



California Regional Water Quality Control Board Central Valley Region

Karl E. Longley, ScD, P.E., Chair



Linda S. Adams
Secretary for
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Arnold Schwarzenegger
Governor

29 March 2007

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United States Department of Interior
Bureau of Land Management
Redding Field Office
355 Hemsted Drive
Redding, CA 96002

CLEANUP AND ABATEMENT ORDER NO. R5-2007-0708, DISCHARGE OF SEDIMENT FROM DOE MILL ROAD TO BUTTE CREEK, BUTTE COUNTY

Enclosed is a Cleanup and Abatement Order (C&A Order) issued by the Assistant Executive Officer of the California Regional Water Quality Control Board, Central Valley Region (Regional Water Board). It directs you to clean up and abate the effects of earthen materials, soil, and sediment discharged or placed in surface waters and surface water drainage from the Doe Mill Road, Butte County.

The C&A Order requires that you initiate corrective actions to abate the discharge of earthen materials, soil, and sediment to waters of the state, surface waters and surface water drainage courses and stabilize the road to prevent the threatened discharge to surface waters. You must complete, forthwith and in no event later than **15 November 2007**, corrective actions necessary to minimize erosion and discharges of sediment, including but not limited to the following:

- 1) Install, where necessary, an adequate number of waterbreaks designed to reduce road surface erosion by diverting storm water runoff from the road surface and directing it to a stable discharge area.
- 2) Disconnect road drainage from Butte Creek and its tributaries.
- 3) Stabilize all disturbed areas with seed, erosion control mulches, blankets, mats or other accepted erosion control equipment in sufficient quantities to protect the disturbed soil surface from the forces of rain drop impact and overland flow.
- 4) Replace the 36-inch CMP with a watercourse crossing that shall accommodate the 100-year flood flow, including debris and sediment load. The watercourse crossing shall be reconstructed to prevent diversion of stream overflow down the road and to minimize fill erosion should the drainage structure become obstructed.

California Environmental Protection Agency



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In addition, you are to submit by **30 April 2007**, a Cleanup and Restoration Plan describing specific actions taken to comply with this cleanup and abatement order and how the long-term impacts and discharges from the road will be abated. The Cleanup and Restoration Plan is to be prepared by a professional, knowledgeable and experienced in road design and erosion prevention techniques, and shall be approved by the Regional Water Board Assistant Executive Officer. Upon completion of the restoration and stabilization project submit a final report, including photo documentation, detailing compliance with the Order.

The discharge of pollutants to waters of the State has exposed you to possible further enforcement action under Sections 13350 and 13385 of the California Water Code.

We are looking forward to working with you to resolve this issue. If you have any questions, please contact Drew Coe of my staff at (530) 224-2437.

Original signed

JAMES C. PEDRI, P.E.
Assistant Executive Officer

DC: mt/reb

Enclosures: Cleanup and Abatement Order R5-2007-0708

cc w/ encl: Jack Bean, District Forester, Sierra Pacific Industries, Redding
Kurt Sable, Lassen National Forest – Almanor Ranger District, Chester
Tom Jereb, PG&E, San Francisco
Todd Johnson, PG&E, San Francisco
Paul Ward, California Department of Fish and Game, Rancho Cordova



CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

CLEANUP AND ABATEMENT ORDER NO. R5-2007-0708

FOR
UNITED STATES DEPARTMENT OF INTERIOR
BUREAU OF LAND MANAGEMENT, REDDING FIELD OFFICE,
DOE MILL ROAD
BUTTE COUNTY

This Order is issued to the Bureau of Land Management, United States Department of Interior based on provisions of California Water Code 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 California Water Code section 13267, which authorizes the Regional Water Board to issue an order requiring submittal of monitoring and technical reports.

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

1. The United States Department of Interior, Bureau of Land Management, Redding Field Office, 355 Hemsted Drive, Redding, CA 96002 (hereafter known as Discharger) owns the Doe Mill Road (also known as Garland Road; also known as Ponderosa Way) and surrounding lands above Butte Creek in Butte County. The property is east of State Highway 32 in Section 26 and 27, Township 24 North, Range 3 East, MDB&M. Surface water runoff is to Butte Creek and its tributaries. Butte Creek supports populations of federally listed Central Valley Spring Run Chinook (*Oncorhynchus tshawytscha*) and Central Valley Steelhead Trout (*Oncorhynchus mykiss*).
2. On 19 May 2006, Regional Water Board staff conducted an inspection of the Doe Mill Road. During the inspection, it was noted that the Doe Mill Road was poorly maintained, and was discharging large volumes of sediment to Butte Creek and its tributaries. A gully on the Doe Mill Road, on the west side of Butte Creek, had delivered approximately 300 cubic yards (yd³) of sediment directly into Butte Creek. A stream crossing with a 36-inch corrugated metal pipe (CMP) for a tributary stream on the east side of Butte Creek was plugged and threatening to divert streamflow onto the road. The CMP is undersized for the 100-year flood flow, including debris and sediment, and is not set to the natural grade of the watercourse. A previous road fill failure / inner gorge failure adjacent to the stream delivered approximately 1000 yd³ of sediment directly to Butte Creek. This failure was caused by excess road drainage, or by the plugging and subsequent overtopping of the 36-inch CMP during previous winters.
3. On 16 June 2006, Regional Water Board staff and the Discharger met on the Doe Mill Road. The Discharger had performed some road maintenance to correct some of the erosion issues, but Regional Board Staff determined that some of the maintenance measures had increased the threat of discharge to Butte Creek and its tributaries.
4. On 14 July 2006, Regional Water Board staff conducted an inspection on the Doe Mill Road with the Discharger. Emergency maintenance measures were agreed upon by

Regional Board Staff and the Discharger to prevent sediment discharge during the 2006-2007 winter period. Regional Board Staff informed the discharger that permanent road fixes needed to be done to minimize the threat to water quality over the long term. The emergency work was completed in late August / early September of 2006, including cleaning the inlet of the plugged CMP.

