

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

In the matter of: )  
 )  
Carson Hall, Jr. )  
1964 Turquoise Circle )  
Chino Hills, CA 92709 )  
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\_\_\_\_\_ )

**Complaint No. R8-2008-0048**  
**for**  
**Administrative Liability**

YOU ARE HEREBY GIVEN NOTICE THAT:

1. You are alleged to have violated California Water Code (CWC) Section 13399.31 and requirements contained in State Water Resources Control Board Order No. 99-08-DWQ, NPDES Permit No. CAS000002 (hereinafter General Permit), for which the Regional Water Quality Control Board, Santa Ana Region (hereinafter Board), must impose liability under §13399.33 and may impose additional liability under §13385 of the CWC. The General Permit regulates discharges of storm water associated with construction activities.
2. A hearing concerning this Complaint will be held before the Board within ninety days of the date of issuance of this Complaint. The hearing in this matter is scheduled for the Board's regular meeting on June 6, 2008 at the City Council Chambers, 22 Civic Center Plaza, Santa Ana, California. You or your 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.
3. If a hearing is held on this matter, 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. This complaint is based on the following facts:
  - A. Mr. Hall (Discharger) conducted grading activities on three parcels of land that he owned: APNs 242-070-033, 242-070-034 (this parcel has since been sold) and 242-070-036. These parcels of land covered approximately 16.81 acres and were vegetated and had riparian habitat prior to 2005. During 2005, after the Discharger bought the properties, they were cleared of riparian vegetation and rough graded. These parcels are located in the Woodcrest area of Riverside, downstream of Woodcrest Dam. Runoff that accumulates behind the Dam flows in an arroyo through these parcels into an unnamed blue-line

stream before entering the Riverside Canal, which is tributary to Temescal Wash and ultimately the Santa Ana River; these are waters of the United States. Construction activities commenced sometime in July or August of 2005, according to Mr. Dale Sexton, who brokered the sale of the property to Mr. Hall.

- B. The federal Water Pollution Control Act (Clean Water Act) Section 402 prohibits the discharge of pollutants to waters of the United States unless such discharges are in compliance with a National Pollutant Discharge Elimination System (NPDES) permit. (33 U.S.C. §§ 1342). The General Permit requires that construction activities, including clearing, grading, disturbances to the ground such as stockpiling, or excavation that results in soil disturbance on one or more acres, be covered under the General Permit.
- C. On November 21, 2005, Board staff inspected the property and met with City of Riverside staff.
- D. On December 1, 2005, Department of Fish and Game staff, Army Corps of Engineers staff, and Board staff inspected the Discharger's properties, parcel numbers 242-070-033, 242-070-034 and 242-070-036, located south of Bradley Street and west of Washington Street in the City of Riverside. Mr. Hall had not consulted with any of these agencies before removing riparian habitat and altering streambeds. Board staff observed and photographed evidence of construction activities that require coverage under the General Permit. These activities included grading, removal of trees and other vegetation, diversion of flows from a stream into a pond, streambed alteration, and installation of corrugated culverts. Mr. Hall failed to develop and implement pollution control measures; there was evidence of rill erosion leading from the property's unstabilized graded areas to the blue-line stream.

The City's Planning Department confirmed that preliminary plans were submitted for the construction of a house and a horse ranch but the permitting process was not completed.

- E. CWC Section 13399.31 establishes specific notification and enforcement procedures to be implemented by the Board to ensure compliance with storm water permit requirements by industrial and construction sites. Accordingly, Board staff issued two certified Notices of Non-compliance (NNC) to the Discharger.
- F. A NNC was issued to the Discharger by certified mail on July 7, 2006 and received on July 8, 2006. In response to the NNC, Mr. Dale Sexton, acting as an agent for the Discharger, indicated that there were no construction activities at the site that needed to be regulated under the General Permit. However, Board staff notified Mr. Sexton that the activities at the site required coverage under the General Permit.

