

California Regional Water Quality Control Board
North Coast Region

Cleanup and Abatement Order No. R1-2004-0081

For

Don Soberg and Daniel Austin
Soberg Property
15025 River Road, Guerneville, CA

Sonoma County

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

1. Don Soberg of 40 Marigold Lane, Forestville, California, owns property located at 15025 River Road in Guerneville, California. The property fronts the Russian River approximately one mile east of the town of Guerneville, CA. Mr. Soberg entered into an agreement to lease a commercial establishment on the property to a Mr. Daniel Austin.
2. On July 6, 2004, the Regional Water Board received a call from a California Department of Fish and Game warden, with information regarding alleged unauthorized grading activities that had been occurring within the banks of the Russian River at Mr. Soberg's River Road property. Sonoma County is the local government with regulatory jurisdiction over the property's land use.
3. On July 13, 2004, Regional Water Board staff inspected property located at 15025 River Road, Guerneville, to determine whether unauthorized grading had occurred and, if so, what impact it might have on water quality of the Russian River. Staff met with California Department of Fish and Game personnel, Mr. Soberg, Mr. Austin and other interested persons.
4. Mr. Soberg stated that a contractor, hired by Mr. Austin, was apparently instructed to clear some brush and perform some minor grading work. Apparently, the contractor proceeded to do major grading work and tree removal directly adjacent to the Russian River. This grading work included the construction of a boat ramp on a steep portion of riverbank, and the expansion of an existing boat ramp by significantly grading the riverbank. Additional grading work was performed along approximately 100 feet of riverbank.
5. The grading work has resulted in several deep cuts into the riverbank, and has left a significant volume of unconsolidated sediments directly adjacent to the low flow channel of the river. Due to the low river level at the time of this activity, no sediments were discharged into the river. However, the cuts and unconsolidated sediments constitute a threatened discharge of waste to the Russian River.

6. This work was done without appropriate federal, state or county permits, all of which may be necessary for this type of activity.
7. Regional Water Board staff inspection of this property confirm that a discharge of sediments threaten to adversely impact surface water quality of the Russian River.
8. The beneficial uses of the Russian River, as designated in the Water Quality Control Plan for the North Coast Region (Basin Plan), include:
 - a. Municipal and domestic supply
 - b. Agricultural supply
 - c. Industrial supply
 - d. Industrial service supply
 - e. Groundwater recharge
 - f. Navigation
 - g. Water contact recreation
 - h. Non-contact water recreation
 - i. Warm freshwater habitat
 - j. Cold freshwater habitat
 - k. Rare, threatened, or endangered species
 - l. Migration of Aquatic Organisms
 - m. Spawning, Reproduction and/or Early Development
 - n. Wildlife habitat
 - o. Estuarine habitat
9. The Basin Plan contains specific standards and provisions for maintaining high quality waters of the state that provide for the beneficial uses listed above. The Action Plan for Logging, Construction and Associated Activities (which includes construction related materials) in the Basin Plan includes two prohibitions:
 - Prohibition 1 - “The discharge of soil, silt, bark, slash, sawdust, or other organic and earthen material from any logging, construction, or associated activity of whatever nature into any stream or watercourse in the basin in quantities deleterious to fish, wildlife, or other beneficial uses is prohibited.”
 - Prohibition 2 - “The placing or disposal of soil, silt, bark, slash, sawdust, or other organic and earthen material from any logging, construction, or associated activity of whatever nature at locations where such material could pass into any stream or watercourse in the basin in quantities which could be deleterious to fish, wildlife, or other beneficial uses is prohibited.”