5. On 23 February 2007, Regional Water Board Staff met with the Discharger on the Doe Mill Road to discuss permanent fixes to the road and the replacement of the 36-inch CMP on the tributary stream on the east side of Butte Creek. The Discharger informed Regional Water Board Staff that they did not intend to replace the 36-inch CMP.
6. The 36-inch culvert is a threat to water quality since it is undersized for the 100-year flood flow including sediment and debris, and has plugged and possibly failed during previous winters. If the CMP becomes plugged the watercourse will be diverted onto the road with the potential to deliver 200-300 yd³ of sediment directly to Butte Creek. Even though the inlet of the culvert was cleaned in the summer of 2006, the inlet of the CMP has become 25 percent blocked by sediment during the 2006-2007 winter period.
7. The discharge of earthen material, soil and sediment into waters of the state constitute "waste" as defined in California Water Code section 13050. The Discharger, through this activity, has created a condition where waste (e.g., earthen material, soil, and sediment) threatens water quality, and probably will be discharged directly into surface waters, which are waters of the state and waters of the United States. The discharge of this waste will cause a condition of pollution or nuisance by increasing levels of sediment, settleable and suspended material, and turbidity.
8. 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 Butte Creek as identified in Table II-1 of the Basin Plan are municipal and domestic supply; irrigation and stock watering; hydropower generation; water contact and other non-contact recreation; warm and cold freshwater habitat; migration of aquatic organisms; spawning, reproduction and early development of fish; wildlife habitat; and preservation of rare and endangered species. Butte Creek supports populations of federally listed Central Valley Spring Run Chinook (*Oncorhynchus tshawytscha*) and Central Valley Steelhead Trout (*Oncorhynchus mykiss*).
9. The Basin Plan establishes specific water quality objectives for inland surface waters. These objectives include numeric and narrative objectives for sediment, settleable and suspended material, and turbidity. Based on staff observations, the Discharger's lack of road maintenance and the poor initial design of the road has resulted in the placement and disturbance of sediment and soil, where it threatens to discharge into surface water drainage courses during rainstorm events. The discharge of waste to surface waters will create a condition of pollution and threatens to continue to create a condition of pollution or nuisance when earthen materials are transported in storm water during the

rainy season to downstream receiving waters increasing levels of sediment, settleable and suspended material, and turbidity.

10. 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.”

11. As described in Findings 1 through 6, the Discharger is subject to an Order pursuant to Water Code section 13304 because the Discharger owns the property and took the actions that result in the threat of discharges of waste to waters of the State.

12. 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.”

13. 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. In requiring those reports, the regional board shall provide the person with a written explanation with regard to the need for the reports and shall identify the evidence that supports requiring that person to provide the reports.”

14. As described in Findings 1 through 6 above, the Discharger is subject to an Order pursuant to Water Code section 13267 because the discharger took the actions that have resulted in the threatened discharge of waste to waters of the State. The reports required by this Order are necessary to assure that the work required is completed in compliance with applicable state law and requirements to protect the beneficial uses of waters of the State.
15. 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.
16. Any person adversely affected by this action of the Regional Board may petition the State Water Resources Control Board (State Board) to review the action. The State 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 or will be provided upon request.

IT IS HEREBY ORDERED THAT, pursuant to Sections 13267 and 13304 of the California Water Code, the Bureau of Land Management shall cleanup and abate the discharge and threatened discharge of earthen materials, soil, and sediment to waters of the state as follows:

1. Complete, forthwith and in no event later than **15 November 2007**, corrective actions necessary to minimize erosion and the discharge of sediment, including but not necessarily limited to, the following:
 - (a) Install, where necessary, an adequate number of waterbreaks designed to reduce road surface erosion by diverting storm water runoff from the road surface and directing it to a safe discharge area.
 - (b) Disconnect road drainage from Butte Creek and its tributaries.
 - (c) Stabilize all disturbed areas with seed, erosion control mulches, blankets, mats or other accepted erosion control equipment in sufficient quantities to protect the disturbed soil surface from the forces of rain drop impact and overland flow.
 - (d) Replace the 36-inch CMP with a watercourse crossing that shall accommodate the 100-year flood flow, including debris and sediment load. The watercourse crossing shall be reconstructed to prevent diversion of stream overflow down the road and to minimize fill erosion should the drainage structure become obstructed.
2. Submit by **30 April 2007**, a Cleanup and Restoration Plan describing specific actions taken to comply with No. 1, above and how the long-term impacts and discharges from

the road will be abated. The Cleanup and Restoration Plan is to be prepared by a professional, knowledgeable and experienced in road design and erosion prevention techniques, and shall be approved by the Regional Water Board Assistant Executive Officer.

3. Reimburse, if requested, the Regional Water Board for reasonable costs associated with oversight of actions taken in response to this Order. By **30 April 2007** submit the name and address to be used for billing purposes for oversight charges.
4. The Executive Officer may refer this matter to the Attorney General for judicial enforcement or issue a complaint for Administrative Civil Liability.
5. Failure to comply with a cleanup and abatement order or the dates specified may result in further enforcement actions, including actions under section 13350, 13385, and 13387 of the California Water Code.

Original signed

James C. Pedri, P.E.
Assistant Executive Officer

29 March 2007
(Date)

DC: reb