



Linda S. Adams
Acting Secretary for
Environmental Protection

California Regional Water Quality Control Board
North Coast Region
Geoffrey M. Hales, Chairman

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Edmund G. Brown Jr.
Governor

May 24, 2011

Rief Dieter, J and R. Living Trust
C/o Mr Dieter Rief
3195 Regional Parkway
Santa Rosa, CA 95403

Dear Mr. Rief:

Subject: NOTICE OF VIOLATION: Unauthorized Activities Involving Discharge of
Fill Material into Surface Waters

File: Rief Dieter, J. and R. Living Trust, Waste Discharge Identification Number
(WDID) 1B11053CNSO

This letter serves to notify you that you are in violation of multiple provisions of law for which the California Regional Water Quality Control Board, North Coast Region (Regional Water Board) may impose civil liability, and that you may be subject to enforcement action for engaging in the following activities on your property located at 4232 Grange Road, Santa Rosa, California, APN 049-080-077:

- Discharging waste, as defined by the California Water Code (CWC) section 13050), to waters of the State and/or United States (U.S.) without filing a report of waste discharge and without an appropriate permit from the Regional Water Board; and
- Conducting fill activities, including but not limited to the unauthorized discharge of earthen materials to, and removal of vegetation from or adjacent to, waters of the State and U.S., without authorization from the U.S. Army Corps of Engineers and/or the issuance of a state water quality certification by the Regional Water Board.

On December 3 and December 6, 2010, Regional Water Board staff (Staff) inspected your property located at 4232 Grange Road, Santa Rosa. During the inspection(s), Staff observed that fill activities had occurred within a tributary stream within the Matanzas Creek watershed, and that soil, sediment, and other earthen material had been discharged into the waters of the State and of the United States. Staff observed that trees had been cut down and vegetation was removed along the stream channel,

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and that areas of the stream bed had been excavated and that rip rap had been installed. An inspection report that provides a written record of the observations made by Staff during the inspections is enclosed with this Notice of Violation.

The discharge and/or placement of waste into waters of the State and/or U.S., without filing a report of waste discharge, violates CWC sections 13260, 13264, and 13376 and CWA section 301 (33 U.S.C. § 1311). CWC sections 13260 and 13376, respectively, require that a person who discharges or proposes to discharge waste that could affect the quality of the waters of the State, or who discharges or proposes to discharge pollutants to the navigable waters of the U.S. within the jurisdiction of the State, shall file a report of waste discharge. Pursuant to CWC section 13264, no person shall initiate any new discharge prior to the filing of a waste discharge report as required by CWC section 13260. CWA section 301 prohibits the unpermitted discharge of pollutants to waters of the U.S.

Additionally, the Basin Plan prohibits the discharge and/or the placement or disposal of *“soil, silt, bark, slash, sawdust, or other organic and earthen material from any logging, construction, or associated activity of whatever nature into any stream or watercourse in the basin in quantities deleterious to fish, wildlife, or other beneficial uses.”* The Basin Plan also contains specific narrative and numeric water quality objectives for inland surface waters of the North Coast Region (pages 3-3.00 – 3-11.00) that include limitations on sediment, floating material, suspended material, color, and turbidity. The unregulated excavation and placement of waste into and/or where it could enter the stream on your property violated the prohibitions set forth in the Basin Plan. Those activities also created or threatened to create a condition of pollution or nuisance by increasing or potentially increasing levels of sediment, turbidity, floating, and suspended materials in violation of the Basin Plan’s water quality objectives.

Further, dredge and fill activities in waters of the U.S. require authorization from the U.S. Army Corps of Engineers under section 404 of the CWA and issuance of a state water quality certification by the Regional Water Board under section 401 of the CWA. As we have no record of such authorization or certification for your property, you are in violation of the CWA sections 404 and 401.

Pursuant to CWC sections 13261 and 13265, respectively, you may be subject to administrative civil liability in an amount not to exceed \$1,000 for each day you continue to fail to submit a report of waste discharge and for each day you discharge waste prior to filing that a report. Additionally, pursuant to CWC section 13385 you may be subject to administrative civil liability in an amount not to exceed \$10,000 per day of violation or judicial civil liability in an amount not to exceed \$25,000 per day of violation for violations of CWC section 13376, CWA sections 301, 401, and/or 404, and the Basin Plan, which are described above. In order to avoid incurring additional violations, you must immediately cease any activities that involve the discharge or placement of waste

into the stream located on your property. The Regional Water Board reserves the right to take any enforcement action authorized by law.

No later than July 1, 2011, please submit an application package for a 401 certification/Waste Discharge Requirements to Mr. Stephen Bargsten of the Regional Water Board staff at (707) 576-2653 or by email at sbargsten@waterboards.ca.gov or contact Mr. Bargsten to discuss the necessary actions you must take to come into compliance. For your convenience, an electronic link to an application for Water Quality Certification/Waste Discharge Requirements is enclosed below.

Sincerely,

David F. Leland
Chief, Watershed Protection Division

Certified Mail Return Receipt Required

Enclosure: Application for Water Quality Certification and/or Waste Discharge Requirements (Dredge/Fill Projects) may be downloaded at:
http://www.swrcb.ca.gov/northcoast/water_issues/programs/wqc_docs/090211-401-Application.doc

Cc: Captain Steven Riske, California Department of Fish and Game, P.O. Box 47,
Yountville, CA 94599
Laurie A. Monarres, U.S. Army Corps of Engineers.
Laurie.a.monarres@usace.army.mil

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