

**Title:** NPDES Construction Violations Investigation Inspection Policy and Procedures and Progressive Enforcement Policy

**Reference Document:** SJ CO. SWMP 2008

**SWMP Section:** 6-19

**Issuance/Effective Date:** 9/30/08

**Revised Date:** 12/30/08

**Authors:** Justin Padilla, Engineering Asst. I

**Approved by:** Maria Hinsey, Community Infrastructure Division

## **NPDES Construction Investigation-Enforcement Management**

### **Investigation/Inspection Procedures:**

When a construction project has been permitted, or if a construction site that may or may not be permitted is brought to Community Infrastructure Division (CID) Storm Water Management attention, a Construction *File* is initiated by the NPDES investigator. The Construction *File* will typically contain a copy of the NPDES Construction Permit, if on file, correspondence, inspection reports, photographs, communications record with the violators, complainants, witnesses or their representatives, and other pertinent information pertaining to the construction.

The following investigation/inspection procedures apply:

1. The NPDES investigator initiates a *Construction File*. The Construction Files are filed by an ID number assigned by Phase, then water year, and then the order in which the Permit is received (ex. P1-0708-001) and are located in a designated filing cabinet within the CID office. Phase I Files are kept together in blue folders. Phase II Files are kept together in green folders. Electronic copies of photos and notices will be saved on the CID server drive. The investigator conducts an investigation of the construction site once every two to four weeks, more often during the rainy season. Pictures are taken, inspections forms are filled, violations may be noted, samples of materials may be taken, any witnesses or parties to the action may be interviewed and any other evidence collected to investigate any incident. As needed, the investigator may call other County departments to assist with the incident such as the Fire Department, Sheriff, Environmental Health or Emergency Services. The incident is also reported to the NPDES Program Manager.
2. A chronology of the events is logged in the *Chrono Log* (Sample attached). The *Chrono Log* is filed inside of the front of Construction File.
3. All pertinent information relating to the enforcement is entered in the *Construction Project Inventory* (Sample attached). Once the construction is completed and a final inspection is made, updates are made to the

*Construction File and Chrono Log.* Final notations are made in green font indicating the file is closed and the *Construction File* is closed.

**Progressive Enforcement Policy for Complaints/Alleged Violations:**

San Joaquin County's Ordinance Title 5 – Health and Sanitation, Division 10 – Storm Water Management and Discharge Control, Chapter 4 Inspection and Enforcement provides the NPDES investigator the authority to investigate, inspect and enforce complaints and alleged violations of storm water management. San Joaquin County Ordinances can be found at:

**<http://municipalcodes.lexisnexis.com/codes/sanjoaquinweb>**

Pursuant to San Joaquin County's NPDES Permit and Stormwater Management Plan, the following progressive enforcement shall be taken for construction or post-construction occurrences.

1. First enforcement action is a verbal warning, if anyone is present during the time of inspection. The enforcement action and date of communication is entered into the *Construction File and the Chrono Log*.

The NPDES investigator will perform a follow-up/final inspection, prepare a report and take pictures. The follow-up actions will be entered into the *Construction File and Chrono Log* and any follow-up material filed in the *Construction File*. Once the matter is cleaned-up, updates are made to the *Construction File and Chrono Log*.

2. Second progressive enforcement action is the issuance of a letter (**Warning Notice or Notice to Clean**). This letter must be sent Certified Mail with return receipt. The Certified Mail receipt is stapled to the copy of the letter and filed in the *Construction File*. Notation is made in the *Chrono Log and the Construction File* of the issuance of the Notice. The owner/violator will be given ten (10) days from the mailing date to respond and to clean up the incident/violation. If an imminent hazard to life or property exists, a shorter time frame may be required. Should the letter be returned, the address must be changed and a new letter generated, sent out and copy retained in the *Construction File*. Updated entries must be made in the *Construction File and Chrono Log*.

The NPDES investigator will perform a follow-up/final inspection, prepare a report and take pictures. The follow-up actions will be entered into the *Construction File and Chrono Log* and any follow-up material filed in the *Construction File*.

3. Third progressive enforcement action is issuance of a **Notice of Violation**. The Notice is sent Certified Mail return receipt. The Certified Mail receipt is stapled to the copy of the Notice and filed in the *Construction File*. Notation is made in the *Chrono Log and the Construction File* of the issuance of the Notice. The owner/violator is given twenty-one (21) days from the mailing date to respond and to clean up the incident/violation. If an imminent hazard to life or property exists a shorter time frame may be required. Should the letter be returned, the address must be changed and a new letter generated, sent out and copy retained in the *Construction File*. Updated entries must be made in the *Construction File* and *Chrono Log*.

The NPDES investigator will perform a follow-up/final inspection, prepare a report and take pictures. The follow-up actions will be entered into the *Construction File and Chrono Log* and any follow-up material filed in the *Construction File*.

4. Fourth progressive enforcement as stipulated under San Joaquin County Ordinance 5-10312 ADMINISTRATIVE ENFORCEMENT, the NPDES investigator may issue an *Order to Cease and Desist* a discharge, practice, operation or construction for compliance with a requirement. The Order shall set a reasonable period of time to cure the action in a manner satisfactory to the County NPDES investigator. The Order shall be hand delivered whenever possible or sent Certified Mail return receipt. Notation is made in the *Chrono Log and the Construction Project Inventory* of the issuance of the Notice.

The NPDES investigator will perform a follow-up/final inspection, prepare a report and take pictures. The follow-up actions will be entered into the *Chrono Log and Construction Project Inventory* and any follow-up material filed in the *Construction File*. Once the matter is clean-up a final inspection letter is sent to the owner/violator of the property, updates are made to the *Chrono Log and Construction Project Inventory*. Final notations are made in green font indicating the file is closed and the *Construction File* is closed.

In the event the owner/violator fails to conduct the required activities described in the Order the NPDES enforcement may cause such required described in the Notice and the cost thereof shall be invoiced to the owner of the Property. If the invoice is not paid within sixty (60) days, a lien may be placed upon the property (Ord. 3966 Section 1 (part), 1998).

5. Fifth progressive enforcement action is a **referral letter to San Joaquin District Attorney and the California Regional Water Quality Control Board State** with copy to the owner/violator sent by Certified Mail. The Certified Mail receipt is stapled to the copy of the letter and action noted in the Chrono Log and Construction Log and filed in the *Construction File*. Notation is made in the *Chrono Log and the Construction Project Inventory* of the issuance of the

referral letter. Final notations are made in **red** font indicating the file is closed on our end and all matters have been referred to the proper authorities.

**Note:** If a construction site has received three notices for significant violations within a twelve (12) month period, the County will notify the Regional Water Board. The construction site referral is made in writing within 30 days of the inspection that led to the third notice. Additionally, at the County's discretion, based upon circumstances involving violation, gravity and/or location.

Attachments:

Chrono Log  
Construction Inspection Form  
Construction Project Inventory