

California Regional Water Quality Control Board
North Coast Region

Cleanup and Abatement Order
No. R1-2010-0058

For
URJ Camp Newman
APN # 028-070-015

Sonoma County

This Cleanup and Abatement Order (Order) is issued to URJ Camp Newman, (hereinafter Discharger), based on provisions of California Water Code (CWC) §13304, which authorizes the California Regional Water Quality Control Board, North Coast Region (Regional Water Board) to issue a Clean and Abatement Order, and CWC §13267, which authorizes the Regional Water Board to require preparation and submittal of technical and monitoring reports.

The Executive Officer of the Regional Water Board finds that:

1. The Discharger owns land located at 4088 Porter Creek Road, in Sonoma County, identified as Sonoma County Assessor's Parcel Number (APN) 028-070-015 (Site). The Site is situated within the Russian River watershed. Drainage from the Site discharges to an unnamed tributary to Porter Creek. Porter Creek is tributary to Mark West Springs Creek, which flows to the Russian River.
2. The Discharger owns a dam that it operates as a recreational facility associated with a summer youth camp.
3. On May 5, May 6, and May 17, 2010, Regional Water Board staff documented the following at the Site:
 - a. The impoundment, owned and operated by the Discharger, had been emptied, which resulted in the discharge of impounded water and entrained fine sediments to an unnamed tributary and Porter Creek. This discharge occurred over a period of two to three weeks starting sometime in April of 2010.
 - b. A minimum of 43 cubic yards of material was deposited in the unnamed tributary downstream of the dam. In addition, sediment deposition extended for the entire reach of Porter Creek that staff were able to observe, which was approximately 620 feet downstream from the confluence of the unnamed tributary with Porter Creek. The sediments discharged from the impoundment coated the streambed in the observed riffles and glides to the degree that any salmonid eggs or alevin still in redds are likely to have perished. The fine sediments were found throughout the streambed, but most prominently on the channel margins, in pools, and behind boulders, logs, and other flow obstructions. The color and texture of the sediments makes them easy to distinguish from other sediments.

- c. The discharge increased the turbidity of Porter Creek by 344%, as observed from samples acquired by Regional Water Board staff on May 6, 2010.
 - d. The discharge increased the turbidity of the unnamed tributary 1,961% as observed from samples acquired by Regional Water Board staff on May 6, 2010.
 - e. The gate valve that drains the impoundment from the bottom is broken, requiring the installation of a shut off valve on the outlet end of the gate valve pipe.
 - f. The impoundment's spillway has been modified in a manner that drastically reduces its capacity to accommodate high flows, resulting in the overflow of the impoundment in the recent past, and threatening stability of the impoundment in the future.
 - g. The impoundment leaks at the base of the spillway when the gate valve is shut off at the outlet, indicating that the dam may be compromised or the gate valve drain pipe may be failing. Either condition constitutes a threat of further discharge of sediment in violation of water quality regulations.
4. The Discharge of sediment-laden water from the impoundment resulted in sediment and turbidity discharges sufficient to impact beneficial uses and likely resulting in lasting impacts to water quality from in-stream sediment deposits.
 5. The State Water Resources Control Board Water Quality Enforcement Policy (November 2009) establishes priority ranking for enforcement actions. Such a violation as described herein is a Priority 1 violation as an unauthorized discharge that poses significant threat to water quality.
 6. Sediment, when discharged to waters of the state, constitutes a "waste" as defined in CWC §13050.
 7. The *Water Quality Control Plan for the North Coast Region (January 2007)*, (hereinafter 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 for the Russian River Hydrologic Area ¹, as identified in Table 2-1 of the Basin Plan are:

¹ Beneficial uses of any specifically identified water body generally apply to all of its tributaries.

