



California Regional Water Quality Control Board

Central Coast Region



Winston H. Hickox
Secretary for
Environmental
Protection

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Gray Davis
Governor

August 12, 2003

Certified No. 7003 0500 0004 9151 6845

David Pierson
P.O. Box 1833
Rancho Santa Fe, CA 92067

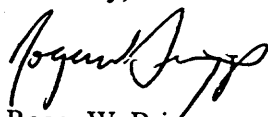
CLEANUP OR ABATEMENT ORDER; GOLDIE LANE PROPERTY; SANTA MARGARITA; SAN LUIS OBISPO COUNTY

Dear Mr. Pierson:

This letter transmits Cleanup or Abatement Order No. R3-2003-0062 (Cleanup Order), and rescinds Cleanup Order No. R3-2003-0021. Cleanup Order No. R3-2003-0062 is issued to David Pierson as a result of the significant violations of the California Porter-Cologne Water Quality Control Act (Water Code) between November 8, 2002, and February 28, 2003. Despite submitting a Notice of Intent to comply with the General Storm Water Permit for construction activities, you have now indicated that the project is an agricultural project. Agricultural projects are exempt from National Pollutant Discharge Elimination System permitting requirements. Enclosed is a Notice of Termination that must be completed and submitted to the Regional Board in order to terminate your General Permit coverage. Even though your project is agricultural, it remains necessary to comply with the Water Code. The enclosed Cleanup Order is for violations of Water Code Section 13304. To minimize adverse water quality impacts, the Cleanup Order, in part, requires that effective erosion and sediment control measures are in place by October 15, 2003.

Regional Board staff plans to inspect the Goldie Lane Property again. Please ensure that Best Management Practices are employed on site before the next rain, or by the dates in this Cleanup Order, whichever is sooner. Questions regarding this matter may be directed to Ryan Lodge at (805) 542-4642 or Eric Gobler at (805) 549-3467.

Sincerely,


Roger W. Briggs
Executive Officer

Enclosure: Cleanup or Abatement Order R3-2003-0062
Notice of Termination

cc: See attached list

S:\WB\Central Watershed\Storm Water\Construction\Enforcement\Pierson\UpdatedCAO\CAOcvr1

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PS Form 3800, June 2002		See Reverse for Instructions		Domestic Mail Only: No Insurance Coverage	
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Return Receipt Fee (Endorsement Required)		Restricted Delivery Fee (Endorsement Required)		Total Postage & Fees	
Postage		\$		\$	

Sent to: DAVID PIERSON
Street, Apt. No., or PO Box No.: PO BOX 1833
City, State, ZIP+4: SANTA FE, CA 92067

California Environmental Protection

Recycled Paper

Item No. 18 Attachment No. 13
July 7-8, 2005 Meeting
David Pierson ACL

cc: Todd Tognazzini
Department of Fish & Game
P.O. Box 2785
Paso Robles, CA 93447

San Luis Obispo County District Attorney
County Government Center, Room 460
San Luis Obispo, CA 93408

James Caruso
San Luis Obispo County Dept. of Planning and
Building
County Government Center
San Luis Obispo, CA 93408-2040

Tim Fielder
San Luis Obispo County Code Enforcement
County Government Center
San Luis Obispo, CA 93408-2040

Debbie Arnold
Room 370
County Government Center
San Luis Obispo, CA 93408

David Williams
P.O. Box 320
Creston, CA 93432

Jeff Emrick
EDA Design Professionals
1998 Santa Barbara Street
San Luis Obispo, CA 93401

Sarah Christie
926 J Street, Suite 416
Sacramento, CA 95814

Gordon R. Hensley
P.O. Box 6884
Los Osos, CA 93412

Babak Naficy
Law Offices of Babak Naficy
1204 Nipomo Street
San Luis Obispo, CA 93401

Pam Heatherington
Environmental Center of San Luis Obispo
1204 Nipomo Street
San Luis Obispo, CA 93401

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION
895 Aerovista, Suite 101
San Luis Obispo, CA 93401**

**CLEANUP OR ABATEMENT ORDER NO. R3-2003-0062
Issued to David Pierson**

**DAVID PIERSON, GOLDIE LANE PROPERTY, SANTA MARGARITA,
SAN LUIS OBISPO COUNTY**

The California Regional Water Quality Control Board, Central Coast Region (hereafter Regional Board), finds:

1. David Pierson (hereafter Discharger) owns a 39-acre project known as the Goldie Lane Property, Santa Margarita, San Luis Obispo County (Site).

