



California Regional Water Quality Control Board Lahontan Region



Linda S. Adams
Secretary for
Environmental Protection

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www.waterboards.ca.gov/lahontan

Arnold Schwarzenegger
Governor

STATE OF CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD LAHONTAN REGION

In the Matter of Eagle Ridge at Arrowhead, LP and
Simmons Construction, Inc.: Violation of
Cleanup and Abatement Order No. R6V-2007-0037,
Eagle Ridge at Arrowhead Development, Blue Jay,
San Bernardino County, WDID No. 6B36C349214

) COMPLAINT NO.
) R6V-2008-0001
) FOR ADMINISTRATIVE
) CIVIL LIABILITY
)

EAGLE RIDGE AT ARROWHEAD, LP AND SIMMONS CONSTRUCTION, INC., YOU ARE HEREBY GIVEN NOTICE THAT:

1. You are charged with violating provisions of law and regulations for which the California Regional Water Quality Control Board, Lahontan Region (Water Board) may impose administrative civil liability pursuant to Water Code section 13350, subdivision (a)(1) and Water Code section 13268, subdivision (a)(1).
2. Unless waived, a hearing on this matter will be held before the Water Board within 90 days following the issuance of this Complaint. Eagle Ridge at Arrowhead, LP and Simmons Construction, Inc., or their representatives, will have an opportunity to address and contest the allegations in this Complaint and the imposition of civil liability by the Water Board.
3. At the hearing, the Water Board will consider whether to affirm, reject, or modify (either increase or decrease) the proposed civil liability, or whether to refer the matter to the Attorney General for assessment of judicial civil liability.

ALLEGATIONS

4. The Eagle Ridge at Arrowhead Development is a multi-phase residential development construction project ("Project") located on a steeply-sloped site located between Grass Valley Road and Old Toll Road in the community of Blue Jay, San Bernardino County, as shown in Attachment A of this Complaint.
5. Eagle Ridge at Arrowhead, LP, is the property owner and operator of the Project. Simmons Construction, Inc. is the developer for the Project. Both Eagle Ridge at

California Environmental Protection Agency

Arrowhead, LP and Simmons Construction, Inc. are identified in Cleanup and Abatement Order No. R6V-2007-0037 as the "Dischargers" responsible for complying with the Order. For the purposes of this Complaint, these two parties will be hereinafter referred to as the "Dischargers."

6. The Project is regulated¹ under the Statewide NPDES General Permit for Storm Water Discharges Associated with Construction Activity, State Water Resources Control Board Order No. 99-08-DWQ [the permit was adopted by the State Water Resources Control Board (State Board) on August 19, 1999, pursuant to Clean Water Act sections 208(b), 301, 302, 303(d), 304, 306, 307, 402, and 403]. This State Board Order is hereafter referred to as the "Statewide Permit."
7. Based upon information provided in the Dischargers' Notice of Intent that was submitted to obtain coverage under the Statewide Permit, the entire Project site is 182 acres in size. Approximately 151 acres on the Project site will be subject to disturbance, of which approximately 42 acres will be mass graded. Approximately 10 acres, at a minimum, have been disturbed as of the date of this Complaint.
8. On September 19, 2007, Water Board staff inspected the Project site. Staff observed a nearly complete absence of storm water runoff and erosion controls for the Project site. Staff informed the Dischargers' on-site representatives that such conditions needed to be addressed.
9. On September 27, 2007, Water Board staff inspected the Project site and observed that storm water runoff and erosion controls had been and were being implemented, including two temporary retention basins. However, staff continued to observe inadequate slope stabilization and inadequate runoff controls for the Project's dirt roads, and informed the Dischargers' on-site representatives that such conditions needed to be addressed.
10. On November 30, 2007, a rain event occurred across the Project site that created storm water runoff. The Dischargers reported an accumulation of three inches of rainfall during the storm event. Water Board staff inspected the Project site during the November 30, 2007 rain event. Staff observed inadequate soil stabilization measures and ineffective storm water treatment measures resulting in a sediment-laden storm water discharge into an unnamed tributary to Grass Valley Creek. Staff also observed sediment-laden storm water being pumped out of the storm water retention basins directly into the storm drain system. On-site Project personnel explained that the storm water pumping operation was necessary to protect the retention basins' integrity, since the basins were near capacity, were not stabilized, and did not have stabilized overflow structures.

¹ The Dischargers obtained coverage under the Statewide NPDES General Permit for Storm Water Discharges Associated with Construction Activity (State Water Resources Control Board Order No. 99-08-DWQ) on October 5, 2007 after construction, including grading activities, had started.

