

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

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|---------------------------------------|---|---------------------------------------|
| In the matter of: |) | Complaint No. R8-2003-0031 |
| |) | for |
| Three Rings Ranch, Inc. |) | Administrative Civil Liability |
| 1538 Brookhollow Drive, Ste. B |) | |
| Santa Ana CA, 92705 |) | |
| |) | |
| Attn: Mr. Pat Kennedy |) | |

YOU ARE HEREBY GIVEN NOTICE THAT:

1. Three Rings Ranch, Inc. (Three Rings), is alleged to have violated provisions of law for which the California Regional Water Quality Control Board, Santa Ana Region (hereinafter Board), may impose liability under Section 13385(c) of the California Water Code.
2. A hearing concerning this Complaint will be held at the Board's regular meeting on July 1, 2003, at the City Council Chambers of Loma Linda, 25541 Barton Road, Loma Linda, California. Three Rings or its representative will have an opportunity to appear and be heard, and to contest the allegations in this Complaint and the imposition of civil liability by the Board. An agenda for the meeting will be mailed to you not less than 10 days prior to the hearing date.
3. At the hearing, the 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.
4. Three Rings is alleged to have violated Provision A.2 ("Discharges of material other than storm water which are not otherwise authorized by an NPDES permit to a separate storm sewer system (MS4) or waters of the nation are prohibited, except as allowed in Special Provisions for Construction Activity, C.3."), C.2 ("All dischargers shall develop and implement a SWPPP in accordance with Section A: Storm Water Pollution Prevention Plan, The discharger shall implement controls to reduce pollutants in storm water discharges from their construction sites to the BAT/BCT performance standard."), Section A.3 ("The SWPPP shall remain on the construction site while the site is under construction during working hours, ...) and Section B. 6 ("Records of all inspections, compliance certifications, and noncompliance reporting must be retained for a period of at least three years from the date generated...") of the General Permit for Storm Water Discharges Associated with Construction Activity, Order No. 99-08-DWQ (General Permit). Three Rings failed to develop and implement an effective Storm Water Pollution Prevention Plan (SWPPP), did not have a copy of the SWPPP at the construction site, did not keep records of inspections, and discharged storm water and non-storm water containing pollutants to waters of

the United States from the construction site. Pursuant to Water Code Section 13385 (a)(2), civil liability may be imposed for the preceding violations.

5. According to the Notice of Intent filed on August 12, 1999, Three Rings Ranch is the owner and developer for the construction site located at the corner of Elm Avenue and Eighth Street in Beaumont. Runoff from the Three Rings construction site (Tract 24039-8) is regulated under the State's General Permit, WDID No. 8 33S311507.
6. This complaint is based on the following facts:
 - a) On July 19, 2002, Board staff conducted an inspection of Three Rings' construction site located west of the corner of Elm Avenue and Eighth Street, Beaumont. The construction manager for Three Rings, was not able to provide Board staff with a SWPPP meeting the requirements under Section A of the General Permit. The construction manager was only able to provide a site map. The best management practices (BMPs) implemented at the site were not adequate to control the discharge of pollutants from the site. The retention basin was not properly sized and the silt fences were not properly installed. Non-storm water from the site broke through the embankment of a retention basin, eroding the embankment and channeled under the silt fence to the adjacent dry wash known as Marshall Creek. Sediment discharges occurred from the site due to a combination of an inadequate design of the retention basin and the fact that the basin was overwhelmed by run-off from street washing that occurred the previous day.
 - b) There was a silt fence on the western perimeter that had been overrun and flattened by some heavy equipment and was not properly maintained.
 - c) The slopes on the western periphery had no erosion protection.
 - d) On August 9, 2002, Board staff returned to the site to inspect the retention basin. The basin was rebuilt, but was not sized according to the criteria specified in the General Permit. Board staff informed the construction manager about the needed improvements to be in compliance with the General Permit.
 - e) The storm drain inlet on Calumet Avenue, within the tract, had plaster waste flowing into it. The inlet was well protected for sediment, but inadequately protected for cementitious (plaster wastes) materials. There were no noticeable BMPs implemented for control of plaster or stucco materials.
 - f) The streets were inadequately swept.
 - g) The construction manager could not provide a copy of the SWPPP.
 - h) On August 14, 2002, a Notice of Violation was issued outlining the aforementioned violations.
 - i) On September 6, 2002, Board staff met with the construction manager and a consulting engineer for the site. The retention basin had been rebuilt into a sediment basin configuration to allow drainage through a perforated pipe. Board staff explained to Three Rings that the basin was inadequately sized for storm water and would have to be rebuilt before the rainy season. During the inspection, Three Rings provided Board staff with a copy of the SWPPP, 49 days after it was originally requested.
 - j) On December 20, 2002, Board staff conducted an inspection of the construction site. The rainfall had eroded some of the lots' side slopes and the parkways due to inadequate erosion and sediment controls in those areas. The rainfall that day

