



California Regional Water Quality Control Board

Santa Ana Region



Linda S. Adams
Secretary for
Environmental Protection

3737 Main Street, Suite 500, Riverside, California 92501-3348
Phone (951) 782-4130 • FAX (951) 781-6288 • TDD (951) 782-3221
www.waterboards.ca.gov/santaana

Arnold Schwarzenegger
Governor

September 15, 2010

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Mr. Robert Zemel
Starranch Management, LLC
5165 Green River Road
Corona, CA 92880

TRANSMITTAL OF ADMINISTRATIVE CIVIL LIABILITY (ACL) COMPLAINT TO STARRANCH MANAGEMENT, LLC - ACL COMPLAINT NO. R8-2010-0056

Dear Mr. Zemel:

Enclosed is a certified copy of Administrative Civil Liability Complaint No. R8-2010-0056 (Complaint). The Complaint alleges that you, as owner of Starranch Management, LLC and Starranch Management, LLC (Starranch) violated California Water Code Section 13385 by failing to obtain coverage under the General Construction Activities Storm Water Permit for which a penalty may be imposed under the Water Code. The Complaint proposes that administrative civil liability in the amount of two hundred thirty-three thousand dollars (\$233,000) be imposed as authorized under Water Code Section 13385 subdivision (c)(1). Also enclosed are a Waiver Form and a Hearing Procedure that sets forth important requirements and deadlines for participation in the hearing. Additionally, a Fact Sheet describing the Complaint process is available at:
http://www.waterboards.ca.gov/santaana/public_notices/enforcement_actions.shtml

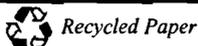
The Fact Sheet describes the Complaint process and explains what you and Starranch can expect and its obligations as the process proceeds. If preferred, a hard copy of the Fact Sheet may be obtained by contacting Milasol G. Gaslan at (951) 782-4419.

Please read each document carefully. This Complaint may result in the issuance of an order by the Regional Board requiring that you pay a penalty.

If necessary, a public hearing on this matter will be scheduled for the Regional Board meeting on December 9, 2010. The staff report regarding this Complaint and the meeting agenda will be mailed to you not less than 10 days prior to the hearing.

Pursuant to California Water Code Section 13323, you and Starranch have the option to waive their right to a hearing. Should you and Starranch waive your right to a hearing and pay the proposed assessment, the Regional Board may not hold a public hearing on this matter. If you

California Environmental Protection Agency



and Starranch choose to waive your right to a hearing, please sign and submit the enclosed Waiver Form by October 21, 2010. A check for the assessed amount of two hundred thirty-three thousand dollars (\$233,000) made payable to the State Water Resources Control Board should be submitted by October 21, 2010. The Waiver Form and the check should be sent to the Regional Board office in the enclosed pre-printed envelope.

If you and Starranch do not wish to waive your right to a hearing, requesting a pre-hearing meeting, as set forth in the Hearing Procedure is recommended. Should you wish to schedule a pre-hearing meeting, please contact Milasol Gaslan, Chief, Inland Storm Water, at (951) 782-4419 (mgaslan@waterboards.ca.gov) by October 21, 2010.

If you have any questions about the Complaint or the enclosed documents, please contact Milasol G. Gaslan (951-782-4419, mgaslan@waterboards.ca.gov). All legal questions should be directed to Shannon Chambers at (916) 324-6681 (SChambers@waterboards.ca.gov), Staff Counsel, Office of Enforcement.

Sincerely,



Michael J. Adackapara
Division Chief
Regional Board Prosecution Team

Enclosures: Complaint No. R8-2010-0056, Waiver Form, Hearing Procedure and
Preprinted Envelope

Cc with a copy of the complaint (by electronic mail only):

Regional Board
Executive Officer (Regional Board Advisory Team)
State Water Resources Control Board, Office of Chief Counsel – David Rice (Regional Board
Advisory Team Attorney)
State Water Resources Control Board, Division of Water Quality – Bruce Fujimoto
State Water Resources Control Board, Office of Enforcement – Shannon Chambers
(Regional Board Prosecution Team Attorney)
U.S. Environmental Protection Agency, Region 9 (WTR-7) – Ken Greenberg
Riverside County Executive Office – Michael Shetler



State of California
California Regional Water Quality Control Board
Santa Ana Region

