlet protection: Sediment Trap, De-silting Basin, Gravel Bag Barrier	X			Fabric on drain is basin clogged with hydroseed. Bags along Akins have been removed & not replaced yet.	No

BMP	Yes	No	N/A	Description/Explanation	Effective Yes/No
Tracking Controls: Stabilized Entrance/Exit Road Stabilization, Tire Wash, Street Sweeping	X				Yes
Materials and Equipment Management					
Are materials and wastes stored in a manner that minimizes or eliminates the potential to discharge these materials to the storm drain system, is secondary containment used?	X				Yes
Are material stockpiles protected: covered, contained and located away from non-storm water discharges?	X			Uncovered stockpiles reported as active	Yes
Are heavy equipment and vehicles parked in designated areas with permeable surface?	X				Yes
Are appropriate spill response and containment measures kept on the site?	X				Yes
Are wastes managed and stored properly (Solid, liquid, sanitary, concrete, hazardous)	X				Yes
Are concrete washouts properly installed, maintained with no evidence of discharges.	X				Yes
Is timely service and removal provided to prevent waste containers and sanitary facilities from overflowing?	X				Yes
Non-Storm Water Management					
Is the site free of evidence of illegal connections and/or illicit discharges?	X				Yes
Discharge Locations					
Are the discharge locations free of significant erosion or sediment transport?	X				Yes
Other					
Are there any other potential storm water pollution issues/concerns?	X			Stockpiles are too close to drain in NE Basin. Need to be moved or removed	No
Was there any employee or subcontractor training on stormwater BMPs?			X	Not Discussed	

VIOLATIONS

- ☐ No violations noted at time of inspection/investigation
- ☐ No violations; however, recommended corrective actions required
 - ☐ Inspection Form as Correct Work Notice ☐ Correct Work Notice Issued on: _____
- X Violation: Illegal Discharge/Illegal Connection/Improper BMPs Implementation
- X Stop Work Notice Issued on: Ongoing stop work Admin. citation

RECOMMENDED CORRECTIVE ACTION

See next page for recommendations

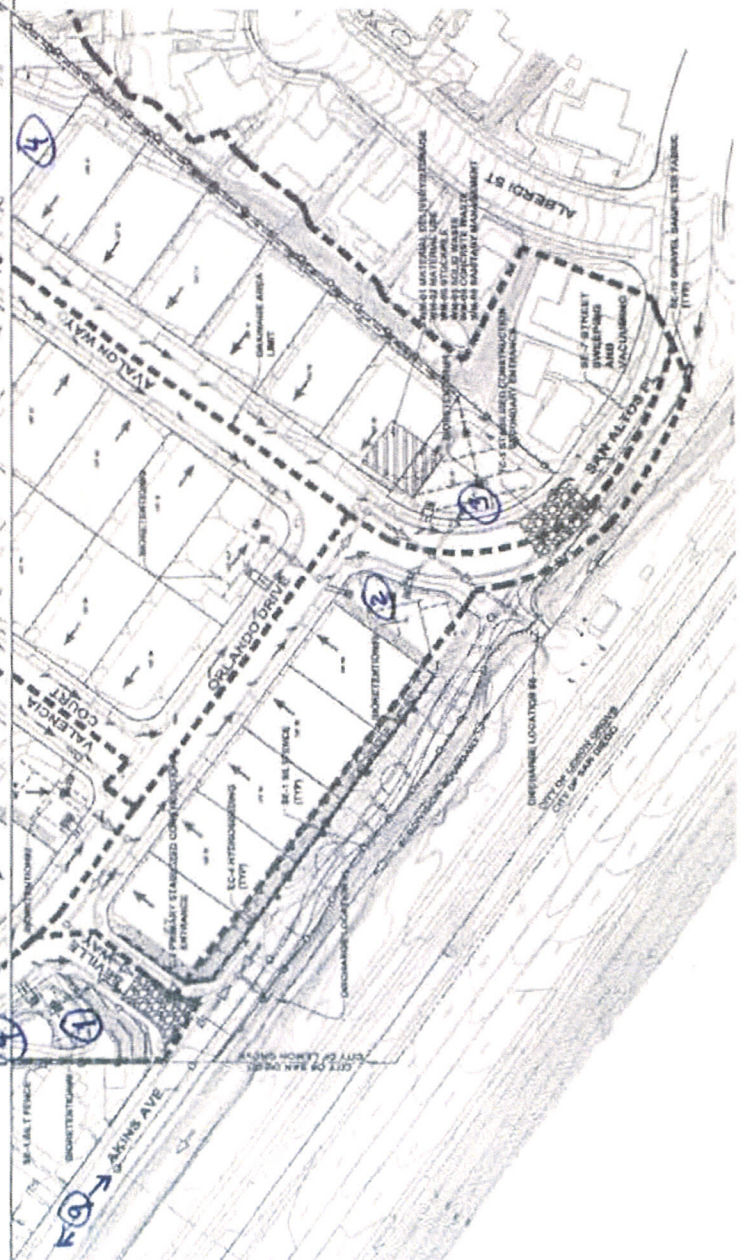
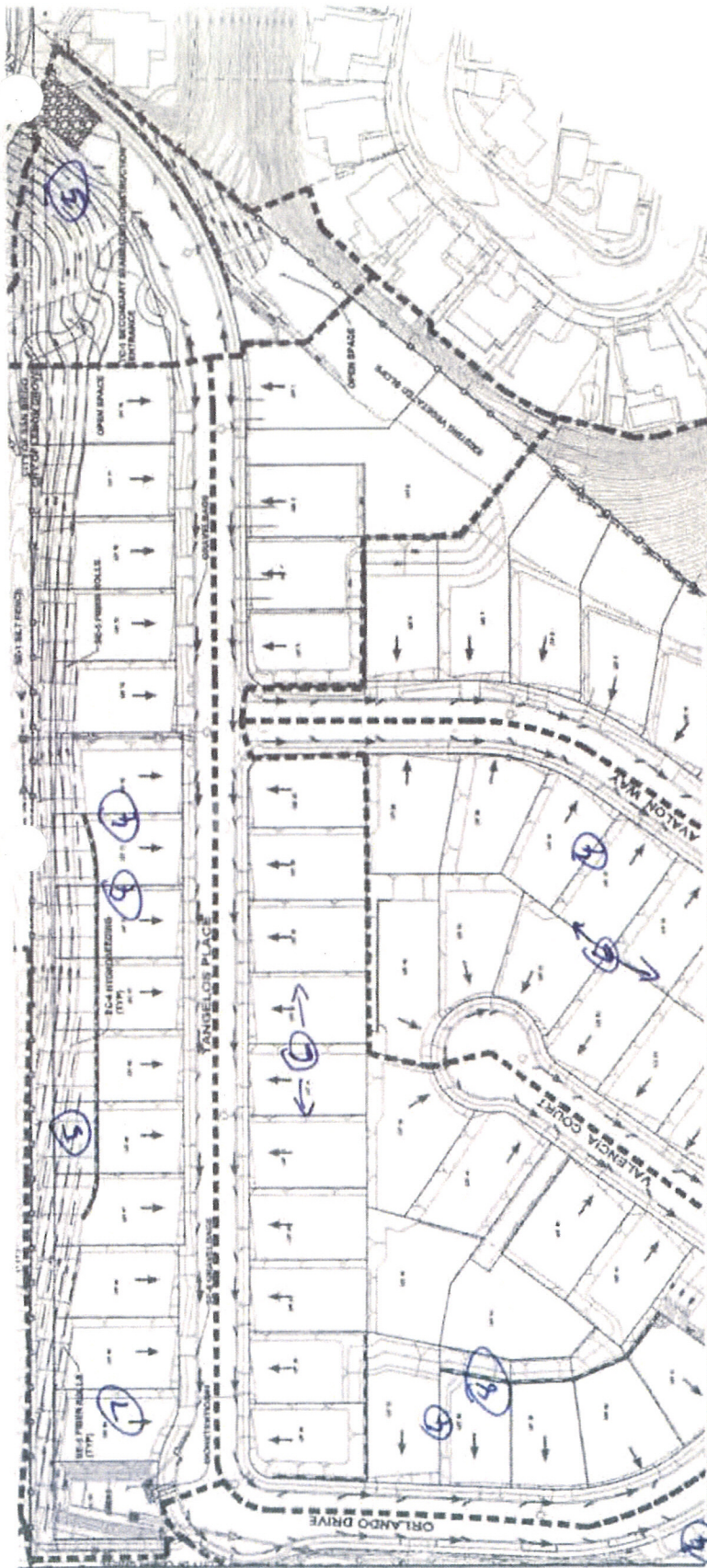
Construction BMP Recommendations

Site: VALENCIA SUBDIVISION

Date: 1/6/15

Recommendations: (SEE MAP ON NEXT PAGE FOR LOCATIONS)

- ① FULLY STABILIZE AREA. UTILIZE OTHER EROSION CONTROL BMPs (E.G. VISQUEPE OR EROSION CONTROL BLANKETS) IF HYDROSEED GROWTH IS NOT SUFFICIENT
- ② CLEAN OR REPLACE FILTER FABRIC
- ③ MOVE OR REMOVE STOCKPILES THAT ARE ADJACENT TO DRAIN
- ④ REPAIR GULLIES AND PREVENT CONCENTRATED FLOW TO AREA
- ⑤ REPAIR & STABILIZE SLOPE
- ⑥ USE EROSION CONTROLS TO STABILIZE EXPOSED SIDEWALLS. CONSIDER METHODS OTHER THAN HYDROSEED SINCE THERE IS EVIDENCE OF FAILURE
- ⑦ STABILIZE AREA IF INACTIVE OR RAIN IN FORECAST
- ⑧ ADD GRAVEL BAGS AT BOTTOM OF SPILLWAY
- ⑨ REPLACE GRAVEL BAGS ALONG AKINS



Nakatami, Tad



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ob: 598613

Exhibit: 00011

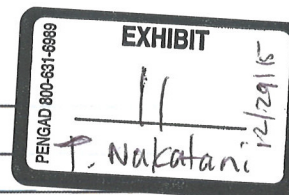




Exhibit No. 25

CITY OF LEMON GROVE
3232 Main Street, Lemon Grove, CA 91945NPDES STORMWATER PROGRAM
CONSTRUCTION STORMWATER COMPLIANCE INSPECTION FORMInspector Name /Signature/Date/Time: TAD NAKATANI [Signature] 1/14/15 7:15AMInspection: ☐ Permit-Required Inspection ☒ Follow-up Inspection ☐ Other (Explain) _____Construction Project Priority: ☐ High ☒ Medium ☐ Low

GENERAL INFORMATION

Grading or Building Permit #: GR-1692Project Name & Type: VALENCIA SUBDIVISIONProject Location & Address: SAN ALTOS PLACEContractor's Name & Telephone #: ANDERSON DEVELOPMENT (949) 235-6739Property Owner & Telephone #: SAN ALTOS LLCIs this Project Greater than an Acre? ☒ Yes ☐ No ☐ N/AIf yes: Provide Record of Waste Discharge Identification Number (WDID#): 937C369143Does this Project have an NOI/SWPPP Available? ☒ Yes ☐ No ☐ N/AIs Weather Triggered Action Plan Completed? ☐ Yes ☐ No ☒ N/AIs Advanced Treatment Implemented Appropriately? ☐ Yes ☐ No ☒ N/AIs More than 17 Acres of Cleared or Graded Areas Left Exposed at Any Given Time? ☐ Yes ☒ No ☐ N/AIs 125% of Materials to Install Standby BMPs Available? ☒ Yes ☐ No ☐ N/AAre Routine Self-Inspections Being Conducted by Developer/Owner? ☒ Yes ☐ No ☐ N/AProject Site is in What Sub-Watershed: ☒ Chollas Creek 908.22 ☐ Sweetwater River 909.12Nearest Conveyances or Water Bodies: ENCANTO CHANNEL TO CHOLLAS CREEK

BMP	Yes	No	N/A	Description/Explanation	Effective Yes/No
Soil Stabilization and Erosion Prevention					
Preservation of existing vegetation?			X		
Physical Stabilization: Hydraulic Mulch, Hydroseeding, Soil Binders, Straw Mulch	X			Some areas near Akins where hydro-seeding has not grown. Some remaining gullies on edges of site.	No
Geotextiles, Plastic Covers, Erosion Prevention Blankets, Wood Mulching	X			Most sidewalks have been covered but a couple in the northern part of site lack protection	No
Site Drainage: Outlet Protection/Slope Drain		X			
Inlet/Outlet Protection		X			
Sediment Control/Containment					
Perimeter Protection: Silt Fencing, Gravel Bags, Fiber Rolls	X			Broken silt fence near San Altos	No
Storm Drain inlet protection: Sediment Trap, De-silting Basin, Gravel Bag Barrier					

BMP	Yes	No	N/A	Description/Explanation	Effective Yes/No
Tracking Controls: Stabilized Entrance/Exit Road Stabilization, Tire Wash, Street Sweeping	X				Yes
Materials and Equipment Management					
Are materials and wastes stored in a manner that minimizes or eliminates the potential to discharge these materials to the storm drain system, is secondary containment used?	X				Yes
Are material stockpiles protected: covered, contained and located away from non-storm water discharges?		X		Wood/scrap pile should be removed or protected	NO
Are heavy equipment and vehicles parked in designated areas with permeable surface?	X				Yes
Are appropriate spill response and containment measures kept on the site?	X				Yes
Are wastes managed and stored properly (Solid, liquid, sanitary, concrete, hazardous)	X				Yes
Are concrete washouts properly installed, maintained with no evidence of discharges.	X				Yes
Is timely service and removal provided to prevent waste containers and sanitary facilities from overflowing?	X				Yes
Non-Storm Water Management					
Is the site free of evidence of illegal connections and/or illicit discharges?	X				Yes
Discharge Locations					
Are the discharge locations free of significant erosion or sediment transport?	X				Yes
Other					
Are there any other potential storm water pollution issues/concerns?	X			stockpiles are located too close to drain in NE Basin. Remove or relocate them outside of basin per discussion	No
Was there any employee or subcontractor training on stormwater BMPs?			X		

VIOLATIONS

- ☐ No violations noted at time of inspection/investigation
☐ No violations; however, recommended corrective actions required
☐ Inspection Form as Correct Work Notice ☐ Correct Work Notice Issued on: _____
☒ Violation: Illegal Discharge/Illegal Connection/Improper BMPs Implementation
☒ Stop Work Notice Issued on: ongoing stop work/Admin. citation

RECOMMENDED CORRECTIVE ACTION

see next page for recommendations

Construction BMP Recommendations

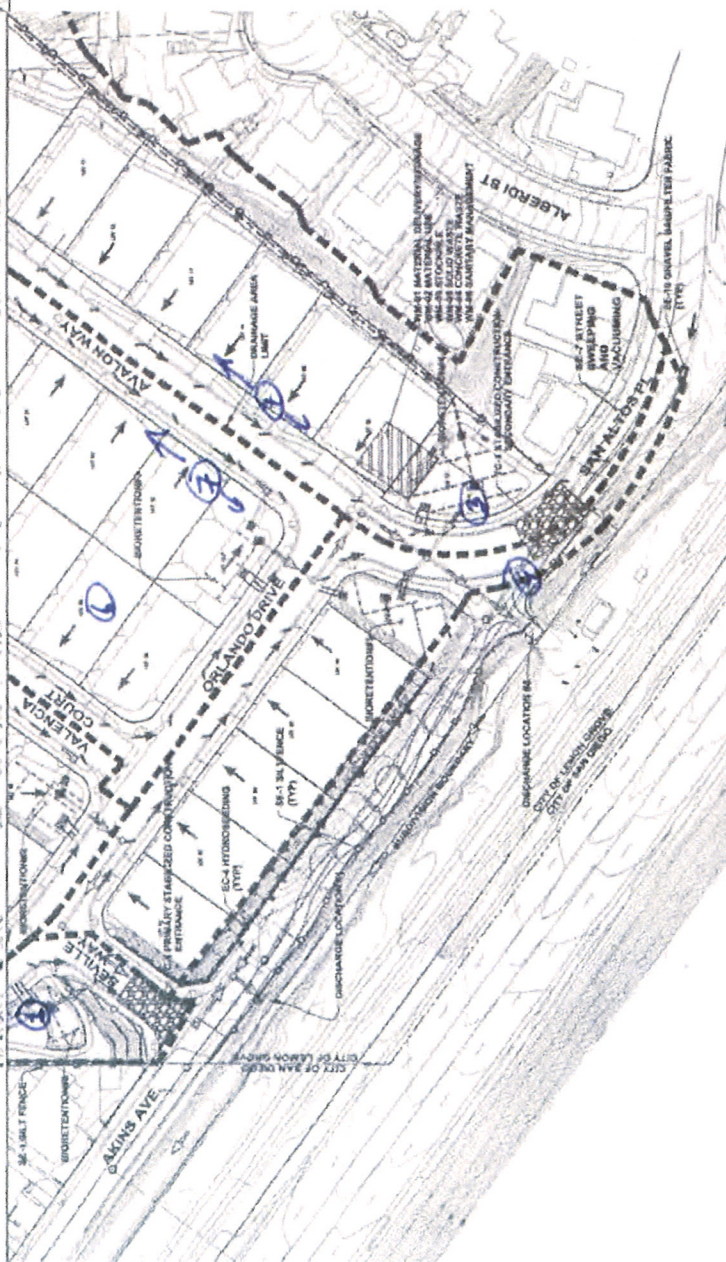
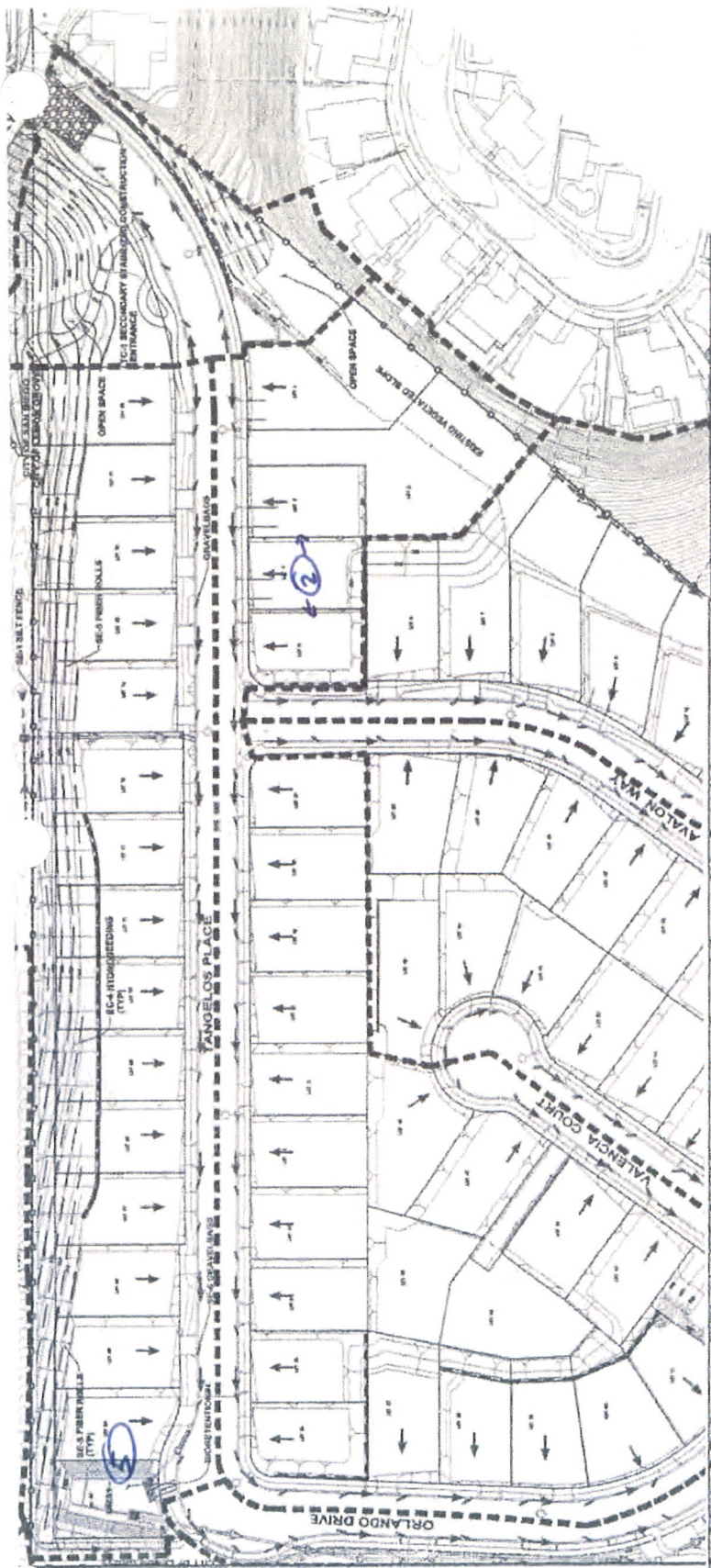
Site: VALENCIA SUBDIVISION

Date: 1/14/15

Recommendations:

- ① STABILIZE REMAINING SMALL AREAS THAT LACK FULL HYDROSEED OR VISQUENE COVER
- ② INSTALL EROSION CONTROLS ON REMAINING SIDEWALLS
- ③ REMOVE THE STOCKPILES THAT ARE NEAR THE DRAIN OR RELOCATE THEM OUTSIDE OF THE BASIN
- ④ REPAIR BROKEN SILT FENCE
- ⑤ STABILIZE AREA IF INACTIVE OR RAIN IN FORECAST
- ⑥ REMOVE OR PROTECT WOOD/SCRAP PILE
- ⑦ REPAIR MINOR RILLS AND PROTECT AGAINST CONCENTRATED FLOWS IN THE AREA

1/14/15



Nakatami, Tad



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SERVICES

Job: 598613

Exhibit: 00012



D-MAX Engineering, Inc.

