California Regional Water Quality Control Board
North Coast Region

CLEANUP AND ABATEMENT ORDER NO. R1-2003-0056

FOR

ELLIS AND KATHERINE ALDEN

ALDEN FAMILY VINEYARDS
21912 RIVER ROAD
GEYSERVILLE

Sonoma County

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

1. Ellis and Katherine Alden (hereinafter Discharger), own approximately 4,027 acres of ranchland (hereinafter Site) located approximately 5 miles east of Geyserville in northern Sonoma County, Assessor's Parcel Numbers 117-120-004, 117-120-009, 117-120-011, 141-140-001, 141-140-002. The Discharger's recent land management activities at the Site include vineyard development, road construction or reconstruction, and extensive grading and earthwork activities.

2. On December 13, 1999, staff from the Regional Water Board and California Department of Fish and Game (CDFG) first inspected the site and began working with the Discharger's general manager, Alexander Hogstrom. During this initial inspection, staff observed evidence of new road construction, including cut and fill type construction with a culvert stream crossing. The crossing was not constructed to proper engineering standards and had washed out or failed during the first significant rain storms following construction. The crossing failure caused approximately 10 cubic yards of earthen fill material to be discharged into a tributary of Little Sulphur Creek. Staff worked with the general manager to clean up and abate some of the effects of the discharge, gave notice that the discharge violated the Basin Plan for the North Coast Region, and advised the Discharger that permits are required for grading and constructing stream crossings. Necessary permits include a CDFG 1603 Streambed Alteration Agreement and Grading and Drainage permits from Sonoma County Permit and Resource Management Department (PRMD). Despite this warning, the Discharger continued illegal grading and drainage construction activities without proper permits and without the engineering necessary to protect water quality.

3. On December 4, 2001, staff from the Regional Water Board and CDFG again inspected the site in response to new reports from downstream residents regarding highly turbid water flowing from the Site. Staff observed numerous new grading and road construction/reconstruction projects that had not been observed during previous site visits in 1999, including nine new culvert crossings on tributaries to Crocker Creek, Little Sulphur Creek and the Russian River. The crossings were not constructed to proper engineering, CDFG, and PRMD standards. As a result, large amounts of earthen fill material were discharged into waters of the state.

The Discharger also conducted extensive grading or earthwork projects and constructed numerous large earthen fills in swales and watercourses in the process of vineyard development. The fills were not constructed to proper engineering standards and erosion control measures either were not installed or were inadequate. As a result, large amounts of sediment were discharged into waters of the state.

The site also has approximately 30 miles of existing road. The roads are maintained and graded by the Discharger. They are not properly drained, lack proper erosion control measures and are discharging excessive amounts of sediment into waters of the state.

4. Alexander Hogstrom, the general manager for the Discharger's operation, has been designated by the Discharger as the contact person for cleanup and abatement efforts. Staff have not met nor communicated directly with the Discharger. On December 5, 2001, Regional Water Board staff e-mailed Mr. Hogstrom a list of seven recommendations to begin emergency erosion control measures to stabilize eroding roads, vineyard and grading projects. Mr. Hogstrom agreed to implement the recommendations on behalf of the Discharger.

5. During December 2001, and throughout the year 2002, staff from the Regional Water Board, CDFG and PRMD worked with Mr. Hogstrom and engineering consultants on numerous occasions, in an effort to clean up and abate the discharge and to obtain required permits to accomplish the remediation efforts. Remediation efforts include developing and implementing short-term (emergency) and long-term erosion control plans and an inventory of sediment source sites on roads, vineyard developments and grading projects. Permits that will need to be obtained prior to implementing grading, drainage and long term erosion control plans include CDFG 1603 Streambed Alteration Agreements and Grading and Drainage Permits from PRMD. The Discharger submitted and implemented the short-term (emergency) erosion control plan, which proved to be somewhat effective in preventing or reducing the discharge of additional earthen material to waters of the state. On June 13, 2002, September 5, 2002, September 22, 2002 and January 30, 2003, the Discharger submitted draft long-term erosion control, drainage and grading plans to the Regional Water Board, and PRMD. Each draft submittal was developed by Engineering Consultant Lee Erickson and was found to be inadequate and, thus, PRMD did not issue permits for grading and drainage work. To date, the Discharger has not provided the additional information necessary to obtain grading and drainage permits from PRMD. The Discharger also needs to obtain a CDFG 1603 Streambed Alteration Agreement. The Discharger has not completed the long-term erosion control work, in part because permits still need to be obtained. The permits are required prior to implementation of the long-term erosion control plan. The numerous fills and stream crossings remain at risk of additional erosion and failure during future rain events and are considered by Regional Water Board staff to be a threatened discharge of additional earthen material into waters of the state. The January 30, 2003 Plan, developed by Lee Erickson estimates the unstable fill volumes to be approximately 57,470 cubic yards.

