



**California Regional Water Quality Control Board  
Central Coast Region**



**Winston H. Hickox**  
Secretary for  
Environmental  
Protection

Internet Address: <http://www.swrcb.ca.gov/~rwqcb3>  
895 Aerovista Place, Suite 101, San Luis Obispo, California 93401-5427  
Phone (805) 549-3147 • FAX (805) 543-0397

**Gray Davis**  
Governor

August 21, 2003

Certified No. 7002 2410 0004 0528 5617

Haig Kelegian  
26 Sunset Cove  
Newport Cliffs, CA 92657

**CLEANUP OR ABATEMENT ORDER; KELEGIAN RANCH; SANTA MARGARITA; SAN LUIS OBISPO COUNTY**

Dear Mr. Kelegian:

This letter transmits Cleanup or Abatement Order No. R3-2003-0057 (Cleanup Order). Cleanup Order No. R3-2003-0057 is issued to Haig Kelegian as a result of the significant violations of the California Porter-Cologne Water Quality Control Act (Water Code) between November 8, 2002, and March 4, 2003. Despite submitting a Notice of Intent to comply with the General Storm Water Permit for construction activities, you have now indicated that the project is an agricultural project. Agricultural projects are exempt from National Pollutant Discharge Elimination System permitting requirements. Enclosed is a Notice of Termination that must be completed and submitted to the Regional Board in order to terminate your General Permit coverage. Even though your project is agricultural, it remains necessary to comply with the Water Code. The enclosed Cleanup Order is for violations of Water Code Section 13304. To minimize adverse water quality impacts, the Cleanup Order, in part, requires that effective erosion and sediment control measures are in place by October 15, 2003.

Regional Board staff plans to inspect the Kelegian Ranch again. Please ensure that Best Management Practices are employed on site before the next rain, or by the dates in this Cleanup Order, whichever is sooner. Questions regarding this matter may be directed to Ryan Lodge at (805) 542-4642.

Sincerely,

Roger W. Briggs  
Executive Officer

Enclosure: Cleanup or Abatement Order R3-2003-0057  
Notice of Termination

cc: See attached list

S:\WB\Central Watershed\Storm Water\Construction\Enforcement\Kelegian\CAO\CAOcvrltr\Kelegian.doc

**California Environmental Protection Agency**

Recycled Paper

Kelegian ACL  
July 8, 2005 Meeting  
Attachment No. 10

cc: Todd Tognazzini  
Department of Fish & Game  
P.O. Box 2785  
Paso Robles, CA 93447

San Luis Obispo County District Attorney  
County Government Center, Room 460  
San Luis Obispo, CA 93408

James Caruso  
San Luis Obispo County Dept. of Planning and  
Building  
County Government Center  
San Luis Obispo, CA 93408-2040

Tim Fielder  
San Luis Obispo County Code Enforcement  
County Government Center  
San Luis Obispo, CA 93408-2040

Debbie Arnold  
Room 370  
County Government Center  
San Luis Obispo, CA 93408

David Williams  
P.O. Box 320  
Creston, CA 93432

Jeff Emrick  
EDA Design Professionals  
1998 Santa Barbara Street  
San Luis Obispo, CA 93401

Sarah Christie  
926 J Street, Suite 416  
Sacramento, CA 95814

Gordon R. Hensley  
P.O. Box 6884  
Los Osos, CA 93412

Babak Naficy  
Law Offices of Babak Naficy  
1204 Nipomo Street  
San Luis Obispo, CA 93401

Pam Heatherington  
Environmental Center of San Luis Obispo  
1204 Nipomo Street  
San Luis Obispo, CA 93401

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL COAST REGION  
895 Aerovista, Suite 101  
San Luis Obispo, CA 93401**

**CLEANUP OR ABATEMENT ORDER NO. R3-2003-0057  
Issued to Haig Kelegian**

**KELEGIAN RANCH, HIGHWAY 58, SANTA MARGARITA  
SAN LUIS OBISPO COUNTY**

The California Regional Water Quality Control Board, Central Coast Region (hereafter Regional Board), finds:

1. Haig Kelegian (hereafter Discharger) owns a 412-acre project known as the Kelegian Ranch, Santa Margarita, San Luis Obispo County (Site).