IN THE MATTER OF:

Mr. Robert Zemel)	
Starranch Management, LLC)	Complaint No. R8-2010-0056
5165 Green River Road)	
Corona, CA 92880)	for
)	Administrative Civil Liability

YOU ARE HEREBY GIVEN NOTICE THAT:

1. Robert Zemel owns Starranch Management, LLC. Mr. Zemel and Starranch Management, LLC (hereinafter Starranch or the Discharger), are alleged to have violated provisions of law for which the California Regional Water Quality Control Board, Santa Ana Region (hereinafter Regional Board), may impose administrative civil liability, pursuant to California Water Code (CWC) Section 13385.
2. A hearing concerning this Complaint will be held before the Regional Board within 90 days of the date of issuance of this Complaint, unless, pursuant to CWC Section 13323, Starranch waives its right to a hearing. Waiver procedures are specified in the attached Waiver Form. The hearing on this matter is scheduled for the Regional Board's regular meeting on December 9, 2010 at the City Council Chambers, 25541 Barton Road, Loma Linda, California. Starranch, or its representative, will have the opportunity to appear and be heard and to contest the allegations in this Complaint and the imposition of civil liability by the Regional Board.
3. If a hearing is held on this matter, the Regional Board will consider whether to affirm, reject, or modify the proposed administrative civil liability or whether to refer the matter to the Attorney General for recovery of judicial civil liability. If this matter proceeds to hearing, the Prosecution Team reserves the right to seek an increase in the civil liability amount to cover the costs of enforcement incurred subsequent to the issuance of this Complaint through hearing.

THE COMPLAINT IS BASED ON THE FOLLOWING FACTORS:

4. Mr. Zemel and Starranch own and/or have control over property identified by Assessor's Parcels Number: 101-200-004, 101-200-005, 101-200-006, 101-200-007, 101-200-008, 101-200-009, 101-200-010, 101-200-012, 101-210-011, 101-210-014, 101-210-017, 101-210-019, and 101-210-021, at the commonly known addresses of 5115 and 5165 Green River Road in the unincorporated area of Riverside County, California. Some portions of the site are located along Mendimen Ranch Road. The

total acreage is 123.52 acres¹.

5. On December 31, 2004, Regional Board staff visited the site and determined that construction activities were taking place at the site. Construction activities disturbing one or more acres of land are required to get coverage under the State's General Permit for Storm Water Discharges Associated with Construction Activities (General Permit, Order No. 99-08-DWQ, renewed as Order No. 2009-009-DWQ in 2009) prior to start of any construction activities.
6. The site had not obtained coverage under the General Permit. On February 15, 2005, a Notice of Non-Compliance (NNC) was issued to Corona Highlands, Inc., the owner of record. The NNC required the responsible party to get coverage under the General Permit. During another site visit on March 8, 2005, Regional Board staff met with Bob Zemel at the site. Mr. Zemel told staff that he had a long term lease for the property and he was responsible for the activities at the site. Regional Board staff told Mr. Zemel about the February 15, 2010 NNC and the need to get coverage under the General Permit. The NNC required the responsible party to file a Notice of Intent (NOI) by March 14, 2010 for coverage under the General Permit.
7. On March 9, 2005, Jeffrey L. Farano, an attorney representing Mr. Zemel, requested for an extension (during a phone conversation that was confirmed by a letter from Mr. Farano dated March 9, 2010) of the filing date for the NOI to April 6, 2005. As Starranch failed to file a NOI, a second NNC was issued on May 2, 2005. Mr. Zemel claimed that the activities at the site were agricultural and therefore, exempt from the General Permit requirements. Regional Board staff noted several activities at the site, including construction of buildings for commercial purposes, which required coverage under the General Permit. Mr. Zemel was informed that the activities at the site were considered as construction activities requiring coverage under the General Permit. As of the date of issuance of this Complaint, Mr. Zemel and Starranch have not obtained coverage under the General Permit.
8. During an inspection on September 3, 2009, Regional Board staff noted a completed arena for horses, a restaurant, and an events facility offering "Wild West Entertainment" and other new structures. According to information provided by Riverside County, there are 23 structures on the site of which 21 are unpermitted². Some of the graded slopes along the entrance road had not been stabilized and continue to have erosion problems as evidenced by the erosion rills. A voicemail message was left at the facility's known phone number right after the inspection identifying the continued violations at the site.
9. On July 21, 2010, Regional Board staff re-inspected the site and found that the slopes had not been stabilized. Regional Board staff spoke to Mr. Zemel on August 9, 2010, and sent him an e-mail with photos of the areas that had known erosion

¹ From declaration of Jonathan Lance in support of motion for preliminary and permanent injunction, Case No. RIC 512809.

