



# California Regional Water Quality Control Board

## San Francisco Bay Region



*CHN*

Linda S. Adams  
Secretary for  
Environmental Protection

1515 Clay Street, Suite 1400, Oakland, California 94612  
(510) 622-2300 • Fax (510) 622-2460  
<http://www.waterboards.ca.gov/sanfranciscobay>

Arnold Schwarzenegger  
Governor

Date: **AUG 20 2007**  
File No. 1538.09 (JBO)

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Certified Mail Nos. 7002 0860 0006 6805 0721  
**Second Notice of Violation**

Alameda County Public Works Department  
c/o Daniel Woldesenbet, Ph.D., P.E., Director  
399 Elmhurst St.  
Hayward, CA 94544

Certified Mail Nos. 7002 0860 0006 6805 0738  
Alameda County Community Development Agency  
c/o James "Buzz" Sorensen, Director  
224 W. Winton Ave. Rm 110  
Hayward, CA 94544

Certified Mail Nos. 7002 0860 0006 6805 0745  
Alameda County General Services Agency  
c/o Aki Nakao, Director  
1401 Lakeside Dr. 10th Floor  
Oakland, CA 94612

Certified Mail Nos. 7002 0860 0006 6805 0752  
County of Alameda California  
Susan Muranishi, County Administrator  
1221 Oak St #555  
Oakland, CA 94612

**Subject: Second Notice of Violation of the Alameda Countywide Clean Water Program NPDES Municipal Stormwater Permit and Technical Report Requirement Pursuant to Water Code Section 13267**

Dear Mr. Woldesenbet, Mr. Sorensen, Mr. Aki, and Ms. Muranishi:

This Second Notice of Violation provides formal notice that Alameda County continues to be in violation of its National Pollutant Discharge Elimination System Permit (NPDES Permit No. CAS0029831, Order No. R2-2003-0021).

The County's lack of response to the May 2, 2007, Notice of Violation (NOV) requirement for a report by July 20, 2007, on the Group 1 and 2 projects that have been approved without stormwater source controls, site design, and/or stormwater treatment is unacceptable. The County gives no justification for a three month delay in reporting this information, and proposes no interim work products.

Within two weeks from the date of this NOV, the County shall submit a list of public and private development projects that include one acre or more of impervious surface with applications that were deemed complete after February 15, 2005, and projects with 10,000 square feet or more of impervious surface with applications that were deemed complete after August 15, 2006. To ensure the information is complete, please use the same format as the attached C.3.n. Sample Reporting Tables for Group 1 and Group 2 Projects. If the County requests a further delay in response, it shall: submit a detailed explanation and schedule; report information collected to date; and, provide interim reports on a biweekly basis, until it has submitted a complete response, acceptable to the Executive Officer. This requirement is in addition to the NOV requirements of the May 2, 2007, which are still in effect.

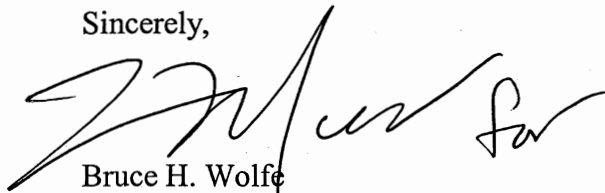
**WATER CODE § 13267 INFORMATION**

This is a formal requirement for technical reports pursuant to California Water Code Section 13267. The Water Board needs the required information to assess the extent of the noncompliance and ensure that future new and redevelopment projects that are subject to Provision C.3. requirements are regulated by Alameda County. You are being required to submit this information because stormwater pollution controls are necessary to protect water quality in Alameda County and the San Francisco Bay. Failure to respond or late response to this requirement may subject you to additional civil liability imposed by the Board to a maximum amount of \$5000 per day. Any extensions of the time deadline set forth above must be confirmed in writing by Board staff.

Please be informed that the County may be subject to an enforcement action for violation of the Permit. Pursuant to §13385 of the California Water Code, the Board may impose administrative civil liability of up to \$10,000 per day of each violation.

