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December 2, 2016

Robertson's Redland Rock Plant Attn: Jack Myers 8353 Alabama St Redlands, CA 92373	Robertson's Ready Mix, Ltd., A California Limited Partnership c/o Mervyn Encarnacion Agent for Service of Process 200 S Main Street, Ste. 200 Corona, CA 92882
Robertson's Ready Mix Attn: Jack Myers PO Box 3600 Corona, CA 92878	
Gina McCarthy, Administrator U.S. Environmental Protection Agency Mail Code: 1101A 1200 Pennsylvania Avenue, N.W. Washington, DC 20460	Kurt V. Berchtold, Executive Officer Regional Water Quality Control Board Santa Ana Region 3737 Main Street, Suite 500 Riverside, CA 92501-3348
Jared Blumenfeld, Regional Administrator U.S. EPA, Region 9 75 Hawthorne Street San Francisco, CA 94105	Thomas Howard, Executive Director State Water Resources Control Board 1001 I Street Sacramento, CA 95814

Re: Notice of Violation and Intent to File Suit under the Clean Water Act

To Whom It May Concern:

Brodsky & Smith, LLC ("Brodsky & Smith") represents Personal Privacy a citizen of the State of California. This letter is to give notice that Brodsky & Smith, onPerso behalf, intends to file a civil action against Robertson's Ready Mix a/k/a Robertson's Ready Mix, Ltd., A California Limited Partnership ("Robertson's") for violations of the Federal Water Pollution Control Act, 33 U.S.C. § 1251 *et seq.* ("Clean Water Act" or "CWA") at Robertson's' facility located at 8353 Alabama St., Redlands, CA 92373 ("Robertson's Redland Rock Plant", or the "Facility").

Pers is a citizen of the State of California who is concerned with the environmental health of the Plunge Creek, and uses and enjoys the waters of the Plunge Creek, its inflows, and other areas of the overall Santa Ana River Watershed, of which Plunge Creek is a Tributary. Perso use and enjoyment of these waters are negatively affected by the pollution caused by Robertson's' operations. Additionally, Pers acts in the interest of the general public to prevent pollution in these waterways, for the benefit of their ecosystems, and for the benefits of all individuals and communities who use these waterways for various recreational, educational, and spiritual purposes.

This letter addresses Robertson's' unlawful discharge of pollutants from the Facility via indirect flow into the Plunge Creek.[1] Specifically, investigation of the Facility has uncovered significant, ongoing, and continuous violations of the CWA and the National Pollutant Discharge Elimination System ("NPDES") General Permit No CAS000001 [State Water Resources Control Board] Water Quality Orders No. 2014-0057-DWQ (the "Industrial Stormwater Permit") and 92-12-DWQ (as amended by Order No. 97-03-DWQ) (the "Previous Industrial Stormwater Permit").[2]

CWA section 505(b) requires that sixty (60) days prior to the initiation of a civil action under CWA section 505(a), a citizen must give notice of his or her intent to file suit. 33 U.S.C. § 1365(b). Notice must be given to the alleged violator, the U.S. Environmental Protection Agency ("EPA"), and the State in which the violations occur. As required by section 505(b), this Notice of Violation and Intent to File Suit provides notice to Robertson's of the violations that have occurred and which continue to occur at the Facility. After the expiration of sixty (60) days from the date of this Notice of Violation and the Intent to File Suit, Pers intends to file suit in federal court against Robertson's under CWA section 505(a) for the violations described more fully below.

During the 60-day notice period, Pers is willing to discuss effective remedies for the violations noticed in this letter. We suggest that Robertson's contact Pers attorneys at Brodsky & Smith within the next twenty (20) days so that these discussions may be completed by the conclusion of the 60-day notice period. Please note that we do not intend to delay the filing of a complaint in federal court, and service of the complaint shortly thereafter, even if discussions are continuing when the notice period ends.

