

California Regional Water Quality Control Board  
North Coast Region

CLEANUP AND ABATEMENT ORDER NO. R1-2010-0071

FOR

JON AND DEANN GREEN  
JCG CONSTRUCTION  
AND  
GREEN RIGHT O'WAY CONSTRUCTORS, INC.

22341 Tomki Road Willits  
APN Numbers 108-191-11-00 and 108-192-11-00  
Eight Miles East of Willits

Mendocino County

The California Regional Water Quality Control Board, North Coast Region (hereinafter Regional Water Board) finds that:

1. Jon and Deann Green are the landowners of approximately 520 acres of land located at 22341 Tomki Road approximately eight miles east of Willits in Mendocino County (Sections 7, 8, and 9, Township 18 North, Range 12 West) (hereinafter "Site").
2. The Site is situated in former timberland and/or oak, brush, and grassland areas on a ridge top and descends from the ridge down into Scott and Tomki Creek watersheds. The Site drains into the Scott and Tomki Creek watersheds, both tributary to the Eel River watershed. Scott Creek, Tomki Creek, and the Eel River provide habitat for Steelhead trout, Chinook salmon, and Coho salmon, which are listed as threatened under the Endangered Species Act.
3. Jon Green is the owner of JCG Construction, a sole proprietorship. Green Right O'Way Constructors, Inc. is an active California Corporation. Jon Green is the responsible managing officer, president, and/or chief executive officer of Green Right O'Way Constructors, Inc. Deann Green is an officer and/or treasurer and secretary of Green Right O'Way Constructors, Inc. Both JCG Construction and Green Right O'Way Constructors are listed as licensed California contractors with a Class A General Engineering License. JCG Construction's license is expired as of April 30, 2006. A general engineering contractor conducts business in connection with fixed works requiring specialized engineering knowledge and skill, including but not limited to drainage, river control, land leveling and earthmoving projects, excavating, grading, and trenching. For the purposes of this Order, Jon and Deann Green, JCG Construction and Green Right O'Way Constructors, Inc., are hereinafter referred to as the "Dischargers."

## **BACKGROUND**

4. In response to a report of possible logging and land clearing without an approved Timber Harvest Plan or Timberland Conversion permit, Regional Water Board staff (Staff) inspected the Site with representatives from the California Department of Forestry and Fire Protection (hereinafter "CalFire") on May 18, 2001. Staff observed extensive evidence of heavy equipment operations including logging,

land clearing, grading, and grubbing throughout the Site. The Dischargers had not installed erosion control measures nor had they developed drainage or grading plans for the Site.

5. On June 12, 2001, the Regional Board Executive Officer issued a CWC Section 13267(b) Order (hereinafter "June Order"), attached hereto as Attachment "A" and incorporated herein by this reference.
6. On July 26, 2002, Staff conducted another inspection of the site where they observed evidence of extensive earthwork and/or grading activities that were not observed during the previous June 12, 2001 inspection. At least eight large (up to 50 feet deep), earthen fills were constructed at the heads of eight Class III watercourses. Staff observed evidence of extensive erosion and sediment discharge into three watercourses that drain from the Site. During the inspection, the Dischargers presented Staff with a drainage plan dated August 8, 2002 and titled "Preliminary Erosion Control Plan," developed by Center Line Engineering.
7. On September 27, 2002, Staff conducted another inspection of the Site. Staff observed extensive sediment deposition in three watercourses that drain from the Site and followed the sediment deposits downstream for approximately 2,000 feet to Scott Creek, a fish bearing stream. Staff walked Scott Creek downstream for approximately 3,000 feet to the confluence of Tomki Creek where they observed extensive sediment deposition in Scott Creek as well as a few juvenile steelhead trout. The Dischargers had made some progress toward installing drainage and sediment control structures; however, a considerable amount of work remained to stabilize the Site and prevent additional sediment discharges.
8. During another inspection of the Site on November 14, 2002, Staff observed that additional sediment had discharged to Scott Creek and several watercourses that drain from the Site. Scott Creek, a Class II watercourse, was buried in several inches of fine sediment for much of its 3,000-foot length from downstream of the main Class III watercourse that drains from the Site to the confluence of Tomki Creek.
9. On December 3, 2002, due to the Dischargers' failure to comply with the June Order and based on the conditions observed by Staff at the Site, the Executive Officer issued Cleanup and Abatement Order (hereinafter "CAO") No. R1-2002-0103 pursuant to CWC Sections 13304 and 13267, which is attached hereto as Attachment "B" and incorporated herein by this reference.
10. On May 27, 2004, the Executive Officer issued Administrative Civil Liability (hereinafter "ACL") Complaint No. R1-2004-0045, which was superseded and replaced by ACL Complaint No. R1-2004-0105 issued on October 29, 2004. Both complaints alleged that the Dischargers failed to submit technical reports required by the June Order, failed to comply with CAO No. R1-2002-0103, and violated Waste Discharge Prohibitions contained in the Water Quality Control Plan for the North Coast Region (hereinafter "Basin Plan") during the period from September 15, 2001 to May 1, 2004.
11. On November 8, 2004, the Dischargers submitted an emergency control plan prepared by Pacific Watershed Associates, and PJC and Associates titled "Progress Report #1 for Jon and Deann Green Property, Willits, California: Winterization Plan and Recommended Emergency Erosion Control Activities" to the Regional Water Board. The November 8, 2004 Emergency Erosion Control Plan contained emergency erosion control measures and included a proposal to

