

EDMUND G. BROWN JR.
GOVERNOR

MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

San Diego Regional Water Quality Control Board

March 1, 2016

Certified Mail – Return Receipt Requested
Article Number: 7011 0470 0002 8961 9283

Mr. Kurt Bruskotter
CalAtlantic Homes
16010 Camino Del Sur
San Diego, CA 92127

In reply refer to / attn:
822106:RMitchell

Subject: Notice of Violation No. R9-2016-0070, CalAtlantic Homes, Black Mountain Ranch Disposal Site, San Diego County

Mr. Bruskotter:

Enclosed is Notice of Violation (NOV) No. R9-2016-0070 issued to CalAtlantic Homes, hereinafter the Dischargers, for violations of Water Code sections 13260 and 13264, and Waste Discharge Prohibitions in the *Water Quality Control Plan for the San Diego Basin* (Basin Plan).¹ As described in the NOV, the violations are subject to further enforcement pursuant to the Water Code. The California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) reserves the right to take any further enforcement action authorized by law.

To avoid further enforcement action by the San Diego Water Board on these violations, **the Dischargers must take immediate actions to provide the San Diego Water Board with a work plan and schedule for removal of the waste discharge at the CalAtlantic Homes property.** Under the authority of Water Code section 13267, the Discharger must provide the San Diego Water Board with a technical work plan and schedule detailing the activities and timeframes for the removal of all wastes from the Property, and the legal disposal of waste excavated from the Property. The work plan must be received by the San Diego Water Board no later than **5:00 pm on March 30, 2016.**

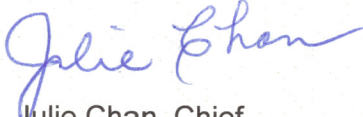
Please submit all future responses to the San Diego Water Board by email.² Email submittals must include a signed cover/transmittal letter (with the facility name, facility contact information, and reference code: **822106:RMitchell**), and be sent via email to sandiego@waterboards.ca.gov. Information required by this NOV should be emailed to sandiego@waterboards.ca.gov. Routine email correspondence, however, may be sent to individual San Diego Water Board staff members. If you have any specific questions about email submittal procedures, please contact our Mission Support Unit staff Ms. Cleo Munoz at 619-521-3384 or cleo.munoz@waterboards.ca.gov.

¹ Water Quality Control Plan – San Diego Region, Chapter 4 – Implementation, page 16:
http://www.waterboards.ca.gov/sandiego/water_issues/programs/basin_plan/docs/update082812/Chpt_4_2012.pdf

² See public notification on electronic reporting on-line at:
http://www.waterboards.ca.gov/sandiego/docs/Electronic_Reporting_Sept2014.pdf

Questions concerning the NOV should be directed to Mr. Roger Mitchell at 619-521-5898 or roger.mitchell@waterboards.ca.gov.

Sincerely,



Julie Chan, Chief
Groundwater Protection Branch
JAC:jro:rnm

Enclosure: Notice of Violation No. R9-2016-0070

Tech Staff Info & Use	
Reg. Measure ID	404748
Place ID	822106
Party ID	554657; 554658
Violations ID	1003395; 1003396; 1003397

NOTICE OF VIOLATION

No. R9-2016-0070

Mr. Kurt Bruskotter
CalAtlantic Homes
16010 Camino Del Sur
San Diego, CA 92127

**Violations of Water Code,
Sections 13260 and 13264, and
Provisions of the Water Quality
Control Plan for the San Diego Basin**

March 1, 2016

CalAtlantic Homes, hereinafter the Discharger, 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 Discharger is in violation of Water Code sections 13260 and 13264, and a Waste Discharge Prohibition specified in the *Water Quality Control Plan for the San Diego Basin* (Basin Plan). The violations described and documented below were identified by San Diego Water Board staff on February 11, 2016 during a joint inspection and investigation with the Solid Waste Local Enforcement Agency for the City of San Diego (City). The inspection was performed at the CalAtlantic Home site (hereinafter the Property),¹ on which the Discharger maintains an area² for the collection and disposal of waste materials incurred as part of the manufacturing of residential homes located adjacent to Lusardi Creek (see Figure 1 below).

A. Summary of Violations

1. Failure to Submit a Report of Waste Discharge

Section 13260(a) of the Water Code requires that any persons discharging waste or proposing to discharge waste within the San Diego region, that could affect the quality of the waters of the State, must submit a report of waste discharge (ROWD) and an annual fee.³ A complete ROWD (Form 200)⁴ must contain sufficient information for the San Diego Water Board to prescribed waste discharge requirements (WDRs).

After discussions with Mr. Kurt Bruskotter,⁵ during the inspection, staff was able to confirm that an ROWD for the discharge of solid wastes on the Property had not been filed with the San Diego Water Board.