Staff followed the unnamed tributary's flow from the Project site to Grass Valley Creek. Staff observed that the flow discharging from the Project site into the unnamed tributary was very turbid with sediment² (see Attachment B). Staff observed that Grass Valley Creek was mildly discolored³ immediately upstream of its confluence with the unnamed tributary (see Attachment B).

11. During a December 7, 2007 rain event, Water Board staff inspected the area outside the Project site's entrance and the unnamed tributary of Grass Valley Creek. Water Board staff observed sediment-laden storm water flowing from the Project site into the unnamed tributary. Staff observed that the storm water runoff was turbid and contained a high concentration of sediment⁴ (see Attachment C).
12. On December 12, 2007, the Water Board's Executive Officer issued Cleanup and Abatement Order No. R6V-2007-0037 pursuant to Water Code section 13304. The Executive Officer took this formal enforcement action in response to the Dischargers' sediment-laden storm water discharges to waters of the state. The Executive Officer also issued the Cleanup and Abatement Order in response to the ongoing threat of future waste discharges resulting from the Dischargers' failure to implement adequate storm water runoff and erosion controls.
13. On December 18 and 19, 2007, Water Board staff inspected the Project site. Staff observed rainy conditions on both days, and established December 18, 2007 as the date of the first precipitation event to occur since issuing the Cleanup and Abatement Order. Staff also observed substantial areas of disturbed soil (e.g., dirt road surfaces, cut slopes, soil stockpiles) that had not been stabilized. Staff pointed out these areas of non-compliance with the Cleanup and Abatement Order to the Dischargers' on-site representative, Leon McCarty. He stated that the Dischargers had not finished stabilizing the areas of disturbed soil because they were having difficulty obtaining materials and contractors necessary to implement the remaining soil stabilization measures.
14. Water Board staff inspected the Project site again on December 26, 2007. Staff observed that the areas of unprotected disturbed soil it observed during the December 18 and 19, 2007 inspections, were still not stabilized. These areas showed no evidence of any actions taken by the Dischargers to stabilize disturbed soil since the December 18 and 19 inspections.

² Total Suspended Solids – 3,500 mg/L; Turbidity – approximately 17,000 NTU (turbidity sample was analyzed after EPA recommended holding time).

³ Total Suspended Solids – 200 mg/L; Turbidity – approximately 160 NTU (turbidity sample was analyzed after EPA recommended holding time)

⁴ Total Suspended Solids – 2,200 mg/L; no turbidity analysis was done.

15. Violations – Cleanup and Abatement Order No. R6V-2007-0037

Cleanup and Abatement Order No. R6V-2007-0037, in part, requires the following:

- “3. By **December 19, 2007 or the next precipitation event, whichever is sooner**, the Dischargers must completely stabilize all exposed areas of disturbed soil to prevent erosion.”
- “4. By **December 19, 2007**, the Dischargers must submit to the Water Board’s Victorville and South Lake Tahoe offices the Project’s Storm Water Pollution Prevention Plan that incorporates the monitoring plan that complies with the requirements described in Order No. 2, above.”
- “5. By **December 24, 2007**, the Dischargers must submit to the Water Board a technical report documenting all disturbed soil stabilization activities that have been completed since December 7, 2007. The report must include, at a minimum:
 - a. A description with a chronology of all stabilization activities completed since December 7, 2007. The description must include the size of the area stabilized, the location of the area stabilized, and the stabilization method employed.
 - b. Photo documentation of all areas that have been stabilized since December 7, 2007. The photo documentation must include the date the photo was taken, a description of what was photographed, and the name of the person who took the photo.”

The Dischargers violated Order No. 3, in the Cleanup and Abatement Order. They failed to completely stabilize all exposed areas of disturbed soil, as described in Findings No. 13 and 14, above. All exposed areas of disturbed soil were required to be completely stabilized by December 18, 2007, the first precipitation event to occur after issuing the Cleanup and Abatement Order. During the inspections on December 18, 19, and 26, 2007, Water Board staff observed several areas of disturbed soil that were not stabilized during all three inspections. There were no precipitation events that occurred between the December 19, 2007 and December 26, 2007 inspections that would have destroyed any soil stabilization measures implemented during this period. Therefore, it is reasonable to conclude that the work conducted by the Dischargers (if any) was insufficient to stabilize the areas of disturbed soil observed on December 18 and 19, 2007, and again on December 26, 2007. Therefore, the Dischargers violated Order No. 3 of the Cleanup and Abatement Order for **nine days** (December 18 – 26, 2007).