If you have any questions, please contact Jan O'Hara of my staff at (510) 622- 5681 or [johara@waterboards.ca.gov](mailto:johara@waterboards.ca.gov).

Sincerely,



Bruce H. Wolfe  
Executive Officer

Attachments: C.3.n. Sample Reporting Tables for Group 1 and Group 2 Projects  
Instructions for Reporting Tables  
California Water Code Section 13267 Fact Sheet

cc: Robert Hale, via email



# California Regional Water Quality Control Board

## San Francisco Bay Region



Linda S. Adams  
Secretary for  
Environmental  
Protection

1515 Clay Street, Suite 1400, Oakland, California 94612  
(510) 622-2300 • Fax (510) 622-2460  
<http://www.waterboards.ca.gov/sanfranciscobay>

Arnold Schwarzenegger  
Governor

### Fact Sheet – Requirements For Submitting Technical Reports Under Section 13267 of the California Water Code

#### **What does it mean when the regional water board requires a technical report?**

Section 13267<sup>1</sup> of the California Water Code provides that "...the regional board may require that any person who has discharged, discharges, or who is suspected of having discharged or discharging, or who proposes to discharge waste...that could affect the quality of waters...shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires."

#### **This requirement for a technical report seems to mean that I am guilty of something, or at least responsible for cleaning something up. What if that is not so?**

The requirement for a technical report is a tool the regional water board uses to investigate water quality issues or problems. The information provided can be used by the regional water board to clarify whether a given party has responsibility.

#### **Are there limits to what the regional water board can ask for?**

Yes. The information required must relate to an actual or suspected or proposed discharge of waste (including discharges of waste where the initial discharge occurred many years ago), and the burden of compliance must bear a reasonable relationship to the need for the report and the benefits obtained. The regional water board is required to explain the reasons for its request.

#### **What if I can provide the information, but not by the date specified?**

A time extension may be given for good cause. Your request should be promptly submitted in writing, giving reasons.

#### **Are there penalties if I don't comply?**

Depending on the situation, the regional water board can impose a fine of up to \$5,000 per day, and a court can impose fines of up to \$25,000 per day as well as criminal penalties. A person who submits false information or fails to comply with a requirement to submit a technical report may be found guilty of a misdemeanor. For some reports, submission of false information may be a felony.

#### **Do I have to use a consultant or attorney to comply?**

There is no legal requirement for this, but as a practical matter, in most cases the specialized nature of the information required makes use of a consultant and/or attorney advisable.

#### **What if I disagree with the 13267 requirements and the regional water board staff will not change the requirement and/or date to comply?**

You may ask that the regional water board reconsider the requirement, and/or submit a petition to the State Water Resources Control Board. See California Water Code sections 13320 and 13321 for details. A request for reconsideration to the regional water board does not affect the 30-day deadline within which to file a petition to the State Water Resources Control Board

#### **If I have more questions, whom do I ask?**

Requirements for technical reports indicate the name, telephone number, and email address of the regional water board staff contact.

<sup>1</sup> All code sections referenced herein can be found by going to [www.leginfo.ca.gov](http://www.leginfo.ca.gov).

## Instructions for C.3.n. Reporting Tables 1 and 2 (Summary of Group 1 and 2 Projects)

**Project Name, Number, Location, and Street Address** – Include the following information:

Name of the project;  
Number of the project (if applicable);  
Location of the project with cross streets; and  
Street address of the project (if available).

**Name of Developer, Project Phase Number, Project Type, and Project Description** – Include the following information:

Name of the developer;  
Project phase name and/or number (only if the project is being developed in phases);  
Type of development (i.e., new and/or redevelopment);  
Type of units to be constructed (e.g., 5-story office building, retail and residential development (apartments), industrial warehouse, single-family homes and condominiums);  
Number of units (e.g., 160 single-family homes with five 4-story buildings to contain 200 condominiums, 100 unit 2-story shopping mall)

**Project Watershed** – State the name of the watershed that runoff from the project will flow to and include water bodies that the initial watershed is tributary to.

