



California Regional Water Quality Control Board Central Coast Region



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October 8, 2002
10/8/02

David Pierson
P.O. Box 1833
Rancho Santa Fe, CA 92067

NOTICE OF VIOLATION, 13267 REQUEST FOR REPORT; GOLDIE LANE, SAN LUIS OBISPO COUNTY

Dear Mr. Pierson:

Ryan Lodge of my staff visited your property on September 20, 2002. The purpose of the site visit was to investigate vegetation clearing and potential associated water pollution sources. Our visit revealed two issues of concern that must be addressed. Concerns include extensive vegetation clearing and a point source discharge to Huerhuero Creek from adjacent well development.

The drilling mud discharge to Huerhuero Creek occurred from new well development (see photos 1 and 2, below). Drilling mud is a waste when discharged to surface waters, such as Huerhuero Creek. The waste discharge to a surface water violates the Federal Clean Water Act and the Porter Cologne Water Quality Control Act.

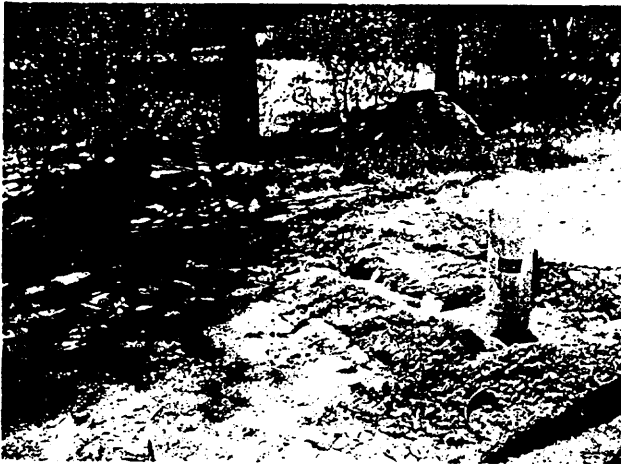


Photo 1 – Drill mud and bentonite around wellhead

Photo 2 – Drilling mud and bentonite in Huerhuero Creek

California Water Code Section 13376 requires persons discharging pollutants or proposing to discharge pollutants to waters of the United States to submit a report of waste discharge. The discharge of well development byproducts to Huerhuero Creek is an unpermitted discharge. Unpermitted discharges to surface waters are subject to civil liability pursuant to California Water Code Section 13385, which states the following:

“Civil liability may be imposed administratively by state board or a regional board pursuant to Article 2.3 of Chapter 5 in an amount not to exceed the sum of both of the following: (1) Ten thousand dollars (\$10,000) for each day in which the violation occurs. (2) Where there is a discharge, any portion of which is not susceptible to cleanup or is not cleaned up, and the volume of discharged but not cleaned up

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exceeds 1,000 gallons, an additional liability not to exceed ten dollars (\$10) multiplied by the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons."

Well development byproducts should be contained or removed. Removal from the creek is necessary. You are required to clean up the well development discharge and implement measures to prevent future surface water discharges.

Additional pollution concerns include vegetation removal with no erosion or sediment controls in place (see photos 3 and 4). Ryan Lodge discussed our erosion concerns with David Williams of your staff. Mr. Williams indicated that a plan is in place to spread barley and rye grass seed over the area prior to the first rain. We believe that applying seed alone is not a sufficient erosion control measure. Established vegetation is a means of erosion control; thus, the seed must be nurtured into vegetation before runoff occurs to be effective erosion control. Additional erosion control measures must be implemented to avoid widespread erosion and sediment loss, and to reduce potential surface water impacts.



Photo 3 - Cleared hillside.

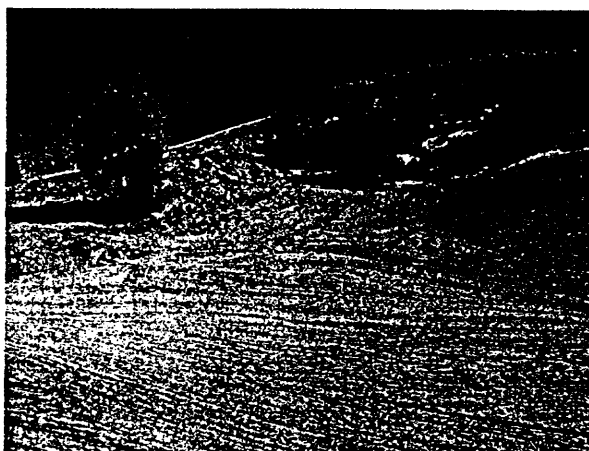


Photo 4 - Cleared hillside.

The extensive vegetation removal has created a significant potential for sediment discharge to Huerhuero Creek. We are concerned about water quality impacts from sediment discharges. The Huerhuero Creek is tributary to the Salinas River, which is currently listed on the Federal and Regional Board 303(d) List of Impaired Water Bodies for excess silt and sediment.

The Regional Board is authorized to issue a Cleanup or Abatement Order pursuant to Water Code section 13304.

California Water Code section 13304 states, "Any person who ... 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."

Violation of a Cleanup or Abatement Order subjects the discharger to administrative civil liability of up to \$5,000 per day. The Regional Board will refrain from issuing a Cleanup or Abatement Order at this time pending receipt and implementation of an adequate erosion and sediment control plan. By this letter you are ordered, pursuant to Water Code section 13267, to provide a detailed erosion and sediment control plan addressing all disturbed areas.



Water Code section 13267, (b) states in part "...the regional board may require that any person who has discharged, discharges or is suspected of discharging or who proposes to discharge waste within its region, ...shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires."

Pursuant to Water Code section 13267, the Regional Board requires a detailed erosion and sediment control plan with an implementation schedule addressing all potential site erosion areas. Failure to implement adequate erosion and sediment control measures prior to winter rains will create the potential for sediment discharges to Huerhuero Creek. Additionally you must submit a cleanup plan for the well development byproducts discharged into Huerhuero Creek. The plan must address nearby by products that could reach Huerhuero Creek. **The detailed plans and implementation schedule must be submitted to our office by October 21, 2002.**

You are being required to submit this information because:

1. You are the real property owner that is the potential source of sediment discharge into the creek.
2. Unpermitted point source discharges from well development is a violation of the Federal Clean Water Act and the California Water Code.
3. The actions taken to clear the land have created a potential pollution source. Photo documentation and a site visit by Regional Board staff indicate there is high erosion and sedimentation potential.
4. The Salinas River currently is listed on the Federal and Regional Board 303(d) List of Impaired Water Bodies for excess silt and sediment.

It is critical that the issues discussed in this letter are addressed immediately. The wet season is upon us and impacts to the watershed from your property must be minimized.

If you have questions regarding this matter, please call **Ryan Lodge at (805) 542-4642.**

Sincerely,



Roger W. Briggs
Executive Officer

cc: Todd Tognazzini
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