Table 2-1

- | | |
|----------------------------------|---|
| a. Municipal and domestic supply | l. Warm Freshwater Habitat |
| b. Agricultural supply | m. Cold freshwater habitat |
| c. Industrial service supply | n. Rare, threatened, or endangered species (RARE) |
| d. Industrial process supply | o. Wildlife habitat |
| e. Groundwater recharge | p. Migration of aquatic organisms |
| f. Hydropower Generation | q. Spawning, reproduction, and/or early development |
| g. Freshwater replenishment | r. Estuarine habitat |
| h. Navigation | s. Aquaculture |
| i. Water contact recreation | |
| j. Non-contact water recreation | |
| k. Commercial and sport fishing | |

8. The Discharger's activities, as described in Paragraph 3, above, have resulted in the discharge of waste into surface waters, which has created, or threatens to create, a condition of pollution or nuisance by altering the quality of waters in the Russian River watershed to a degree that unreasonably affects their beneficial uses.
9. Section 3 of the Basin Plan contains water quality objectives that specify limitations on certain water quality parameters not to be exceeded as a result of waste discharges. These water quality objectives are considered of particular importance in protecting beneficial uses from unreasonable effects. The Discharger's actions have resulted in violations of all the following objectives:
- Suspended Material: Waters shall not contain suspended material in concentrations that cause nuisance or adversely affect beneficial uses.
 - Settleable Material: Waters shall not contain substances in concentrations that result in deposition of material that causes nuisance or adversely affects beneficial uses.
 - Sediment: The suspended sediment load and suspended sediment discharge rate of surface waters shall not be altered in such a manner as to cause nuisance or adversely affect beneficial uses.
 - Turbidity: Turbidity shall not be increased more than 20 percent above naturally occurring background levels. Allowable zones within which higher percentages can be tolerated may be defined for specific discharges upon the issuance of discharge permits or waiver thereof.
10. State Water Resources Control Board Resolution No. 68-16, *Statement of Policy With Respect To Maintaining High Quality Waters In California* (Anti-degradation Policy) provides that existing high quality waters shall be maintained, and a discharge of waste will be required to meet waste discharge requirements that result in the best practicable control of the discharge to assure that: a) pollution

or nuisance will not occur, and b) the highest water quality will be maintained.²

11. The Discharger's activities, as described in Paragraphs 3 above, have resulted in the discharge of waste into surface waters in violation of the Basin Plan Water Quality Objectives.

12. CWC §13304, subdivision (a) provides:

Any person who has discharged or discharges waste into the waters of this state in violation of any waste discharge requirement 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 not limited to, overseeing cleanup and abatement efforts.

13. CWC §13267, subdivision (a) provides that the Regional Water Board may investigate the quality of any waters of the state within its region in connection with any action relating to the Basin Plan. CWC §13267, subdivision (b) provides that the Regional Water Board, in conducting an investigation, may require a discharger to furnish, under penalty of perjury, technical or monitoring program reports. The burden of these technical reports shall bear a reasonable relationship to the need for these reports and the benefits to be obtained from them.

14. CWC §13050(l) defines "pollution" as an alteration of the quality of the waters of the state by waste to a degree that unreasonably affects the waters for beneficial uses.

15. As described in finding #3, the Discharger is subject to an Order pursuant to CWC §13304 because the Discharger has caused or permitted waste to be discharged or deposited where it has discharged to waters of the state in violation of Basin Plan Water Quality Objectives issued by the Regional Water Board and has created, and continues to threaten to create, a condition of pollution or nuisance. The condition of pollution is a priority violation and issuance or adoption of a cleanup and abatement order pursuant to CWC §13304 is appropriate and consistent with policies of the Water Board.