had caused significant erosion and sediment-laden storm water had been discharged from the site.

- k) There was inadequate inlet protection and the straw rolls covering one of the inlets had been pulled back.
 - l) There was inadequate erosion controls and the unlined channel had significantly eroded. The construction manager indicated that the channels were going to be protected with grassy vegetation.
 - m) The slopes were only partially protected. The slopes along the west side of the property near Marshall Creek were partially planted, but there were large parts of the area that remained unstabilized. The silt fence was improperly installed and poorly maintained.
 - n) The inspection showed less than half of the perimeter controls along the western edge of the site were intact and effective. The silt fence had collapsed in a number of locations, was not visible in a number of areas and was also torn down by stream bank erosion.
 - o) The sediment basin, installed in September 2002, failed during the next storm event. Soil around the basin had eroded away due to the storm flows.
 - p) Three Rings kept no written records of BMP inspections as required under Section B.6 of the General Permit.
 - q) Board staff met with the construction manager on the December 20, 2002, to discuss the observations noted during the inspection. The construction manager agreed to make improvements.
 - r) On December 31, 2002, Board staff sent a Notice of Violation regarding the aforementioned violations.
 - s) On January 9, 2003, Board staff toured the site with site personnel and found that the silt fence had not been properly anchored and the sediment basin standpipe and the sediment basin standpipe was too small.
 - t) A copy of the SWPPP was submitted to Regional Board Staff on January 9, 2003. The SWPPP was found to be inadequate and was not site specific.
 - u) On January 21, 2003, Regional Board staff received a letter from Three Rings stating that all items noted in the December 31, 2002, Notice of Violation would be corrected.
 - v) Despite repeated warnings, the sediment basins were not maintained and on February 25, 2003, during a storm event, Board staff noted that discharges of sediment laden storm water were still continuing. Although a number of improvements in the lots and in the parkways had been implemented, the basin was completely filled with sediments due to a lack of erosion and sediment controls and a lack of maintenance of the BMPs.
7. Three Rings is alleged to have violated Provisions A.2 and C.2 and Sections A.3 and B.6 of the General Permit.
8. Three Rings allegedly violated the General Permit by failing to properly implement an effective SWPPP. Three Rings also violated the General Permit by discharging storm water and non-storm water containing pollutants to waters of the United States from the construction site. Pursuant to Water Code Section 13385 (a)(2), civil liability may be imposed for the preceding violations.

9. Section 13385(a)(2) provides that any person who violates waste discharge requirements shall be civilly liable. Section 13385 (c) provides that civil liability may be administratively imposed by a regional board in an amount not to exceed ten thousand dollars (\$10,000) for each day the violation occurs. Additional liability, not to exceed \$10 per gallon, may be imposed for each gallon discharged in excess of 1,000 gallons.
10. Pursuant to Section 13385(c), the total maximum assessment for which Three Rings is civilly liable is \$510,000 based on \$20,000 (\$10,000 per day for 2 days of discharges staff observed) and \$490,000 (\$10,000 per day of having no SWPPP) for the violations cited in Paragraph 6, above.
11. Three Rings saved approximately \$28,575 by not implementing adequate BMPs at the site (5 acres of slopes @ \$.1/sq.ft., 1000 ft. of silt fence @ \$1.75 per linear ft. and 50 lots @ \$200 per lot). Board staff costs for investigating this site were approximately \$1,400 (20 hours at \$70/hour). These factors were considered in assessing the penalty proposed in Paragraph 15, below.
12. Section 13385 (e) specifies factors that the Board shall consider in establishing the amount of civil liability. These factors include: nature, circumstances, extent, and gravity of the violation, and, with respect to the discharger, the ability to pay, any prior history of violations, the degree of culpability, economic benefit or savings, if any, resulting from the violation, and other matters that justice may require. At a minimum, liability shall be assessed at a level that recovers the economic benefits, if any, derived from the acts that constitute the violation. The factors are evaluated in the table below.

