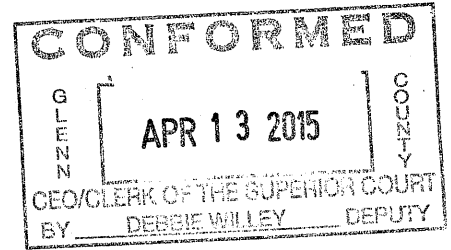


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*Exempt from filing fees pursuant to
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10
11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 COUNTY OF GLENN
13

14 **PEOPLE OF THE STATE OF**
15 **CALIFORNIA, EX REL. THE REGIONAL**
16 **WATER QUALITY CONTROL BOARD,**
17 **CENTRAL VALLEY REGION;**
18 **DEPARTMENT OF FISH AND**
19 **WILDLIFE,**

Plaintiffs,

v.

20 **ORLAND SAND AND GRAVEL**
21 **CORPORATION, a California**
22 **Corporation; DALE ROY BOGART, an**
23 **individual; and**
24 **DOES 1 through 50, inclusive,**

Defendants.

Case No. **15CV01436**

**COMPLAINT FOR INJUNCTIVE
RELIEF AND CIVIL LIABILITY**

25 **INTRODUCTION**

26 1. This action is brought by the Attorney General at the request of Plaintiffs State of
27 California Regional Water Quality Control Board, Central Valley Region (Regional Water
28 Board), and Department of Fish and Wildlife (DFW) pursuant to provisions of the Porter-Cologne
Water Quality Control Act, the Fish and Game Code, and the law of nuisance. (Wat. Code,

1 Division 7, §§ 13000-14958; Fish & G. Code, § 1600, et seq.) The action seeks (1) injunctive
2 relief to halt violations of the federal Clean Water Act, Porter-Cologne Water Quality Control
3 Act, and Fish and Game Code; (2) civil liability for continuing violation of federal Clean Water
4 Act section 301, Porter-Cologne Water Quality Control Act section 13376, and Fish and Game
5 Code section 1602; and (3) abatement of the continuing public nuisance arising from the sand and
6 gravel mining facility owned and operated by Defendants Orland Sand and Gravel Corporation
7 and Dale Roy Bogart.

8 PARTIES

9 2. The Regional Water Board is a state agency, and is part of the California
10 Environmental Protection Agency. (Wat. Code, §§ 175, 13100.) The Regional Water Board is
11 one of nine such regional boards created to establish and enforce water quality control plans,
12 policies, and regulations to ensure the protection of beneficial uses of waters of the state within
13 nine designated regions in California. (Wat. Code, §§ 13200, 13201, & 13240, et seq.) The
14 Central Valley Region “comprises all basins . . . draining into the Sacramento and San Joaquin
15 Rivers to the easterly boundary of the San Francisco Bay region near Collinsville.” (Wat. Code, §
16 13200, subd. (g).) Defendants’ sand and gravel mining facility is located in the Central Valley
17 Region.

18 3. Among the Regional Water Board’s responsibilities is regulating discharges to waters
19 of the state through the issuance of waste discharge requirements. (Wat. Code, § 13263.) The
20 Regional Water Board is also authorized to “investigate the quality of any waters of the state”
21 within the Central Valley Region by inspecting the facilities of any person and by requiring
22 submittal of technical and monitoring reports to determine compliance with the Porter-Cologne
23 Act. (Wat. Code, § 13267.) To further these goals, the Regional Water Board has primary
24 enforcement authority, including the power to remedy unlawful discharges and to achieve cleanup
25 and abatement of water pollution and nuisance. (Wat. Code, § 13300, et seq.) The Attorney
26 General may bring an action to enforce these provisions at the request of the Regional Water
27 Board. (See generally Wat. Code, §§ 13262, 13264, 13265, 13268, 13350, 13385, 13386.)

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1 4. DFW is a state agency, and is part of the Natural Resources Agency. (Fish & G.
2 Code, § 700.) DFW is charged with administering and enforcing Fish and Game Code section
3 1600, et seq. Fish and Game Code section 1602 provides, in relevant part: “[a]n entity may not
4 substantially divert or obstruct the natural flow of, or substantially change or use any material
5 from the bed, channel, or bank of, any river, stream, or lake, or deposit or dispose of debris,
6 waste, or other material containing crumbled, flaked, or ground pavement where it may pass into
7 any river, stream, or lake” without first providing DFW written notification of the proposed
8 activity, and if necessary, obtaining from DFW a streambed alteration agreement (SAA) for the
9 activity. The Attorney General may bring an action to enforce the requirements of Fish and
10 Game Code section 1600, et seq. at the request of DFW. (Fish & G. Code, § 1615, subd. (d).)

11 5. Public records indicate that Defendant Orland Sand and Gravel Corporation (OSG) is
12 a suspended California corporation. OSG’s business address is 6535 County Road 9, Orland,
13 California.

14 6. Defendant Dale Roy Bogart is an individual. On information and belief, Mr. Bogart
15 became the owner of OSG in approximately August of 2002 and has owned and operated OSG
16 continuously up to and including the present time.

17 7. The true names and capacities, whether corporate, individual, associate or otherwise
18 of defendants Does 1 through 50, inclusive, are unknown to Plaintiffs, who therefore sue said
19 defendants by such fictitious names, and Plaintiffs will request the Court’s leave to amend this
20 Complaint to show their true names and capacities when the same have been ascertained.
21 Plaintiffs are informed and believe that each of the defendants named herein as a Doe is
22 responsible in some manner for the events, occurrences, and circumstances that form the basis of
23 this lawsuit, and is thereby liable for the relief sought herein. This complaint refers below to Dale
24 Roy Bogart, OSG, and Does 1 through 50, inclusive, collectively, as Defendants.

25 8. Plaintiffs allege, on information and belief, that each of the Defendants was an agent,
26 servant, and/or employee of, and/or engaged in a joint venture with, each of the remaining
27 Defendants, and in doing the acts alleged in this complaint was at all times acting within the

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1 scope of such agency, employment, or joint venture and with the permission and consent of each
2 of the remaining defendants.

3 **VENUE AND JURISDICTION**

4 9. Venue is appropriate in the County of Glenn pursuant to Code of Civil Procedure
5 sections 393, 395 and 395.5 and Water Code section 13361, subdivision (b), because: (1) the
6 violations giving rise to the statutory obligations and liability herein alleged against all
7 Defendants occurred in Glenn County; (2) on information and belief, defendant Dale Roy Bogart
8 resides in Glenn County; (3) the principal place of business of defendant OSG is situated in Glenn
9 County; and (4) the discharges at issue occurred and continue to occur in Glenn County, and the
10 activities and conditions causing the discharges and threatening to cause further discharges
11 occurred and are continuing to occur in Glenn County.

12 10. The Superior Court has jurisdiction of this matter as an unlimited civil case.

13 **FACTUAL ALLEGATIONS**

14 11. On information and belief, at all times relevant to the matters alleged in this
15 complaint, Dale Roy Bogart was and is the owner of OSG. OSG operates a sand and gravel
16 mining and processing facility adjacent to Stony Creek in Glenn County, at 6535 County Road 9,
17 Orland, California, on assessor's parcel numbers 044-30-0-002, 044-30-0-004, 044-29-0-007, and
18 044-23-0-006 (Facility).

19 12. Stony Creek is a tributary to the Sacramento River. Accordingly, Stony Creek is a
20 water of the United States and a water of the state of California.

21 13. The fourth edition of the Water Quality Control Plan for the Sacramento River and
22 San Joaquin River Basins (Basin Plan) identifies the following beneficial uses for Stony Creek:
23 irrigation, stock watering, contact recreation, canoeing and rafting, other noncontact recreation,
24 warm and cold freshwater habitat, migration, warm and cold spawning, and wildlife habitat.

25 14. On or about December 6, 1985, the Regional Water Board adopted Order No. 85-
26 322, Waste Discharge Requirements for Orland Sand and Gravel Corporation, Glenn County
27 (Order No. 85-322). A complete and accurate copy of Order No. 85-322 is attached to this
28 Complaint as Exhibit A and hereby incorporated by reference. Order No. 85-322 establishes

1 Discharge Prohibitions, Discharge Specifications, and other provisions with which OSG must
2 comply. Specifically, Order No. 85-322 prohibits “[t]he direct discharge of wastes to surface
3 waters or surface water drainage courses” and “[t]he discharge of solids, including soil, silt, clay,
4 sand and other organic and earthen materials to Stony Creek or other surface waters or surface
5 water drainage courses.” (Exhibit A (Order No. 85-322) at p. 2, ¶A.)

6 15. In a letter dated February 5, 2003, and received by the Regional Water Board on
7 February 11, 2003, Dale Roy Bogart stated: “In order to comply with provision # 6 of the WDR
8 Order No. 85-322 I am notifying you as of August 2002 I D.R. Doc Bogart received ownership of
9 Orland Sand and Gravel Corp. I will also be the responsible party and contact person.” A
10 complete and accurate copy of the February 5, 2003 letter is attached to this Complaint as Exhibit
11 B and hereby incorporated by reference.

12 16. In March of 2013, DFW was notified of a report by a private person who observed
13 mining activity in a section of Stony Creek running through the Facility. Between March 14,
14 2013 and April 14, 2013, DFW staff observed equipment from the OSG Facility extracting
15 material from the main channel of Stony Creek.

16 17. On or about April 5, 2013, the Regional Water Board sent a letter, via certified mail,
17 to Mr. Bogart, asking Mr. Bogart to contact Regional Water Board staff to schedule an inspection
18 of the Facility to determine compliance with Order No. 85-322. On or about April 12, 2013, the
19 letter was returned to the Regional Water Board, and the envelope contained various markings,
20 including, “Refused for Cause: Mail Fraud”; “fictitious address”; and “I do NOT Accept
21 Respondents’ Offer to contract; I do NOT consent to Respondents’ Jurisdiction and I do NOT
22 consent to this proceeding.”

23 18. On or about April 9, 2013, DFW sent a letter, via certified mail, to Mr. Bogart,
24 informing him that DFW personnel had observed mining activity in a section of Stony Creek
25 running through OSG’s property. The April 9, 2013 letter also stated that the observed mining
26 activity was subject to the provisions of Fish and Game Code Section 1602, which require an
27 entity to notify DFW, and if necessary, obtain a SAA before conducting such activity. On or

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1 about April 25, 2013, the letter was returned to DFW. The first page of the returned letter
2 displayed a handwritten note stating, "Rejected for Fraud with out [sic] dishonor."

3 19. On or about January 7, 2014, staff of the Regional Water Board, DFW, and the
4 California Department of Conservation attempted to inspect the Facility. Defendant Bogart
5 refused to allow the inspection of the Facility and asked the staff of these three agencies to leave.

6 20. On or about March 4, 2014, staff of the Regional Water Board obtained an
7 administrative inspection warrant (First Warrant, No. 03042014-1) issued by Judge Peter Billiou
8 Twede of the Glenn County Superior Court. A complete and accurate copy of the First Warrant,
9 without exhibits, is attached to this Complaint as Exhibit C and hereby incorporated by reference.

10 21. On or about March 13, 2014, staff of the Regional Water Board went to the Facility
11 in order to execute the First Warrant. The Regional Water Board staff were accompanied by two
12 Glenn County Sheriff's deputies. The Regional Water Board staff presented Defendant Bogart
13 with the First Warrant. Defendant Bogart refused to allow entry onto the Facility.

14 22. On or about April 25, 2014, staff of the Regional Water Board obtained a second
15 administrative inspection warrant (Second Warrant, No. 04252014-1) issued by Judge Peter
16 Billiou Twede of the Glenn County Superior Court. The Second Warrant authorized the use of
17 force, if necessary, to conduct an inspection. A complete and accurate copy of the Second
18 Warrant, without exhibits, is attached to this Complaint as Exhibit D and hereby incorporated by
19 reference.

20 23. On or about May 8, 2014, staff of the Regional Water Board and DFW, deputies of
21 the Glenn County Sheriff, officers of the California Highway Patrol, and staff of the California
22 Division of Occupational Safety and Health went to the Facility to execute the Second Warrant.
23 Staff of the Regional Water Board and DFW inspected the Facility, including a concrete truck
24 washout pit, wash water receiving ponds, material stockpiles, concrete washout pond tailings, the
25 streambed gravel extraction area, gravel processing plant, gravel stockpiles, equipment and
26 material storage areas, shop areas, and fuel storage areas. Regional Water Board staff
27 documented the inspection in an Inspection Report dated May 13, 2014, a complete and accurate

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1 copy of which is attached to this Complaint as Exhibit E and hereby incorporated by reference.
2 DFW enforcement staff also documented the inspection in an Arrest/Investigation Report, a
3 complete and accurate copy of which is attached, without exhibits, to this Complaint as Exhibit F
4 and hereby incorporated by reference.

5 24. During the May 8, 2014 inspection, the Regional Water Board staff observed that
6 storm water runoff from the Facility has the potential to transport soil, silt, clay, sand, and other
7 organic and earthen materials to Stony Creek.

8 25. During the May 8, 2014 inspection, the Regional Water Board staff saw evidence of
9 mining within the active channel of Stony Creek, asphalt and concrete riprap placed in and along
10 the shore of Stony Creek, and a gravel ramp leading from the Facility down into Stony Creek.
11 These mining and ramp construction activities have resulted in the discharge of soil, silt, clay,
12 sand, and/or other earthen materials to Stony Creek.

13 26. During the May 8, 2014 inspection, the DFW staff discovered material stockpiles
14 scattered throughout the Facility, including broken asphalt and concrete piled along the south side
15 of the Facility and into the stream channel of Stony Creek, as well as concrete washout pond
16 tailings in piles approximately five (5) feet tall covering an area approximately a quarter of an
17 acre. Additionally, DFW staff observed soil staining and spilled or leaking petroleum in multiple
18 locations where it can pass into the waters of Stony Creek.

