

STATE OF CALIFORNIA  
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
SAN FRANCISCO BAY REGION

CLEANUP AND ABATEMENT ORDER No. R2-2014-0037

JOHN BAMBURY  
SONOMA COUNTY

The California Regional Water Quality Control Board, San Francisco Bay Region (hereinafter the Regional Water Board), finds that:

1. John Thomas Bambury (Discharger) owns approximately 18 acres of land at 5750 Stage Gulch Road, Assessor's Parcel Numbers 142-042-021 and 142-042-024, in unincorporated Sonoma County (Site). The Site is a former golf course driving range.
2. The Discharger performed land development activities at the Site without proper authorizations and permits from the Regional Water Board, the California Department of Fish and Wildlife (CDFW), or Sonoma County. The Discharger's land development activities involved removing vegetation from much of the Site, grading the Site including an unnamed creek channel, and grading and excavation of an in-stream pond to increase its size. On August 12, 2014, Sonoma County staff issued a stop work order to the Discharger regarding the land development activities being performed at the Site. County staff has indicated that the Discharger is currently complying with the stop work order.
3. The Site's unnamed creek channel and in-stream pond that were adversely impacted by the Discharger during the land development activities constitute waters of the State. The unnamed creek channel is tributary to Champlin Creek, which in turn is tributary to Sonoma Creek. Sonoma Creek is identified as a sediment-impaired water body pursuant to federal Clean Water Act (CWA) section 303(d).
4. The Regional Water Board's Water Quality Control Plan for the San Francisco Bay Basin (Basin Plan) defines the existing and potential beneficial uses for waters within the Region. The beneficial uses of any specifically identified water body generally apply to all its tributaries. The Basin Plan designates the following existing and potential beneficial uses for the Sonoma Creek: commercial and sport fishing, cold freshwater habitat, fish migration, preservation of rare and endangered species, fish spawning, warm freshwater habitat, wildlife habitat, and contact and noncontact water recreation.
5. On September 10, 2014, Regional Water Board and CDFW staff inspected the Site in response to notification received from the Sonoma County Agricultural Commissioner's Office. Staff observed that the unnamed creek channel on the Site had been graded and completely stripped of its riparian habitat and the in-stream pond deepened and widened. Elimination of the riparian habitat is notable in that it involved removal of large mature trees in addition to the understory, as evidenced by several piles of large trees and other woody vegetation staff observed during the inspection and by examination of historic aerial photos of the Site. Additionally, aside from placement of a few straw

waddles within the graded creek channel, the Site lacked adequate erosion and sediment control measures.

6. The Discharger has unreasonably affected or threatens to affect water quality and beneficial uses by grading and reconfiguring the shape of the creek channel, loosening and depositing soil in the creek channel, and eliminating the creek's mature riparian habitat, which threaten the stability of the onsite creek channel and that of the down-gradient receiving waters.
7. The Discharger's illicit grading, excavation and riparian vegetation removal activities at the Site are in violation of California Water Code (CWC) sections 13260 and 13264, and the Basin Plan as described below:
  - a. CWC section 13260 requires that any person discharging waste, or proposing to discharge waste, within any region that could affect the quality of the waters of the State, shall file with the appropriate Regional Water Board a Report of Waste Discharge (ROWD). CWC section 13264 further provides that no person shall initiate any new discharge of waste, or make any material changes in any discharge, prior to the filing of the ROWD required by CWC section 13260. The Discharger has not filed a ROWD with the Regional Water Board for the grading, excavation, and vegetation clearing activities performed at the Site, which could adversely impact the quality of waters of the State. Accordingly, the Discharger is in violation of CWC sections 13260 and 13264.
  - b. Chapter 4, Table 4-1 of the Basin Plan prohibits the discharge of silt, sand, clay, or other earthen materials from any activity in quantities sufficient to cause deleterious bottom deposits, turbidity, or discoloration in surface waters or to unreasonably affect or threaten to affect beneficial uses. The Discharger's grading and excavation of the Site's creek channel, and corresponding deposition of soil into the channel, as well as the elimination of the Site's mature riparian habitat, has destabilized the Site's creek channel and threatens to destabilize and discharge sediment into the down-gradient receiving waters, Champlin Creek and Sonoma Creek, thereby unreasonably affecting or threatening to affect beneficial uses. Sonoma Creek is a CWA section 303(d) listed sediment-impaired water body. Accordingly, the Discharger's illicit grading, excavation, and vegetation clearing activities at the Site are in violation of the Basin Plan.
8. CWC section 13304 requires any person who has caused or permitted waste to be discharged or deposited into waters of the State and created a condition of pollution or nuisance to clean up the waste and abate the effects thereof upon order of the Regional Water Board.
9. Based on the above findings, the Regional Water Board finds that the Discharger has caused or permitted waste to be discharged or deposited where it has been discharged