² Preliminary Injunction, Riverside County Superior Court, Case No. RIC 512809

problems. Mr. Zemel was again notified that he needed to get coverage under the General Permit, and also informed of the requirement to address the erosion problems at the site.

10. On August 5, 2010, the Riverside County Superior Court issued a judgment³ ordering Starranch and Mr. Zemel to cease and desist the unpermitted activities at the site. On August 25, 2010, Board staff received an electronic file from Riverside County staff who had been working with Mr. Zemel to bring the site into compliance with the local ordinances. The information submitted by the County indicates that several structures were constructed at the site without building permits and the site operated without a land use permit.
11. CWC Section 13376 requires any person proposing to discharge wastes to file a report of the discharge in compliance with the procedures set forth in Section 13260. By failing to obtain coverage under the General Permit, Mr. Zemel and Starranch violated CWC Section 13385 subdivision (a)(1).
12. CWC Section 13385 subdivision (c) states that civil liability may be imposed administratively on a per day basis at \$10,000 for each day in which the violation occurs. The maximum liability for the violation cited above is \$20,850,000 based on 2,085 days of violation (from December 31, 2004 to September 15, 2010).
13. In addition, CWC Section 13385 subdivision (c) also provides for an assessment based on the discharge volume. Based on Regional Board staff's observation of the unstabilized and unprotected construction areas, and evidence of erosion rills in these areas, it is likely that pollutants were discharged in storm water runoff from the site. However, staff did not visit the site during a storm event and did not observe such discharges. As such, no penalty is assessed for the discharge violations. The penalty assessments are based on the number of days of violation for not obtaining coverage under the General Permit.
14. CWC Section 13385 subdivision (e) specifies factors that the Regional Board shall consider in establishing the amount of civil liability. The Water Quality Enforcement Policy (the Policy) adopted by the State Water Resources Control Board on November 19, 2009, establishes a methodology for assessing administrative civil liability pursuant to this statute. Use of the methodology addresses the factors in CWC section 13385(e). The policy can be found at:
http://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/enf_policy_final111709.pdf
15. Using the methodology in the Policy, penalty is assessed on a per day basis for non-discharge violations. In this case, the deviation from the requirement is considered as major and the potential harm as moderate. Upon application of these factors to Table 3 in the Policy (see Page 16 of the Policy), we get a per day factor of 0.55.

³ Judgment, Riverside County Superior Court, Case No. RIC 512809

The Policy provides an alternate method for assessing penalties on a per day basis for multiple day violations where the violation is not causing daily detrimental impacts to the environment or the regulatory program. Using this alternate method, the total number of days of violation would be 75 days (see Page 18 of the Policy). The penalty for 75 days of violations using these factors is: $75 \text{ days} \times \$10,000/\text{day} \times 0.55 = \$412,500$.

16. The Policy also requires consideration of the violators conduct factors such as culpability (range 0.5 to 1.5), cleanup and cooperation (0.75 to 1.5) and history of violations (1 and above). The Discharger has no prior history of violations. Since this assessment is based on a non-discharge violation, no further adjustments are needed for cleanup and cooperation. Therefore, these two factors are considered as 1 and the culpability factor is considered as 1.5 due to non-cooperation from the Discharger to come into compliance with the General Permit. The total base liability after consideration of these factors is $\$412,500 \times 1 \times 1 \times 1.5 = \$618,750$.
17. The Policy also requires consideration of the Discharger's ability to pay and ability to continue in business, economic benefit or savings resulting from the violations and other factors as justice may require. Each of these factors is discussed below:
 - A. The Discharger owns 123.52 acres with a total assessed value of \$2,299,599 according to County records. Because of the Cease and Desist Order issued by the Superior Court, the Discharger is not expected to generate any revenue for some time from the operations at the facility. Nevertheless, the Discharger has assets valued at approximately \$2.3 million.
 - B. The Discharger realized approximately \$203,900 in savings by failing to obtain coverage under the General Permit (from 2004 to 2010, savings from not paying the annual fees amounted to \$3,900) and by failing to implement an effective combination of erosion and sediment controls (approximate cost of this is calculated as \$200,000) as required by the General Permit. The Policy requires that the liability amount shall be at least 10 percent higher than the economic benefit.
 - C. The costs of investigation and enforcement are considered as one of the "other factors as justice may require," and should be added to the final liability. Investigation costs have been estimated to be \$7,800 (52 hours at \$150 per hour=\$7,800).