Regional Board staff has requested the Discharger submit a Notice of Termination, to terminate Site General Permit coverage.
2. September 20, 2002, Regional Board staff inspected the Site to follow-up on citizen complaints of illegal grading. The Site was cleared of all vegetation and left without adequate erosion and sediment controls. The Site is hilly with steep slopes.
3. On October 8, 2002, Regional Board staff sent a letter to the Discharger outlining Regional Board staff concerns about the Site and requiring submission of an erosion and sediment control plan. The Discharger submitted a Storm Water Pollution Prevention Plan on October 22, 2002.
4. On November 4, 2002, Discharger filed a Notice of Intent (NOI) to comply with the terms of the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Related Discharges Associate with Construction Activity (General Permit). The Discharger has since indicated that the project is agricultural. Non-point source discharges from agricultural activities at the Site are exempt from (NPDES) permitting requirements.
5. Although the Site is not subject to the General Permit, it is subject to Porter-Cologne Water Quality Control Act regulation. (Water Code §§ 13000 et seq.)
6. Water Code section 13304 mandates,

“Any person who has discharged or discharges waste into the waters of this state...who has caused or permitted, cases or permits, or threatens to cause or permit any waste to be discharged or deposited where it is, or probably will be discharge 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 wastes or in the case of threatened pollution or nuisance, take other necessary remedial action.”
7. Discharger discharged sediment to a “blue line” creek tributary to Huerhuero Creek during the 2002-2003 rainy season. The discharge of sediment to the “blue line” creek and Huerhuero Creek threatens to

cause a condition of pollution. Water Code section 13050 defines pollution as the following,

“Pollution means an alteration of the quality of the water of the state by waste to a degree which unreasonably affects either of the following: (A) The waters for beneficial uses. (B) Facilities which serve these beneficial uses.”

Beneficial uses of the “blue line” creek include warm freshwater habitat. Huerhuero Creek beneficial uses include wildlife habitat, warm freshwater habitat, and rare, threatened, or endangered species. Sediment discharges unreasonably affect these beneficial uses by causing excess turbidity and by burying creek bottoms. Increased turbidity and sedimentation can deplete food availability to zooplankton, insects, freshwater mollusks, and fish. Discharger has not taken action to prevent or minimize the discharge of sediment during the 2003-2004 rainy season.

8. November 8, 2002 and November 14, 2002, Regional Board staff observed widespread erosion of the cleared hillsides. The erosion has resulted in sediment discharging to the unnamed “blue line” creek tributary to the Huerhuero Creek, which is a water of the state. Sediment from the site buried sections of the creek bottom.
9. On December 17, 2002 and December 20, 2002, Regional Board Staff inspected the Site again. Regional Board staff observed widespread erosion of the cleared hillsides. The erosion resulted in sediment discharging to the unnamed “blue line” creek tributary to the Huerhuero Creek. Sediment from the site buried sections of the creek bottom.
10. March 4, 2003, Regional Board staff inspected the Site. At that time, sediment control measures were in need of maintenance. Many sediment controls were filled with sediment and needed cleaning to be effective. Sediment controls were in place within several unnamed blue line streams on Site, trapping sediment in the creeks rather than protecting the creeks from sediment. The Site did have established vegetation, providing soil stabilization for a majority of the Site.
11. The sediment discharge occurred because onsite erosion and sediment controls were inadequate. Some of the site does not have erosion control measures in place. Sediment controls installed, such as hay bales and fiber rolls, were overwhelmed without erosion control measures for the steep hillsides.
12. The sediment discharges observed by Regional Board staff on November 8, 2002, November 14, 2002, December 17, 2002, December 20, 2002, and March 4, 2003, could have been prevented if adequate and effective erosion and sediment control measures had been placed prior to the rainy season. An October 8, 2002, letter expressed Regional Board Staff concerns regarding adequate erosion control measures for the Site. Notices of Violation (NOV) dated November 25, 2002, February 21, 2003, and March 11, 2003 pointed out on site deficiencies in erosion and sediment control measures. Adequate time was available prior to the rainy season to implement an effective combination of sediment and erosion control measures. Failure to implement adequate measures has resulted in widespread erosion and discharges of sediment from the site that threaten to cause a condition of pollution.
13. Erosion and sediment control measures known as Best Management Practices (BMPs) must be implemented prior to the next rainy season to prevent further surface water impacts. Two guidance documents for BMP implementation are available at