19 27. Other than amending Order No. 85-322 to update the permittee's name to Mr. Dale
20 Roy "Doc" Bogart, the Regional Water Board has not amended or modified the conditions or
21 provisions of Order No. 85-322 since it was issued in 1985. Based on features observed during
22 the May 8, 2014 inspection and a review of historic aerial photographs, Plaintiffs are informed
23 and believe that between 2004 and 2005, OSG developed two additional gravel wash water
24 settling ponds, two new concrete transit mixer wash ponds, and a disposal area for tailings from
25 the concrete transit mixer wash ponds. Defendants did not notify the Regional Water Board of
26 these changes.

27 28. During the May 8, 2014 inspection, the staff of the Regional Water Board and DFW
28 saw approximately 28 bags of an unknown substance being stored under an overpass adjacent to

1 Stony Creek. Plaintiffs are informed and believe that the bags contain powdered concrete dyes
2 whose specific chemical composition is unknown. Some of the material stored in the bags was
3 spilled onto the ground. The spilled material has the potential to be discharged into Stony Creek
4 during storm events.

5 29. Defendants have failed to pay required annual permit fees for WDR Order No. 85-
6 322 for the years 2004 through 2014. The total amount of past due fees for the Facility is
7 \$14,236.00.

8 30. On July 11, 2014, the Regional Water Board issued to Defendants a Notice of
9 Violation for Noncompliance with Waste Discharge Requirements Order 85-322 and Porter-
10 Cologne Water Quality Control Act (Water Code) & Request for Information Pursuant to Water
11 Code Section 13267, Orland Sand & Gravel Corporation, Orland, Glenn County (Notice of
12 Violation). The Notice of Violation set forth four (4) current violations and one potential
13 violation. A complete and accurate copy of the Notice of Violation, without enclosure, is
14 attached to this Complaint as Exhibit G and hereby incorporated by reference.

15 31. The Notice of Violation also included a Request for Technical Reports Pursuant to
16 Water Code Section 13267. The Request for Technical Reports required Defendants to provide a
17 written response addressing each violation and including the five (5) specific elements identified
18 on page 4 of the Notice of Violation. Defendants were required to submit this written response to
19 the Regional Water Board by August 11, 2014.

20 32. Despite Defendants' assurances at the January 7, 2014 inspection that mail would be
21 accepted at "Orland Sand and Gravel, P.O. Box 815, Orland (63), CA," the Notice of Violation
22 was returned and marked "returned to sender" by the United States Postal Service.

23 33. As late as February 2015, DFW received a report that Defendants were extracting
24 gravel from Stony Creek.

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FIRST CAUSE OF ACTION
(Violation of Water Code Section 13376 and
Federal Water Pollution Control Act [Clean Water Act] – Unpermitted Discharge to
Waters of the United States
Alleged by Regional Water Board against All Defendants)

34. Plaintiffs re-allege and incorporate herein by reference the allegations in paragraphs 1 through 33, inclusive, of this Complaint.

35. Chapter 5.5 of the California Water Code was enacted in part to authorize the state of California to implement the federal Water Pollution Control Act (33 U.S.C. § 1311, et seq.) (Clean Water Act), which includes administration and enforcement of the National Pollutant Discharge Elimination System (NPDES) permit program to regulate the discharge of pollutants from point sources to waters of the United States. (Wat. Code, § 13372.)

36. A person who discharges pollutants or proposes to discharge pollutants to the waters of the United States within the state of California is required to file a report of the discharge with a regional water board at least 180 days prior to the discharging of pollutants. (Wat. Code, § 13376.)

37. At all times relevant to this Complaint, Water Code section 13376 has prohibited “[t]he discharge of pollutants or dredged or fill material... except as authorized by waste discharge requirements or dredged or fill material permits.”

38. At all times relevant to this Complaint, Defendants have been subject to the waste discharge requirements of Order No. 85-322, which prohibits the discharge of wastes to Stony Creek and prescribes requirements for the discharge of waste to land to ensure the protection of groundwater. Order No. 85-322 is not a NPDES permit and does not authorize discharges to waters of the United States that require a NPDES permit. Defendants do not have a NPDES permit. Defendants have discharged waste to Stony Creek, a water of the United States, but have not filed a report of discharge as required by Water Code section 13376.

39. At all times relevant to this Complaint, Water Code section 13385, subdivision (a), subparagraph (1), has provided for civil liability against anyone who violates Water Code section 13376. (Wat. Code, § 13385, subd. (a)(1).) This liability may be as high as \$25,000 per violation

1 per day. (Wat. Code, § 13385, subd. (b)(1)(A).) In determining the amount of the liability, the
2 court shall consider the seriousness of the violations, the violator's ability to pay, and other
3 factors. (Wat. Code, § 13385, subd. (e).)

4 40. At all times relevant to this Complaint, Water Code section 13386 has authorized the
5 Attorney General to petition the court for the issuance of a preliminary and/or permanent
6 injunction enjoining any threatened or continuing violation of Water Code section 13376 or Clean
7 Water Act section 301. (Wat. Code, § 13386.)

8 41. Clean Water Act section 301 provides, "[e]xcept as in compliance with this section
9 and sections 302, 306, 307, 318, 402, and 404 of this Act, the discharge of any pollutant by any
10 person shall be unlawful."

11 42. Defendants have violated and continue to violate Water Code section 13376 and
12 Clean Water Act section 301 by conducting gravel mining activities within and/or adjacent to
13 Stony Creek that result in the discharge of pollutants, including soil, silt, clay, sand, and/or other
14 organic and/or earthen materials to Stony Creek without a NPDES permit. These activities
15 include but are not limited to: mining within the active channel of Stony Creek, placing asphalt
16 and concrete riprap in and along the shore of Stony Creek, and constructing a gravel ramp leading
17 from the Facility down into Stony Creek.

18 43. Defendants also threaten to discharge wastewater from the Facility by operating in a
19 manner that could result in the discharge of waste to Stony Creek. This conduct includes, but is
20 not limited to, operating in a manner that does not control pollutant discharges during a storm
21 event, resulting in the potential discharge of pollutants, including gravel mining materials, to
22 discharge into Stony Creek.

23 44. Plaintiff Regional Water Board is entitled to civil penalties for every day Defendants
24 violate Water Code section 13376 and/or preliminary and permanent injunctive relief to enjoin
25 Defendants from continuing sand and gravel mining operations at the Facility in a manner that
26 poses a continuing threat of discharges to waters of the United States.

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1 **SECOND CAUSE OF ACTION**
2 **(Violation of Water Code Section 13376 – Failure to Enroll in Industrial Storm Water**
3 **General Permit Program**
4 **Alleged by Regional Water Board against All Defendants)**

4 45. Plaintiffs re-allege and incorporate herein by reference the allegations in paragraphs 1
5 through 44, inclusive, of this Complaint.

6 46. At all times relevant to this Complaint, federal regulations issued under the Clean
7 Water Act have mandated that “Dischargers of storm water associated with industrial
8 activity...are required to apply for an individual permit or seek coverage under a promulgated
9 storm water general permit.” (40 C.F.R. § 122.26(c)(1).)

10 47. At all times relevant to this Complaint, persons who discharge storm water associated
11 with ten (10) broad categories of industrial activities in California have been required to enroll in
12 and comply with the terms of State Water Resources Control Board Water Quality Order No. 97-
13 03-DWQ, National Pollution Discharge Elimination System General Permit No. CAS000001,
14 Waste Discharge Requirements for Discharges of Storm Water Associated with Industrial
15 Activities Excluding Construction Activities (Industrial Storm Water General Permit).

16 48. As a NPDES permit, the Industrial Storm Water General Permit regulates discharges
17 of storm water from industrial facilities to waters of the United States. Attachment 1 of the
18 Industrial Storm Water General Permit and Code of Federal Regulations, title 40, section
19 122.16(b)(14) define the types of facilities required to enroll in the Industrial Storm Water
20 General Permit (primarily by Standard Industrial Classification (SIC) code), including facilities
21 involved in the production and sale of truck mixed concrete (SIC code 3273) and that mine for
22 sand and gravel (SIC code 1442).

23 49. Defendants’ activities at the Facility have caused and continue to cause “storm water
24 discharge associated with industrial activity” pursuant to 40 C.F.R. § 122.26. “Storm water
25 discharge associated with industrial activity” includes storm water discharges from “areas where
26 industrial activity has taken place in the past and significant materials remain and are exposed to
27 storm water” (40 C.F.R. § 122.26(b)(14)) and “[f]acilities classified as Standard Industrial

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1 Classifications 10 through 14 (mineral industry) including active or inactive mining operations”.
2 (40 C.F.R. § 122.26(b)(14)(iii).)

3 50. Defendants were required to file a notice of intent (NOI) to obtain coverage under the
4 Industrial Storm Water General Permit by March 30, 1992. Defendants are required to enroll in
5 the Industrial Storm Water General Permit because storm water discharges associated with their
6 sand and gravel operations may be discharged to waters of the United States and because the
7 activities conducted by OSG fall within categories of activities requiring a NPDES permit. The
8 Regional Water Board attempted to notify Defendants in the Notice of Violation dated July 11,
9 2014 of the requirement to enroll in the Industrial Storm Water General Permit. (Exhibit G).

10 51. At all times relevant to this Complaint, Water Code section 13376 has required any
11 “person who discharges pollutants or proposes to discharge pollutants to the navigable waters of
12 the United States within the jurisdiction of this state....[to] file a report of the discharge in
13 compliance with the procedures set forth in Section 13260.”

14 52. At all times relevant to this Complaint, Water Code section 13385, subdivision (a),
15 subparagraph (1), has provided for civil liability against anyone who violates Water Code section
16 13376. (Wat. Code, § 13385, subd. (a)(1).) This liability may be as high as \$25,000 per violation
17 per day. (Wat. Code, § 13385, subd. (b)(1)(A).) In determining the amount of the liability, the
18 court shall consider the seriousness of the violations, the violator’s ability to pay, and other
19 factors. (Wat. Code, § 13385, subd. (e).)

20 53. At all times relevant to this Complaint, Water Code section 13386 has authorized the
21 Attorney General to petition the court for the issuance of a preliminary and/or permanent
22 injunction enjoining any threatened or continuing violation of Water Code section 13376. (Wat.
23 Code, § 13386.)

24 54. Defendants continue to violate Water Code section 13376 by operating in a manner
25 that does not control pollutant discharges in compliance with the Industrial Storm Water Permit,
26 including maintaining gravel material in a manner without proper containment, that could result
27 in the direct discharge of pollutants to the surface waters of Stony Creek without filing a Notice
28 of Intent to enroll in the Industrial Storm Water General Permit program. Defendants’ failure to

1 contain storm water runoff from sand and gravel processing and storage areas includes, but is not
2 limited to: maintaining material stockpile areas adjacent to Stony Creek that have caused
3 noticeable sloughing of the banks into the stream bed of Stony Creek; maintaining gravel
4 stockpile areas graded towards Stony Creek; maintaining uncovered and exposed five (5) foot tall
5 piles of concrete washout pond tailings covering a quarter acre; storage of 28 deteriorating bags
6 of an unknown powder spilling contents onto the ground in an area adjacent to Stony Creek; and
7 sloping of the vehicle storage areas, shop areas, and storage areas west of Highway 99W toward
8 Stony Creek. Defendant's maintenance of the property in the conditions described in this
9 paragraph threatens to discharge pollutants into Stony Creek during storm events.

10 55. These discharges and threatened discharges are not and have not been authorized by
11 any permit or waste discharge requirements issued by the Regional Water Board.

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13 **THIRD CAUSE OF ACTION**
14 **(Violation of Water Code Section 13264 – New Discharge/Change in Discharge**
15 **Alleged By Regional Water Board against All Defendants)**

16 56. Plaintiffs re-allege and incorporate herein by reference the allegations in paragraphs 1
17 through 55, inclusive, of this Complaint.

18 57. At all times relevant to this Complaint, Water Code section 13264, subdivision (a)
19 has prohibited the initiation of "any new discharge of waste or...any material changes in any
20 discharge" without the discharger first submitting a report of waste discharge to the Regional
21 Water Board pursuant to Water Code section 13260.

22 58. At all times relevant to this Complaint, Water Code section 13264, subdivision (b),
23 has authorized the Attorney General to petition the court for the issuance of a temporary
24 restraining order and/or preliminary injunction and/or permanent injunction enjoining any
25 threatened or continuing violation of Water Code section 13264. (Wat. Code, § 13264, subd. (b).)

26 59. Defendants have violated and continue to violate Water Code section 13264 by
27 initiating new discharges into Stony Creek and/or making material changes to discharges into
28 Stony Creek without filing a report describing proposed changes to the Regional Water Board.
These violations include, but are not limited to, constructing two additional gravel wash water

1 settling ponds, two new concrete transit mixer wash ponds, and a disposal area for tailings from
2 the concrete transit mixer wash ponds. This construction has caused new discharges and/or
3 material changes to OSG's discharges to Stony Creek.

4 60. Defendants did not make any report of waste discharge to the Regional Water Board
5 in connection with these new and/or changed discharges to Stony Creek as required by Water
6 Code section 13260, subdivision (c). Based on the past conduct, the Regional Water Board
7 anticipates that additional, future changes may be made by Defendants without providing the
8 report of waste discharge required by law.

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10 **FOURTH CAUSE OF ACTION**
11 **(Violation of Water Code Section 13260 – Failure to Pay Permit Fees**
12 **Alleged By Regional Water Board against All Defendants)**

13 61. Plaintiffs re-allege and incorporate herein by reference the allegations in paragraphs 1
14 through 60, inclusive, of this Complaint.

