

EDMUND G. BROWN JR.  
GOVERNOR

MATTHEW RODRIGUEZ  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION

## California Regional Water Quality Control Board, San Diego Region

May 13, 2013

**Certified Mail – Return Receipt Requested**

Article Number: 7011 0470 0002 8961 5858

Eileen Rivard  
40205 Calle Cabernet  
Temecula, CA 92591

**In reply refer to / attn:**

793587: dbradford

**Subject: Notice of Violation No. R9-2012-0085, Eileen Rivard**

To Eileen Rivard:

Enclosed is Notice of Violation (NOV) No. R9-2013-0085 issued to Eileen Rivard (Discharger), for violations of Water Code (Water Code) Section 13260 for failure to file a Report of Waste Discharge (ROWD) and Water Code Section 13050 for failure to comply with Waste Discharge Prohibitions Nos. 1 & 14 of the Water Quality Control Plan for the San Diego Basin issued by the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board). As described in the NOV, the violations are subject to further enforcement pursuant to the Water Code. The San Diego Water Board reserves the right to take any enforcement action authorized by law.

Please provide the San Diego Water Board a written response by June 14, 2013 that either confirms the violations have been corrected or identifies a date by which the violations will be corrected.

In making the determination of whether and how to proceed with further enforcement action, the San Diego Water Board will consider the severity and effect of the violation, the level of cooperation, the time it takes to correct the identified violations, and the sufficiency of the corrections.

In the subject line of any response, please include the information located in the heading of this letter: "in reply refer to." For questions pertaining to the subject matter, please contact Darren Bradford at (858) 637-7137 or [DBradford@waterboards.ca.gov](mailto:DBradford@waterboards.ca.gov).

Respectfully,

A handwritten signature in blue ink, appearing to read "Kelly Dorsey".

Kelly Dorsey  
Senior Engineering Geologist  
Regional Water Quality Control Board

KKD:dlb

Enclosure: Notice of Violation No. R9-2013-0085  
Exhibit A: Facility Inspection Report, dated March 28, 2013

cc (electronic copy):

Peggy Bartels  
U.S. Army Corps of Engineers  
Regulatory Division  
Peggy.J.Bartels@usace.army.mil

Daniel Orr  
California Department of Fish and Game  
Daniel.Orr@wildlife.ca.gov

Chandra Thomas  
County of Riverside  
Environmental Compliance Division  
CTHOMAS@rctlma.org

David Smith  
U.S. Environmental Protection Agency  
Wetlands Regulatory Office  
R9-WTR8-Mailbox@epa.gov

Bill Orme  
State Water Resources Control Board  
Division of Water Quality  
Stateboard401@waterboards.ca.gov

CIWQS:

Tech Staff Info & Use	
File No.	R9-2013-0085
WDID	9000002594
Reg. Measure ID	389972
Place ID	793587
Party ID	539683
Violation ID	946898

California Regional Water Quality Control Board, San Diego Region

In reply refer to / attn:  
793587:dbradford

May 13, 2013

**NOTICE OF VIOLATION**  
**No. R9-2013-0085**

Eileen Rivard  
40205 Calle Cabernet  
Temecula, CA 92591

Calle Cabernet  
File Number R9-2013-0085

**Violations of  
Water Code Section 13260, 13050 and  
Water Quality Control Plan for the San  
Diego Basin,  
Waste Discharge Prohibition Nos.1 & 14**

Eileen Rivard is hereby notified that the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) reserves the right to take any enforcement action authorized by law for the violations described herein.

The City is in violation of the following: Water Code (Water Code) Section 13260 for failure to file a Report of Waste Discharge (ROWD), WC Section 13050 for failure to comply with the Water Quality Control Plan for the San Diego Basin (Basin Plan) and Waste Discharge Prohibitions Nos. 1 & 14.

**A. Summary of Violations**

**1. Failure to File a ROWD for Waste Discharge Requirements**

- a. Pursuant to Water Code Section 13260, the discharge of dredged or fill material by any person, any person discharging waste, or proposing to discharge waste, within any region that could affect the quality of the waters of the state shall file with the appropriate regional board a report of the discharge, containing the information required by the regional board.

- b. The San Diego Water Board did not receive a ROWD for the discharge of waste to Unnamed Drainage associated with vineyard grading activities. Dredging, filling, or excavation within waters constitutes a discharge of waste to waters of the State and prospective dischargers are required to submit a report of waste discharge to the appropriate Regional Water Quality Control Board. The Discharger did not file a ROWD or pay the appropriate fee.

## **2. Failure to Comply with the Basin Plan, Waste Discharge Prohibition No. 1**

- a. Pursuant to Waste Discharge Prohibition No.1 of the Basin Plan, the discharge of waste into waters of the State in a manner causing, or threatening to cause, a condition of pollution, contamination or nuisance as defined in Water Code Section 13050, is prohibited.
- b. The discharge of fill to streams has the potential to result in alteration or elimination of the Beneficial Uses associated with the water body. The Unnamed Drainage is a tributary to Santa Gertrudis Creek. Beneficial Uses assigned to Santa Gertrudis Creek and its tributaries include MUN, AGR, IND, PROC, REC1, REC2, WARM and WILD. Construction of the Project in and over the "Unnamed Drainage" has eliminated the Beneficial Uses of the "Unnamed Drainage" in that location. Alteration of hydrologic characteristics results in diminished quality of in-stream and riparian habitat for flora and fauna in the "Unnamed Drainage" and downstream. Furthermore, construction of the Project has the potential to result in the discharge of pollutants to the remaining portion of the "Unnamed Drainage" and Santa Gertrudis Creek, resulting in the degradation of downstream Beneficial Uses.