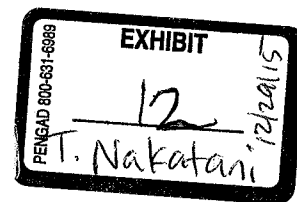
Consultants in Water & Environmental Sciences

**Memo****Date:** January 16, 2015**To:** Leon Firsht, Malik Tamimi**Cc:** John Quenzer**From:** Tad Nakatani**Subject:** Summary of Inspections and Sampling at Valencia Construction Site between December 9, 2014 and January 14, 2015

Per the City's request, D-MAX conducted multiple visits to the Valencia construction site to perform inspections and to collect storm water runoff samples. Table 1 summarizes the dates of all inspection and sampling visits.

Table 1. Inspection and Sampling Attempt Dates

Date	Activity
12/9/2014	Inspection
12/11/2014	Inspection
12/12/2014	Sampling
12/16/2014	Inspection
12/17/2014	Sampling
12/31/2014	Sampling
1/6/2015	Inspection
1/14/2015	Inspection

**Summary of Inspections**

Several significant BMP deficiencies were observed during the initial inspection on December 9, when the site was already under a Stop Work Notice from the City. Most significantly, there were several areas that lacked adequate erosion control BMPs, and there was also evidence of concentrated flows being directed to unstabilized areas, causing significant erosion. D-MAX documented these deficiencies and provided BMP recommendations as requested by the City. D-MAX re-inspected the site two days later on December 11 and observed that the majority of the deficiencies had not been corrected. On December 12, D-MAX visited the site during a rain event and collected samples of runoff from the site. Turbidity measurements were above 500 NTU for two samples taken near the southeast corner of the site and were above 400 NTU for a sample taken near the northeast corner of the site.

During the next inspection on December 16, some additional BMP deficiencies had been addressed, but the progress was still not sufficient. D-MAX returned to the site the following day to attempt to collect a sample, but the rain had already stopped, and no runoff sample was collected. D-MAX did observe sediment on the roadway outside of the southeast corner of the



site. A power-washing contractor was in the process of cleaning the road when D-MAX visited the site. D-MAX returned to the site on the morning of December 31 to attempt to collect another runoff sample, but once again the rain had stopped several hours before the site visit. D-MAX observed some sediment in the roadway again, but it appeared to be less than during the previous visit. D-MAX sampled water ponded at two locations just outside the southeast corner of the site. Turbidity was measured at 250 NTU and 235 NTU at these locations, but these measurements likely do not accurately reflect the turbidity of runoff since there had been time for sediment to settle out.

During the inspection on January 6, D-MAX observed that most of the major BMP deficiencies had been addressed, but a few still remained unresolved.

D-MAX performed its most recent inspection on January 14. D-MAX's assessment from this inspection is that the developer has made sufficient improvements to the site, and it is appropriate to lift the Stop Work Notice. There were some minor BMP deficiencies during the January 14 inspection, and the developer will still be required to address these promptly. However, the major deficiencies that led to the Stop Work Notice have been addressed, and the overall state of the site has been improved to the point where it no longer poses the severe risk of sediment discharges that it did in December.

Table 2 provides a summary of the different BMP deficiencies observed during inspections as well as the corrective actions that had been implemented as of January 14, 2015.



Table 2. Summary of BMP Deficiencies Observed and Corrective Actions Taken

BMP Deficiency	Corrective Action(s) Taken
Several lots lacked adequate erosion control BMPs.	Additional lots were hydroseeded. Some smaller areas were protected with plastic sheeting
Numerous slopes on the edges of lots were not sufficiently stabilized and protected from concentrated flows, and rills/gullies had formed.	Slopes were repaired where possible. BMPs were added upstream of slopes to prevent concentrated flows. Plastic sheeting was used in select areas to create protected spillways where concentrated flows could not be eliminated. Improved growth of hydroseed on slopes was also observed. All of the larger rills were addressed, but a few small rills still remained on January 14. The developer is required to address these areas still.
Sidewalls at the edges of lots also lacked erosion controls and several showed signs of erosion.	Sidewalls were protected with plastic sheeting.
Portions of the slope on the western edge of the site lacked full stabilization.	Additional fiber rolls were installed. Plastic sheeting was used to create protected spillways in areas where upstream contours were causing flows to concentrate.
Dirt roadways lacked sufficient stabilization and sediment controls.	Roads were compacted and large berms were built on them. A portion of the road that is inactive was hydroseeded.
Runoff from a significant portion of the site was being directed as concentrated flow to an unstabilized area in the site's southeast corner.	The developer built up an embankment to redirect flows away from this area and toward a settling area.
Some stockpiles lacked adequate cover	Covers were put on stockpiles.
The developer did not have sufficient quantities of BMP materials on site.	Additional gravel bags, fiber rolls, and silt fences were delivered to the site.
A significant amount of sediment was observed along the roadway at the southeast corner of the site.	Sweeping did not effectively remove all sediment, so a power-washing contractor was hired and removed the sediment from the road.
Gravel bag inlet protection BMPs were not always in place	Gravel bags were put in place to protect on-site and downstream off-site inlets.
Filter fabric used as part of inlet protection became potentially clogged by hydroseeding materials	Filter fabric was replaced.
Stockpiles were placed close to a drain inlet. The inlet is elevated above the ground height in that area, decreasing the risk of discharge, but stockpiles still need to be relocated away from the drain.	This deficiency was first observed on January 6. On January 14, the stockpiles had been covered, but they had not been moved sufficiently far enough away from the drain inlet. The developer is still required to address this item.
Sediment control BMPs were lacking or damaged in places.	A significant amount of additional silt fences and gravel bags were added to the site perimeter and the perimeters of lots.



Photo 1. Lot lacking erosion control BMPs



Photo 2. Hydroseed added to a lot



Photo 3. Evidence of erosion at edge of a lot



Photo 4. Rills filled in, area re-hydroseeded, silt fence added to perimeter of lot.



Photo 5. Sidewall without adequate erosion control



Photo 6 Sidewall protected with plastic sheeting.

Nakatami, Tad



Litigation
SERVICES

Job: 598613

Exhibit: 00013



From: Leon Firsht <lfirsht@lemongrove.ca.gov>
Sent: Wednesday, February 04, 2015 10:37 AM
To: 'Tad Nakatani'
Subject: RE: Follow-up vs routine

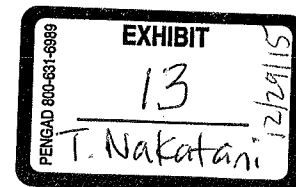
Start this one as permit required since I released the stop work and this is the first inspection.

From: Tad Nakatani [<mailto:tnakatani@dmxinc.com>]
Sent: Wednesday, February 04, 2015 10:35 AM
To: Leon Firsht
Subject: Follow-up vs routine

Hi Leon,

Quick question: Did you still want me to mark my inspection forms as "Follow-up Inspections" or should I begin marking them as "Permit-Required Inspections" now?

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



Nakatami, Tad



Litigation
SERVICES

Job: 598613

Exhibit: 00014





CITY OF LEMON GROVE
3232 Main Street, Lemon Grove, CA 91945

NPDES STORMWATER PROGRAM CONSTRUCTION STORMWATER COMPLIANCE INSPECTION FORM

Inspector Name /Signature/Date/Time: TAD NAKATANI T.N. 3/18/15 7:30AM

Inspection: ☒ Permit-Required Inspection ☐ Follow-up Inspection ☐ Other (Explain) _____

Construction Project Priority: ☐ High ☒ Medium ☐ Low

GENERAL INFORMATION

Grading or Building Permit #: GR-1692

Project Name & Type: VALENCIA SUBDIVISION

Project Location & Address: SAN ALTOS PL

Contractor's Name & Telephone #: ANDERSON DEVELOPMENT (949) 275-6737

Property Owner & Telephone #: SAN ALTOS LLC

Is this Project Greater than an Acre? ☒ Yes ☐ No ☐ N/A

If yes: Provide Record of Waste Discharge Identification Number (WDID#): 937C369143

Does this Project have an NOI/SWPPP Available? ☒ Yes ☐ No ☐ N/A

Is Weather Triggered Action Plan Completed? ☐ Yes ☐ No ☒ N/A

Is Advanced Treatment Implemented Appropriately? ☐ Yes ☐ No ☒ N/A

Is More than 17 Acres of Cleared or Graded Areas Left Exposed at Any Given Time? ☐ Yes ☒ No ☐ N/A

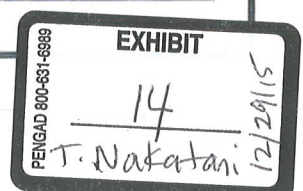
Is 125% of Materials to Install Standby BMPs Available? ☐ Yes ☒ No ☐ N/A

Are Routine Self-Inspections Being Conducted by Developer/Owner? ☒ Yes ☐ No ☐ N/A

Project Site is in What Sub-Watershed: ☒ Chollas Creek 908.22 ☐ Sweetwater River 909.12

Nearest Conveyances or Water Bodies: ENCANTO CHANNEL TO CHOLLAS CREEK

BMP	Yes	No	N/A	Description/Explanation	Effective Yes/No
Soil Stabilization and Erosion Prevention					
Preservation of existing vegetation?			X		
Physical Stabilization: Hydraulic Mulch, Hydroseeding, Soil Binders, Straw Mulch	X			Several slopes & inactive areas lack erosion control	No
Geotextiles, Plastic Covers, Erosion Prevention Blankets, Wood Mulching	X			Covers not in place on all sidewalks and at basin inlets	No
Site Drainage: Outlet Protection/Slope Drain		X			
Inlet/Outlet Protection		X			
Sediment Control/Containment					
Perimeter Protection: Silt Fencing, Gravel Bags, Fiber Rolls	X			Inadequate perimeter controls at NW & SE corners. Silt fences not installed on western slope	No
Storm Drain inlet protection: Sediment Trap, De-silting Basin, Gravel Bag Barrier	X			Drain on Avalon lacks protection	No



BMP	Yes	No	N/A	Description/Explanation	Effective Yes/No
Tracking Controls: Stabilized Entrance/Exit Road Stabilization, Tire Wash, Street Sweeping	X			Multiple entrances need replacement/repair of TC-1. Driveways lack adequate tracking controls per plans. Sediment on roadways	No
Materials and Equipment Management					
Are materials and wastes stored in a manner that minimizes or eliminates the potential to discharge these materials to the storm drain system, is secondary containment used?	X			some liquids stored without secondary containment	No
Are material stockpiles protected: covered, contained and located away from non-storm water discharges?	X			Numerous uncovered stockpiles but no indication that they are inactive	Yes
Are heavy equipment and vehicles parked in designated areas with permeable surface?	X				Yes
Are appropriate spill response and containment measures kept on the site?	X			some vehicles lack drip pans	No
Are wastes managed and stored properly (Solid, liquid, sanitary, concrete, hazardous)	X				Yes
Are concrete washouts properly installed, maintained with no evidence of discharges.	X			concrete waste observed on gravel outside of washouts	No
Is timely service and removal provided to prevent waste containers and sanitary facilities from overflowing?	X				Yes
Non-Storm Water Management					
Is the site free of evidence of illegal connections and/or illicit discharges?	X				Yes
Discharge Locations					
Are the discharge locations free of significant erosion or sediment transport?	X				Yes
Other					
Are there any other potential storm water pollution issues/concerns?		X			
Was there any employee or subcontractor training on stormwater BMPs?		X	X	Not discussed	

VIOLATIONS

- ☐ No violations noted at time of inspection/investigation
☒ No violations; however, recommended corrective actions required
☒ Inspection Form as Correct Work Notice ☐ Correct Work Notice Issued on: _____
☐ Violation: Illegal Discharge/Illegal Connection/Improper BMPs Implementation
☐ Stop Work Notice Issued on: _____

RECOMMENDED CORRECTIVE ACTION

SEE NEXT PAGE FOR RECOMMENDATIONS

Construction BMP Recommendations

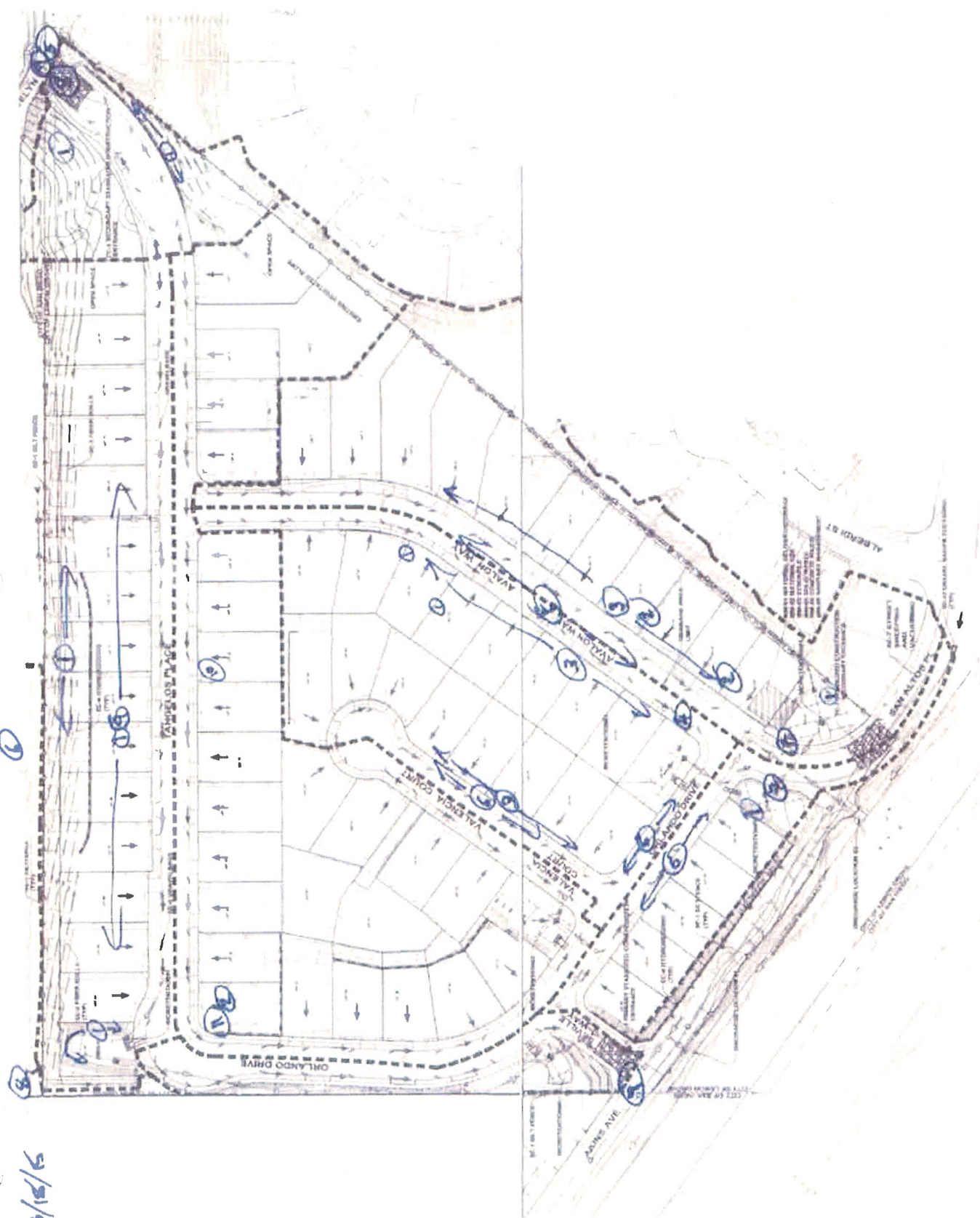
Site: VALENCIA

Date: 3/18/15

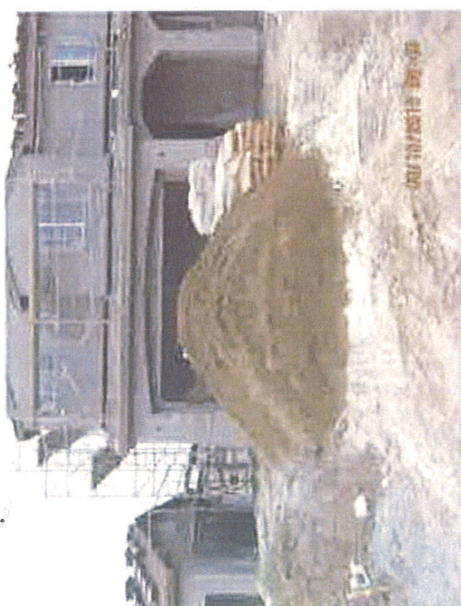
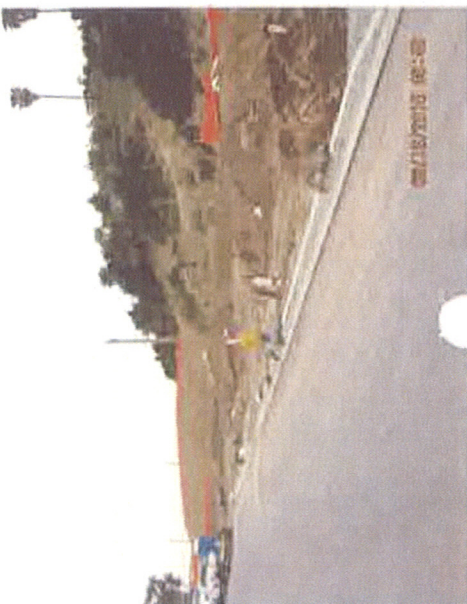
Recommendations:

- ① IMPLEMENT ADEQUATE EROSION CONTROLS ON SLOPES & SIDEWALLS
- ② CLEAN UP CONCRETE WASTE OBSERVED AT MULTIPLE LOCATIONS
AND ENSURE THAT ALL EMPLOYEES USE WASHOUTS PROPERLY
- ③ IMPLEMENT ADEQUATE TRACKING CONTROLS IN DRIVEWAY
TRANSITIONS FROM PAVEMENT TO EXPOSED LOTS
- ④ PROTECT INLET AND SURROUNDING AREA OF EXPOSED SOIL
- ⑤ SWEEP/CLEAN SEDIMENT FROM ROADWAY
- ⑥ IMPLEMENT ADEQUATE EROSION CONTROLS ON EXPOSED INACTIVE AREAS
- ⑦ PROVIDE STABILIZATION AT INLETS TO BASINS
- ⑧ REPLACE/REFRESH STABILIZED CONSTRUCTION ENTRANCE
- ⑨ IMPLEMENT ADEQUATE PERIMETER CONTROL BMPs
- ⑩ ENSURE THAT DRIP PANS ARE PLACED UNDER VEHICLES
WHEN NOT IN USE
- ⑪ PROVIDE SECONDARY CONTAINMENT FOR LIQUID STORAGE

②











Failure to cover and provide secondary containment.