After consideration of these factors, the Division Chief proposes that civil liability be imposed on Starranch in the amount of two hundred thirty-three thousand dollars (**\$233,000**) for the violations cited above. This amount is 110% of the economic benefit plus the staff costs. Attachment A presents the administrative civil liability derived from the use of the penalty methodology in the Policy.

WAIVER OF HEARING

The Discharger may waive its right to a hearing. If the Discharger chooses to do so, please sign the attached Waiver Form and return it, together with a check for **\$233,000** payable to the State Water Resources Control Board, in the enclosed preprinted envelope. If the Discharger waives its right to a hearing and pay the assessed amount, the Regional Board may not hold a hearing regarding this complaint.

If you have any questions, please contact Milasol G. Gaslan at (951) 782-4419.

9/15/10
Date



Michael J. Adackapara
Division Chief
Regional Board Prosecution Team



California Regional Water Quality Control Board Santa Ana Region



Linda S. Adams
Secretary for
Environmental Protection

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HEARING PROCEDURE FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R8-2010-0056 ISSUED TO

Robert Zemel owner of Starranch Management, LLC and Starranch Management, LLC
5165 Green River Road
Corona, CA 92880

SCHEDULED FOR DECEMBER 9, 2010

PLEASE READ THIS HEARING PROCEDURE CAREFULLY. FAILURE TO COMPLY WITH THE DEADLINES AND OTHER REQUIREMENTS CONTAINED HEREIN MAY RESULT IN THE EXCLUSION OF YOUR DOCUMENTS AND/OR TESTIMONY.

Background

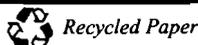
The Division Chief has issued an Administrative Civil Liability (ACL) Complaint pursuant to California Water Code Section 13323 against Robert Zemel owner of Starranch Management, LLC and Starranch Management, LLC alleging that they violated California Water Code Section 13385 by failing to obtain coverage under the General Permit for Discharges of Storm Water Associated with Construction Activity (Order No. 99-08-DWQ, renewed by Order No. 2009-009-DWQ, "General Permit"). The Complaint proposes that administrative civil liability in the amount of two hundred thirty-three thousand dollars (\$233,000) be imposed as authorized by Water Code Section 13385(c). A hearing is currently scheduled to be held before the Regional Board during its December 9, 2010 meeting.

Purpose of Hearing

The purpose of the hearing is to consider relevant evidence and testimony regarding the ACL Complaint. At the hearing, the Regional Board will consider whether to issue an administrative civil liability order assessing the proposed liability, or a lower/higher amount, reject the proposed liability, or seek a higher liability amount through a judicial civil liability action. The public hearing on December 9, 2010 will commence at 9:00 a.m. or as soon thereafter as practical, or as announced in the Regional Board meeting agenda. The meeting will be held at the City Council Chambers, 25541 Barton Road, City of Loma Linda, California. An agenda for the meeting will be issued at least ten days before the meeting and posted on the Regional Board's web page at:

http://www.waterboards.ca.gov/santaana/board_info/agendas/index.shtml.

California Environmental Protection Agency



The agenda will include the final hearing date and location and the estimated start time for the meeting. Since the start time for this item is uncertain, all interested parties are urged to be present from the start of the Board meeting.

Hearing Procedures

The hearing will be conducted in accordance with this hearing procedure. This hearing procedure has been pre-approved by the Regional Board's Advisory Team in model format. A copy of the general procedures governing adjudicatory hearings before the Regional Board may be found at Title 23 of the California Code of Regulations, Section 648 et seq., and is available at <http://www.waterboards.ca.gov> or upon request. In accordance with Section 648, subdivision (d), any procedure not provided by this Hearing Procedure is deemed waived. Except as provided in Section 648 and herein, subdivision (b), Chapter 5 of the Administrative Procedures Act (commencing with Section 11500 of the Government Code) does not apply to this hearing.