Regional Board staff has requested the Discharger submit a Notice of Termination, to terminate Site General Permit coverage.
2. On September 20, 2002, Regional Board staff inspected the Site to follow-up on citizen complaints of illegal grading. The Site was cleared of all vegetation and left without adequate erosion and sediment controls. The Site is hilly with slopes in excess of 30%.
3. On October 8, 2002, Regional Board staff sent a letter to the Discharger outlining Regional Board staff concerns about the Site and requiring submission of an erosion and sediment control plan. The Discharger submitted a Storm Water Pollution Prevention Plan on October 22, 2002.
4. On November 4, 2002, Discharger filed a Notice of Intent (NOI) to comply with the terms of the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Related Discharges Associate with Construction Activity (General Permit). The Discharger has since indicated that the project is agricultural. Non-point source discharges from agricultural activities at the Site are exempt from (NPDES) permitting requirements.
5. Although the Site is not subject to the General Permit, it is subject to Porter-Cologne Water Quality Control Act regulation. (Water Code §§ 13000 et seq.)
6. Water Code section 13304 mandates,

“Any person who has discharged or discharges waste into the waters of this state...who has caused or permitted, cases or permits, or threatens to cause or permit any waste to be discharged or deposited where it is, or probably will be discharge into the waters of the state and creates, or threatens to create, a condition of pollution or nuisance, shall upon order of the regional board, clean up the waste or abate the effects of the wastes or in the case of threatened pollution or nuisance, take other necessary remedial action.”
7. Discharger discharged sediment to a “blue line” creek tributary to Huerhuero Creek during the 2002-2003 rainy season. The discharge of sediment to the “blue line” creek and Huerhuero Creek threatens to cause a condition of pollution. Water Code

section 13050 defines pollution as the following,

“Pollution means an alteration of the quality of the water of the state by waste to a degree which unreasonably affects either of the following: (A) The waters for beneficial uses. (B) Facilities which serve these beneficial uses.”

Beneficial uses of the “blue line” creek include warm freshwater habitat. Huerhuero Creek beneficial uses include wildlife habitat, warm freshwater habitat, and rare, threatened, or endangered species. Sediment discharges unreasonably affect these beneficial uses by causing excess turbidity and by burying creek bottoms. Increased turbidity and sedimentation can deplete food availability to zooplankton, insects, freshwater mollusks, and fish.

8. On November 8, 2002, Regional Board staff observed widespread erosion of the cleared hillsides and the access road that transverses the property. The erosion has resulted in sediment discharging to the unnamed “blue line” creek tributary to the Huerhuero Creek, which is a water of the state. Sediment from the site buried sections of the creek bottom.
9. On December 20, 2002, Regional Board Staff inspected the Site again. Regional Board staff observed widespread erosion of the cleared hillsides and the access road that transverses the property. The erosion resulted in sediment discharging to the unnamed “blue line” creek tributary to the Huerhuero Creek. Sediment from the site buried sections of the creek bottom.
10. On January 23, 2003, the Executive Officer of the Regional Board issued a Cleanup or Abatement Order (Cleanup Order) for the Site. The Cleanup Order required the Discharger implement erosion control

measures to stabilize eroding hillsides and to stabilize on site access roads.

11. On February 3, 2003, and February 28, 2003, Regional Board staff inspected the Site. Regional Board staff observed widespread erosion of the cleared hillsides and the access road that transverses the property. The erosion resulted in sediment discharging to the unnamed blue line creek tributary to the Huerhuero Creek. Sediment from the site buried sections of the creek bottom.
12. The sediment discharge occurred because onsite erosion and sediment controls were inadequate. Much of the site does not have erosion control measures in place. The access road through the Site, which parallels an unnamed “blue line” creek, has eroded into the creek in several locations. Sediment controls installed, such as hay bales and jute netting, were overwhelmed without erosion control measures for the road. Some sections of the road had neither erosion nor sediment controls.
13. The sediment discharges observed by Regional Board staff on November 8, 2002, December 20, 2002, February 3, 2003, and February 28, 2003, could have been prevented if adequate and effective erosion and sediment control measures had been placed prior to the rainy season. An October 8, 2002, letter outlined inadequate erosion control measures for the Site. Notices of Violation (NOV) letters dated November 25, 2002, and February 21, 2003, pointed out on site deficiencies in erosion and sediment control measures. Adequate time was available prior to the rainy season to implement an effective combination of sediment and erosion control measures. Failure to implement adequate measures has resulted in widespread erosion and discharges of sediment from the site that threaten to cause a condition of pollution.