this website:  
<http://www.swrcb.ca.gov/stormwtr/training.html>. The documents are Erosion and Sediment Control Field Manual, 4th edition, published by CA RWQCB, San Francisco Bay Region, August 2002, and CA Best Management Practices Handbook – Construction published by California Storm Water Quality Association, Livermore, CA, January, 2003.

14. The technical or monitoring reports required by this Order are necessary to document and confirm compliance with this Order. Discharger is required to submit these reports because he is the owner of the

Site and responsible for preventing illegal discharges of waste from the Site. Evidence to support this finding can be found in the file of the Regional Board regarding the Kelegian Ranch Property, Santa Margarita, San Luis Obispo County.

15. This enforcement action is being taken for the protection of natural resources and the environment and as such is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 21000, et seq.) in accordance with Sections 15307 and 15308, Chapter 3, Title 14, California Code of Regulations.

**IT IS HEREBY ORDERED**, pursuant to Section 13267 and 13304 of the California Water Code, Discharger, his agents, successors or assigns, shall clean up and abate further sediment discharges, as follows:

1. Discharger shall prevent or minimize the discharge of sediment from the Site to waters of the State.
2. Discharger shall:
  - a. **By September 8, 2003**, submit to the Regional Water Board an erosion and sediment control plan, describing actions that are effective to prevent or minimize sediment discharges to waters of the State that is acceptable to the Executive Officer. The plan shall include short-term measures that will be implemented by **September 15, 2003** and additional measure that will be completely implemented by **October 15, 2003**. The plan shall include a time schedule for the implementation, inspection, monitoring, and maintenance of erosion and sediment control measures (BMPs) to ensure all control measures remain effective throughout the rainy season. The erosion and sediment control measures shall meet BCT/BAT standards. The Discharger shall refer to two guidance documents for BMP implementation referenced in paragraph 13 above.
  - b. **By October 15, 2003**, prevent erosion by covering all inactive disturbed soils and slopes at the site with effective erosion control BMPs in a manner acceptable to the Executive Officer. The erosion and control measures BMPs shall meet BCT/BAT standards. The Discharger shall refer to two guidance documents for BMP implementation referenced in paragraph 13 above.
  - c. **By October 15, 2003**, submit a letter signed by a registered professional engineer, verifying that Task b., above, has been completed. The report shall certify that:
    - 1) The erosion and sediment control plan identified in Task 2.a. has been fully implemented,

- 2) All inactive disturbed soils have been adequately treated and stabilized in accordance with Task 2.b,
- 3) Effective erosion and sediment controls have been properly placed throughout the site,
- 4) All control measures and BMP's installed are adequate to prevent or minimize discharge of sediment to waters of the State, throughout the rainy season.

**FAILURE TO COMPLY WITH THE PROVISIONS OF THIS ORDER MAY SUBJECT YOU TO FURTHER ENFORCEMENT ACTION, INCLUDING BUT NOT LIMITED TO, ASSESSMENT OF CIVIL LIABILITY PURSUANT TO SECTION 13268 and 13350 OF THE WATER CODE AND ANY OTHER ENFORCEMENT ACTION AUTHORIZED BY LAW, INCLUDING REFERRAL TO THE DISTRICT ATTORNEY OR ATTORNEY GENERAL FOR INJUNCTIVE RELIEF AND CIVIL OR CRIMINAL LIABILITY.**

Any interested person may file a petition for review of this Order with the State Water Resources Control Board under Water Code section 13320. Petitions must be filed within 30 days of the date of this Order.

ORDERED BY \_\_\_\_\_



**Roger W. Briggs  
Executive Officer**

8-22-03

\_\_\_\_\_  
Date