Nakatami, Tad



Litigation
SERVICES

Job: 598613

Exhibit: 00015





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 4/29/15 7:30AM

Inspection: ☒ Permit-Required Inspection ☐ Follow-up Inspection ☐ Other (Explain) _____

Construction Project Priority: ☐ High ☒ Medium ☐ Low

GENERAL INFORMATION

Grading or Building Permit #: GR-1692

Project Name & Type: VALENCIA SUBDIVISION

Project Location & Address: SAN ALTOS PL

Contractor's Name & Telephone #: ANDERSON DEVELOPMENT (949) 275-6739

Property Owner & Telephone #: SAN ALTOS LLC

Is this Project Greater than an Acre? ☒ Yes ☐ No ☐ N/A

If yes: Provide Record of Waste Discharge Identification Number (WDID#): 937C367143

Does this Project have an NOI/SWPPP Available? ☒ Yes ☐ No ☒ N/A

Is Weather Triggered Action Plan Completed? ☐ Yes ☐ No ☒ N/A

Is Advanced Treatment Implemented Appropriately? ☐ Yes ☐ No ☒ N/A

Is More than 17 Acres of Cleared or Graded Areas Left Exposed at Any Given Time? ☐ Yes ☒ No ☐ N/A

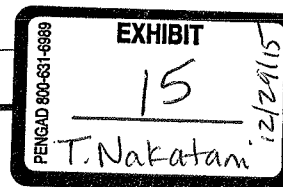
Is 125% of Materials to Install Standby BMPs Available? ☒ Yes ☐ No ☐ N/A

Are Routine Self-Inspections Being Conducted by Developer/Owner? ☒ Yes ☐ No ☐ N/A

Project Site is in What Sub-Watershed: ☒ Chollas Creek 908.22 ☐ Sweetwater River 909.12

Nearest Conveyances or Water Bodies: ENCANTO CHANNEL TO CHOLLAS CREEK

BMP	Yes	No	N/A	Description/Explanation	Effective Yes/No
Soil Stabilization and Erosion Prevention					
Preservation of existing vegetation?			X		
Physical Stabilization: Hydraulic Mulch, Hydroseeding, Soil Binders, Straw Mulch	X			SOME BARE AREAS ON WEST SLOPE REMAIN NEWLY EXPOSED AREAS ARE STABILIZED BEFORE BECOMING INACTIVE	No
Geotextiles, Plastic Covers, Erosion Prevention Blankets, Wood Mulching	X				Yes
Site Drainage: Outlet Protection/Slope Drain		X			
Inlet/Outlet Protection		X			
Sediment Control/Containment					
Perimeter Protection: Silt Fencing, Gravel Bags, Fiber Rolls	X				Yes
Storm Drain inlet protection: Sediment Trap, De-silting Basin, Gravel Bag Barrier	X				Yes



BMP	Yes	No	N/A	Description/Explanation	Effective Yes/No
Tracking Controls: Stabilized Entrance/Exit Road Stabilization, Tire Wash, Street Sweeping	X				Yes
Materials and Equipment Management					
Are materials and wastes stored in a manner that minimizes or eliminates the potential to discharge these materials to the storm drain system, is secondary containment used?	X				Yes
Are material stockpiles protected: covered, contained and located away from non-storm water discharges?	X			covered or active	Yes
Are heavy equipment and vehicles parked in designated areas with permeable surface?	X				Yes
Are appropriate spill response and containment measures kept on the site?	X				Yes
Are wastes managed and stored properly (Solid, liquid, sanitary, concrete, hazardous)	X			some concrete waste on site. Needs to be removed	No
Are concrete washouts properly installed, maintained with no evidence of discharges.	X			one washout needs to be emptied	No
Is timely service and removal provided to prevent waste containers and sanitary facilities from overflowing?	X				Yes
Non-Storm Water Management					
Is the site free of evidence of illegal connections and/or illicit discharges?	X				Yes
Discharge Locations					
Are the discharge locations free of significant erosion or sediment transport?	X				Yes
Other					
Are there any other potential storm water pollution issues/concerns?		X			
Was there any employee or subcontractor training on stormwater BMPs?			X	Not discussed	

VIOLATIONS

- ☒ No violations noted at time of inspection/investigation
☐ No violations; however, recommended corrective actions required
 ☐ Inspection Form as Correct Work Notice ☐ Correct Work Notice Issued on: _____
☐ Violation: Illegal Discharge/Illegal Connection/Improper BMPs Implementation
 ☐ Stop Work Notice Issued on: _____

RECOMMENDED CORRECTIVE ACTION

SEE NEXT PAGE

Construction BMP Recommendations

Site: VALENCIA

Date: 4/29/15

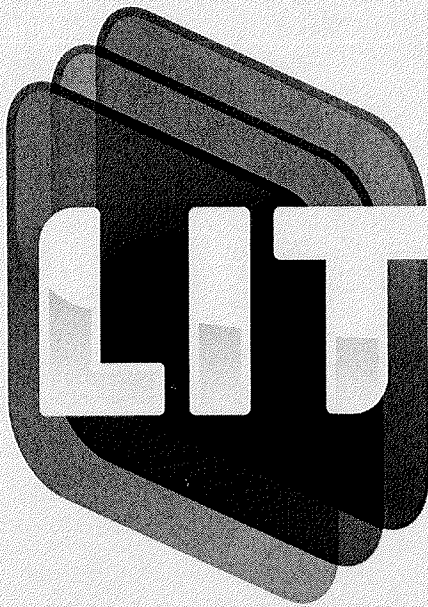
Recommendations:

- ① PROTECT BARE AREAS ON PREVIOUSLY HYDROSEEDED
SECTION OF WESTERN SLOPE
- ② EMPTY CONCRETE WASH-OUT
- ③ REMOVE CONCRETE WASTE

ADDITIONAL NOTE:

- ④ ADD EROSION CONTROLS TO NEWLY EXPOSED
AREAS WHEN THEY BECOME INACTIVE
- ⑤ REPLACE SECTIONS OF SILT FENCE ONCE WESTERN
LOTS ARE NO LONGER BEING USED AS AN
ALTERNATE VEHICLE ROUTE

Nakatami, Tad



Litigation
SERVICES

Job: 598613

Exhibit: 00016



From: Tad Nakatani <tnakatani@dmmaxinc.com>
Sent: Monday, September 14, 2015 10:32 AM
To: Malik Tamimi
Subject: RE: D-Max Construction Inspections

Hi Malik,

The City is not technically required to do any pre-, post-, or during-rain event inspections of private developments. Those inspections related to individual rain events come from the construction general permit rather than the JRMP or municipal permit, and those are inspections that must be performed by the developer's QSP. So the inspection frequency table in my previous email covers all the construction inspections that the City needs to conduct under the JRMP.

There were some deficiencies at Valencia last time I was there, but nothing too horrible by Valencia standards. They had actually done a pretty good job of addressing the deficiencies from their previous inspection and the latest deficiencies were mostly new ones around areas of recent activity. Vernon Ranch only had one deficiency, and it was not too major. The deficiency was just that their tracking control BMP at the site entrance should be beefed up to meet the specification the SWPPP.

Budget-wise, D-Max has about \$5,500 left in our current contract for construction inspections.

From: Malik Tamimi [<mailto:mtamimi@lemongrove.ca.gov>]
Sent: Monday, September 14, 2015 9:45 AM
To: 'Tad Nakatani'
Subject: RE: D-Max Construction Inspections

Thank you...very helpful...can you also tell me the requirements for pre-rain event inspections based on the JRMP and were the last inspection findings for the sites deficient? Also let me know how the budget is looking so that we can ask the developer for more funds.

Thank you for all your good work!

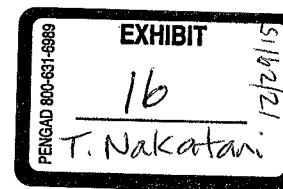
-Malik

From: Tad Nakatani [<mailto:tnakatani@dmmaxinc.com>]
Sent: Monday, September 14, 2015 9:41 AM
To: Malik Tamimi
Subject: D-Max Construction Inspections

Hi Malik,

Here is a summary of the construction inspections I have done this FY.

- In July I did a monthly inspection of Valencia
- In August Gary asked me to switch back to inspecting every other week. Since then I have done 3 bi-weekly inspections of Valencia AND Vernon Ranch (8/5, 8/19, & 9/2).
- Gary also asked me to begin inspecting Golden Doors (Golden Ave & Washington) next time I come out.



Based on the JRMP prioritization (see screenshot), it looks like Valencia should be High Priority, Vernon Ranch should be Medium, and Golden Doors should be low.

5.1.1 Construction Site Prioritization

All construction sites within the City's jurisdiction are assigned priorities based on the criteria in Table 5-1, which incorporates the prioritization factors from Municipal Permit sections E-4.b.(2) and E-4.d. Priorities are initially assigned when a project is added to the inventory. During the quarterly review of the City's construction inventory, re-prioritization of TTWQ designations for active construction sites will be performed as needed.

Table 5-1. Construction Project Threat to Water Quality Prioritization Criteria

CCP Category	Site Priority
Risk Level 2 or 3 or LUP Type 2 or 3	High
Risk Level 1 or LUP Type 1	Medium
All other projects	Low

Notes

CCP – State Construction General Permit

LUP – Linear Underground/Overhead Project

Also, here are the inspection frequency requirements from the JRMP:

The following table presents the different TTWQ categories and their corresponding inspection frequencies for the wet (October 1 through April 30) and dry (May 1 through September 30) seasons.

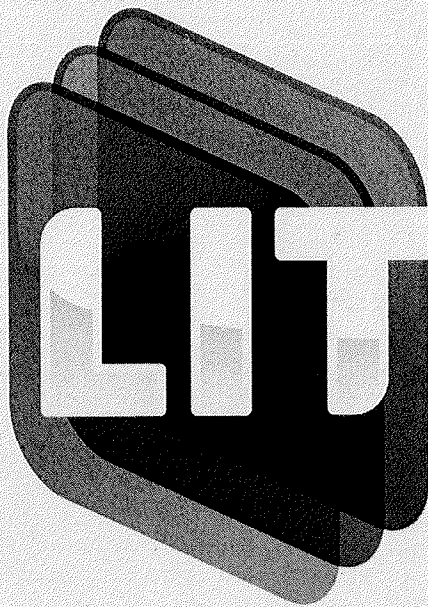
Table 5-2. Construction Site Inspection Frequency

Construction Site TTWQ	Wet Season Inspection Frequency	Dry Season Inspection Frequency
High	Twice per Month	As Needed
Medium	Monthly	As Needed
Low	As Needed ¹	As Needed

Note

1. Low priority projects are generally inspected at least once over the life of the project. Since many low priority projects are very small projects, the construction duration may be too short for a storm water inspection to occur.

Nakatami, Tad



Litigation
SERVICES

Job: 598613

Exhibit: 00017



From: Tad Nakatani [tnakatani@dmmaxinc.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

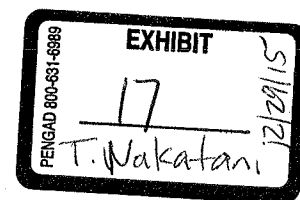
- ☐ No violations noted at time of inspection/investigation
- ☐ No violations; however, recommended corrective actions required
 - ☐ Inspection Form as Correct Work Notice ☐ Correct Work Notice Issued on: _____
- ☐ Violation: Illegal Discharge/Illegal Connection/Improper BMPs Implementation
 - ☐ Stop Work Notice Issued on: _____
- ☐ Violation

Photos are available here:

<https://onedrive.live.com/redir?resid=A3F1E0BB256DBF45!1953&authkey=!AKgffLY9S50sHDQ&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@dmmaxinc.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] 9/15/15 1:30 PM

Inspection: ☒ Permit-Required Inspection ☐ Follow-up Inspection ☐ Other (Explain) _____

Construction Project Priority: ☐ High ☐ Medium ☒ Low

Approximate rainfall since last inspection: _____ inches NA: 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? unknown. No one present during insp. ☐ 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"/>		<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

on Grove's Municipal Code and
Ordinances.

- Excess capital expenditures on these jobs will not be required or imposed without the approval of the City Manager, and the City Manager will be authorized to make any necessary change for any misapplication of funds. The City Manager will be authorized to make any necessary change for any misapplication of funds. The City Manager will be authorized to make any necessary change for any misapplication of funds.

necessary to prevent pollution discharges to

- [illegible]

has been observed (Bak, in review) that the average duration (here

- [illegible]



UTILITY SIGNOFF			
COMPANY	PRINTED NAME	SIGNED	DATE
ALBERT			
COE			
CRA			
MILLER WATER DIST			
DOUGLE			

about site

① ④ ⑤ ⑥ - 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 9/15/15 2:00 PM

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 Alkins. Tire washed 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

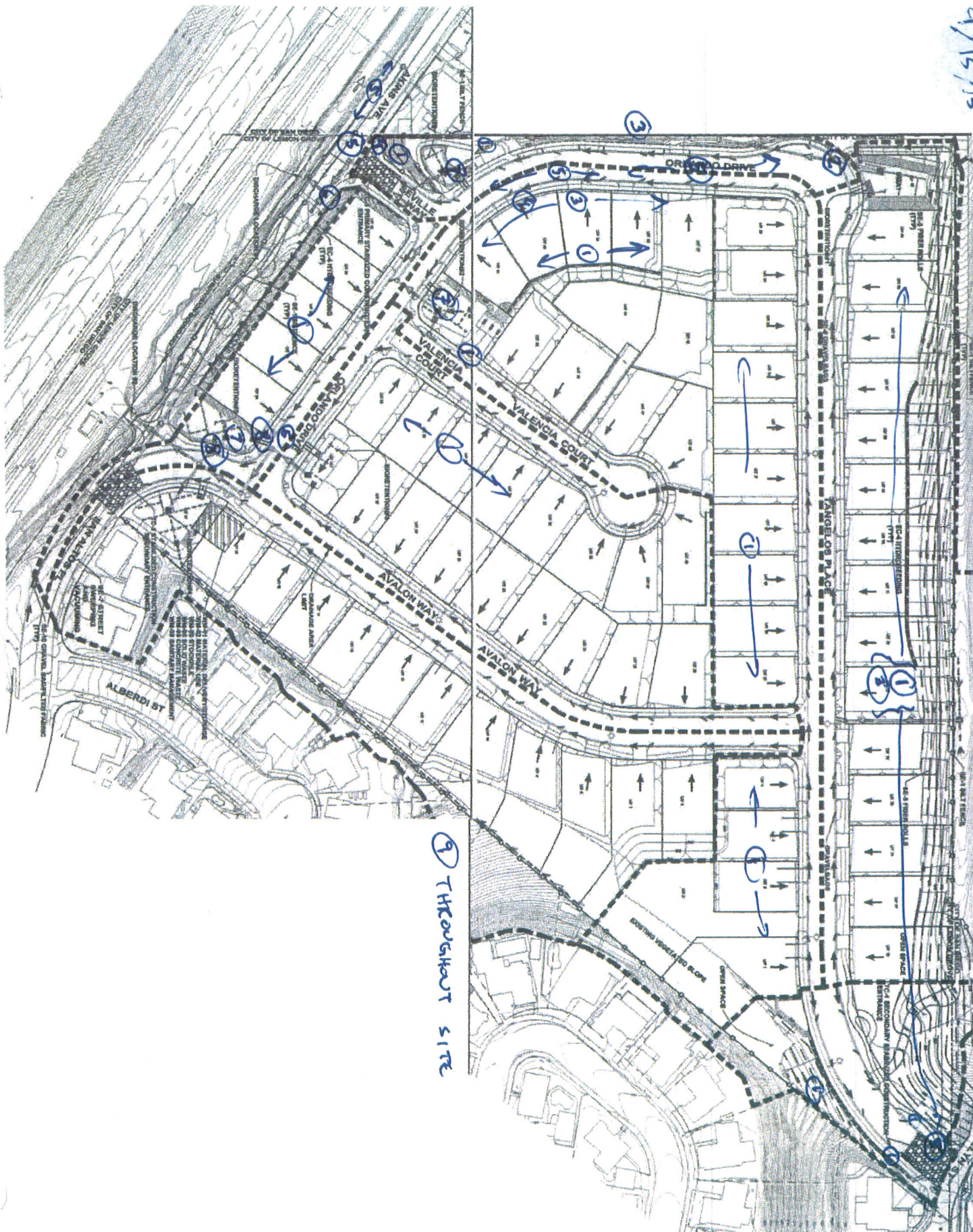
Site: VALENCIA

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
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- ☐ Violation