14. Erosion and sediment control measures known as Best Management Practices (BMPs) must be implemented prior to the next rainy season to prevent further surface water impacts. Two guidance documents for BMP implementation are available at this website: <http://www.swrcb.ca.gov/stormwtr/training.html>. The documents are Erosion and Sediment Control Field Manual, 4th edition, published by CA RWQCB, San Francisco Bay Region, August 2002, and CA Best Management Practices Handbook - Construction published by California Storm Water Quality Association, Livermore, CA, January, 2003.
15. The access roads on site need to be stabilized immediately to prevent further impacts to area surface waters. The Discharger has indicated a need to obtain permits from San Luis Obispo County in order to re-grade Site roads. There are temporary measures that can be used to

minimize erosion and sediment discharges from the roads pending any necessary permitting process.

16. The technical or monitoring reports required by this Order are necessary to document and confirm compliance with this Order. Discharger is required to submit these reports because he is the owner of the Site and responsible for preventing illegal discharges of waste from the Site. Evidence to support this finding can be found in the file of the Regional Board regarding the Goldie Lane Property, Santa Margarita, San Luis Obispo County.
17. This enforcement action is being taken for the protection of natural resources and the environment and as such is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 21000, et seq.) in accordance with Sections 15307 and 15308, Chapter 3, Title 14, California Code of Regulations.

IT IS HEREBY ORDERED, pursuant to Section 13267 and 13304 of the California Water Code, Discharger, his agents, successors or assigns, shall clean up and abate further sediment discharges, as follows:

1. Discharger shall prevent or minimize the discharge of sediment from the Site to waters of the State.
2. Discharger shall:
 - a. **By August 20, 2003**, submit to the Regional Water Board an erosion and sediment control plan, describing actions that are effective to prevent or minimize sediment discharges to waters of the State that is acceptable to the Executive Officer. The plan shall include short-term measures that will be implemented by **September 15, 2003** and additional measure that will be completely implemented by **October 15, 2003**. The plan shall include a time schedule for the implementation of erosion and sediment control measures. The plan shall include maintenance of BMPs and the removal of sediment trapped within drainage courses. The erosion and sediment control measures BMPs shall meet BCT/BAT standards. The Discharger shall refer to two guidance documents for BMP implementation referenced in paragraph 14 above.
 - b. **By August 29, 2003**, submit a road management plan. The plan shall include measures to properly stabilize all roads on Site to prevent or minimize the discharge of sediment to

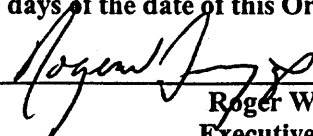
waters of the State that is acceptable to the Executive Officer. The road stabilization measures shall meet BCT/BAT standards. The Discharger shall refer to two guidance documents for BMP implementation, which are referenced in Paragraph 14, above.

- c. By October 15, 2003, prevent erosion by covering all inactive disturbed soils and slopes at the site with effective erosion control BMPs in a manner acceptable to the Executive Officer. The erosion and control measures BMPs shall meet BCT/BAT standards. The Discharger shall refer to two guidance documents for BMP implementation referenced in paragraph 14 above.
- d. By October 15, 2003, properly stabilize all roads on Site to prevent or minimize the discharge of sediment to waters of the State in a manner acceptable to the Executive Officer. The road stabilization measures shall meet BCT/BAT standards. The Discharger shall refer to two guidance documents for BMP implementation referenced in paragraph 14 above.
- e. By October 15, 2003, submit a letter signed by a registered professional engineer, verifying that Task c. and Task d., above, have been completed. The report shall certify that:
 - 1) The erosion and sediment control plan identified in Task 2.a. has been fully implemented,
 - 2) All roads have been properly stabilized, according to Task 2.b.,
 - 3) All inactive disturbed soils have been adequately treated and stabilized in accordance with Task 2.c. and Task 2.d.,
 - 4) Effective erosion and sediment controls have been properly placed throughout the site,
 - 5) All control measures and BMP's installed are adequate to prevent or minimize discharge of sediment to waters of the State, throughout the rainy season.
 - 6) The letter report described in this Task 2.e., above, shall identify inspection and monitoring to ensure that all control measures and BMPs installed remain effective throughout the rainy season.

FAILURE TO COMPLY WITH THE PROVISIONS OF THIS ORDER MAY SUBJECT YOU TO FURTHER ENFORCEMENT ACTION, INCLUDING BUT NOT LIMITED TO, ASSESSMENT OF CIVIL LIABILITY PURSUANT TO SECTION 13268 and 13350 OF THE WATER CODE AND ANY OTHER ENFORCEMENT ACTION AUTHORIZED BY LAW, INCLUDING REFERRAL TO THE DISTRICT ATTORNEY OR ATTORNEY GENERAL FOR INJUNCTIVE RELIEF AND CIVIL OR CRIMINAL LIABILITY.

