California Regional Water Quality Control Board
Santa Ana Region

Alan C. Lloyd, Ph.D.
Agency Secretary

3737 Main Street, Suite 500, Riverside, California 92501-3348
Phone (951) 782-4130 - FAX (951) 781-6288
http://www.waterboards.ca.gov/santaana

Arnold Schwarzenegger
Governor

February 22, 2005

Mr. Panyiotis (Pete) Katelaris
17341/17345/17331 Santiago Canyon Rd.
Silverado, CA 92676-9761

CERTIFIED MAIL-RETURN RECEIPT

CLEANUP AND ABATEMENT ORDER NO. R8-2005-0052

Dear Mr. Katelaris:

Enclosed is Cleanup and Abatement Order No. R8-2005-0052, issued for violations of Sections 401 and 402 of the Clean Water Act and Sections 13260, 13264, and 13376 of the California Water Code resulting from the discharge of fill material, leachate from green waste, green waste and other waste to waters of the State, at and from your property at 17341/17345/17331 Santiago Canyon Road, Silverado, Orange County, California.

Regional Board staff conducted numerous inspections of your property between March 2000 and the present and collected water samples and made observations that demonstrate that illegal discharges and disposal of fill material, green waste and leachate from green waste, and other waste into waters of the State has occurred, and is occurring, at various locations throughout the site. Enclosed is a report of the findings of the most recent inspection. Staff has been working closely with the Orange County District Attorney in the investigation of these illegal discharges and we continue to support their efforts.

The enclosed cleanup order requires you to immediately cease discharging waste in violation of Regional Board requirements and applicable laws and regulations. The order requires you to submit a plan to begin immediate cleanup of green waste leachate waste from the ponds and creeks that have been impacted by your illegal discharges of waste to waters of the State. The order also requires you to immediately begin taking steps to stop discharging all waste water and to re-establish the creek discharge point to it's original location at the low point of 17301 Santiago Canyon Road. This will also require you to coordinate with another of your neighbors who has built an illegal driveway and/or corral in the creek, which is causing flooding of 17301 Silverado Canyon Rd., and install a culvert to prevent further illegal discharges of fill to the creek. The order requires you to submit plans and time schedules to complete the cleanup.

I am also considering issuing you an Administrative Civil Liability Complaint for these ongoing violations and I will be closely monitoring your progress toward achieving compliance in determining the amount of the ACLC.

You may request the Regional Board to reconsider this order. Please submit a written request for a hearing, specifying the reasons you believe the original order is incorrect or inappropriate. Note, however, that the terms of this Order will remain in effect pending a determination by the Regional Board. Be further advised that the time for filing a petition for review of this Order with the State Water Resources Control Board remains unchanged. The State Water Resources Control Board must receive a petition within 30 days of the date of this Order.

Please call Ken Theisen at (951) 320-2028 if there are any questions regarding the enclosed order or the report.

Sincerely,

Gerard J. Thibeault
Executive Officer

Enclosures: CAO No. R8-2005-0052
February 15, 2005 Staff Report

cc w/ enclosures:
Joe D'Agostino, OCDA
SWRCB, Jorge Leon
USEPA, Tom Huettemans and Aaron Setran
OCRMD, Chris Crompton
OCFCD, Bill Tidwell
Jennifer Keller, Attorney
Frank Quinlan, Attorney

California Regional Water Quality Control Board
Santa Ana Region

Cleanup and Abatement Order No. R8-2005-0052
For
Mr. Panyiotis (Pete) Katelaris
17341, 17345 and 17331 Santiago Canyon Road,
Silverado, Orange County, CA 92676-9761

The California Regional Water Quality Control Board, Santa Ana Region (hereinafter Board), finds that:

1. Mr. Panyiotis (Pete) Katelaris (hereinafter "the discharger") is the owner of 17341/17345/17331 Santiago Canyon Road in the Silverado area of Orange County.