Construction BMP Recommendations

Site: VERNON RANCH

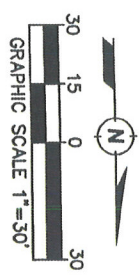
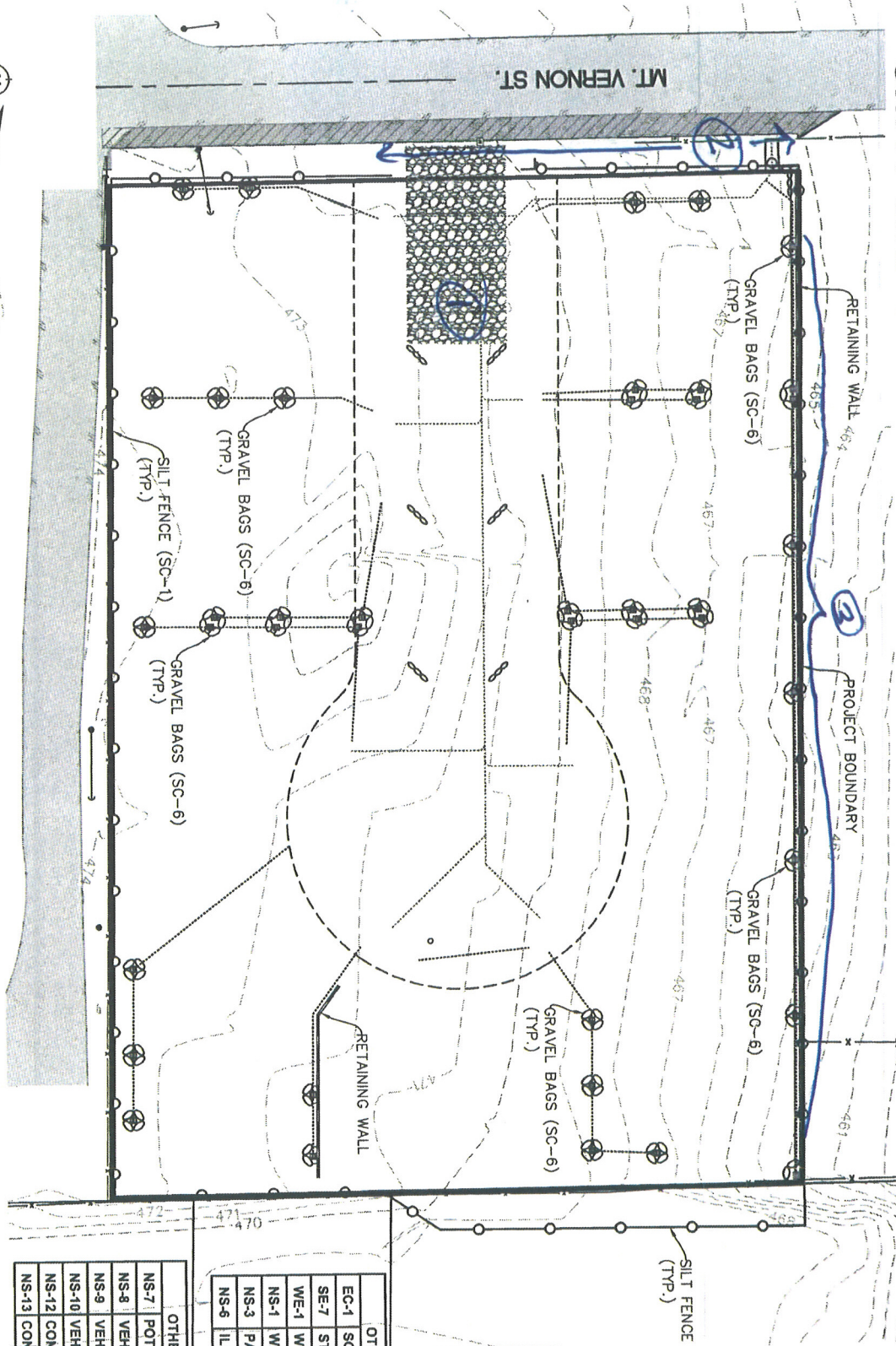
Date: 9/15/15

Recommendations:

- ① ADD SUFFICIENT ROCK TO TAIL 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

9/15/15

SWPPP SITE MAP - GRADING & LAND DEVELOPMENT PHASE (PHASE 1, RETAINING WALLS)



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	ILLCIT 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

Nakatami, Tad



Litigation
SERVICES

ob: 598613

Exhibit: 00018





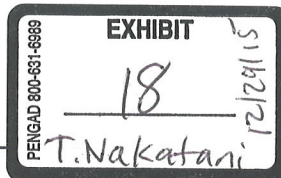
Exhibit No. 22

CITY OF LEMON GROVE
3232 Main Street, Lemon Grove, CA 91945NPDES STORMWATER PROGRAM
CONSTRUCTION STORMWATER COMPLIANCE INSPECTION FORMInspector Name /Signature/Date/Time: TAD NAKATANI 9/15/15 2:00 PMInspection: ☒ Permit-Required Inspection ☐ Follow-up Inspection ☐ Other (Explain) _____Construction Project Priority: ☒ High ☐ Medium ☐ LowApproximate rainfall since last inspection: ~.8 inches

GENERAL INFORMATION

Grading or Building Permit #: GR-1692Project Name & Type: Valencia SubdivisionProject Location & Address: San Altos PlaceContractor's Name & Telephone #: Anderson Development (949) 275-6739Property Owner & Telephone #: San Altos LLCIs this Project Greater than an Acre? ☒ Yes ☐ No ☐ N/AIf yes: Provide Record of Waste Discharge Identification Number (WDID#): 937C369143Does this Project have an NOI/SWPPP Available? ☒ Yes ☐ No ☐ N/AIs Weather Triggered Action Plan Completed? ☐ Yes ☐ No ☒ N/AIs More than 17 Acres of Cleared or Graded Areas Left Exposed at Any Given Time? ☐ Yes ☒ No ☒ N/ASufficient Standby BMPs Onsite to Protect Site Within 48 Hours of Predicted Storm? ☐ Yes ☒ No ☐ N/AAre Routine Self-Inspections Being Conducted by Developer/Owner? ☒ Yes ☐ No ☐ N/AProject 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 Akins. 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

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Construction BMP Recommendations

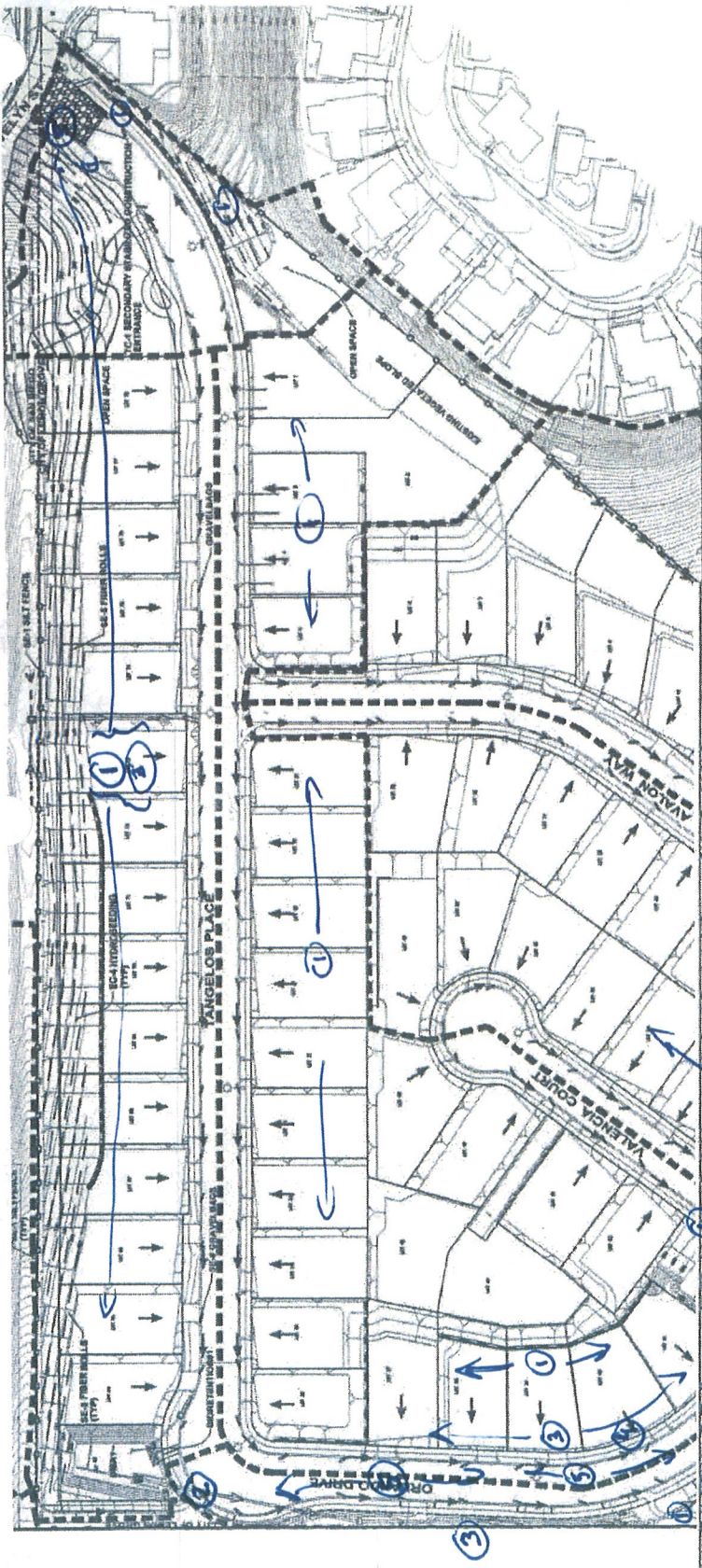
Site: VALENCIA

Date: 9/15/15

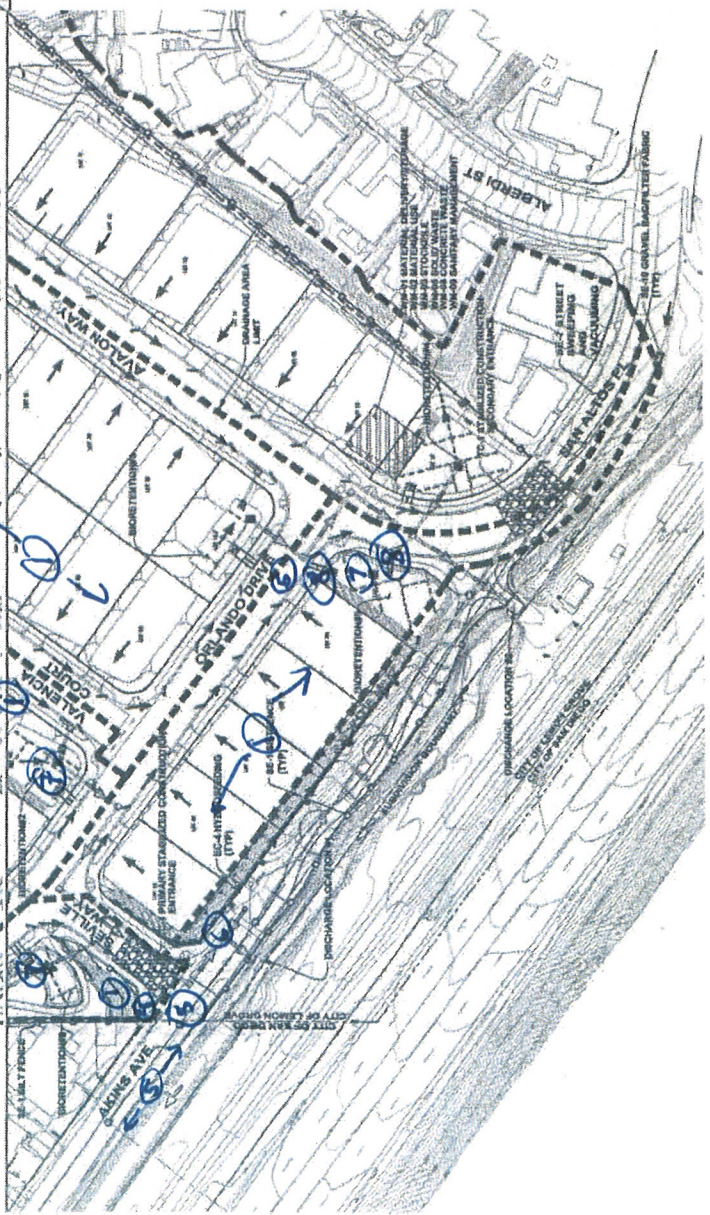
Recommendations:

- 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/



9 THROUGHOUT SITE



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 TAD NAKATANI, a witness
herein, noticed by Oppen & Varco, LLP,
at 225 Broadway, Suite 1900, San Diego,
California, at 8:42 a.m., on Tuesday,
December 29, 2015, before R. Jerrod Jones,
CSR 11750, RPR

Job Number 598613



Page 2

APPEARANCES OF COUNSEL:

For San Altos, Lemon Grove, LLC:

OPPER & VARCO, LLP

BY: LINDA C. BERESFORD, ESQ.

S. WAYNE ROSENBAUM, ESQ.

225 Broadway

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San Diego, California 92101

(619) 231-5858

Lindab@envirolawyer.com

Svr@envirolawyer.com

For California State Water Resources Control Board:

CALIFORNIA ENVIRONMENTAL PROTECTION

AGENCY, STATE WATER RESOURCES CONTROL

BOARD, OFFICE OF ENFORCEMENT

BY: DAVID M. BOYERS, ESQ.

1001 I Street

P.O. Box 100

Sacramento, California 95812

(916) 341-5276

David.boyers@waterboards.ca.gov

For Deponent, Gary Harper:

LOUNSBERY, FERGUSON, ALTONA & PEAK, LLP

BY: JAMES P. LOUGH, ESQ.

960 Canterbury Place

Suite 300

Escondido, California 92025

(760) 743-1201

Jpl@lfap.com

Also Present:

Joshua Rosenbaum

Frank Melbourne

Page 4

1	7	E-Mail From Malik Tamimi to John Quenzer dated 12/16/14 [EXH-7]	43	88
2				
3	8	D-Max Engineering Memo dated 12/17/14 [EXH-8]	45	88
4				
5	9	D-Max Engineering Memo dated 12/31/14 [EXH-9]	47	88
6	10	NPDES Stormwater Program Construction Stormwater Compliance Inspection Form dated 1/6/15 [EXH-10]	48	88
7				
8	11	NPDES Stormwater Program Construction Stormwater Compliance Inspection Form dated 1/14/15 [EXH-11]	54	88
9				
10	12	D-Max Engineering Memo dated 1/16/15 [EXH-12]	58	88
11				
12	13	E-Mail from Leon Firsh to Tad Nakatani dated 2/4/15 [EXH-13]	64	88
13				
14	14	NPDES Stormwater Program Construction Stormwater Compliance Inspection Form dated 3/18/15 [EXH-14]	66	88
15				
16	15	NPDES Stormwater Program Construction Stormwater Compliance Inspection Form dated 4/29/15 [EXH-15]	70	88
17				
18				
19	16	E-Mail From Tad Nakatani to Malik Tamimi dated 9/14/15 [EXH-16]	71	88
20				
21	17	E-Mail From Tad Nakatani to Gary Harper dated 9/16/15 [EXH-17]	73	88
22				
23				
24	18	NPDES Stormwater Program Construction Stormwater Compliance Inspection Form dated 9/15/15 [EXH-15]	74	88
25				

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WITNESS: TAD NAKATANI

EXAMINATION BY:

PAGE

MS. BERESFORD

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MR. BOYERS

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EXHIBITS

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 Tad Nakatani and Request for Production of Documents [EXH-1] 7 88

2 NPDES Stormwater Program Construction Stormwater Compliance Inspection Form dated 12/9/14 [EXH-2] 22 88

3 NPDES Stormwater Program Construction Stormwater Compliance Inspection Form dated 12/11/14 [EXH-3] 30 88

4 City of Lemon Grove Notice, Administrative Citation dated 12/11/14 [EXH-4] 31 88

5 D-Max Engineering Memo dated 12/12/14 [EXH-5] 33 88

6 NPDES Stormwater Program Construction Stormwater Compliance Inspection Form dated 12/16/14 [EXH-6] 37 88

Page 5

SAN DIEGO, CALIFORNIA; TUESDAY, DECEMBER 29, 2015
8:42 A.M.

TAD NAKATANI,

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

EXAMINATION

BY MS. BERESFORD:

Q. Good morning, Mr. Nakatani.

A. Hi.

Q. My name is Linda Beresford. I'm one of the attorneys for San Altos-Lemon Grove, LLC, representing them in the matter of the Administrative Civil Liability Complaint Number R9-2015-0110, issued by the Regional Water Quality Control Board.

Would you state your name and spell it for the record.

A. Tad Nakatani, T-a-d, N-a-k-a-t-a-n-i.

Q. Thank you. Have you had your deposition taken before?

A. No.

Q. There's a few ground rules that I'd like to go over with you, just to try to make the process

3 (Pages 6 to 9)

Page 6

1 go a little more smoothly. We are here today at a
2 hearing under oath. We have a court reporter taking
3 down everything that we say. So when I ask a
4 question, if it's possible, please try to respond
5 verbally, "yes," "no," a sentence, rather than a
6 shrug or "uh-huh," things that are difficult to read
7 on a transcript. Understood?

8 A. Yes.

9 Q. Okay. And in order to have an accurate
10 transcript, it's important that you understand my
11 question and I understand your answer. So if
12 possible, we'll try to have one person speaking at a
13 time. So if you can wait for me to finish my
14 question; and I, in turn, will also do my best and
15 wait for you to finish your answer before we stop
16 speaking -- before I start speaking so that we're not
17 talking over each other.

18 Do you understand?

19 A. Yes.

20 Q. Please feel free to take a break at any
21 time. The only thing I ask is that if I have a
22 question pending before you, that you answer the
23 question before we take a break; is that understood?

24 A. Yes.

25 Q. Okay. And finally, I'm sorry, but I do

Page 8

1 but it's my understanding that this is my Subpoena to
2 appear today, and a list of documents to be provided.

3 Q. Okay. Thank you.

4 A. Yes.

5 Q. Did you bring any documents with you
6 today?

7 A. We worked with Jim last week to -- he
8 asked us to give it to them on DVD.

9 Are you Wayne, by the way?

10 MR. ROSENBAUM: Yes.

11 THE WITNESS: He said he would talk to Wayne
12 and let us know.

13 MR. LOUGH: We added theirs. It's on the
14 CD-ROM we gave you.

15 BY MS. BERESFORD:

16 Q. So it's your testimony that all of the
17 documents that you have responsive to that, you
18 provided to Mr. Lough to produce with the City of
19 Lemon Grove's documents?

20 A. Yes. I believe they were on different
21 DVDs but submitted to him.

22 I'm guessing you gave those at the same time.

23 Q. Okay. In your review of documents, did
24 you identify any documents that you thought were
25 possibly responsive but you did not produce for some

Page 7

1 have to ask: Are you taking any medication, or is
2 there any other reason why you can't give your best
3 testimony today?

4 A. No.

5 Okay. Great.

6 MS. BERESFORD: If you could please mark that
7 as Exhibit 1.

8 (Exhibit Number 1 was marked for
9 identification.)

10 BY MS. BERESFORD:

11 Q. Would you please review that.

12 A. Is this the full copy on the back?

13 Q. One document is your Notice of Deposition
14 with the Request for Production of Documents. And
15 one should be the Subpoena with the Request for
16 Production. It's my understanding that the Request
17 for Production of Documents are identical for both
18 the Notice of Deposition and the Subpoena.

19 A. Okay.

20 Q. But my first question is, have you seen
21 that document before?

22 A. Yes.

23 Q. Okay. Can you identify for the record
24 what it is?

25 A. I forgot what just called it, but the --

Page 9

1 reason?