15 62. At all times relevant to this Complaint, Water Code section 13260 has required
16 dischargers who must file reports of waste discharge to pay annual fees according to the schedule
17 established by the State Water Resources Control Board. (Wat. Code, § 13260, subd. (d)(1)(A).)

18 63. At all times relevant to this Complaint, Water Code section 13262 has authorized the
19 Attorney General to petition the court for the issuance of a temporary restraining order and/or
20 preliminary injunction and/or permanent injunction to require any person not complying with
21 Water Code section 13260 to comply therewith. (Wat. Code, § 13262.)

22 64. Defendants are required to pay the annual fee pursuant to Water Code section 13260.

23 65. Defendants violated Water Code section 13260 by failing to pay the annual fee for the
24 years 2004 through 2014. The total amount of past due fees is presently \$14,236.00. Plaintiffs
25 seek payment of the portion of the unpaid permit fees that is recoverable under applicable law.

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FIFTH CAUSE OF ACTION
(Violation of Fish and Game Code Section 1602 – Failure to Notify
Alleged by DFW against All Defendants)

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66. Plaintiffs re-allege and incorporate herein by reference the allegations in paragraphs 1 through 65, inclusive, of this Complaint.

67. At all times relevant to this Complaint, Fish and Game Code section 1602 has provided that no entity may “substantially divert or obstruct the natural flow of, or substantially change or use any material from the bed, channel, or bank of, any river, stream or lake, or deposit or dispose of debris, waste, or other material containing crumbled, flaked, or ground pavement where it may pass into any river, stream, or lake” unless the entity first complies with the requirements of section 1602, subdivision (a). These requirements include written notification to DFW of the proposed activity, a determination by DFW that the notification is complete, payment of the applicable fees, and the issuance of a SAA by DFW for the activity unless (1) DFW determines that a SAA is not required; (2) an arbitration panel is convened to resolve a dispute over the draft SAA and issues a decision in the form of a final SAA in accordance with Fish and Game Code section 1603; or (3) DFW does not issue a SAA within the prescribed time period (i.e. 60 days from the date the notification is deemed complete). (Fish & G. Code, § 1602, subd. (a).)

68. At all times relevant to this Complaint, Fish and Game Code section 1615 has authorized civil liability and injunctive relief for violations of section 1602. Fish and Game Code section 1615 authorizes a civil action by the Attorney General upon complaint by DFW, and a civil penalty of up to \$25,000 per violation against any person who violates section 1602. (Fish & G. Code, § 1615, subds. (a), (d).)

69. At all times relevant to this Complaint, Fish and Game Code section 1615, subdivision (e), paragraph (1), has provided that in a civil action brought to enjoin a violation of section 1602, “it is not necessary to allege or prove at any stage of the proceeding any of the following: (A) That irreparable damage will occur if the temporary restraining order, preliminary injunction, or permanent injunction is not issued; (B) That the remedy at law is inadequate.”

1 (3) Occurs during, or as a result of, the treatment or disposal of wastes.”

2 78. Nuisance is defined in Civil Code section 3479 as: “[a]nything which is injurious to
3 health..., or is indecent or offensive to the senses, or an obstruction to the free use of property, so
4 as to interfere with the comfortable enjoyment of life or property, or unlawfully obstructs the free
5 passage or use, in the customary manner, of any navigable...stream....”

6 79. A “public nuisance” is defined in Civil Code section 3480 as a nuisance “which
7 affects at the same time an entire community or neighborhood, or any considerable number of
8 persons...” Civil Code section 3490 provides that no lapse of time can legalize a public nuisance.

9 80. On information and belief, Defendants’ activities and discharges within and adjacent
10 to Stony Creek are a public nuisance that endangers the beneficial uses of the waters of the state
11 of California, including recreation, agricultural supply, aesthetic enjoyment and preservation and
12 enhancement of fish, wildlife, and other aquatic resources, and obstructs the free passage or use
13 of a navigable stream.

14 81. The seriousness of the harm caused by Defendants’ activities and discharges
15 outweighs any social utility of Defendants’ conduct.

16 82. The nuisance is capable of abatement to applicable regulatory standards, but Plaintiffs
17 are informed and believe that Defendants will, unless restrained and enjoined by this Court,
18 continue to maintain the public nuisance and the acts complained of herein, and the threat to the
19 waters of the United States and the state of California, and to the environment, will continue.

20 83. Plaintiffs have no plain, speedy or adequate remedy at law to address the public
21 nuisance. Injunctive relief is expressly authorized by statute. (Code Civ. Proc., § 526.)

22 **PRAYER FOR RELIEF**

23 WHEREFORE, Plaintiffs pray that the Court:

24 1. Pursuant to the First and Second Causes of Action, issue a preliminary and permanent
25 injunction ordering Defendants to cease discharges to Stony Creek in violation of the Clean
26 Water Act and Water Code section 13376.

27 ///

28 ///

1 2. Pursuant to the Second Cause of Action, issue a preliminary and permanent
2 injunction ordering Defendants to enroll in the Industrial Storm Water General Permit program
3 and pay any and all applicable fees.

4 3. Enter judgment awarding Plaintiffs civil penalties according to proof against
5 Defendants as appropriate pursuant to the First, Second, and Fifth Causes of Action.

6 4. Pursuant to the First and Third Causes of Action, issue a preliminary and permanent
7 injunction ordering Defendants to submit a report of waste discharge to the Regional Water Board
8 in connection with any current or future discharges or proposed changes to discharges to Stony
9 Creek as required by Water Code sections 13260, subdivision (c), and 13376.

10 5. Pursuant to the Fourth Cause of Action, order Defendants to pay that portion of the
11 outstanding permit fees pursuant to Water Code section 13260 that is recoverable under
12 applicable law.

13 6. Pursuant to the Fifth Cause of Action, issue a preliminary and permanent injunction
14 ordering Defendants to cease all activities that constitute substantial diversion and/or obstruction
15 of the natural flow of Stony Creek, and/or use of material from the bed, channel, and/or bank of
16 Stony Creek, and/or substantial alteration of the bed, channel, or bank of Stony Creek, and/or the
17 disposal or deposit of debris and/or waste where it may pass into Stony Creek until such time as
18 Defendants demonstrate compliance with Fish and Game Code section 1602.

19 7. Pursuant to the Sixth Cause of Action, issue a preliminary and permanent injunction
20 requiring Defendants to take immediate action to abate the public nuisance created by
21 Defendants' activities in and around Stony Creek.

22 8. Issue preliminary and permanent injunctions ordering Defendants to remedy all other
23 violations alleged in this Complaint.

24 9. Pursuant to all causes of action, grant Plaintiffs their costs of suit herein.

25 10. Award Plaintiffs expert fees, reasonable attorney's fees, and all costs of investigating
26 and prosecuting this action, as provided in Code of Civil Procedure section 1021.8.

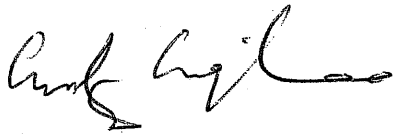
27 11. For such other and further relief as the Court deems just and proper.

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Dated: April 9, 2015

Respectfully Submitted,
KAMALA D. HARRIS
Attorney General of California
TRACY L. WINSOR
Supervising Deputy Attorney General



COURTNEY S. COVINGTON
ANDREA M. KENDRICK
Deputy Attorneys General
Attorneys for Plaintiffs

***[Code Civ. Proc. § 446 Requires
Verification of the Answer to this
Complaint]***

SA2012106337 ~ 11818706.doc

EXHIBIT A

CASE

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ORDER NO. 85-322

WASTE DISCHARGE REQUIREMENTS
FOR

ORLAND SAND AND GRAVEL CORPORATION
GLENN COUNTY

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

1. The Board, on 19 December 1975, adopted Order No. 75-286 which prescribed requirements for a discharge from Orland Sand Gravel Corporation to settling ponds.
2. Present waste discharge requirements established by Order No. 75-286 are being updated to reflect waste discharge requirement review.
3. The Discharger discharges 5000 gallons per day of wash water from concrete transit mixers and the gravel processing plant to settling ponds.
4. Orland Sand and Gravel Corporation is in Sections 5, 9, 15, 18, T22N, R23W, MDB&M with surface water drainage to Stony Creek.
5. The beneficial uses of Stony Creek are municipal, industrial, and agricultural supply; recreation; esthetic enjoyment; navigation; ground water recharge; fresh water replenishment; hydroelectric power generation; and preservation and enhancement of fish, wildlife and other aquatic resources.
6. The beneficial uses of the ground water are municipal, industrial, and agricultural supply.
7. The Board, on 25 July 1975, adopted a Water Quality Control Plan for the Sacramento River Basin (5A) which contains water quality objectives for all waters of the Basin. These requirements are consistent with that plan.
8. The action to adopt waste discharge requirements for this existing facility is exempt from the provisions of the California Environmental Quality Act in accordance with Section 15301, Title 14, California Administrative Code.
9. The Board has notified the Discharger and interested agencies and persons of its intent to prescribe waste discharge requirements for this discharge.
10. The Board, in a public meeting, heard and considered all comments pertaining to the discharge.

WASTE DISCHARGE REQUIREMENTS
ORLAND SAND AND GRAVEL CORPORATIONS
GLENN COUNTY

-2-

IT IS HEREBY ORDERED, that Order No. 75-286 be rescinded and Orland Sand and Gravel Corporation in order to meet the provisions contained in Division 7 of the California Water Code and regulations adopted thereunder, shall comply with the following:

A. Discharge Prohibitions:

1. The direct discharge of wastes to surface waters or surface water drainage courses is prohibited.
2. The discharge of solids, including soil, silt, clay, sand and other organic and earthen materials to Stony Creek or other surface waters or surface water drainage courses is prohibited.

B. Discharge Specifications:

1. Neither the treatment nor the discharge shall cause a pollution or nuisance as defined by the California Water Code, Section 13050.
2. The discharge shall not cause degradation of any water supply.
3. The discharge shall remain within the designated disposal area at all times.

C. Provisions:

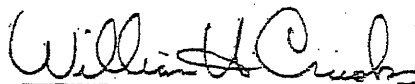
1. The Discharger may be required to submit technical or monitoring reports as directed by the Executive Officer.
2. Settling pond dikes constructed adjacent to Stony Creek shall be protected from erosion.
3. Sediment build-up in the settling ponds shall be maintained at a level that will adequately prevent any spillage.
4. The Discharger shall comply with the Standard Provisions and Reporting Requirements, dated 1 September 1985, which are a part of this Order.
5. The Discharger shall report promptly to the Board any material change or proposed change in the character, location, or volume of the discharge.
6. In the event of any change in control or ownership of land or waste discharge facilities presently owned or controlled by the Discharger, the Discharger shall notify the succeeding owner or operator of the existence of this Order by letter, a copy of which shall be forwarded to this office.

WASTE DISCHARGE REQUIREMENTS
ORLAND SAND AND GRAVEL CORPORATIONS
GLENN COUNTY

-3-

7. The Board will review this Order periodically and may revise requirements when necessary.

I WILLIAM H. CROOKS, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Central Valley Region, on 6 December 1985.



WILLIAM H. CROOKS, Executive Officer.

FOM:1j1

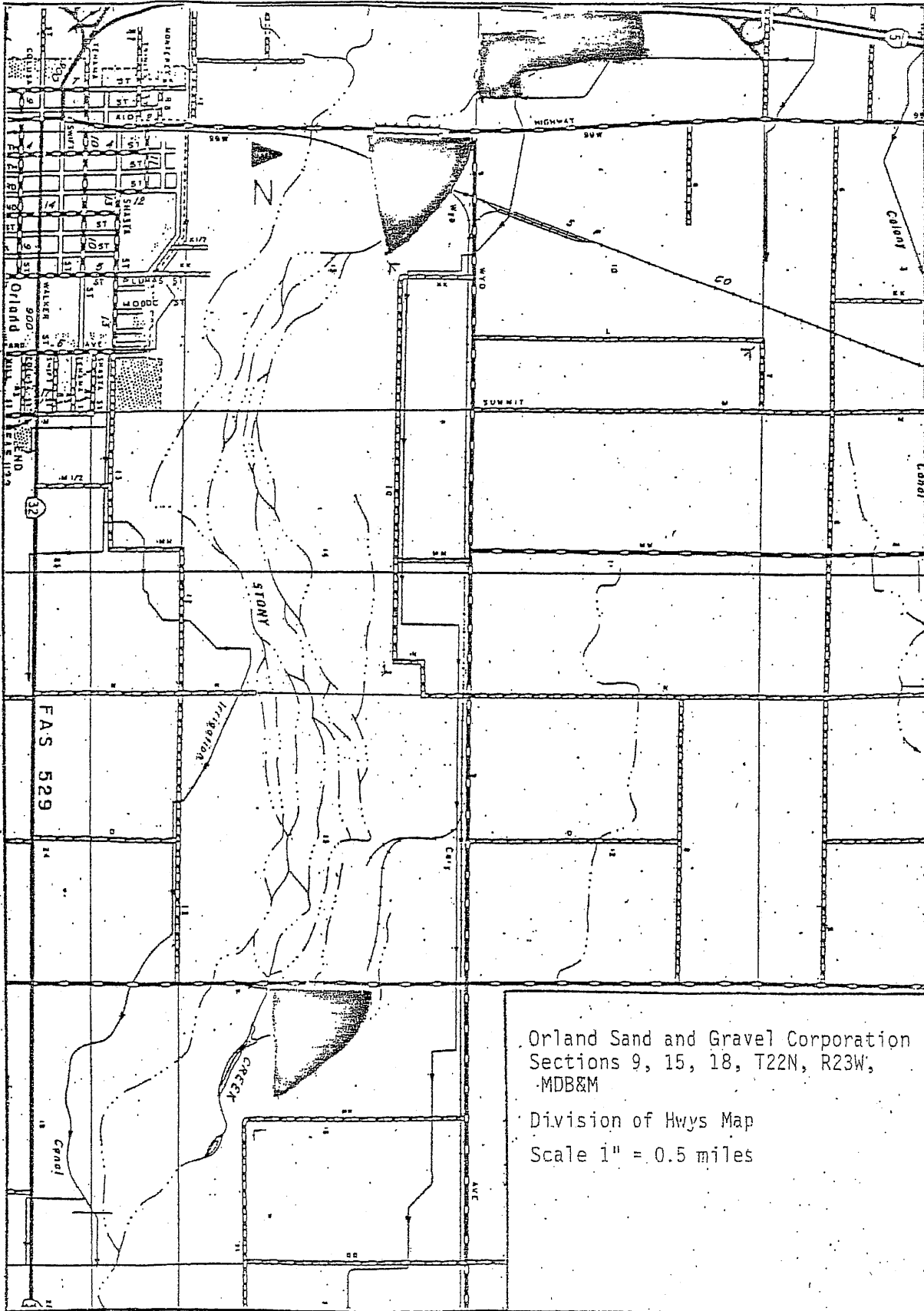
Attachments

INFORMATION SHEET

ORLAND SAND AND GRAVEL CORPORATION
GLENN COUNTY

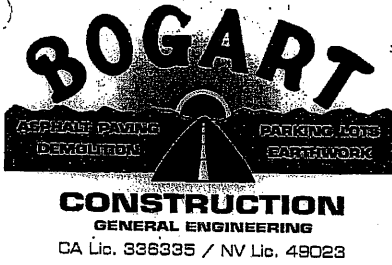
Orland Sand and Gravel Corporation extracts sand and gravel from the Stony Creek area in Sections 5, 9, 18, T22, R2, 3W MDB&M (see Attached Map). Wastewater from aggregate washings and concrete transit mixers is to confined areas on company property. These requirements are being updated and a 17 September 1985 inspection indicated no significant changes in the discharge nor conditions surrounding it.

