



EDMUND G. BROWN JR.  
GOVERNOR



MATTHEW RODRIGUEZ  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION

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

April 9, 2013

**Certified Mail – Return Receipt Requested**  
Article Number: 7011 0470 0002 8961 8057

Ms. Marisela Castañeda  
Pacifica Flowers, Inc.  
214 San Diego Street  
Oceanside, California 92058-2724

**In reply refer to: 792207:Melbourn**

### **Notice of Violation No. R9-2013-0062, Discharge of Waste Without Waste Discharge Requirements or Waiver; Water Code Section 13267 Request for Information**

Ms. Castañeda:

This notice provides important information regarding discharges of wastewater and storm water from your agricultural operations.

As part of our efforts to protect water quality, the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) adopted Conditional Waiver No. 4 for Discharges from Agricultural and Nursery Operations (Conditional Waiver No. 4) on October 10, 2007 (Resolution No. R9-2007-0104), pursuant to Water Code section 13269. Conditional Waiver No. 4 requires all agricultural and nursery growing operations to submit a Notice of Intent (NOI) to enroll under Conditional Waiver No. 4, participate in either an individual or group monitoring program, and implement necessary Best Management Practices (BMPs) to minimize or eliminate the discharge of pollutants. The deadline for enrollment was January 1, 2011. The deadline for submitting monitoring and reporting plans was January 1, 2012. For more information about Conditional Waiver No. 4, please visit the San Diego Water Board's website at: [http://www.waterboards.ca.gov/rwqcb9/board\\_decisions/waivers/index.shtml](http://www.waterboards.ca.gov/rwqcb9/board_decisions/waivers/index.shtml). Operators who do not enroll under Conditional Waiver No. 4 must apply for individual waste discharge requirements (WDRs) by submitting a Report of Waste Discharge (ROWD) as required by Water Code section 13260(a)(1).

The San Diego Water Board inspected your facility on January 29, 2013. The inspector observed and documented signs of agricultural operations and storm water runoff discharge from the site. Furthermore, your facility representative indicated that the facility was not enrolled in a monitoring group and had not filed an individual NOI with the San Diego Water Board, so the operation is not currently covered by Conditional Waiver No. 4 or WDRs. Pursuant to Water Code section 13260, you are required to submit either an NOI to comply with Conditional Waiver No. 4 or a ROWD for individual WDRs for your irrigated agricultural lands. Our records confirm that you have not submitted an NOI to comply with Conditional

TOMÁS MORALES, CHAIR | DAVID GIBSON, EXECUTIVE OFFICER

9174 Sky Park Court, Suite 100, San Diego, CA 92123-4353 | (858) 467-2952 | [www.waterboards.ca.gov/sandiego](http://www.waterboards.ca.gov/sandiego)



Waiver No. 4, nor have you submitted a ROWD for individual WDRs. You are therefore in violation of Water Code section 13260(a)(1) and subject to further enforcement.

**You are hereby directed to immediately submit a Notice of Intent to comply with Conditional Waiver No. 4, or a Report of Waste Discharge for individual Waste Discharge Requirements.**

Water Code section 13261 provides that a person who fails to furnish a report required under Water Code section 13260 when so requested by the San Diego Water Board may be liable in an amount up to one thousand dollars (\$1,000) for each day in which the violation occurs. In addition, Water Code section 13350 states that any person who violates a waiver condition shall be liable civilly, and penalties may be imposed by the San Diego Water Board either on a daily or on a per gallon basis, with a potential liability of five thousand (\$5,000) for each day the violation occurs. These civil liabilities may be assessed by the San Diego Water Board for failure to comply, beginning with the date that the violations first occurred, and without further warning.

