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North Coast Regional Water Quality Control Board

May 22, 2023

GLS Tracking No: 559437953

ICRS LLC  
Attn: Bervely Sandra Soruco  
98 North 5<sup>th</sup> Street  
San Jose, CA 95112  
[birols@live.com](mailto:birols@live.com)

Subject: **Notice of Violation of the State Water Resources Control Board Order No. 2009-0009 DWQ, as amended by Orders 2010-0014 DWQ and 2012-0006 DWQ, NPDES No. CAS000002, *General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities* (Construction General Permit) and Transmittal of Inspection Report for December 5, 2022 Inspection of Trinity County Assessor's Parcel Numbers (APNs) 015-180-043-000, 015-180-044-000, and 015-180-046-000**

File: Construction General Permit Notice of Violation and Inspection, Trinity County, 2022; SMARTS WDID: 53C389202

**THIS LETTER REQUIRES THAT YOU ACT WITHIN 15 DAYS**

Dear Bervely Soruco,

You are hereby notified as the Legally Responsible Person (LRP), that ICRS LLC (Discharger) is in violation of the Construction General Permit at 1580 Indian Creek, Douglas City, Trinity County APNs 015-180-043-000, 015-180-044-000, 015-180-046-000 (Site). The Discharger failed to employ best management practices (BMPs) to achieve best available technology economically achievable (BAT) and best conventional pollutant control technology (BCT). The Discharger failed to install sufficient and effective BMPs to remove or reduce pollutants in the construction activity-related stormwater as it discharged off the Site. As a result, unauthorized

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HECTOR BEDOLLA, CHAIR | VALERIE QUINTO, EXECUTIVE OFFICER

sediment-laden stormwater discharged from the Site and ultimately entered waters of the United States.

The Discharger is required to comply with all the conditions of the Construction General Permit.<sup>1</sup> Any permit noncompliance constitutes a violation of the Clean Water Act and may subject the Discharger to administrative civil liability pursuant to California Water Code (Water Code) section 13385, subdivision (c).

## **A. Background**

On January 15, 2020 the Discharger filed a Notice of Intent (NOI) to enroll the Site for coverage under the Construction General Permit. The Site comprises three parcels at 1580 Indian Creek, 5 miles southeast from Douglas City in Trinity County, as shown in Figure 1 (see Attachment B: December 5, 2022 Inspection Report). The parcels are owned by Nezh Sabankaya and Semih Sabankaya. According to the Notice of Intent, project grading occurred on 4 acres of the Site, and construction activities were expected to take place between March 4, 2020 and October 31, 2021.

The Site is enrolled as a Risk Level 2; however, the correct designation is Risk Level 3 due to the Receiving Water Risk Factor (see Attachment B: December 5, 2022 Inspection Report). Risk Level 3 sites are subject both to the standard requirements of the Construction General Permit, as well as the additional site-specific requirements defined in the Permit's Attachment D.

## **B. Alleged Violations**

Staff observed numerous violations of the Construction General Permit at the Site during the December 5, 2022 inspection. Staff observations are detailed in the attached December 5, 2022 Inspection Report. The Discharger violated multiple provisions of the Construction General Permit requirements related to four sections of the Site: the Driveway Surface, Inboard Ditch, and Inboard Embankment; Drainage Systems; Graded Pad Areas, Embankments, and Roadways. The Discharger also violated the Construction General Permit due to deficiencies in the Site's Storm Water Pollution Prevention Plan (SWPPP) and failure to comply with Monitoring and Reporting Requirements.

The violations included below are among the violations observed and documented by staff. Each provision of the Construction General Permit that was violated is identified in Attachment B but, due to the volume of violations, the list included below is not an exhaustive list of the violations observed. Please see the inspection report for additional detail regarding staff's observations and Attachment A, Regulatory Citations, for specific references to the requirements and regulations.

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<sup>1</sup> Construction General Permit Duty to Comply, section IV. Special Provisions, subdivision (a)(1).