2. In March 2000, Regional Board staff received notice of a complaint from the Orange County Environmental Health Agency, regarding a discharge of what appeared to be sewage from the discharger's property to a creek tributary to Santiago Creek, a water of the United States. A similar complaint by a citizen was filed with the Board in February 2005, stating that the illegal discharges continue.

3. Staff from the Board, the Orange County District Attorney's office, USEPA, the U.S. Army Corps of Engineers, the Department of Fish and Game, and various County agencies conducted numerous inspections of the discharger's property between March 2000 and the present. During these inspections these agencies and Regional Board staff observed and documented that the discharger has: 1) discharged fill material to a water of the United States to create a filled area where he is operating a nursery in violation of Section 404 and 401 of the Clean Water Act and Section 13376 of the California Water Code; 2) re-routed the discharge point of the creek and the wastewater pond from the site from its original location at the low point of 17301 Santaigo Canyon Road, into his neighbors backyard (17301 Santiago Canyon Rd.) upslope of their house thereby causing erosion of their property and created a condition of pollution and nuisance also in violation of Section 13376; 3) discharged green waste, and possibly other wastes, to land without filing a report of waste discharge and in violation of Board Resolution No. 98-30 and Sections 13260 and 13264 of the California Water Code; and 4) discharged leachate from decomposing green waste and other wastes from his animals, nursery and other operations at the site to waters of the United States in violation of Section 13376 of the California Water Code.

4. Based on observations made by Board staff on February 14, 2005, the discharger is still discharging waste to waters of the United States, and to land where the waste discharge is adversely impacting surface waters. The discharger has failed to file a Report of Waste Discharge and is continuing to discharge wastes in violation of Sections 13260, 13264, and 13376.

5. In June 2003, the discharger proposed to Board staff a phased plan to correct all the violations and remove the illegal fill and restore the creek, and to comply with Board requirements. Board staff requested the discharger to file a Report of Waste Discharge on June 12, 2003, during a meeting with the discharger's agents. He moved his horse corral away from the creek and claimed to have stopped accepting green waste and other waste at his property for disposal until he would be in compliance with Board requirements. He has failed to comply with his proposed plan to: 1) stop discharging waste water with high concentrations of fecal coliform bacteria to waters of the United States; 2) remove the illegal fill and nursery operation from the creek bed and restore the creek; and 3) contain all runoff that has come in contact with the green waste operation and prevent it from discharging to waters of the United States. The discharger claims that the regulatory agencies have not cooperated with him and have given him mixed directions as to what he must do to correct the violations. Staff from the Department of Fish and Game, and the U.S. Army Corps of Engineers have told the discharger that the discharge of fill to waters of the United States is illegal and that he must remove the illegal fill where he has been operating a nursery, and restore the creek to its original condition. These are the same directions given to the discharger by Board staff. Meanwhile, the illegal discharges and violations continue.

6. A revised Water Quality Control Plan, (Basin Plan), was adopted by the Board and became effective on January 24, 1995. The Basin Plan contains water quality objectives and beneficial uses for water bodies in the Santa Ana Region. The Basin Plan identifies Santiago Creek as an inland surface stream of the State. The Basin Plan identifies the present and intermittent beneficial uses of Santiago Creek as municipal water supply, groundwater recharge, body contact recreation, non-body contact recreation, warm water aquatic habitat and wildlife habitat.

7. The Basin Plan, Chapter 4, includes numeric and narrative water quality objectives for Santiago Creek. The Basin Plan establishes a numeric objective for fecal coliform of 100 fecal organisms/100 mL of water volume to protect the municipal supply beneficial use and 400 fecal organisms/ 100 mL of water to protect the body contact recreation beneficial use.