Any interested person may file a petition for review of this Order with the State Water Resources Control Board under Water Code section 13320. Petitions must be filed within 30 days of the date of this Order.

ORDERED BY


 Roger W. Briggs
 Executive Officer

272-03
 Date

NOTICE OF TERMINATION

OF COVERAGE UNDER THE NPDES GENERAL PERMIT NO. CAS000002
FOR DISCHARGES OF STORM WATER
ASSOCIATED WITH CONSTRUCTION ACTIVITY

Submission of this Notice of Termination constitutes notice that the owner (and his/her agent) of the site identified on this form is no longer authorized to discharge storm water associated with construction activity by NPDES General Permit No. CAS000002.

I. WDID NO.

II. OWNER

COMPANY NAME _____ CONTACT PERSON _____
STREET ADDRESS _____ TITLE _____
CITY _____ STATE _____ ZIP _____ PHONE _____

III. CONSTRUCTION SITE INFORMATION

A. DEVELOPER NAME _____ CONTACT PERSON _____
STREET ADDRESS _____ TITLE _____
CITY _____ STATE _____ ZIP _____ PHONE _____

B. SITE ADDRESS _____ COUNTY _____
CITY _____ STATE _____ ZIP _____ PHONE _____

IV. BASIS OF TERMINATION

_____ 1. The construction project is complete and the following conditions have been met.

- All elements of the Storm Water Pollution Prevention Plan have been completed.
- Construction materials and waste have been disposed of properly.
- The site is in compliance with all local storm water management requirements.
- A post-construction storm water operation and management plan is in place.

Date of project completion ____ / ____ / ____

_____ 2. Construction activities have been suspended, either temporarily _____ or indefinitely _____ and the following conditions have been met.

- All elements of the Storm Water Pollution Prevention Plan have been completed.
- Construction materials and waste have been disposed of properly.
- All denuded areas and other areas of potential erosion are stabilized.
- An operation and maintenance plan for erosion and sediment control is in place.
- The site is in compliance with all local storm water management requirements.

Date of suspension ____ / ____ / ____ Expected start up date ____ / ____ / ____

_____ 3. Site can not discharge storm water to waters of the United States (check one).

**INSTRUCTIONS FOR COMPLETING
NOTICE OF TERMINATION
FOR CONSTRUCTION ACTIVITY**

Who May File

Dischargers who are presently covered under NPDES General Permit No. CAS000002 for discharge of storm water associated with construction activity may submit a Notice of Termination when they meet one of the following criteria.

1. The construction project has been completed and the following conditions have been met: all elements of the Stormwater Pollution Prevention Plan have been completed; construction materials and equipment maintenance waste have been disposed of properly; the site is in compliance with all local storm water management requirements including erosion/sediment control requirements and the appropriate use permits have been obtained; and a post-construction storm water operation and management plan is in place.
2. Construction activities have been suspended, either temporarily or indefinitely and the following conditions have been: all elements of the Stormwater Pollution Prevention Plan have been completed; construction materials and equipment maintenance waste have been disposed of properly; all denuded areas and other areas of potential erosion are stabilized; an operation and maintenance plan for erosion and sediment control is in place; and the site is in compliance with all local storm water management requirements including erosion/sediment control requirements.
The date construction activities were suspended, and the expected date construction activities will start up again should be provided.
3. Construction site can not discharge storm water to waters of the United States. Please indicate if all storm water is retained on site or if storm water is collected offsite.
4. Discharge of construction storm water from the site is now subject to another NPDES general permit or an individual NPDES permit. The general permit or individual permit NPDES number and date coverage began should be provided.
5. There is a new owner of the identified site. If ownership or operation of the facility has been transferred then the previous owner must submit a Notice of Termination and the new owner must submit a Notice of Intent for coverage under the general permit. The date of transfer and information on the new owner should be provided. Note that the previous owner may be liable for discharge from the site until the new owner files a Notice of Intent for coverage under the general permit.

Where to File

The Notice of Termination should be submitted to the Executive Officer of the Regional Water Board responsible for the area in which the facility is located. See attached. If the Executive Officer, or his designated staff, agrees with the basis of termination, the Notice of Termination will be transmitted to the State Water Board for processing. If the Executive Officer, or his designated staff, does not agree with the basis of termination, the Notice of Termination will be returned. The Regional Water Board may also inspect your site prior to accepting the basis of termination.