## **3. Failure to Comply with the Basin Plan, Waste Discharge Prohibition No. 14**

- a. Pursuant to Waste Discharge Prohibition No.14 of the Basin Plan, the discharge of sand, silt, clay, or other earthen materials from any activity, including land grading and construction, in quantities which cause deleterious bottom depositions, turbidity or discoloration in waters of the State or which unreasonably affect, or threaten to affect, beneficial uses of such waters is prohibited.
- b. A discharge of waste including earthen materials has occurred within waters of the State. The discharged material remains in waters of the State.

**B. Potential Enforcement Actions**

These violations may subject you to additional enforcement by the San Diego Water Board or State Water Resources Control Board, including a potential civil liability assessment of up to \$5,000 per day and/or any of the following enforcement actions:

Other Potential Enforcement Options	Applicable Water Code Section
Technical or Investigative Order	Sections 13267 or 13383
Cleanup and Abatement Order	Section 13304
Cease and Desist Order	Sections 13301-13303

In making the determination of whether and how to proceed with further enforcement action, the San Diego Water Board will consider the severity and effect of the violation, the level of cooperation, the time it takes to correct the identified violations, and the sufficiency of the corrections. In addition, the San Diego Water Board may consider referring the matter to other resource agencies, referring the matter to the State Attorney General for injunctive relief, and referral to the municipal or District Attorney for criminal prosecution.

In the subject line of any response, please include the reference number 793587:dbradford. For questions or comments pertaining to this Notice of Violation, please contact Darren Bradford at (858) 637-7137 ([DBradford@waterboards.ca.gov](mailto:DBradford@waterboards.ca.gov)) or Dat Quach at (858) 467-2978 ([DQuach@waterboards.ca.gov](mailto:DQuach@waterboards.ca.gov)).



Kelly Dorsey, P.G.  
Senior Engineering Geologist

KKD:dlb

Attachment:

Exhibit A: Facility Inspection Report, dated March 28, 2013.

Tech Staff Info & Use	
File No.	R9-2013-0085
WDID	9000002594
Reg. Measure ID	389972
Place ID	793587
Party ID	539683
Violation ID	946898

Facility: 40205 Calle Cabernet, Temecula, CA;  
 Inspection Date: 3/28/2013

APN# 943-210-008 and 943-210-009

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD - SAN DIEGO REGION  
 WATERSHED PROTECTION PROGRAM**

**EXHIBIT A  
 FACILITY INSPECTION REPORT**

**FACILITY:** 40205 Calle Cabernet, Temecula, CA  
**INSPECTION DATE/TIME:** March 28, 2013, 0930-1230 hrs

**WDID/FILE NO.:** No Report of Waste Discharges (ROWD) has been filed

**REPRESENTATIVE(S) PRESENT DURING INSPECTION:**

NAME: <u>Dat Quach</u>	AFFILIATION: <u>San Diego Water Board</u>
NAME: <u>Darren Bradford</u>	AFFILIATION: <u>San Diego Water Board</u>
NAME: _____	AFFILIATION: _____

<u>Eileen M. Rivard</u>	_____
NAME OF OWNER, AGENCY OR PARTY RESPONSIBLE FOR DISCHARGE	FACILITY OR DEVELOPER NAME (if different from owner)
<u>40205 Calle Cabernet, Temecula, CA 92591</u>	_____
OWNER MAILING ADDRESS	FACILITY ADDRESS
<u>(951) 970-5831</u>	_____
OWNER CONTACT NAME AND PHONE #	FACILITY OR DEVELOPER CONTACT NAME AND PHONE#

**APPLICABLE WATER QUALITY LICENSING REQUIREMENTS:**

- |  |  |
|--|--|
| <input type="checkbox"/> MS4 URBAN RUNOFF REQUIREMENTS | <input checked="" type="checkbox"/> GENERAL OR INDIVIDUAL WASTE DISCHARGE REQUIREMENTS OR NPDES  |
| <input type="checkbox"/> CONSTRUCTION GENERAL PERMIT   | <input checked="" type="checkbox"/> GENERAL OR INDIVIDUAL WAIVER OF WASTE DISCHARGE REQUIREMENTS |
| <input type="checkbox"/> CALTRANS GENERAL PERMIT       | <input checked="" type="checkbox"/> SECTION 401 WATER QUALITY CERTIFICATION                      |
| <input type="checkbox"/> INDUSTRIAL GENERAL PERMIT     | <input type="checkbox"/> CWC SECTION 13264   |