into waters of the State, and created or threatens to continue to create a condition of pollution. As such, pursuant to CWC sections 13267 and 13304, this Order requires the Discharger to submit technical reports to enable the Regional Water Board to understand the extent, scope, and character of the discharge and its impacts, and requires the Discharger to undertake corrective action to clean up the waste it discharged and abate its effects.

10. This Order is an action to enforce the laws and regulations administered by the Regional Water Board. As such, this action is categorically exempt from the California Environmental Quality Act, pursuant to section 15321(a)(2) of Title 14, California Code of Regulations.
11. Pursuant to CWC section 13304, the Discharger is hereby notified that the Regional Water Board is entitled to, and may seek reimbursement for, all reasonable costs actually incurred by the Regional Water Board to investigate unauthorized discharges of waste and to oversee cleanup of such waste, abatement of the effect thereof, or other remedial action, required by this Order.

IT IS HEREBY ORDERED, pursuant to sections 13267 and 13304 of the CWC, that the Discharger shall submit the required technical reports and clean up the waste discharged, abate its effects, and take other remedial actions as follows:

**A. Prohibitions**

1. No silt, sand, clay or other earthen material, debris, cement, concrete, or washings thereof, petroleum products or other unauthorized construction-related materials or wastes, shall be allowed to enter into or be placed where it may be washed by rainfall or runoff into waters of the State.
2. The discharge of sediment, waste products, hazardous materials, or other materials that will degrade, or threaten to degrade, water quality, or adversely affect, or threaten to adversely affect existing or potential beneficial uses of the waters of the State is prohibited.
3. The discharge of sediments to waters of the State resulting from failure to provide effective erosion and sediment control measures is prohibited.
4. Removal of riparian vegetation in a manner that impacts water quality in any creek, or other water of the State is prohibited.
5. This Order does not allow for the take, or incidental take, of any special status species. The Discharger shall use the appropriate protocols, as approved by CDFW and the U.S. Fish and Wildlife Service, to ensure that activities do not impact the Beneficial Use of the Preservation of Rare and Endangered Species.

## **B. Provisions**

- 1. No Later than October 17, 2014, but prior to the next rainfall event as predicted by the National Weather Service for Southern Sonoma County, the Discharger shall apply effective erosion and sedimentation control measures to all bare soil and disturbed areas on the Site.**
  
- 2. No later than December 15, 2014, the Discharger shall submit, acceptable to the Regional Water Board Executive Officer, the following:**
  - a. A technical report providing a description of the recent land development activities at the Site and an assessment of the impacts to the Site's unnamed creek, in-stream pond, and associated riparian habitat. This technical report shall describe the nature and extent of the unauthorized grading, excavation and vegetation clearing activities by means such as, but not limited to, providing a map illustrating the extent of the land development activities and calculations quantifying the acreage of land disturbance and linear footage of channel impact. The impact assessment shall be completed by a professional geologist or civil engineer with expertise in geomorphology and/or creek restoration, and shall at a minimum include a description of the pre-disturbance channel morphology, soil conditions, hydrology, and characterization of the impacted riparian habitat and any pre-existing wetlands and loss thereof resulting from the land development activities, as well as documentation (e.g., aerial photographs, photographs, reports, topographic maps or drawings) showing the condition of the Site prior to the recent land development activities. The results of this impact assessment shall serve as the basis for the Corrective Action Workplan described below.
  