8. Water samples collected from the waste discharge from the discharger's property, by Board staff and the Orange County Health Care Agency, were analyzed by

certified labs, and had concentrations of fecal coliform bacteria in most samples which were over the Basin Plan objectives and in many samples were Too Numerous To Count (TNTC), which means more than 1 million fecal organism per 100 mL of water were found in the samples. Samples of the waste discharged from the discharger's property at the end of the concrete spillway upslope of 17301 Santiago Canyon Road, collected by the Orange County Health Care Agency on February 3, 2005, had 50,000 total coliform bacteria, 22,000 fecal coliform bacteria, and 14,311 enterococcus bacteria per 100 mL of sample volume. These data demonstrate that discharges of waste to waters of the United States are in violation of Sections 13260, 13264, and 13276 as cited above continue to occur. These data also indicate the presence of human fecal waste and pathogens and likely failure of the discharger's septic tanks. Therefore, the discharge may pose a threat to public health.

9. The Basin Plan establishes narrative objectives for color and odor for waste discharges, which apply to the discharge from the discharger's property to waters of the U.S. These narrative objectives for odor and color prohibit the discharge of wastewater with a color or odor that causes a nuisance. The leachate from green waste on the discharger's property is an oily substance that is pitch black in color and has a strong pungent odor like sewage. This leachate has high concentrations of chemical and biological oxygen demand, which deplete the oxygen of any water body where this waste is discharged. This waste can also harbor large concentrations of pathogens and bacteria if not properly handled and managed. The discharge from the discharger's property violates all these narrative objectives as witnessed by Board staff and others.

10. The Basin Plan narrative objective for floatable substances states that waste discharges shall not contain floating materials, including solids, liquids, foam or scum, which cause a nuisance or adversely affect beneficial uses. The discharger has discharged fill material and re-routed the natural discharge point of the unnamed creek running through his property. This unnamed creek is a water of the U.S. This blockage of the creek and re-routing of the creek is causing further discharges of sediment and other solid matter, and causing erosion of 17301 Santiago Canyon Road. Another downstream property owner has constructed a corral and a driveway in the natural creek bed at the low point of 17301 Santiago Canyon Road, which restricts the flow of the creek and causes flooding of a portion of 17301 Santiago Canyon Road. These discharges of fill material are adversely affecting flood control and other beneficial uses of the creek by destroying the creek warm water aquatic habitat and wildlife beneficial uses. This order will require the discharger to install a culvert under a driveway, or relocate a horse corral, of another neighbor to prevent this driveway and corral from being washed out. This driveway

is also illegal fill discharged to the creek in the place of a former Arizona Type Crossing through the creek bottom.

11. The extent of all the waste disposal areas on the discharger's property have not been defined and further investigation is needed to fully characterize the extent of illegal waste disposal at the discharger's property.

12. The USEPA's May 15, 2000 Inspection Report by Robert Leidy and Tim Vendlinski, verifies previous jurisdictional determinations made by the Corps of Engineers, demonstrating that the pond used by the discharger as a waste disposal pond and the nursery in the filled area are in fact waters of the United States. Therefore, the discharges of fill material and waste by the discharger to the creek and pond are in violation of Sections 404, 401, and 402 of the Clean Water Act (CWA) and Sections 13260, 13264, and 13376 of the California Water Code (CWC).

13. The discharger has discharged green waste and earthen fill material into waters of the United States, in violation of Sections 401, 402, and 404 of the CWA and Sections 13260, 13264, and 13376 of the CWC. The discharge of these wastes into waters of the U.S. has destroyed beneficial uses and violated numerous water quality standards and objectives established by the Board in the Basin Plan. The discharge of waste has caused the destruction of at least 0.5 acres of wetlands, and is causing a condition of pollution and nuisance and a threat to other beneficial uses of adjacent wetlands and surface waters.

14. Sections 13260 and 13376 of the CWC require that any person discharging waste and/or fill material that could affect the quality of the waters of the State, file a report of waste discharge with the appropriate Regional Board. The discharger has not complied with this requirement for any discharges of waste and fill material that have occurred at the site.