Violations observed at the Site include:

- 1) Section III.B Discharge Prohibitions, by discharging unauthorized construction activity-related stormwater runoff from the Site,
- 2) Section V.A.2, Effluent Standards and Receiving Water Limitations, by failing to minimize or prevent pollutants in stormwater discharges through the use of controls, structures, and management practices that achieve BAT for toxic and non-conventional pollutants and BCT for conventional pollutants,
- 3) Section XIV.A, SWPPP Requirements, by failing to have a SWPPP that addressed current Site conditions, all pollutants and their sources, and was designed with BMPs to eliminate or reduce pollutants in stormwater discharges,
- 4) Attachment B, Provision J.2, Permit Registration Site Map, as the Site Map did not include all required elements and information as the submitted Site Map represented a site condition under which the curb, gutter, and sidewalk had been completed and the Site had not yet reached this milestone,
- 5) Attachment D, Provision D.2, Soil Cover Erosion Control, by failing to provide effective soil cover for inactive area,
- 6) Attachment D, Provision E.1, Sediment Controls, by failing to establish and maintain effective perimeter controls and stabilized construction entrances and exits to control erosion and sediment discharges from the Site,
- 7) Attachment D, Provision E.2, Sediment Controls, by failing to design sediment basins in accordance with the CASQA Construction BMP Guidance Handbook,
- 8) Attachment D, Provision E.3, Sediment Controls, by failing to implement runoff control and soil stabilization in conjunction with sediment control BMPs for areas under active construction, and
- 9) Attachment D, Provision E.4, Sediment Controls, by failing to properly apply linear sediment controls.

The Site conditions represent a high threat of continued excessive sediment transport and discharge due to failing and unprotected slopes and embankments, a lack of effective erosion and sediment controls across the entire site, unstabilized erosive dirt roads, and poorly designed flow conveyances and drainage systems. The Site has an inadequate level of erosion and sediment control BMPs to protect receiving waters from erosion and sediment discharge. The erosion and sediment controls onsite were not implemented per a SWPPP prepared by a Qualified SWPPP Developer (QSD) and no SWPPP, SWPPP amendments, Rain Event Action Plans, or monitoring information

were available onsite. Staff identified several features and conditions on the Site that represent violations of water quality requirements and regulations.

### **C. Potential Liability**

The Regional Water Board is considering whether the observed violations warrant further enforcement. We encourage you to take steps to correct the violations as soon as possible. Please note that the existing conditions, as observed and documented in the inspection report, may represent continuing violations of the Construction General Permit.

Correcting the conditions of non-compliance at the Site does not preclude enforcement for the violations alleged in this notice. The Regional Water Board reserves its right to fully enforce against any violation and threatened violation by taking additional actions such as issuance of a cleanup and abatement order, time schedule order, administrative civil liability, and/or referral to the California Attorney General's Office. The Discharger may be subject to administrative civil liability of up to \$10,000 for each violation each day it occurs, and up to \$10 per gallon of waste discharged, pursuant to Water Code section 13385, subdivisions (a) and (c).

### **D. Required Actions**

**Within 15 days of the date of this letter**, please provide a written response indicating your intentions, plan, and schedule to come into compliance with the Construction General Permit and to address the conditions of noncompliance identified in the inspection report. Please contact Water Board staff Casey Yearout at [Casey.Yearout@waterboards.ca.gov](mailto:Casey.Yearout@waterboards.ca.gov) or by phone at 916-341-5629, and response must be provided via email to both Casey Yearout and [North.Coast@Waterboards.ca.gov](mailto:North.Coast@Waterboards.ca.gov).

Future correspondence regarding this matter will be sent to you as the Discharger's contact at this address unless an alternate address and/or additional contacts are provided to the Regional Water Board. Failure to accept mail from the Regional Water Board is not a valid excuse for non-compliance with any future enforcement orders, and a failure to respond or otherwise appear at a future enforcement proceeding could subject you to a default order and the imposition of administrative civil liability.

If you have any questions regarding this matter, please contact Casey Yearout at the email above. You may also contact me at [Heaven.Moore@Waterboards.ca.gov](mailto:Heaven.Moore@Waterboards.ca.gov) or by telephone at (707) 576-2753. Additionally, we are available to meet with you if you wish to discuss this letter, the inspection report, the Construction General Permit, or our waste discharge regulatory programs in further detail.

Sincerely,

Heaven Moore, PE  
Senior Water Resource Control Engineer

Enclosures: Attachment A – Regulatory Citations  
Attachment B – December 5, 2022 Inspection Report

ec: **ICRS LLC**

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**North Coast Regional Water Quality Control Board**

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**Trinity County Planning and Environmental Health**

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**Qualified SWPPP Developer**

Allen Boyd, [boydengineering@charter.net](mailto:boydengineering@charter.net)