10. The Action Plan states: “where investigations indicate that the beneficial uses of water may be adversely affected by waste dischargers, the staff shall require the submission of Reports of Waste Discharge.”
11. Grading work performed at 15025 River Road, Guerneville, has placed sediments where they threaten to discharge into waters of the state, and has created the possibility of severe flow-related erosion for streambank areas. Sediments can have a direct and deleterious impact to fish spawning areas, can impact fish gills impairing respiration, and can make it difficult for fish to locate food. Sediment loads can also result in negative impacts to invertebrates and other aquatic organisms.
12. The quantity and manner in which grading work has been performed, and associated sediments discharged to the ground has created a threatened discharge of sediments to the Russian River which, unless removed, will prove deleterious to fish and other aquatic organisms, and the direct loss of other beneficial uses, and therefore violates Prohibitions 1 and 2 in the Action Plan. These detrimental effects also constitute the creation of pollution or nuisance.
13. The workplan required by this Order is necessary to ensure that the future threat to water quality created by the grading work and associated waste material placement described above, or any other pollutant discharges, are properly abated and controlled. More detailed information is available in the Regional Water Board’s public file on this matter.
14. This is an enforcement action by a regulatory agency, being taken for the protection of the environment, and is exempt from the provisions of the California Environmental Quality Act (Pub. Resources Code Section 21000 et seq.) in accordance with California Code of Regulations (CCRs), Title 14, Sections 15308 and 15321.
15. Failure to comply with the terms of this Order may result in enforcement under the CWC. Any person failing to cleanup or abate threatened or actual discharges as required by this Order is, pursuant to CWC Section 13350(e), subject to administrative civil liabilities of up to five thousand dollars (\$5,000.00) per day.
16. Any person affected by this action of the Regional Water Board may petition the State Water Resources Control Board (State Water Board) to review the action in accordance with CWC Section 13320 and Title 23, CCRs, Section 2050. The petition must be received by the State Water Board within 30 days of the date of this Order. Copies of the law and regulations applicable to filing petitions will be provided upon request. In addition to filing a petition with the State Water Board, any person affected by this Order may request the Regional Water Board to reconsider this Order. To be timely, such request must be made within 30 days of the date of this Order. Note that even if reconsideration by the Regional Water Board is sought, filing a petition with the State Water Board within the 30-day period is necessary to preserve the petitioner’s legal rights. If you choose to request reconsideration of this Order or file a petition with the State Water Board, be advised that

you must comply with the Order while your request for reconsideration and/or petition is being considered.

17. THEREFORE, IT IS HEREBY ORDERED that, pursuant to CWC Sections 13267(b) and 13304, the Mr. Austin and Mr. Soberg Mr. (hereinafter collectively referred to as “the Dischargers”) shall cleanup and abate the above discharges by complying with the following requirements:

1. Immediately cease activities that result in threatened discharges of sediments to surface waters. Submit¹ an abatement and restoration workplan to the Regional Water Board, for Executive Officer concurrence, on or before October 30, 2004, that includes the following:
 - (a) a plan to immediately abate the threatened discharge of unconsolidated sediments from areas where they can easily wash into the Russian River;
 - (b) a plan to restore riverbank stability in areas disturbed by construction activity and prevent discharges to waters of the state via high river flows or storm water runoff; and
 - (c) a list of all necessary permits from federal, state or local oversight agencies, including but not limited to the U.S. Army Corps of Engineers, Department of Fish and Game, Sonoma County Permit and Resource Management Department and the Regional Water Board.
2. Following Executive Officer written concurrence, implement part (a) of the workplan. All abatement work to ensure that erosion and sediment control pollution reduction practices are implemented, by temporary and/or permanent measures, must be completed before November 30, 2004. This work shall be limited to sediment removal of disturbed areas to conditions that represent those existing prior to grading activities.
3. Obtain all necessary permits for permanent restoration of disturbed areas. Permanent restoration measures will likely be delayed until after the 2004/2005 rain season, given the typical time period needed to design the remediation project and obtain all necessary federal, state and local permits.
4. If, for any reason, the Dischargers are unable to perform any activity or submit any documentation in compliance with the deadlines for the above tasks or in the workplan implementation schedule submitted pursuant to this Order and concurred with by the Executive Officer, the Dischargers may request, in writing, an extension of the time as specified. The written extension request shall include justification for the delay and

¹ The word “submit,” as used in this Order, means that document(s) must be actually received by the Regional Water Board by the applicable deadline.

shall be received by the Regional Water Board not less than 15 calendar days prior to the deadline sought to be extended. An extension may be granted for good cause, in which case this Order will be accordingly revised.

5. This Order in no way limits the authority of the Regional Water Board to institute additional enforcement actions or to require additional investigation and cleanup at the facility consistent with the California Water Code. This Order may be revised by the Executive Officer as additional information becomes available.

Ordered by _____

Catherine E. Kuhlman
Executive Officer

October 12, 2004