submit a long-term plan in the spring of 2005. The Dischargers implemented portions of the plan during late October and early November of 2004, but failed to implement all of the measures proposed in the plan, and failed to submit a long-term plan.

12. On November 29, 2004, following a public hearing regarding ACL Complaint No. R1-2004-0105, the Regional Water Board adopted ACL Order No. R1-2004-0084, which required the Dischargers to pay an administrative civil liability in the amount of \$250,000. The Dischargers appealed the Order and, ultimately, in late 2007, the California Office of the Attorney General negotiated a reduced penalty amount of \$150,000 along with a payment schedule. This reduced penalty was contingent upon timely payment per the schedule. The Dischargers have not fully paid the renegotiated penalty amount and are currently out of compliance with the payment schedule.
13. On August 23, 2005, Pacific Watershed Associates prepared and submitted a progress report on behalf of the Dischargers titled "Progress Report #2 – Status of Erosion Control Efforts for Jon and Deann Green Property, Willits, California and Revised Time Line, NRWQCB Cleanup & Abatement Order & Request for Technical Reports #R1-2002-0103". The report described the work completed by the Dischargers in accordance with the November 8, 2004 Emergency Erosion Control Plan, indicated that a significant amount of work and corresponding reports remained to be completed and/or submitted, proposed a schedule for completing prioritized work during 2005 and 2006, and requested an extension to April 1, 2006 to develop a time schedule to complete the remaining work. The proposed erosion control work contained in this report was not significantly different from that proposed in the November 8, 2004 Emergency Erosion Control Plan. The report was submitted via email, without a licensed stamp or signature delineating that it was prepared by a civil or geotechnical engineer licensed in California, although this is typically required under Regional Water Board Orders, including Cleanup and Abatement Order R1-2002-0103.
14. During the winter season of 2005-2006 and again in June of 2006, Staff inspected the Site, documenting, primarily with photographs, the catastrophic failure of one of the constructed fill slope prisms on the Site, referenced in the Progress Reports as Fill Slope Site #8. Staff also observed and documented continuing sediment discharge and further erosion on other fill slopes.
15. On October 17, 2008, Staff inspected the Site documenting further erosion from the failed Fill Slope Site #8, failure to maintain existing sediment control structures and failure to implement further erosion control measures, and continuing erosion throughout the Site as well as on other fill prisms.
16. In response to anonymous complaints received on or around February 2, 2009 reporting new road construction activities on the Site, CDFG and National Marine Fisheries Service (hereinafter "NMFS") staff inspected the Site on February 26, 2009. NMFS staff inspected the Site again on March 3, 2009 to view the new road construction project and reported observing surface erosion and slope failure along the new road construction project, and potential and actual sediment discharges to an adjacent watercourse that flows to Scott Creek.
17. Staff contacted the Mendocino County Planning and Building Department (hereinafter "County") and learned that the Dischargers had applied for and obtained a County grading permit on June 5, 2008 for the new road construction project. Staff reviewed the Dischargers' grading permit application, compared the

scope of work stated in the application with field observations reported by CDFG and NMFS, and concluded that the permit application did not accurately reflect the extensive road construction work and movement of large volumes of earthen and other material observed on the Site. On November 17, 2009, County staff advised Staff that the County had revoked the Dischargers' grading permit, and was requiring the Dischargers to submit specific information including engineered plans in order to obtain a new permit.

