

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

ORDER NO. R8-2012-0020

CLEANUP AND ABATEMENT ORDER

FOR

RISING STARS OF EQUESTRIAN  
THERAPY  
RICHARD AND PATRICIA MORRIS  
SAN BERNARDINO COUNTY

The California Regional Water Quality Control Board, Santa Ana Region, (hereinafter "Regional Board") finds that:

**BACKGROUND**

1. Patricia Morris owns the property located at 8401 Bella Vista Drive in Rancho Cucamonga, San Bernardino County, APN 0332-181-27-0000. Patricia and Richard Morris (hereinafter "Discharger") use the property to operate Rising Stars of Equestrian Therapy (hereinafter "Rising Stars"), a non-profit organization that provides therapeutic and recreational horseback riding lessons to children and adults with physical and intellectual disabilities. Storm water from Rising Stars discharges to a creek on the east side of the property, which is a tributary to Cucamonga Creek. Samples of storm water runoff collected from the facility indicated high levels of bacteria.
2. The Water Quality Control Plan for the Santa Ana River Basin Plan (hereinafter "Basin Plan") specifies water quality objectives and beneficial uses for surface and groundwaters in the region. Cucamonga Creek is listed as an impaired waterbody because of exceedances of water quality objectives for bacteria.
3. To address this impairment, a bacterial indicator Total Maximum Daily Load (TMDL) was developed and approved for the middle Santa Ana River watershed waterbodies (hereinafter "Middle Santa Ana River TMDL"). The middle Santa Ana River waterbodies include Cucamonga Creek. The Middle Santa Ana River TMDL sets wet-weather and dry-weather numeric limits for bacteria (fecal coliform and E.coli) to be achieved in all middle Santa Ana River waterbodies and prohibits the discharge of wastes that would violate these limits. All discharges to Cucamonga Creek must be consistent with the requirements of the Middle Santa Ana River TMDL and the discharge prohibitions.
4. On August 11, 2006, Regional Board staff responded to a complaint from a neighbor to the south of the Rising Stars facility. The complainant indicated that there were multiple discharges of manure and sediment laden storm water from Rising Stars facility into a v-ditch on the southern boundary of the facility. Some of these discharges overflowed from the v-ditch and entered the neighbor's property, including the neighbor's

pool. The remainder of the runoff was discharged into a creek on the eastern boundary of Rising Stars. This creek is tributary to Cucamonga Creek. Staff contacted Ms. Morris and she agreed to address the pollutant discharges from the facility.

5. Regional Board staff conducted follow-up inspections of the Rising Stars facility on September 14, November 15, and December 10, 2006. On December 10, 2006, Regional Board staff collected three samples of storm water runoff from the site. Analytical results indicated that the total coliform (bacteria) levels exceeded 160,000 MPN (most probable number)/100mL, far exceeding the maximum acceptable level of total coliform at 400 MPN/100mL specified in the Basin Plan. Ms. Morris verbally proposed a permanent solution of building a mortar wall along the southern and eastern perimeters to divert, retain, and treat the storm water runoff from the site.
6. Regional Board staff, accompanied by City of Rancho Cucamonga staff, conducted followup inspections of the Rising Stars facility on July 9 and 10, 2007. Due to a lack of progress in implementing the proposed control measures, Regional Board staff issued Rising Stars a Notice of Violation (NOV) on November 8, 2007. In its December 1, 2007 response to the NOV, Rising Stars proposed a number of additional control measures including the installation of a retention wall and a sump pump to pump retained storm water to a percolation area within the facility, and a plan for proper management of manure.
7. Regional Board staff and/or City staff conducted follow-up inspections on November 28, 2007, February 14 and July 15, 2008 and February 9, 2009. Regional Board staff observed that the retention wall was only partially completed and the sump pump was not functional. Storm water collected in the southeastern corner of the facility was overflowing the retention wall. On December 22, 2009, Regional Board staff issued a Notice of Non-Compliance to the facility as the facility was in substantial non-compliance with the NOV.
8. Storm water runoff samples collected from the facility during a site visit on January 20, 2010 had total coliform levels exceeding 22,000 MPN/100mL. Control measures implemented at the site were not adequate to control the discharge of pollutants from the facility. The facility did not remove manure on a regular basis; manure was left exposed to storm water runoff; the retention walls were not properly built and were not maintained and the sump pump was still not functional. Once again, Regional Board staff discussed these issues with the Discharger and the Discharger agreed to address these issues.
9. The samples collected on December 6, 2006 and January 20, 2010 indicated that storm water discharges from Rising Stars contained waste constituents that exceeded the discharge prohibitions contained in the Basin Plan. Control of bacteria and other pollutants is needed to ensure compliance with relevant numeric water quality objectives and the TMDL requirements specified in the Basin Plan. The Discharger's acts and failure to act have resulted in both a discharge of waste in violation of these limits and a future threatened discharge of waste into waters of the state creating a condition of pollution or nuisance.