2 A. No, not that I'm aware of.

3 Q. Did you do anything else to prepare for
4 your deposition today?

5 A. We did have a brief meeting with Jim and
6 some people from Lemon Grove.

7 Q. Did you talk to anybody at D-Max about the
8 deposition?

9 A. John Quenzer and John Zrinski.

10 Q. What was that discussion about?

11 A. Mostly we were -- we coordinated getting
12 all of the documents together mainly because it was a
13 lot of overlap. And then yeah, I guess just general
14 discussion of what we needed to do, to show up and
15 then bring and stuff like that.

16 Q. Okay. Did you review any documents
17 specifically to prepare for today?

18 A. Just what I kind of may have glanced over
19 in pulling in all of the e-mails mostly, I guess.

20 Q. Okay.

21 A. Yeah. So not an actual thorough review of
22 any of the documents that were listed on here.

23 Q. Okay. Thanks. I would like to talk about
24 your education a little bit.

25 A. Okay.

Page 10

1 Q. Where did you graduate from high school?
2 A. Glendale High School in Glendale,
3 California.

4 Q. And then did you go to college?

5 A. Yes.

6 Q. Where was that?

7 A. UC San Diego.

8 Q. Did you graduate?

9 A. Yes.

10 Q. What year was that?

11 A. 2004.

12 Q. What was your degree?

13 A. I had a degree in ecology behavior in
14 evolution, and psychology as a second.

15 Q. Interesting. Do you have any advanced
16 degrees?

17 A. I have a master's.

18 Q. And what is that in?

19 A. That's in animal behavior from UC Davis.

20 Q. When you did get that degree?

21 A. I believe 2008.

22 Q. Is that a master's of science?

23 A. Yes.

24 Q. Okay. Do you have any other advanced
25 degrees besides that?

Page 11

1 A. No.

2 Q. What was your first job after you finished
3 your master's at UC Davis?

4 A. I had a -- I had an internship, like a
5 full-time internship with the Air Resources Board in
6 Sacramento. Although I don't technically remember --
7 so that was through the summer, from about June to
8 September. I don't remember if my degree award date
9 was actually June or September. It technically may
10 not have been after; it may have been during.

11 Q. That's okay. Let me back up a little bit.
12 Did you work in between the time you graduated from
13 UCSD and went to UC Davis?

14 A. Yes.

15 Q. What did you do during that period?

16 A. I worked as a biostatistician for one
17 year; and I worked in biotech for the second year;
18 and then began grad school after two years, I
19 believe.

20 Q. Where were you a biostatistician?

21 A. The Virtual Reality Medical Center. It
22 sounds fake, I know.

23 Q. Where was that?

24 A. That was in San Diego.

25 Q. And then, I'm sorry, you were a biotech?

Page 12

1 A. Yeah. I was a biotech technician, I guess
2 would be the title, at Diazyme Laboratories, also in
3 San Diego.

4 Q. When you completed your internship with
5 the Air Resources Board, what did you do after that?

6 A. I moved back to San Diego in the fall and
7 began applying for jobs. And then I interviewed with
8 D-Max, my parent company. And I started with D-Max
9 in I believe January of '09.

10 Q. What was your first position with D-Max?

11 A. Staff scientist, I believe.

12 Q. And what did you do as a staff scientist?

13 A. I don't know all of it. I did under --
14 with that job title, because I don't recall exactly
15 how long I had that one. But I -- I mean, do you
16 want a list of some of the tasks I can think of?

17 Q. Did you do any storm water inspections as
18 a staff scientist?

19 A. Yes.

20 Q. So you started doing storm water
21 inspections in 2009 as a staff scientist?

22 A. Yes.

23 Q. What type of training did you have -- or
24 did you have any training before you did storm water
25 inspections as a staff scientist?

Page 13

1 A. Yeah. We did -- we did field training
2 with other staff, more experienced staff members.

3 Q. And was that all the training you received
4 at that time?

5 A. I mean, there's probably some additional,
6 you know, like just reading materials that they gave
7 to new people to start with, you know, with permits
8 and stuff like that.

9 Q. What type of storm water inspections were
10 you doing at that time?

11 A. Initially it was industrial/commercial,
12 the beginning. Probably also some treatment control
13 BMP or structural BMP, maintenance verification
14 inspections. Yeah, that was probably after a couple
15 of months. Yeah, that probably was performed under
16 that same job title.

17 Q. Okay. How long were you a staff
18 scientist?

19 A. I don't remember.

20 Q. Do you remember what your next title was?

21 A. I believe there's Staff Scientist II was
22 the next level.

23 Q. Do you do similar type of storm water
24 inspections as a Staff Scientist II?

25 A. Probably. I would say there was probably

5 (Pages 14 to 17)

Page 14

1 less industrial/commercial inspections and more of
2 the structural, postconstruction BMPs as I
3 progressed. I don't know where that picks up with
4 the job titles, honestly.

5 Q. Okay. About how many inspections a year
6 did you do as a Staff Scientist I, a Staff Scientist
7 II?

8 A. I have no idea.

9 Q. More than five?

10 A. Yeah.

11 Q. More than ten?

12 A. Yeah. So I guess I would say probably --
13 so if I were to be doing a full time, let's say I
14 worked one week and I'm doing all five days, fully
15 dedicated to inspections, I would probably while
16 doing industrial/commercial I could do about 20 to 30
17 in a week. And then if it were in treatment control
18 or structural, postconstruction, less than that
19 maybe, 15 to 25 a week, so -- but I don't at this
20 point recall how much of my time was on just
21 inspections.

22 Q. Okay. Who were you doing the inspections
23 for?

24 A. Like, who was my supervisor; or who was my
25 client?

Page 15

1 Q. Who were your clients?

2 A. The City of San Diego was the main one.
3 So the bulk was probably done for them. At various
4 times we -- I have also done inspections for probably
5 the City of National City. Do you want like a
6 complete list, or as complete as I can give you right
7 now?

8 Q. Were you acting mostly as a subcontractor
9 for cities?

10 A. Yes.

11 Q. And during that time, were you doing
12 inspections for the General Construction Storm Water
13 Permit?

14 A. No, not in the early years.

15 Q. Okay. What was your title after you were
16 a Staff Scientist II?

17 A. I believe Assistant Project Scientist.

18 Q. And do you know when you became an
19 Assistant Project Scientist?

20 A. No.

21 Q. Do you think it was one year ago or
22 approximately --

23 A. No, multiple years ago. I don't remember
24 which one.

25 Q. And did you do storm water inspections as

Page 16

1 an Assistant Project Scientist?

2 A. Yes. I believe I did some, but probably
3 the more supervising of the inspections under that
4 title.

5 Q. Were you either performing or supervising
6 inspections for the Construction General Storm Water
7 Permit?

8 A. Under that job title, I don't know. Let
9 me think on that one. Probably. I don't know
10 exactly when a transition -- the next title would be
11 Project Scientist, which is my current one. So I
12 would guess probably under that title is when I was
13 doing some construction stuff, but I'm really not
14 sure. I don't know when the job titles synced up
15 with different actions.

16 Q. Okay. But you're a Project Scientist now?

17 A. Yes.

18 Q. Do you know when you became a Project
19 Scientist?

20 A. No.

21 Q. Your parents must not ask you too many
22 questions as they ask me.

23 Approximately how long do you -- would you
24 estimate that you have been a Project Scientist?

25 A. Oh, gosh. Probably within the last two

Page 17

1 years. That's about -- I can vaguely remember joking
2 with a coworker that the new job title didn't mean
3 that much to me. So that's -- it didn't really
4 change what I was doing work-wise. So yeah, I don't
5 have a good recollection of when that official change
6 was.

7 Q. Okay. But you just indicated that your
8 duties didn't really change that much, or did they?
9 Can you elaborate. What did you do as --

10 A. I think if you are talking about like the
11 different jobs, like tasks I'm working on, I think
12 that really would be something that changed more with
13 different contracts that my company had, as opposed
14 to what my job title was. Because a lot of the
15 contracts we have are for, you know, just several
16 months or something.

17 So if we had a six months -- a six-month
18 contract to do a certain task, then that's really
19 what determined like we're doing this project with
20 the Lemon Grove construction program. So that kind
21 of determined what I was doing more so than my job
22 title.

23 Q. Okay.

24 A. At that point, yeah.

25 Q. Over the past two years, did you do any

Page 18

1 inspections for the Construction General Storm Water
2 Permit?

3 A. Yes.

4 Q. For whom were you doing those inspections?

5 A. So I did constructions for the City of
6 Lemon Grove. And I also did construction -- or I did
7 inspection as a QSP for Marathon General, a
8 contractor for a project in Santee.

9 Q. So you just indicated to me that you are a
10 Qualified Storm Water Professional, QSP; is that
11 correct?

12 A. I believe the P is Practitioner, right?
13 But yeah, QSP.

14 Q. Okay. When did you become a QSP?

15 A. Let's see. I believe that was on my
16 resume. Do you have that? I could -- I don't recall
17 offhand. But it should be on the resume that was on
18 the DVD from Jim.

19 Q. Okay. Do you think it was approximately a
20 year ago?

21 A. No. It was a few years ago. In my head
22 I've sort of got 2012, but I don't know if that's
23 correct or not. But it was multiple years ago.

24 Q. Okay. Are you a Qualified SWPPP
25 Developer, a QSD?

Page 19

1 A. Yes.

2 Q. Do you know when?

3 A. That would be the same date.

4 Q. Okay. What specific training have you had
5 for storm water compliance investigations?

6 A. Specific to construction, or just in
7 general storm water compliance?

8 Q. Let's talk about just construction for
9 now.

10 A. Okay. Let's see. I had the QSP/QSD
11 training, which I took that with I believe Rick
12 Engineering. And then I had some -- just my year of
13 pass inspection material and reading with documents,
14 like with coworkers.

15 Q. Did you go to any of the specific training
16 that the Water Board has put on?

17 A. No.

18 Q. Are you a Trainer of Record?

19 A. No.

20 Q. Okay. Can you describe the relationship
21 between D-Max and the City of Lemon Grove for me?

22 A. Yes. So D-Max was hired by the City of
23 Lemon Grove. Specific to this project, they hired us
24 to do inspections of construction sites. D-Max also
25 has some additional contracts with the City to do

Page 20

1 other storm water work as well.

2 Q. When was D-Max specifically hired to do
3 inspection of construction sites?

4 A. I believe this particular contract -- I
5 mean, I don't know when all of the contracting
6 documentation was finalized. I believe my first time
7 out there was December of last year, December 2014.

8 Q. Okay. Do you know why they hired D-Max
9 for that purpose?

10 A. I believe initially it was I think two
11 sites. They wanted us to come in and do inspections
12 of -- construction inspections of two sites.

13 Q. Did anyone specifically say why they
14 wanted you to do that?

15 A. So I guess I didn't -- I don't think I
16 spoke to the City at the time. It would be -- John
17 Quenzer was my supervisor. So I don't know exactly
18 what was said specifically, other than the City
19 wanted our assistance just to provide, you know,
20 basically our assessment of the site, similar to what
21 the water company typically does for, like, a
22 municipal construction inspection.

23 Q. Who was your primary contact at the City?

24 A. At first or --

25 Q. At first and then later.

Page 21

1 A. I think honestly, that's sort of been
2 unclear or changing --

3 Q. Okay.

4 A. -- at times. So I'm -- I believe -- I
5 mean, Leon was the one sort of -- Leon Firsht was in
6 charge of it. So I think he was probably the main
7 contact initially. But I don't know honestly if the
8 contract was between the City and D-Max was kind of
9 done through by Malik or Leon. Because I know Malik,
10 you know, is the one who is most involved in storm
11 water. He's the one typically in contact with our
12 company more frequently about contracts. So I don't
13 know which one of them reached out to us initially.

14 Q. Okay. But throughout the course of the
15 contract, you had both -- you had contact with
16 Mr. Firsht and Mr. Malik Tamimi?

17 A. Yes.

18 Q. Who else at the City did you talk to or
19 meet with specifically about this site?

20 A. Gary Harper probably would be the person
21 that I had contact with by phone or e-mail, and also
22 just he was on site many of the times I was there
23 too. So who else? Let's see. Tamara O'Neil. J.J.
24 Arrington was more recently. Let's see. Those were
25 the main ones. I'm just trying to think. I'm going

1 through City staff. I think Dave I may have had
 2 contact with, but I don't think related to this
 3 project. I don't think.
 4 Q. Okay.
 5 A. That probably covers the main contacts.
 6 Q. I understand Miss O'Neil is not with the
 7 City of Lemon Grove anymore. Do you know anything
 8 about that?
 9 A. That's correct.
 10 Q. Do you know where she is?
 11 A. I do not.
 12 Q. Who is Mr. Arrington?
 13 A. J.J. or Jeremiah, he's a -- I believe he's
 14 an engineer, some sort of engineering title. I don't
 15 know exactly what the title is. He hasn't been there
 16 that long, probably just -- I believe he started in
 17 2015 sometime.
 18 MS. BERESFORD: Okay. If you could please mark
 19 this as Exhibit 2.
 20 (Exhibit Number 2 was marked for
 21 identification.)
 22 MR. BOYERS: Do you have another copy? I know
 23 it's in there somewhere.
 24 (Discussion off the record.)
 25 MR. BOYERS: Okay. Perfect. Thank you.

1 BY MS. BERESFORD:
 2 Q. Have you seen this document before?
 3 A. Yes.
 4 Q. Can you tell me what it is?
 5 A. It's my Inspection Form from December 9th,
 6 2014.
 7 Q. So did you visit the site on December 9,
 8 2014?
 9 A. Yes.
 10 Q. And you prepared this form following that
 11 site visit?
 12 A. Uh-huh. Yes. Oh, actually, on your
 13 earlier question when you asked about why was I asked
 14 to go out there, I'm pretty confident that I was told
 15 by John Quenzer that the City had -- specifically was
 16 having problems with the Valencia site. So they
 17 wanted us to come in. So I think I was initially
 18 told that.
 19 I don't know if I was told of previous issues.
 20 I don't know if there was even issues with the --
 21 involvement with the Regional Board before that. I
 22 don't know. But I know I was told that it was a site
 23 they were having problems with.
 24 Q. Okay. I see at the top it says, "First
 25 permit required inspection." What is the permit that

1 you were referring to there?
 2 A. I believe that is referring to the General
 3 Construction Permit. Although, I pretty much was
 4 just using that option as a -- I would say it's not
 5 really, you know, something that we're -- excuse me.
 6 That wouldn't be the General Construction Permit. I
 7 believe that one is referring to the Municipal
 8 Permit.
 9 But I don't know that this is necessarily
 10 meaning that we're doing this inspection to meet the
 11 inspection frequency requirement of the Municipal
 12 Permit. My understanding of this box was just sort
 13 of that that's a, hey, this is our sort of a routine
 14 inspection that we're doing for the City.
 15 Q. Okay. When you were asked or when you
 16 went to go inspect the site, what was the standard
 17 that you were comparing it against? Were you doing
 18 an inspection per the Construction General Storm
 19 Water Permit; or were you inspecting the site in
 20 accordance with the City's Jurisdictional Urban
 21 Runoff Management Plan?
 22 A. So this would be in accordance with the
 23 City's standards.
 24 Q. So you were inspecting it in accordance
 25 with the city's JURMP?

1 A. Yeah. Or actually, they have a lot in
 2 their Municipal Code as well.
 3 Q. But when you were inspecting, you were not
 4 inspecting for purposes of the Construction General
 5 Storm Water Permit, correct?
 6 A. Correct. My intention was to be doing it
 7 for the City in accordance with the City standards.
 8 Q. Okay. And then the next line says,
 9 "Construction Project Priority."
 10 A. Uh-huh.
 11 Q. It looks like originally you checked
 12 "High." Did you scratch that out and then check
 13 "Medium"?
 14 A. Yes.
 15 Q. Can you describe what happened there a
 16 little bit for me.
 17 A. Well, I don't honestly remember exactly
 18 why I initially checked "High." But that priority is
 19 something that the City assigns to it. So I -- I
 20 just may have found out initially I believed it was
 21 high; and then found out from the City that they had
 22 assigned a medium priority to it, maybe. I don't
 23 know the exact thought process at that point.
 24 Q. Okay. Sure. On the second page of the
 25 document, you indicated that there were no

Page 26

1 violations; is that correct?

2 A. Yes, that's what's indicated there.

3 Q. And is this your handwriting at the bottom
4 of the Recommended Corrective Action?

5 A. Yes. Yes, it is.

6 Q. Does this inspection document discuss
7 whether or not there were concerns with BMPs with
8 respect to active versus inactive areas?

9 A. Yes, there is a mention of inactive areas.

10 Q. Can you point out to me where that
11 reference is?

12 A. I noticed one under one comment on the
13 Recommended Corrective Actions on page two, the first
14 one there mentions inactive areas.

15 Q. Can you read that sentence to me.

16 A. "Add erosion control to all disturbed
17 areas inactive for ten days, including roadways not
18 currently in use."

19 Q. So when you were evaluating an active
20 versus inactive area, your evaluation was whether it
21 was active or inactive for a ten-day period; is that
22 correct?

23 A. In this instance, that appears to be
24 correct.

25 Q. And how would you have known whether an

Page 27

1 area was active or inactive for ten days?

2 A. At this point I would not have.

3 Q. You didn't ask anybody?

4 A. I don't recall. Let me see. Yeah, I
5 don't recall.

6 Q. Towards the top of the page, there's a
7 column. I think it's the third one down on page two.
8 It says, "Are material stockpiles protected, covered,
9 contained, and located away from non-storm water
10 discharges?" Do you see that?

11 A. Uh-huh.

12 Q. Then you checked "yes"?

13 A. Uh-huh.

14 Q. And then it says, "Several unprotected
15 stockpiles." Do you see that?

16 A. Uh-huh.

17 Q. Did you talk to anyone about how long the
18 stockpiles have been there, or when they were going
19 to go away, or anything like that?

20 A. I couldn't tell you for a particular
21 inspection whether or not I spoke to someone about
22 that, you know, unless I have a specific note about
23 it.

24 Q. So if you saw a stockpile, is it possible
25 it could have been moved later that day?

Page 28

1 A. Yes. Yeah.

2 Q. Is it possible that the same stockpile
3 could have been moved the day before?

4 MR. BOYERS: Objection. Speculation.

5 BY MS. BERESFORD:

6 Q. I will rephrase. If you went out and did
7 an inspection and you saw a stockpile, did you have
8 any knowledge of when that stockpile was placed
9 there?

10 A. I may or may not have spoken to someone on
11 site during the inspection. But I can't tell just
12 from my notes at this point whether or not that's the
13 case.

14 Q. So for these stockpiles, you can't tell me
15 whether or not you knew when those stockpiles were
16 created?

17 A. Let's see. Someone may have told me when
18 it was created or last active, but they may not have.
19 I don't know at this point.

20 Q. Okay. Did you discuss this inspection
21 with anybody?

22 A. I don't know. I would say there was --
23 I'm not sure. Gary Harper may have been there during
24 that inspection, as he was there for many of them.
25 But just from looking at these forms, I can't tell

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1 who either from the City or from the developer that
2 may or may not have spoken to on site.