15. The discharger has caused or permitted waste to be discharged where it is or probably will be discharged to waters of the State and has created, or threatens to create, a condition of pollution or nuisance. Therefore, pursuant to CWC Section 13304, it is appropriate to require the discharger to clean up such waste and abate the effects thereof or take other appropriate remedial action.

16. This action is being taken for the protection of public health and the environment, and as such, is exempt from the provisions of the California Environmental Quality Act (Public Resources Code, Section 21100 et seq.) in accordance with Section 15321, Chapter 3, Title 14, California Code of Regulations.

IT IS HEREBY ORDERED that, pursuant to Section 13304, Division 7, of the California Water Code, Mr. Panyiotis (Pete) Katelaris, the owner of 17341/17345/17331 Santiago Canyon Road in the Silverado area of Orange County, shall:

1. Forthwith cease discharging to waters of the United States all green waste, any water that has come in contact with green waste including leachate and black oily waste residue from green waste decomposition, fill material, and any other waste.

2. Forthwith begin cleanup of the green waste leachate and black waste residue in the pond, creek, and section of creek down stream of the discharger's driveway, and the side tributary where he has illegally re-routed the creek/pond discharge into his neighbors yard located at 17301 Santiago Canyon Road. The discharger shall submit a plan and time schedule, by March 15, 2005, to the Executive Officer for his approval, for the cleanup of this waste. The discharger shall begin implementation of the plan immediately upon notification by the Executive Officer that the cleanup plan is approved, in accordance with a time schedule approved by the Executive Officer.

3. Forthwith cease discharging water and wastewater from the pond/creek upstream of the discharger's driveway down the concrete spillway up-slope of 17301 Santiago Canyon Road, and re-establish the pond creek discharge to its original location at the bottom of 17301 Santiago Canyon Rd. The discharger shall submit a plan and time schedule, by March 15, 2005, to the Executive Officer for his approval, for removal of all illegal fill from waters of the U.S., the restoration of the creek and pond, and for re-routing the creek discharge to the original discharge location. The discharger shall begin implementation of the plan immediately upon notification by the Executive Officer that the cleanup plan is approved, in accordance with a time schedule approved by the Executive Officer.

4. By March 15, 2005, submit a workplan acceptable to the Executive Officer for determining the vertical and lateral extent of all waste discharged at the discharger's property. The workplan shall also include a proposal to define the extent of fill material discharged to waters of the State. The workplan must describe any necessary soil borings and monitoring well installations, and soil and water testing needed to define the extent of contaminant migration and impact. The workplan shall describe the locations, depths, construction details, and sampling procedures of all monitoring wells, the target constituents to be analyzed, and the analytical methods to be utilized. The workplan shall include a proposed time schedule for the completion of the fieldwork, and the preparation and submittal of a complete report of the findings and recommendations.

5. Implement the proposed work plan submitted pursuant to No. 4 above, in accordance with the time schedule approved by the Executive Officer.

6. Conduct any additional fieldwork necessary to fully define the extent of waste disposal areas and leachate contamination, and fill material discharged to waters of the United States, and to land where the waste discharge has created a condition of pollution and nuisance and poses a threat to water quality, in accordance with the time schedule(s) approved by the Executive Officer.

7. Within 60 days of the date of this order the discharger shall submit a Report of Waste Discharge and application for Waste Discharge Requirements, including an NPDES application for discharges to surface waters, for the green waste disposal operation and for all discharges of waste from his property to surface waters.

8. The discharger shall allow Regional Board staff reasonable access to the discharger's property to supervise the investigation and cleanup required by this order, inspect for compliance, and collect samples, pictures, records of waste disposal, and any other evidence relating to compliance with this order and the CWC.

Failure to comply with the terms and conditions of this Order may result in imposition of civil liability, either administratively by the Board or judicially by the Superior Court in accordance with Section 13350, et seq., of the California Water Code, and/or referral to the Attorney General of the State of California for such action as he/she may deem appropriate (CWC Section 13304(a)).

Ordered by:

Gerard J. Thibeault
Executive Officer

Date: 2/22/05