On October 12, 2002, the Discharger submitted a geotechnical report, prepared on it's behalf by PJC & Associates, which evaluated the grading and earthwork projects conducted by the Discharger to date. The PJC report was requested by PRMD, in a letter dated August 21, 2002. The PJC report concludes that "the grading and earthwork was not performed to current geotechnical engineering standards of practice and to the minimum requirements of Chapter 33 of the Uniform Building Code (UBC). Significant quantities of fill were placed on or near steep slopes of marginal stability. Their work revealed no evidence of proper placement, subdrainage and compaction. Therefore, it has to be assumed that the fill at the designated areas are unstable and prone to settlement, creep, landsliding and erosion. To meet current geotechnical and UBC standards and provide optimum stability, the previous fill slopes should be removed and placed as properly engineered fills. Regional Water Board staff concur with the PJC & Associates recommendation and is requiring that all unstable fills be removed under the provisions of this Cleanup and Abatement Order.

6. On December 19, 2002, staff from the Regional Water Board, PRMD and the Sonoma County Agricultural Commissioner's office inspected the site to coordinate on-going enforcement and permitting requirements. During the inspection, staff observed a large new fill failure in an area designated as area "B" in the draft long-term erosion control plans developed by Lee Erickson. The inspection participants estimated the volume of the fill failure to be approximately 1,000 cubic yards of earthen material, which discharged directly into a steep sided ravine and Class II watercourse. Most of the discharged earthen fill material has been temporarily trapped by a row of Pepperwood trees that are growing in the ravine along the watercourse bank below the failure. Staff asked the Discharger's general manager to have the Discharger's consulting engineers evaluate the fill failure and develop an emergency erosion control plan. The general manager complied with the request and the fill failure has been temporarily stabilized per the resulting emergency erosion control plan.

7. On April, 9, 2003, Regional Water Board staff again inspected the site and observed two additional earthen fill failures. The failures are on stream crossings designated 4 and 5 in the January 30, 2003, plan developed by Lee Erickson. The fill failures have discharged or threaten to discharge sediment into waters of the state.

8. The Discharger's activities resulted in the discharge and threatened discharge of approximately 57,000 cubic yards of earthen material into Little Sulphur Creek, Big Sulphur Creek, Crocker Creek, an unnamed tributary to the Russian River and the Russian River. The Russian River and its tributaries provide habitat for steelhead trout, chinook salmon, and coho salmon, which are listed as threatened under the Endangered Species Act. The site contains several tributary streams that contain habitat for yellow legged frogs. Yellow legged frogs are listed as a species of special concern under the Endangered Species Act. Yellow legged frog habitat has been impacted by nine stream crossings, including two which fill in approximately 350 feet of Yellow legged frog habitat.

9. The site is located in the Little Sulphur Creek, Crocker Creek and an unnamed tributary, all of which are tributary to the Russian River. The beneficial uses of the Russian River and its tributaries, 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

10. The Discharger has discharged, and has placed material where it threatens to discharge, approximately 57, 470 cubic yards of waste earthen material into waters of the state, a violation of the Basin Plan prohibitions contained in the Action Plan for Logging, Construction and Associated Activities. The Discharger has thus: 1) caused or permitted waste to be discharged or deposited into waters of the state and to cause a condition of pollution or nuisance and; 2) has caused or permitted waste and to be placed where it is or probably will be discharged to waters of the state and where it threatens to create a condition of pollution or nuisance, as a result of vineyard development, grading/earthwork and road construction activities.

11. This enforcement action is being taken for the protection of the environment and, therefore, is exempt from the provisions of the California Environmental Quality Act (Public Resources Code, Section 21000 et seq.) in accordance with Section 15321, Chapter 3, Title 14, California Code of Regulations.

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

1. By May 15, 2003, submit a complete and adequate plan to remove and stabilize all unstable fills, stream crossings and unstable areas which are designated in the October 2, 2002, PJC & Associates report titled, Geotechnical Investigation, Grading and Earthwork Evaluation Report, and the draft January 30, 2003 Grading and Drainage plan developed by Lee Erickson (hereinafter Grading and Drainage Plan). The Grading and Drainage

Plan shall be revised to comply with all CDFG Streambed Alteration Agreement (CDFG Code 1603) and PRMD (grading and drainage) requirements. The plan must include a proposal to restore to natural conditions all watercourses and natural drainages filled in by the Discharger's illegal grading activities.

2. By May 15, 2003, submit a road management plan (RMP). The RMP shall include an inventory of all road-related sediment sources that are discharging or could discharge to watercourses, and shall include a plan to stabilize, eliminate, or otherwise correct each of these sources of sediment.

3. The Discharger shall complete all work described in provisions 1 and 2 by **September 15, 2003**. The Discharger shall submit a work completion report to this office by October 1, 2003.

4. The above required erosion control, grading and drainage plans shall be prepared by a California licensed civil engineer or engineering geologist experienced in erosion control, road, fill and earthen embankment construction and design. All work shall be supervised by the licensed civil engineer or engineering geologist.

5. If, for any reason, the Discharger is unable to perform any activity or to submit any document in compliance with the schedule set forth herein or in compliance with any work schedule submitted pursuant to this Order and concurred with by the Executive Officer, the Discharger may request, in writing, an extension of time specified. The extension request must be received by the Regional Water Board at least five days in advance of the due date and shall include justification for the delay, including a description of good faith efforts performed to achieve compliance with the due date. The extension request shall also include a proposed time schedule with new performance dates for the due date in question and all dependent dates. An extension may be granted for good cause, in which case this Order will be revised accordingly.

Ordered by _____

Susan A. Warner
Executive Officer

April 16, 2003

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