



EDMUND G. BROWN JR.  
GOVERNOR

MATTHEW RODRIGUEZ  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION

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## Central Coast Regional Water Quality Control Board

### NOTICE OF OPPORTUNITY TO COMMENT

on the

### Draft Cleanup and Abatement Order for Sunrise Ranch Properties, LLC

NOTICE IS HEREBY GIVEN THAT the California Regional Water Quality Control Board, Central Coast Region (Central Coast Water Board) is accepting comments on the Draft Cleanup and Abatement Order for Sunrise Ranch Properties, LLC (CAO).

Subject site: Sunrise Olive Ranch  
Highway 33, San Luis Obispo County  
San Luis Obispo County APN 096-201-016

The Draft CAO addresses unpermitted dredge and fill activity within waters of the State on property owned by Sunrise Ranch Properties, LLC, in San Luis Obispo County (APN 096-201-016). The Draft CAO names Sunrise Ranch Properties, LLC, the owner of the subject parcel, as the responsible party. The draft CAO includes findings regarding the unpermitted discharge of dredge and fill waste to waters of the State. The draft CAO requires Sunrise Ranch Properties, LLC, to cleanup and abate the unpermitted discharge of dredge and fill waste and to restore waters of the State to pre-disturbance conditions.

The Draft CAO is attached to this announcement.

Persons wishing to comment on the Draft CAO must submit comments in writing no later than **May 1, 2017** to [Jon.Rohrbough@waterboards.ca.gov](mailto:Jon.Rohrbough@waterboards.ca.gov), or to the address below:

Central Coast Regional Water Quality Control Board  
895 Aerovista Place, Suite 101  
San Luis Obispo, CA 93401  
Attn: Jon Rohrbough

For further information, please contact Jon Rohrbough at [Jon.Rohrbough@waterboards.ca.gov](mailto:Jon.Rohrbough@waterboards.ca.gov) or 805-549-3458.

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL COAST REGION  
895 Aerovista Place, Suite 101  
San Luis Obispo, California 93401-7906**

**DRAFT CLEANUP AND ABATEMENT ORDER NO. R3-2017-0013**

***Issued to:***

***Sunrise Ranch Properties, LLC  
133 Van Norman Road  
Montebello, CA 90640***

This Order is issued to the above-named party based on a provision of California Water Code (CWC) section 13304 that authorizes the California Regional Water Quality Control Board, Central Coast Region (hereinafter "Central Coast Water Board") to issue cleanup and abatement orders, and CWC section 13267, which authorizes the Central Coast Water Board to require the submittal of technical reports.

**FINDINGS:**

The Central Coast Water Board finds that:

**Site Description**

1. The subject site is an olive orchard located northeast of the intersection of Highway 33 and Foothill Road near the community of Cuyama in unincorporated San Luis Obispo County (Parcel No. 096-201-016), also known as Sunrise Olive Ranch. The site is located in the Santa Maria Hydrologic Unit (312.00), as described in the *Water Quality Control Plan for the Central Coastal Basin* (hereinafter "Basin Plan").
2. The site abuts the Caliente Range of hills east of Highway 33 and is located at the bottom of an unnamed ephemeral stream which is a tributary to the Cuyama River (hereinafter "Unnamed Tributary"). Waters of the State are defined in the Porter-Cologne Water Quality Control Act (CWC Division 7) as "...any surface water or groundwater, including saline waters, within the boundaries of the state." The Unnamed Tributary constitutes waters of the State, as indicated by the presence of creek bed and banks. In addition, the Unnamed Tributary is a braided ephemeral stream within a narrow valley with a generally level floor consisting of loosely compacted sandy soils. Primary and secondary channels are visible, with evidence that the stream has shifted horizontally over time across the breadth of the valley. Therefore the entire width of the valley meets the definition of waters of the State and is included in the Unnamed Tributary.

