

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

CLEANUP AND ABATEMENT ORDER NO.R5-2007-0729

FOR
REVERGE ANSELMO
and
SEVEN HILLS LAND & CATTLE COMPANY, LLC
INWOOD ROAD PROPERTY
SHASTA COUNTY

This Order is issued to Reverage Anselmo and Seven Hills Land & Cattle Company, LLC 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 on California Water Code Section 13267, which authorizes the Regional Water Board to require the submittal of technical and monitoring reports.

The Executive Officer of the Regional Board, finds that:

1. Reverage Anselmo, 28740 Inwood Road, Inwood, California 96088-9689 and Seven Hills Land & Company, LLC (Ca Corporation No. 200530110211), 28715 Inwood Road, Inwood, California 96088-9689 (hereafter Dischargers) own approximately 670-acres of land on the South Fork of Bear Creek in Shasta County. The property consists of three parcels (APNs 093-260-023, -024, -025) in Sections 23 &24, Township 31 N, Range 1 West, MDB&M, near Inwood, Shasta County (here after Property). Runoff from the site drains to South Fork Bear Creek, a tributary to Bear Creek and the Sacramento River.
2. On 15 October 2007, Regional Water Board staff, responding to a complaint, inspected the property and found significant land clearing activities being conducted during wet weather conditions that resulted in the discharge of wastes in the form of soil, sediment and earthen materials, to waters of the state and/or U.S. Regional Water Board staff visually observed heavy equipment being used to clear land, remove brush, and move the downed material into large debris piles. The method of land clearing resulted in significant soil disturbance and discharge of waste impacting and threatening to impact surface waters, including a small on-site wet drainage and wetlands, and the South Fork Bear Creek.
3. Regional Water Board staff observed that the site had been significantly cleared of trees and under story, including significant riparian vegetation. There was a wet crossing through South Fork Bear Creek that was highly turbid and discharging sediment into the creek. The majority of the site had been graded, and/or impacted with heavy equipment. Grading occurred right up to the edge of South Fork Bear Creek, within the top of bank of the creek, through a spring fed tributary, and within what appeared to be wetland features. The small spring fed tributary was flowing through newly discharged soil and sediment, resulting from heavy equipment operations.

4. South Fork Bear Creek was flowing clear at the time of the initial inspection, but staff observed a significant amount of sediment deposits in the creek due to the grading activity, and riparian tree removal activities.
5. On 16 October 2007, Regional Water Board staff returned to the site, along with Department of Fish & Game staff, (Biologist Teri Moore and Warden John Dawson) met with the Discharger and Garrett Glauzer employee of Seven Hills Land & Cattle Company, LLC and owner of Professional Tree Service, and Bradley Constant of Constant Construction and Erosion Control, and another individual. The meeting was to discuss stabilization and restoration of the Property and to further investigate the soil disturbance activities. Mr. Glauzer admitted being in charge of the brush clearing and tree removal. According to the Discharger, a wetland delineation was performed and finalized by North State Resources, for the previous owner Frank Nichols, as part of his proposed subdivision on the Property. The delineation documented portions of the property as wetland habitat.
6. On 19 October 2007, Regional Water Board staff and Department of Fish & Game staff returned to the property to collect storm water discharge samples from the disturbed area. Sample results indicate the discharge of sediment-laden storm water from the property exceeded Basin Plan water quality objects for turbidity and settleable solids.
7. The soil, sediment, and earthen material moved and deposited into waters by the Discharger constitute "waste" as defined in California Water Code section 13050. Based on Regional Water Board staff observations, the Dischargers land clearing activity has discharged waste, i.e., soil, sediment, and earthen material directly into surface waters and placed waste, i.e. soil, sediment, and earthen material, in areas where it threatens to discharge into surface waters during subsequent storm events. 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, 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 the Sacramento River as identified in Table II-1 of the Basin Plan are municipal and domestic supply; industrial; and agricultural supply; water contact and other non-contact recreation; aesthetic enjoyment; navigation; ground water recharge, fresh water replenishment; and preservation and enhancement of fish, wildlife, and other aquatic resources.
9. The Basin Plan lists specific water quality objectives for inland surface waters. These objectives include limitations on sediment, settleable and suspended material, and turbidity. Based on staff observations, and water samples collected and analyzed, the

Discharger's activities have resulted in the discharge of waste, e.g., sediment and soil, into surface waters and surface water drainage courses and placed waste in areas where it threatens to discharge into surface water drainage courses during subsequent storm events. The discharge of waste and pollutants to surface waters has created 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 South Fork Bear Creek and 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. 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."