18. On February 26, 2009, Regional Water Board staff met with Deann Green (hereinafter "Mrs. Green") to discuss the new road construction project, the Dischargers' noncompliance status with Regional Water Board Orders, and the Dischargers' plans for erosion control work during the summer of 2009. As a result of the February 26, 2009 meeting, Mrs. Green submitted a letter dated April 6, 2009 to Staff stating that the Dischargers would implement a portion of the November 8, 2004 Emergency Erosion Control Plan beginning in June of 2009 and complete this work by September 15, 2009. Mrs. Green also indicated that this work would include activities on the failed Fill Slope Site #8, and that staff of either PJC Associates or Pacific Watershed Associates would oversee the work.
19. On March 11, 2009, the Regional Water Board Assistant Executive Officer issued a Notice of Violation (hereinafter "NOV") to the Dischargers (attached hereto as Attachment "C" and incorporated herein by this reference) reminding them of continued obligations under the Orders issued by the Regional Water Board and advising them that they are subject to potential future enforcement action and penalties. The NOV specifically stated that the Dischargers failed to fully or adequately implement a short-term erosion control plan, failed to submit and implement a long-term erosion control plan, and failed to provide any engineering information certifying that the constructed fills are stable, all of which was required by the CAO No. R1-2002-0103.
20. On March 26, 2009, Staff and NMFS representatives inspected the unnamed tributary adjacent to the new road construction activities on the Site. Staff observed sediment deposits along the bottom of the tributary located adjacent to the new road and evidence of erosion from the new road construction activities. At one point, the tributary was blocked by and flowed around the side of earthen material extending down from a failed section of the new road, and turbid water was backed up about 30 feet behind the blockage. Staff observed sediment deposits along the tributary down to its confluence with Scott Creek and in Scott Creek downstream of the confluence.
21. On September 25, 2009, Regional Water Board staff inspected the Site, including the new road construction activities, with representatives from CalFire, NMFS, CDFG, California Geologic Survey, and California Department of Toxic Substance Control, in order to observe existing and new erosion control measures, and to assess overall site conditions. Staff observed that the new road construction activities had resulted in unstable slopes, inadequate drainage, and discharges and threatened discharges of earthen material to State waters. Additionally, Staff observed work underway on Fill Slope Site #8. As noted in Finding 20 above, the Discharger had proposed in an April 6, 2009 letter to start this work in June 2009, but had reportedly delayed the start of work until the end of August 2009. Consequently, the work was only partially completed, the work area was not prepared for oncoming winter rains and, given the rate of work, it did not appear that the work would be completed prior to the onset of winter rains. Staff also noted that the Fill Slope Site #8 undergoing work was an area that had failed since development of the November 8, 2004 Emergency Erosion Control Plan. Rather

than removing the failed material and restoring it to the original watershed area, the Dischargers appeared to be rebuilding a failed fill prism. The Discharger's consultant (a licensed geotechnical engineer) informed Staff that the work on Fill Slope Site #8 was overseen by him and that it was done according to the November 8, 2004 Emergency Erosion Control Plan. Finally, staff observed that previously constructed and documented sediment sources at the Site continued to discharge and to threaten to discharge substantial volumes of soil into State waters.