**Site Acreage** – State the total site area or square footage of land disturbance, in acres or square feet.

**New or Replaced Impervious Surface** – State the area of new or replaced impervious surface created, in acres or square feet.

**Status of Project** - State the stage of development of the project (e.g., conceptual only, development review, plan review) and include the following dates:

Project application submittal date. If a project is still in the development review stage, we recommend that it be included in the table with an estimate of when the application will be submitted (month and year);  
Project application “deemed complete” date is the date that the Discharger/municipality’s Planning Department has enough information in sufficient detail to adequately review the project’s specifications, calculations, source control measures, site design measures, and sizing criteria used for the proposed post-construction treatment BMPs.  
Project application approval (by Planning Department) date. If project is in plan review stage, estimate when application will be approved (month and year); and  
Scheduled or actual completion date (month and year).

**Source Control Measures BMPs** – List all source control measures that have been or will be included in the project.

**Site Design Measures BMPs** – List all site design measures that have been or will be included in the project.

**Post-Construction Treatment BMPs Onsite** - List all the post-construction treatment BMPs (treatment control measures) designed for installation or installed at the site.

**Operation and Maintenance Responsibility Mechanism** – List the legal mechanism(s) that have been or will be used to assign responsibility for the maintenance of the post-construction treatment BMPs.

**Hydraulic Sizing Criteria Used** – List the hydraulic sizing criteria used for the project.

### **Alternative Compliance**

**Basis of Impracticability** – If onsite post-construction treatment BMPs are found to be impracticable, state the basis of impracticability.

**Alternative Compliance Measures** – Alternative Compliance Measures are provisions to treat offsite an equivalent surface area, pollutant loading or quantity of stormwater runoff, or to provide other equivalent water quality benefit, such as stream restoration or other activities that limit or mitigate impacts from excessive erosion or sedimentation. The offsite location of this equivalent stormwater treatment or water quality benefit shall be within the same stormwater runoff drainage basin and treating runoff discharging to the same receiving water, where feasible. The discussion under this column will vary depending upon the type of alternative compliance provided:

Alternative Compliance Offsite: Name and location of project where offsite alternative compliance will be provided. On a separate page, give a narrative description of the alternative compliance project that will be funded by the project proponent in lieu of installing treatment BMPs onsite. Include the location of the alternative site, the post-construction treatment BMPs installed at the alternative site, and the project's dollar amount contribution to the alternative site.

Alternative Compliance with Regional Project: If the project proponent participates in a Regional Project, on a separate page, give a narrative discussion of the Regional Project, including its goals, duration, total estimated Regional Project cost, and the dollar amount of contribution from the project and how it was calculated.

No Alternative Compliance: State the reason(s) why alternative compliance measures were not required. If the reason is because onsite treatment BMPs will be installed, put n/a (not applicable) for the entry.

**HMP** – Give a brief description of any Hydromodification Plan controls included in project. [HMP discussion not mandatory for Table 2.]

**Pesticide Reduction Measures Included in Project** – List the measures included in the project design/construction to reduce the need to use pesticides.