The Dischargers violated Order No. 4, above, by failing to submit a copy of the Project’s Storm Water Pollution Prevention Plan that incorporated a monitoring plan

that complied with Order No. 2 of the Cleanup and Abatement Order, pursuant to Water Code section 13267. On December 19, 2007, the Dischargers submitted two different copies of the Project's Storm Water Pollution Prevention Plan (title pages dated February 28, 2006 and May 2, 2006), but neither copy had updated monitoring plans that complied with Order No. 2 of the Cleanup and Abatement Order. As of January 7, 2008, the Dischargers have violated Order No. 2 of the Cleanup and Abatement Order for **19 days**.

The Dischargers violated Order No. 5, above, by failing to submit a technical report providing the required information, pursuant to Water Code section 13267, and as described in Order No. 5. On December 19, 2007, staff received a set of plans⁵ and photographs with the Storm Water Pollution Prevention Plan copies. The plan set illustrates sampling site locations (four) and locations of several different best management practices, including storm water treatment and soil stabilization measures. The plan set also shows that a significant portion of the Project site's disturbed soil areas lack any stabilization measures. The Dischargers did not submit any chronology of soil stabilization activity nor any size description for the stabilized areas. Additionally, the required supporting information for the photographs was not provided. As of January 7, 2008, the Dischargers have violated Order No. 5 of the Cleanup and Abatement Order for **14 days**.

16. Administrative Civil Liability Authority – Water Code Section 13350

The Water Board may impose civil liability pursuant to Water Code section 13350, subdivision (a). Water Code section 13350, subdivision (a) states, in part:

"Any person who (1) violates any cease and desist order or cleanup and abatement order hereafter issued, reissued, or amended by a regional board or the state board, ... shall be liable civilly, and remedies may be proposed, in accordance with subdivision (d) or (e)."

The Dischargers violated Order No. 3 of Cleanup and Abatement Order No. R6V-2007-0037, as described in Finding No. 15, above. The Water Board is therefore authorized to impose civil liability pursuant to Water Code section 13350.

17. Administrative Civil Liability Authority – Water Code Section 13268

The Water Board may impose civil liability pursuant to Water Code section 13268, subdivision (a)(1). Water Code section 13268, subdivision (a)(1) states, in part:

"Any person failing or refusing to furnish technical or monitoring program reports as required by subdivision (b) of Section 13267, ..., is guilty of a misdemeanor and may be liable civilly in accordance with subdivision (b)."

⁵ Titled "Erosion Control Plan Tracts 15612-1 and 15612-2." Signed by W. J. McKeever and dated 8/30/2006.

The Dischargers failed to provide the Project's Storm Water Pollution Prevention Plan described by Order No. 4 of the Cleanup and Abatement Order, and required pursuant to Water Code section 13267. In addition, the Dischargers failed to provide the technical report described by Order No. 5 of Cleanup and Abatement Order, and required pursuant to Water Code section 13267. The Water Board is therefore authorized to impose civil liability pursuant to Water Code section 13268.

PROPOSED CIVIL LIABILITY

18. Civil Liability – California Water Code

- a. For the violation of Order No. 3 of Cleanup and Abatement Order No. R6V-2007-0037, the Water Board may impose civil liability in an amount up to that specified by Water Code section 13350, subdivision (e). Water Code section 13350, subdivision (e) states, in part:

"(e) The state board or a regional board may impose civil liability administratively pursuant to Article 2.5 (commencing with Section 13323) of Chapter 5 either on a daily basis or on a per gallon basis, but not both.

(1) The civil liability on a daily basis may not exceed five thousand dollars (\$5,000) for each day the violation occurs.

(2) The civil liability on a per gallon basis may not exceed ten dollars (\$10) for each gallon of waste discharged. "

In this matter, the maximum amount of civil liability for violation of Order No. 3 of the Cleanup and Abatement Order under Water Code section 13350, subdivision (e)(1) is \$45,000 for nine days of violation (December 18 – 26, 2007). This maximum administrative civil liability is based upon:

(9 days of violation of Order No. 3) x (\$5,000/day of violation) = **\$45,000**

- b. For violation of Order No. 4 of Cleanup and Abatement Order No. R6V-2007-0037, the Water Board may impose civil liability in an amount up to that specified by Water Code section 13268, subdivision (b)(1). Water Code section 13268, subdivision (b)(1) states:

"(b)(1) Civil liability may be administratively imposed by a regional board in accordance with Article 2.5 (commencing with Section 13323) of Chapter 5 for a violation of subdivision (a) in an amount which shall not exceed one thousand (\$1,000) for each day in which the violation occurs."