**Named Dischargers**

3. Sunrise Ranch Properties, LLC, a limited liability corporation registered in the State of California, is named as a discharger because it is the current owner of the property on which unpermitted excavation and fill of waters of the State occurred, and it has the legal authority to control the discharge.

4. If additional information is submitted indicating that other parties caused or permitted any waste to be discharged on the site where it entered or could have entered waters of the State, the Central Coast Water Board will consider adding those parties' names to this Order.

### **Site Activities**

5. On January 5, 2017, California Department of Fish and Wildlife staff notified Central Coast Water Board staff that a berm had been constructed to impound or divert flow from the Unnamed Tributary.
6. On January 17, 2017, Central Coast Water Board staff conducted an investigation of the site in company with California Department of Fish and Wildlife staff. Central Coast Water Board staff found that a berm had been constructed across the Unnamed Tributary and a basin excavated behind the berm to create an impoundment.

### **Investigation Results**

7. Pursuant to CWC section 13260, "any person discharging waste or proposing to discharge waste, within any region that could affect the quality of the waters of the state ..." shall file a report of waste discharge. CWC section 10350(d) defines waste to include "sewage and any and all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin ..." The discharge of fill material constitutes a discharge of waste. The Central Coast Water Board received no application/report of waste discharge from Sunrise Ranch Properties, LLC, for wastes discharged to the Unnamed Tributary prior to installation of the berm and basin.
8. Pursuant to CWC section 13376, "a person who discharges pollutants or proposes to discharge pollutants to navigable waters of the United States within the jurisdiction of this state or a person who discharges dredged or fill material or proposes to discharge dredged or fill material into the navigable waters of the United States within the jurisdiction of this state shall file a report of the discharge in compliance with procedures set forth in CWC section 13260." The Central Coast Water Board received no application/report of waste discharge from Sunrise Ranch Properties, LLC, for wastes discharged to the Unnamed Tributary prior to installation of the berm and basin.
9. The discharge of waste by Sunrise Ranch Properties, LLC, to the Unnamed Tributary reduces the tributary's ability to support beneficial uses and water quality functions. By obstructing the Unnamed Tributary's natural surface flow, the discharge reduces the tributary's ability to support beneficial uses and water quality functions in portions of the tributary downstream of the impoundment. In addition, the grading activity and removal of riparian vegetation reduces the Unnamed Tributary's support of wildlife habitat.
10. Restoration of the Unnamed Tributary is necessary to return the beneficial uses and water quality functions that have been lost as a result of the discharge of waste to the Unnamed Tributary. Without abatement, the effects of the waste threaten to impact water quality and degrade the beneficial uses of waters of the State.