10. On August 24, 2011, Regional Board staff conducted a follow-up inspection to evaluate the site before the 2011 wet season. Staff observed many of the same violations that were noted during the past inspections.

#### **AUTHORITY – LEGAL REQUIREMENTS**

11. California Water Code section 13304, subdivision (a) states in part:

“Any person . . . who has caused or permitted, causes or permits, or threatens to cause or permit any waste to be discharged or deposited where it is, or probably will be, discharged to waters of the state and creates, or threatens to create, a condition of pollution or nuisance, shall upon order of the regional board clean up or abate the effects of the waste, or, in the case of threatened pollution or nuisance, take other necessary remedial action, including but not limited to, overseeing cleanup and abatement efforts.”

12. California Water Code section 13267 (b) states:

“In conducting an investigation specified in subdivision (a), the regional board may require that any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste within its region, or any citizen or domiciliary, or political agency or entity of this state who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge, waste outside of its region that could affect the quality of waters within its region shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports. In requiring those reports, the regional board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports.”

13. The issuance of this Order is an enforcement action taken by a regulatory agency and is exempt from the provisions of the California Environmental Quality Act (Public Resources Code section 21000 et seq.), pursuant to California Code of Regulations (CCR), Title 14, section 15321, subdivision (a)(2). The implementation of this Order is also an action to assure the restoration of the natural conditions of the environment and is exempt from the provisions of the California Environmental Quality Act (Public Resources Code, section 21000 et seq.), in accordance with CCR, Title 14, sections 15308 and 15330.
14. This Order requires monitoring and reports pursuant to Water Code section 13267, subdivision (b). The monitoring required by this Order is necessary to assure compliance with Basin Plan prohibitions and to assure protection of public health and safety. The technical reports required in this Order are essential to design a storm water management strategy for the Rising Stars facility and to comply with the requirements of this Order. The Regional Board has determined that the burden of producing the reports

on storm water management bears a reasonable relationship to the need for these reports.

**IT IS HEREBY ORDERED** that pursuant to Sections 13304 and 13267 of the California Water Code, Rising Stars, its agents, successors, and assigns, shall implement the following measures necessary to ensure long-term compliance with Discharge Prohibitions contained in the Basin Plan adopted by the Regional Board.

1. The Discharger shall immediately cease all discharges of manure and manured storm water from the site.
2. The Discharger shall immediately cease all discharges of polluted storm water from the site.
3. By November 15, 2012, Rising Stars shall implement appropriate pollution and nuisance control measures to prevent offsite discharges of manure, sediment and other pollutants including, but not limited to the following measures:
  - A) Each day, manure shall be removed from stalls, paddocks, arenas, corrals and other areas within the facility.
  - B) Manure removed from the facility shall be properly stored in containers, such as carts, dumpster bins, roll-off boxes, etc. with waterproof lids.
  - C) Manure removed from the site shall be properly disposed of through authorized waste haulers or at approved disposal locations.
  - D) At a minimum, manure shall be hauled away from the site on a weekly basis.
  - E) Manure shall not be discharged into any alley way, unauthorized off site locations, into neighboring properties, horse trails, streets, storm drains, channels or other storm water conveyance systems.
  - F) Manure shall not be spread over the arenas, pastures, corrals or other livestock areas.
  - G) Prior to a predicted storm event with a 30% or greater probability (use [www.weather.gov](http://www.weather.gov) or enter the facility's zip code to get local weather information from <http://www.srh.noaa.gov/forecast> or any other reliable source for storm predictions): (1) All manure on the ground shall be removed; (2) All horses shall be under a storm protected area; and (3) The lids for all manure storage containers shall be closed and secured. These storm event precautions are essential to minimize storm water coming in contact with manure.
  - H) Erodible locations within the facility shall be stabilized so as to minimize erosion.

