

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

CLEANUP AND ABATEMENT ORDER R5-2016-0702

ISSUED TO

ALLDRIN BOATRIGHT, LLC
STANISLAUS COUNTY

This Order is issued to Alldrin Boatright, LLC pursuant to Water Code section 13304, which authorizes the Central Valley Regional Water Quality Control Board (Central Valley Water Board or Board) to issue Cleanup and Abatement Orders, and Water Code section 13267, which authorizes the Board to require the submittal of technical and monitoring reports.

The Assistant Executive Officer of the Central Valley Water Board finds that:

1. Alldrin Boatright, LLC (hereafter Discharger) is the owner of multiple parcels totaling 490 acres in Stanislaus County (Assessor's Parcel Numbers [APNs] 002-063-004, 002-063-052, and 002-063-055; the "Properties") in the proximity of Orange Blossom Road and Sonora Road, east of Oakdale. The topography is rolling hills with areas of moderate to steep slopes. Significant grading and land modifications have been done in preparation for planting an orchard crop. Portions of the property are in young established orchard, and other portions have been graded in preparation for planting. Portions of the Properties appear to drain toward the Stanislaus River. Other portions of the property appear to flow into the South San Joaquin Irrigation District (SSJID) Main Canal.
2. The Stanislaus County APNs described above are recently amended parcel lines and numbers. The original numbers are cited in the staff inspection reports (see Attachment A). Staff checked the recent East San Joaquin Water Quality Coalition (ESJ) enrollment status and found that neither the previous parcel numbers nor the updated numbers are enrolled in the Irrigated Lands Regulatory Program for commercial irrigated cropland. Water Code section 13260 states, in relevant part:
 - (a) All of the following persons shall file with the appropriate regional board a report of the discharge, containing the information which may be required by the regional board:
 - (1) Any person discharging waste, or proposing to discharge waste, within any region that could affect the quality of the waters of the state, other than into a community sewer system.

The Assistant Executive Officer intends to issue a separate directive under Water Code section 13260 that requires the Discharger to obtain regulatory coverage for commercial irrigated lands.

3. On 24 November 2015, staff conducted inspections of foothill cropland to evaluate potential sediment and erosion potential impacts to waters of the State. The parcels described above were inspected from public access locations and aerial review. The inspection report is attached herein as Attachment A, and a parcel map is provided as Attachment B.
4. On 13 December 2015, California Department of Fish and Wildlife warden, Adam Cahn, documented erosion and sediment discharging from APN 002-063-055. Mr. Cahn provided staff with photographic evidence showing significant erosion and sediment discharging from the property, into the roadside ditch and subsequently into the Oakdale Irrigation District (OID) Tulloch

Lateral. The Tulloch Lateral flows all or in part into the OID Orange Blossom Drain, which then discharges all or in part into the Stanislaus River.

5. Sediment, when discharged to waters of the state, constitutes as a “waste” as that term is defined in Water Code section 13050. Due to the sloped topography and exposed nature of the disturbed (graded) soil at the Property. As noted by staff’s site inspections and documented by CDFW, there is a risk of significant erosion and sediment runoff and discharge into tributaries to the Stanislaus River, if adequate mitigation practices are not installed prior to rain events. The Board considers adequate erosion and sediment management practices to include, but not limited to management of soil stability, runoff velocity, and runoff volume that contribute to erosion and sediment discharges and meet the turbidity and other water quality objectives of the Water Quality Control Plan (Basin Plan) for the Sacramento and San Joaquin River Basins¹. The adequacy of management practices is based on site-specific conditions.
6. The *Water Quality Control Plan for the Sacramento River and San Joaquin River Basins, Fourth Edition*, (Basin Plan) designates beneficial uses, establishes water quality objectives, contains implementation plans and policies for protecting waters of the basin, and incorporates by reference plans and policies adopted by the State Water Board.
7. The beneficial uses of the Stanislaus River between Goodwin Dam and the San Joaquin River, as identified in Table II-1 of the Basin Plan, are municipal and domestic supply; agricultural supply; irrigation and stock watering; Rec-1 and Rec-2 water contact and non-contact recreation; warm and cold freshwater habitat; cold water salmon and steelhead migration; warm water spawning for striped bass, sturgeon, and shad; cold water spawn for salmon and steelhead; and wildlife habitat.
8. 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.
9. Water Code section 13304(a) states, in relevant part, that:

Any person who ... 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. ...

The Discharger’s grading activities, conducted on sloped topography, has resulted in the discharge of wastes to surface waters, which created or threatened to create, a condition of pollution or nuisance. Site conditions, and the potential for the site to discharge sediment into surface waters, are described in the Board’s Inspection Report (Attachment A).
10. Water Code section 13267(b)(1), states, in relevant part, that:

In conducting an investigation ... the regional board may require that any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes

¹ This document is available online here: http://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/

to discharge waste 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.

