

**STATE OF CALIFORNIA  
REGIONAL WATER QUALITY CONTROL BOARD  
SANTA ANA REGION**

<b>In the matter of:</b>	)	<b>Order No. R8-2010-0070</b>
	)	<b>for</b>
<b>Mr. Robert Zemel</b>	)	<b>Administrative Civil Liability</b>
<b>Starranch Management, LLC</b>	)	
<b>5165 Green River Road</b>	)	
<b>Corona, CA 92880</b>	)	

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The California Regional Water Quality Control Board, Santa Ana Region (hereinafter Regional Board), held a hearing on December 9, 2010 to receive testimony and take evidence on the allegations contained in Complaint No. R8-2010-0056, dated September 15, 2010 and on the recommendation for the imposition of penalties pursuant to Water Code Section 13385 in the amount of \$233,000. The Regional Board finds as follows:

1. On August 19, 1999, the State Water Resources Control Board (State Board) adopted Waste Discharge Requirements, Order No. 99-08-DWQ (NPDES No. CAS000002), General Permit for Discharges of Storm Water Associated with Construction Activity (General Permit). The General Permit was renewed as Order No. 2009-009-DWQ in 2009. The General Permit requires dischargers of storm water from construction sites to obtain permit coverage prior to the start of construction activities. Mr. Zemel and/or Starranch own and/or have control over property identified by Assessor's Parcels Number: 101-200-004, 101-200-005, 101-200-006, 101-200-007, 101-200-008, 101-200-009, 101-200-010, 101-200-012, 101-210-011, 101-210-014, 101-210-017, 101-210-019, and 101-210-021, at the commonly known addresses of 5115 and 5165 Green River Road in the unincorporated area of Riverside County, California. Some portions of the site are located along Mendimen Ranch Road. The total acreage is 123.52 acres.
2. On December 31, 2004, staff visited the site and determined that construction activities were taking place at the site. The site had not obtained coverage under the General Permit.
3. On February 15, 2005, Regional Board staff issued a Notice of Non-Compliance (NNC) to Corona Highlands, Inc., the owner of record. The NNC required the responsible party to obtain General Permit coverage by March 14, 2005. During another site visit on March 8, 2005, Regional Board staff met with Bob Zemel at the site. Mr. Zemel told staff that he had a long term lease for the property and he was responsible for the activities at the site. Regional Board staff told Mr. Zemel about the February 15, 2005 NNC and the need to get coverage under the General Permit. (During an October 7,

2010 site inspection, Mr. Zemel acknowledged to Regional Board staff that he currently owns the parcels listed above.)

4. On March 9, 2005, Jeffrey L. Farano, an attorney representing Mr. Zemel, requested for an extension (during a phone conversation that was confirmed by a letter from Mr. Farano dated March 9, 2005) of the filing date for the NOI to April 6, 2005. As Starranch failed to file a NOI by that date, a second NNC was issued on May 2, 2005. Mr. Zemel claimed that the activities at the site were agricultural and therefore, exempt from the General Permit requirements. Regional Board staff noted several activities at the site, including construction of buildings for commercial purposes, which required coverage under the General Permit. Mr. Zemel was informed that the activities at the site were considered as construction activities requiring coverage under the General Permit.
5. During an inspection on September 3, 2009, Regional Board staff noted a completed arena for horses, a restaurant, and an events facility offering "Wild West Entertainment" and other new structures. There are 23 structures on the site. Some of the graded slopes along the entrance road had not been stabilized and continue to have erosion problems as evidenced by the erosion rills. A voicemail message was left at the facility's known phone number right after the inspection identifying the continued violations at the site.
6. On July 21, 2010, Regional Board staff re-inspected the site and found that the slopes had not been stabilized. Regional Board staff spoke to Mr. Zemel on August 9, 2010, and sent him an e-mail with photos of the areas that had known erosion problems. Mr. Zemel was again notified that he needed to get coverage under the General Permit and come into compliance with the General Permit.
7. As of November 18, 2010, Mr. Zemel or Starranch have not obtained coverage under the General Permit.
8. CWC Section 13376 requires any person proposing to discharge wastes to file a report of the discharge in compliance with the procedures set forth in Section 13260. By failing to obtain coverage under the General Permit, Mr. Zemel and Starranch violated CWC Section 13385 subdivision (a)(1).
9. CWC Section 13385 subdivision (c) states that civil liability may be imposed administratively on a per day basis at \$10,000 for each day in which the violation occurs.
10. CWC Section 13385 subdivision (e) specifies factors that the Regional Board shall consider in establishing the amount of civil liability. The Water Quality Enforcement Policy (the Policy) adopted by the State Board on November 19, 2009, establishes a methodology for assessing administrative civil liability pursuant to this statute. Use of the methodology addresses the factors in CWC section 13385(e). These factors are evaluated and assigned a numeric value. Utilizing the methodology in the

Policy, Regional Board staff calculated the penalty for the violations cited above and a copy of the calculations is attached to this order.

11. On September 15, 2010, the Division Chief issued Administrative Civil Liability (ACL) Complaint No. R8-2010-0056 to Mr. Zemel and Starranch proposing that the Regional Board impose a penalty of \$233,000 on Mr. Zemel/Starranch for the violations cited above. On October 7, 2010, staff visited the site, met with Mr. Zemel at the site, and discussed Starranch's lack of response to the ACL. On October 12, 2010, staff sent Mr. Zemel an electronic copy of the ACL by electronic mail. On October 26, 2010, Mr. Zemel confirmed his receipt of the electronic copy of the ACL.

12. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 2100 et seq.) in accordance with Section 15321, Chapter 3, Title 14, California Code of Regulations.

**IT IS HEREBY ORDERED** that, pursuant to California Water Code Section 13385(c), a penalty shall be imposed on Mr. Zemel and Starranch, in the amount of \$233,000, as proposed in Complaint No. R8-2010-0056 for the violations cited, payable as set forth below.

1. Mr. Robert Zemel and Starranch Management, LLC are jointly and severally liable for the assessed amount and shall pay \$233,000 to the State Water Resources Control Board by January 10, 2011.

The Executive Officer is authorized to refer this matter to the Attorney General for enforcement.

Pursuant to Water Code Section 13320, you may petition the State Water Resources Control Board for review of this order. If you choose to do so, you must submit the petition to the State Board within 30 days of the Regional Board's adoption of this order.

I, Kurt V. Berchtold, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an order adopted by the California Regional Water Quality Control Board, Santa Ana Region, on December 9, 2010.

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Kurt V. Berchtold  
Executive Officer