

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VEGION REGION

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO.R5-2008-0508

IN THE MATTER OF

COLSON AND COLSON GENERAL CONTRACTORS, INC
AND CURRY BRANDAW ARCHITECTS
REDDING RETIREMENT RESIDENCES
SHASTA COUNTY

This complaint is issued to Colson & Colson General Contractors, Inc and Curry Brandaw Architects (hereafter Discharger) pursuant to California Water Code (CWC) section 13385, which authorizes the imposition of Administrative Civil Liability, CWC section 13323, which authorizes the Executive Officer to issue this complaint, and CWC section 7, which authorizes the delegation of the Executive Officer's authority to a deputy, in this case the Assistant Executive Officer. This complaint is based on findings that the Discharger violated provisions of the federal Clean Water Act (CWA), the CWC, and the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction Activity No. CAS000002, Order No. 99-08-DWQ (General Permit).

Unless the Discharger waives their right to a hearing by completing and returning the attached form and pays the proposed civil liability by **26 March 2008**, a public hearing on this matter will be held before the Regional Water Board on **24/25 April 2008** at 11020 Sun Center Drive #200, Rancho Cordova, California. If a hearing is held on this matter, the Discharger and its authorized representative(s), as well as interested parties, will have an opportunity to be heard regarding the veracity of the findings contained in this Complaint, the circumstances surrounding the alleged violation(s), and may comment on the imposition of civil liability by the Central Valley Regional Water Quality Control Board (Regional Water Board).

If a hearing is held on this matter, an agenda will be mailed to the Discharger separately, not less than ten days before the public hearing date. At the public hearing, the Regional Water Board will consider whether to affirm, reject, or modify the proposed administrative civil liability, or whether to refer the matter to the State Attorney General for recovery of judicial liability pursuant to CWC section 13385(b), which may result in significantly higher penalties.

If you have questions regarding this matter, please direct them to Regional Water Board staff, Andrew Jensen, at (530) 224-4783 or George D. Day, at (530) 224-4859.

The Assistant Executive Officer of the Regional Water Board finds the following:

1. The Discharger is the owner and developer of Redding Retirement Residence an 8.4 acre construction project in Redding, Shasta County (APN 104-730-003). The site is being developed into a retirement facility.
2. Runoff from the site discharges to Jenny Creek, a tributary of the Sacramento River.

3. On 19 August 1999, the State Water Resources Control Board adopted NPDES General Permit No. CAS000002, Order No. 99-08-DWQ (general Permit), implementing the Waste Discharge Requirements (WDRs) for storm water discharges associated with construction activity.
4. The General Permit requires that dischargers of storm water to surface waters associated with construction activity including clearing, grading, and excavation activities file a Notice of Intent (NOI) to obtain coverage under the General Permit, and to implement Best Available Technology Economically Achievable and Best Conventional Control Technology to reduce storm water pollution to the maximum extent practicable. The Discharger submitted an NOI for coverage under the General Permit on 3 April 2007 and received confirmation in WDID No. 5R45C346530 on 12 April 2007.
5. On 9 October 2007, Regional Water Board staff inspected the site and found a failure to provide an effective combination of erosion and sediment control, and a failure to install, implement, and maintain storm water construction BMPs. Specifically, an existing concrete washout had failed and leaked waste, resulting in a discharge into a storm drain drop inlet. There was significant ponding of concrete washout wastewater, with an oily sheen on the surface. The concrete washout was undersized for the amount of concrete being poured on the site, and was not being maintained (i.e. liner falling into the concrete waste, ripped liner, ect.), resulting in the discharge. The violations of the General Permit observed by staff included:
 - a. Failure to implement an effective combination of erosion and sediment control Best Management Practices (Section A: Storm Water Pollution Prevention Plan (SWPPP), No. 6-Erosion Control and No. 8 – Sediment Control).
 - b. Failure to maintain, inspect and repair Best Management Practices (BMPs) (Section A: SWPPP, No. 11-Maintenance, Inspection and Repair).
 - c. Failure to train contractors and/or employees regarding inspections and maintenance of BMPs (Section A: SWPPP, No. 12-Training).
 - d. Failure to maintain control measures identified in the SWPPP (Section A: SWPPP, No 1-Objectives).
 - e. Discharging storm water causing or threatening to cause pollution, contamination, or nuisance (Discharge Prohibition A.3).
 - f. Failure to implement the SWPPP developed for the construction activity, such that storm water discharges and authorized non-storm water discharges shall not cause or contribute to an exceedance of any applicable water quality standards contained in a Statewide Water Quality Control Plan and/or the applicable Regional Water Quality Control Board's Basin Plan (Receiving Water Limitation B.2).