In this matter, the maximum amount of civil liability for violation of Order No. 4 of the Cleanup and Abatement Order under Water Code section 13268, subdivision (b)(1) is \$19,000 for 19 days of violation (December 20, 2007 – January 7, 2008). This maximum administrative liability is based upon:

(19 days of violation of Order No. 4) x (\$1,000/day of violation) = **\$19,000**

- c. For violation of Order No. 5 of Cleanup and Abatement Order No. R6V-2007-0037, the Water Board may impose civil liability in an amount up to that specified by Water Code section 13268, subdivision (b)(1). Water Code section 13268, subdivision (b)(1) states:

“(b)(1) Civil liability may be administratively imposed by a regional board in accordance with Article 2.5 (commencing with Section 13323) of Chapter 5 for a violation of subdivision (a) in an amount which shall not exceed one thousand (\$1,000) for each day in which the violation occurs.”

In this matter, the maximum amount of civil liability for violation of Order No. 5 of the Cleanup and Abatement Order under Water Code section 13268, subdivision (b)(1) is \$14,000 for 14 days of violation (December 25, 2007 – January 7, 2008). This maximum administrative liability is based upon:

(14 days of violation of Order No. 5) x (\$1,000/day of violation) = **\$14,000**

The cumulative maximum administrative civil liability for violation of Orders No. 3 – 5 of Cleanup and Abatement Order No. R6V-2007-0037 is **\$78,000**.

19. Factors Affecting the Amount of Civil Liability

Water Code sections 13327 requires the Water Board to consider enumerated factors when it determines the amount of civil liability for a discharge covered by Water Code sections 13268 and 13350. The Assistant Executive Officer of the Water Board considered those factors in recommending the amount of the administrative civil liability:

- a. The nature, circumstances, extent, and gravity of the violations;

Violating a Cleanup and Abatement Order, classified as a “formal” enforcement action by the Water Quality Enforcement Policy, is a serious offense. Violating Order No. 3 of Cleanup and Abatement Order No. R6V-2007-0037 has also perpetuated site conditions that have resulted in additional sediment discharges into surface waters of the Grass Valley Creek Lake watershed (see Attachment D). Such sediment discharges present, at a minimum, a threatened pollution in violation of the Statewide Permit, which was the basis for issuing the Cleanup and Abatement Order.

Violating Order No. 5 of Cleanup and Abatement Order No. R6V-2007-0037 obstructs Water Board's staff's ability to confirm compliance with Order No. 3 of the Cleanup and Abatement Order. Violating Order No. 4 of the Cleanup and Abatement Order prevents Water Board staff from ensuring that storm water runoff and receiving water monitoring will produce valid and useful data allowing staff and the Dischargers to assess best management practice effectiveness and water quality impacts. The subject information is vital for staff to ensure compliance is maintained and water quality protected. As a result of failing to comply with these two Orders, staff has needed to conduct additional inspections, which diverts resources away from other Water Board work.

b. Whether discharge is susceptible to cleanup or abatement;

The existing threatened discharge of sediment is susceptible to abatement. Stabilizing all areas of disturbed soil in combination with storm water treatment measures could, at a minimum, significantly reduce future discharges. The Dischargers have stabilized some, but not all of the areas of disturbed soil on the Project site. As of the December 26, 2007 inspection, the remaining unprotected areas of disturbed soil can still produce more sediment-laden storm water runoff than current storm water treatment measures can effectively treat.

c. The degree of toxicity of the discharge;

No toxicity analysis has been conducted on storm water runoff and receiving water samples collected to date.

d. Ability to pay;

Water Board staff evaluated the Discharger's ability to pay the proposed administrative civil liability by comparing the estimated profit margins for the project with the amount of the proposed liability. The proposed administrative civil liability is approximately three percent of the estimated profit margin for Phase 1 of the residential housing development project.

According to the Discharger's website, Phase 1 of the project includes 40 homes and the average price per home, as currently advertised, is approximately \$700,000. Therefore, the total projected gross revenue from the project is approximately \$28,000,000 (40 X \$700,000).

According to a recent study for the California Homebuilding Foundation⁶, it was estimated that 8.5 percent of a final home price is profit for the home builder. Profit is therefore estimated by calculating 8.5 percent of \$28,000,000, which is

⁶ "The Housing Bottom Line – Fiscal Impact of New Home Construction on California Governments," June 2007, page 26, <http://www.myCHF.org/go/chf/index.cfm?LinkServID=DFC94668-0630-4654-7BCC63A11D6B9AB&showMeta=0>

\$2,380,000. Future profits therefore amount to approximately 30 times the proposed administrative civil liability. With these expected profits or with profits of much less, the Dischargers appear to be able to pay the proposed amount of civil liability.

The Dischargers have the opportunity to provide any supporting financial information to the Water Board regarding ability to pay the proposed liability.

