

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

RESOLUTION NO. R5-2005-0142

APPROVING CLEANUP AND ABATEMENT ORDER NO. R5-2005-0711
FOR
PRESTON AND LOIS AVERY
CONTRA COSTA COUNTY

WHEREAS, the Regional Water Quality Control Board, Central Valley Region (Regional Board) is the principal state agency with primary responsibility for the coordination and control of water quality within the Central Valley Region and regulates discharges of waste to waters of the state pursuant to the Porter-Cologne Water Quality Control Act (California Water Code Division 7).

WHEREAS, Preston and Lois Avery of 10315 Moretti Drive, Cupertino, CA 95014 (hereafter the Discharger) own Assessor Parcel Number 029-010-017, a 70-acre parcel of land on Willow West Road, Bethel Island, Contra Costa County, in Section 3, Township 2 North, Range 3 West, MDB&M. Runoff from the site discharges to Piper Slough, tributary to the Sacramento-San Joaquin Delta.

WHEREAS, Regional Board staff, in May 2005, responding to local complaints, inspected the property and observed the Discharger, pushing soil and sediment into wetlands, which are “waters of the state” within the meaning of the California Water Code.

WHEREAS, the U.S. Army Corps of Engineers (Corps) in 1994 determined the area contained jurisdictional wetlands. The Corps issued an order requiring the Discharger to cease wetland fill activities, remove fill material and to obtain an “after-the-fact” Section 404 permit for the activities.

WHEREAS, on 10 June 2005, the Executive Officer issued a Cleanup and Abatement Order R5-2005-0711 requiring the discharger to: (1) immediately cease the discharge of earthen materials, soil, and sediment to waters of the state, wetlands, surface waters and surface water drainage courses; (2) by **1 August 2005**, submit a wetland delineation of the property, (3) by **1 August 2005**, submit a Cleanup and Restoration Plan, (4) by **30 September 2005**, clean up all earthen materials, soil and sediment discharged to wetlands, surface waters and surface water drainages and restore the area affected by the illegal fill; (5) submit a report detailing compliance with the Cleanup and Abatement Order.

WHEREAS, the Corps in July 2005 inspected the site and again determined the area contained jurisdictional wetlands.

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WHEREAS, the discharge of soil and sediment deposited into waters of the state constitute "waste" as defined in California Water Code section 13050. The Discharger, who owns and operates the site, has discharged waste, i.e., earthen material, soil, and sediment, directly into surface waters. The Discharger, through this activity, has caused waste to be discharged where it has caused a condition of pollution or nuisance by increasing levels of sediment, settleable and suspended material.

WHEREAS, the Discharger has failed to clean up and abate the condition of earthen materials, soil, sediment, and debris materials discharged or placed into surface waters and surface water drainage courses.

RESOLVED, that the Regional Water Quality Control Board approves Cleanup and Abatement Order No. R5-2005-0711 as issued by the Executive Officer on 10 June 2005.

I, THOMAS R. PINKOS, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of a Resolution adopted by the Regional Water Quality Control Board, Central Valley Region, on 20 October 2005.

THOMAS R. PINKOS, Executive Officer