¹ The CalAtlantic Homes residential homes site is located west of the intersection of Camino Del Sur and Del Sur Court in San Diego, California. The Global Positioning System coordinates for the locations of the waste management unit is 33.005228; -117.127941.

² The waste management unit has an approximate footprint of 250,000 square feet, and estimated volume of 7,500,000 cubic feet.

³ Pursuant to Water Code section 13263, and in accordance with Cal. Code Regs. title 23, section 2200(a).

⁴ http://www.waterboards.ca.gov/sandiego/publications_forms/forms/docs/form200m.pdf

⁵ Mr. Bruskotter is Vice President of Land Development for the Discharger.

2. Initiating a New Discharge of Waste to Land

Section 13264(a) of the Water Code requires that no person shall initiate any new discharge of waste prior to submitting a ROWD,⁶ and satisfying the requirements of the California Environmental Quality Act (CEQA).

During the February 11 inspection, San Diego Water Board staff observed that the Discharger initiated a discharge of wastes, including stockpiling and burial of wastes discharged to land as shown in photographs 1 through 6.



Photograph 1: Top deck of lower disposal area.



Photograph 2: Waste observed onsite.



Photograph 3: Waste observed onsite.



Photograph 4: Waste observed onsite.



Photograph 5: Waste observed onsite.



Photograph 6: Edge of disposal area.

⁶ In accordance with Water Code section 13260.



Figure 1: Aerial photograph of the CalAtlantic Homes property, and approximate disposal site area location.

3. Failure to Comply with the Basin Plan, Waste Discharge Prohibition

Waste discharge prohibition No. 1 of the Basin Plan⁷ requires that discharges of waste to 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. Waters of the State include both surface water and groundwater. According to the Basin Plan map,⁸ the Property is located in the San Dieguito hydrologic unit, and the Solana Beach hydrologic area.⁹

During the February 11 inspection Mr. Bruskotter confirmed that wastes being discharged at the Property mostly include concrete, roof tiles, scrap lumber, and drywall. San Diego Water Board staff also observed polyvinyl chloride (PVC) pipe fragments,¹⁰ fiberglass insulation, and steel rebar and nails. During the inspection, City staff expressed concerns that other wastes, which may pose a threat to the environment, may be disposed of at the Property.

To avoid further enforcement action by the San Diego Water Board on these violations, **the Discharger must take immediate actions to provide the San Diego Water Board with a work plan and schedule for removal of the wastes discharged at the Property.** In accordance with Water Code section 13267, the Discharger must provide the San Diego Water Board with a technical work plan detailing the activities and a schedule for the removal of all wastes from the Property, and the legal disposal of waste excavated from the Property. The work

⁷ Basin Plan, Chapter 4 – Implementation, page 16:

http://www.waterboards.ca.gov/sandiego/water_issues/programs/basin_plan/docs/update082812/Chpt_4_2012.pdf

⁸ http://www.waterboards.ca.gov/sandiego/water_issues/programs/basin_plan/docs/sdrwqcb_basinplanmap.pdf

⁹ Chapter 3 of the Basin Plan specifies that water quality objectives for groundwater in the Solana Beach hydrologic area are applicable easterly of the easterly boundary of Interstate Highway 5.

¹⁰ Fragments also contain PVC primers and adhesives.

plan must be received by the San Diego Water Board no later than **5:00 pm on March 30, 2016**.

B. Summary of Potential Enforcement Options

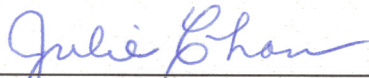
The violations cited above may subject the Dischargers to additional enforcement by the San Diego Water Board or State Water Board, including a potential civil liability assessment of \$5,000 per day of violation (Water Code section 13268) and/or any of the following enforcement actions:

Enforcement Actions	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
Time Schedule Order	Sections 13300, 13308

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.

Please submit all responses to the San Diego Water Board by email.¹¹ The email submittals must include a signed cover/transmittal letter (with the facility name, facility contact information, and reference code: **822106:RMitchell**), and be sent via email to sandiego@waterboards.ca.gov. Routine email correspondence, however, may be sent to individual San Diego Water Board staff members. If you have any specific questions about email submittal procedures, please contact Ms. Cleo Munoz at 619-521-3384 or cleo.munoz@waterboards.ca.gov.

In the subject line of any response, please include the reference code **822106:RMitchell**. Please contact Mr. Roger Mitchell at 619-521-5898, or at Roger.Mitchell@waterboards.ca.gov if you have any questions.



Julie Chan, Chief
Groundwater Protection Branch

JAC:jro:rmm

Tech Staff Info & Use	
Regulatory Measure	404748
Place ID	822106
Party ID	554658
Violations ID	1003395; 1003396; 1003397

¹¹ See public notification on electronic reporting on-line at: http://www.waterboards.ca.gov/sandiego/docs/Electronic_Reporting_Sept2014.pdf