- e. The effect on the Dischargers' ability to continue its business;

Water Board staff is not aware of any reason that the Dischargers' ability to continue their business would be affected by the proposed liability. The Dischargers now have the opportunity to provide any information to the Water Board showing an inability to continue its business due to payment of the proposed liability.

- f. Any voluntary cleanup efforts undertaken by the violator;

To date, the Dischargers have only implemented best management practices when instructed to do by Water Board staff during Project site inspections, or when ordered to by the Water Board issuing Cleanup and Abatement Order No. R6V-2007-0037.

- g. Prior history of violations;

During Project site inspections on September 19, 2007, September 27, 2007, November 30, 2007, and December 7, 2007, Water Board staff has repeatedly documented the same violation of the Statewide Permit, which was the basis for issuing Cleanup and Abatement Order No. R6V-2007-0037. Water Board staff does not have any other documented violations for the Project preceding September 19, 2007. Staff also has no information showing other violations by the Dischargers at other sites.

- h. Degree of culpability;

Eagle Ridge at Arrowhead, LP and Simmons Construction, Inc. are identified as the "Dischargers" by Cleanup and Abatement Order No. R6V-2007-0037 and, thus, are ultimately responsible for compliance with Cleanup and Abatement Order No. R6V-2007-0037, and applicable state laws and regulations. Despite repeated contacts by Water Board staff during which violations were discussed with the Dischargers, staff observed ineffective efforts by the Dischargers to comply with applicable requirements.

- i. Economic savings resulting from the violation;

Water Board staff has not calculated the Discharger's cost savings associated with violating Cleanup and Abatement Order. The nature of such cost savings would be "delayed costs" compared to "avoided costs." Given the short violation period addressed by this Complaint, such cost savings would be the potential interest earned on the delayed costs, which would be very small to date, and substantially less than the proposed liability.

- j. Other matters as justice may require.

Staff Costs

Staff from the State and Regional Boards have spent time responding to the incident and preparing the Administrative Civil Liability Complaint. Estimated staff costs for investigation and complaint preparation are \$6,500.

20. Amount of Civil Liability

The Assistant Executive Officer of the Water Board considered the above factors and proposes that administrative civil liability be imposed by the Water Board in the amount of **\$78,000**, pursuant to Water Code sections 13268 and 13350.

WAIVER OF HEARING

You may waive the right to a hearing. Waiver of your right to a hearing constitutes acceptance of the assessment of civil liability in the amount set forth within the Complaint. If you wish to waive your right to a hearing, an authorized person must sign the Waiver of Hearing form prepared for this Complaint.

Please note that any settlement will not be effective until reasonable opportunity for public participation has been provided pursuant to the State Water Board's 2002 Enforcement Policy. The Water Board will notify interested persons of any proposed settlement for the recommended liability and will solicit comments on the settlement for a period of thirty (30) days. Any settlement will not become final until after the public comment period.

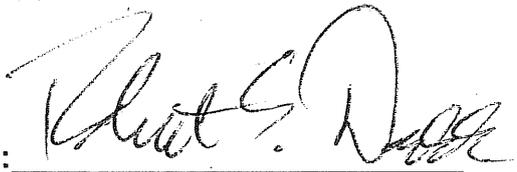
Payment of the liability will be due within 30 days of the settlement becoming final. Payment must be made with two separate cashier's checks or money orders divided and made payable as follows:

1. **\$32,760** payable to the **California State Water Resources Control Board, Cleanup and Abatement Account.**
2. **\$45,240** payable to the **California State Water Resources Control Board, Waste Discharge Permit Fund Account.**

Send your remittance to:

Lahontan Regional Water Quality Control Board
Attn: Robert S. Dodds, Assistant Executive Officer
2501 Lake Tahoe Boulevard
South Lake Tahoe, CA 96150

Ordered by:



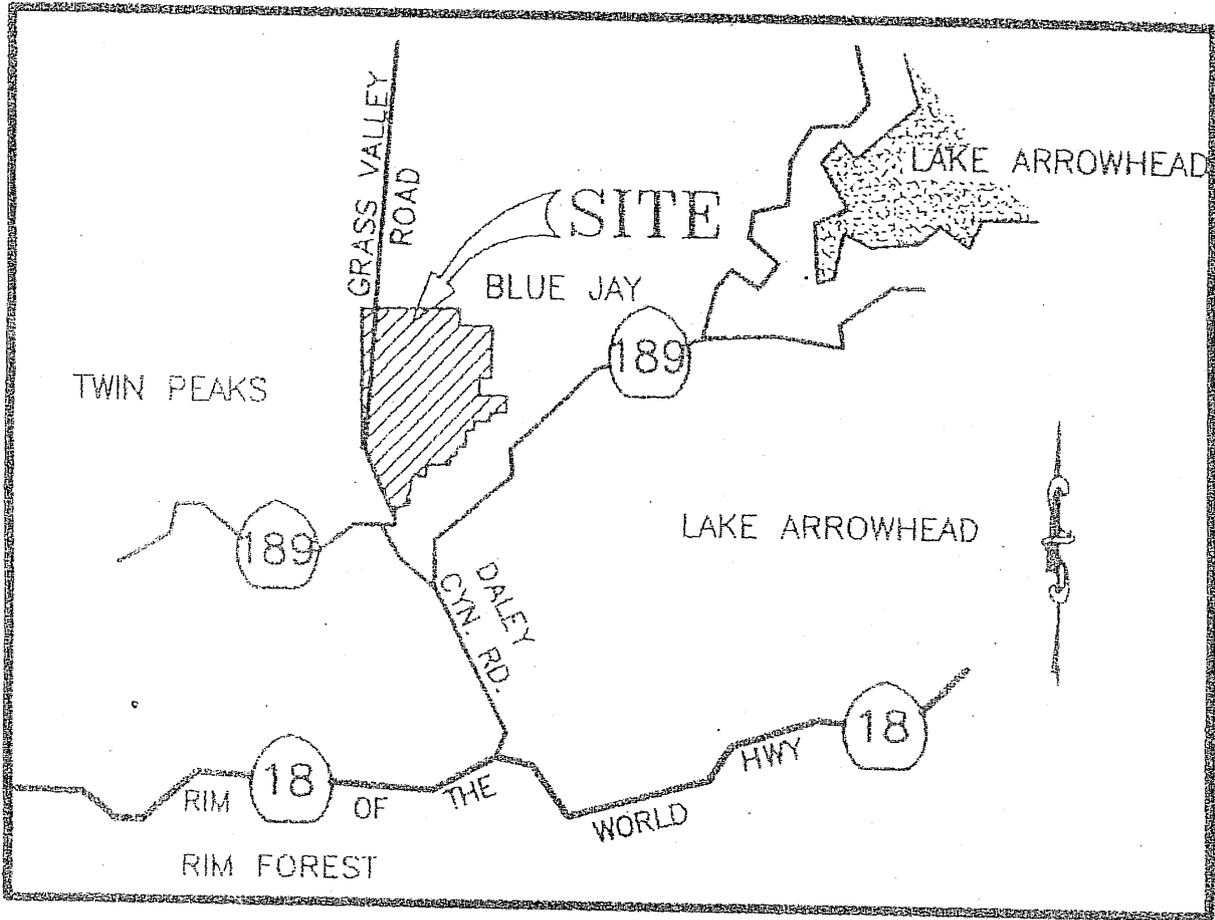
Robert S. Dodds
Assistant Executive Officer

Dated:

Feb. 5, 2008

- Attachments:
- A. Site Vicinity Map
 - B. November 30, 2007 Water Board Site Inspection Photos.
 - C. December 7, 2007 Water Board Site Inspection Photo – Discharge from the Project site.
 - D. January 15, 2008 Water Board Site Inspection Photos