I. THE LOCATION OF THE ALLEGED VIOLATIONS

A. The Facility

Robertson's' Facility is located at 8353 Alabama St, Redlands, California. At the Facility, Robertson's operates as a rock, sand, and gravel mine. At the Facility, the following industrial activities occur: (i) mining material using heavy equipment; (ii) hauling mined material; (iii) processing mined material; (iv) rock and material crushing; (v) washing processed material; (vi) storing finished product in stockpiles; (vii) loading finished product into shipping trucks; (vi) vehicle and heavy equipment fueling and maintenance. Other activities carried out in the regular course of business at the facility include storage of fuel and other oils, maintenance, equipment storage, and waste storage. Repair and maintenance activities carried out at the facility include, but are not limited to, electrical, plumbing, roofing, asphalt, concrete, and utilities repairs as well as janitorial duties. Possible pollutants from the Facility include total suspended solids ("TSS"), waste oils, lubricants, fuel, trash, debris, hazardous materials, chemical oxygen demand ("COD"), oil and grease, pH, Nitrate plus Nitrite Nitrogen, heavy metals, such as Iron, and other pollutants. Stormwater from the Facility discharges, indirectly, into the Plunge Creek.

B. The Affected Water

The Plunge Creek and overall Santa Ana River Watershed are waters of the United States. The CWA requires that water bodies such as the Plunge Creek, and overall Santa Ana River Watershed meet water quality objectives that protect specific "beneficial uses." The beneficial uses of the Plunge Creek and

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[1] Robertson's' Notice of Intent ("NOI") filed with the Santa Ana Regional Water Quality Control Board ("SARWQCB") lists the receiving waters of the Facility as "Plunge Creek". Upon investigation, it is Pers knowledge and belief that the Facility lies within the watershed of the Santa Ana River, and that the receiving water of the Facility's stormwater runoff is the Plunge Creek, via indirect flow.

[2] On April 1, 2014, the State Water Resources Control Board adopted an updated NPDES General Permit for Discharges Associated with Industrial Activity, Water Quality Order No. 2014-57-DWQ, which has taken force or effect on its effective date of July 1, 2015. As of the effective date, Water Quality Order No. 2014-57-DWQ has superseded and rescinded the prior Industrial Stormwater Permit except for purposes of enforcement actions brought pursuant to the prior permit.

overall Santa Ana River Watershed include commercial and sport fishing, estuarine habitat, fish migration, navigation, preservation of rare and endangered species, water contact and non-contact recreation, shellfish harvesting, fish spawning, and wildlife habitat. Contaminated stormwater from the Facility adversely affects the water quality of the Plunge Creek and overall Santa Ana River Watershed, and threatens the beneficial uses and ecosystem of these watersheds, which includes habitats for threatened and endangered species.

II. THE FACILITY'S VIOLATIONS OF THE CLEAN WATER ACT

It is unlawful to discharge pollutants to waters of the United States, such as the Plunge Creek, without an NPDES permit or in violation of the terms and conditions of an NPDES permit. CWA § 301(a), 33 U.S.C. § 1311(a); *see also* CWA § 402(p), 33 U.S.C. § 1342(p) (requiring NPDES permit issuance for the discharge of stormwater associated with industrial activities). The Industrial Stormwater Permit authorizes certain discharges of stormwater, conditioned on compliance with its terms.

Robertson's has submitted a Notice of Intent ("NOI") to be authorized to discharge stormwater from the Facility under the Industrial Stormwater Permit since at least 1992. However, information available to Pers indicates that stormwater discharges from the Facility have violated several terms of the Industrial Stormwater Permit and the CWA. Apart from discharges that comply with the Industrial Stormwater Permit, the Facility lacks NPDES permit authorization for any other discharges of pollutants into waters of the United States.

