



California Regional Water Quality Control Board

San Francisco Bay Region



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Arnold Schwarzenegger
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March 11, 2009
CIWQS Place No. 241761

Mr. Daniel Woldesenbet, Ph.D., P.E.

Director of Public Works
County of Alameda
Public Works Agency
399 Elmhurst Street
Hayward, California 94544-1307

Chris Bazar, Director

Community Development Agency
County of Alameda
Public Works Agency
399 Elmhurst Street
Hayward, California 94544-1307

Subject: Compliance with Notice of Violation dated May 4, 2007

Dear Mr. Woldesenbet and Mr. Bazar:

We received your letter dated July 17, 2008 regarding the County of Alameda's compliance with our Notice of Violation and CWC Section 13267 requirement letter to the County dated May 4, 2007 (May 2007 CWC Section 13267 letter). Your letter requests that we rescind the May 2007 CWC Section 13267 Letter because the County has (1) continued to comply with its National Pollutant Discharge Elimination System Permit No. CAS0029831, Order No. R2-2003-0021 (Permit) and (2) rapidly responded to each of our requests for information and documentation.

As stated in the May 2007 CWC Section 13267 letter, the County violated a number of requirements listed under Provision C.3. of its Permit. This letter lists the outstanding Permit violations and the inadequate, incomplete, and late responses the County provided to May 2007 CWC Section 13267 letter. This letter will conclude by informing you of staff's recommendation to pursue Administrative Civil Liability against Alameda County for violations of its Permit and CWC Section 13267.

County Violated NPDES Permit No. CAS0029831, Order No. R2-2003-0021

We issued the May 2007 CWC Section 13267 requirement letter after the County violated a number of requirements listed under Provision C.3. of its Permit. We compiled the specific violations listed on Page 2 of the May 2007 CWC Section 13267 letter based on our review of the County's 2005-2006 Annual Report and the three meetings held with Public Works Agency, Community Development Agency, and General Services Agency on January 26, February 22,

and March 20, 2007. As of today, the following Permit violations have yet to be corrected based on the County's 2007-2008 Annual Report and the technical reports submitted by the County required by the CWC Section 13267 letter:

- Provision C.3.j.ii.3., Revise site design approval process and implement site design standards by November 15, 2005
- Provision C.3.k., Implement source control measures by February 15, 2005

Responses to Requirement for Information and Documentation

The May 2007 CWC Section 13267 letter required two technical reports.

1. The first technical report due on July 20, 2007 required two lists:
 - a. A list of projects containing one acre or more of impervious surface and not deemed complete as of February 15, 2005, that have received planning approval without stormwater site design, source control, and/or stormwater treatment sized as required under Provision C.3.; and
 - b. A list of projects containing 10,000 sq.ft. or more of impervious surface and not deemed complete as of August 15, 2006, that have received planning approval without stormwater site design, source control, and/or stormwater treatment sized as required under Provision C.3.
2. The second technical report, the corrective action plan, due on June 15, 2007 required the County to identify how the County will correct each violation and what steps the County has taken, or plans to take, to comply with all Provision C.3. requirements.

The County failed to adequately complete the requirements of the May 2007 CWC Section 13267 letter after time extensions and repeated requests from our office.

Time Extension

The May 2007 CWC Section 13267 letter required the submittal of a technical report by July 20, 2007 and the corrective action plan by June 15, 2007. Upon request by the County, we extended the deadline for the corrective action plan to July 20, 2007.

Lack of Response

We issued a second Notice of Violation on August 20, 2007 because the County did not provide complete information on the Group 1 and 2 projects that have been approved without stormwater source controls, site design, and/or stormwater treatment. In fact, the County said it would not submit the required information until November 15, 2007. This second Notice of Violation required submittal of the lists of Group 1 and 2 projects within 2 weeks.

Incomplete and Inadequate Responses

The July 20, 2007 corrective action plan was submitted on time by the County. However, in many instances the County stated that compliance with Section C.3. of the permit *would be* achieved by an unstated date. The corrective action plan is evidence that the County did not comply with certain requirements in Provision C.3. of its Permit by the required deadlines.

Late Responses

On September 4, 2007, the County submitted lists for Group 1 and 2 projects, 45 days after the original due date of July 20, 2007.

On May 27, 2008, we asked the County to send in documentation for the County's Operation and Maintenance Verification program. This was a requirement of the May 2007 CWC Section 13267 letter. We received the documentation by email on August 11, 2008, 1,503 days late based on the Permit requirement.

Conclusion

Based on our review of the County's 2006 to 2008 Annual Reports, meetings held with your staff in early 2007, review of the responses to the two Notices of Violation, and the file review on May 14, 2008, we have determined that the County has violated its Permit and CWC Section 13267. We are preparing an Administrative Civil Liability Complaint against Alameda County for violations of its Permit and CWC Section 13267.

Permit Violations

The County did not comply with the following requirements in Provision C.3. of its Permit:

Section	Action Not Completed
C.3.b.	List modifications made to development approval process in the 2004 and 2005 Annual Reports.
C.3.b.	Modify project review process as needed to comply with all of Provision C.3. by February 15, 2005.
C.3.c.	Delineate process by which all applicable new and redevelopment projects are identified.
C.3.e.	Discuss details of the Operation and Maintenance Verification Program in the 2005 Annual Report.
C.3.e.	Implement an Operations and Maintenance verification program for Group1 projects by July 1, 2004.
C.3.e.	Describe details of the Operations and Maintenance verification program in the 2005 Annual Report.
C.3.j.	Summarize the status of review, revision, and implementation of Site Design Measures and Guidance in the 2004 and 2005 Annual Reports.
C.3.j.	Summarize how any revisions to site design standards and/or guidance have been incorporated into the local approval process in the 2005 Annual Report.
C.3.j.	Incorporate revisions to site design standards into local approval process and fully implement site design standards and guidance by November 15, 2005.
C.3.k.	Summarize how any revisions to source control measures have been implemented in the 2005 Annual Report.
C.3.k.	Implement source control measures by February 15, 2005
C.3.n.i.	Provide impervious data in the 2006 and 2007 Annual Reports.
C.3.n.ii.	Provide data for treatment measures used and numeric-sizing criteria employed, the O&M responsibility mechanism, and site design measure and source control measures in the 2006, 2007, and 2008 Annual Reports.

CWC Section 13267 Violation

The County failed to submit complete and adequate technical reports by the specified date as required by the May 2007 CWC Section 13267 as described earlier in this letter.

Should you have further questions regarding this letter, please contact Selina Louie at 622-2383 or email her at SLouie@waterboards.ca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tom Mumley', written in a cursive style.

Thomas E. Mumley
Assistant Executive Officer