**INSPECTION TYPE (Check One):**

- "A" TYPE COMPLIANCE--COMPREHENSIVE INSPECTION IN WHICH SAMPLES ARE TAKEN. (EPA TYPE S)
- "B" TYPE COMPLIANCE--A ROUTINE NONSAMPLING INSPECTION. (EPA TYPE C)
- NONCOMPLIANCE FOLLOW-UP--INSPECTION MADE TO VERIFY CORRECTION OF A PREVIOUSLY IDENTIFIED VIOLATION.
- ENFORCEMENT FOLLOW-UP--INSPECTION MADE TO VERIFY THAT CONDITIONS OF AN ENFORCEMENT ACTION ARE BEING MET.
- COMPLAINT--INSPECTION MADE IN RESPONSE TO A COMPLAINT.
- PRE-REQUIREMENT--INSPECTION MADE TO GATHER INFO. RELATIVE TO PREPARING, MODIFYING, OR RESCINDING REQUIREMENTS.
- NO EXPOSURE CERTIFICATION (NEC) - VERIFICATION THAT THERE IS NO EXPOSURE OF INDUSTRIAL ACTIVITIES TO STORM WATER.

Facility: 40205 Calle Cabernet, Temecula, CA;

APN# 943-210-008 and 943-210-009

Inspection Date: 3/28/2013

NOTICE OF TERMINATION REQUEST FOR INDUSTRIAL FACILITIES OR CONSTRUCTION SITES - VERIFICATION THAT THE FACILITY OR CONSTRUCTION SITE IS NOT SUBJECT TO PERMIT REQUIREMENTS.

COMPLIANCE ASSISTANCE INSPECTION - OUTREACH INSPECTION DUE TO DISCHARGER'S REQUEST FOR COMPLIANCE ASSISTANCE.

### INSPECTION FINDINGS:

Y WERE VIOLATIONS NOTED DURING THIS INSPECTION? (YES/NO/PENDING SAMPLE RESULTS)

The land owner (Eileen Rivard) cleared and filled approximately 0.028 acres (400 linear feet) of streambed within waters of the State. The fill site is located within an unnamed ephemeral stream, tributary to the Santa Gertrudis Creek and thence the Santa Margarita River.

Substantial evidence was observed that grading activities resulted in sedimentation of the streambed downstream of the property.

Total area disturbed is approximately 4.95 acres.

Grading activities were conducted without 401 Water Quality Certification, Report of Waste Discharge (ROWD), or Waste Discharge Requirements (WDRs).

### I. COMPLIANCE HISTORY / PURPOSE OF INSPECTION

1. San Diego Water Board staff was contacted by the downstream land owners reporting that the upstream neighbor filled in a waterway as part of the development of a vineyard.
2. A site visit was conducted on March 28, 2013, with the County of Riverside and the downstream land owners. Followed by a discussion with the property owner and her vineyard project engineers.
3. No ROWD or application for Section 401 Water Quality Certification has been received by the San Diego Water Board.
4. A search in our SMARTS database reveals that no NOI has been processed for the construction activities for this project.

### II. RECOMMENDATIONS AND ADDITIONAL COMMENTS

Applicant was instructed to not perform any type of construction related activities within waters of the State until/unless all applicable permits are obtained, except for installation and maintenance of BMPs. Exposed areas should be stabilized and re-vegetated with native species appropriate for the area, monitored and maintained for successful reestablishment.

The illegal fill should be removed and waters of the US/State should be restored to pre-project conditions, unless the discharger obtains all necessary permits and conducts compensatory mitigation for impacts and temporal loss of functionality. The restoration & mitigation project(s) need to be compatible with the future land use of the property. All disturbed areas should be stabilized.

Bioengineering techniques should be used to minimize impacts to on-site waters where practicable.

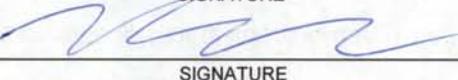
### III. SIGNATURE SECTION

Darren Bradford  
STAFF INSPECTOR

  
SIGNATURE

3/28/2013  
INSPECTION DATE

Kelly Dorsey  
REVIEWED BY SUPERVISOR

  
SIGNATURE

3/13/13  
DATE

Facility: 40205 Calle Cabernet, Temecula, CA;

APN# 943-210-008 and 943-210-009

Inspection Date: 3/28/2013

CIWQS:

Tech Staff Info & Use	
File No.	R9-2013-0085
WDID	9000002594
Reg. Measure ID	389972
Place ID	793587
Party ID	539682
Violation ID	946898

The following pictures were taken by Dat Quach and Darren Bradford on 1/6/2012 at the southeast corner of Warren Road and East Benton Road, Temecula, CA:

1: Downstream end of disturbance, looking upstream.



2: Raised Stream Channel and Rip Rap Drop Structure, Looking Upstream.



3: Rip Rap Drop Structure and Sand Bags.



4: Sediment Leaving Property.



1: Stream Channel and Banks Cleared and Filled for Vineyard.



2: Constructed Drainage Swales and Best Management Practices.



3: Former Stream Channel Converted to Vineyard.



8: Upstream End of Vineyard.



9: Upslope Clearing for Vineyard and Access Road.