THE PROCEDURES AND DEADLINES HEREIN MAY BE AMENDED BY THE ADVISORY TEAM AT ITS DISCRETION. ANY OBJECTIONS TO THE HEARING PROCEDURE MUST BE RECEIVED BY THE REGIONAL BOARD'S ADVISORY TEAM BY NOVEMBER 9, 2010 OR THEY WILL BE WAIVED. FAILURE TO COMPLY WITH THE DEADLINES AND REQUIREMENTS CONTAINED HEREIN MAY RESULT IN THE EXCLUSION OF DOCUMENTS AND/OR TESTIMONY.

Hearing Participants

Participants in this proceeding are designated as either "parties" or "interested persons." Designated parties to the hearing may present evidence and cross-examine witnesses and are subject to cross-examination. Interested persons generally may not submit evidence, cross-examine witnesses, or be subject to cross examination, but may present policy statements. Policy statements may include comments on any aspect of the proceeding, but may not include evidence (e.g., photographs, eye-witness testimony, monitoring data, etc.). Interested persons who would like to submit evidence may do so if the evidence is submitted in accordance with the procedures and deadlines for submitting evidence described below. Interested persons who present evidence may be subject to cross-examination. Both designated parties and interested persons may be asked to respond to clarifying questions from the Regional Board, staff or others, at the discretion of the Regional Board.

The following participants are hereby designated as parties in this proceeding:

- (1) Regional Board Prosecution Team
- (2) Robert Zemel owner of Starranch Management, LLC and Starranch Management LLC, collectively referred to as the Discharger

Requesting Designated Party Status

Persons who wish to participate in the hearing as a designated party must request party status by submitting a request in writing (with copies to the existing designated parties) so that it is received by 5 p.m. on October 25, 2010 by Advisory Team Attorney David Rice, Davidrice@waterboards.ca.gov. The request shall include an explanation of the basis for status as a designated party (e.g., how the issues to be addressed in the hearing and the potential actions by the Regional Board affect the person), the information required of designated parties as provided below, and a statement explaining why the party or parties designated above do not adequately represent the person's interest. Any opposition to the request must be received by the Advisory Team, the person requesting party status, and all parties by 5 p.m. on November 1, 2010. The parties will be notified by 5 p.m. on November 8, 2010 in writing whether the request has been granted or denied.

Primary Contacts

Advisory Team: **David Rice (email: Davidrice@waterboards.ca.gov)**
Phone: 916-341-5182
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

Prosecution Team: **Milasol Gaslan (email: mgaslan@waterboards.ca.gov)**
Phone: 951-782-4419
Regional Water Quality Control Board
3737 Main Street, Suite 500
Riverside, CA 92501-3348

Discharger: **Robert Zemel owner of Starranch Management, LLC and**
Starranch Management, LLC
Email: bobz@ridestarranch.com
Phone: 951-737-0347
Starranch Management, LLC
5165 Green River Road
Corona, CA 92880

Separation of Functions

To help ensure the fairness and impartiality of this proceeding, the functions of those who will act in a prosecutorial role by presenting evidence for consideration by the Regional Board (Prosecution Team) have been separated from those who will provide advice to the Regional Board (Advisory Team). Members of the Advisory Team are: David Rice, Staff Counsel, State Water Resources Control Board and Kurt Berchtold, Executive Officer, Santa Ana Regional Water Quality Control Board. Members of the Prosecution Team are: Shannon Chambers, Office of Enforcement, State Water Resources Control Board; Michael Adackapara, Division Chief, Santa Ana Regional Water Quality Control Board; Milasol Gaslan, Inland Storm Water Section Chief, Santa Ana Regional Water Quality Control Board, Michael Roth, Water Resources Control Engineer, Inland Storm Water Section, Santa Ana Regional Water Quality Control Board. Any members of the Advisory Team who normally supervise any members of the Prosecution Team are not acting as their supervisors in this proceeding, and vice versa. Members of the Prosecution Team may have acted as advisors to the Regional Board in other, unrelated matters, but they are not advising the Regional Board in this proceeding. Members of the Prosecution Team have not had any ex parte communications (see below) with the members of the Regional Board or the Advisory Team regarding this proceeding.