16. The Russian River watershed is identified on the 303(d) list of impaired waterbodies as impaired due to sediment and temperature conditions. Sediment discharges, such as those caused by the Discharger in this instance, contribute to the listed impairments. As part of an effort to control sediment waste discharges and restore sediment impaired waterbodies, the Regional Water Board adopted the Total Maximum Daily Load Implementation Policy Statement for Sediment Impaired Receiving Waters in the North Coast Region, which is also

²In 1986, Resolution 68-16 was reconfirmed and is adopted as a water quality objective into all 16 of the states water quality control plans.

known as the Sediment TMDL Implementation Policy, on November 29, 2004. This Policy was adopted through Resolution R1-2004-0087. The Sediment TMDL Implementation Policy states that Regional Water Board staff shall control sediment pollution by using existing permitting and enforcement tools. The goals of the Policy are to control sediment waste discharges to impaired waterbodies so that the TMDLs are met, sediment water quality objectives are attained, and beneficial uses are no longer adversely affected by sediment. The control of sediment discharges may result in improvements in temperature conditions. This order controls and reduces sediment discharges and therefore constitutes early implementation for the sediment and temperature impairments.

17. Pursuant to CWC §13304 (c)(1), the Regional Water Board is entitled to and can seek reimbursement for reasonable costs incurred to investigate the unauthorized discharge of wastes, to oversee clean up of the wastes, supervising clean up and abatement activities, or taking other remedial actions required by this order.
18. The technical reports required pursuant to this Order are needed to provide information to the Regional Water Board regarding the condition of pollution caused or contributed by the Discharger's activities to waters of the state. The benefits to be obtained from a technical report include enabling the Regional Water Board to determine the impacts of the condition of pollution on beneficial uses and to provide information that will be used to determine what corrective actions are necessary to assess, abate, and control the pollution. Based on the nature and possible consequences of the discharges, the burden of providing the required reports bears a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.
19. This is an enforcement action taken by a regulatory agency for the protection of the environment and is exempt from the provisions of the California Environmental Quality Act (Pub. Resources Code, §§21000 *et seq.*), in accordance with California Code of Regulations, title 14, §§15308 and 15321.
20. Failure to comply with the terms of this Order may subject the Discharger to an enforcement action under the Water Code, including administrative civil liabilities under CWC §§13350, and/or 13385. Liability imposed could range up to ten thousand dollars (\$10,000) per day or twenty-five dollars (\$25) per gallon of waste discharged in excess of 1,000 gallons.
21. 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 §13320 and title 23, California Code of Regulations, §§2050-2068. The State Water Board must receive the petition 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 Executive Officer to reconsider this Order. To be timely, such request must be made within 30 days of the date of this Order.
22. Note that even if reconsideration is sought, filing a petition with the State Water Board within the 30-day period is necessary to preserve the petitioner's legal

rights. Additionally, if the Discharger chooses to request reconsideration of this Order or file a petition with the State Water Board, the Discharger is hereby advised that it must comply with the Order while its request for reconsideration and/or petition is being considered.

THEREFORE, IT IS HEREBY ORDERED that, pursuant to CWC §§13304 and 13267, the Discharger shall provide the following information and perform the following cleanup and abatement actions:

1. By **July 22, 2010** submit a plan to the Regional Water Board for Executive Officer concurrence to clean up and abate by **November 15, 2010**: 1) the discharge of sediment from the impoundment, and 2) the effects of sediment discharged from the impoundment in affected stream reaches. This plan at a minimum must include the following:
 - design and construction specifications for cleanup and abatement of the impoundment and the affected stream reaches, including a map of the affected stream reaches and where cleanup and abatement activities will occur.
 - description of stabilization methods , including a map of the location where earthen materials will be disposed of or stored after clean up of the stream or impoundment,
 - design and construction specifications for stabilizing the affected stream reaches after cleanup and abatement activities,
 - design and construction specifications for restoration of riparian vegetation, if necessary after cleanup and abatement work is accomplished.
 - design and construction specifications for the removal or repair of the impoundment,
2. By **July 22, 2010**, submit the following technical reports:
 - a. A detailed geotechnical analysis of the dam integrity and condition that includes the following analysis and information:
 - water storage capacity (in acre feet) before the discharge;
 - subsurface analysis of outlet pipe leakage;
 - seismic stability analysis;
 - spillway flood capacity;
 - estimate of volume (cubic yards) of the stored sediment behind the dam;
 - description of existing water right for the in-stream impoundment;
 - estimate of volume (cubic yards) of the sediment that has eroded and discharged from the impoundment;
 - a description of method and manner of calculation and analysis for all information provided.
 - b. A detailed report on the history of the impoundment including the following information:
 - when the dam was built;