## Attachment A – Regulatory Citations

Construction General Permit Section	Citation
IV.A.	The discharger shall comply with all of the conditions of this General Permit. Any permit noncompliance constitutes a violation of the Clean Water Act (CWA) and the Porter-Cologne Water Quality Control Act and is grounds for enforcement action and/or removal from General Permit coverage.
IV.A.	The discharger shall comply with all of the conditions of this General Permit. Any permit noncompliance constitutes a violation of the Clean Water Act (CWA) and the Porter-Cologne Water Quality Control Act and is grounds for enforcement action and/or removal from General Permit coverage.
IV.G.1	The discharger shall maintain a paper or electronic copy of all required records, including a copy of this General Permit, for three years from the date generated or date submitted, whichever is last. These records shall be available at the construction site until construction is completed.
V.A.2/Att. D, A.1.b	Dischargers shall minimize or prevent pollutants in storm water discharges and authorized non-storm water discharges through the use of controls, structures, and management practices that achieve BAT for toxic and non-conventional pollutants and BCT for conventional pollutants.
V.B.3	Whenever the results from a storm event daily average indicate that the discharge is below the lower NAL for pH, exceeds the upper NAL for pH, or exceeds the turbidity NAL (as listed in Table 1), the discharger shall conduct a construction site and run-on evaluation to determine whether pollutant source(s) associated with the site's construction activity may have caused or contributed to the NAL exceedance and shall immediately implement corrective actions if they are needed
V.B.4	The site evaluation shall be documented in the SWPPP and specifically address whether the source(s) of the pollutants causing the exceedance of the NAL: a. Are related to the construction activities and whether additional BMPs are required to (1) meet BAT/BCT requirements; (2) reduce or prevent pollutants in storm water discharges from causing exceedances of receiving water objectives; and (3) determine what corrective action(s) were taken or will be taken and with a description of the schedule for completion. AND/OR: b. Are related to the run-on associated with the construction site location and whether additional BMPs measures are required to (1) meet BAT/BCT requirements; (2) reduce or prevent pollutants in storm water

<b>Construction General Permit Section</b>	<b>Citation</b>
	discharges from causing exceedances of receiving water objectives; and (3) what corrective action(s) were taken or will be taken with a description of the schedule for completion.
VI.A	The discharger shall ensure that storm water discharges and authorized non-storm water discharges to any surface or ground water will not adversely affect human health or the environment.
VI.B	The discharger shall ensure that storm water discharges and authorized non-storm water discharges will not contain pollutants in quantities that threaten to cause pollution or a public nuisance.
VI.C	The discharger shall ensure that storm water discharges and authorized non-storm water discharges will not contain pollutants that cause or contribute to an exceedance of any applicable water quality objectives or water quality standards (collectively, WQS) contained in a Statewide Water Quality Control Plan, the California Toxics Rule, the National Toxics Rule, or the applicable Regional Water Board's Water Quality Control Plan (Basin Plan).
VII.B.4 4	The LRP shall list in the SWPPP, the name of any Approved Signatory, and provide a copy of the written agreement or other mechanism that provides this authority from the LRP in the SWPPP.
XIV.C	The discharger shall make the SWPPP available at the construction site during working hours while construction is occurring and shall be made available upon request by a State or Municipal inspector. When the original SWPPP is retained by a crewmember in a construction vehicle and is not currently at the construction site, current copies of the BMPs and map/drawing will be left with the field crew and the original SWPPP shall be made available via a request by radio/telephone.
XVI.D	The discharger shall include storm water monitoring information in the Annual Report consisting of: 1. a summary and evaluation of all sampling and analysis results, including copies of laboratory reports; 2. the analytical method(s), method reporting unit(s), and method detection limit(s) of each analytical parameter (analytical results that are less than the method detection limit shall be reported as "less than the method detection limit"); 3. a summary of all corrective actions taken during the compliance year; 4. identification of any compliance activities or corrective actions that were not implemented; 5. a summary of all violations of the General Permit; 6. the names of individual(s) who performed the facility inspections, sampling, visual observation (inspections), and/or measurements; 7. the date, place, time of facility inspections, sampling, visual observation (inspections), and/or measurements, including precipitation (rain gauge); and 8. the visual observation and sample collection exception records and reports specified in Attachments C, D, and E