A. Discharges in Excess of BAT/BCT Levels

The Effluent Limitations of the Industrial Stormwater Permit prohibit the discharge of pollutants from the facility in concentrations above the level commensurate with the application of best available technology economically achievable ("BAT") for toxic pollutants[3] and best conventional pollutant control technology ("BCT") for conventional pollutants.[4] Industrial Stormwater Permit § I(D)(32), II(D)(2); Previous Industrial Stormwater Permit, Order Part B(3). The EPA has published Benchmark values set at the maximum pollutant concentration present if an industrial facility is employing BAT and BCT, as listed in Attachment 1 to this letter.[5]

Additionally, the Previous Industrial Stormwater Permit notes that effluent limitation guidelines for several named industrial categories have been established and codified by the Federal Government. *See* Previous Industrial Stormwater Permit pp. VIII. The Previous Industrial Stormwater Permit mandates that for facilities that fall within such industrial categories, compliance with the listed BAT and BCT for the specified pollutants listed therein must be met in order to be in compliance with the Previous Industrial Stormwater Permit. *Id.* Robertson's falls within these named industrial categories and it must have complied with the effluent limitations found therein in order to have been in compliance with the Previous Industrial Stormwater Permit during its effective period. In addition, the Industrial Stormwater Permit requires dischargers to comply with Effluent Limitations "consistent with U.S. EPA's 2008 Multi Sector General Permit for Stormwater Discharges Associated with Industrial Activity (the "2008 MSGP")". *See* Industrial Stormwater Permit § I(D)(33). The 2008 MSGP has specific numeric effluent limitations based upon Stand Industrial Classification ("SIC") codes. Notably, Robertson's, is classified as falling under SIC

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[3] BAT is defined at 40 C.F.R. § 437.1 *et seq*. Toxic pollutants are listed at 40 C.F.R. § 401.15 and include copper, lead, and zinc, among others.

[4] BCT is defined at 40 C.F.R. § 437.1 *et seq*. Conventional pollutants are listed at 40 C.F.R. § 401.16 and include BOD, TSS, oil and grease, pH, and fecal coliform.

[5] The Benchmark values are part of the EPA's Multi-Sector General Permit ("MSGP") and can be found at: http://www.epa.gov/npdes/pubs/msgp2008_finalpermit.pdf. *See* 73 Fed. Reg. 56, 572 (Sept. 29, 2008) (Final National Pollutant Discharge Elimination System (NPDES) General Permit for Stormwater Discharges From Industrial Activities).

Code 1442, relating to Sand and Gravel Mining, requiring it to be within numerical effluent limitations for (i) Nitrate plus Nitrite Nitrogen; and (ii) Total Suspended Solids ("TSS") and SIC Code 3273, relating to Concrete and Gypsum Product Manufacturers, requiring it to be in within numerical effluent limitations for (i) TSS and (ii) Total Iron.[6] Based on Robertson's' self-reporting data and/or lack thereof, Robertson's has not met this requirement and was in violation of the Previous Stormwater Permit over a period of approximately five (5) years.

Robertson's' self-reporting of industrial stormwater discharges shows a complete failure to adequately report numerical pollutant discharge values in every instance of self-reporting. *See* Attachment 2. This pattern of lack of self-reporting indicate that Robertson's has failed and is failing to employ measures that constitute BAT and BCT in violation of the requirements of the Industrial Stormwater Permit and Previous Industrial Stormwater Permit. Perso alleges and notifies Robertson's that it has failed to adequately report numeric pollutant discharge values for Nitrate plus Nitrite Nitrogen, Total Iron, and TSS in the Annual Reporting Periods of 2015-2016, 2014-2015, 2013-2014, 2012-2013 and 2011-2012.

Robertson's' ongoing lack of proper stormwater testing and monitoring of stormwater containing unknown levels of pollutants possibly above EPA Benchmark values and BAT and BCT based levels of control also demonstrate that Robertson's has not developed and implemented sufficient Best Management Practices ("BMPs") at the Facility. Proper BMPs could include, but are not limited to, moving certain pollution-generating activities under cover or indoors capturing and effectively filtering or otherwise treating all stormwater prior to discharge, frequent sweeping to reduce build-up of pollutants on-site, installing filters on downspouts and storm drains, and other similar measures.