12. 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.”

13. 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 the California Water Code and Basin Plan requirements. The Dischargers are required to submit the technical reports because, as described in Findings 1 through 5, the Dischargers own the property that is the source of the discharges of waste and conducted the activities that are causing the discharges of waste.
14. 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.
15. 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 petition must be received by the State Board 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, Reverage Anselmo and Seven Hills Land & Cattle Company, LLC shall:

1. Cleanup the waste and abate, forthwith, the soil, sediment, and earthen materials discharged or placed into surface waters or surface water drainages or where such material could reasonably be expected to pass into surface waters including the previously identified small wet drainage, delineated on-site wetlands, and the South Fork Bear Creek tributary to Bear Creek in accordance with the schedule in No. 2 below.
2. Compliance with No. 1 above shall include, but not necessarily be limited to, the following measures:
 - (a) By **2 November 2007**, submit an Erosion and Sediment Control Plan prepared by, or under the direction of a Registered Civil Engineer, a Certified Professional in Erosion and Sediment Control, or other professional experienced and

knowledgeable in erosion and sediment controls. The Erosion and Sediment Control Plan must at a minimum include:

- i. An assessment of the condition of the Property as it relates to erosion and sediment control;
 - ii. A detailed list of recommended site specific erosion and sediment control Best Management Practices (BMPs); and
 - iii. A proposed maintenance and monitoring plan for the site specific erosion and sediment control BMPs implemented to mitigate the threat of continued soil, sediment, and earthen materials discharges from the Property.
- (b) By **16 November 2007**, complete installation of all erosion and sediment controls to prevent or minimize the discharge of soil, sediment, and earthen materials into surface waters from subsequent storm events.
- (c) By **10 December 2007**, submit a Report of Waste Discharge and appropriate fees (Water Quality Certification application) pursuant to CWC §13376 and §13260, for the illegal pond construction activity, bridge installation, and rip rap placement within South Fork Bear Creek on Parcel 3 (APN 093-260-025), which have already taken place without prior approvals.
- (d) By **15 January 2008**, submit a Wetlands Delineation for your property (APNs 093-260-023, -024, -025) prepared by a professional wetland delineator.
- (e) By **15 January 2008**, submit an Impacts Analysis Report prepared by a qualified environmental consultant, outlining all impacts that have occurred to stream and wetlands on the subject parcel as a result of the land clearing activities. The Impacts Analysis shall include a written summary calculating the duration and area of wetland and length of stream impacted by the soil, sediment and earthen materials (dredge or fill) discharged to waters of the state and/or U.S., and the events that led to the discharge.
- (f) By **15 February 2008**, submit a Cleanup and Restoration Plan. The Cleanup and Restoration Plan must describe how the impacts of the discharge will be abated and resolved, demonstrate how the cleanup and restoration will be completed, and how the effectiveness of the cleanup and restoration efforts will be evaluated (i.e. monitoring/maintenance/reporting). The Cleanup and Restoration Plan is to be prepared by a professional knowledgeable and experienced in wetlands and surface drainage restoration, and shall be approved by the Regional Water Board Assistant Executive Officer.
- (g) By **15 July 2008**, implement the approved Cleanup and Restoration Plan.

- (h) By **15 September 2008** submit to the Regional Water Board, a final report, including photo documentation, detailing compliance with the Order.
3. If requested, reimburse the Regional Water Board for reasonable costs associated with oversight of actions taken in response to this Order. By **2 November 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, which allows for administrative civil liability up to a maximum of five thousand dollars (\$5,000) or ten thousand dollars (\$10,000) depending on the section for each day of violation.

Original Signed

JAMES C. PEDRI, Assistant Executive officer

25 October 2007

(Date)