22. On December 2, 2009, the Regional Water Board Assistant Executive Officer issued a NOV to (1) remind the Dischargers of their continued obligations under Orders issued by the Regional Water Board; (2) advise the Dischargers that they may be subject to future enforcement action and penalties for their continued failure to comply with those obligations, and for the continuing threats and impacts to water quality associated with uncontrolled sediment discharges from the Site; and (3) inform the Dischargers that earthen fill material from the new road construction activities had discharged and threatens to discharge into State waters, violating waste discharge prohibitions contained in the Basin Plan, and that the road was constructed in a manner that violated the Basin Plan, CWC, and the Federal Clean Water Act. Further, pursuant to CWC section 13267(b), the Assistant Executive Officer required the Dischargers to submit technical information regarding new sources of waste discharge resulting from the new road construction activities at the Site and emergency erosion control measures for the new road construction activities by December 31, 2009. To date, the Dischargers have not submitted the required information.
23. On December 7, 2009, the Mendocino County District Attorney filed a criminal complaint for two felony and eight misdemeanor counts (Case No. 94124) against Jon and Deann Green in the Superior Court of California, County of Mendocino. The criminal complaint is attached hereto as Attachment "D" and incorporated herein by this reference. A preliminary hearing for this case was held on July 7, 2010. The Judge requested that the Deputy District Attorney and the Dischargers submit further briefs prior to making a determination that Jon Green should be tried for the felonies charged in the criminal complaint.
24. On December 29, 2009, the Dischargers' counsel filed a petition with the State Water Resources Control Board (hereinafter "State Water Board") to review the issuance of the December 2, 2009 13267(b) Order, and to stay enforcement of the Order. The petition also requested that the matter be held in abeyance for an unspecified period of time. On January 4, 2010, the State Water Board agreed to hold the matter in abeyance for two years from the date the petition was filed.

## **REGULATORY AND LEGAL AUTHORITY**

25. The beneficial uses of Scott Creek, Tomki Creek and the Eel River, as designated in the Basin Plan, include:
  - a. Municipal and domestic supply
  - b. Agricultural supply
  - c. Industrial supply
  - d. Groundwater recharge
  - e. Navigation
  - f. Hydropower generation
  - g. Water recreation
  - h. Non-contact water recreation

- i. Commercial and sport fishing
  - j. Warm water fish habitat
  - k. Cold water fish habitat
  - l. Wildlife habitat
  - m. Rare, threatened or endangered species
  - n. Migration of aquatic organisms
  - o. Spawning, reproduction, and/or early development
  - p. Estuarine habitat
  - q. Aquaculture
26. The Basin Plan contains specific standards and provisions for maintaining high quality waters of the state that provide for the beneficial uses listed above. The Action Plan for Logging, Construction, and Associated Activities (hereinafter "Action Plan") included in the Basin Plan includes two prohibitions:
27. Prohibition 1 - "The discharge of soil, silt, bark, slash, sawdust, or other organic and earthen material from any logging, construction, or associated activity of whatever nature into any stream or watercourse in the basin in quantities deleterious to fish, wildlife, or other beneficial uses is prohibited."
28. Prohibition 2 - "The placing or disposal of soil, silt, bark, slash, sawdust, or other organic and earthen material from any logging, construction, or associated activity of whatever nature at locations where such material could pass into any stream or watercourse in the basin in quantities which could be deleterious to fish, wildlife, or other beneficial uses is prohibited."
29. The Action Plan states: "where investigations indicate that the beneficial uses of water may be adversely affected by waste discharges, the staff shall require the submission of Reports of Waste Discharge."
30. Chapter 3 of the Basin Plan contains water quality objectives that specify limitations on certain water quality parameters not to be exceeded as a result of waste discharges. The water quality objectives (page 3-2.00-3-3.00) that are considered of particular importance in protecting the beneficial uses from unreasonable effect due to discharges from logging, construction, or associated activities, include the following:
- Color: Waters shall be free of coloration that causes nuisance or adversely affects beneficial uses.
  - Suspended Material: Waters shall not contain suspended material in concentrations that cause nuisance or adversely affect beneficial uses.
  - Settleable Material: Waters shall not contain substances in concentrations that result in deposition of material that causes nuisance or adversely affect beneficial uses.
  - Sediment: The suspended sediment load and suspended discharge rate of surface waters shall not be altered in such a manner as to cause nuisance or adversely affect beneficial uses.