**In addition, pursuant to Water Code section 13267(b)(1), please provide a written response by April 19, 2013, that contains the following:** a description of your operations (i.e., type of plants grown, approximate number and manner of propagation, names and amounts of pesticides applied, and names and amounts of fertilizer applied), and date of operation; a description of water quality training and dates that you and your staff have attended over the last three years; a facility map showing the location of BMPs; the location and amount of waste material generated and composted or reused on site or disposed of offsite; any correspondence, inspections or documents you have received concerning water quality and agricultural activities; and any water quality sampling results over the last three years. The required written response shall be signed and certified by an official of Pacifica Flowers, Inc. with the following certification statement.

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The written response shall be submitted to the following address:

Frank Melbourn  
California Regional Water Quality Control Board  
San Diego Region  
9174 Sky Park Court, Suite 100  
San Diego, CA 92123-4340

The San Diego Water Board needs the requested information to assess the potential for water quality impacts by contaminated storm water from your facility. Based on the nature and possible consequences of any discharge(s), the burden, including the cost of submitting this information bears a reasonable relationship to the need for the information and the benefits to be obtained. Water Code section 13268 provides that any person failing to provide information requested by the San Diego Water Board pursuant to section 13267 may be subject to administrative civil liability of up to one thousand dollars (\$1,000) for each day in which the violation occurs.

The San Diego Water Board reserves the right to take any enforcement action authorized by law. This includes penalties for discharging without submitting an NOI or obtaining permit coverage in addition to failure to provide requested information. 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 reference number and name. For questions or comments, please contact Frank Melbourn by telephone at (858) 467-2973, or by email at [fmelbourn@waterboards.ca.gov](mailto:fmelbourn@waterboards.ca.gov).

Respectfully,



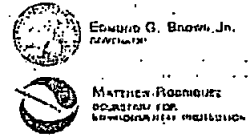
JEREMY C. HAAS  
Environmental Program Manager  
Water Quality Restoration and Standards Branch

JCH:cmc:ftm

Enclosure: January 29, 2013, Inspection Report

cc: Jose Luis Islas, Pacifica Flowers, Inc., [joseluisislas@pacificflowers.com](mailto:joseluisislas@pacificflowers.com)  
Eric Larson, San Diego Farm Bureau, [eric@sdfarmbureau.org](mailto:eric@sdfarmbureau.org)  
Roger Mitchell, San Diego Water Board, [rmitchell@waterboards.ca.gov](mailto:rmitchell@waterboards.ca.gov)  
James Smith, San Diego Water Board, [jsmith@waterboards.ca.gov](mailto:jsmith@waterboards.ca.gov)

Tech Staff Info & Use	
Party (GT/CIWQS) ID	539209
Reg. Measure ID	38962?
Place ID	792207 / 766892
Person ID	538973
Inspection ID	11611946



California Regional Water Quality Control Board, San Diego Region

DRAFT
Inspection Checklist for Compliance with Conditional Waiver of Waste Discharge Requirements for Discharges at Agricultural and Nursery Operations

Staff Contact: Roger Mitchell • rmitchell@waterboards.ca.gov • (858)467-2724

1. Agricultural/Nursery Operation Information

Name: PACIFICA FLOWERS, INC.
Address: 514 LA COSTA AVE
City: ENCINITAS County: Zip Code: 92023
Contact Person: JOSE ISLAS Telephone No.: (760) 753 5376

2. Facility Owner:

Name:
Address: SAME
City: County: Zip Code:
Contact Person: Telephone No.: ( )

3. Facility Operator (If different than the owner):

Name:
Address: SAME
City: County: Zip Code:
Contact Person: Telephone No.: ( )

4. Monitoring Group Affiliation (Section 4.1.B.7)

Boyer Ranch Monitoring Group
Hines Nursery Monitoring Group
San Diego Region Irrigated Lands Group
San Mateo Irrigated Land Group
Upper Santa Margarita Irrigated Lands Group
Individual Monitoring