Ex Parte Communications

The designated parties and interested persons are forbidden from engaging in ex parte communications regarding this matter with members of the Advisory Team or members of the Regional Board. An ex parte contact is any written or oral communication pertaining to the investigation, preparation, or prosecution of the Complaint between a member of a designated party or interested person on the one hand, and a Regional Board member or an Advisory Team member on the other hand, unless the communication is copied to all other designated parties (if written) or made in a manner open to all other designated parties (if oral). Communications regarding non-controversial procedural matters are not ex parte contacts and are not restricted. Communications among one or more designated parties and interested persons themselves are not ex parte contacts.

Hearing Time Limits

To ensure that all participants have an opportunity to participate in the hearing, the following time limits shall apply: Each designated party shall have a combined 20 minutes to present evidence, cross-examine witnesses (if warranted), and provide a closing statement; and each interested person shall have 3 minutes to present a non-evidentiary policy statement. Participants with similar interests or comments are requested to make joint presentations, and participants are requested to avoid redundant comments. Participants who would like additional time must submit their request to the Advisory Team so that it is received no later than November 1, 2010.

Additional time may be provided at the discretion of the Advisory Team (prior to the hearing) or the Regional Board Chair (at the hearing) upon a showing that additional time is necessary.

Submission of Evidence and Policy Statements

The following information must be submitted in advance of the hearing:

1. All evidence (other than witness testimony to be presented orally at the hearing) that the Designated Party would like the Regional Board to consider. Evidence and exhibits already in the public files of the Regional Board may be submitted by reference as long as the exhibits and their location are clearly identified in accordance with Title 23, CCR, Section 648.3.
2. All legal and technical arguments or analysis.
3. The name of each witness, if any, whom the designated party intends to call at the hearing, the subject of each witness' proposed testimony, and the estimated time required by each witness to present direct testimony.
4. The qualifications of each expert witness, if any.
5. If the Discharger intends to argue an inability to pay the civil liability proposed in the Complaint (or an increased or decreased amount as may be imposed by the Regional Board), the Discharger should submit supporting evidence as set forth in the "ACL Fact Sheet" under "Factors that must be considered by the Board."

The Prosecution Team shall submit 15 hard copies of its information and one electronic copy of the information to Advisory Team Attorney David Rice so that it is received by 5 p.m. on November 17, 2010.

The remaining designated parties shall submit 15 hard copies of their information and one electronic copy of the information to Advisory Team Attorney David Rice so that they are received by 5 p.m. on November 17, 2010.

Any designated party that would like to submit information that rebuts the information previously submitted by other designated parties shall submit 15 hard copies of their rebuttal information and one electronic copy of the information to Advisory Team Attorney David Rice so that they are received by 5 p.m. on November 22, 2010. Rebuttal information shall be limited to the scope of the information previously submitted by the other designated parties. Rebuttal information that is not responsive to information previously submitted by other designated parties may be excluded.

If the total amount of information submitted by any party is less than 15 pages, that party may submit the information by email, rather than in writing. In addition to the foregoing, each designated party shall submit (1) one copy of the above information to each of the other designated parties so that it is received by 5 p.m. on the deadline specified above.

Interested persons who would like to submit written non-evidentiary policy statements are encouraged to submit them to the Advisory Team as early as possible, but no later than November 17, 2010. Interested persons do not need to submit written non-evidentiary policy statements in order to speak at the hearing.

In accordance with Title 23, California Code of Regulations, Section 648.4, the Regional Board endeavors to avoid surprise testimony or evidence. Absent a showing of good cause and lack of prejudice to the parties, the Regional Board may exclude evidence and testimony that is not submitted in accordance with this hearing procedure. Excluded evidence and testimony will not be considered by the Regional Board and will not be included in the administrative record for this proceeding. Power Point and other visual presentations may be used at the hearing, but their content may not exceed the scope of other submitted written material. A copy of such material intended to be presented at the hearing must be submitted to the Advisory Team by November 29, 2010 for inclusion in the administrative record. Additionally, any witness who has submitted written testimony for the hearing shall appear at the hearing and affirm that the written testimony is true and correct, and shall be available for cross-examination.