- Turbidity: Turbidity shall not be increased more than 20 percent above naturally occurring background levels. Allowable zones within which higher percentages can be tolerated may be defined for specific discharges upon the issuance of discharge permits or waiver thereof.
31. The Discharger's logging, grading, and road construction activities caused waste, including but not limited to soil and earthen material, to be discharged or deposited into waters of the State or permitted such waste to be placed where it is or probably will be discharged to waters of the State, which violates the waste discharge prohibitions contained in the Action Plan for Logging, Construction and Associated Activities. The Dischargers' logging, grading, and road construction activities also created a condition of pollution or nuisance and continue to threaten to create a condition of pollution or nuisance.
  32. Basis for Cleanup and Abatement Order: Water Code section 13304 contains the cleanup and abatement authority of the Regional Water Board. Water Code section 13304 requires a person to clean up waste or abate the effects of the waste discharge if so ordered by a regional water board in the event there has been a discharge in violation of waste discharge requirements, or if a person has caused or permitted waste to be discharged or deposited where it is, or probably will be, discharged into the waters of the State and creates or threatens to create a condition of pollution or nuisance. Therefore, based on the previous findings the Regional Water Board is authorized to order the Dischargers to cleanup and abate the effects of the waste discharge(s).
  33. Basis for Requiring Reports: Water Code section 13267 provides that the Regional Board may require dischargers, past dischargers, or suspected dischargers to furnish those technical or monitoring reports as the Regional Board may specify, provided that the burden, including costs, of these reports, shall bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports. In requiring the reports, the Regional Board must provide the person with a written explanation with regard to the need for the reports, and identify the evidence that supports requiring that person to provide the reports.
  34. Need for Technical and Monitoring Reports: The condition of Site has changed considerably since the issuance of CAO No. R1-2002-0103 and submission of the Dischargers' November 8, 2004 Emergency Erosion Control Plan. The technical reports required by this Order are necessary to ensure that the prior harm and future threat to water quality created by the discharges described herein are properly abated and controlled and cease to cause and/or threaten to cause conditions of pollution and to restore beneficial uses of water. For example, a new or revised erosion control plan is necessary to evaluate the Site conditions to determine adequate erosion control measures, a drainage plan, and slope stabilization measures. This is particularly important with respect to the new road construction activities that have not yet been evaluated.
  35. California Environmental Quality Act (CEQA) Compliance: The issuance of this Order is an enforcement action taken by a regulatory agency and is categorically exempt from the provisions of CEQA pursuant to section 15321(a) (2), Chapter 3, Title 14 of the California Code of Regulations. This Order requires submittal of detailed work plans that address cleanup activities. The proposed activities under the work plans are not yet known, but implementation of the work plans may result in significant physical impacts to the environment that must be evaluated under

CEQA. The appropriate lead agency will address the CEQA requirements prior to implementing any work plan that may have a significant impact on the environment.

THEREFORE, IT IS HEREBY ORDERED that pursuant to California Water Code sections 13267(b) and 13304, the Discharger shall comply with the following:

1. By **August 31, 2013**, clean up and abate the effects of earthen materials that threaten to be discharged into tributaries of Scott Creek, Tomki Creek, and the Eel River. This includes implementing emergency as well as long-term erosion control, drainage, and slope stabilization measures. These measures shall be performed under the supervision of a California licensed civil engineer or engineering geologist experienced in erosion control, road, fill, and earthen embankment construction and design.

2. Emergency Erosion Control Plan (hereinafter "EECP"):

By **August 31, 2010**, submit an EECP for approval by the Executive Officer of the Regional Water Board to stabilize all exposed soil, all roads, and all earthen fills and embankments on the Site to prevent the discharge of additional sediment to waters of the State. This includes, but is not limited to emergency erosion control, drainage and slope stabilization measures such as application or installation of seed, mulch, straw wattles, silt fences, rock cover, plastic cover, water bars, placement of energy dissipaters and/or downspouts and other drainage measures, that can be accomplished without the use of heavy equipment during the rainy season (October 15 through June 1 of each year).

3. Implementation of EECP and Monthly Progress Reports:

By **September 15, 2010**, following approval of the EECP by the Executive Officer, apply for and obtain all necessary permits and authorizations required to implement the EECP, and begin implementation of the EECP. The EECP must comply with, including but not limited to, CDFG Streambed Alteration Agreement (Fish & Game Code § 1602 *et seq.*) and Mendocino County grading and drainage requirements.

The Dischargers shall submit monthly progress reports that fully document the implementation of specific EECP measures, describe the specific locations of those measures, and identify the locations including photographs, descriptions, and mapped locations of all erosion control measures that have been implemented to control sediment delivery to waters of the State from the Site and new road construction project. The first monthly progress report shall be due by the 15th day of the month that follows the date the Dischargers began to implement the EECP. Subsequent monthly progress reports shall be submitted by the 15th of each month thereafter and continue until all long-term erosion control measures have been completed and approved by the Regional Water Board.