<b>Construction General Permit Section</b>	<b>Citation</b>
Att. D, B.5	Risk Level 2 dischargers shall conduct an assessment and create a list of potential pollutant sources and identify any areas of the site where additional BMPs are necessary to reduce or prevent pollutants in storm water discharges and authorized non-storm water discharges. This potential pollutant list shall be kept with the SWPPP and shall identify all non-visible pollutants which are known, or should be known, to occur on the construction site
Att. D, B.7	Risk Level 2 dischargers shall document all housekeeping BMPs in the SWPPP and REAP(s) in accordance with the nature and phase of the construction project. Construction phases at traditional land development projects include Grading and Land Development Phase, Streets and Utilities, or Vertical Construction for traditional land development projects.
Att. D, D.2	Risk Level 2 dischargers shall provide effective soil cover for inactive <sup>1</sup> areas and all finished slopes, open space, utility backfill, and completed lots.
Att. D, E.1	Risk Level 2 dischargers shall establish and maintain effective perimeter controls and stabilize all construction entrances and exits to sufficiently control erosion and sediment discharges from the site
Att. D, E.3	Risk Level 2 dischargers shall implement appropriate erosion control BMPs (runoff control and soil stabilization) in conjunction with sediment control BMPs for areas under active construction.
Att. D, E.4	Risk Level 2 dischargers shall apply linear sediment controls along the toe of the slope, face of the slope, and at the grade breaks of exposed slopes to comply with sheet flow lengths <sup>3</sup> in accordance with Table 1.
Att. D, E.5	Risk Level 2 dischargers shall ensure that construction activity traffic to and from the project is limited to entrances and exits that employ effective controls to prevent offsite tracking of sediment.
Att. D, F	Risk Level 2 dischargers shall effectively manage all run-on, all runoff within the site and all runoff that discharges off the site. Run-on from off site shall be directed away from all disturbed areas or shall collectively be in compliance with the effluent limitations in this General Permit.
Att. D, G.2	Risk Level 2 dischargers shall perform weekly inspections and observations, and at least once each 24-hour period during extended storm events, to identify and record BMPs that need maintenance to operate effectively, that have failed, or that could fail to operate as intended. Inspectors shall be the QSP or be trained by the QSP.
Att. D, G.2	For each inspection required, Risk Level 2 dischargers shall complete an inspection checklist, using a form provided by the State Water Board or Regional Water Board or in an alternative format.
Att. D, G.5	Risk Level 2 dischargers shall ensure that checklists shall remain onsite with the SWPPP and at a minimum, shall include: a. Inspection date and date the inspection report was written. b. Weather

<b>Construction General Permit Section</b>	<b>Citation</b>
	information, including presence or absence of precipitation, estimate of beginning of qualifying storm event, duration of event, time elapsed since last storm, and approximate amount of rainfall in inches. c. Site information, including stage of construction, activities completed, and approximate area of the site exposed. d. A description of any BMPs evaluated and any deficiencies noted. e. If the construction site is safely accessible during inclement weather, list the observations of all BMPs: erosion controls, sediment controls, chemical and waste controls, and non-storm water controls. Otherwise, list the results of visual inspections at all relevant outfalls, discharge points, downstream locations and any projected maintenance activities. f. Report the presence of noticeable odors or of any visible sheen on the surface of any discharges. g. Any corrective actions required, including any necessary changes to the SWPPP and the associated implementation dates. h. Photographs taken during the inspection, if any. i. Inspector's name, title, and signature.
Att. D, H.1	The discharger shall ensure a QSP develop a Rain Event Action Plan (REAP) 48 hours prior to any likely precipitation event. A likely precipitation event is any weather pattern that is forecast to have a 50% or greater probability of producing precipitation in the project area. The discharger shall ensure a QSP obtain a printed copy of precipitation forecast information from the National Weather Service Forecast Office
Att. D, H.6	The discharger shall ensure a QSP begin implementation and make the REAP available onsite no later than 24 hours prior to the likely precipitation event.
Att. D, H.7	The discharger shall ensure a QSP maintain onsite a paper copy of each REAP onsite in compliance with the record retention requirements of the Special Provisions in this General Permit.
Att. D, I.1.a	Pursuant to Water Code Sections 13383 and 13267, all dischargers subject to this General Permit shall develop and implement a written site-specific Construction Site Monitoring Program (CSMP) in accordance with the requirements of this Section. The CSMP shall include all monitoring procedures and instructions, location maps, forms, and checklists as required in this section. The CSMP shall be developed prior to the commencement of construction activities, and revised as necessary to reflect project revisions. The CSMP shall be a part of the Storm Water Pollution Prevention Plan (SWPPP), included as an appendix or separate SWPPP chapter.
Att. D, I.3.a	Risk Level 2 dischargers shall visually observe (inspect) storm water discharges at all discharge locations within two business days (48 hours) after each qualifying rain event.
Att. D, I.3.d	Risk Level 2 dischargers shall record the time, date and rain gauge reading of all qualifying rain events.