Request for Pre-hearing Conference

A designated party may request that a pre-hearing conference be held before the hearing in accordance with Water Code Section 13228.15. A pre-hearing conference may address any of the matters described in subdivision (b) of Government Code Section 11511.5. Requests must contain a description of the issues proposed to be discussed during that conference, and must be submitted to the Advisory Team, with a copy to all other designated parties, as early as practicable.

Evidentiary Objections

Any designated party objecting to written evidence or exhibits submitted by another designated party must submit a written objection to the Advisory Team and all other designated parties so that it is received by 5 p.m. on December 1, 2010. The Advisory Team will notify the parties about further action to be taken on such objections and when that action will be taken.

Evidentiary Documents and File

The Complaint and related evidentiary documents are on file and may be inspected or copied at the Regional Board office at 3737 Main Street, Suite 500, Riverside, CA 92501 by contacting August Lucas (email: alucas@waterboards.ca.gov; phone: 951-782-7961). This file shall be considered part of the official administrative record for this hearing. Other submittals received for this proceeding will be added to this file and will become a part of the administrative record absent a contrary ruling by the Regional

Board Chair. Many of these documents are also posted on-line at:
http://www.waterboards.ca.gov/santaana/public_notices/enforcement_actions.shtml.
Although the web page is updated regularly, to assure access to the latest information,
you may contact Milasol C. Gaslan (mgaslan@waterboards.ca.gov).

Questions

Questions concerning this proceeding may be addressed to the Advisory Team Attorney
David Rice (Davidrice@waterboards.ca.gov).

IMPORTANT DEADLINES

(Note: the Regional Board is required to provide a hearing within 90 days of issuance of
the Complaint (Water Code Section 13323). The Advisory Team will generally adhere
to this schedule unless the discharger waives that requirement.)

- | | |
|---------------------|--|
| September 15, 2010: | Prosecution Team issues ACL Complaint to Discharger and Advisory Team, sends Hearing Procedure to Discharger and Advisory Team, and publishes Public Notice. |
| October 21, 2010: | Discharger's deadline for waiving right to hearing. |
| October 25, 2010: | Deadline for requests for designated party status. |
| November 1, 2010: | Deadline for oppositions to requests for designated party status, and requests for additional time at the hearing, if any. |
| November 8, 2010: | Advisory Team issues decision on requests for designated party status, if any. |
| November 9, 2010: | Deadline for objections, if any, to proposed Hearing Procedure. |
| November 17, 2010: | Prosecution Team's deadline for all information required under "Submission of Evidence and Policy Statements." |
| November 17, 2010: | Remaining Designated Parties' Deadline for all information required under "Submission of Evidence and Policy Statements." |
| November 17, 2010: | Interested Persons' deadline for written non-evidentiary policy statements. |
| November 22, 2010: | All Designated Parties' deadline for rebuttal information, evidentiary objections, |
| November 29, 2010: | All parties deadline for presentation materials (PowerPoint or other materials) |

December 1, 2010 All parties deadline for objections to material submitted by
 other parties.

December 9, 2010: Public Hearing.



Michael J. Adackapara
Division Chief
Regional Board Prosecution Team



Date



California Regional Water Quality Control Board

Santa Ana Region



3737 Main Street, Suite 500, Riverside, California 92501-3348
Phone (951) 782-4130 • FAX (951) 781-6288 • TDD (951) 782-3221
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Linda S. Adams
Secretary for
Environmental Protection

Arnold Schwarzenegger
Governor

WAIVER FORM FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R8-2010-0056

By signing this waiver, I affirm and acknowledge the following:

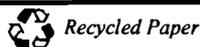
I am duly authorized to represent Robert Zemel owner of Starranch Management LLC and Starranch Management LLC (hereinafter "Discharger") in connection with Administrative Civil Liability Complaint No. R8-2010-0056 (hereinafter "Complaint"). I am informed that California Water Code section 13323, subdivision (b), states that, "a hearing before the Regional Board shall be conducted within 90 days after the party has been served [with the complaint]. The person who has been issued a complaint may waive the right to a hearing."