4. All EECP measures shall be inspected at least once a month throughout the winter period (October 15 thru April 15 of each year) to provide adequate functional protection to waters of the State. The Dischargers, in the monthly progress report, shall report observations during these inspections and any work performed.

5. Engineering Certification:

By **August 31, 2010**, submit an engineering certification that states either that the earthen fill and embankments located on the Site are constructed to proper engineering standards or that proposes erosion control work to stabilize or remove unstable fills to prevent the discharge of additional sediment to waters of the State.

6. Long-Term Erosion Control Plan (hereinafter "LTECP"):

By **March 15, 2011**, submit a LTECP for approval by the Executive Officer of the Regional Water Board that includes the following:

- A. A detailed plan that includes the following:
  - i. A plan to maintain implemented erosion control measures on the Site;
  - ii. A plan to add or modify erosion control measures to be implemented on the Site as necessary, e.g., in the event that monitoring shows that the success criteria are not being met;
  - iii. A time schedule for all proposed erosion control measures on the Site;
  - iv. Criteria to judge the success of the overall work performed on the Site (hereinafter "success criteria"); and
  - v. A monitoring plan designed to evaluate whether the success criteria are being met.
- B. A map of the Site that identifies all existing and newly constructed and/or reconstructed roads, cut and fill slopes, clearings, watercourses, direction of drainage and drainage areas, watercourse crossings, skid trails, and all recent or proposed grading activity. That map shall identify all specific unstable areas and the applicable erosion control measures, and shall be of sufficient detail to direct a licensed equipment operator and/or contractor in the completion of the specified erosion control measures.

Complete implementation of the LTECP shall require the Dischargers to accomplish the following:

- A. Remove or stabilize all unstable and eroding earthen cuts or fills on the Site to prevent the discharge of additional sediment to waters of the State;
- B. Stabilize, eliminate, or otherwise correct each of the sources of sediment on the Site;
- C. Properly drain, cover, and stabilize all exposed and/or graded soils on the Site to prevent the discharge of additional sediment to waters of the State; and
- D. Design all sediment basins and drainage structures on the Site to withstand a 100-year storm event.

7. Implementation of the LTECP and Biannual Progress Reports:

By **May 1, 2011**, following approval of the LTECP by the Executive Officer apply for and obtain all necessary permits and authorizations required to implement the LTECP. The LTECP must comply with all CDFG Streambed Alteration Agreement (CDFG Code 1603) and Mendocino County grading and drainage requirements. The plan must include a proposal to restore to natural conditions, as feasibly as possible, all watercourses and natural drainages that may have been filled in by the Dischargers without permitting.

By **June 15, 2011** and upon approval by the Executive Officer of the Regional Board, begin implementing the LTECP. Subsequent to implementation of the LTECP, the Discharger shall submit biannual progress reports that shall fully document the specific LTECP measures implemented during the reporting period; describe the specific locations of those measures; and document and identify all measures that have been implemented to control sediment delivery to waters of the State from the Site and their locations with photographs, descriptions, and a map of their location on the Site. Biannual progress reports shall also present any data, including but not limited to water quality monitoring data, used to evaluate the success of the erosion control measures (as described in Requirement 6.A.5. above) and a summary analysis as to whether or not the criteria are being met (Requirement 6.A.iv. above). If the criteria are not being met, the biannual progress report shall contain a plan and schedule to add or modify measures as described in Requirement 6.A.ii., above.

All LTECP measures shall be maintained to provide adequate functional protection to waters of the State as described in Requirement 6.A.ii. above. The monitoring and maintenance plans described in Requirement 6.A. above, shall be implemented during any work performed pursuant to the LTECP and shall continue at least three full years (including three winter seasons from October 15 thru April 15 of each year) beyond final completion of that work. Following the completion of the measures performed pursuant to the LTECP and after receiving approval by the Regional Water Board Executive Officer of those measures and the adequacy of the work performed, the Regional Water Board Executive Officer may consider revising the reporting requirements and/or frequency set forth in paragraph 7.