ATTACHMENT A - VICINITY MAP

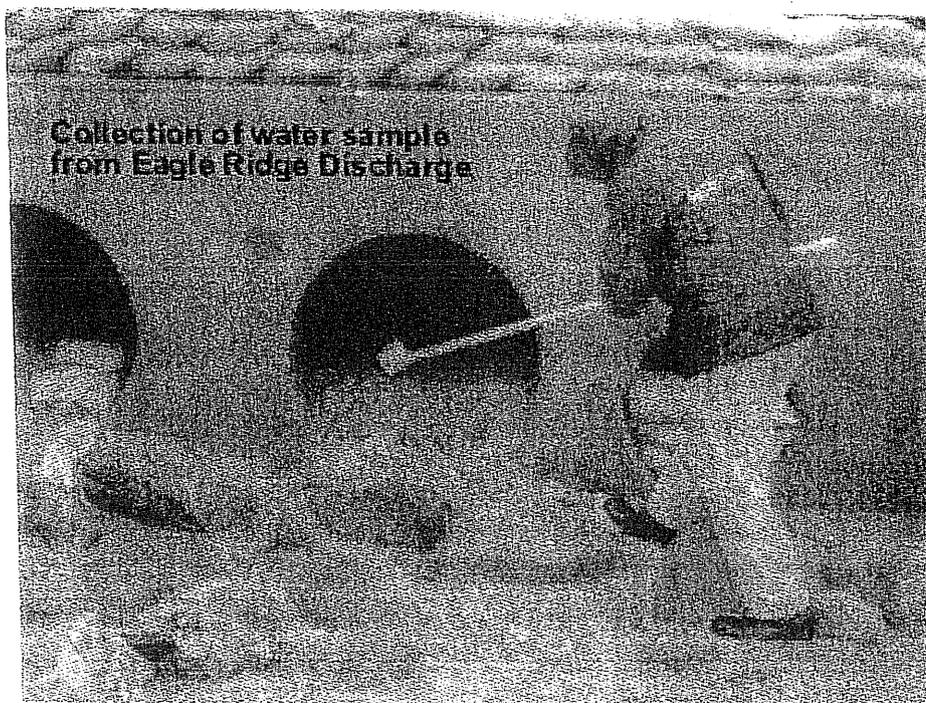


VICINITY MAP

ATTACHMENT B - NOVEMBER 30, 2007 WATER BOARD SITE INSPECTION



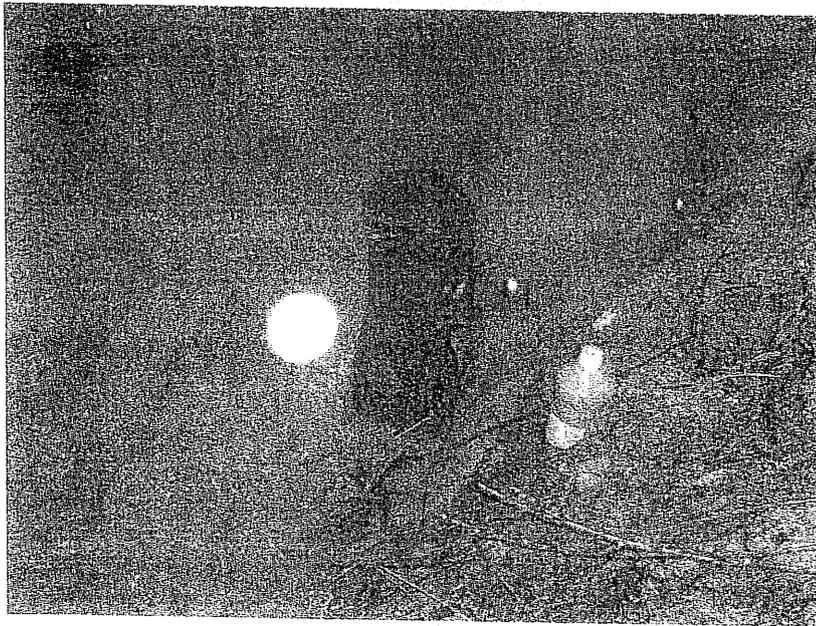
Eagle Ridge at Lake Arrowhead, November 30, 2007 Inspection
Photograph taken by Mary Dellavalle
Grass Valley Creek Immediately Upstream of its Confluence with the Unnamed Tributary



Eagle Ridge at Lake Arrowhead, November 30, 2007 Inspection
Photograph taken by Mary Dellavalle
Discharge from Project Site into Unnamed Tributary

ATTACHMENT C - December 7, 2007 Water Board Site Inspection Photo

Eagle Ridge at Lake Arrowhead
December 7, 2007 Inspection
Photographes Taken By Curt Shifrer