### **Legal Authority, Applicable Regulations & Policies**

11. The Central Coast Water Board's legal authority for regulation of site cleanup is found in:

- a. Division 7 of the CWC; and
  - b. State Water Resource Control Board (hereinafter "State Board") plans and policies, including:
    - i. Policies and Procedures for Investigation and Cleanup and Abatement of Discharges Under CWC section 13304 (Resolution No. 92-49); and
    - ii. Statement of the Policy with Respect to Maintaining High Quality of Water in California (Resolution No. 68-16);
  - c. Water Quality Control Plan for the Central Coastal Basin (Basin Plan). The Basin Plan complements and implements the CWC and State Board policies, and provides the foundation for the Central Coastal Water Board's site cleanup regulatory program. These plans and policies designate the beneficial uses of surface waters, setting the narrative and numerical water quality objectives to protect those beneficial uses, and establish implementation plans to achieve the standards established by the Basin Plan.
12. Discharge of waste material in a manner which causes, permits, or threatens to cause or permit any waste to be discharged or deposited where it is, or probably will be, discharged into the water of the State and creates, or threatens to create, a condition of pollution or nuisance is a violation of CWC section 13304.
13. CWC section 13304 authorizes the Central Coast Water Board to issue orders requiring a discharger to clean up and abate waste where the discharger has caused or permitted waste to be discharged or deposited where it is or probably will be discharged into waters of the State and creates or threatens to create a condition of pollution or nuisance.
14. This Order requires submittal of technical or monitoring reports pursuant to CWC section 13267, which authorizes the Central Coast Water Board to require any person who has discharged, discharges, or is suspected of having discharged or discharging, waste to submit technical or monitoring program reports. The Central Coast Water Board requires these reports to ensure beneficial uses and water quality of the Unnamed Tributary are protected and restored.
15. Sunrise Ranch Properties, LLC, is advised that any future activities that have the potential to temporarily or permanently impact waters of the State (e.g., the Unnamed Tributary) shall require permit from the Central Coast Water Board.
16. Pursuant to CWC section 13350, any person who intentionally or negligently violates a cleanup and abatement order may be civilly liable in an amount which shall not exceed five thousand dollars (\$5,000), but shall not be less than five hundred dollars (\$500), for each day in which the cleanup and abatement order is violated.
17. Any person affected by this action of the Central Coast Water Board may petition the State Water Resources Control Board (State Water Board) to review the action in accordance with Section 13320 of the CWC and Title 23, California Code of Regulations, Section 2050. The petition must be received by the State Water Board, Office of Chief Counsel, P. O. Box 100 Sacramento, 95812 within 30 days of the date of this order. Copies of the law and regulations applicable to filing petitions will be provided upon request.

**Existing and Potential Beneficial Uses**

18. The Basin Plan has established the following potential and designated beneficial uses for the Unnamed Tributary:
  - a. Municipal and domestic water supply; and
  - b. Protection of both recreation and aquatic life.

**CEQA**

19. The Central Coast Water Board issues this Order for the protection of the environment, and as such the issuance of this Order is exempt from provisions of the California Environmental Quality Act (CEQA) (Public Resources Code section 21000 et seq.) in accordance with California Code of Regulations (CCR), Title 14, sections 15061(b)(3), 15306, 15307, 15308, and 15321. This Order generally requires Sunrise Ranch Properties, LLC, to submit plans for approval prior to implementation of cleanup activities. Mere submittal of plans is exempt from CEQA as submittal will not cause a direct or indirect physical change in the environment and/or is an activity that cannot possibly have a significant effect on the environment. CEQA review at this time would be premature and speculative, as there is simply not enough information concerning proposed remedial activities and possible associated environmental impacts. If the Central Coast Water Board determines that implementation of any plan required by this Order will have a significant effect on the environment, the Central Coast Water Board will require or conduct the necessary and appropriate environmental review prior to implementation of the applicable plan.

**IT IS HEREBY ORDERED**, pursuant to Sections 13304 and 13267 of Division 7 of the California Water Code, that Sunrise Ranch Properties, LLC, its agents, successors, or assigns, must complete cleanup and abatement, as follows:

**REQUIREMENTS**

1. Sunrise Ranch Properties, LLC, shall remove all waste (discharge and fill material) from the Unnamed Tributary, and shall regrade the area disturbed by construction of the berm and basin to restore pre-disturbance elevations and topography. In addition, Sunrise Ranch Properties, LLC, shall reconstruct stable streambed and banks through the disturbed area, and shall revegetate the disturbed area with native species to restore affected habitat and beneficial uses.

**Approvals/Permits**

2. Sunrise Ranch Properties, LLC, shall obtain all necessary approvals from the U. S. Army Corps of Engineers, the California Department of Fish and Wildlife, the Central Coast Water Board, San Luis Obispo County, and any and all other applicable federal, state, and local authorities for any cleanup and restoration work.
3. Within 90 calendar days of the issuance of this Order, Sunrise Ranch Properties, LLC, shall submit complete applications for all necessary approvals/permits required for the cleanup and abatement and restoration activities, including, but not limited to, a Clean Water Act (CWA) Section 404 Permit from the U.S. Army Corps of Engineers, a CWA Section 401 Water Quality Certification from the Central Coast Water Board, a Fish and Game Code Section 1600 Streambed Alteration Agreement from the California Department of Fish and Wildlife, and a grading permit from San Luis Obispo County.