Robertson's' failure to develop and/or implement adequate pollution controls to meet BAT and BCT and the Facility violates and will continue to violate the CWA and the Industrial Stormwater Permit each and every day Robertson's' discharges stormwater without meeting BAT/BCT. Perso alleges that Robertson's has discharged stormwater containing excessive levels of pollutants from the Facility to the Plunge Creek during at least every significant local rain event over 0.2 inches in the last five (5) years.[7] Attachment 3 compiles all dates in the last five (5) years when a significant rain event occurred. Robertson's is subject to civil penalties for each violation of the Industrial Stormwater Permit and the CWA within the past five (5) years.

B. Discharges Impairing Receiving Waters

The Industrial Stormwater Permit's Discharge Prohibitions disallow stormwater discharges that cause or threaten to cause pollution, contamination, or nuisance. *See* Industrial Stormwater Permit § III; Previous Industrial Stormwater Permit, Order Part A(2). The Industrial Stormwater Permit also prohibits stormwater discharges to surface or groundwater that adversely impact human health or the environment. *See* Industrial Stormwater Permit § VI(b)-(c); Previous Industrial Stormwater Permit, Order Part C(1). Receiving Water Limitations of the Industrial Stormwater Permit prohibit stormwater discharges that cause or contribute to an exceedance of applicable Water Quality Standards ("WQS") contained in a Statewide Water Quality Control Plan or the applicable Regional Water Board's Basin Plan. *See* Industrial Stormwater Permit § VI(a); Previous Industrial Stormwater Permit at Order Part C(2). Applicable WQS are set forth in the California Toxic Rule ("CTR")[8] and the Santa Ana River Basin Water Quality Control

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[6] Robertson's has listed SIC code 3273 on all of its submitted paperwork to the SARWQCB until the 2015-2016 reporting period, at which point it began listing SIC code 1442.

[7] Significant local rain events are reflected in the rain gauge data available at: http://www.ncdc.noaa.gov/cdo-web/search.

[8] The CTR is set forth at 40 C.F.R. § 131.38 and is explained in the Federal Register preamble accompanying the CTR promulgation set forth at 65 Fed. Reg. 31, 682 (May 18, 2000).

Plan (the "Basin Plan").[9] *See* Attachment 1. Exceedances of WQS are violations of the Industrial Stormwater Permit, the CTR, and the Basin Plan.

The Basin Plan establishes Beneficial Uses for various areas of the Santa Ana River Basin, into which Stormwater discharges from the facility are likely to flow.[10] Water quality standards are pollutant concentration levels determined by the state or federal agencies to be protective of designated Beneficial Uses. Discharges above water quality standards contribute to impairment of Receiving Waters' Beneficial Uses. Applicable water quality standards include, among others, the CTR, and water quality objectives in the Basin Plan. Industrial stormwater discharges must strictly comply with water quality standards, including those criteria listed in the applicable basin plan. *See Defenders of Wildlife v. Browner*, 191 F.3d 1159, 1166-67 (9th Cir. 1999).

The Basin Plan establishes WQS for various areas of the Santa Ana River Basin, including all inland surface waters and the Plunge Creek into which Stormwater discharges from the facility flow, including the following:

- That "[t]he pH of inland surface waters shall not be raised above 8.5 or depressed below 6.5 as a result of controllable water quality factors." *See* Basin Plan, 4-18.

- That "[w]aste discharges shall not result in increases in COD levels in inland surface waters which exceed the values shown in Table 4-1 or which adversely affect beneficial uses." *See* Basin Plan, 4-9.

- That "Inland surface waters shall not contain suspended or settleable solids in amounts which cause a nuisance or adversely affect beneficial uses as a result of controllable water quality factors." *See* Basin Plan, 4-19.

- That "[t]he concentrations of toxic pollutants in the water column, sediments or biota shall not adversely affect beneficial uses." *See* Basin Plan, 4-20.