  - b. Description of any permits and other authorizations obtained from local, State, and federal agencies and local or regional districts for any grading, excavation, filling, vegetation clearing, or other activities that have disturbed land or water features at the Site since it was acquired by the Discharger.
  
- 3. No Later than December 15, 2014, the Discharger shall submit a Corrective Action Workplan, acceptable to the Regional Water Board Executive Officer, that includes the following:**
  - a. A workplan proposal for corrective actions designed to restore and compensate for any temporal losses of water quality functions and values provided by the creek, in-stream pond, and associated riparian habitat impacted by grading, excavation, vegetation removal, and/or other land development activities. This Corrective Action Workplan shall include success criteria and performance standards for assessing whether the corrective actions are achieving the intended water quality and habitat restoration goals, including identification and justification for targeted native plant species, reference sites, and soil and hydrologic conditions. Performance standards

shall designate the final habitat success criteria. The Corrective Action Workplan shall include an implementation time schedule.

- b. A corrective action self-monitoring workplan proposal, designed to monitor and evaluate the success of the implemented corrected actions. The corrective action self-monitoring program shall monitor the success of the corrective actions until the approved habitat restoration activities have been successfully achieved, but not for less than a period of five years following completion of the corrective actions and not for less than a period of two years after any irrigation of revegetation plantings has ceased.
  - c. Within sixty days of approval of the Corrective Action Workplan by the Regional Water Board Executive Officer, the Discharger shall initiate implementation of the Corrective Action Plan in accordance with the approved implementation time schedule.
4. No later than January 31 of each year following initiation of the corrective actions and continuing until the corrective actions are successfully achieved, the Discharger shall submit annual self-monitoring reports, acceptable to the Regional Water Board Executive Officer, evaluating the success of the corrective action restoration activities.
  5. The Discharger shall submit with the final self-monitoring report, a Notice of Completion, acceptable to the Regional Water Board Executive Officer, demonstrating that the Corrective Action Workplan, as approved, has been successfully completed.
  6. If the Discharger is delayed, interrupted, or prevented from meeting the work completion and report submittal deadlines specified in this Order, the Discharger shall promptly notify the Regional Water Board Executive Officer in writing with recommended revised completion or report submittal deadlines. Any extensions of the time deadlines specified in this Order must be approved in writing by the Regional Water Board Executive Officer. The Regional Water Board Executive Officer may consider revisions to this Order.
  7. Regional Water Board staff shall be permitted reasonable access to the Site as necessary to oversee compliance with this Order.
  8. The technical reports and workplan proposals specified under Provision Nos. 2, 3, 4 and 5 above shall be complete, accurate, and adequate, as determined by the Regional Water Board Executive Officer.
  9. No later than 14 days from the date of this Order, the Discharger is required to acknowledge in writing his intent to reimburse the State for cleanup oversight work as described in the Reimbursement Process for Regulatory Oversight fact sheet provided to the Discharger with this Order, by filling out and returning the Acknowledgement of

Receipt of Oversight Cost Reimbursement Account Letter or its equivalent, also provided with this Order.

10. As described in Finding No. 11 above, upon receipt of a billing statement for costs incurred pursuant to CWC section 13304, the Discharger shall reimburse the Regional Water Board.
11. None of the obligations imposed by this Order on the Discharger are intended to constitute a debt, damage claim, penalty, or other civil action that should be limited or discharged in a bankruptcy proceeding. All obligations are imposed pursuant to the police powers of the State of California intended to protect the public health, safety, welfare, and environment.

Failure to comply with the provisions of this Order may result in the imposition of civil liabilities, imposed either administratively by the Regional Water Board or judicially by the Superior Court in accordance with CWC sections 13268, 13304, 13308, and/or 13350, and/or referral to the Attorney General of the State of California for injunctive relief or civil or criminal liability. Failure to submit, late or inadequate submittal of technical reports and workplan proposals, or falsifying information therein, is a misdemeanor and may subject the Discharger to additional civil liabilities. This Order does not preclude or otherwise limit in any way the Regional Water Board's ability to take appropriate enforcement action for the Discharger's violations of applicable laws, including, but not limited to, discharging without a permit and failing to comply with applicable requirements.

---

Bruce H. Wolfe  
Executive Officer

---

Date