FOM:lj1



Orland Sand and Gravel Corporation
 Sections 9, 15, 18, T22N, R23W,
 -MDB&M
 Division of Hwys Map
 Scale 1" = 0.5 miles

EXHIBIT B



February 5, 2003

Ms. Beth Doolittle-Norby
California Regional Water Quality Control Board
415 Knollcrest Drive, Suite 100
Redding, Calif. 96002

Your request for confirmation of ownership change, Orland Sand and Gravel Corporation.

In order to comply with provision # 6 of the WDR Order No. 85-322 I am notifying you as of August 2002 I D. R. Doc Bogart received ownership of Orland Sand and Gravel Corp. I will also be the responsible party and contact person. Contact telephone 530-865-2478, fax 530-865-7600. U.S. Mail, P.O. Box 815, Orland, Calif. 95963.

Please feel free to make an appointment for site inspection at any time.

Thank you for your assistance in this matter.

DR Bogart
D.R. Bogart

EXHIBIT C

1 DAVID BOYERS, ASSISTANT CHIEF COUNSEL
SBN: 199934
2 VANESSA YOUNG, ATTORNEY
SBN: 276766
3 CALIFORNIA REGIONAL WATER QUALITY
CONTROL BOARD, CENTRAL VALLEY REGION
4 1001 I ST, 16TH FLOOR
SACRAMENTO, CA 95812
5 (916) 341-5272

6
7 Attorneys for Applicant Central Valley Regional Water Quality Control
8 Board
9

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA

11 IN AND FOR THE COUNTY OF GLENN

12 IN THE MATTER OF THE INSPECTION)
AT:)

No. 03042014-1

13)
14 6535 County Road 9)
044-30-0-002, 044-30-0-004, 044-29-0-007)
15 044-23-0-006, 044-23-0-009)
Orland, Glenn County)

INSPECTION WARRANT

(Code Civ. Proc., § 1822.50 et seq.)
(Wat. Code, § 13267)

16
17 THE PEOPLE OF THE STATE OF CALIFORNIA TO:

18 PAMELA C. CREEDON, Executive Officer of the California Regional
19 Water Quality Control Board, Central Valley Region (Central Valley
20 Water Board), and her authorized representatives:

21 PROOF, by affidavit, having been made before me by Mr. Clint
22 Snyder;

23 THAT THERE IS REASON TO BELIEVE that there exists at 6535 County
24 Road 9 and assessor's parcel numbers (APNs): 044-30-0-002, 044-30-0-
25 004, 044-29-0-007, 044-23-0-006, 044-23-0-009, conditions of, and/or
26 threatened conditions of, pollution or nuisance resulting from
27 discharges of waste, including, but not necessarily limited to,

1. concrete truck washout water, sediment from sand and gravel
2 processing, industrial wastes including but not limited to used oil
3 filters, spilled or spent petroleum products, used solvents, in
4 violation of the Porter-Cologne Water Quality Control Act (Wat. Code §
5 1300 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. §
6 1251 et seq.) and waste discharge requirements issued thereunder.

7 AND that there is authorization for an inspection by the Central
8 Valley Water Board pursuant to California Water Code section 13267,
9 subdivision (c), with respect to the property and improvements
10 (collectively, the "Premises"), identified in Exhibits A-1, A-2, A-3
11 and B, and the accompanying Affidavit by Central Valley Water Board
12 staff, attached hereto and incorporated herein by this reference as
13 required by California Code of Civil Procedure section 1822.50 et seq.
14 for the issuance of an inspection warrant:

15 YOU ARE THEREFORE COMMANDED TO INSPECT, INVESTIGATE, AND SEARCH.

16 SAID INVESTIGATION SHALL INCLUDE entering upon and conducting a
17 visual inspection of the entire Premises and conducting and
18 documenting such inspection by taking such samples and reviewing such
19 writings and records that are kept and maintained on the Premises as
20 is necessary to determine compliance with the statutory provisions
21 cited above.

22 The inspection shall include, but is not limited to the
23 following:

24 (I) entering the Premises, observing the physical conditions of the
25 Premises, and any equipment located thereon and any operations,
26 processes or other activities being conducted thereon, including,

1 but not limited to, equipment shops, disposal areas, ponds,
2 surface drainages, watercourses, material stockpiles, cement
3 storage, mixing and dispersing equipment, and buildings located
4 on the premises;

5 (II) taking photographs and video;

6 (III) questioning of or conferring with persons present on the property
7 privately to obtain information bearing on whether violations of
8 the laws and regulations occurred;

9 (IV) collecting and analyzing samples of water, raw, mined/excavated,
10 processed or stored materials, chemical, fuel, waste, and/or
11 other stored or contained materials;

12 (V) testing for water pollutants, including but not limited to mining
13 waste, concrete waste, petroleum wastes, from any source whether
14 mechanical, process or natural;

15 (VI) inspecting and duplicating any writings and records required
16 under the monitoring and reporting requirements of the Central
17 Valley Water Board's Waste Discharge Requirements Order 85-322
18 (Permit); records of spills or emergencies, business plans,
19 contingency plans, or any other information authorized under
20 California Water Code section 13267, subdivision (c).

21 AND THIS INSPECTION shall be reasonably conducted so as to
22 effect as minimal an intrusion as possible on the normal
23 operations of the property. Inspection personnel shall not
24 interfere with the business owner's observation of the inspection.

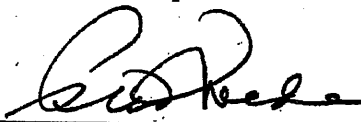
25 AND THIS INSPECTION shall be made during the daylight hours
26 between 8:00 a.m. and 6:00 p.m. In the event that the inspection

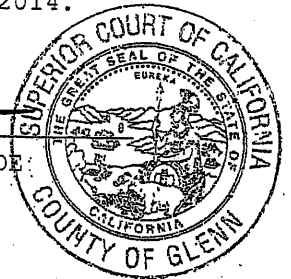
1 cannot be completed in a single day, you may return and reenter
2 the Premises for further inspection as you find necessary on a
3 subsequent day or days, subject to the daylight-hours restriction
4 above, prior to the expiration of this inspection warrant.

5 AND THIS INSPECTION shall be for the entirety of the Premises
6 commonly known as Orland Sand and Gravel and/or Stony Creek Pit,
7 located at 6535 County Road 9, Orland, CA 95963, Glenn County,
8 California, APNs: 044-30-0-002, 044-30-0-004, 044-29-0-007, 044-
9 23-0-006, 044-23-0-009, and more particularly described on
10 Exhibits A-1, A-2, A-3, and B, and the accompanying Affidavit by
11 Central Valley Water Board staff.

12 This inspection warrant shall expire at midnight March 18, 2014.
13 and the return must be made within ten business days.

14 Given under my hand and dated this 4th day of March 2014.

15
16 
17 JUDGE PETER BILLIOU TWEED
18 OF THE SUPERIOR COURT,
19 GLENN COUNTY



20 Attachments:

21 Exhibit A-1, A-2, A-3 - Assessor's parcel plats of the Premises

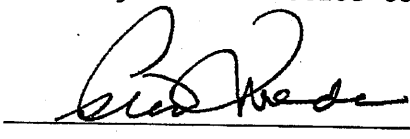
22 Exhibit B - Aerial photographs of the Premises
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AUTHORIZATION TO EXECUTE ABSENT 24 HOUR NOTICE

FOR GOOD CAUSE SHOWN BY AFFIDAVIT, execution of this INSPECTION
WARRANT in the absence of providing 24 hour notice to Mr. Bogart.

Dated: 3.4.14



JUDGE PETER BILLIOU TWEDE
OF THE SUPERIOR COURT,
GLENN COUNTY



AUTHORIZATION FOR LAW ENFORCEMENT PERSONNEL TO ACCOMPANY REGIONAL

WATER BOARD STAFF TO EXECUTE

FOR GOOD CAUSE SHOWN BY AFFIDAVIT, execution of this INSPECTION
WARRANT may be with the presence of an officer or the Sheriff from the
Glenn County Sheriff's Department.

Dated: 3.4.14



JUDGE PETER BILLIOU TWEDE
OF THE SUPERIOR COURT,
GLENN COUNTY

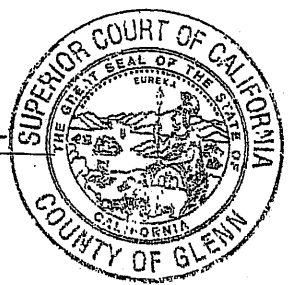


EXHIBIT D

1 DAVID BOYERS, ASSISTANT CHIEF COUNSEL
SBN: 199934
2 VANESSA YOUNG, ATTORNEY
SBN: 276766
3 CALIFORNIA REGIONAL WATER QUALITY
CONTROL BOARD, CENTRAL VALLEY REGION
4 1001 I ST, 16TH FLOOR
SACRAMENTO, CALIFORNIA 95812
5 (916) 341-5272
6

7 Attorneys for Applicant Central Valley Regional Water Quality Control
8 Board
9

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA

11 IN AND FOR THE COUNTY OF GLENN

12 IN THE MATTER OF THE INSPECTION) No. *04252014-1*
AT:)
13)
14 6535 County Road 9) INSPECTION WARRANT
044-30-0-002, 044-30-0-004, 044-29-0-007)
15 044-23-0-006, 044-23-0-009)
Orland, Glenn County) (Code Civ. Proc., § 1822.50 et seq.)
16) (Wat. Code, § 13267)

17 THE PEOPLE OF THE STATE OF CALIFORNIA TO:

18 PAMELA C. CREEDON, Executive Officer of the California Regional
19 Water Quality Control Board, Central Valley Region (Central Valley
20 Water Board), and her authorized representatives:

21 PROOF, by affidavit, having been made before me by Mr. Clint
22 Snyder;

23 THAT THERE IS REASON TO BELIEVE that there exists at 6535 County
24 Road 9 and assessor's parcel numbers (APNs): 044-30-0-002, 044-30-0-
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26 threatened conditions of, pollution or nuisance resulting from
27 discharges of waste, including, but not necessarily limited to,

1 concrete truck washout water, sediment from sand and gravel
2 processing, industrial wastes including but not limited to used oil
3 filters, spilled or spent petroleum products, used solvents, in
4 violation of the Porter-Cologne Water Quality Control Act (Wat. Code §
5 1300 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. §
6 1251 et seq.) and waste discharge requirements issued thereunder.

7 AND that there is authorization for an inspection by the Central
8 Valley Water Board pursuant to California Water Code section 13267,
9 subdivision (c), with respect to the property and improvements
10 (collectively, the "Premises"), identified in Exhibits A-1, A-2, A-3
11 and B, and the accompanying Affidavit by Central Valley Water Board
12 staff, attached hereto and incorporated herein by this reference as
13 required by California Code of Civil Procedure section 1822.50 et seq.
14 for the issuance of an inspection warrant:

15 YOU ARE THEREFORE COMMANDED TO INSPECT, INVESTIGATE, AND SEARCH.

16 SAID INVESTIGATION SHALL INCLUDE entering upon and conducting a
17 visual inspection of the entire Premises and conducting and
18 documenting such inspection by taking such samples and reviewing such
19 writings and records that are kept and maintained on the Premises as
20 is necessary to determine compliance with the statutory provisions
21 cited above.

22 The inspection shall include, but is not limited to the
23 following:

24 (I) entering the Premises, observing the physical conditions of the
25 Premises, and any equipment located thereon and any operations,
26 processes or other activities being conducted thereon, including,

- 1 but not limited to, equipment shops, disposal areas, ponds,
2 surface drainages, watercourses, material stockpiles, cement
3 storage, mixing and dispersing equipment, and buildings located
4 on the Premises;
- 5 (II) taking photographs and video;
- 6 (III) questioning of or conferring with persons present on the property
7 privately to obtain information bearing on whether violations of
8 the laws and regulations occurred;
- 9 (IV) collecting and analyzing samples of water, raw, mined/excavated,
10 processed or stored materials, chemical, fuel, waste, and/or
11 other stored or contained materials;
- 12 (V) testing for water pollutants, including but not limited to mining
13 waste, concrete waste, petroleum wastes, from any source whether
14 mechanical, process or natural;
- 15 (VI) inspecting and duplicating any writings and records required
16 under the monitoring and reporting requirements of the Central
17 Valley Water Board's Waste Discharge Requirements Order 85-322
18 (Permit); records of spills or emergencies, business plans,
19 contingency plans, or any other information authorized under
20 California Water Code section 13267, subdivision (c).