Pers alleges that Robertson's' stormwater discharges have caused or contributed to exceedances of Receiving Water Limitations in the Industrial Stormwater Permit and the WQS set forth in the Basin Plan and CTR. These allegations are based on Robertson's' self-reported data, or lack thereof, submitted to the Santa Ana Regional Water Quality Control Board. These sampling results, or lack thereof, indicate that Robertson's' discharges are causing or threatening to cause pollution, contamination, and/or nuisance; adversely impacting human health or the environment; and violating applicable WQS. *See* Attachment 2.

Pe F alleges that each day that Robertson's has discharged stormwater from the Facility, Robertson's stormwater has and/or may have contained levels of pollutants that exceeded one or more of the Receiving Water Limitations and/or applicable WQS in the Santa Ana River. Pers alleges that Robertson's has discharged stormwater exceeding Receiving Water Limitations and/or WQS from the Facility to the Plunge Creek during at least every significant local rain event over 0.2 inches in the last five (5) years. *See* Attachment 3. Per discharge from the Facility that violates a Receiving Water Limitation

Personal Privacy

[9] The Basin Plan is published by the Santa Ana Regional Water Quality Control Board at: http://www.waterboards.ca.gov/santaana/water_issues/programs/basin_plan/index.shtml.

[10] The Basin Plan identifies the Beneficial Uses of the Plunge Creek, which is the most immediate receiving water to the Facility's stormwater runoff, and City Creek, Santa Ana River Reach 5, Santa Ana River Reach 4, Santa Ana River Reach 3, Santa Ana River Reach 2, Santa Ana River Reach 1, the Tidal Prism of the Santa Ana River and the Pacific Ocean, into which the Facility's stormwater flows downstream into, as the following: Water Contact Recreation; Non-contact Water Recreation; Agricultural Supply, Municipal and Domestic Supply; Groundwater Recharge; Warm Freshwater Habitat; Wildlife Habitat; Rare, Threatened or Endangered Species; and Spawning, Reproduction and Development. *See* Basin Plan at Table 3-1.

or has caused or contributed, or caused or contributes, to an exceedance of an applicable WQS constitutes a separate violation of the Industrial Stormwater Permit and the CWA Robertson's is subject to penalties for each violation of the Industrial Stormwater Permit and the CWA within the past five (5) years.

C. Failure to Develop and Implement an Adequate Stormwater Pollution Prevention Plan

The Industrial Stormwater Permit requires dischargers to develop and implement an adequate Storm Water Pollution Prevention Plan ("SWPPP"). *See* Industrial Stormwater Permit, § X(B); Previous Industrial Stormwater Permit § A(1)(a). The Industrial Stormwater Permit also requires dischargers to make all necessary revisions to existing SWPPPs promptly. *See* Industrial Stormwater Permit, § X(B); Previous Industrial Stormwater Permit at Order Part E(2).

The SWPPP must include, among other requirements, the following: a site map, a list of significant materials handled and stored at the site, a description and assessment of all Robertson's pollutant sources, a description of the BMPs that will reduce or prevent pollutants in stormwater discharges, specification of BMPs designed to reduce pollutant discharge to BAT and BCT levels, a comprehensive site compliance evaluation completed each reporting year, and revisions to the SWPPP within 90 days after a facility manager determines that the SWPPP is in violation of any requirements of the Industrial Stormwater Permit. *See* Industrial Stormwater Permit, § X(A); Previous Industrial Stormwater Permit Section § A.

Based on information available to Pers, Robertson's has failed to prepare and/or implement an adequate SWPPP and/or failed to revise the SWPPP to satisfy each of the requirements of § X(A) of the Industrial Stormwater Permit and/or § A Previous Industrial Stormwater Permit. For Example, Robertson's' SWPPP does not include and/or Robertson's has not implemented adequate BMPs designed to reduce pollutant levels in discharges to BAT and BCT levels in accordance with Section A(8) of the Industrial Stormwater Permit, as evidenced by the data in Attachment 2.