M

DRAFT Ag Waiver: Inspection Checklist

5. Management Measures (MMs)/Best Management Practices (BMPs) (Section 4.1.A.2)

Are MMs and/or BMPs being implemented to effectively minimize or eliminate the discharge of pollutants to surface water/ground water See note below  Yes  No

Briefly describe the MMs/BMPs being implemented: City of Encinitas inspected the site at least one a year. If there are any problems, the Pacific flowers will fix it. No erosion seen on site. No BMPs are seen during the inspection

6. Education Requirements (Section 4.1.B.1)

Can the operator provide proof of attending at least 2-hours of water quality management related training?  Yes  No<sup>1</sup>

Briefly described the training attended:

Can the operator provide proof (i.e., newsletters, NRCS conservation plan, UCCE self-assessment) of regular contact with the local Farm Bureau, UCCE, NRCS, and/or regional RCDs to discuss latest MMs/BMPs and other water quality issues?  Yes  No<sup>1</sup>

7. Record Requirements (Section 4.1.B.5)

Are water quality management records being maintained		
Site map with location of MMs/BMPs, nearby surface waters and/or water wells.	<input type="checkbox"/> Y	<input checked="" type="checkbox"/> N
List of hazardous materials kept onsite. <u>County of SD inspected the site</u>	<input checked="" type="checkbox"/> Y	<input type="checkbox"/> N
Location/amount of waste material generated and composted/resued on site or disposed of offsite.	<input type="checkbox"/> Y	<input checked="" type="checkbox"/> N
* Pesticide use report. <u>Mr. Islar said he has it but can not produce it</u>	<input checked="" type="checkbox"/> Y	<input type="checkbox"/> N
* Fertilizer, soil amendment, and mulch use records. <u>the time of inspection</u>	<input checked="" type="checkbox"/> Y	<input type="checkbox"/> N
Irrigation management records.	<input type="checkbox"/> Y	<input checked="" type="checkbox"/> N
* Equipment maintenance records. <u>having records of contract out</u>	<input checked="" type="checkbox"/> Y	<input type="checkbox"/> N
List of MM/BMPs.	<input type="checkbox"/> Y	<input checked="" type="checkbox"/> N
* Owner, operator, and employee education/training records. <u>(same as *)</u>	<input checked="" type="checkbox"/> Y	<input type="checkbox"/> N
* Inspection Reports. <u>( " " )</u>	<input checked="" type="checkbox"/> Y	<input type="checkbox"/> N
Annual self assessment.	<input type="checkbox"/> Y	<input checked="" type="checkbox"/> N
* Copies of permits, licenses, and certifications required to operate. <u>(see)</u>	<input checked="" type="checkbox"/> Y	<input type="checkbox"/> N
Water quality monitoring data (if any). <u>use city water</u>	<input type="checkbox"/> Y	<input checked="" type="checkbox"/> N

Date and Time of Inspection: 1/29/13 at 9:00 AM

Inspector: Dat Quach

<sup>1</sup> Agricultural and nursery operators who do not have proof available during inspection must submit proof to the San Diego Water Quality Control Board within 45-days from the date of inspection ;





Picture No. 1

Drains for onsite storm water. No diversion and erosion were observed

Picture taken by Dat Quach on 1-29-2013 at Pacifica Flowers, Inc. in Encinitas



Picture No. 2

Low areas where stormwater getting out of property. No BMPs were observed but no erosion was seen either.

Picture taken by Dat Quach on 1-29-2013 at Pacifica Flowers, Inc. in Encinitas



Picture No. 3

House keeping may be a problem.

Picture taken by Dat Quach on 1-29-2013 at Pacifica Flowers, Inc. in Encinitas



Picture No. 4

No erosion was seen along the property line of the nursery

Picture taken by Dat Quach on 1-29-2013 at Pacifica Flowers, Inc. in Encinitas



Picture No. 5

No erosion was seen along the property line of the nursery

Picture taken by Dat Quach on 1-29-2013 at Pacifica Flowers, Inc. in Encinitas