4. Within 75 calendar days of the issuance of this Order, Sunrise Ranch Properties, LLC, shall report to the Central Coast Water Board on the status of obtaining all of the necessary approvals/permits required for the cleanup and abatement and restoration activities. Sunrise Ranch Properties, LLC, shall continue to report to the Central Coast Water Board every 15 days thereafter until all of the necessary approval/permits required for the cleanup and abatement and restoration activities have been issued. Central Coast Water Board Staff will assess progress towards obtaining the necessary approvals/permits when determining whether to pursue further enforcement, such as issuance of an Administrative Civil Liability Complaint pursuant to CWC section 13385. Days of violation and the associated potential civil liability continue to accrue for each day of non-compliance.
5. Sunrise Ranch Properties, LLC, shall submit copies of all necessary approvals/permits to the Central Coast Water Board immediately upon receipt from the U. S. Army Corps of Engineers, the California Department of Fish and Wildlife, San Luis Obispo County, and any and all other applicable federal, state, and local authorities for any cleanup and restoration.

#### 401 Water Quality Certification Application

6. Sunrise Ranch Properties, LLC, shall submit a complete application for CWA Section 401 Water Quality Certification to the Central Coast Water Board as required in this Order. Pursuant to CCR section 3856, a complete application shall include all of the following information and items:
  - a. The name, address, and telephone number of:
    - (1) the applicant, and
    - (2) the applicant's agent (if an agent is submitting the application).
  - b. A full, technically accurate description, including the purpose and final goal, of the entire activity.
  - c. Complete identification of all federal licenses/permits being sought for or applying to the proposed activity, including the:
    - (1) federal agency;
    - (2) type (e.g., individual license, regional general permit, nationwide permit, etc.);
    - (3) license/permit number(s) (e.g., nationwide permit number), if applicable; and
    - (4) file number(s) assigned by the federal agency(ies), if available.
  - d. Complete copies of either:
    - (1) the application(s) for federal license(s)/permit(s) being sought for the activity; or,
    - (2) if no federal applications are required, any notification(s) concerning the proposed activity issued by the federal agency(ies); or,
    - (3) if no federal notifications are issued, any correspondence between the applicant and the federal agency(ies) describing or discussing the proposed activity.If no application, notification, correspondence, or other document must be exchanged between the applicant and federal agency(ies) prior to the start of the activity, the application shall include a written statement to this effect.
  - e. Copies of any final and signed federal, state, and local licenses, permits, and agreements (or copies of the draft documents, if not finalized) that will be required for any construction, operation, maintenance, or other actions associated with the activity. If no final or draft document is available, a list of all remaining agency regulatory approvals being sought shall be included.
  - f. A copy of any draft or final CEQA document(s), if available, prepared for the activity. Although CEQA documentation is not required for a complete application, the Central

Coast Water Board shall be provided with and have ample time to properly review a final copy of valid CEQA documentation before taking a certification action.

- g. The correct fee deposit, as identified in CCR section 3833.
- h. A complete project description, including:
  - (1) Name of the receiving water body that may receive a discharge;
  - (2) Type of receiving water body (e.g., at a minimum: river/streambed, lake/reservoir, ocean/estuary/bay, riparian area, or wetland type);
  - (3) The latitude and longitude of the activity, expressed in degrees.
  - (4) For each water body type reported as described section 6.h(2) of this Order, the total estimated quantity of waters of the United States that may be adversely impacted temporarily or permanently by a discharge or by dredging. The estimated quantity of waters to be adversely impacted by any discharge shall be reported in acres and linear feet, and dredging estimates shall be reported in cubic yards.
  - (5) The total estimated quantity (in acres and linear feet) of waters of the United States, by type (see section 6.h(2) of this Order) proposed to be created, restored, or enhanced.
  - (6) A description of any other steps that have been or will be taken to avoid, minimize, or compensate for loss of or significant adverse impacts to beneficial uses of waters of the state.
  - (7) The total size (in acres and linear feet) and description of the entire project area, including areas outside of jurisdictional waters of the United States.
  - (8) A brief list/description, including estimated adverse impacts of any projects implemented by the applicant within the last five years or planned for implementation by the applicant within the next five years, that are in any way related to the proposed activity or that may impact the same receiving water body as the proposed activity. For purposes of this item, the water body extends to a named source or stream segment identified in the Basin Plan.