Accordingly, Robertson's has violated the CWA each and every day that it has failed to develop and/or implement an adequate SWPPP meeting all of the requirements of § X(A) of the Industrial Stormwater Permit and/or § A Previous Industrial Stormwater Permit, and Robertson's will continue to be in violation every day until it develops and implements an adequate SWPPP. Robertson's is subject to penalties for each violation of the Industrial Stormwater Permit and the CWA occurring within the past five (5) years.

D. Failure to Develop and Implement an Adequate Monitoring and Reporting Program and to Perform Annual Comprehensive Site Compliance Evaluations

The Industrial Stormwater Permit requires facility operators to develop and implement a Monitoring and Reporting Program ("MRP"). *See* Industrial Stormwater Permit, § XI; Previous Industrial Stormwater Permit § B(1) and Order Part E(3). The Industrial Stormwater Permit requires that MRP ensure that each the facility's stormwater discharges comply with the Discharge Prohibitions, Effluent Limitations, and Receiving Water Limitations specified in the Industrial Stormwater Permit. *Id.* Facility operators must ensure that their MRP practices reduce or prevent pollutants in stormwater and authorized non-stormwater discharges as well as evaluate and revise their practices to meet changing conditions at the facility. *Id.* This may include revising the SWPPP as required by § X(A) of the Industrial Stormwater Permit and/or §A Previous Industrial Stormwater Permit.

The MRP must measure the effectiveness of BMPs used to prevent or reduce pollutants in stormwater and authorized non-stormwater discharges, and facility operators must revise the MRP whenever appropriate. *See* Industrial Stormwater Permit, § XI; Previous Industrial Stormwater Permit § at Section B. The Industrial Stormwater Permit requires facility operators to visually observe and collect samples of stormwater discharges from all drainage areas. *Id.* Facility operators are also required to provide an explanation of monitoring methods describing how the facility's monitoring program will satisfy these objectives. *Id.*

Robertson's has been operating the Facility with an inadequately developed and/or inadequately implemented MRP, in violation of the substantive and procedural requirements set forth in Section B of the Industrial Stormwater permit. For example, the data in Attachment 2 indicates that Robertson's' monitoring program has not ensured that stormwater dischargers are in compliance with the Discharge Prohibitions, Effluent Limitations, and Receiving Water Limitations of the Industrial Stormwater Permit as required by the Industrial Stormwater Permit, § XI and/or the Previous Industrial Stormwater Permit § B. The monitoring has not resulted in practices at the Facility that adequately reduce or prevent pollutants in stormwater as required by Industrial Stormwater Permit, § XI and/or the Previous Industrial Stormwater Permit § B. Additionally, the Industrial Stormwater Permit requires dischargers to comply with Effluent Limitations "consistent with U.S. EPA's 2008 Multi Sector General Permit for Stormwater Discharges Associated with Industrial Activity (the "2008 MSGP")". The 2008 MSGP has specific numeric effluent limitations based upon Stand Industrial Classification ("SIC") codes. Notably, Robertson's, is classified as falling under SIC Code 1442, relating to Sand and Gravel Mining, requiring it to be within numerical effluent limitations for (i) Nitrate plus Nitrite Nitrogen; and (ii) Total Suspended Solids ("TSS") and SIC Code 3273, relating to Concrete and Gypsum Product Manufacturers, requiring it to be in within numerical effluent limitations for (i) TSS and (ii) Total Iron. As previously stated, and in clear violation of the terms of the Industrial Stormwater Permit, Robertson's has reported exceedances or failed to report testing results for any applicable effluent limitation in any of their annual reports for the past five (5) annual reporting periods. *See* Attachments 2, 3. Therefore, the data in Attachment 2 indicates that Robertson's' monitoring program has not effectively identified or responded to compliance problems at the Facility or resulted in effective revision of the BMPs in use or the Facility's SWPPP to address such ongoing problems as required by Industrial Stormwater Permit, § XI and/or the Previous Industrial Stormwater Permit § B.