21 AND THIS INSPECTION shall be reasonably conducted so as to
22 effect as minimal an intrusion as possible on the normal
23 operations of the property. Inspection personnel shall not
24 interfere with the business owner's observation of the inspection
25 unless circumstances arise where force, as authorized by this
26 INSPECTION WARRANT, is necessary to detain Mr. Bogart.

1 AND THIS INSPECTION shall be made during the daylight hours
2 between 8:00 a.m. and 6:00 p.m. In the event that the inspection
3 cannot be completed in a single day, you may return and reenter
4 the Premises for further inspection as you find necessary on a
5 subsequent day or days, subject to the daylight-hours restriction
6 above, prior to the expiration of this inspection warrant.

7 AND THIS INSPECTION shall be for the entirety of the Premises
8 commonly known as Orland Sand and Gravel and/or Stony Creek Pit,
9 located at 6535 County Road 9, Orland, CA 95963, Glenn County,
10 California, APNs: 044-30-0-002, 044-30-0-004, 044-29-0-007, 044-
11 23-0-006, 044-23-0-009, and more particularly described on
12 Exhibits A-1, A-2, A-3, and B, and the accompanying Affidavit by
13 Central Valley Water Board staff.

14 This inspection warrant shall expire at midnight 23rd May 2014 and
15 the return must be made within ten business days.

16 Given under my hand and dated this 25th day of April 2014.

17
18 

19 JUDGE PETER BILLIOU TWEDE
20 OF THE SUPERIOR COURT,
21 GLENN COUNTY



21 Attachments:

22 Exhibit A-1, A-2, A-3 - Assessor's parcel plats of the Premises

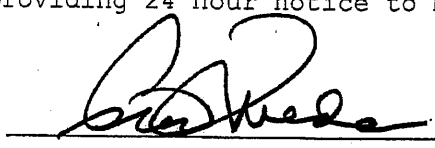
23 Exhibit B - Aerial photographs of the Premises
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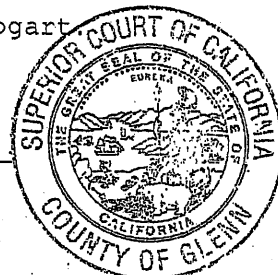
AUTHORIZATION TO EXECUTE ABSENT 24 HOUR NOTICE

FOR GOOD CAUSE SHOWN BY AFFIDAVIT, execution of this INSPECTION
WARRANT in the absence of providing 24 hour notice to Mr. Bogart

Dated: 4.25.14



JUDGE PETER BILLIOU TWEDE
OF THE SUPERIOR COURT,
GLENN COUNTY

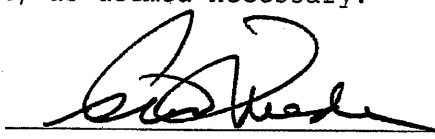


AUTHORIZATION FOR LAW ENFORCEMENT PERSONNEL TO ACCOMPANY REGIONAL

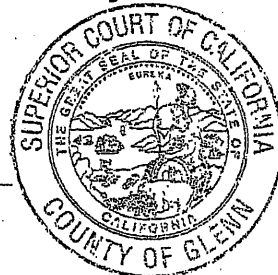
WATER BOARD STAFF TO EXECUTE

FOR GOOD CAUSE SHOWN BY AFFIDAVIT, execution of this INSPECTION
WARRANT may be with the presence of the Glenn County Sheriff's
Department, the California Department of Fish and Wildlife's Law
Enforcement Division, and other law enforcement personnel including
the Orland Police Department, as deemed necessary.

Dated: 4.25.14



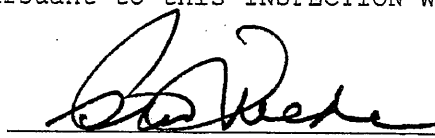
JUDGE PETER BILLIOU TWEDE
OF THE SUPERIOR COURT,
GLENN COUNTY



AUTHORIZATION FOR THE USE OF FORCE TO EXECUTE

FOR GOOD CAUSE SHOWN BY AFFIDAVIT, the use of force may be used
to conduct an inspection pursuant to this INSPECTION WARRANT.

Dated: 4.25.14



JUDGE PETER BILLIOU TWEDE
OF THE SUPERIOR COURT,
GLENN COUNTY



EXHIBIT E

CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD

INSPECTION REPORT

13 May 2014

WDID: 5A112005001
CIWQS Place ID: 246201

DISCHARGER: Dale Roy Bogart

LOCATION & COUNTY: 6535 County Road 9, Orland, Glenn County

CONTACT(S): Dale Roy Bogart
Orland Sand & Gravel Corporation
P.O. Box 815
Orland, CA 96963
Phone: (530) 894-4301

INSPECTION DATE: 8 May 2014

INSPECTED BY: Daniel L. Warner, WRCE, Central Valley Water Board
Clint E. Snyder, AEO, Central Valley Water Board

ACCOMPANIED BY: Lieutenant Sam Castillo, California Department of Fish & Wildlife
Warden Steven Martignoni, California Department of Fish & Wildlife
Warden Jake Olsen, California Department of Fish & Wildlife

OBSERVATIONS AND COMMENTS

BACKGROUND

Dale Roy Bogart (D.R. Doc Bogart) (Discharger) owns and operates Orland Sand & Gravel Corporation (Facility) in Glenn County. Mr. Bogart notified the Central Valley Regional Water Quality Control Board (Central Valley Water Board) on 5 February 2003 that he received ownership of Orland Sand & Gravel Corporation and would be both the responsible party and contact person. Waste Discharge Requirements Order No. R5-2005-0019 (Change of name and/or Ownership of the Facility) officially changed the ownership and operation of the Orland Sand & Gravel Corporation to Mr. D. R. Doc Bogart on 27 January 2005.

Discharges from the Facility are currently regulated pursuant to Waste Discharge Requirements Order No. 85-322 (WDRs). Per Findings in the WDRs, the Discharger discharges 5,000 gallons per day of wash water from concrete transit mixers and a gravel processing plant to settling ponds.

On 25 April 2014, Central Valley Water Board staff obtained an administrative inspection warrant from the Glenn County Superior Court authorizing the execution of an inspection with force.

ONSITE INSPECTION: 08 May 2014

On 08 May 2014 at 1000 hours, Daniel Warner and Clint Snyder from the Central Valley Water Board, Warden Steven Martignoni, Warden Jake Olsen, and Lieutenant Sam Castillo of the Department of Fish & Wildlife (DFW), Deputy Shawn Williams, Sergeant Todd James, and Detective Greg Felton of the Glenn County Sheriff's Department (GCSD), Investigator Steve Rauch, Investigator Shawn Villano, and Sergeant Greg Ross of the California Highway Patrol (CHP), and Bruce Allard, Richard Brockman, and Suzanne Marria of the Division of Occupational Safety and Health, better known as Cal/OSHA, met at the Glenn County Sheriff's substation in Glenn County.

Central Valley Water Board staff presented DFW and GCSD with copies of the Inspection Warrant (04252014-1) and Affidavit in Support of Inspection Warrant (04252014-1); both documents are attached. Site safety and expectations of serving the Inspection Warrant were discussed.

At approximately 1142 hours, Central Valley Water Board staff, DFW, GCSD, CHP, and Cal/OSHA convened at Orland Sand & Gravel Corporation located at 6535 County Road 9, Orland, California to execute the inspection warrant. We were met by Mr. Bogart outside his office upon arrival.

Clint Snyder and I identified ourselves as representatives of the Central Valley Water Board and presented our California Regional Water Quality Control Board identification cards to Mr. Bogart. Mr. Snyder stated that we had an inspection warrant and served Mr. Bogart with a copy of Inspection Warrant (04252014-1), and stated we would like to inspect the Facility to determine compliance with the WDRs Order 85-322. Mr. Bogart requested we join him at his picnic table adjacent to the main office, which we declined. Suzanne Marria of Cal/OSHA then presented the Cal/OSHA Inspection Warrant. Mr. Bogart insisted that both inspection warrants were not valid for multiple reasons. DFW Lieutenant Sam Castillo explained to Mr. Bogart the Inspection Warrants were legal and that he could discuss his concerns regarding the Inspection Warrants with the Glenn County Superior Court. Mr. Bogart was asked if he would allow access to the facility, which he again declined. CHP Sergeant Ross told Mr. Bogart that the Central Valley Water Board was going to conduct a facility inspection under the court issued Inspection Warrant and that he was welcome to be present, but if he attempted to block or hinder the inspection in any way he would be placed under arrest. Mr. Bogart chose to accompany the Central Valley Water Board staff during the inspection.

Shortly after our arrival, one office staff employee and yard employee left the facility. The processing plant was not operating and no other equipment was observed running during the time of the inspection. In addition, Central Valley Water Board staff observed two sales transactions during the time of the inspection.

At approximately 1147 hours, Mr. Larry Judkins of the Sacramento Valley Mirror Newspaper arrived on-site. Mr. Judkins did not interview or speak to Central Valley Water Board staff while we were onsite.

At 1155 hours Central Valley Water Board staff proceeded to begin the inspection of the facility. Central Valley Water Board staff was accompanied by Warden Steven Martignoni, Warden Jake Olsen, and Lieutenant Sam Castillo of DFW. Mr. Bogart and Larry Judkins shadowed Central Valley Water Board staff during the inspection.

Approved:

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Areas inspected included the concrete truck washout pit, the north and south wash ponds, material stock piles northeast of the wash ponds, concrete washout pond tailings, the streambed gravel extraction area, gravel processing plant, gravel stockpiles, equipment storage east of Highway 99W, equipment storage west of Highway 99W, material storage under Highway 99W, the north and south shops, and fuel storage areas. No paperwork was reviewed during the inspection. Approximately eighty four photographs were taken during the inspection. However, not all the photographs are included in this inspection report.

1. An unlined concrete truck washout pond is located on the north side of the facility east of the railroad tracks (Photograph #1). The unlined concrete washout pond had standing water in several locations within the depression that was sampled (Photographs #2 and #3). Both locations were tested for pH using Whatman pH strips within the unlined concrete washout pond (Photograph #4). The test results indicated a pH of 11 standard units. Mr. Bogart was asked if this was the only concrete truck washout pond. Mr. Bogart responded with "I do not recognize your authority; you do not have permission to be here."
2. Soil staining was noted beneath a stored vehicle south of the unlined concrete washout pond (Photograph #5). No soil samples were collected from beneath the vehicle. Clint Snyder inspected the other vehicles in the area. No additional soil staining was noted near the vehicles in this area.
3. The north and south wash ponds were viewed during the inspection. It appears both wash ponds receive wash water from the gravel processing plant via PVC pipes. The PVC pipes are approximately 8-inches in diameter and could be seen leading from the gravel processing plant to the wash ponds (Photograph #6). PVC pipes can be seen extending into each wash pond at the west end (Photographs #7 and #8). No water was observed in the north and south wash ponds during the inspection. However, both wash ponds had excessive vegetation growth on the banks and bottom of the ponds.
4. The northeast area of the facility and west of the railroad tracks has what appears to be concrete washout pond tailings in piles approximately 5 feet tall covering an area of approximately a quarter acre (Photograph #9). South of the concrete washout pond tailing piles is an area of approximately a quarter acre where concrete washout pond tailings have been graded (Photograph #10). Material from the graded area appears to have flowed south for approximately 100 feet and was stopped by an earthen berm (Photograph #11).
5. West of the concrete washout pond tailings and north of the wash ponds is an area that has eighteen 55-gallon drums and several stored vehicles. The eighteen 55-gallon drums (Photograph #12) contain unknown substances and were not labeled. At the time of the inspection, several drums were missing top locking rings or bung plugs. A brown drum in the foreground was rusted through above the bottom edge. No soil staining was observed around the drums. Adjacent to the eighteen 55-gallon drums was a water truck. Soil staining was observed in multiple areas under the water truck (Photograph #13). No soil samples were collected from this area during the inspection.
6. Asphalt and concrete have been placed beneath and west of the railroad tracks adjacent to Stony Creek (Photographs #14, #15, and #16). The placed material is sloughing down the banks and into the stream bed of Stony Creek.

