

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

CLEANUP AND ABATEMENT ORDER NO.R5-2008-0701

FOR  
STANISLAUS ALMOND RANCH, LLC  
LAKE ROAD GRIZZLY RANCH, LLC  
STANISLAUS COUNTY

This Order is issued to Stanislaus Almond Ranch, LLC and Lake Road Grizzly Ranch, LLC based on provisions of California Water Code (CWC) section 13304, which authorizes the Regional Water Quality Control Board, Central Valley Region (Regional Water Board) to issue a Cleanup and Abatement Order (Order), and CWC section 13267, which authorizes the Regional Water Board to require the submittal of technical and monitoring reports.

The Assistant Executive Officer of the Regional Water Board finds that:

1. Stanislaus Almond Ranch, LLC and Lake Road Grizzly Ranch, LLC (hereafter Dischargers) have graded over 1,000 acres of land in Stanislaus County, causing significant discharges of sediment into Peaslee Creek and the Tuolumne River. The property is in Sections 10, 11, 13 and 14, Township 4 South, Range 13 East MDB&M. The Dischargers own the property (APNs 020-008-012, 020-008-013, 020-010-003, and 020-010-004).
2. On 21 February 2008, the Stanislaus County Public Works Department informed Regional Water Board staff of the grading activities and forwarded information from the Turlock Irrigation District regarding impacts from the graded area. Turlock Irrigation District staff obtained turbidity measurements from Peaslee Creek upstream of the graded area and from the tributary of Peaslee Creek near the graded area. Turbidity measurements taken on 23 January 2008 were 11,200 nephelometric turbidity units (NTU) near the graded area and 167 NTU upstream of the graded area. Turbidity measurements taken on 28 January 2008 were 2240 NTU near the graded area and 127 NTU upstream of the graded area. Turlock Irrigation District staff provided photographs of the graded area and the turbid surface waters downstream, which are included as Attachment A to this Order. The photographs show large exposed areas with eroding slopes and stockpiles of manure on-site.
3. Sediment, when discharged to waters of the state, constitutes as a "waste" as defined in CWC section 13050. The Dischargers have discharged waste directly into surface waters which are tributary to the Tuolumne River
4. The *Water Quality Control Plan for the Sacramento River and San Joaquin River Basins, Fourth Edition*, (hereafter Basin Plan) designates beneficial uses, establishes water quality objectives, contains implementation programs for achieving objectives, and incorporates by reference, plans and policies adopted by the State Water Resources

Control Board. The beneficial uses of the Tuolumne River, as identified in Table II-1 of the Basin Plan, are municipal and domestic supply; agricultural supply; water contact recreation; non-contact water recreation; warm freshwater habitat; cold freshwater habitat; migration of aquatic organisms; spawning, reproduction, and/or early development of aquatic organisms; and wildlife habitat.

5. The Basin Plan lists specific water quality objectives for inland surface waters. These objectives include limitations on increased temperature, sediment, settleable and suspended material, and turbidity. Turbidity data obtained by the Turlock Irrigation District indicate that the grading activities caused violations of the Basin plan's objective for turbidity.
6. Section 13304(a) of the California Water Code provides that:

*“Any person who has discharged or discharges waste into waters of this state in violation of any waste discharge requirements or other order or prohibition issued by a regional board or the state board, or who has caused or permitted, causes or permits, or threatens to cause or permit any 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, shall upon order of the regional board clean up the waste or abate the effects of the waste, or, in the case of threatened pollution or nuisance, take other necessary remedial action, including, but limited to, overseeing cleanup and abatement efforts. A cleanup and abatement order issued by the state board or a regional board may require provision of, or payment for, uninterrupted replacement water service, which may include wellhead treatment, to each affected public water supplier or private well owner. Upon failure of any person to comply with the cleanup or abatement order, the Attorney General, at the request of the board, shall petition the superior court for that county for the issuance of an injunction requiring the person to comply with the order. In the suit, the court shall have jurisdiction to grant a prohibitory or mandatory injunction, either preliminary or permanent, as the fact may warrant.”*

7. The Dischargers' grading activities have resulted in the discharge of waste into surface waters, which have created, or threaten to create, a condition of pollution or nuisance.
8. Section 13304(c)(1) of the California Water Code provides that:

*“If the waste is cleaned up or the effects of the waste are abated, or, in the case of threatened pollution or nuisance, other necessary remedial action is taken by any governmental agency, the person or persons who discharged the waste, discharges the waste, or threatened to cause or permit the discharge of waste within the meaning of subdivision (a), are liable to that governmental agency to*

*the extent of the reasonable costs actually incurred in cleaning up the waste, abating the effects of the waste, supervising cleanup or abatement activities, or taking other remedial action. The amount of the costs is recoverable in a civil action by, and paid to, the governmental agency and state board to the extent of the latter's contribution to the cleanup costs from the State Water Pollution Cleanup and Abatement Account or other available funds."*

9. Section 13267(b)(1) of the California Water Code provides that:

*"In conducting an investigation specified in subdivision (a), the regional board may require that any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste within its region, or any citizen or domiciliary, or political agency or entity of this state who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste outside of its region that could affect the quality of waters of the state within its region shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports."*

10. The technical reports required by this Order are necessary to assure compliance with this Order and to protect the waters of the state. The technical reports are necessary to demonstrate that appropriate methods will be used to clean up waste discharged to surface waters and to ensure that cleanup complies with Basin Plan requirements. The Dischargers named in this Order own and operate the site from which waste was discharged.
11. The issuance of this Order is an enforcement action taken by a regulatory agency and is exempt from the provisions of the California Environmental Quality Act, pursuant to Section 15321(a)(2), Title 14, California Code of Regulations.
12. Any person adversely affected by this action of the Regional Water Board may petition the State Water Resources Control Board (State Water Board) to review the action. The State Water Board must receive the petition within 30 days of the date of this Order. Copies of the law and regulations applicable to filing petitions may be found on the Internet at [www.waterboards.ca.gov/centralvalley](http://www.waterboards.ca.gov/centralvalley) or will be provided upon request.

**IT IS HEREBY ORDERED THAT**, pursuant to CWC sections 13267 and 13304, Stanislaus Almond Ranch, LLC and Lake Road Grizzly Ranch, LLC shall:

1. Immediately take all actions to cease the discharge of sediment and other wastes to waters of the state, including but not limited to Peaslee Creek and its tributaries, and to the Tuolumne River.
2. Immediately clean up and abate the sediment discharged to surface waters in accordance with the following minimum schedule:
  - (a) By **31 March 2008**, submit and immediately implement a *Stabilization and Cleanup Plan* (Plan). The Plan must describe how the site will be stabilized to prevent future discharges of sediment and all other wastes, and must give a proposed timeline for the work. The timeline shall not extend beyond **15 August 2008**. The Plan must describe how sediment-impacted surface waters will be cleaned up as appropriate and must include timelines and long-term monitoring to assess the effectiveness of the stabilization and cleanup efforts. The Plan must be prepared by a professional knowledgeable and experienced in erosion and sediment control measures. Comments from Regional Water Board staff should be incorporated into the Plan. The Plan shall be subject to approval by the Regional Water Board, and failure to submit an acceptable Stabilization and Cleanup Plan by the aforementioned deadline may result in the imposition of administrative civil liability.
  - (b) By **1 September 2008**, submit a *Completion Report* describing in detail how the *Stabilization and Cleanup Plan* has been implemented, and showing that the site and impacted surface waters have been fully remediated. The Dischargers shall provide staff access to areas of the property, as needed.
3. If requested, reimburse the Regional Water Board for reasonable costs associated with oversight of actions taken in response to this Order. By **1 April 2008**, submit the name and address to be used for billing purposes for oversight charges.

Any person signing a document submitted under this Order shall make the following certification:

*"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my knowledge and on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."*

As required by Business and Professions Code sections 6735, 7835, and 7835.1, all technical reports shall be prepared by, or under the supervision of, a California Registered Engineer or Professional Geologist and signed by the registered professional.

If, in the opinion of the Executive Officer, the Dischargers fail to comply with the provisions of this Order, the Executive Officer may refer this matter to the Attorney General for judicial enforcement or may issue a complaint for administrative civil liability.

Failure to comply with this Order may result in the assessment of an Administrative Civil Liability up to \$10,000 per day of violation pursuant to CWC sections 13350, 13385, and/or 13268. The Regional Water Board reserves its right to take any enforcement actions authorized by law.

This Order is effective upon the date of signature.

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JACK E. DEL CONTE, Assistant Executive Officer

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10 March 2008

(Date)