(**OPTION 1: Check here if the Discharger waives the hearing requirement and will pay the liability in full.**)

- a. I hereby waive any right the Discharger may have to a hearing before the Regional Board.
- b. I certify that the Discharger will remit payment for the proposed civil liability in the full amount of **two hundred thirty three thousand dollars (\$233,000)** by check that references "ACL Complaint No. R8-2010-0056." made payable to the "State Water Resources Control Board". Payment must be received by the Regional Board by October 21, 2010 or the Regional Board may adopt an Administrative Civil Liability Order requiring payment.
- c. I understand the payment of the above amount constitutes a proposed settlement of the Complaint, and that any settlement will not become final until after the 30-day public notice and comment period. Should the Regional Board receive significant new information or comments from any source (excluding the Regional Board's Prosecution Team) during this comment period, the Regional Board's Division Chief may withdraw the Complaint, return payment, and issue a new complaint. I understand that this proposed settlement is subject to approval by the Executive Officer for the Regional Board, and that the Regional Board may consider this proposed settlement in a public meeting or hearing. I also understand that approval of the settlement will result in the Discharger having waived the right to contest the allegations in the Complaint and the imposition of civil liability.
- d. I understand that payment of the above amount is not a substitute for compliance with applicable laws and that continuing violations of the type alleged in the Complaint may subject the Discharger to further enforcement, including additional civil liability.

(**OPTION 2: Check here if the Discharger waives the 90-day hearing requirement in order to engage in settlement discussions.**) I hereby waive any right the Discharger may have to a hearing before the Regional Board within 90 days after service of the Complaint, but I reserve the ability to request a hearing in the future. I certify that the Discharger will promptly engage the Regional Board Prosecution Team in settlement discussions to attempt to resolve the outstanding violation(s). By checking this box, the Discharger requests that the Regional

California Environmental Protection Agency



**WAIVER FORM
FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R8-2010-0056**

- 2 -

Board delay the hearing so that the Discharger and the Prosecution Team can discuss settlement. It remains within the discretion of the Regional Board to agree to delay the hearing. Any proposed settlement is subject to the conditions described above under "Option 1."

(OPTION 3: Check here if the Discharger waives the 90-day hearing requirement in order to extend the hearing date and/or hearing deadlines. Attach a separate sheet with the amount of additional time requested and the rationale.) I hereby waive any right the Discharger may have to a hearing before the Regional Board within 90 days after service of the Complaint. By checking this box, the Discharger requests that the Regional Board delay the hearing and/or hearing deadlines so that the Discharger may have additional time to prepare for the hearing. It remains within the discretion of the Regional Board to approve the extension.

(Print Name and Title)

(Signature)

(Date)



Discharger Name/ID:

Starranch Management LLC ACL Order No. 2010-056

		Violation 1		
Discharge Violations	Step 1	Potential Harm Factor (Generated from Button)		
	Step 2	Per Gallon Factor (Generated from Button)		
		Gallons		
		Statutory / Adjusted Max per Gallon (\$)		
		Total		\$ -
		Step 2	Per Day Factor (Generated from Button)	
Days				
Statutory Max per Day				
Total				\$ -
Non-Discharge Violations	Step 3	Per Day Factor	0.55	
		Days	75	
		Statutory Max per Day	\$ 10,000	
		Total		\$ 412,500.00
Initial Amount of the ACL			\$ 412,500.00	
Add'l Factors	Step 4	Culpability	1.5	\$ 618,750.00
		Cleanup and Cooperation	1	\$ 618,750.00
		History of Violations	1	\$ 618,750.00
Step 5 Total Base Liability Amount			\$ 618,750.00	
Step 6	Ability to Pay & to Continue in Business	1	\$ 618,750.00	
Step 7	Other Factors as Justice May Require	1	\$ 618,750.00	
	Staff Costs	\$ 7,800	\$ 626,550.00	
Step 8	Economic Benefit	\$ 203,900	\$ 626,550.00	
Step 9	Minimum Liability Amount	232,870		
	Maximum Liability Amount	\$ 618,750		
Step 10 Final Liability Amount			\$ 233,000.00	

Penalty Day Range Generator

Start Date of Violation= 12/31/04

End Date of Violation= 9/15/10

Maximum Days Fined (Steps 2 & 3) = 2085 Days

Minimum Days Fined (Steps 2 & 3) = 75 Days

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Sent To *Robert Genel Stovack Mgmt.*
 Street, Apt. No.,
 or PO Box No. *5165 Green River Rd.*
 City, State, ZIP+4 *Colton CA 92880*