



San Diego Regional Water Quality Control Board

March 16, 2023

In reply refer to: SM-908545:FMelbourn

Rob Haskell, Vice President
Surf Cup Sports, LLC
2037 Park Dale Lane
Encinitas, California 92024-4325

GSL Tracking No. 558982750

Rob Haskell, Manager
Surf Del Mar One, LLC
3382 Calle Tres Vistas
Encinitas, California 92024-6679

GSL Tracking No. 558982850

Rob Haskell, Agent for Service of Process
Surf Real Estate, LLC
2037 Park Dale Lane
Encinitas, California 92024-4325

GSL Tracking No. 558982750

Investigative Order No. R9-2023-0061 to Surf Cup Sports, LLC; Surf Del Mar One, LLC; and Surf Real Estate, LLC, Related to Non-Compliance at San Diego County APNs 302-090-31-00 & 302-090-32-00

Rob Haskell:

The California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) hereby issues Investigative Order No. R9-2023-0061 (Investigative Order) to Surf Cup Sports, LLC (SCS), Surf Del Mar One, LLC (SDMO), and Surf Real Estate, LLC (SRE) (collectively Dischargers), directing the submission of technical information regarding non-compliance with state and federal laws and regulations at San Diego County Assessor Parcel Numbers (APNs) 302-090-31-00 and 302-090-32-00 (collectively Site). The non-compliance is summarized below and detailed in Notice of Violation No. R9-2023-0060, separately and concurrently issued. Dischargers are directed to submit the technical information pursuant to California Water Code (Water Code) section 13267 within 180-days of this Investigative Order.

CELESTE CANTÚ, CHAIR | DAVID GIBSON, EXECUTIVE OFFICER

2375 Northside Drive, Suite 100, San Diego, CA 92108-2700 | www.waterboards.ca.gov/sandiego

Background Information

SRE purchased the Site on April 1, 2022.¹ SDMO purchased the Site from SRE, on December 21, 2022, and is the current owner.² Agents and employees of SCS conduct daily activities on the Site since 2016.³ The San Diego Water Board received complaints concerning activities on the Site from members of the public, the City of San Diego (City), and the 22nd District Agricultural Association (22nd DAA).⁴ San Diego Water Board staff visited the Site on January 5,⁵ 10,⁶ and 19,⁷ 2023, and communicated with the complainants and Dischargers concerning the activities. Based on the information collected, San Diego Water Board staff allege that the Dischargers have violated state and federal law as described below.

1. Unauthorized discharge of a pollutant to waters of the United States (U.S.) in violation of federal Clean Water Act (Clean Water Act) section 301, Water Code section 13376 and Water Quality Control Plan for the San Diego Basin (Basin Plan) Waste Discharge Prohibition Nos. 1, 3, 6, 7, 8 and 14 for failure to submit a Report of Waste Discharge.
2. Unauthorized discharge of storm water runoff from construction activities in violation of Clean Water Act section 301, Water Code section 13376, and Basin Plan Prohibition Nos. 1, 3, 6, 7, 8 and 14 for failure to obtain coverage under the statewide Construction Storm Water Permit.
3. Failure to obtain Waste Discharge Requirements for the filling of wetlands in violation of Clean Water Act section 401 and Water Code section 13376.

¹ Exhibit 1, Grant Deed, dated April 1, 2022.

² Exhibit 2, Westlaw Property Transaction Report for December 21, 2022.

³ Exhibit 3, January 19, 2023, Site Inspection Report; and Exhibit 4, October 6, 2022, City Civil Penalty Notice and Order.

⁴ Exhibit 5, Public Complaint; Exhibit 4, October 6, 2022, City Civil Penalty Notice and Order; and Exhibit 6, DOJ Cease and Desist Letter for 22nd DAA.

⁵ Exhibit 7, January 5, 2023, Site Inspection Report.

⁶ Exhibit 8, January 10, 2023, Site Inspection Report.

⁷ Exhibit 3, January 19, 2023, Site Inspection Report.

Basis for and Requirements of the Investigative Order

Water Code section 13267, subdivision (a) provides that a regional board may investigate the quality of any water of the State within its region in connection with any action relating to the Basin Plan. Water Code section 13267, subdivision (b) provides that a regional board, through an investigation, may require dischargers to furnish, under penalty of perjury, technical or monitoring program reports. The burden, including costs, of these technical reports shall bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports. San Diego Water Board staff estimate the total cost of technical or monitoring reports required by this Order to be approximately \$20,000 - \$49,000. The costs of the technical or monitoring reports required by this Order bear a reasonable relationship to the need for these reports and the benefit to be gained by these reports because the information will inform the San Diego Water Board on how to appropriately protect water quality and regulate the Site's activities.