**C.3.n. Sample Reporting Table 1 - Group 1 Projects, City of Eden Annual Report FY 2004-05**

Project Name; Project Number; Location (cross streets); Street Address	Name of Developer; Project Phase No. <sup>1</sup> ; Project Type and Description	Project Watershed	Site Acreage (or square footage of land disturbance)	New or Replaced Impervious Surface Area	Status of Project	Source Control Measures BMPs	Site Design Measures BMPs	Post- Construction Treatment BMPs Onsite	Operation & Maintenance Responsibility Mechanism	Hydraulic Sizing Criteria Used	Alternative Compliance		HMP <sup>4</sup>	Pesticide Reduction Measures Included in Project
											Basis of Impracticability	Alternative Compliance Measures <sup>2,3</sup>		
<b>Private Projects</b>														
Nirvana Estates; Project #05-122; Property bounded by Paradise Lane, Serenity Drive, and Eternity Circle; Eden, CA	Heavenly Homes; Phase 1; Construction of 156 single-family homes and 45 townhomes with commercial shops and underground parking.	Runoff from site drains to Babbling Brook, tributary to Chattering Creek, tributary to Rumbling River	25 acres	20 acres	Application submitted 12/29/03; Application deemed complete 1/30/04; Application approved 6/06/04; Construction completed 6/30/05.	Stenciled inlets, street sweeping, covered parking, car wash pad drains to sanitary sewer	Pervious pavement for all driveways, sidewalks, and commercial plaza	vegetated swales, detention basins,	Conditions of Approval require Homeowners Association to perform regular maintenance. Written record will be made available to City inspectors.	WEF Method	n/a	n/a	Detention basin at Peace Park and contributed to in- stream projects in Babbling Brook and Chattering Creek	Homeowners Association to send periodic mailings to homeowners on alternative pest management; pest resistant plants & mulch to prevent weeds.
Barter Heaven; Project #05-345; Shoppers Lane & Bargain Avenue; 14578 Shoppers Lane, Eden, CA	Deals Galore Development Co.; Demolition of strip mall and parking lot and construction of 500-unit 5-story shopping mall with underground parking and limited outdoor parking.	Runoff from site drains to Bargain River, tributary to Debtor's Lagoon	4 acres	3.7 acres	Application submitted 7/9/04; Application approved 8/6/04; Construction scheduled for completion by 12/05.	Stenciled inlets, trash enclosures, underground parking, street sweeping	One-way aisles to minimize outdoor parking footprint; roof drains to planter boxes	tree wells with bioretention; planter boxes with bioretention	Conditions of Approval require property owner (landlord) to perform regular maintenance. Written record will be made available to City inspectors.	BMP Handbook Method	n/a	\$ 250,000 paid to Renew Regional Project sponsored by Riverworks Foundation, 243 Water Way, Eden, CA 408-345-6789	Renew Project includes treatment and hydromodifica- tion Controls	Pest resistant plants & mulch to prevent weeds; Screens on all outdoor vents.
New Beginnings; Project No. #05- 456; Hope Street & Chance Road; 567 Hope Boulevard, Eden, CA	Fresh Start Corporation; Demolition of warehouse and construction of a 5- story building with 250 low-income rental housing units.	Runoff from site drains to Poor Man Creek, tributary to Rich Man River, tributary to Abundance Slough	5 acres	1 acre	Application submitted 2/9/04; Application deemed complete 6/10/04; Application approved 10/6/04; Construction scheduled for completion 1/06.	Trash enclosures, underground parking, street sweeping, car wash pad drains to sanitary sewer	roof drains to landscaping	parking runoff flows to six bioretention units/gardens	Conditions of Approval require property owner (landlord) to perform regular maintenance. Written record will be made available to City inspectors.	not sized	Non-profit subsidized housing - hydraulically-sized treatment BMPs cost is 5% of total project cost.	Waived from Treatment BMPs and Alternative Compliance - project is 100% low- and moderate-income housing (Health & Safety Code 50093).	n/a	Landlord to send periodic mailings to renters on alternative pest management; pest resistant plants & mulch to prevent weeds.
<b>Public Projects</b>														
Gridlock Relief; Project No. #05- 999; Highway 123/I-880 Interchange; Eden, CA	CalTrans; Construction of new freeway interchange and widening of Highway 123 by the addition of two exit lanes.	Runoff from site drains to Congestion River, tributary to San Francisco Bay	5 acres	2 acres	Application submitted 7/9/04; Application approved 10/6/04; Construction began 1/30/05 and scheduled for completion 10/05.	none	Filter strips along exit lanes with runoff directed to bioretention trench.	Bioretention trenches for treating runoff from exit lanes and bioretention (rain garden) at bottom of cloverleaf design for interchange structure.	Signed statement from CalTrans assuming post- construction responsibility for treatment BMP maintenance.	WEF Method	n/a	n/a	Treatment Units are sized to detain increased runoff.	Pest resistant plants & mulch to prevent weeds

<sup>1</sup> If a project is being constructed in Phases, each Phase should have a separate entry.