3 Q. Did anybody from the Water Board ever call
4 you to talk about this inspection?

5 A. I don't believe so.

6 Q. Okay. How come you don't have any
7 pictures?

8 A. There are photos. Those were on the DVD.

9 Q. You took photos when you went on every
10 inspection?

11 A. I believe there were photos that
12 corresponded with each Inspection Form.

13 Q. Did you take photos when you went?

14 A. Yes.

15 Q. Were they dated or time stamped in any
16 way?

17 A. Yes. I believe they should have date and
18 time stamps on each one from every inspection.

19 Q. Okay.

20 A. I think the time stamps are on Monday,
21 whenever the time change happened; otherwise, it
22 would be accurate.

23 Q. The time change throughout the date?

24 A. The time is off by an hour.

25 Q. Just the time?

1 A. Yeah.
 2 MS. BERESFORD: Okay. We can mark this as
 3 Exhibit 3, please.
 4 (Exhibit Number 3 was marked for
 5 identification.)
 6 BY MS. BERESFORD:
 7 Q. Have you seen this document before?
 8 A. Yes.
 9 Q. Can you describe what it is, please.
 10 A. This is my Inspection Form from
 11 December 11th, 2014.
 12 Q. And that's the inspection of the site?
 13 A. Yes.
 14 Q. And when we say the site, we mean the
 15 Valencia Hills construction project on San Altos
 16 Place; is that correct?
 17 A. Correct.
 18 Q. I should have defined that earlier.
 19 You indicated, again, that there were no
 20 violations after this inspection; is that correct?
 21 A. Yes, that is what's indicated.
 22 Q. Is that your handwriting at the bottom of
 23 that page?
 24 A. Yes.
 25 Q. I only ask because it looks different from

1 the handwriting on the December 9th inspection.
 2 A. Oh.
 3 Q. Do you recall if you discussed this
 4 inspection with Gary Harper or Leon Firsht?
 5 A. I do not recall.
 6 Q. Did you discuss this inspection with
 7 anyone from the Water Board?
 8 A. I don't believe so.
 9 Q. Do you know whether or not a citation was
 10 issued by the City of Lemon Grove on December 11th?
 11 A. I don't know.
 12 MS. BERESFORD: We'll mark that as Exhibit 4.
 13 It says Exhibit Number 6 at the top of the document,
 14 but for purposes of this deposition it's Exhibit 4.
 15 (Exhibit Number 4 was marked for
 16 identification.)
 17 BY MS. BERESFORD:
 18 Q. Have you seen that document before?
 19 A. I'm not sure.
 20 Q. Can you --
 21 A. There's -- I'm sorry. Go ahead.
 22 Q. Can you state for the record what it is?
 23 A. It's an Administrative Citation from the
 24 City of Lemon Grove.
 25 Q. What is the date of it?

1 A. The date of violation observed is
 2 12/11/14.
 3 Q. And there's -- may I see it for a moment?
 4 On the violation observed, it says, "See attached
 5 report." Do you see that writing?
 6 A. The "Inadequate BMPs - see attached
 7 Inspection Reports"?
 8 Q. Yes. Do you see that language?
 9 A. Yes.
 10 Q. Do you know whose reports those were?
 11 A. I do not know for sure. It's likely that
 12 those were mine, but I'm not sure.
 13 Q. Do you recall if Mr. Firsht talked to you
 14 about issuing a citation?
 15 A. I don't recall.
 16 Q. Does it surprise you that they issued a
 17 citation based on a report that you did that day that
 18 indicated there were no violations?
 19 MR. BOYERS: Objection. It misstates his
 20 testimony.
 21 BY MS. BERESFORD:
 22 Q. I'll go back. In your inspection of
 23 December 11th, it notes that there are no violations;
 24 is that correct?
 25 A. Yes, that's what's indicated there.

1 Q. Did they talk to you about why they were
 2 going to issue a citation that day when you had a
 3 report that said no violations?
 4 A. At this point, I don't recall if we had
 5 any conversations.
 6 MS. BERESFORD: Okay. We'll make this
 7 Exhibit 5. This is the December 12th, D-Max Memo.
 8 (Exhibit Number 5 was marked for
 9 identification.)
 10 (Discussion off the record.)
 11 BY MS. BERESFORD:
 12 Q. Have you seen this document before?
 13 A. Yes.
 14 Q. And can you please state what it is.
 15 A. This is a Memo from D-Max reporting the
 16 sampling results from the 12th of December 2014.
 17 Q. Do you know who asked for turbidity
 18 sampling?
 19 A. Someone at the City. It would likely be
 20 Malik or Leon. I'm not sure.
 21 Q. Do you think turbidity data can support a
 22 violation of the General Construction Permit?
 23 MR. BOYERS: Objection. It calls for a legal
 24 conclusion. Speculation.
 25 BY MS. BERESFORD:

Page 34

Page 36

1 Q. You can still answer.

2 A. Can you restate the question?

3 Q. Sure. Can turbidity data be used to
4 support a violation of the General Construction
5 Permit?

6 MR. BOYERS: The same objections.

7 BY MS. BERESFORD:

8 Q. It's okay. He can object.

9 A. Okay.

10 Q. You generally are still supposed to
11 answer, unless someone directs you not to answer.

12 A. Okay. So you are saying legally? You are
13 asking if legally a turbidity sample --

14 Q. I'll rephrase. How is turbidity data used
15 when evaluating compliance with the General
16 Construction Storm Water Permit?

17 MR. BOYERS: Objection. It calls for
18 speculation.

19 THE WITNESS: I mean, the -- I mean, that's not
20 really what we were doing. This was for the City,
21 not for the General Construction Permit. So I'm not
22 really sure how that would be used.

23 BY MS. BERESFORD:

24 Q. Okay. What was the point of taking the
25 turbidity data?

1 Q. And do you recall if you were on site on
2 December 12th?

3 A. I don't recall. But I most likely not, if
4 I don't have an Inspection Form for that date.

5 Q. Okay. Were you aware that the Water Board
6 inspected the site on December 15, 2014?

7 A. At this point, not by memory.

8 Q. I'll provide that for you to refresh your
9 recollection. We're not going to make it an exhibit.

10 A. Okay.

11 Q. I'm referring, however, to the document
12 that has Exhibit Number 8 at the top.

13 A. Okay.

14 Q. Did you hear any discussion that
15 inspection was going to occur?

16 A. Prior to the inspection?

17 Q. Yes.

18 A. At this point, I don't remember.

19 Q. Do you know why a representative from
20 D-Max wasn't participating in that inspection?

21 A. We were only at an inspection if we were
22 asked to be there by the City.

23 Q. All right. Let me take that back.

24 And just to close the loop on that, then, since
25 you were not there, the presumption is that the City

Page 35

Page 37

1 A. That was -- I think that that was really
2 from -- a question for the requester from the City.
3 We were just wanting to know what the turbidity was.

4 Q. Okay.

5 A. Yeah.

6 Q. No one discussed with you why they wanted
7 to collect turbidity data?

8 A. Well, they wanted to know their turbidity.
9 I mean, they may have wanted to look at it in
10 relation to the actual levels from the General
11 Construction Permit, but I'm not sure. That's --
12 that's their --

13 Q. Right. I'm trying to find out if anybody
14 had a specific conversation with you about why they
15 wanted it?

16 A. The request for sampling was most likely a
17 conversation between the City and John Quenzer for
18 this one I would guess.

19 Q. Okay.

20 A. I believe in most cases of sampling, that
21 that's who would be involved in the conversation from
22 D-Max.

23 Q. Okay. Were you involved in this sampling
24 effort at all?

25 A. No, I don't believe so.

1 did not ask you to attend; is that correct?

2 A. Most likely, yes. I believe that to be
3 true.

4 MS. BERESFORD: Okay. Let's mark that as
5 Exhibit 6. This is Mr. Nakatani's Inspection of
6 December 16th.

7 (Exhibit Number 6 was marked for
8 identification.)

9 (Discussion off the record.)

10 BY MS. BERESFORD:

11 Q. Have you seen this document before?

12 A. Yes.

13 Q. Can you please identify it for me?

14 MR. BOYERS: Can we wait until I have a copy?

15 MR. J. ROSENBAUM: I'll go make copies.

16 MR. BOYERS: Okay. It's part of the Regional
17 Board's Exhibit 9. Go ahead.

18 MS. BERESFORD: I thought you had one.

19 MR. BOYERS: I know. I needed it in front of
20 me when you were asking him questions. Thank you for
21 waiting.

22 BY MS. BERESFORD:

23 Q. Could you please identify what this is?

24 A. This is the Inspection Form from
25 December 16th, 2014.

11 (Pages 38 to 41)

Page 38

1 Q. So did you visit the site on that day?
 2 A. Yes.
 3 Q. Why did you go back out to the site on
 4 that day?
 5 A. Most likely it was because the City asked
 6 me to go on that day.
 7 Q. Do you recall if they said why?
 8 A. I don't recall.
 9 Q. Okay. Do you see that there's some yellow
 10 highlighting on that document?
 11 A. Yes.
 12 Q. Did you make that highlighting?
 13 A. No.
 14 Q. Do you know who did?
 15 A. No.
 16 Q. Does this report discuss failure to have
 17 erosion control BMPs in inactive and active areas?
 18 A. I don't see specific mention of active
 19 versus inactive.
 20 Q. Do you recall if you discussed with anyone
 21 at the site on that day --
 22 A. I don't recall.
 23 Q. Let me finish my question.
 24 A. Sorry.
 25 Q. I guess you didn't recall talking about it

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1 at all. But just to be clear, did you talk to anyone
 2 at the site that day about which areas were active
 3 and which areas were inactive?
 4 A. I don't recall what, if any, conversations
 5 I had on that day.
 6 Q. And to be clear, you were talking about
 7 active versus inactive; from your mind, that's
 8 whether or not they were doing work in that area
 9 within the past ten days; is that correct?
 10 A. Say that again, please.
 11 Q. In defining the difference between an
 12 active versus an inactive area, when you're
 13 evaluating that, is that based on whether they have
 14 done work there in the past ten days, or do you have
 15 a different standard?
 16 A. Yes. I believe that that's what I was --
 17 that was the time frame for defining inactive area.
 18 Q. Ten days was the time frame?
 19 A. I believe so.
 20 Q. Okay. On the second page of your report,
 21 if you would look under "Violations."
 22 A. Uh-huh.
 23 Q. It looks like originally you had checked
 24 the box of "No Violations."
 25 A. Uh-huh.

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1 Q. And then that changed. Can you explain to
 2 me what happened there?
 3 A. I don't know for sure what the history of
 4 that was. But I would say that the Violations
 5 section was -- that's something that basically the
 6 City staff was making decisions on typically. So
 7 that would be usually something that would be told to
 8 me by, you know, discussion, either in the field or a
 9 phone call, or it could be in an e-mail.
 10 Q. Were there instances where the City told
 11 you to change a recommendation from a "No Violation"
 12 to a "Violation"?
 13 A. Well, typically I would be getting input
 14 from them first. So it's not a case where I would
 15 say, I believe it is this; and the City would say
 16 change your -- change what you marked.
 17 It would be -- although there may have been
 18 times when I've thought I think they want me to write
 19 this, but then they said, hey. And when I checked in
 20 with them, they said we want it to be, you know,
 21 considered as such. But I don't know in this
 22 particular case what that exact history was.
 23 Q. Would they have given you input on whether
 24 or not they thought something was a violation when
 25 they hadn't on -- on a day when they hadn't had a

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1 representative -- their own representative at the
 2 site? Does that make sense?
 3 MR. BOYERS: Objection. Speculation.
 4 BY MS. BERESFORD:
 5 Q. I will rephrase. Did they ever ask you --
 6 I'll start again.
 7 Did they ever have a discussion about whether
 8 something was a violation or not when you were the
 9 only person who had visited the site that day?
 10 A. I don't recall.
 11 Q. Do you know if anybody visited the site
 12 with you on December 16th?
 13 A. I don't remember.
 14 Q. Were there times that you were the only
 15 person inspecting the site?
 16 A. Yes.
 17 Q. Did they always have input on whether or
 18 not you checked violation or not?
 19 A. Who do you mean by "they"?
 20 Q. The City.
 21 A. I would say that as far as a discussion,
 22 we -- there was not a discussion every single time.
 23 So yes, there were times when I'd fill out the form,
 24 including the "Violation" section without a
 25 discussion with the City.

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1 I would say typically that was done when, you
2 know, when things were similar to a previous
3 situation where I had had that conversation. So I
4 could fill out the form in a similar way based on
5 similar situations.

6 Q. Can you explain to me why it was --
7 whether or not there was a violation up to
8 discussion? And let me give you a little more
9 information. I would think if you go to the site and
10 you see something, and it either is or it is not a
11 violation of the Municipal Code or the JURMP. Am I
12 incorrect on that assumption?

13 A. I would say that my understanding in
14 filling out these forms is that I was brought on to
15 assess the adequacy of the BMPs. But it wasn't my
16 role to determine what was considered a violation or
17 not. That was the City's role still.

18 Q. Do other cities work in a similar fashion?

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

21 THE WITNESS: I'm not --

22 BY MS. BERESFORD:

23 Q. Based on your experience, have you had
24 similar experiences with other cities wanting to have
25 notice if there's been a violation?

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1 A. I have not had experience with other
2 cities where that has been the case.

3 Q. Did you ever discuss this December 16th
4 inspection with anyone from the Water Board?

5 A. I don't believe so.

6 MS. BERESFORD: Does someone have the time?

7 MR. ROSENBAUM: It is ten of 10:00.

8 MS. BERESFORD: Why don't we take a five-minute
9 break. We're going to go off the record.

10 (A recess was taken.)

11 (Mr. Lough exits the conference room.)

12 MS. BERESFORD: Back on the record.

13 Can we please mark this as Exhibit 7.

14 (Exhibit Number 7 was marked for
15 identification.)

16 BY MS. BERESFORD:

17 Q. Have you seen this document before?

18 A. Most likely. I appear to be CCed on it,
19 yeah.

20 Q. Can you describe what it is?

21 A. This is an e-mail from Malik to me and to
22 John Anderson, December 26, 2014.

23 Q. What is the time on the e-mail?

24 A. 10:53 a.m.

25 Q. And what time did you inspect the site on

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1 December 16th? I will refer you to Exhibit 6.

2 A. 12:25.

3 Q. So was Mr. Tamimi asking for an Inspection
4 Report before you had performed the inspection?

5 MR. BOYERS: Objection. Speculation.

6 THE WITNESS: Am I still to answer this?

7 BY MS. BERESFORD:

8 Q. Yes.

9 A. I believe -- let me read this e-mail a
10 second. I believe in this e-mail, he is requesting
11 that I perform the inspection.

12 Q. And why does he want the report?

13 MR. BOYERS: Objection. Speculation.

14 THE WITNESS: I don't know.

15 BY MS. BERESFORD:

16 Q. Can you read the first sentence.

17 A. "John....we would like the follow-up

18 inspection today so that we can attach it to our
19 enforcement letter that we will be drafting today."

20 Q. So he was asking for an Inspection Report
21 to attach to an enforcement letter? Is that what the
22 first sentence says?

23 MR. BOYERS: Objection. Speculation.

24 THE WITNESS: He says he's asking for an
25 inspection so that we can attach it to our

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1 enforcement letter.

2 BY MS. BERESFORD:

3 Q. So he was planning on attaching an
4 Inspection Report to the enforcement letter before
5 the inspection occurred; is that correct?

6 MR. BOYERS: Objection. Speculation.

7 THE WITNESS: I'm not sure what he was
8 planning.

9 MS. BERESFORD: Okay. We will mark this as
10 Exhibit 8. Exhibit 8 to the deposition says Exhibit
11 Number 10 at the top of the document.

12 (Exhibit Number 8 was marked for
13 identification.)

14 BY MS. BERESFORD:

15 Q. Have you seen this document before?

16 A. Yes.

17 Q. Could you please state what it is?

18 A. It's a memo from D-Max to Malik Tamimi on
19 December 17th.

20 Q. What is the purpose of the memo?

21 A. This is reporting Brian Nemerow's field
22 visit on December 17th.

23 Q. Who is Mr. Nemerow?

24 A. He's a former employee of D-Max.

25 Q. Do you know where he is now?

1 A. Employment-wise?
 2 Q. Yes.
 3 A. The City of the Vista. Wait. No. Yes.
 4 Yes, Vista.
 5 Q. It's okay. What was his role at D-Max?
 6 A. As in his job title, or the tasks that he
 7 performed?
 8 Q. Job title is fine.
 9 A. Probably Staff Scientist II I would guess,
 10 not positive.
 11 Q. Previously you had stated that Mr. Quenzer
 12 is your supervisor?
 13 A. Correct.
 14 Q. So then Mr. Nemerow was a subordinate to
 15 you? Did you supervise him?
 16 A. Yes, I did on some projects. I don't
 17 recall in this particular one if he was working more
 18 under John Quenzer or myself. I would wager he was
 19 probably -- yeah, I think he was working more under
 20 John Quenzer for this particular task, since John was
 21 the one that did the previous sampling.
 22 Q. Okay. Were you on site on December 17th,
 23 2014?
 24 A. Not that I know of. Unless there's an
 25 Inspection Form from that day that I filled out, it's

1 unlikely.
 2 MS. BERESFORD: Let's make this Exhibit 9.
 3 This will be Exhibit 9 to the deposition, although
 4 the document says Exhibit 12 at the top.
 5 (Exhibit Number 9 was marked for
 6 identification.)
 7 BY MS. BERESFORD:
 8 Q. Have you seen this document before?
 9 A. Yes.
 10 Q. Can you please describe what it is.
 11 A. This is a memo from D-Max to the City of
 12 Lemon Grove on December 31st, 2014, reporting a field
 13 visit on December 31st.
 14 Q. I would like to refer you both to -- well,
 15 first, let's talk about Exhibit 8. There's some
 16 highlighting on Exhibit 8.
 17 A. Uh-huh.
 18 Q. Did you do that highlighting?
 19 A. No.
 20 Q. And there's highlighting on Exhibit 9.
 21 Did you do any of that?
 22 A. No.
 23 Q. Okay. Have you ever taken turbidity
 24 samples?
 25 A. Yes.

1 Q. I'd like to direct you to the third
 2 paragraph of this memo.
 3 A. Exhibit 9?
 4 Q. Yes, please.
 5 A. Uh-huh.
 6 Q. The last sentence says, "To approximate a
 7 certain effect," I'm paraphrasing there, "the settled
 8 sediment at the Akins entrance/exit location was
 9 disturbed, and a sample was taken a few minutes
 10 later."
 11 Do you think that follows a proper sampling
 12 protocol to take a turbidity sample?
 13 A. Let me finish reading here. Okay. Can
 14 you repeat the question, please.
 15 Q. Do you think that's a proper sampling
 16 protocol, to disturb the puddle and then take the
 17 sample?
 18 A. Not that I'm aware of.
 19 Q. Do you know if you were on site on
 20 December 31st?
 21 A. I don't believe I was.
 22 MS. BERESFORD: Okay. Could you please mark
 23 this as Exhibit 10.
 24 (Exhibit Number 10 was marked for
 25 identification.)