The San Diego Water Board requires information pertaining to the Dischargers' ownership and operation at the Site to identify contributing factors to the violations cited above. Pursuant to Water Code section 13267, subdivision (b), the Dischargers are hereby required to provide a technical report within 180-days of this Investigative Order. The technical report must include the following:

- A. A complete description of the Dischargers, and/or responses to questions, including:
 - 1. The names, titles and contact information for the corporate officers of SCS; SRE; and SDMO;
 - 2. Rob Haskell's and Jeremy McDonald's affiliation, title, and duties with SCS; SRE; and SDMO;
 - 3. The names of any other employees of SCS; SRE; and SDMO, their titles, and their duties;
 - 4. Any written agreement(s) that describe(s) services provided by SCS to SDMO. Absent any written agreement, a summary of any oral or informal agreement(s).
 - 5. Who is "SD Surf Cup Sports" listed on the Construction Storm Water Permit Notice of Intent (NOI) WDID No. 9 37C384718? Is it a registered entity? If the name of the entity is incorrect, what is the correct name?
- B. A complete description of activities contributing to the alleged violations, and/or responses to questions, including:
 - 1. Describe when, how and why the trench in the southwest of the Site was constructed including the personnel, their affiliation, and type of equipment used;
 - 2. Describe when, how and why the dirt ramp in the southwest of the Site was constructed including the personnel, their affiliation, and type of equipment used;

3. Describe when, how and why weed abatement activities were conducted including the personnel, their affiliation, type of equipment used and whether weed abatement activities continued over the years at the same frequency;
 4. Describe when, how and why ponded Site storm water was pumped from APN 302-090-31-00 to APN 302-090-32-00 including the personnel, their affiliation, type of equipment used (make, model, and size) amount in gallons pumped, amount of time pumping occurred each day, and use of pollution controls if any to reduce the storm water pollutants;
 5. Describe the parking agreement when Polo View, LLC, owned the Site Including a copy of any written agreements;
 6. Describe the spreading of soil on the Site on or about October 2022 including the amount of soil spread, soil source, personnel, their affiliation, and type of equipment used.
- C. A description of the Dischargers' plans for any future use or development, and/or responses to questions, including:
1. Describe the current land use of the Site and what the property is used for and the activities that occur at the Site;
 2. Describe the plans for the Site, including whether potential changes will require a land use change, include development of corporate headquarters, parking (paved or dirt), Site ingress and egress, and soccer fields; and
 3. Describe the Site's preliminary findings of wetland resources jurisdiction for the following agencies: U.S. Army Corps of Engineers; City of San Diego; San Diego Water Board; and California Department of Fish and Wildlife (i.e., conduct a Preliminary Jurisdictional Delineation).

All information provided in response to this Investigative Order must include the following signed certification statement:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Please submit this report in electronic format to the San Diego Water Board by email to SanDiego@waterboards.ca.gov with "SM-908545:Fmelbourn" included in the subject heading. Each electronic document must be submitted as a single file, in Portable Document Format (PDF), and converted to text searchable format using Optical Character Recognition (OCR).

Notifications

1. **Enforcement Discretion:** The San Diego Water Board reserves its right to take any enforcement action authorized by law for violations of the terms and conditions of this Order, and for any violations discussed herein.
2. **Enforcement Notification:** Water Code section 13268, subdivisions (a) and (b) provide that any person failing or refusing to furnish technical or monitoring report information required pursuant to Water Code section 13267, subdivision (b), is guilty of a misdemeanor and may be liable for an administrative civil liability up to one thousand dollars (\$1,000) for each day in which the violation occurs.
3. **Request for Review:** Any person affected by this action of the San Diego Water Board may petition the State Water Resources Control Board (State Water Board) to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, section 2050. The petition must be received by the State Water Board, Office of Chief Counsel, within 30 days of the date of this Investigative Order. Copies of the law and regulations applicable to filing petitions will be provided upon request. For instructions on how to file a petition for review, see:
https://www.waterboards.ca.gov/public_notices/petitions/water_quality/wqpetition_instr.shtml

In the subject line of any response, please include the reference code SM-908545:Fmelbourn. Please contact Frank Melbourn by telephone at (619) 521-3372, or via email at Frank.Melbourn@waterboards.ca.gov if you have any questions.

Respectfully,

KELLY K. DORSEY, P.G.
Assistant Executive Officer

KKD:cmc:ftm

Supporting exhibits can be found on the San Diego Water Board File Transfer Protocol (FTP) site at <https://ftp.waterboards.ca.gov>. Contact Frank Melbourn to obtain specific instructions for accessing the exhibits.

Technical Staff Information and Use

Violation IDs	1113142, 1113143, 1113144, and 1113145.
Regulatory Measure ID	451141 Investigative Order No. R9-2023-0061
SMARTS Place ID	SM-908545
CIWQS Place ID	885967
Party IDs	555661 Surf Cup Sports, LLC 637247 Surf Del Mar One, LLC 637248 Surf Real Estate, LLC