4. By December 17, 2012, submit a Storm Water Drainage Plan (Drainage Plan) to the City of Rancho Cucamonga, Department of Building and Safety. The Drainage Plan should include measures to reduce and manage the volume of storm water flowing into the southeast corner of the property from other parts of the facility. The Plan shall also include measures to treat the storm water leaving the site that come in contact with areas of horse activities. Within 60 days of approval of the Drainage Plan by the City's Building and Safety Department, the Plan shall be implemented. A copy of the approved Drainage Plan shall be provided to the Regional Board office within 15 days of approval with a time schedule for its implementation. The following factors should be considered in the development of the Drainage Plan:
  - a. To minimize runoff from the site and the accumulation of storm water at the southeast corner of the site, Rising Stars should implement measures such as capture and use of storm water, percolation where feasible, bio-retention and bio-treatment, and proper vegetation that would evapotranspire water, such as: *Mimulus cardinalis*, *Juncus patens*, *Distichlis spicata*, *Eleocharis*, *Muhlenbergia rigens*, *Achillea millefolium*, *Amorpha fruticosa* (winter deciduous), *Leymus triticoides*, *Leymus condensatus*, *Sporobolus airoides*, or other native plant species. You may obtain additional information from a local nursery or from licensed landscape architects. Plant selection should be also consistent with the City's requirements.
  - b. To minimize erosion, concentrated flows from the arena area, and overflows from the storm water containment structures, the Plan should incorporate measures to increase storm water retention or diversion for the flows from the arena area.
5. In accordance with California Business and Professions Code sections 6735, 7835, and 7835.1, engineering and geologic evaluations and judgments shall be performed by or under the direction of registered professionals competent and proficient in the fields pertinent to the required activities. All technical reports specified herein that contain work plans that describe the conduct of investigations and studies, or that contain technical conclusions and recommendations concerning engineering and geology shall be prepared by or under the direction of appropriately qualified professional(s), even if not explicitly stated. Each technical report submitted by the Discharger shall contain the professional's signature and/or stamp of the seal.
6. Any person signing a document submitted to comply with this Order shall make the following certification:

*"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my knowledge and on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware*

*that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."*

7. If, in the opinion of Executive Officer, the Discharger fails to comply with the provisions of this Order, the Executive Officer, through the delegated authority of the Regional Board, may refer this matter to the Attorney General for judicial enforcement, may issue a complaint for administrative civil liability, or may take other enforcement actions.
8. Failure to comply with the terms or conditions of this Cleanup and Abatement Order will result in additional enforcement action, which may include the imposition of administrative civil liability pursuant to Water Code sections 13350 and 13268 or referral to the Attorney General of the State of California for such legal action as he or she may deem appropriate.
9. Any person aggrieved by this action may petition the State Water Resources Control Board to review the action in accordance with Water Code section 13320 and California Code of Regulations, Title 23, sections 2050 and following. The State Water Resources Control Board must receive the petition by 5:00 p.m., 30 days after the date that this Order becomes final, except that if the thirtieth day following the date that this Order becomes final falls on a Saturday, Sunday, or a state holiday, the petition must be received by the State Water Resources Control Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at:

[http://www.waterboards.ca.gov/public\\_notices/petitions/water quality](http://www.waterboards.ca.gov/public_notices/petitions/water_quality) or will be provided upon request.

11/9/12  
Date

Kurt V. Berchtold  
Kurt V. Berchtold, Executive Officer