As a part of the MRP, the Industrial Stormwater Permit specifies that Facility operators shall collect a total of five (5) stormwater samples throughout an annual reporting period. Specifically the Industrial Stormwater Permit requires, "The discharger to collect and analyze samples from two (2) Qualifying Storm Events ('QSE's) within the first half of each reporting year (July 1 to December 31), and two (2) QSEs within the second half of each reporting year (January 1 to June 30)." Industrial Stormwater Permit § XI B(2).[11] Furthermore, should facility operators fail to collect samples from the first storm event of the wet season, they are still required to collect samples from two other storm events during the wet season, and explain in the annual report why the first storm event was not sampled. *Id.* Despite this requirement Robertson's has submitted the annual report for the 2015-2016 2014-2015, 2013-2014, 2012-2013, and 2011-2012 reporting periods with no testing data whatsoever. Additionally, Robertson's has failed to adequately explain why such sampling was not included.

The Industrial Stormwater Permit also requires dischargers to include laboratory reports with their Annual Reports submitted to the Regional Board. *See* Industrial Stormwater Permit, Fact Sheet § O and/or Previous Industrial Stormwater Permit § B(14). Notably, Robertson's Annual Reports for the past five (5) years contain no such Laboratory Reports. Robertson's has failed to adequately explain such absences, or why no Laboratory Reports are included in its filings with the SARWQCB.

As a result of Robertson's' failure to adequately develop and/or implement an adequate MRP at the Facility, Robertson's has been in daily and continuous violation of the Industrial Stormwater Permit and the CWA each and every day for the past five (5) years. These violations are ongoing. Robertson's will continue to be in violation of the monitoring and reporting requirement each day that Robertson's fails to adequately develop and/or implement an effective MRP at the Facility. Robertson's is subject to penalties for each violation of the Industrial Stormwater Permit and the CWA occurring for the last five (5) years.

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[11] Under the Previous Industrial Stormwater Permit, only two samplings per year was required, specifically, from "the first hour of discharge from (1) the first storm event of the wet season, and (2) at least one other storm event in the wet season." *See* Previous Industrial Stormwater Permit § B(5)(a).

E. Unpermitted Discharges

Section 301(a) of the CWA prohibits the discharge of any pollutant into waters of the United States unless the discharge is authorized by a NPDES Permit issued pursuant to Section 402 of the CWA. *See* 33 U.S.C. §§ 1311(a), 1342. Robertson's sought coverage for the Facility under the Industrial Stormwater Permit, which states that any discharge from an industrial facility not in compliance with the Industrial Stormwater Permit "must be either eliminated or permitted by a separate NPDES permit." Industrial Stormwater Permit, § III; Previous Industrial Stormwater Permit, Order Part A(1). Because Robertson's has not obtained coverage under a separate NPDES permit and has failed to eliminate discharges not permitted by the Industrial Stormwater Permit, each and every discharge from the Facility described herein not in compliance with the Industrial Stormwater Permit has constituted and will continue to constitute a discharge without CWA Permit coverage in violation of section 301(a) of the CWA, 33 U.S.C. § 1311(a)

IV. PERSON RESPONSIBLE FOR THE VIOLATIONS

Robertson's Ready Mix Ltd., A California Limited Partnership is the person responsible of the violations at the Facility described above.

V. NAME AND ADDRESS OF NOTICING PARTY

Personal
Privacy
Moreno Valley, CA 92553
Personal

VI. COUNSEL

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VII. REMEDIES

Pers intends, at the close of the 60-day notice period or thereafter, to file a citizen suit under CWA section 505(a) against Robertson's for the above-referenced violations. Per F will seek declaratory and injunctive relief to prevent further CWA violations pursuant to CWA sections 505(a) and (d), 33 U.S.C. § 1365(a) and (d), and such other relief as permitted by law. In addition, Pers will seek civil penalties pursuant to CWA section 309(d), 33 U.S.C. § 1319(d), and 40 C.F.R. § 19.4, against Robertson's in this action. The CWA imposes civil penalty liability of up to $37,500 per day per violation for violations occurring after January 12, 2009. 33 U.S.C. § 1319(d); 40 C.F.R. § 19.4. Pers will seek to recover attorneys' fees, experts' fees, and costs in accordance with CWA section 505(d), 33 U.S.C. § 1365(d).