1 BY MS. BERESFORD:
 2 Q. Have you seen that document before?
 3 A. Yes.
 4 Q. Can you identify it for me, please?
 5 A. This is my Inspection Report from
 6 January 6, 2015.
 7 Q. And that's for the site?
 8 A. Yes.
 9 Q. Do you know why you went to inspect the
 10 site on January 6th?
 11 A. It would be either because the City
 12 requested specifically I go out that time, or they
 13 had previously requested that I inspect it at a
 14 normally-scheduled date.
 15 Q. Is there anything in this document that
 16 reports the weather conditions?
 17 A. No, I don't believe so. Unless I happen
 18 to have a note somewhere in here that kind of hints
 19 at the weather, there's not a -- a field that is
 20 specific to the weather.
 21 Q. I'd like to direct you to page two. The
 22 third row down it says, "Are material stockpiles
 23 protected, covered, contained, and located away from
 24 all storm water discharges?" Do you see that?
 25 A. Uh-huh.

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1 Q. And can you read your description there?

2 A. "Uncovered stockpiles reported as active."

3 Q. Does anything in this report indicate
4 whether the stockpiles were exposed to wind or rain?

5 A. You mean currently, or in the past couple
6 of days, or are you talking about in the future if
7 there were rain or --

8 Q. At the date of this inspection.

9 A. I don't -- I do not see any notes so far
10 about wind or rain occurring at that time. Do you
11 want me to review all of my notes?

12 Q. Please.

13 A. Okay. I don't see any notes indicating
14 there was any wind or rain at the time of this
15 inspection.

16 Q. Okay. Is there any discussion about
17 whether there was wind or rain the previous day or
18 the next day?

19 A. I'm sorry. Repeat the question, please.

20 Q. Does this report discuss whether there was
21 wind or rain, the stockpiles were exposed to wind or
22 rain the previous day or the next day?

23 A. I don't see an indication in here that
24 from my notes that there was rain on the previous
25 day. As far as the following day, I don't see any

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1 indication that there was rain in the forecast
2 necessarily for the next day.

3 Q. Do you have any other additional field
4 notes for your inspections that are not attached
5 here?

6 A. No.

7 Q. Okay. I think there's -- is there
8 highlighting on your Exhibit 10?

9 A. Yes.

10 Q. Did you do that highlighting?

11 A. No.

12 Q. Do you know who did?

13 A. No.

14 Q. Does anything in this report discuss
15 erosion controls for inactive or active areas?

16 A. Let me see. Yes, the note about
17 stockpiles on page two does discuss it as active.
18 And then note number seven on the third page refers
19 to "Stabilize area if inactive or rain is
20 forecasted."

21 Q. Okay. Let's go to the third page, your
22 first comment, number one. It says, "Fully
23 stabilized area. Utilize other erosion control
24 BMPs." Do you see that?

25 A. Uh-huh.

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1 Q. And then you have a map attached.

2 A. Uh-huh.

3 Q. Is the one on the map attached to that?

4 A. Uh-huh.

5 Q. Do you know if that area one was an active
6 or inactive area?

7 A. I don't recall whether it stated it at
8 that time. I would say that based on my notes there,
9 it sounds like it was inactive. But I don't recall
10 exactly what --

11 Q. Do you recall if you asked anybody that
12 day whether an area was active or inactive?

13 A. I don't recall. However, I did notice
14 that that stockpile question did say that they
15 reported something as active, which does indicate
16 there was some conversation with the contractor or
17 their representatives that day.

18 Q. But looking at number one today, you don't
19 know whether that area was active or inactive?

20 A. I couldn't say for sure. I would say
21 based on the note, likely. But yeah, I can't
22 recall --

23 Q. Okay.

24 A. -- by memory on any given day whether some
25 particular area was active or inactive.

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1 Q. And then number seven says, "Stabilize
2 area if inactive."

3 A. Uh-huh.

4 Q. Is that specific to any specific area?

5 A. Yes. There's an area on the page four
6 that looks like it would be the upper left-hand
7 corner of the page.

8 Q. So do you know on the date of inspection,
9 was the area active or inactive?

10 A. I don't know. I would say based on that
11 note on seven, that would be -- I think that note
12 would be something I would typically write of an area
13 that was currently active or I couldn't determine.

14 Q. Or you couldn't determine?

15 A. Right.

16 Q. Okay.

17 A. Yeah, that -- yeah.

18 Q. Okay. I'm not going to mark this as an
19 exhibit, but I would like you to take a look at that
20 document. Do you know if you've seen this document
21 before?

22 A. I don't think I have.

23 Q. Okay. For the record, it's an e-mail
24 dated January 1, 2015 to Mr. Chiu. If you haven't
25 seen it before, then I won't ask you any questions

15 (Pages 54 to 57)

Page 54

1 about it.

2 Going back to your inspection of January 6th,
3 which was Exhibit 10, did you discuss this inspection
4 with anyone at the Water Board?

5 A. I don't believe so.

6 MS. BERESFORD: All right. And let's mark that
7 as Exhibit 11, please. It's Exhibit Number 25 at the
8 top of the document, and Exhibit Number 11 to the
9 deposition.

10 (Exhibit Number 11 was marked for
11 identification.)

12 BY MS. BERESFORD:

13 Q. Have you seen this document before?

14 A. Yes.

15 Q. And what is it?

16 A. This is my Inspection Report from
17 January 14th, 2015.

18 Q. Your inspection of the site?

19 A. Yes.

20 Q. Okay. There's highlighting on this
21 document. Did you do that?

22 A. No.

23 Q. Okay. I'd like to go to page two, and the
24 third row down talking about stockpiles. Can you
25 read your comments to me there.

Page 55

1 A. It says, "Wood/scrap pile should be
2 removed or protected."

3 Q. And then there's another discussion about
4 stockpiles the second-to-last row up.

5 A. Uh-huh.

6 Q. Can you read that to me, please.

7 A. "Stockpiles are located too close to drain
8 in northeast basin. Remove or relocate them outside
9 of basin."

10 Q. Does anything in this report talk about
11 whether the stockpiles are exposed to wind and rain?

12 A. I don't see anything indicating
13 information about rain or wind at the time of the
14 inspection.

15 Q. The comment about the "stockpiles are
16 located too close to the drain in the northeast
17 basin," if you go back to Exhibit 10, and look at
18 that same row.

19 A. Uh-huh.

20 Q. Do you know if those were the same
21 stockpiles?

22 A. I believe so. I don't know for sure from
23 memory; but I do recall an issue with that stockpile
24 not getting moved for multiple inspections. So I
25 believe that's the stockpile that I'm thinking of.

Page 56

1 Q. Do you know if you talked to anyone about
2 whether the stockpiles had been moved?

3 A. I don't recall for sure. But from the
4 January 6th inspection, again, I would say it's
5 likely I talked to the contractor or their
6 representative, based on the note I had about a
7 stockpile being reported as active.

8 Q. Do you --

9 A. And that was on the 6th.

10 Q. Do you normally note in your Inspection
11 Reports anywhere if you've talked to anyone about
12 anything?

13 A. No. There's no field for that. Yeah, so
14 I will sometimes make a note, such as the one on the
15 6th, that suggested that there was a conversation,
16 but there's no --

17 Q. -- specific documentation?

18 A. Yeah, place. Whatever time you indicate
19 whether or not you spoke to someone.

20 Q. Does anything in your January 14th
21 Inspection Report identify whether a specific area is
22 inactive?

23 A. Let's see. I don't see any specific
24 indication that a particular area is inactive in my
25 notes here.

Page 57

1 Q. So I see a note on five. Note five here
2 on the third page it says, "Stabilize area if
3 inactive or rain in forecast."

4 When you wrote that, do you know if you knew
5 whether area five was inactive or not?

6 A. Similar to what I said on Exhibit 10. I
7 would say that that note is something I would
8 typically write if it was either active, or I just
9 couldn't determine with certainty whether or not it
10 was active.

11 Q. Okay. On page two of this inspection, you
12 checked the box that there was a violation.

13 A. Uh-huh.

14 Q. Do you know what the basis for that was?

15 A. I believe that that was something the City
16 asked me to indicate. I'm basing this on looking at
17 the last couple exhibits from that time period that
18 are marked in the similar -- the similar way of that
19 same note about the ongoing Stop Work
20 Notice/Administrative Citation.

21 I believe that was a conversation or e-mail or
22 phone call at some point where they said to check
23 that as -- mark the "Violation" section that way for
24 that time period while they had a Citation or Stop
25 Notice or whatever it was.

Page 58

1 Q. As of January 14, your inspection January
2 14, did you think that the storm water controls at
3 the site were in better condition than when you
4 inspected the site in December?

5 A. I don't recall at this point.

6 Q. Based on your reports, can you say whether
7 or not you thought it was in better condition?

8 MR. BOYERS: Objection. Vague as to "better
9 condition."

10 THE WITNESS: Yeah, can you clarify?

11 MS. BERESFORD: Sure. Let's go to the next
12 exhibit and we can go from there. So this will be
13 Exhibit 12. Exhibit 12 to the deposition is
14 indicated as Exhibit 23 at the top.

15 (Exhibit Number 12 was marked for
16 identification.)

17 BY MS. BERESFORD:

18 Q. Have you seen this document before?

19 A. Yes.

20 Q. Can you please describe what it is.

21 A. This is a Memo that I sent to the City on
22 January 16th, 2015, summarizing inspections and
23 sampling from December and January.

24 Q. Based on this Memo, can you say whether
25 you thought the storm water, the BMPs, and other

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1 protections at the site were better at the site in
2 January than they were in December?

3 A. I would say that compared to early
4 December, like the December 9th time, that they did
5 implement a significant number of BMPs that they
6 had -- that had been deficient before. So yes, they
7 did improve several of the deficiencies they had,
8 specifically with erosion control in December -- or
9 December 9th.

10 Q. And your last inspection of the site was
11 January 14; is that correct?

12 A. Prior to this letter, I believe so.

13 Q. I'd like to go to the third page of the
14 Memo. The second row up discusses stockpiles. Do
15 you see that?

16 A. "The stockpiles were placed close to a
17 drain inlet." That one?

18 Q. Yes.

19 A. Yes.

20 Q. If you move to the next column over, the
21 second sentence says, "On January 14, the stockpiles
22 had been covered." Do you see that?

23 A. Yes.

24 Q. Do you know the date when the stockpiles
25 had been covered?

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1 A. I don't know the exact date they were
2 placed on there.

3 Q. Is it possible that they had been covered
4 on January 13th?

5 MR. BOYERS: Objection. Speculation.

6 THE WITNESS: Let me see on my January. Yeah,
7 I guess from these materials, all I can tell is that
8 they were -- it sounds like they were not covered on
9 the 6th, and they were covered when I returned on the
10 14th. I don't know the timing of anything in
11 between.

12 BY MS. BERESFORD:

13 Q. Let's go back to your January 14th
14 inspection.

15 A. Okay.

16 Q. And your January 6th inspection. Let's go
17 to the second page there.

18 A. Uh-huh.

19 Q. On January 6th, which is Exhibit 10, in
20 the third row down it says, "Uncovered stockpiles
21 reported as active." Do you see that?

22 A. Yes.

23 Q. And then on January 14th, on Exhibit 11,
24 on the third row down, can you say again what that
25 says to me.

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1 A. "Wood/scrap piles should be removed or
2 protected."

3 Q. Do you think that's the same stockpile
4 that you were talking about on January 6th?

5 A. Probably not, I would wager.

6 Q. Okay.

7 A. I would --

8 Q. At some point --

9 A. Can you hold on a second, so I can see if
10 I can find the corresponding part on the map?

11 Q. Sure.

12 A. So the one on January 14th of 2015?

13 Q. Yes.

14 A. That was wood/scrap pile. As it's shown
15 on the map, that is not in the same location as the
16 one that -- that's not the same stockpile that is
17 referred to on the January 16th report about being
18 placed too close to the drain. Those are two
19 separate stockpiles.

20 Q. Okay. And is there any note about the
21 stockpiles near the drain, about whether those were
22 covered or not?

23 A. Not specifically. It is possible on the
24 January 6th report that the uncovered stockpiles
25 reported as active may be referring to that, or may

1 be referring to that and others, or may be referring
2 to --

3 Q. Not referring to it at all?

4 A. I can't tell just from looking at that
5 January 6th report.

6 Q. Okay. Based on your Memo, a stockpile was
7 not covered on January 6th.

8 A. Wait. Actually, does that say --
9 actually, based on the Memo in that line we were
10 reading, the second from the last row, it doesn't
11 specifically state that it was uncovered on the 6th.

12 "Stockpiles were placed close to a drain inlet.
13 The inlet is elevated above the ground height in that
14 area."

15 This deficiency was observed on January 6th.
16 So based on reading that, this deficiency seems to be
17 referring to the proximity to the drain, rather than
18 to any coverage or lack thereof.

19 Q. Okay.

20 A. So yeah, that's what that one's referring
21 to, I believe. "On January 14th the stockpiles had
22 been covered, but they had not been moved
23 sufficiently far enough away from the drain inlet."

24 So yeah, to me that means they were covered on
25 the 14th. Just from reading this part alone, I can't

1 tell that it's necessarily the case that that one
2 particular stockpile was or was not covered on the
3 6th.

4 Q. Okay. And then if we go up a little bit
5 higher, about the middle, there's a row that says,
6 the first column, it says, "Some stockpiles lacked
7 adequate cover." And then you say, "Covers were put
8 on stockpiles."

9 Do you see that?

10 A. Yes.

11 Q. Do you know if there are any corresponding
12 dates as to those observations?

13 A. From looking at this, I can't tell.
14 Typically that type of thing changes frequently. So
15 yeah, that could correspond to multiple different
16 inspections from this stack and multiple different
17 stockpiles (indicating).

18 Q. Okay. I think if you look on the pages
19 relating to the pictures, there are some things that
20 are highlighted. Do you do any of those highlights?

21 A. No, I didn't.

22 MR. BOYERS: Can we clarify what exhibit we're
23 looking at?

24 MS. BERESFORD: I'm sorry. I'm on Exhibit 12.
25 All of this last questioning was regarding Exhibit

1 12.

2 MR. BOYERS: Thank you.

3 BY MS. BERESFORD:

4 Q. Did you do the highlighting on Exhibit 12?

5 A. I did not do it.

6 Q. Was there highlighting on Exhibit 11?

7 A. Yes.

8 Q. Did you do that highlighting?

9 A. No, I did not.

10 Q. Did you ever discuss your inspection of
11 January 14th, Exhibit 11, with anyone from the Water
12 Board?

13 A. I don't believe so.

14 Q. Did you ever discuss Exhibit 12, your
15 January 16th Memo, with anyone from the Water Board?

16 A. No. I don't believe so, no.

17 MS. BERESFORD: Can we please mark this as
18 Exhibit 13.

19 (Exhibit Number 13 was marked for
20 identification.)

21 BY MS. BERESFORD:

22 Q. Have you seen this before?

23 A. Yes.

24 Q. Can you please describe what it is?

25 A. This is an e-mail from Leon Firsh to me

1 on February 4th, 2015.

2 Q. Can you explain to me the -- your
3 question?

4 A. So the first e-mail to Leon, I asked -- I
5 was asking him how he -- which of the checked boxes
6 at the top of the form he wanted me to check off.

7 Q. And what does that mean? What does that
8 matter?

9 A. As far as what does it matter? I'd say
10 that's a question for the City on how they handle it.
11 I don't know if they handle those any differently
12 based on how that's marked.

13 Q. Okay. And he says, "Permit required."

14 A. Uh-huh.

15 Q. Did that mean anything to you?

16 A. Similar to what we talked about earlier.
17 I believe that is referring to the Municipal Permit.
18 But I don't necessarily think it's -- I think it's
19 basically more -- what I gather it's interpreted more
20 this is sort of a routine, as opposed to the next
21 option, which is the follow-up.

22 Q. But to the extent it refers to the permit,
23 your interpretation is that it was referring to the
24 Municipal Permit?

25 A. Yeah. That's my -- that's what I would

Page 66

1 guess. I don't know that I received a clarification
2 from the City one way or the other at any point,
3 though.

4 MS. BERESFORD: Okay. Can we please mark this
5 as inspection -- Exhibit 14.

6 THE WITNESS: Can I take a quick bathroom
7 break?

8 MS. BERESFORD: Yes. We will go off the
9 record.

10 (A recess was taken.)

11 MS. BERESFORD: Back on the record.

12 Let's mark this, then, as Exhibit Number 14.

13 This is Exhibit Number 14 to the deposition. This is
14 Exhibit Number 13 in the documents.

15 (Exhibit Number 14 was marked for
16 identification.)

17 BY MS. BERESFORD:

18 Q. Do you recognize this document?

19 A. Yes. This is my Inspection Form from the
20 site. It looks like March 18th, 2015. I think
21 that's a 3.

22 Q. If you go to your third page, will that
23 help you find the date?

24 A. Yes, 3/18/15.

25 Q. If we could go to the second page of the

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1 Inspection Report. You indicated that there were no
2 violations; is that correct?

3 A. Yes, that is what is put there.

4 Q. And going up to sort of the central area,
5 there's a column that says, "Are wastes managed and
6 stored properly? (Solid, liquid, sanitary, concrete,
7 hazardous)."

8 And you checked that box "yes"; is that
9 correct?

10 A. Let's see. Yes.

11 Q. Now, the next line down it says, "Are
12 concrete washouts properly installed, maintained with
13 no evidence of discharges?"

14 You've checked the box "yes"; is that correct?

15 A. Uh-huh.

16 Q. And then you have some comments; is that
17 correct?

18 A. Correct.

19 Q. And what does that say?

20 A. "Concrete waste observed on ground outside
21 of washouts."

22 Q. There are some pictures attached to this
23 report; is that correct?

24 A. Yes.

25 Q. Did you take those pictures?

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1 A. I don't know.

2 Q. Do you know if there's a picture -- let's
3 go to the third page of your report. It says number
4 two, "Clean up concrete waste observed at multiple
5 locations, and ensure that all employees use washouts
6 properly."

7 Do you see that comment?

8 A. Which number are you reading?

9 Q. Number two.

10 A. Yes, I see that.

11 Q. Do you know if there are any pictures that
12 support that statement?

13 A. I see one that potentially does. So if
14 we're on the photos, the second page of photos, the
15 bottom left corner, to me there appears to be a
16 washout there. It's very difficult to tell from this
17 small photo, but that may be one of the areas
18 referenced there. Because it looks like there may be
19 some concrete material outside of the washout in the
20 foreground of the picture there.

21 Q. Are there any other photos that address
22 that comment?

23 A. Not that I can tell in these pictures.

24 Q. Did you see any evidence that the concrete
25 or waste actually discharged to the storm drain?

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1 A. I don't recall. Let me review my notes to
2 see there's anything indicating that. I do not see
3 notes so far that indicate a discharge to the storm
4 drain.

5 Q. If you go to page two of your report,
6 there's a column, a row that says, "Are the discharge
7 locations -- I'm sorry, above that, "Is the site free
8 of evidence of illegal connections and/or illicit
9 discharges?" Do you see that?

10 A. Uh-huh.

11 Q. And checked the box "yes," correct?

12 A. Yes.

13 Q. So you noticed some concrete waste
14 discharged to the ground, but you indicated that the
15 site was free of illicit discharges; is that correct?