| Factor | Comment |
|--|--|
| A. Nature, Circumstances, Extent and Gravity of Violation | <p>Three Rings had no SWPPP on site initially and did not adequately implement effective controls at the site after initial contacts.</p> <p>The SWPPP did not identify adequate BMPs and the BMPs that were implemented failed or were not adequately maintained. Due to the facility's lack of adequate BMP implementation, sediment-laden water discharges occurred on at least two occasions into a surface water body. Photos taken and a sample collected at the site indicated muddy water discharge. The site discharges into Marshall Creek.</p> <p>Three Rings' inaction and failure to implement adequate upgrades to the BMPs at the site and failure to provide adequate oversight of its operations caused pollutants to be discharged into the waters of the U.S.</p> |

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|---------------------------------------|---|
| B. Culpability | The discharger violated the terms of the General Permit by failing to maintain and implement up-to-date and adequate BMPs and by failing to properly implement an inspection program with written records to monitor the effectiveness of the BMPs. Despite requests to implement an effective combination of erosion and sediment controls at the site, the discharger did not implement adequate erosion and sediment control BMPs and discharged polluted storm water into the receiving waters. |
| C. Economic Benefit or Savings | Three Rings saved approximately \$28,575 by not implementing BMPs for slope protection, by not properly installing silt fences and by not having an effective combination of erosion and sediment controls. |
| D. Prior History of Violations | Three Rings received two Notices of Violation regarding violation of the General Permit. |
| E. Staff Costs | Regional Board staff spent approximately 20 hours investigating this incident (@\$70.00 per hour, the total cost for staff time is \$1400). |
| F. Ability to pay | The discharger has not provided any information to indicate that it is unable to pay the proposed amount. |


13. The total maximum liability for the violations of the General Permit is \$510,000. After consideration of the above factors, the Executive Officer proposes civil liability be imposed on Three Rings in the amount of \$30,000 for the violations cited above. An invoice for this amount is enclosed.

WAIVER OF HEARING

Three Rings may waive its right to a hearing. If you choose to do so, please sign the attached waiver form and return it, together with a check or money order for \$30,000 and the bottom portion of the invoice to the State Water Resources Control Board in the enclosed preprinted envelope.

If you have any questions, please contact Ms. Milasol C. Gaslan at (909) 782-4419 or Mr. Michael Adackapara at (909) 782-3238, or contact the Regional Board's legal counsel, Jorge Leon, at (916) 341-5180.

6/3/03
Date


Gerard J. Thibeault
Executive Officer

In the matter of:)
)
Three Rings Ranch, Inc.)
1538 Brookhollow Drive, Ste. B)
Santa Ana CA, 92705)
)
Attn: Mr. Pat Kennedy)

Complaint No. R8-2003-0031
for
Administrative Civil Liability

WAIVER OF HEARING

I agree to waive Three Rings Ranch's right to a hearing before the Santa Ana Regional Water Quality Control Board with regard to the violations alleged in Complaint No. R8-2003-0031. I have enclosed a check, made payable to the State Water Resources Control Board, in the amount of \$30,000. I understand that I am giving up Three Rings Ranch's right to be heard and to argue against allegations made by the Executive Officer in this complaint, and against the imposition of, and the amount of, the liability proposed.

Date

for Three Rings Ranch



State Water Resources Control Board



Winston H. Hickox
Secretary for
Environmental
Protection

*The energy challenge facing California is real.
Every Californian needs to take immediate action to reduce energy consumption.
For a list of simple ways you can reduce demand and cut your energy costs, see our website at <http://www.swrcb.ca.gov>*

Gray Davis
Governor

To:
THREE RINGS RNCH INC
1538 Brookhollow Dr., Suite B
Santa Ana, CA 92705
ATTN: PAT KENNEDY

Invoice No: 33921
Invoice Date: 05/30/2003
Enforcement Action ID: 68679
Enforcement Order No: R8-2003-0031