8. By **August 30, 2013**, the LTECP must be fully and adequately implemented. Staff will review the completed work to determine if it has been implemented adequately in order to protect waters of the State.
9. If for any reason, the Dischargers are unable to perform any activity or submit any document in compliance with the deadlines set forth herein or in compliance with any deadlines specified in a work schedule submitted pursuant to this Order and approved by the Executive Officer, the Dischargers may request, in writing, an extension of time specified. The extension request must be submitted at least five days prior to the specified deadline and shall include justification for the delay including a description of good faith efforts performed to achieve compliance with the deadline. The extension request shall also include a proposed time schedule with new performance dates for the deadlines in question and all dependent dates.

The Regional Water Board's Executive Officer may grant an extension for good cause, in which case this Order shall be revised and/or amended accordingly.

**NOTIFICATIONS:**

1. Prior Orders Superseded: Except for enforcement purposes, CAO No. R1-2002-0103 issued on December 3, 2002 and any subsequent amendments thereto, the Investigative Order (June Order) issued on June 12, 2001, and the Investigative Order issued on December 2, 2009 are superseded and replaced with this Cleanup and Abatement Order.
2. Duty to Use Qualified Professionals: The Dischargers shall provide documentation that plans and reports required under this Cleanup and Abatement Order are prepared under the direction of appropriately qualified professionals, i.e. a California licensed civil engineer or engineering geologist experienced in erosion control, road, fill, and earthen embankment construction and design. California Business and Professions Code Sections 6735, 7835, and 7835.1 require that engineering and geologic evaluations and judgments be performed by or under the direction of registered professionals. The Dischargers shall include a statement of qualifications and registration numbers, if applicable, of the responsible lead professionals in all plans and reports required under this Cleanup and Abatement Order. The lead professional shall sign and affix their registration stamp, as applicable, to the report, plan, or document.
3. Enforcement Actions: The Regional Water Board reserves its right to take any enforcement action authorized by law.
4. Applicability: Requirements established pursuant to California Water Code Sections 13304 and 13267(b) are enforceable when signed by the Executive Officer of the Regional Water Board.
5. Potential Liability: Failure to comply with the requirements of this Order may subject the Dischargers to enforcement action, including but not limited to imposition of administrative civil liability pursuant to the California Water Code sections listed below, or referral to the Attorney General for injunctive relief or civil or criminal liability.

Pursuant to California Water Code section 13350, any person who intentionally or negligently violates a cleanup and abatement order may be liable civilly in an amount that shall not exceed five thousand dollars (\$5,000), but shall not be less than five hundred (\$500), for each day in which the cleanup and abatement order is violated.

Pursuant to California Water Code section 13268, any person failing or refusing to furnish technical or monitoring program reports as required by Section 13267, or falsifying any information provided therein, is guilty of a misdemeanor, and may be liable civilly in an amount that shall not exceed one thousand dollars (\$1,000) for each day in which the violation occurs.

Pursuant to California Water Code section 13385, any person who unlawfully discharges pollutants to navigable waters of the United States may be liable civilly in an amount that shall not exceed ten thousand dollars (\$10,000) for each day in which the violation occurs plus ten dollars (\$10) per gallon discharged but not cleaned up that exceeds one thousand (1,000) gallons.

6. Cost Recovery: Pursuant to California Water Code section 13304, and consistent with other statutory and regulatory requirements, including not but limited to Water Code section 13365, the Regional Water Board is entitled to, and will seek reimbursement for, all reasonable costs actually incurred by the Regional Water Board to investigate unauthorized discharges of waste and to oversee cleanup of such waste, abatement of the effects thereof, or other remedial action, required by this Order.
  
7. Requesting Administrative Review by the State Water Board: Any person affected by this action of the Regional Water Board may petition the State Water Board to review the action in accordance with California Water Code Section 13320 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, California 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. In addition to filing a petition with the State Board, any person affected by this Order may request the Regional Water Board to reconsider this Order. To be timely, any such request must be made within 30 days of the date of this Order. Note that even if reconsideration by the Regional Water Board is sought, filing a petition with the State Water Board within the 30-day period is necessary to preserve the petitioner's legal rights. If you choose to request reconsideration of this Order or file a petition with the State Water Board, be advised that you must comply with the Order while your request for reconsideration and/or petition is being considered.

Ordered by \_\_\_\_\_

Catherine Kuhlman  
Executive Officer

August 6, 2010