16 A. It's free of evidence of illegal
17 connections or discharges, yes.

18 Q. And is there any highlighting on your
19 exhibit?

20 A. No.

21 Q. Did you make that highlighting?

22 A. No.

23 Q. There's some comments with boxes around
24 the photographs. Do you see that?

25 A. Yes, I see that.

19 (Pages 70 to 73)

Page 70

1 Q. Did you make those comments?
 2 A. No, I don't believe so.
 3 Q. Did you discuss this Inspection Report
 4 with anyone from the Water Board?
 5 A. I don't believe so.
 6 Q. Do you know when -- the concrete waste to
 7 the ground that you noted in this report, do you know
 8 when that was cleaned up?
 9 A. I'm not remembering, no.
 10 MS. BERESFORD: Can we mark this as Exhibit 15,
 11 please.
 12 (Exhibit Number 15 was marked for
 13 identification.)
 14 BY MS. BERESFORD:
 15 Q. Can you identify this document for me?
 16 A. This is my Inspection Form from the site
 17 on April 29th, 2015.
 18 Q. Can you go to page two.
 19 A. Uh-huh.
 20 Q. Did you note if there were any violations?
 21 A. There's no violations noted at the time.
 22 Q. No violations?
 23 A. Correct.
 24 Q. And did you get recommendations for a
 25 Correct Work?

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1 A. Let's see. I do have some recommendations
 2 on page three.
 3 Q. But on page two, you didn't indicate that
 4 there were recommended corrective actions required;
 5 is that correct?
 6 A. I did not check the "No violations;
 7 however, recommended corrective actions required"
 8 box. I did not check that. I do not know how the
 9 City presented it to the contractor, though.
 10 MS. BERESFORD: Okay. Let's go to Exhibit --
 11 this will be Exhibit Number 16.
 12 (Exhibit Number 16 was marked for
 13 identification.)
 14 Josh, could you please go make a copy of that
 15 quickly.
 16 Let's go off the record for a second.
 17 (Discussion off the record.)
 18 BY MS. BERESFORD:
 19 Q. Have you seen this document before?
 20 A. Yes.
 21 Q. Can you please --
 22 I'm sorry. We're back on.
 23 THE REPORTER: That's okay. I started typing.
 24 BY MS. BERESFORD:
 25 Q. Can you please state what it is.

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1 A. This is an e-mail thread between myself
 2 and Malik Tamimi. The last e-mail was
 3 September 14th, 2015.
 4 Q. Can you please read the second paragraph
 5 of your e-mail dated September 14th to Mr. Tamimi.
 6 A. The 10:32 a.m. one at the top?
 7 Q. Yes.
 8 A. Okay. The second paragraph?
 9 Q. Yes. Can you please read the first two
 10 sentences.
 11 A. "There were some deficiencies at Valencia
 12 last time I was there, but nothing too horrible by
 13 Valencia standards. They had actually done a pretty
 14 good job of addressing the deficiencies from their
 15 previous inspection. And the latest deficiencies
 16 were mostly new ones around areas of recent
 17 activity."
 18 Q. So based on this, did you think that they
 19 had done a good job addressing the deficiencies at
 20 the site?
 21 A. I guess, yes. I wrote that they had done
 22 a pretty good job of addressing deficiencies from the
 23 previous inspection. So yes, I would say that at
 24 that time, I did think they did a good job of
 25 addressing deficiencies.

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1 MS. BERESFORD: Okay. Let's mark this as
 2 Exhibit 17.
 3 (Exhibit Number 17 was marked for
 4 identification.)
 5 BY MS. BERESFORD:
 6 Q. Have you seen this document before?
 7 A. Yes.
 8 Q. What is the cover page?
 9 A. It's an e-mail from myself to Gary Harper
 10 on September 16th, 2015.
 11 Q. And was anything attached to this e-mail?
 12 A. Yes. There were inspection forms for
 13 Valencia, as well as two other sites.
 14 Q. An inspection for what date?
 15 A. September 15th of 2015.
 16 Q. If you look at the September 15th
 17 Inspection Form for the site that was attached to
 18 this e-mail, and you go to the bottom of page two,
 19 there's nothing indicating whether there are
 20 violations or not; is that correct?
 21 A. Correct.
 22 Q. And what is your e-mail asking?
 23 A. I was asking Gary I believe how he wanted
 24 that to be filled out. Yeah, I was asking him how he
 25 wanted me to fill that out.

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1 Q. Did Gary accompany you on your site
2 inspection on September 15th?

3 A. I don't recall. There is a chance he did.

4 MS. BERESFORD: Can we please mark this as
5 Exhibit 18. Exhibit 18 says Exhibit Number 22 at the
6 top.

7 (Exhibit Number 18 was marked for
8 identification.)

9 BY MS. BERESFORD:

10 Q. Have you seen this document before?

11 A. Yes.

12 Q. And what is this?

13 A. This is my Inspection Form of the site
14 from September 15th, 2015.

15 Q. And how does it differ from the document
16 that was attached to your September 16th e-mail?

17 A. So far I have noticed that the "Violation"
18 section on page two has been filled out. And it is
19 checked off for violation.

20 Q. Was that your decision?

21 A. I believe it was a City decision in
22 response to the e-mail included in Exhibit 17.

23 Q. So do you know what the violation of the
24 Municipal Code was?

25 A. I'm not sure what they went with there.

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1 That would probably be a Gary or Malik question,
2 since it was one of them that made that decision.

3 Q. Do you know what you noted here that was a
4 violation of the JURMP?

5 A. Let me see what they have here. Yeah,
6 just from looking at this, on September 15th, I don't
7 know if exactly when -- it sounds like there was a
8 rain event, but I don't know exactly when it was.
9 But I can't tell from here for sure if there was some
10 sort of BMP deficiency that was a violation of the
11 JURMP.

12 Q. I'd like you to look at page two. The
13 second row down it says, "Are material stockpiles
14 protected and covered?"

15 A. Uh-huh.

16 Q. Your note says, "Some small sediment piles
17 are not protected." What's a difference between a
18 sediment pile and a stockpile?

19 A. I'm not sure if I was referring here to
20 something that may have been, you know, not
21 necessarily an intentional stockpile for, you know, a
22 traditional stockpile use, but just an area where
23 some dirt had been piled up incidentally.

24 That may have been what I was referring to
25 there. That's just kind of speculation, though,

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1 based on my note. I think I might refer to something
2 like that, but I'm not positive at this point.

3 Q. Having used the term sediment pile instead
4 of stockpile, is that something different to you,
5 then? It's not a stockpile?

6 A. I would say it could technically be
7 considered different. But the -- when it comes to a
8 storm water BMP, we'd be talking about similar
9 processes that would lead to, you know, erosion or
10 sediment transport. So for BMP purposes, I would
11 feel it's appropriate to treat them similarly.

12 Q. Do you know if you saw a discharge of
13 storm water with sediment in it from the site on this
14 date?

15 A. I believe -- let's see. I believe I just
16 saw sediment that was in the gutter, according to
17 this note here, and not necessarily discharge
18 actively, actively leaving the site when I was there.

19 Q. Is there anything in this report that
20 identifies which areas are active or inactive?

21 A. Page three has a mention of inactive, but
22 it's not referring to any specific area I don't
23 think. Oh, wait. Let me see. Yeah, not really
24 referring to a specific area, but to many lots
25 throughout the site. That's the only mention I'm

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1 seeing of active and inactive.

2 Q. You say -- previously you said you saw
3 sediment in the gutter.

4 A. Uh-huh.

5 Q. Do you remember if you saw sediment
6 leaving an adjacent property on Akins Street?

7 A. I don't know. I would say I definitely
8 saw the potential for that. But I don't think I
9 actually saw -- you know, like I didn't see storm
10 water actively discharging from the site itself.
11 Likewise, I didn't see it discharging off the
12 adjacent properties because it wasn't discharging
13 there.

14 Q. Did the neighbor's property on Akins
15 Street have exposed dirt?

16 A. Yes, I believe some of the ones along
17 Akins did.

18 Q. Are there any portions of this document
19 highlighted on your copy?

20 A. No, not this one.

21 Q. Do you know if you ever discussed this
22 inspection with the Water Board?

23 A. I don't believe so.

24 Q. Have you ever discussed this site with
25 Mr. Chiu from the Water Board?

21 (Pages 78 to 81)

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1 A. I did -- I was on site one time when he
2 was there doing an inspection. So I would assume we
3 had some brief conversation. But I think other than
4 that day, I don't recall ever discussing the site
5 with him.

6 Q. Okay. Have you ever met Mr. Melbourn with
7 the Water Board?

8 A. Just that one time he was there that same
9 day, both Frank and --

10 Q. Have you ever discussed this site with him
11 other than that one-time inspection?

12 A. No. No. Not that I can think of.

13 Q. When you were on site during that
14 inspection, did they ask you any questions about your
15 prior Inspection Reports?

16 A. I don't believe they asked any questions
17 about those. I know Wayne mentioned that he had
18 received those, but I don't recall any questions
19 about those inspections.

20 Q. Have you ever discussed the site with
21 anyone else at the Water Board?

22 A. No.

23 Q. Have you ever been involved with any other
24 sites that were subject to an Administrative Civil
25 Liability Complaint from the Water Board for storm

Page 79

Page 81

1 water violations?

2 A. For construction?

3 Q. Yes.

4 A. No, I haven't.

5 Q. For any other type of storm water
6 violations?

7 A. I have worked with the City of San Diego
8 on their postconstruction structural BMP program.
9 They had received an ACL, I believe, for that.

10 Q. Okay. Are you aware that the Water Board
11 is seeking penalties of over \$800,000 for this site?

12 A. Yes.

13 Q. Are you aware of any other Water Board
14 enforcement action seeking a similar amount of
15 penalties?

16 A. I believe there was one. I've heard of
17 some they had against a couple of cities. I think
18 the City of San Diego and Encinitas I think I've
19 heard of.

20 Q. Any other private construction sites?

21 A. Not that I'm -- not that I'm aware of,
22 really.

23 MS. BERESFORD: Okay. Let's go off the record.
24 (Discussion off the record.)

25 MS. BERESFORD: I am ready to go on when

1 Mr. Nakatani is ready.

2 THE WITNESS: Okay. I'm ready. I just wanted
3 to correct or clarify in looking again at Exhibit 18.

4 I think you had asked if there was any JURMP
5 violations. I think potentially, yeah, I see now
6 that there had been some rain.

7 And I did have notes indicating at that time
8 that there weren't -- there were some deficiencies
9 regarding some erosion and sediment control. So I
10 think it is a potential, yes, that there may have
11 been some violations of the JURMP regarding erosion
12 and sediment control, BMP requirements.

13 BY MS. BERESFORD:

14 Q. Okay. Can I ask you to take a look again
15 at Exhibit 16.

16 A. Sure.

17 Q. And that's your e-mail?

18 A. Yeah.

19 Q. Where you thought that they had done a
20 pretty good job addressing their deficiencies?

21 A. Yeah. But yeah, I would say --

22 Q. And then you went down --

23 A. Yeah. It doesn't say that they had
24 resolved everything, though, necessarily. So yeah, I
25 can't tell for sure looking at these exactly, you

1 know, okay, at the time when it was falling on site,
2 if everything was free of any BMP deficiencies. But
3 yes, I agree that the Exhibit 16 does -- implicating
4 that they were doing a pretty good job compared to
5 their past history in resolving deficiencies. But
6 it's also not saying that they were completely free
7 of everything.

8 Q. Okay. And when you were out on the site
9 on the 15th, was it actually raining at that point in
10 time?

11 A. I don't think so. Based on what I can
12 remember and the note, that I saw sediment in the
13 gutter. So yeah, I think -- I think from looking at
14 this, I think this was right after it rained. But
15 like we talked about before, that was not recorded on
16 here.

17 MS. BERESFORD: Okay. Sounds good.
18 Do you have some questions?

19 I'm sorry. I have one more.

20 BY MS. BERESFORD:

21 Q. Based on your inspections, have you seen
22 any site that you thought was 100 percent perfect
23 100 percent of the time?

24 A. 100 percent of the time?

25 Q. Right.

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1 A. As in 100 percent of the time from the
2 start of the project to the end of the project?

3 Q. Yes.

4 A. Not that I have seen so far.

5 Q. Is it your experience that when you are
6 inspecting a site, you can almost always come up with
7 additional recommendations?

8 A. From my experience, I would say I can
9 usually come up with recommendations of ways to
10 improve things, yes.

11 MS. BERESFORD: Okay. Thanks very much.

12 EXAMINATION

13 BY MR. BOYERS:

14 Q. I have a few questions. Let's start with
15 Exhibit 2. If you could look at Exhibit 2.

16 A. Okay.

17 Q. And that's a copy of your December 9, 2014
18 inspection of the site.

19 A. Uh-huh.

20 Q. First, I'd like you to look at the boxes
21 two-thirds of the way down on the front page.
22 There's a number of boxes indicated in gray: "BMP,"
23 "Yes," "No," "N/A," "Description/Explanation" and
24

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1 "Effective Yes or No."

2 A. Uh-huh.

3 Q. Can you explain to me the meaning of the
4 second box over from the left, the meaning the BMP
5 yes versus no?

6 A. I believe that is just indicating whether
7 or not they're implementing that type of BMP.

8 Q. Okay. Is it possible -- and I see that
9 you've done this on a number of occasions -- where
10 you mark that box "yes," but the "Effective" box
11 "no"?

12 A. Correct. That's correct. I do find the
13 column headings a bit confusing on these. But in
14 general, yeah, I feel that the column on the far
15 right, the "Effective yes/no" is the one that's more
16 indicative of a problem. Because, you know, just
17 asking if yes or no is BMP present, as I interpret
18 the other columns to be asking, doesn't necessarily
19 mean that it's there everywhere it needs to be and
20 implemented properly. So I believe that that's the
21 intention of the form is to capture that, so --

22 Q. Is it fair to say that although the box
23 indicates a BMP, the "yes" on the left may be
24 checked, that doesn't necessarily mean that there's a
25 violation, in your opinion, of either the JURMP or

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1 the City code?

2 A. The "yes" box?

3 Q. Correct.

4 A. Yeah, I would say that's true. It does
5 not necessarily mean there's a violation.

6 Q. That a better indication of whether
7 there's a violation, in your opinion, or not is the
8 box on the right "Effective, yes or no," in the
9 description column?

10 A. I would say that the "yes or no" is my
11 indication of adequacy of the BMP, as we've discussed
12 before. The violation issue is sort of a one handled
13 by the City.

14 Q. Okay. And looking back at my notes, with
15 respect to your testimony as to how you filled out
16 these forms, you indicated that you were inspecting
17 in accordance with the City's JURMP and the City's
18 code, correct?

19 A. Yes.

20 Q. And that were not looking for compliance
21 with the construction general permit, correct?

22 A. Yes.

23 Q. Specifically on Exhibit 2, but this will
24 relate to other exhibits as well, in the "Violations"
25 section, when you indicate "no violations," is it

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1 fair to say you are not making any determination as
2 to whether there's a violation of the Construction
3 General Permit or not?

4 A. I would -- I would say that that part
5 is -- is something that the City is mainly
6 determining. So I would say they are working within
7 the context of their general Municipal Code in
8 determining, from what I've heard from them, that's
9 what they are going off of when they are calling
10 things a violation or not.

11 Q. In your discussions with the City, did
12 they indicate to you that their intent was when
13 filling out the "Violations" box, they wanted to
14 indicate whether there was a violation of a
15 Construction General Permit or not?

16 A. I don't think they ever indicated that to
17 me.

18 Q. Okay. Let's look at Exhibit 3. This is
19 related to your inspection of December 11, 2014 at
20 the site.

21 A. Uh-huh.

22 Q. Here you also indicate in the "Violations"
23 section, you checked "No violations."

24 A. Uh-huh.

25 Q. And again, I want to make -- I want to ask

23 (Pages 86 to 89)

Page 86

Page 88

1 whether you were making a determination here when you
2 checked this box whether there's a violation of the
3 Construction General Permit or not?

4 A. I would, again, say that that's how
5 that's -- has been determined by the City more. But
6 my understanding is that that's not based on the
7 General Construction Permit.

8 Q. Okay. If you could then just look at
9 Exhibit 14, Exhibit 15, and Exhibit 17. And I'll
10 indicate that Exhibit 14 and 15 also have the "No
11 violations" box noted.

12 A. Uh-huh.

13 Q. And I'll ask, is it the same testimony
14 with respect to that as the prior exhibits?

15 A. Yes, it is the same.

16 Q. And then quickly, my last question is with
17 respect to Exhibit 16, if you could pull out 16. 16,
18 the e-mail from September 14th at 10:32 a.m., the
19 second paragraph reads, "There were some deficiencies
20 at Valencia last time I was there, but nothing too
21 horrible by Valencia standards."

22 Do you see that?

23 A. Yes.

24 Q. And those are your words?

25 A. Yes.

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1 Q. Can you tell me or explain to me what you
2 mean by "Valencia standards"?

3 A. I believe I was just referring to in the
4 past there had been various times where they had
5 deficiencies that had not been corrected. So by
6 "Valencia standards," I was kind of referring to
7 their past compliance history and sometimes resolving
8 deficiencies; but a lot of times not, not promptly
9 usually. So it would get resolved or go away.

10 MR. BOYERS: Thank you. I never know when
11 you're done.

12 THE WITNESS: Sorry.

13 MR. BOYERS: Okay. That's all I have. Thanks.

14 THE WITNESS: Okay.

15 MS. BERESFORD: All right. We will conclude
16 this as we have with other deposition transcripts.
17 We're agreeing that Oppen and Varco can take custody
18 of the original transcript.

19 We will forward that to Mr. Nakatani with a
20 request for him to review in less than 30 days.
21 We'll work on a schedule that's agreeable to you.
22 You'll return those -- if you have any changes,
23 you'll return those to us. We will share those with
24 the Water Board.

25 We'll maintain custody of the original. If the

1 original is lost, the Water Board agrees that a copy
2 can be used in its place.

3 MR. BOYERS: That's fine.

4 MS. BERESFORD: All right. I think we
5 are done.

6 Oh, do you need to know if he's going to order?

7 MR. BOYERS: We will order.

8 THE REPORTER: Thanks.

9 MS. BERESFORD: We are done.

10 (Exhibit Numbers 1 through 18 were marked
11 for identification.)

12 (The deposition concluded at 11:53 a.m.)

1 ***

2
3
4
5 I declare under penalty of perjury under
6 the laws of the State of California that the
7 foregoing is true and correct.

8
9
10 Executed at _____, California,
11 on _____.

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24
25
TAD NAKATANI

Page 90

1 (STATE OF CALIFORNIA)

2
3 I, R. Jerrod Jones, CSR 11750, do hereby
4 declare:

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

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

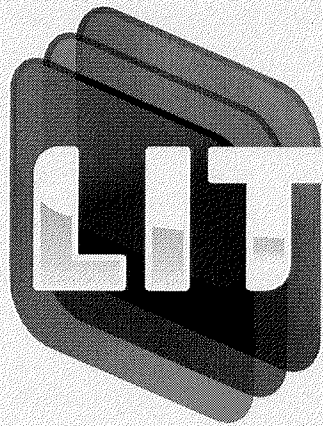
14
15 I further declare that I have no interest in
16 the event of this action.

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

21
22 WITNESS my hand this _____ day of

23 _____
24 _____
25 R. Jerrod Jones, CSR No. 11750, RPR

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