

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
SAN DIEGO REGION**

**CLEANUP AND ABATEMENT ORDER NO. R9-2002-0066  
FOR**

**RON VENEGAS  
BUENA CREEK NURSERY  
1280 SUNSET DRIVE  
VISTA, CA 92084**

The California Regional Water Quality Control Board, San Diego Region (hereafter Regional Board), finds that:

1. Ron Venegas and Buena Creek Nursery (hereafter Discharger) own and operate a nursery at 39664 De Luz Road approximately 9 miles north of Fallbrook, CA. The site is located in the DeLuz Creek Subarea (902.21) of the Santa Margarita Hydrologic Unit (902.00) *Water Quality Control Plan, San Diego Basin (9), 1994* as described in the (hereafter basin plan).
2. DeLuz Creek runs directly west of the site described in Finding No. 1. The Basin Plan has designated the beneficial uses of inland surface waters for DeLuz Creek as Municipal and Domestic Supply (MUN), Agricultural Supply (AGR), Industrial Supply (IND), Contact Water Recreation (REC-1), Non-contact Recreation (REC-2), Warm Freshwater Habitat (WARM), Cold Freshwater Habitat (COLD), Wildlife Habitat (WILD), and Rare, Threatened, & Endangered Species (RARE).
3. On or before July 25, 2001, the Discharger has violated the General Construction Storm Water Permit No. 99-08-DWQ, Section C.2 and California Water Code (CWC) by failing to implement an effective combination of sediment and erosion control Best Management Practices (BMPs) resulting in a threatened discharge of sediment laden water into DeLuz Creek.
4. On or before July 25, 2001, the Discharger placed fill material into an unnamed tributary of DeLuz Creek where it has been discharged to waters of the State and threatens to cause a condition of pollution or nuisance.
5. On or before November 28, 2001, and in violation of CWC Section 13264, the Discharger discharged nutrient and sediment laden irrigation runoff directly into DeLuz Creek threatening to cause a condition of pollution or nuisance.

6. An active restoration effort is needed to protect Deluz Creek and its tributaries Creek from long-term, adverse consequences of the discharge and cleanup activities, as well as abate the effects of increased erosion and a discharge of sediment downstream, and to restore water quality functions and beneficial uses.
7. Pursuant to CWC Section 13304, the Regional Board is entitled to, and may seek reimbursement for, all reasonable costs actually incurred by the Regional Board to investigate unauthorized discharges of waste and to oversee cleanup of such waste, abatement of the effects thereof, or other remedial action, required by this Order.
8. This enforcement action is being taken for the protection of the environment and, as such, is exempt from the provisions of the California Environmental Quality Act (Public Resources Code, Section 2100 Et seq.) in accordance with Section 15108, Chapter 3, Title 14, California Administrative Code.

**IT IS HEREBY ORDERED** that, Pursuant to Section 13304 of Division 7 of the California Water Code:

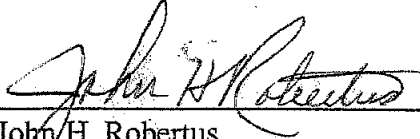
1. The Discharger shall cleanup all waste discharged to DeLuz Creek and its tributaries, abate all effects of the discharge of wastes into DeLuz Creek and its tributaries, and take any other remedial actions, which may be necessary to abate effects of the discharged waste.
2. The Discharger shall immediately comply with all requirements of Construction Storm Water Permit No. 99-08-DWQ, including, but limited to:
  - a. Filing a Notice of Intent; and
  - b. Implementing an effective combination of sediment and erosion control on all disturbed areas during the rainy season; and
  - c. Developing a Storm Water Pollution Prevention Plan.
3. **By May 1, 2002**, Ron Venegas and Buena Creek shall develop and implement a restoration plan, by a qualified biologist, that will minimize channel erosion and increased sedimentation, and shall mitigate for unauthorized temporal and spatial impacts to waters of the U.S.
4. Discharger shall obtain all necessary approvals from the California Department of Fish and Game, the U.S. Army Corps of Engineers, Regional Water Quality Control Board, County of San Diego and other applicable federal, state, and local authorities for any cleanup and restoration work.

5. **By April 1, 2002**, the Discharger shall implement temporary BMPs recommended by the Natural Resource Conservation Service to prevent the discharge of nutrient laden irrigation runoff water into DeLuz Creek and **by September 1, 2002**, the Discharger shall implement permanent BMPs recommended by the Resource Conservation District to eliminate any discharges of irrigation water to DeLuz Creek.
  
6. **By September 1, 2002**, the Discharger shall submit a report that documents that the required abatement actions have been taken and that all necessary approvals for the cleanup and restoration work were obtained, and provide under penalty of perjury under the laws of California a "Certification of Completion" statement to the Regional Board that all directives of this Order have been met.

The "Certification of Completion" shall include the following signed statement:

*I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.*

Pursuant to California Water Code section 13350, any person who intentionally or negligently violates a cleanup and abatement order may be liable civilly in an amount which shall not exceed five thousand dollars (\$5,000), but shall not be less than five hundred dollars (\$500), for each day in which the cleanup and abatement order is violated.

  
 \_\_\_\_\_  
 John H. Robertus  
 Executive Officer

3-5-02  
 Date