- maintenance records and history – including the spillway, gate valves, and any plumbing;
 - permitting history and status;
 - history of any retrofits such as the apparent modifications to the spillway;
 - frequency of dredging;
 - location(s) of dredged materials disposal;
 - date the impoundment was drained resulting in the documented discharge;
 - a map of the property (including a map legend) showing roads and watercourse crossings, dumpster locations, waste disposal areas, waste treatment areas, areas where earthen materials have been stored or will be stored.
3. By **July 22, 2010**, submit to the Regional Board Executive Officer for review and concurrence a Monitoring and Reporting Plan that includes, at a minimum, monthly progress reporting on restoration, cleanup, and erosion control road work **due on the first of each month following submittal and acceptance of the Monitoring and Reporting plan (starting on September 1, 2010) for monthly progress reporting.** The monthly reports are required until conclusion of cleanup and abatement activities.
4. By **July 22, 2010**, submit to the Regional Board Executive Officer for review and concurrence a post-clean up Restoration Monitoring Plan, to be implemented following restoration activities to: 1) assess and document successful abatement of sediment from the site, 2) monitor the site when the potential for diversion and site failure are high until successful restoration is accomplished, and/or identify problems that develop subsequently and require further work. The Restoration Monitoring Plan shall include a schedule for submittal of reports three times per year until the restoration is completed to the satisfaction of the Regional Water Board. Reports are due **December 31, March 31, and June 30.**
5. Following Executive Officer written concurrence, the Discharger shall immediately implement and fully complete all necessary cleanup and abatement work including: 1) removal or repair of the impoundment on the Site, 2) restoration of the stream channel, 3) stabilization of the restored areas with plantings of native vegetation, and 4) monitoring and reporting, as required above.
6. By **August 19, 2010**, submit to the Regional Water Board for Executive Officer concurrence an Impoundment Management Plan, describing how the dam and impoundment will be managed to prevent downstream water quality impacts, including any plans to repair or reconstruct the dam. This plan must include at a minimum the following:
- a. standard operating procedures for operation of the dam;
 - b. minimum freeboard to be maintained;
 - c. decision criteria for dam releases;
 - d. an Emergency Action Plan, consistent with guidelines published by the USDA Natural Resources Conservation Service;

- e. a maintenance and inspection schedule;
 - f. a description of how water quality in the impoundment and all downstream areas will be protected.
7. All work to remediate and to restore all affected areas at the Site shall be completed, with the exception of continuing monitoring requirements, prior to **November 15, 2010**.
 8. By **December 15, 2010**, submit a report summarizing and confirming completion of all cleanup and abatement work.
 9. All of the above deliverable items must be certified by a licensed civil engineer or professional geologist with experience in erosion control, in-stream restoration, and dam safety and construction.
 10. If the Discharger is unable to perform any activity or to submit any documentation in compliance with the deadlines in this Order, the Discharger may submit a written request to the Executive Officer for an extension of the time schedule. The written extension request shall explain why the delay is beyond the reasonable control of the Discharger and must be received by the Regional Water Board no less than 15 calendar days prior to the respective deadline. An extension may be granted by the Executive Officer, for good cause, in which case this Order will be accordingly revised.
 11. This Order in no way limits the authority of this Regional Water Board to institute additional enforcement actions or to require additional investigation and cleanup at the Site consistent with the California Water Code. This Order may be revised by the Executive Officer as additional information becomes available.

Ordered by

Original signed by

Catherine Kuhlman
Executive Officer

June 16, 2010