- g. Lack of implementation of controls to reduce pollutants in storm water discharges from their construction sites to the Best Available Technology/Best Conventional Pollutant Control Technology) performance standard (Special Provision C.2).
6. On **29 October 2007** Regional Water Board staff issued a Notice of Violation to the Discharger for failing to provide an effective combination of erosion and sediment controls, for discharging construction waste (oily concrete waste water, etc.) to storm drains, and for the continuing threat of a discharge of sediment to waters of the state.
7. **Maximum Civil Liability.** Per CWC section 13385(c), the maximum administrative civil liability in this case is ten thousand dollars ($\$10,000 ([\$10,000 \text{ per day} \times 1 \text{ day}] + [(0 \text{ gal.} - 1,000 \text{ gal.}) \times \$10 \text{ per gallon}])$).
8. **Minimum Civil Liability.** CWC section 13385(e) provides that, at a minimum, civil liability shall be assessed at a level that recovers the economic benefit or savings, if any, derived from the acts that constitute the violations. The Discharger should have expended a few man-hours by redirecting laborers to repair or replace the concrete washout and storm water BMPs. The Discharger received minimal economic benefit or savings from this violation.

9. **Water Code Section 13385(e) Factors:**

Factor	Consideration
Nature, Circumstances, Extent, and Gravity of the Violations	Complying with the SWPPP, educating subcontractors, and maintaining BMPs could have prevented the discharge of waste.
Degree of Culpability	The Discharger is responsible for compliance with the General Permit and its own SWPPP.
Voluntary Cleanup Efforts	The Discharger took immediate action to cleanup the spill and to improve storm water BMPs after notification by staff.
Susceptibility to Cleanup or Abatement	The contaminated soil was readily cleanup and the wastewater containment was improved
Degree of Toxicity of the Discharge	Concrete wastewater has a high pH and is highly toxic to aquatic species.
Prior History of Violations	Discharger does not have a history of violations
Economic Benefit or Savings Resulting from the Violation	Minimal. Not redirecting a few laborers to repair storm water BMPs resulted in minimal savings
Ability to Pay	The Discharger has not submitted evidence of inability to pay the penalty or ability to continue in business.
Other Matters that Justice May Require	Staff costs for responding to violation are \$4800.

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REDDING RETIREMENT RESIDENCES
SHASTA COUNTY

27 February 2008

**COLSON & COLSON GENERAL CONTRACTORS, INC. AND CURRY BRADAW
ARCHITECTS, ARE HEREBY GIVEN NOTICE THAT:**

1. Upon consideration of all factors required by CWC section 13385, the Assistant Executive Officer of the Regional Water Board proposes that the Discharger be assessed an Administrative Civil Liability in the amount of **ten thousand dollars (\$10,000)**.
2. A hearing on this matter will be held at the Regional Water Board meeting scheduled on **24/25 April 2008**, unless the Discharger agrees to complete the following **by 26 March 2008**:
 - a) Waive the hearing by completing the attached form and returning it to the Regional Water Board; and
 - b) Pay the proposed civil liability of **ten thousand dollars (\$10,000)** in full.
3. If a hearing on this matter is held, the Regional Water Board will consider whether to affirm, reject, or modify the proposed Administrative Civil Liability, or whether to refer the matter to the Attorney General for recovery of judicial civil liability.

JAMES C. PEDRI
Assistant Executive Officer

27 February 2008
Date

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**WAIVER OF HEARING FOR
ADMINISTRATIVE CIVIL LIABILITY COMPLAINT**

By signing this waiver, I affirm and acknowledge the following:

1. I am duly authorized to represent Colson & Colson General Contractors, Inc. (hereinafter "Discharger") in connection with Administrative Civil Liability Complaint No. R5-2008-0508 (hereinafter the "Complaint");
2. I am informed of the right provided by California Water Code section 13323, subdivision (b), to a hearing within ninety (90) days of issuance of the Complaint;
3. I hereby waive the Discharger's right to such a hearing before the California Regional Water Quality Control Board, Central Valley Region; and
4. I certify that the Discharger will remit payment for the civil liability imposed in the amount of **ten thousand dollars (\$10,000)** by check, which contains a reference to "ACL Complaint No. R5-2008-0508" and is made payable to the "*State Water Pollution Cleanup and Abatement Account*."
5. I understand the payment of the above amount constitutes a settlement of the Complaint, and that any settlement will not become final until after the 30-day public notice and comment period mandated by Federal regulations (40 CFR 123.27) expires. Should the Regional Water Board receive new information during this comment period, the Regional Water Board may withdraw the complaint, return payment, and issue a new complaint.
6. I understand that payment of the above amount is not a substitute for compliance with applicable laws and that continuing violations of the type alleged in the Complaint may subject the Discharger to further enforcement, including additional civil liability.

(Print Name and Title)

(Signature)

(Date