Approved:

7. The stream channels of Stony Creek were inspected for flowing water. No waste was seen in the north stream channel of Stony Creek. However, what appeared to be a rip-rap dam was observed in the south stream channel of Stony Creek. Water was pooled above the rip-rap dam (Photographs #17 and #18).
8. The streambed of Stony Creek shows signs of alteration and gravel extraction within an area of approximately four acres (Photographs #19, #20, and #21). No activity was observed in the streambed during this inspection. However, vehicle tire grooves, a gravel ramp leading from the facility, and the lack of vegetation, indicate that gravel operations took place in the streambed in the recent past.
9. Concrete and processed gravel can be seen lining the north bank of Stony Creek (Photograph #22). The concrete and gravel has sloughed down the north bank of Stony Creek into the streambed. An area of what appears to be poured concrete was observed south of the concrete plant and west of the gravel ramp (Photograph #23). A gravel ramp has been constructed from the facility down into Stony Creek (Photograph #24).
10. The gravel processing plant was observed for wash water discharge (Photograph # 25). A PVC pipe that appears to be a wash water discharge pipe the same size as the PVC pipes located at the north and south wash ponds was seen at the gravel processing plant (Photograph #26). The gravel processing plant was not in operation at the time of the inspection.
11. Material stockpiles are scattered throughout the facility. The material storage area southeast of the gravel processing plant and west of the railroad tracks has a gradient towards the railroad tracks and Stony Creek (Photographs #27 and #28). The area west of the gravel processing plant contains multiple gravel stockpiles and has a gradient towards Stony Creek to the south.
12. Concrete trucks, water trucks, miscellaneous equipment, other vehicles, and fuel are stored west of the two shop buildings. Surface gradient on the west side of the shops slopes down toward Highway 99W and eventually to Stony Creek. The south road from the shop area under Highway 99W showed signs of surface water flow. A straw waddle was observed on the south side of south road (Photograph # 29). The north road west of the shop area under Highway 99W also showed signs of surface water flow along with a straw waddle partially secured (Photograph #30). Soil staining was observed on the north road downgradient of the straw waddle (Photograph #31).
13. Approximately 28 bags of unknown yellow, orange, and brown powders are stored on pallets under Highway 99W. Although staff was not able to verify the contents, based on packaging and physical characteristics it appears this may be concrete dye. (Photographs #32 and #33). The bags have deteriorated and are spilling its contents onto the ground. Mr. Bogart was asked about the unknown powder and replied "I do not recognize your authority; you do not have permission to be here." Two poly tanks, wood, used tires, and miscellaneous metal are also stored under Highway 99W (Photograph #34). In addition, a forklift is stored below Highway 99W and appears to be leaking oil (Photograph #35). The area west of Highway 99W is used to store additional vehicles, cranes, and miscellaneous equipment (Photograph #36).

14. Surface water flows from the vehicle storage areas, shop areas, storage areas west of Highway 99W, and the area under Highway 99W flow toward Highway 99W then south toward Stony Creek on the west side of Highway 99W (Photograph #36).
15. Located west of the north shop building is a building marked "HIGH VOLTAGE" (Photograph #37). Central Valley Water Board staff did not access this building. Two fuel tanks are adjacent to and west of the building. The larger tank, approximately 5,000 gallons, is identified as "OFF ROAD" (Photograph #38). Staining was observed on the concrete pad and fueling end of the large tank. The second tank, approximately 500 gallons, is elevated and has no secondary containment and is identified by a "Danger/Flammable" sticker (Photograph #39). Neither of the two fuel tanks have secondary containment in case of a spill.
16. A second fuel storage area is located north of the north shop. The second fuel storage area contains four fuel tanks in a secondary containment area and are labeled as diesel (Photograph #40). Within the secondary containment area are five 55-gallon drums and one 55-gallon blue barrel (Photograph #41). The blue barrel is marked as Muriatic Acid (Photograph #42).
17. Directly west of the north fuel area are thirteen 55-gallon drums and plastic barrels. Several of the drums have missing caps and one drum has the top open (Photograph #43). None of the 55-gallon drums were labeled.
18. Outside of South shop to the west are thirteen additional 55-gallons drums, two poly tanks, and an elevated tank with unknown contents (Photographs #44 and #45). None of the 55-gallon drums, poly tanks, or elevated tank had secondary containment. Evidence of staining on the concrete was observed in multiple locations. The south poly tank was labeled as Grace Accelerator (Photograph #46).
19. The open area of the south shop had two manhole covers labeled "Sanitary Sewer" located near the south wall (Photograph #47). As we inspected the open area of the south shop Mr. Bogart stated "[w]e did not have permission to enter the building." Mr. Bogart was then reminded of Central Valley Water Board's authority under Inspection Warrant (04252014-1). Prior to entering the locked area of the south shop building, Mr. Bogart stated "you do not have permission to enter the building and I do not recognize your authority." A floor drain with obvious staining was viewed within the locked area of the south shop near the south wall (Photograph #48). In addition, several 55-gallon drums of used motor oil, new motor oil, and hydraulic oil were noted inside the south shop (Photograph #49).
20. The north shop did not appear to have a floor drain inside. However, a floor drain was observed outside the building on the south side (Photograph #50). Access to the drain was blocked by a GMC work truck. Therefore, the drainage direction from the floor drain was not determined.
21. Four poly tanks containing concrete additives were observed north of the concrete plant loading ramp. Evidence of the ground staining was noted (Photograph #51). The four poly tanks contain Grace Accelerator (Photograph #52), WDRA with Hycal (Photograph #53), Recover, a hydration stabilizer (Photograph #54), and Darex II AEA (Photograph #55). The tanks do not have secondary containment and soil staining was noted during the inspection.

Approved:

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Prior to leaving the facility, Mr. Bogart again stated that the inspection warrant was not valid, he did not recognize our authority to conduct the inspection, and we had not completed the onsite safety training.

At approximately 1320 hours on 8 May 2014 Clint Snyder, Daniel Warner, and DFW left the facility.

SUMMARY

The following summarizes Central Valley Water Board staff's observations only. Mr. Bogart was not willing to answer staffs questions during the inspection.

1. Soil staining was observed in several locations throughout the site (e.g. under vehicles, on dirt roads, the area surrounding the poly tanks for concrete additives, and fuel storage areas).
2. 55-gallons drums and plastic barrels were observed in multiple locations throughout the site. Eighteen unlabeled 55-gallon drums were observed on the east side of the facility, several with open tops or plugs and not labeled. West of the north fuel area are thirteen 55-gallon drums and plastic barrels, several with open tops or missing bungs and not labeled. Thirteen additional 55-gallon drums along with two poly tanks of approximately 1,000-gallons each are located on the west side of the south shop. One of the poly tanks did not appear to be labeled. Several 55-gallon drums were noted inside the locked area of the south shop, again some 55-gallong drums were not labeled. Finally, four poly tanks, adjacent to the concrete plant loading ramp, were observed with obvious staining on the ground. None of the aforementioned 55-gallon drums, plastic barrels, or poly tanks were contained in secondary containment.
3. Broken asphalt and concrete, loose gravel, and what appeared to be poured concrete was piled along the south side of the facility and the north bank of Stony Creek. The asphalt, concrete, and gravel appeared to be sougning over the bank of Stony Creek into the stream channel.
4. It appears Orland Sand & Gravel Corporations has recently extracted gravel from Stony Creek. This is due to the lack of vegetation, presence of tire tracks, and gravel ramp from the facility to Stony Creek. In addition, what appears to be a rip-rap dam was observed within the south channel of Stony Creek.
5. The topography of the facility indicates that storm water at the facility has the potential to flow to Stony Creek. Storm water from the material stockpile areas may migrate to Stony Creek via the installed gravel ramp, while storm water falling west of the shop area flows to a surface water drainage course that leads directly to Stony Creek.
6. A fuel storage area between the two shops has an approximately 5,000 gallons of fuel tank and an elevated fuel tank. An unlabeled elevated tank was noted west of the south shop. None of the three tanks have any type of secondary containment.

Approved:

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7. The final disposition of the floor drains located inside the south shop and outside of the north shop was not determined during the inspection. Oil staining was observed around the floor drain inside the south shop. In addition, there are two manhole covers located inside the open area of the south shop labeled "Sanitary Sewer." It is unknown if the facility is actually tied into the sanitary sewer system.
8. Three ponds were noted during the inspection. Two ponds that appear to receive wash water from the gravel processing area and the concrete transit mixer wash out pond. In addition, a liquid wash out area or pond dredging disposal area was noted within the northeast area of the facility.



Daniel L. Warner
Water Resources Control Engineer



Clint E. Snyder, P.G.
Assistant Executive Officer

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Approved:		
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EXHIBIT F

STATE OF CALIFORNIA
DEPARTMENT OF FISH AND GAME
ARREST/INVESTIGATION REPORT
ENF 6a (4-04)

Region # **NED** Page 1 Of 5

DATE OF INCIDENT/OCCURRENCE 05/08/14		TIME (2400) 1200 Hours	CITY/COUNTY/JUDICIAL DISTRICT Glenn County
"X" ONE <input type="checkbox"/> Arrest Report <input checked="" type="checkbox"/> Formal Complaint	"X" ONE <input type="checkbox"/> Self Initiated <input checked="" type="checkbox"/> Complaint	TYPE OF REPORT ("X" APPLICABLE) <input type="checkbox"/> Commercial Fishing <input type="checkbox"/> Hunting <input checked="" type="checkbox"/> Inland Pollution <input type="checkbox"/> CalTIP <input type="checkbox"/> Recreational Fishing <input type="checkbox"/> Trapping <input type="checkbox"/> Marine Pollution <input checked="" type="checkbox"/> Other Other: Streambed Alteration	

Suspect Information

Name Suspect #1 (First, Middle, Last) Dale Roy Bogart DBA-Orland Sand and Gravel	Sex <input checked="" type="checkbox"/> M <input type="checkbox"/> F	Date of Birth (MM/DD/YYYY) 05/15/52	Citation Number
Suspect Address (Street, Apt, City, State, Zip Code) P.O. Box 815 Orland, California 96963			Home Phone NA
Business Address (Street, Apt, City, State, Zip Code) 6535 County Road 9 Orland, California 96963			Business Phone 530 894-4301
Identification Type ("X" APPLICABLE) <input checked="" type="checkbox"/> CDL/CID <input type="checkbox"/> Other State DL/ID <input type="checkbox"/> Other ID: _____ Number: REDACTED	Suspect Description ("X" APPLICABLE) General: Hair: Eyes: Ethnicity: Height: _____ <input type="checkbox"/> Bln <input type="checkbox"/> Blk <input type="checkbox"/> Brn <input type="checkbox"/> Blu <input type="checkbox"/> Brn <input type="checkbox"/> Asian <input type="checkbox"/> Black <input type="checkbox"/> Hispanic Weight: _____ <input type="checkbox"/> Gry <input type="checkbox"/> Red <input type="checkbox"/> None <input type="checkbox"/> Grn <input type="checkbox"/> Hzl <input type="checkbox"/> White <input type="checkbox"/> Other: _____		
Vehicle Type ("X" APPLICABLE) <input type="checkbox"/> Auto <input type="checkbox"/> Vessel <input type="checkbox"/> Other	Description (Make, Model, Year, Color) NA	License Plate Number/VIN NA	

Offenses and Charges

<input checked="" type="checkbox"/> F&G <input type="checkbox"/> T-14 <input type="checkbox"/> Other: _____ Section: 5650(a)(1) Description: Water Pollution	<input type="checkbox"/> F&G <input type="checkbox"/> T-14 <input type="checkbox"/> Other: _____ Section: _____ Description: _____
<input checked="" type="checkbox"/> F&G <input type="checkbox"/> T-14 <input type="checkbox"/> Other: _____ Section: 5652(a) Description: Refuse Disposal into Waters	<input type="checkbox"/> F&G <input type="checkbox"/> T-14 <input type="checkbox"/> Other: _____ Section: _____ Description: _____
<input checked="" type="checkbox"/> F&G <input type="checkbox"/> T-14 <input type="checkbox"/> Other: _____ Section: 1602(a) Description: Diversion/use of material from stream	<input type="checkbox"/> F&G <input type="checkbox"/> T-14 <input type="checkbox"/> Other: _____ Section: _____ Description: _____

Evidence Seized

Evidence Description (Amount, Type, Serial Number, etc.) see attached photos, video recordings, reports	"X" ONE <input type="checkbox"/> Held <input type="checkbox"/> Returned <input type="checkbox"/> Destroyed <input type="checkbox"/> Other	Evidence Photographed? <input type="checkbox"/> Yes <input type="checkbox"/> No
Evidence Description (Amount, Type, Serial Number, etc.)	"X" ONE <input type="checkbox"/> Held <input type="checkbox"/> Returned <input type="checkbox"/> Destroyed <input type="checkbox"/> Other	Evidence Photographed? <input type="checkbox"/> Yes <input type="checkbox"/> No
Evidence Description (Amount, Type, Serial Number, etc.)	"X" ONE <input type="checkbox"/> Held <input type="checkbox"/> Returned <input type="checkbox"/> Destroyed <input type="checkbox"/> Other	Evidence Photographed? <input type="checkbox"/> Yes <input type="checkbox"/> No

Case Synopsis

In March of 2013 it was brought to the attention of myself and the CA DFW that Dale Roy Bogart-DBA Orland Sand and Gravel was extracting material from Stony Creek without a valid streambed alteration agreement. Efforts by the CA DFW to advise Mr. Bogart of the streambed alteration requirements or cease activity in Stony Creek were refused. Mr. Bogart denied an inspection by CA DFW and the regional water quality board in January 2014. On May 5, 2014 an inspection warrant with force was executed by the Central Valley Regional Water Quality Control Board. During the inspection additional possible violations of Fish and Game Code pertaining to water pollution were discovered.