The technical reports required by this Order, including a Sediment and Erosion Control Plan and a Completion Report, are necessary to ensure that the Discharger will implement appropriate measures to protect waters of the State and to verify that those measures were installed. These reports would ordinarily be prepared before conducting any activities to ameliorate significant threats to water quality, even if such activities were not mandated by the Central Valley Water Board. As such, the burden of preparing the report bears a reasonable relationship to the benefits of such reports, which include the protection of waters of the State utilized for beneficial uses listed in Table II-1 of the Basin Plan (described in item 6 above), all of which could be impacted by sediment discharges from the Property. Alldrin Boatright, is hereby being required to submit these reports because it is the owner of the Property and is responsible for the grading activities conducted at the Property.

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 California Code of Regulations, title 14, section 15321(a).

IT IS HEREBY ORDERED THAT, pursuant to Water Code sections 13267 and 13304, Alldrin Boatright, LLC shall:

1. Immediately take all actions to prevent the discharge of sediment and other wastes to waters of the state, including but not limited to the Stanislaus River and its tributaries.
2. Immediately clean up and abate conditions which threaten to cause or permit wastes (soil and sediment) to be discharged or deposited to waters of the state, including the Stanislaus River and its tributaries.
3. The Discharger shall comply with this directive in accordance with the following schedule:
 - (a) The Discharger must immediately begin implementing soil stabilization and erosion control management practices.
 - (b) By **1 April 2016**, the Discharger must submit a ***Sediment and Erosion Control Plan*** to the Central Valley Water Board. The *Sediment and Erosion Control Plan* must describe all actions that the Discharger has taken to stabilize the soil and to implement erosion control measures, and must describe all additional actions that must be undertaken by the Discharger to stabilize the Property to prevent future discharges of sediment and all other wastes. The Plan must propose a timeline for the additional work that shall not extend beyond **1 July 2016**. The *Sediment and Erosion Control Plan* must contain contingency plans that will describe how the Discharger will clean up or mitigate any sediment discharges to surface waters, should they occur during rain events, and shall include timelines and long-term monitoring to assess the effectiveness of the sediment and erosion control efforts.

- (c) By **1 August 2016**, the Discharger must submit a **Completion Report** to the Board that will describe how the *Sediment and Erosion Control Plan* has been implemented, including photos showing the management practices that have been implemented for erosion and sediment control.
4. The *Sediment and Erosion Control Plan* and *Completion Report* must be written, amended, and certified by a qualified professional possessing one of the following registrations or certifications, and appropriate experience with erosion issues: California registered professional civil engineer, geologist, engineering geologist, landscape architect; NRCS Certified Conservation Planner; professional hydrologist registered through the American Institute of Hydrology; certified soil scientist registered through the American Society of Agronomy; Certified Professional in Erosion and Sediment Control (CPSEC)™/Certified Professional in Storm Water Quality (CPSWQ)™ registered through EnviroCert International, Inc.; or a professional in erosion and sediment control registered through the National Institute for Certification in Engineering Technologies (NICET).
5. 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.”*
6. **Report Submittals.** All monitoring and technical reports required under this Order shall be submitted to:
- California Regional Water Quality Control Board, Central Valley Region
Attn: Terry Bechtel
11020 Sun Center Drive, Suite 200
Rancho Cordova, CA 95670
7. If for any reason, the Discharger is unable to perform any activity or submit any document in compliance with work schedule set forth herein, or in compliance with any work schedule submitted pursuant to this Order and approved by the Assistant Executive Officer, the Discharger may request, in writing, an extension of the time specified. The extension request shall include justification for the delay. Any extension request shall be submitted as soon as the situation is recognized and no later than the compliance date. An extension may be granted by revision of this Order or by letter from the Assistant Executive Officer. Extension requests not approved in writing by the Assistant Executive Officer with reference to this Order are denied.

If, in the opinion of the Assistant Executive Officer, the Discharger fails to comply with the provisions of this Order, the Assistant Executive Officer may refer this matter to the Attorney General for judicial enforcement, may issue a complaint for administrative civil liability, or may take other enforcement actions. Failure to comply with this Order may result in the assessment of Administrative Civil Liability of up to \$10,000 per violation, per day, depending on the violation, pursuant to the Water Code, including sections 13268, 13350 and 13385. The Central Valley Water Board reserves its right to take any enforcement actions authorized by law.

Any person aggrieved by this action of the Central Valley Water Board may petition the State Water Board to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, sections 2050 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of this Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at:

http://www.waterboards.ca.gov/public_notices/petitions/water_quality

or will be provided upon request.

This Order is effective upon the date of signature.

[Original signed by]

ANDREW ALTEVOGT, Assistant Executive Officer

1 February 2016

(Date)

Attachments: 24 November 2015 Staff Inspection Report w/ 13 December 2015 CDFW Photos