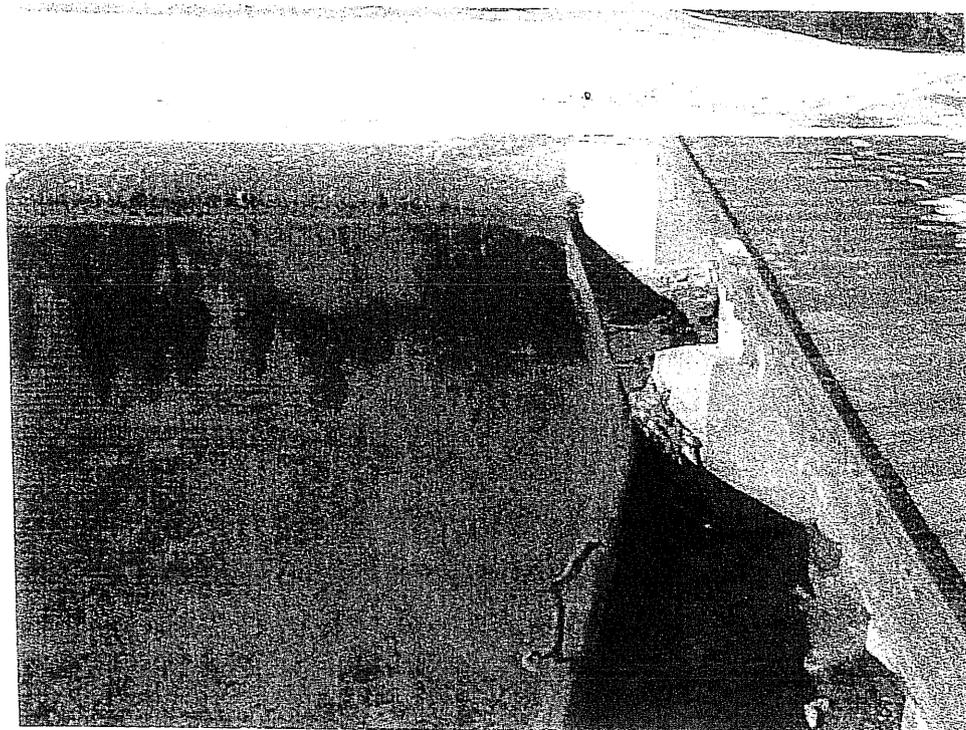


Project Site Discharge in Unnamed Tributary

ATTACHMENT D - January 15, 2008 Water Board Site Inspection Photos



Eagle Ridge at Lake Arrowhead, January 15, 2008 Inspection
Photograph Taken by Doug Feay
Project Site Discharge in Unnamed Tributary



Eagle Ridge at Lake Arrowhead, January 15, 2008 Inspection
Photograph Taken by Doug Feay
Grass Valley Creek Immediately Upstream of its Confluence with the Unnamed Tributary

ATTACHMENT D - January 15, 2008 Water Board Site Inspection Photos



Eagle Ridge at Lake Arrowhead, January 15, 2008 Inspection

Photograph Taken by Doug Feay

Muddy Water from Unnamed Tributary at Left of Photo Mixing with Clean Water of Grass Valley Creek
on the Right Resulting in Sediment-Laden Water in Center of Photo

ENCLOSURE 2

**WAIVER
OF RIGHT TO A
PUBLIC HEARING**

Rob Roy
Eagle Ridge at Arrowhead, LP
1025 Calimesa Blvd., Suite 8
Calimesa, California 92320

Complaint No. R6V-2008-0001

E. Wayne Simmons
Simmons Construction Inc.
1025 Calimesa Blvd., Suite 8
Calimesa, California 92320

For
Administrative Civil Liability
\$78,000

**ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R6V-2008-0001 ISSUED TO
TO EAGLE RIDGE AT ARROWHEAD, LP AND SIMMONS CONSTRUCTION, INC,
FOR VIOLATION OF CLEANUP AND ABATEMENT ORDER NO. R6V-2007-0037,
EAGLE RIDGE AT ARROWHEAD DEVELOPMENT, BLUE JAY, SAN BERNARDINO
COUNTY, W DID NO. 6B36C349214**

By signing below, Eagle Ridge at Arrowhead, LP and Simmons Construction, Inc. (Eagle Ridge and Simmons) waive their right to a hearing before the California Regional Water Quality Control Board, Lahontan Region (Lahontan Water Board) with regard to the violations alleged in Complaint No. R6V-2008-0001 (the Complaint) and agree to remit payment for the amount of the civil liability set forth above. Eagle Ridge and Simmons have been informed of the right provided by Water Code section 13323, subdivision (b), to a hearing within ninety (90) days of issuance of an Administrative Civil Liability (ACL) Complaint and herein waives that right.

The parties signing below are duly authorized representatives of Eagle Ridge and Simmons in connection with the Complaint. By signing below, Eagle Ridge and Simmons neither admits nor denies the allegations contained in the Complaint.

Please note that the settlement of the Complaint, as provided above, will not be effective until reasonable opportunity for public participation has been provided pursuant to the State Water Resources Control Board 2002 Enforcement Policy (Enforcement Policy). In accordance with the regulations and Enforcement Policy, a 30-day public comment period will be required for a proposed settlement of administrative civil liability. The Lahontan Water Board will notify interested persons of any proposed settlement for the recommended liability and will solicit comments on the settlement for a period of 30 days.

During the period of public participation, which includes the 30-day comment period and a reasonable time thereafter for the Lahontan Water Board to review and evaluate any public comments received, the Lahontan Water Board retains complete discretion to terminate this settlement by withdrawing the Complaint and issuing a new ACL Complaint. This waiver is void if the Lahontan Water Board withdraws the Complaint.

Eagle Ridge at Arrowhead, LP Representative

Signature

Title

Date

Print your name

Simmons Construction Inc. Representative

Signature

Title

Date

Print your name

Send this signed form to:
California Regional Water Quality Control Board – Lahontan Region
2501 Lake Tahoe Boulevard
South Lake Tahoe, CA 96150