See ENF 6b For Additional Suspect and Witness Information "x"ONE Yes No

Preparer's Name and Badge Number Steven Martignoni 706	Date 08/08/14	Reviewer's Name Samuel P. Castillo #221	Date 9/15/14
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SUPPLEMENTAL SUSPECT/WITNESS INFORMATION

ENF 6b (4-04)

Region # **NED** Page **2**

DATE OF INCIDENT/OCCURRENCE 05/08/14	TIME (2400) 1200 Hours	CITY/COUNTY/JUDICIAL DISTRICT Glenn County
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Additional Suspect Information

Name Suspect #2 (First, Middle, Last)	Sex <input type="checkbox"/> M <input type="checkbox"/> F	Date of Birth (MM/DD/YY)	Citation Number
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Suspect Address (Street, Apt., City, State, Zip Code)	Home Phone
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Business Address (Street, Apt., City, State, Zip Code)	Business Phone
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Identification Type (*X*APPLICABLE) <input type="checkbox"/> CDL/CID <input type="checkbox"/> Other State DL/ID <input type="checkbox"/> Other ID: _____ Number: _____	Suspect Description (*X*APPLICABLE) <u>General:</u> <u>Hair:</u> <u>Eyes:</u> <u>Ethnicity:</u> Height: _____ <input type="checkbox"/> Bln <input type="checkbox"/> Blk <input type="checkbox"/> Brn <input type="checkbox"/> Blu <input type="checkbox"/> Brn <input type="checkbox"/> Asian <input type="checkbox"/> Black <input type="checkbox"/> Hispanic Weight: _____ <input type="checkbox"/> Gry <input type="checkbox"/> Red <input type="checkbox"/> None <input type="checkbox"/> Grn <input type="checkbox"/> Hzl <input type="checkbox"/> White <input type="checkbox"/> Other: _____
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Vehicle Type (*X*APPLICABLE) <input type="checkbox"/> Auto <input type="checkbox"/> Vessel <input type="checkbox"/> Other	Description (Make, Model, Year, Color)	License Plate Number/VIN
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Name Suspect #3 (First, Middle, Last)	Sex <input type="checkbox"/> M <input type="checkbox"/> F	Date of Birth (MM/DD/YY)	Citation Number
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Suspect Address (Street, Apt., City, State, Zip Code)	Home Phone
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Identification Type (*X*APPLICABLE) <input type="checkbox"/> CDL/CID <input type="checkbox"/> Other State DL/ID <input type="checkbox"/> Other ID: _____ Number: _____	Suspect Description (*X*APPLICABLE) <u>General:</u> <u>Hair:</u> <u>Eyes:</u> <u>Ethnicity:</u> Height: _____ <input type="checkbox"/> Bln <input type="checkbox"/> Blk <input type="checkbox"/> Brn <input type="checkbox"/> Blu <input type="checkbox"/> Brn <input type="checkbox"/> Asian <input type="checkbox"/> Black <input type="checkbox"/> Hispanic Weight: _____ <input type="checkbox"/> Gry <input type="checkbox"/> Red <input type="checkbox"/> None <input type="checkbox"/> Grn <input type="checkbox"/> Hzl <input type="checkbox"/> White <input type="checkbox"/> Other: _____
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Name Suspect #4 (First, Middle, Last)	Sex <input type="checkbox"/> M <input type="checkbox"/> F	Date of Birth (MM/DD/YY)	Citation Number
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Suspect Address (Street, Apt., City, State, Zip Code)	Home Phone
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Identification Type (*X*APPLICABLE) <input type="checkbox"/> CDL/CID <input type="checkbox"/> Other State DL/ID <input type="checkbox"/> Other ID: _____ Number: _____	Suspect Description (*X*APPLICABLE) <u>General:</u> <u>Hair:</u> <u>Eyes:</u> <u>Ethnicity:</u> Height: _____ <input type="checkbox"/> Bln <input type="checkbox"/> Blk <input type="checkbox"/> Brn <input type="checkbox"/> Blu <input type="checkbox"/> Brn <input type="checkbox"/> Asian <input type="checkbox"/> Black <input type="checkbox"/> Hispanic Weight: _____ <input type="checkbox"/> Gry <input type="checkbox"/> Red <input type="checkbox"/> None <input type="checkbox"/> Grn <input type="checkbox"/> Hzl <input type="checkbox"/> White <input type="checkbox"/> Other: _____
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Witness Information

Name Witness #1 (First, Middle, Last) Lt. Samuel Castillo	Sex <input checked="" type="checkbox"/> M <input type="checkbox"/> F	Date of Birth (MM/DD/YY)	Identification Number 221
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Witness Address (Street, Apt., City, State, Zip Code) REDACTED	Home Phone REDACTED
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Name Witness #2 (First, Middle, Last) Clint E. Snyder-AEO, Central Valley Water Board	Sex <input checked="" type="checkbox"/> M <input type="checkbox"/> F	Date of Birth (MM/DD/YY)	Identification Number
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Witness Address (Street, Apt., City, State, Zip Code)	Home Phone
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Name Witness #3 (First, Middle, Last) Daniel L. Warner WRCE Central Valley Water Board	Sex <input checked="" type="checkbox"/> M <input type="checkbox"/> F	Date of Birth (MM/DD/YY)	Identification Number
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Witness Address (Street, Apt., City, State, Zip Code)	Home Phone
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Preparer's Name and Badge Number Steven Martignoni 706	Date 08/08/14	Reviewer's Name Samuel P. Castillo #221	Date 9/15/14
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STATE OF CALIFORNIA
DEPARTMENT OF FISH AND GAME
NARRATIVE/SUPPLEMENTAL

ENF 6a p.2 (Rev 4-04)

Region#

NED

Page 3 of 3

DATE OF INCIDENT/OCCURRENCE 05/08/14	TIME (2400) 1200 Hours	CITY/COUNTY/JUDICIAL DISTRICT Glenn County	
*X*APPLICABLE <input checked="" type="checkbox"/> Narrative <input type="checkbox"/> Arrest Report <input type="checkbox"/> Supplemental <input type="checkbox"/> Formal Complaint		TYPE OF REPORT (*X*APPLICABLE) <input type="checkbox"/> Commercial Fishing <input type="checkbox"/> Hunting <input checked="" type="checkbox"/> Inland Pollution <input type="checkbox"/> Incident Report <input type="checkbox"/> Recreational Fishing <input type="checkbox"/> Trapping <input type="checkbox"/> Marine Pollution <input checked="" type="checkbox"/> Other Other: Streambed Alteration	
Location/Subject/Incident Name Stony Creek/Orland Sand and Gravel/ Dale Roy Bogart		Arresting/Case Officer Martignoni 706	Citation Number
<p>1. <u>On 03/14/2013 I was first notified by email about concerns with an unlawful</u> 2. <u>gravel extraction operation occurring in Stony Creek. I was informed that Dale</u> 3. <u>"Doc" Bogart the owner/operator of Orland Sand and Gravel (OSG) was</u> 4. <u>actively extracting material from Stony Creek without an existing streambed</u> 5. <u>alteration agreement as required by Fish and Game Code section 1602(a).</u> 6. <u>From the first report of extraction activity on 03/14/13 to 04/14/13 myself,</u> 7. <u>Warden Jake Olsen, and California Department of Fish and Wildlife (DFW) Lt.</u> 8. <u>Specialist Peter Blake observed and documented related extraction activity</u> 9. <u>occurring in Stony Creek. Myself and Lt. Specialist Blake observed equipment</u> 10. <u>from the Orland Sand and Gravel facility extracting material from the main</u> 11. <u>channel of Stony Creek, specifically an area just east of the Hwy 99 west bridge</u> 12. <u>(see map exhibit #1). The Orland Sand and Gravel facility is located at 6535</u> 13. <u>County Road 9 on the corner of Hwy 99 west. There is a bridge on Hwy 99 west</u> 14. <u>crossing Stony Creek which allows an unobstructed view of the area described</u> 15. <u>above from the public road.</u> 16. <u>The area described above in the center of the stream channel of Stony Creek</u> 17. <u>showed signs associated with recent work, such as tire tracks and symmetrical</u> 18. <u>scraping lines. On multiple dates I photographed and video recorded signs of</u> 19. <u>material being extracted from Stony Creek. During this time period myself and</u> 20. <u>other DFW employees received reports of heavy equipment known "paddle</u> 21. <u>wheels" associated with Orland Sand and Gravel working in Stony Creek just</u> 22. <u>east of the Hwy 99 W bridge.</u> 23. <u>On 04/03/13 and 04/04/13 video recordings and still images were captured of</u> 24. <u>equipment extracting material and taking the material up a gravel ramp on the</u> 25. <u>North bank of Stony Creek onto the property of Orland Sand and Gravel.(see</u> 26. <u>photo and video exhibit # 2-6)</u> 27. <u>During this time period I noticed what appeared to be a poured gravel ramp on</u> 28. <u>the North bank of Stony Creek leading up to the Orland Sand and Gravel</u> 29. <u>facility. I noted the ramp crossed the flowing water of Stony Creek, impeding</u> 30. <u>the flow of water in violation of Fish and game Code 1602(a)(see photo #7)</u> 31.</p>			
Preparer's Name and Badge Number Steven Martignoni 706	Date 08/08/14	Reviewer's Name Samuel P. Castillo #221	Date 9/15/14

PROSECUTING AGENCY --- (WHITE)

REGION --- (GOLDEN ROD)

ADMINISTRATIVE USE --- (GREEN)

OFFICER --- (BLUE)

STATE OF CALIFORNIA
DEPARTMENT OF FISH AND GAME
NARRATIVE/SUPPLEMENTAL
WPD 6a p.2 (Rev 10-98)

Region# **NED** Page of **4**

DATE OF INCIDENT/OCCURRENCE 05/08/14	TIME (2400) 1200 Hours	CITY/COUNTY/JUDICIAL DISTRICT Glenn County	
"X" APPLICABLE <input checked="" type="checkbox"/> Narrative <input type="checkbox"/> Arrest Report <input type="checkbox"/> Supplemental <input type="checkbox"/> Formal Complaint		TYPE OF REPORT ("X" APPLICABLE) <input type="checkbox"/> Commercial Fishing <input type="checkbox"/> Hunting <input checked="" type="checkbox"/> Inland Pollution <input type="checkbox"/> Incident Report <input type="checkbox"/> Recreational Fishing <input type="checkbox"/> Trapping <input type="checkbox"/> Marine Pollution <input checked="" type="checkbox"/> Other: <u>Streambed Alteration</u>	
Location/Subject/Incident Name Stony Creek/Orland Sand and Gravel/ Dale Roy Bogart		Arresting/Case Officer Martignoni 706	Citation Number
32. I later attempted to determine when the gravel ramp was created. I looked at a "			
33. google earth" image of the area in question taken July of 2012 and did not see the			
34. gravel ramp or any signs of its prior existence (see exhibit #8,9).			
35. I relayed my findings to my supervisor and the environmental science branch of			
36. the DFW. It was confirmed by the DFW there was not a valid existing streambed			
37. alteration agreement between DFW and Mr. Bogart or Orland Sand and Gravel			
38. Corporation. I was given a copy of a letter to Mr. Bogart dated April 17, 2007			
39. from the DFW (then known as Department of Fish and Game) which specifically			
40. states Streambed Alteration Agreement 11-039-99 is terminated (exhibit #10).			
41. A letter dated April 9, 2013 from DFW regional manager Tina Bartlett to Mr.			
42. Dale Bogart of Orland Sand and Gravel was mailed to PO BOX 815 Orland, Ca.			
43. The letter (exhibit #11) served to notify Mr. Bogart and OSG the Department of			
44. Fish and Wildlife had no record of a notification or valid Streambed alteration			
45. agreement as required by Fish and Game Code Section 1602. The letter was			
46. refused by recipient and sent back to DFW.			
47. On 04/23/13 myself and Warden Michael Beals drove to the office of OSG to			
48. hand deliver the returned letter to Mr. Bogart. Mr. Bogart accepted the letter and			
49. engaged Warden Beals and I in conversation. Mr. Bogart indicated that somehow			
50. he would take the belongings, retirement funds and homes of Warden Beals and I			
51. because we were "interlopers". Warden Beals and I attempted to explain the			
52. position of DFW and the need to have a valid streambed alteration agreement.			
53. Bogart stated he was working in the creek and he believed he had an agreement due			
54. to his notification directly by a letter to "Carlton Bonham" the DFW director. Beals			
55. and I attempted to explain the DFW did not have a valid agreement and we wanted			
56. to help Mr. Bogart to be in compliance with the Fish and Game Code. My attempts			
57. to reach an agreement with Mr. Bogart concerning the proper avenues to obtain a			
58. valid streambed alteration agreement from the department were unsuccessful.			
59. The presence of the gravel ramp on the north bank of Stony Creek to the present			
60. date and the prior material extraction from Stony Creek without a valid streambed			
61. alteration agreement constitute violations of Fish and game Code 1602 (a).			
62.			
Preparer's Name and Badge Number Steven Martignoni 706	Date 08/08/14	Reviewer's Name Samuel P. Castillo #221	Date 9/15/14

NARRATIVE/SUPPLEMENTAL

DATE OF INCIDENT/OCCURRENCE 05/08/14		TIME (2400) 1200 Hours	CITY/COUNTY/JUDICIAL DISTRICT Glenn County	
X APPLICABLE <input checked="" type="checkbox"/> Narrative <input type="checkbox"/> Arrest Report <input type="checkbox"/> Supplemental <input type="checkbox"/> Formal Complaint		TYPE OF REPORT (*X* APPLICABLE) <input type="checkbox"/> Commercial Fishing <input type="checkbox"/> Hunting <input checked="" type="checkbox"/> Inland Pollution <input type="checkbox"/> Incident Report <input type="checkbox"/> Recreational Fishing <input type="checkbox"/> Trapping <input type="checkbox"/> Marine Pollution <input checked="" type="checkbox"/> Other: <u>Streambed Alteration</u>		
Location/Subject/Incident Name Stony Creek/Orland Sand and Gravel/ Dale Roy Bogart		Arresting/Case Officer Martignoni 706	Citation Number	
63. <u>As myself and other members of the DFW investigated the streambed violations</u> 64. <u>occurring in Stony Creek it was brought to my attention the Central Valley Water</u> 65. <u>Board was looking into the activities at Orland Sand and Gravel. It appeared the</u> 66. <u>Water Board was refused inspections on multiple occasions over the previous</u> 67. <u>years.</u> 68. <u>On 01/01/14 myself and Lt. Samuel Castillo attempted to accompany members of</u> 69. <u>the Central Valley Water Board on an inspection of OSG. We were met at the</u> 70. <u>office of OSG by Mr. Bogart and refused entry for inspection.</u> 71. <u>On 05/08/14 I was present along with members of the Central Valley Regional</u> 72. <u>Water Quality Board, DFW, Cal/OSHA and numerous law enforcement personnel</u> 73. <u>to execute an "inspection with force" warrant obtained by Central Valley Water</u> 74. <u>Board. Members of the Water Board conducted an inspection and prepared a</u> 75. <u>detailed report of their findings (see report exhibit #12).</u> 76. <u>While on the grounds of OSG during the execution of the inspection warrant the</u> 77. <u>following potential Fish and Game Code Violations were discovered:</u> 78. <u>1. Broken asphalt and concrete piled along the south side of OSG facility and</u> 79. <u>into the stream channel of Stony Creek. (Fish and Game Code 5650(a)(1))</u> 80. <u>(see photo exhibit # 13)</u> 81. <u>2. Soil staining and spilled or leaking petroleum was observed in multiple</u> 82. <u>locations where it can pass into the waters of Stony Creek. (Fish and Game Code</u> 83. <u>5650(a)(1)) (see photo exhibit #14)</u> 84. <u>3. Presence of 55-gallon drums, motor vehicles leaking petroleum, and</u> 85. <u>unmarked bags of powder (possible concrete dye) within 150 feet of the high water</u> 86. <u>mark of Stony Creek. (Fish and Game Code 5652(a). (see photo exhibit #15)</u> 87. <u>These findings as well as the inspection report completed by the Central</u> 88. <u>Valley Regional Water Quality Board have been forwarded to DFW employees of</u> 89. <u>the environmental science division for further review and identification of</u> 90. <u>additional potential violations. DFW Water Quality Biologist Carol OZ is</u> 91. <u>preparing a report with her findings, which will be included at a later date.</u> 92. 93.				
Preparer's Name and Badge Number Steven Martignoni 706		Date 08/08/14	Reviewer's Name Samuel P. Castillo #221	Date 9/15/14