#### Restoration Plan

- 7. Sunrise Ranch Properties, LLC, shall submit, with the application for CWA Section 401 Water Quality Certification, a Restoration Plan of technical quality acceptable to the Central Coast Water Board Executive Officer. The Restoration Plan shall be designed to restore waters of the State and associated habitat that have been impacted by the discharge of waste. The Restoration Plan shall be prepared by personnel qualified in civil engineering, geotechnical engineering, geomorphology, biology, stream restoration, and habitat restoration. For the purposes of this Order, a qualified person is one with no less than five years of experience designing successful restoration projects within San Luis Obispo County. The Restoration Plan shall include, but not be limited to, the following:
  - a. Identification of party(ies) responsible for the restoration;
  - b. A detailed description of the site, prior to impact by construction of the berm and basin, that includes:
    - 1. Identification of the location and size of the jurisdictional areas that were directly and indirectly impacted.
    - 2. A description of the jurisdictional areas that were directly and indirectly impacted, by habitat type.
    - 3. Identification and description of the functions and values of the jurisdictional areas that were directly and indirectly impacted.
  - c. A detailed restoration plan that will achieve restoration of disturbed areas to pre-disturbance elevations and contours, reestablishment of a stable stream channel, and

reestablishment of vegetation and habitat. The restoration plan shall include, but not limited to, the following:

1. Grading plans, including elevations, contours, and a quantitative comparison of restored elevations and contours with pre-disturbance elevations and contours;
  2. Planting plans, including identification of the plant community(ies) that will be restored; the size of area(s) to be planted; plant species, quantities, and layout; and a description of the functions and values of the restored habitat and how it will replace lost or otherwise disturbed beneficial uses and functions;
  3. Description of how the plantings will be irrigated until they become established;
  4. Schedule of restoration activities that identifies the date Sunrise Ranch Properties, LLC, will begin implementation of the restoration and the date Sunrise Ranch Properties, LLC, will complete the restoration, and that addresses grading, planting, submittal of "as-built" documents, monitoring, maintenance, and reporting activities;
  5. Description of proposed restoration methods;
  6. A detailed description of temporary erosion control measures, including a description of how they will be maintained as long as they are needed and removed when they are no longer needed;
  7. Identification of maintenance and monitoring activities, and proposed duration of monitoring and maintenance at the restoration site;
  8. Identification of the party(ies) responsible for monitoring and maintenance of the restoration site;
  9. Proposed performance criteria, including criteria for channel stability and revegetation survival and cover;
  10. Reporting plan; and
  11. Remedial actions.
- d. Technical analysis demonstrating the following:
1. The restored channel will be geomorphically stable, within natural ranges for streams draining the western side of the Caliente Range;
  2. Fill placed to restore the basin to pre-disturbance elevations will be stable and not result in erosion outside natural ranges for watersheds on the western side of the Caliente Range; and
  3. Replanted vegetation will restore lost or otherwise disturbed habitat and beneficial uses and functions, and will thrive beyond the length of the monitoring period.

#### Cleanup and Abatement and Restoration Implementation

8. Upon receipt of the necessary approvals/permits required for the cleanup and abatement and restoration activities, Sunrise Ranch Properties, LLC, shall immediately clean up the waste and abate all effects of the discharge of waste into waters of the State, and implement all other restoration, which may be necessary to abate the effects of the discharged waste, as required in items 8.a-e listed immediately below. Items 8.a-e shall be completed no later than 60 days after receipt of the necessary approvals/permits required for the cleanup and abatement and restoration activities.
  - a. The berm and basin shall be entirely removed.
  - b. The stream channel shall be reconstructed.
  - c. All disturbed areas shall be restored to pre-disturbance elevations and contours.
  - d. All disturbed areas shall be planted as required.
  - e. All appropriate and necessary temporary erosion and sediment controls shall be installed as required.