INVOICE

ACLCOMP

| Description | Amount | Due Date |
|-------------------------|-------------|--------------------|
| 44889 LIABILITY AMOUNT | \$30,000.00 | |
| TOTAL AMOUNT DUE | | \$30,000.00 |

California Environmental Protection Agency



Retain above portion for your records



Please return bottom portion with your payment

THREE RINGS RNCH INC
1538 Brookhollow Dr., Suite B
Santa Ana, CA 92705
ATTN: PAT KENNEDY

| Description | Amount | Due Date |
|-------------------------|-------------|--------------------|
| 44889 LIABDUE | \$30,000.00 | |
| TOTAL AMOUNT DUE | | \$30,000.00 |

Make your check payable to:

State Water Resources Control Board

Mail payment to:

**SWRCB ACCOUNTING
ATTN: ENFORCEMENT
P. O. Box 100
SACRAMENTO, CA 95812-0100**

Amount Enclosed: \$ _____

PLEASE PRINT THE FOLLOWING INVOICE NUMBER ON YOUR CHECK: **33921**

Invoice Date: 05/30/2003
Enforcement Action ID: 68679
Enforcement Order No.: R8-2003-0031



California Regional Water Quality Control Board

Santa Ana Region



Winston H. Hickox
Secretary for
Environmental
Protection

Internet Address: <http://www.swrcb.ca.gov/rwqcb8>
3737 Main Street, Suite 500, Riverside, California 92501-3348
Phone (909) 782-4130 - FAX (909) 781-6288

Gray Davis
Governor

June 3, 2003

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Pat Kennedy
Three Rings Ranch, Inc.
1538 Brookhollow Drive, Ste. B
Santa Ana CA, 92705

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R8-2003-0031, TRACT 24039-9, BEAUMONT, RIVERSIDE COUNTY

Dear Mr. Kennedy:

We are enclosing a certified copy of Complaint No. R8-2003-0031 proposing administrative civil liability of \$30,000 for violations of the State's General Permit for Storm Water Discharges Associated with Construction Activity, Order No. 99-08-DWQ, NPDES No. CAS000002, WDID No. 8 33S311507. An invoice and a preprinted envelope are also enclosed.

A public hearing on this matter is scheduled for the Regional Board meeting on July 1, 2003. The staff report regarding this complaint and the meeting agenda will be mailed to you not less than 10 days prior to the Board meeting.

You have the option to waive your right to a hearing. Should you waive your right to a hearing and pay the proposed assessment, the Regional Board will not hold a public hearing on this matter. If you choose to waive your right to a hearing, please sign the enclosed waiver form and submit the form with a check for \$30,000. The check or money order should be made payable to the State Water Resources Control Board. The payment, the Waiver Form and the bottom portion of the invoice should be mailed to the State Board in the enclosed preprinted envelope.

If you do not wish to waive your right to a hearing, a pre-hearing meeting with Board staff is recommended. Should you wish to schedule a pre-hearing meeting, please call us prior to June 10, 2003. At that time, you may submit information that may not have been previously available to staff regarding this incident. The information should address the following:

1. Nature, circumstances, extent, and gravity of the violation;
2. Your ability to pay the proposed assessment;
3. Any prior history of violations;

California Environmental Protection Agency

4. Your degree of culpability;
5. Economic benefit or saving; and
6. Such other matters as justice may require.

If you have any questions regarding this complaint, you may contact Ms. Milasol C. Gaslan at 909-782-4419 or Mr. Michael Adackapara at 909-782-3238. All legal questions should be referred to our legal counsel, Mr. Jorge Leon, at 916-341-5180.

Sincerely,



Gerard J. Thibeault
Executive Officer

Enclosures: Complaint No. R8-2003-0031, Waiver Form, Invoice and Envelope

Cc with enclosures:

Regional Board
Bruce Fujimoto, State Water Resources Control Board, Division of Water Quality
Jorge Leon, State Water Resources Control Board, Office of Chief Counsel
Kathie Moore, US-EPA, Region 9 (WTR-7)
Jason Uhley, Riverside County, Storm Water Program – NPDES Coordinator
John Wilder, City of Beaumont, NPDES Coordinator

MSRX:\DATA\WORD\ConstSW\San Jacinto\Brookfield\Three Rings Ranch