As noted above, Pers and her Counsel are willing to meet with you during the 60-day notice period to discuss effective remedies for the violations noted in this letter. Please contact me to initiate these discussions.

Sincerely,

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ATTACHMENT 1: EPA BENCHMARKS AND WATER QUALITY STANDARDS FOR DISCHARGES TO FRESHWATER

A. EPA Benchmarks, 2008 Multi-Sector General Permit ("MSGP")

Parameter	Units	Benchmark Value	Source
Nitrate plus Nitrite Nitrogen	Mg/L	0.68	2008 MSGP
Total Suspended Solids (TSS)	Mg/L	100	2008 MSGP
Total Iron	Mg/L	1.0	2008 MSGP

B. Water Quality Standards – Discharge Limitations and Monitoring Requirements (40 CFR Part 131.38 (California Toxics Rule or CTR), May 18, 2000)

Parameter	Units	Water Quality Objectives		Source
		4- Day Average	1-Hr Average	
Lead	Mg/L	0.0081	0.21	**40 CFR Part 131.38**
Zinc	Mg/L	0.081	0.090	**40 CFR Part 131.38**

ATTACHMENT 2: TABLE OF EXCEEDENCES FOR ROBERTSON'S READY MIX.

The following table contains each stormwater sampling result which exceeds EPA Benchmarks and/or causes or contributes to an exceedance of CFR and/or Basin Plan Water Quality Standards. All EPA Benchmarks and CFR and/or Basin Plan Water Quality Standards are listed in Attachment 1. All stormwater samples were reported by the Facility during the past five (5) years.

Reporting Period	Sample Date	Parameter	Result	Unit
2015-2016	NO TESTING RESULTS REPORTED FOR ANY PARAMETER			
2014-2015	NO TESTING RESULTS REPORTED FOR ANY PARAMETER			
2013-2014	NO TESTING RESULTS REPORTED FOR ANY PARAMETER			
2012-2013	NO TESTING RESULTS REPORTED FOR ANY PARAMETER			
2011-2012	NO TESTING RESULTS REPORTED FOR ANY PARAMETER			

* Robertson's' has submitted no Laboratory Results containing Stormwater effluent pollutant testing in the last five (5) years of Annual Reports.

ATTACHMENT 3: ALLEGED DATES OF EXCEEDANCES BY ROBERTSON'S READY MIX.
January 1, 2011 – November 28, 2016

Days with precipitation two-tenths of an inch or greater, as reported by NOAA's National Climatic Data Center, Station: Redlands, CA US, GHCND:USC00047306 when a stormwater discharge from the Facility is likely to have occurred. http://www.ncdc.noaa.gov/cdo-web/search

2011	2012	2013	2014	2015	2016
1/31	1/21	1/24	2/28	1/11	1/5
2/16	2/15	1/25	3/1	2/23	1/6
2/19	3/17	1/28	4/2	3/19	1/7
2/20	3/18	2/8	4/26	4/25	1/31
2/26	3/25	2/9	8/3	5/7	2/18
3/21	4/13	2/20	8/4	5/15	3/7
3/24	4/26	3/8	11/1	7/18	3/11
5/18	7/13	3/9	12/2	7/19	3/30
7/31	8/30	10/9	12/3	7/20	4/9
10/6	11/9	10/10	12/4	7/31	4/26
11/4	12/13	11/21	12/12	9/15	4/30
11/21	12/14	11/22	12/17	12/11	10/24
12/12	12/24				11/21
					11/26
					11/27