

EDMUND G. BROWN JR.  
GOVERNOR

MATTHEW RODRIGUEZ  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION

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

March 11, 2016

**NOTICE OF VIOLATION  
No. R9-2016-0075**

Mr. Charles Pace  
4030 Goldfinch Investments LLC  
3750 Sports Arena Blvd., Suite 6  
San Diego, CA 92110

ResQue Ranch  
15732 Highland Valley Road

**Violations of the California Water Code,  
State Water Resources Control Board  
Order No. 2009-0009-DWQ, and Water  
Quality Control Plan for the San Diego  
Basin**

PIN No. SM-843964:CArias

CHARLES PACE, 4030 GOLDFINCH INVESTMENTS LLC 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.

CHARLES PACE, 4030 GOLDFINCH INVESTMENTS LLC is in violation of 1) California Water Code section 13260, 2) State Water Resources Control Board Order No. 2009-0009-DWQ, *National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities* (Construction General Permit), and 3) the Water Quality Control Plan for the San Diego Basin (Basin Plan).

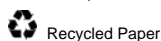
**A. Summary of Violations**

**1. Failure to File a Report of Waste Discharge**

- a. **Pursuant to California Water Code section 13260:** 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.

HENRY ABARBANEL, CHAIR | DAVID GIBSON, EXECUTIVE OFFICER

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- b. **Observation:** On January 19, 2016, the San Diego Water Board conducted an inspection of ResQue Ranch, located at 15732 Highland Valley Road in Escondido, California. Construction on the 5-acre property had been active for several months. As part of construction activities, Mr. Pace (herein referred to as “the Discharger”) placed fill within waters of the State (culvert and headwall; see Figures 5-6 of Attachment 1: Facility Inspection Report dated January 19, 2016). Dredging, filling, or excavation within receiving 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 report of waste discharge with the San Diego Water Board or pay the appropriate fee.

## 2. Failure to File Permit Registration Documents

- a. **Pursuant to Provision II.B.1 of Order No. 2009-0009-DWQ:** The Legally Responsible Person (LRP<sup>1</sup>) must obtain coverage under this Construction General Permit.
- b. **Pursuant to Provision II.B.2 of Order No. 2009-0009-DWQ:** To obtain coverage, the LRP must electronically file Permit Registration Documents (PRDs) prior to the commencement of construction activity. Failure to obtain coverage under this Construction General Permit for storm water discharges to waters of the United States is a violation of the Clean Water Act and the California Water Code.
- c. **Pursuant to Provision II.B.3 of Order No. 2009-0009-DWQ:** PRDs shall consist of:
- Notice of Intent (NOI)
  - Risk Assessment
  - Site Map
  - Storm Water Pollution Prevention Plan
  - Annual Fee
  - Signed Certification Statement

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<sup>1</sup> Appendix 5 of the Construction General Permit defines the LRP as typically the project proponent. The Construction General Permit states that the following persons or entities may serve as the LRP: A person, company, agency, or other entity that possesses a real property interest (including, but not limited to, fee simple ownership, easement, leasehold, or other rights of way) in the land upon which the construction or land disturbance activities will occur for the regulated site. For purposes of this Notice of Violation, the term “LRP” is equivalent to the term “discharger” as defined in the CWC.

- d. **Observation:** The Discharger began construction activities at 15732 Highland Valley Road on or after February 7, 2015 (see Figure 3 of Attachment 1: Facility Inspection Report dated January 19, 2016). Although the site was subject to regulation under the Construction General Permit because it exceeded 1 acre, the Discharger failed to file PRDs prior to the commencement of construction activity. At the time of the San Diego Water Board inspection on January 19, 2016, the Discharger was not enrolled in the Construction General Permit. The Discharger subsequently filed PRDs and obtained coverage under the Construction General Permit on January 29, 2016.

### 3. Failure to Comply with Basin Plan Discharge Prohibitions

- a. **Pursuant to Basin Plan Waste Discharge Prohibition No. 1:** 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 California Water Code section 13050, is prohibited.
- b. **Pursuant to Basin Plan Waste Discharge Prohibition No. 3:** The discharge of pollutants or dredged or fill material to waters of the United States except as authorized by an NPDES permit or a dredged or fill material permit (subject to the exemption described in California Water Code section 13376) is prohibited.
- c. **Pursuant to Basin Plan Waste Discharge Prohibition No. 14:** 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.
- d. **Observation:** During the San Diego Water Board inspection on January 19, 2016, inspectors observed a discharge of fill material into waters of the United States (culvert and headwall; see Figures 5-6 of Attachment 1). The discharge was not authorized by an NPDES permit or a dredged or fill material permit, and is therefore in violation of Basin Plan Discharge Prohibition No. 3.

Inspectors also observed a discharge of sediment, gravel bags, and decomposed granite into waters of the State, downstream of the ResQue Ranch construction site (see Figures 22-26 of Attachment 1). This discharge caused deleterious bottom depositions and discoloration, and unreasonably affects, or threatens to affect beneficial uses of waters of the State, in violation of Basin Plan Discharge Prohibition No. 14. This discharge also caused, or threatens to cause a condition of pollution or nuisance, and is therefore in violation of Basin Plan Waste Discharge Prohibition No. 1.

### B. Summary of Potential Enforcement Options

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 \$10,000 per day of violation (Water Code section 13385) 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
Time Schedule Order	Sections 13300, 13308

In addition, the San Diego Water Board may consider revising or rescinding applicable waste discharge requirements, if any, 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.



Laurie Walsh, P.E.  
Senior Water Resource Control Engineer

LAW:cma

Enclosures: Attachment 1: San Diego Water Board Facility Inspection Report  
dated January 19, 2016

Tech Staff Info & Use	
Enforcement ID	422755
Violation ID	859618, 859619, 859621
WDID	9 37C375197
NPDES No.	CAS000002
Inspection ID	2028350