- G. Since the Discharger did not get coverage under the General Permit in response to the first NNC, a second NNC was issued on August 15, 2006, also by certified mail. On September 5, 2006, Ms. Tam Doduc, State Water Resources Control Board Chair, sent a letter to Mr. Sexton indicating that the construction activities at the Discharger's property should be covered under the General Permit (this was in response to a letter that Mr. Sexton wrote to the Governor regarding the site).
- H. The second NNC was returned unclaimed. On December 12, 2007, Board staff issued another NNC by regular mail. Mr. Hall confirmed that he had received the December 12, 2007 NNC. The NNC required Mr. Hall to obtain General Permit coverage for the site by January 11, 2008. As of March 21, 2008, the Discharger has not obtained coverage under the General Permit. This is a violation of CWC § 13399.31 subject to a mandatory penalty.
5. Pursuant to CWC §13399.33(a)(1), the Board must impose a mandatory penalty of \$5,000 per year of non-compliance or fraction thereof if a discharger fails to get permit coverage after the discharger has been served with two Notices of Non-compliance. In addition, a regional board may assess additional penalties of \$10,000 per day for each day of violation in accordance with CWC § 13385. The Discharger is alleged to have violated CWC § 13399.31 at least for 4 years (2005, 2006, 2007 and 2008). The mandatory minimum liability under Section 13399.33 for this violation is \$20,000. This does not include potential liabilities under CWC § 13385.
6. CWC §13385(e) specifies factors that the Board shall consider in establishing the amount of civil liability. These factors are addressed in the following table:

Factor	Comment
<b>A. Nature, Circumstance, Extent, and Gravity of Violation</b>	The Discharger conducted construction activities without obtaining coverage under the General Permit, even after two NNCs from Board staff. [He also failed develop and implement pollution control measures during construction activities at the site.] The Discharger diverted stream flows and altered the streambed. Most of these activities were carried out without authorizations and/or permits from the City, the Board, US Army Corps of Engineers and the State Department of Fish and Game.
<b>B. Culpability</b>	The Discharger failed to obtain coverage under the General Permit even after two Notices of Non-compliance. The Water Code provides a mandatory penalty for failure to obtain coverage under the construction activities General Permit. The Discharger failed to obtain proper regulatory approvals for various other activities that were carried out at the site.

<b>C. Economic Benefit or Savings</b>	By conducting construction activities without the required permit coverage, failure to pay the necessary application fee, and by not having control measures as required under the General Permit, the Discharger realized an economic benefit. The Discharger saved approximately \$2,542 in annual fees for four years $((\$200 + \$20/\text{acre}) \times 18.5\% \text{ surcharge})$ . The fee for 16.81 acres is \$635.40/year). Board staff estimates that the Discharger saved an additional \$5,000 by not developing and implementing proper pollution control measures. Total economic savings are \$7,542. Pursuant to CWC §13385(e), administrative civil liability must be assessed in an amount not less than the economic benefit or savings.
<b>D. Prior History of Violations</b>	Board staff has no knowledge of any previous violations by this Discharger.
<b>E. Other Factors</b>	Board staff spent at least 120 hours of staff time in its efforts to bring this facility into compliance (@\$110.00 per hour, the total cost for staff time is \$13,200).
<b>F. Ability to pay</b>	The Discharger has not provided any information to indicate that he does not have the ability to pay.

7. After consideration of these factors, the Assistant Executive Officer proposes that civil liability be imposed on the Discharger in the amount of \$20,000 for the violations cited above.

You may waive your right to a hearing. If you choose to do so, please sign the attached waiver form and mail it, together with a check payable to the State Water Resources Control Board for \$20,000. The waiver form and the check should be mailed to this office in the enclosed preprinted envelope.

If you have any questions concerning this complaint, contact Stephen D. Mayville, Enforcement Section Chief, at (951) 782-4992.

3/24/08

Date

Kurt V. Berchtold

Kurt V. Berchtold  
Assistant Executive Officer

In the matter of: )  
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Carson Hall, Jr. )  
1964 Turquoise Circle )  
Chino Hills, CA 92316 )  
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**Complaint No. R8-2008-0048**  
**for**  
**Administrative Civil Liability**

**WAIVER OF HEARING**

I, Carson Hall, Jr., agree to waive my right to a hearing before the Santa Ana Regional Water Quality Control Board with regard to the violations alleged in Complaint No. R8-2008-0048.

I have enclosed a check, payable to the State Water Resources Control Board, in the amount of \$20,000. I understand that I am giving up my right to be heard and to argue against allegations made by the Assistant Executive Officer in this Complaint, and against the imposition of, and the amount of, the liability proposed.

\_\_\_\_\_  
Date

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Carson Hall, Jr.