9. Cleanup and abatement and restoration activities shall be conducted in such a manner as to avoid any further adverse impacts to the Unnamed Tributary. Any heavy equipment used during cleanup and abatement activities shall be staged at least 100 feet outside of the boundaries of the Unnamed Tributary.
10. Sunrise Ranch Properties, LLC, shall dispose of all removed waste in a manner that complies with any and all applicable codes and regulations.
11. Within 60 calendar days of receipt of the necessary approval/permits required for the cleanup and abatement and restoration activities, Sunrise Ranch Properties, LLC, shall develop and submit to the Central Coast Water Board a Cleanup and Abatement Report documenting the completion of required cleanup and abatement activities and restoration activities. The Cleanup and Abatement Report must include, but not be limited, to:
  - a. Confirmation that the berm and basin have been removed as required;
  - b. Confirmation that the stream channel has been restored as required;
  - c. Confirmation that all disturbed areas have been restored to pre-disturbance elevations and contours;
  - d. Confirmation that all disturbed areas have been planted as required;
  - e. Confirmation that all appropriate and necessary temporary erosion and sediment controls have been installed as required;
  - f. Confirmation that supplemental irrigation is in place as described in the Restoration Plan;
  - g. "As-built" documentation of restored elevations and contours;
  - h. "As-built" documentation of planting activities; and
  - i. Photographic documentation of all required clean up and abatement and restoration activities, sufficient for Central Coast Water Board staff to verify completion of all required activities.
12. Annual monitoring reports shall be submitted as required in the CWA Section 401 Water Quality Certification.

## **PROVISIONS**

13. Due Date Amendments - Sunrise Ranch Properties, LLC, may request, in writing, an extension of a due date specified herein if Sunrise Ranch Properties, LLC, is unable to perform any activity or submit any document in compliance with the schedules specified in this Order. The extension request must include justification for the delay and must be received by Central Coast Water Board staff at least 10 days prior to the scheduled due date, or as soon as the need for the delay is recognized, whichever occurs first. Requests for due date amendments are subject to approval by the Central Coast Water Board Executive Officer. Due date amendment requests may be granted via revision of this Order or by letter.
14. Report of Changed Owner or Operator - Sunrise Ranch Properties, LLC, shall notify Central Coast Water Board staff upon any change in site ownership, site occupancy, or contact information associated with the property identified in this Order.
15. Qualifications and Signatory Requirements – Geotechnical reports, geomorphology reports, and all other technical reports and plans shall be prepared under the direct supervision of, and signed or stamped by a California Professional Geologist, Certified Engineering Geologist, or Civil Engineer.

All technical and monitoring plans and reports required in conjunction with this Order are required pursuant to CWC sections 13267 and 13304. The Central Coast Water Board requires these reports to ensure beneficial uses and water quality of the Unnamed Tributary are protected and restored. All submittals required in conjunction with this Order must include a signed certified statement by a responsible party legally authorized to represent Sunrise Ranch Properties, LLC, certifying (under penalty of perjury under the laws of the State of California) that the submitted document is true, complete, and accurate. The statement shall read as follows:

*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 fines and imprisonment for knowing violations.*

- 16. Failure to comply with the provisions of this Order may subject Sunrise Ranch Properties, LLC, to further enforcement action, including but not limited to, assessment of civil liability pursuant to sections 13268 and 13350 of the California Water Code and referral to the district attorney or attorney general for injunctive relief and civil or criminal liability.**

ORDERED BY \_\_\_\_\_ for \_\_\_\_\_  
Michael J. Thomas  
Assistant Executive Officer

\_\_\_\_\_  
Date