<sup>2</sup> On separate page, give a discussion of the alternative compliance site, the treatment BMPs installed, the calculations used to size the treatment BMPs installed, and the project's dollar amount contribution to the alternative compliance site.

<sup>3</sup> For Regional Projects, on separate page, discuss how the dollar amount paid into the Regional Project was calculated. Also, provide summary of what the Regional Project is (e.g., goals, duration, total estimated cost).

<sup>4</sup> If hydromodification control is not required, state why not. If hydromodification control is required, describe the control method used and attach the pre-and post-project hydrographs.

C.3.n. Sample Reporting Table 2 - Group 2 Projects, City of Waterville Annual Report FY 2004-05

Project Name; Project Number; Location (cross streets); Street Address	Name of Developer; Project Phase No. <sup>1</sup> ; Project Type and Description	Project Watershed	Site Acreage (or square footage of land disturbance)	New or Replaced Impervious Surface Area	Status of Project	Source Control Measures BMPs	Site Design Measures BMPs	Post- Construction Treatment BMPs Onsite	Operation & Maintenance Responsibility Mechanism	Hydraulic Sizing Criteria Used	Alternative Compliance		Pesticide Reduction Measures Included in Project
											Basis of Impracticability	Alternative Compliance Measures <sup>2,3</sup>	
<b>Private Projects</b>													
Waterfall Corner; Project #05-567; Liquid Lane and Flowing Drive; 14578 Liquid Lane, Waterville, CA	H <sub>2</sub> O Development Co.; Construction of corner 10- unit strip mall with underground and limited outdoor parking.	Runoff from site drains to Rapid River, tributary to Lolling Lagoon	1 acre	30,000 ft <sup>2</sup>	Application submitted 7/1/05; Application deemed complete 7/14/05; Application approved 8/6/05; Construction scheduled for completion by 12/06.	Stenciled inlets, trash enclosures, underground parking, street sweeping	One-way aisles to minimize outdoor parking footprint; roof drains to planter boxes	tree wells with bioretention; planter boxes with bioretention	Conditions of Approval require property owner (landlord) to perform regular maintenance. Written record will be made available to City inspectors.	BMP Handbook Method	n/a	n/a	Pest resistant plants & mulch to prevent weeds; Screens on all outdoor vents.
<b>Public Projects</b>													
Waterville Downtown Plaza; Project No. #05-999; Rushing Road and Bubbling Blvd; 123 Rushing Road, Waterville, CA	City of Waterville; Capital improvement project to build plaza on roof of existing parking structure.	Runoff from site drains to Crystal Creek, tributary to Pristine River, tributary to San Francisco Bay	1.5 acres	21,000 ft <sup>2</sup>	Application submitted 6/25/05; Application deemed complete 7/13/05; Application approved 7/26/05; Construction began 8/3/05 and scheduled for completion 10/05.	Downspouts connected to landscaping	Pervious pavement for entire plaza area	tree wells with bioretention; planter boxes with bioretention	Signed statement from Waterville Public Works assuming post- construction responsibility for treatment BMP maintenance.	WEF Method	n/a	n/a	Pest resistant plants & mulch to prevent weeds

<sup>1</sup> If a project is being constructed in Phases, each Phase should have a separate entry.

<sup>2</sup> On separate page, give a discussion of the alternative compliance site, the treatment BMPs installed, the calculations used to size the treatment BMPs installed, and the project's dollar amount contribution to the alternative compliance site.

<sup>3</sup> For Regional Projects, on separate page, discuss how the dollar amount paid into the Regional Project was calculated. Also, provide summary of what the Regional Project is (e.g., goals, duration, total estimated cost).