<b>Construction General Permit Section</b>	<b>Citation</b>
Att. D, I.3.e	Within 2 business days (48 hours) prior to each qualifying rain event, Risk Level 2 dischargers shall visually observe (inspect): i. all storm water drainage areas to identify any spills, leaks, or uncontrolled pollutant sources. If needed, the discharger shall implement appropriate corrective actions. ii. all BMPs to identify whether they have been properly implemented in accordance with the SWPPP/REAP. If needed, the discharger shall implement appropriate corrective actions.
Att. D, I.3.f	For the visual observations (inspections) described in c.i and c.iii above, Risk Level 2 dischargers shall observe the presence or absence of floating and suspended materials, a sheen on the surface, discolorations, turbidity, odors, and source(s) of any observed pollutants
Att. D, I.3.g	Within two business days (48 hours) after each qualifying rain event, Risk Level 2 dischargers shall conduct post rain event visual observations (inspections) to (1) identify whether BMPs were adequately designed, implemented, and effective, and (2) identify additional BMPs and revise the SWPPP accordingly.
Att. D, I.3.h	Risk Level 2 dischargers shall maintain on-site records of all visual observations (inspections), personnel performing the observations, observation dates, weather conditions, locations observed, and corrective actions taken in response to the observations.
Att. D, I.4.a	Risk Level 2 dischargers shall collect storm water grab samples from sampling locations, as defined in Section I.5. The storm water grab sample(s) obtained shall be representative of the flow and characteristics of the discharge.
Att. D, I.4.b	At minimum, Risk Level 2 dischargers shall collect 3 samples per day of the qualifying event.
Att. D, I.4.c	Risk Level 2 dischargers shall ensure that the grab samples collected of stored or contained storm water are from discharges subsequent to a qualifying rain event (producing precipitation of ½ inch or more at the time of discharge).
Att. D, I.4.d	Risk Level 2 dischargers shall analyze their effluent samples for: i. pH and turbidity. ii. Any additional parameters for which monitoring is required by the Regional Water Board.
Att. D, I.5.a	Risk Level 2 dischargers shall perform sampling and analysis of storm water discharges to characterize discharges associated with construction activity from the entire project disturbed area.
Att. D, I.5.b	Risk Level 2 dischargers shall collect effluent samples at all discharge points where storm water is discharged off-site.
Att. D, I.8.a.i	Risk Level 2 dischargers shall include a description of the following items in the CSMP: i. Visual observation locations, visual observation procedures, and visual observation follow-up and tracking procedures.

<b>Construction General Permit Section</b>	<b>Citation</b>
Att. D, I.8.a.ii	Sampling locations, and sample collection and handling procedures.
Att. D, I.14	Risk Level 2 dischargers shall retain records of all storm water monitoring information and copies of all reports (including Annual Reports) for a period of at least three years. Risk Level 3 dischargers shall retain all records on-site while construction is ongoing.
Att. D, I.14.d.ii	Risk Level 2 dischargers shall include in the NAL Exceedance Report: ii. The date, place, time of sampling, visual observation (inspections), and/or measurements, including precipitation.
Att. D, I.14.d.iii	Risk Level 2 dischargers shall include in the NAL Exceedance Report: iii. A description of the current BMPs associated with the effluent sample that exceeded the NAL and the proposed corrective actions taken
Att. D, I.15.a	In the event that any effluent sample exceeds an applicable NAL, Risk Level 2 dischargers shall electronically submit all storm event sampling results to the State Water Board no later than 10 days after the conclusion of the storm event. The Regional Boards have the authority to require the submittal of an NAL Exceedance Report.
Att. D, I.15.b	Risk Level 2 dischargers shall certify each NAL Exceedance Report in accordance with the Special Provisions for Construction Activity.
Att. D, I.15.c	Risk Level 2 dischargers shall retain an electronic or paper copy of each NAL Exceedance Report for a minimum of three years after the date the annual report is filed.
Att. D, I.15.d	Risk Level 2 dischargers shall include in the NAL Exceedance Report: i. The analytical method(s), method reporting unit(s), and method detection limit(s) of each analytical parameter (analytical results that are less than the method detection limit shall be reported as “less than the method detection limit”). ii. The date, place, time of sampling, visual observation (inspections), and/or measurements, including precipitation. iii. A description of the current BMPs associated with the effluent sample that exceeded the NAL and the proposed corrective actions taken
Construction General Permit	<a href="https://www.waterboards.ca.gov/water_issues/programs/stormwater/docs/constpermits/wqo_2009_0009_c_complete.pdf">Construction General Permit</a> ( <a href="https://www.waterboards.ca.gov/water_issues/programs/stormwater/docs/constpermits/wqo_2009_0009_c_complete.pdf">https://www.waterboards.ca.gov/water_issues/programs/stormwater/docs/constpermits/wqo_2009_0009_c_complete.pdf</a> )