

active areas such as construction roads that are actively used to gain access to various areas of the construction site when there is less than a 50% chance of a rain in the next 48 hours. Fully protecting active areas such as roads that are actively being used to gain access to various areas of the construction site when there is less than a 50% chance of rain in the next 48 hours is not the standard of care that a reasonable or prudent person would apply in this situation.

5. For example, if a construction road is inactive, the proper Best Management Practice is to apply soil cover such as Bonded Fiber Matrix to it. However, if the construction road is active (that is, people are driving on it), the standard industry practice is to not apply a soil cover such as Bonded Fiber Matrix because the vehicles will damage the soil cover, requiring constant reapplication, which is infeasible (which is unnecessary if rain is not imminent). Furthermore, continuous application of Bonded Fiber Matrix to an active road would be both time-consuming and extremely expensive.

6. Based on my experience, unless it is currently raining or rain is imminent, the standard industry practice for stucco application is that stucco that has fallen on the ground is cleaned up and removed from the ground after it has dried (generally within 24 for 48 hours).

7. Based on my experience, it is not an industry practice for stucco installers to place plastic under scaffolding because this creates a hazard of: a) increasing the likelihood of scaffolding to move (increasing a risk of workers on the scaffolding to fall); and b) increasing the risk of workers in the area of slipping and falling. Placement of plastic under scaffolding to "catch" stucco that falls on the ground violates Occupational Safety and Health Administration regulations and is objected to by insurance companies.

8. Based on my understanding of the administrative citations and the correct work orders that San Altos received from the City of Lemon Grove during the course of the Project, I believed that the City was only inspecting the site for compliance with the City's municipal ordinances and its Jurisdictional Urban Runoff Management Plan. I did not believe that the City was inspecting the site for compliance with the Construction Stormwater Permit.

9. Wayne Chiu from the Regional Water Quality Control Board ("RWQCB") inspected the site on or about March 27, 2015. It was my understanding from that inspection that



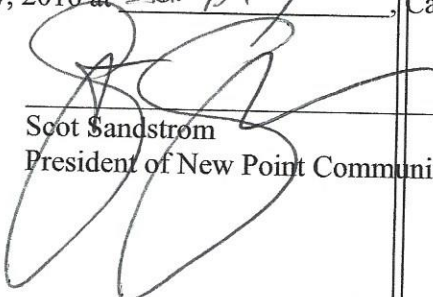
the site was generally in compliance with the Construction Stormwater Permit. Based on Mr. Chiu's feedback, and the fact that the City was not inspecting for the Construction Permit, I thought that the site was generally in compliance with the Construction Permit during the late winter and early spring of 2015.

10. On page 16 of the Technical Analysis of the Administrative Civil Liability Complaint ("ACLC") for San Altos, the Prosecution includes a photograph (referred to as Figure 11) of an alleged storm drain inlet. A true and correct copy of page 16 of the Technical Analysis for the ACLC is attached to this declaration as Exhibit B. This photograph is alleged support for an allegation that San Altos did not protect storm drain inlets. However, on May 13, 2015, the date of this photograph, this alleged storm drain inlet was not connected to the Municipal Storm Sewer Storm System ("MS4"), but instead drained to a sediment basin on the construction site.

11. New Pointe Communities, Inc. was not responsible for grading or lot improvements on the Project. To the best of my knowledge, BCA, Inc. was the supervising Land Developer for grading and lot improvements at the Site.

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

Executed this 3rd day of February, 2016 at SAN DIEGO, California.



Scot Sandstrom
President of New Pointe Communities

EXHIBIT A

J. Violation No. 10: Failure to Protect Storm Drain Inlets. (3 days)

Pursuant to section E.6. in Attachment D to the Construction Storm Water Permit, dischargers “shall ensure that all storm drain inlets and perimeter controls, runoff control BMPs, and pollutant controls at entrances and exits (e.g. tire washoff locations) are maintained and protected from activities that reduce their effectiveness.” The Discharger was in violation of section E.6. for three days: December 8, 2014; May 13, 2015, and September 15, 2015. See Figure 11. Failure to protect storm drain inlets. The violation was noted in the City Inspection Report December 8, 2014 (Exhibit No. 4); in San Diego Water Board photographs from May 13, 2015 (Exhibit No. 19), and City Inspection Report September 15, 2015 (Exhibit No. 22).



Figure 11. Failure to protect storm drain inlets. Photograph taken by Frank Melbourn, San Diego Water Board on May 13, 2015, displaying unprotected storm drain inlet. IMG_0295.jpg.