EXHIBIT G



EDMUND G. BROWN JR.
GOVERNOR



MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

Central Valley Regional Water Quality Control Board

11 July 2014

WDID NO. 5A112005001

Dale Roy Bogart
Orland Sand & Gravel Corporation
P.O. Box 815
Orland, CA 96963

CERTIFIED MAIL:
7014 0510 0001 3246 9472

NOTICE OF VIOLATION FOR NONCOMPLIANCE WITH WASTE DISCHARGE REQUIREMENTS ORDER 85-322 AND PORTER-COLOGNE WATER QUALITY CONTROL ACT (WATER CODE) & REQUEST FOR INFORMATION PURSUANT TO WATER CODE SECTION 13267, ORLAND SAND & GRAVEL CORPORATION, ORLAND, GLENN COUNTY

Discharges of wastewater from Orland Sand & Gravel Corporation (Facility or Discharger) are regulated pursuant to Waste Discharge Requirements (WDRs) Order 85-322. Central Valley Regional Water Quality Control Board (Central Valley Water Board) staff sought to gain access to the property to conduct a routine inspection after the Facility transferred ownership to Orland Sand & Gravel Corporation in 2004. Mr. Dale Roy Bogart, operator of the Facility, denied access to the Facility on several occasions. On 8 May 2014, Central Valley Water Board staff conducted an inspection of the Facility pursuant to an administrative inspection warrant. Central Valley Water Board staff identified noncompliance with the Facility's WDRs and provisions of the Porter-Cologne Water Quality Control Act, Water Code § 13000 et seq. (Water Code), including discharges to Stony Creek, a tributary to the Sacramento River, a water of the United States. This Notice of Violation explains the basis for the violations and the potential enforcement action and civil liability associated with noncompliance. Additionally this letter serves as a request for information pursuant to Water Code section 13267 (13267 Order).

Observed Violations

Violation 1 – Failure to File a Report of Discharge for Storm Water

Central Valley Water Board staff found that storm water from the facility has the potential to transport soil, silt, clay, sand, and other organic and earthen materials to Stony Creek, a tributary to the Sacramento River, a water of the United States. Further, the Standard Industrial Classification (SIC) codes of 1442 (Construction Sand and Gravel) and 3272 (Ready-Mixed Concrete) have been identified as being applicable to this Facility and therefore, the Discharger is required to submit a notice of intent to enroll requires coverage under the Industrial General Storm Water permit (Order No. 97-03-DWQ) or, if appropriate, a notice of nonapplicability.

Failure to submit a report of discharge for storm water associated with an industrial activity is a violation of Water Code section 13376. Pursuant to Water Code section 13385, the Discharger is potentially subject to an administrative civil liability of up to ten thousand dollars (\$10,000) for each day in which the violation occurs. Additionally, the Discharger may be subject to civil liability of up to ten thousand dollars (\$10,000) for each day the violation occurs plus ten dollars (\$10) for each gallon over 1,000 gallons discharged but not cleaned up for unauthorized discharges to Stony Creek.

Violation 2 – Discharging to Surface Waters without an Authorized Permit

Central Valley Water Board staff observed evidence of mining within the active channel of Stony Creek, asphalt and concrete riprap in and along the shore of Stony Creek and the construction of a gravel ramp leading from the Facility down into Stony Creek. Evidence of gravel mining and the ramp are shown in Photographs 19 through 24 of the attached Inspection Report. Discharges to waters of the United States without a permit issued under the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.) (Clean Water Act) section 404 constitutes a violation of Clean Water Act section 301 which prohibits the discharge of pollutants, including dredged spoil, rock and sand, to waters of the United States except in compliance with Section 404, among others, of the Clean Water Act.

Pursuant to Water Code section 13385, such unpermitted discharges are subject to an administrative civil liability of up to ten thousand dollars (\$10,000) for each day the violation occurs plus ten dollars (\$10) for each gallon over 1,000 gallons discharged but not cleaned up. The Discharger may also be subject to administrative enforcement, including the issuance of a cleanup and abatement order, requiring the Discharger to cleanup or abate the effects of the waste, or the issuance of a cease and desist order, directing the Discharger to comply with the waste discharge requirements and/or take appropriate remedial action. The Central Valley Water Board may additionally request the Attorney General petition the appropriate court for issuance of a preliminary injunction restraining the Discharger from committing or continuing any threatened or continuing violation.

Violation 3 – Failure to File a Report of Waste Discharge for Changes in the Character, Location, or Volume of the Discharge

The Discharger failed to notify the Central Valley Water Board of changes in character, location, or volume of the discharge as required by Water Code section 13260(c). Based on a review of historic aerial photographs, it appears that between 2002 and 2005 Orland Sand and Gravel developed two additional gravel wash water settling ponds, two new concrete transit mixer wash ponds, and a disposal area for tailings from the concrete transit mixer wash ponds. The Discharger did not notify the Central Valley Water Board of these changes. The Central Valley Water Board hereby requests the Discharger file a report of waste discharge to reflect any material change or proposed change in the character, location, or volume of the discharge.

Pursuant to Water Code section 13261, violations for failing to submit the requested report are subject to an administrative civil liability of up to one thousand dollars (\$1,000) per violation per day. The Central Valley Water Board may also request the Attorney General petition the superior court for the issuance of a preliminary injunction of the Discharger's business activities or other injunctive relief as may be appropriate to require compliance with the Water Code.

Violation 4 – Failure to Pay Annual Permit Fees from 2004 through 2013

The Discharger has failed to pay the required annual permit fees for WDR Order No. 85-322 from 2004 through 2013. The total amount in past due fees for the facility is \$10,208. The Central Valley Water Board hereby requests the Discharger pay the outstanding annual permit fees past due.

Failure to pay the annual fee is a violation of Water Code section 13260. Pursuant to Water Code section 13261 any person failing to pay a fee under Section 13260 when so requested by a regional board is guilty of a misdemeanor and may be subject to civil liability in an amount up to one thousand dollars (\$1,000) per violation per day. The Central Valley Water Board may also request the Attorney General petition the superior court for the issuance of a preliminary injunction of the Discharger's business activities or other injunctive relief as may be appropriate to require compliance with the Water Code.

Potential Violation

Central Valley Water Board staff identified two pallets containing approximately 28 bags of an unknown substance being stored under the Highway 99W overpass. Although the exact material in the bags could not be identified during the inspection, it appeared that the bags contain powdered concrete dyes. Photographs 32 and 33 show the bags of powder stored under Highway 99W, some of which had spilled onto the ground. The spilled material has the potential to be discharged into Stony Creek during storm events.

The Discharger may be subject to administrative enforcement, including the issuance of a cleanup and abatement order requiring the Discharger to cleanup or abate the effects of the waste or a cease and desist order directing the Discharger to comply with the waste discharge requirements and/or take appropriate remedial or preventive action. The Central Valley Water Board may also request the Attorney General to petition the superior court for the issuance of a preliminary injunction of the Discharger's business activities or other injunctive relief as may be appropriate to restrain the Discharger from violating such Central Valley Water Board orders.

Request for Technical Reports Pursuant to Water Code section 13267

Section 13267 of the Water Code states, in part:

"In conducting an investigation specified in subdivision (a), the regional board may require that any person who has discharged, discharges, or is suspected of having discharged or discharging, or is suspected of having discharged or discharging... shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports. In requiring those reports, the regional board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports."

Section 13268 of the Water Code states, in part:

"(a) Any person failing or refusing to furnish technical or monitoring program reports as required by subdivision (b) of Section 13267...or falsifying any information provided therein, is guilty of a misdemeanor and may be liable civilly in accordance with subdivision (b)."

"(b)(1) Civil liability may be administratively imposed by a regional board in accordance with Article 2.5 (commencing with Section 13323) of Chapter 5 for a violation of subdivision (a) in an amount which shall not exceed one thousand dollars (\$1,000) for each day in which the violation occurs."

The burdens, including cost, of this report required pursuant to this Order bears a reasonable relationship to the need for the reports and the benefits to be obtained from the reports. The requested information in this Order is necessary to obtain information to understand the corrective actions the Discharger will take to prevent and/or remediate discharges to Stony Creek. Additionally, the reports will provide the Central Valley Water Board with the information to determine whether additional requirements, including updating waste discharge requirements, is necessary to ensure that the Facility is in compliance with state and federal water quality laws and policies. Without the submission of these technical reports the Central Valley Water Board is unable to effectively regulate the Discharger's activities and potential water polluting practices and enforce state and federal laws and policies. The threat and harm to water quality from the Discharger's operations is high where staff observed unpermitted mining activity in Stony Creek. The burden and cost of preparing the technical report is within the scope of maintenance and operation associated with ownership and operation of the Facility. Therefore, the burden of the requested reports bears a reasonable relationship to the need for the report and the benefits to be obtained.

The issuance of this request for technical reports pursuant to Water Code section 13267 (13267 Order) is an enforcement action by a regulatory agency and is categorically exempt from provisions of the California Environmental Quality Act (CEQA) (Pub. Resources Code § 21000, et seq.), pursuant to section 15321(a)(2), Chapter 3, Title 14 of the California Code of Regulations. This 13267 Order requires submittal of technical and/or monitoring reports and plans. The proposed activities under the work plans are not yet known. If implementation may result in significant impacts on the environment, the appropriate lead agency will address the CEQA requirements prior to approval of any work plan.

IT IS HEREBY ORDERED pursuant to Water Code section 13267, Orland Sand & Gravel Corporation and Mr. Dale Roy Bogart are hereby required to provide the Central Valley Water Board a written response addressing each violation noted above **by 11 August 2014**. The response shall include:

1. The status for filing a report of discharge to obtain coverage under the Industrial General Storm Water permit;
2. The status of filing a report of waste discharge for any material change or proposed change in the character, location, or volume of the discharge as explained in Violation 3, above;
3. A Work Plan that includes proposed actions to rectify each of those violations noted above along with an appropriate time schedule for completing those actions. The Work Plan shall be prepared by a licensed professional as described below and include a description of any special studies and/or applicable permits required to complete the proposed work. The Work Plan shall be implemented within 30 days following approval by the Central Valley Water Board's Executive Officer or her designee.
4. A map and description of all floor drains at the Facility and their point of termination.
5. An explanation regarding the status of payment of the outstanding annual permit fees owed from 2004 through 2013.

Dale Roy Bogart
Orland Sand & Gravel Corporation

-5-


11 July 2014

As required by the California Business and Professions Code sections 6735, 7835, and 7835.1, engineering and geologic evaluations and judgments shall be performed by or under the direction of registered professionals competent and proficient in the fields pertinent to the required activities. All technical reports submitted by the Discharger shall include a cover letter signed by the Discharger, or an authorized representative, certifying under penalty of perjury that the signer has examined and is familiar with the report and that to their knowledge and belief, the report is true, complete, and accurate. The Discharger is obligated to obtain all applicable local, state, and federal permits necessary to fulfill the requirements of this 13267 Order prior to beginning the work.

The continuing failure to comply with waste discharge requirements and Water Code provisions will subject the Discharger to the issuance of an administrative order, administrative civil liability, and/or referral of the matter to the Attorney General's office for further enforcement.

Any person aggrieved by this action of the Central Valley Water Board may petition the State Water Board to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, sections 2050 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of this Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at: http://www.waterboards.ca.gov/public_notices/petitions/water_quality or will be provided upon request.

If you have any questions regarding this letter, please contact Mr. Daniel Warner of my staff at (530) 224-4848, dwarner@waterboards.ca.gov, or at the footer address.


Clint E. Snyder, P.G.
Assistant Executive Officer

DLW:lmw

Enclosure: Attachment A – 08 May 2014 Inspection Report (copy)

cc w/ enclosure: Ms. Pamela Creedon, Central Valley Water Board
Ms. Vanessa Young, Esq., State Water Resources Control Board
Lieutenant Sam Castillo, Department of Fish & Wildlife
Investigator Steve Rauch, California Highway Patrol
Sergeant Todd James, Glenn County Sheriff's Department
Mr. Matthew Kelly, U.S. Army Corps of Engineers, Redding
Mr. Robert LHeureux, Central Valley Water Board