



DEPARTMENT OF THE ARMY
SAN FRANCISCO DISTRICT, U.S. ARMY CORPS OF ENGINEERS
1455 MARKET STREET
SAN FRANCISCO, CALIFORNIA 94103-1398

OCT 29 2009

Regulatory Division

SUBJECT: File Number 2009-00391S

Mr. Millard Tong
1 Picardo Ranch Road
Pacifica, California 94044

Dear Mr. Tong:

We have been informed of unauthorized activity at Millwood Ranch, One Picardo Ranch Road, in the City of Pacifica, San Mateo County, California. The activity involves the filling of approximately 85 feet of creek beds with soil, the modification of stream alignment and the placement of approximately 500 cubic yards of soil and concrete along the sideslopes of a tributary of San Pedro Creek. The subject activity occurred within areas of our jurisdiction and is in violation of Section 404 of the Clean Water Act (33 U.S.C. §1344).

Our regulations (33 C.F.R. §326.3) state that when the District Engineer becomes aware of any unauthorized work or activity, he should commence an immediate investigation to determine the appropriate administrative and/or legal action to be taken. Legal action could include either civil or criminal proceedings and might result in a court directing the removal of existing material or structures.

All discharges of dredged or fill material into "waters of the United States" (1) below the high tide line (HTL) in tidal waters or (2) below the ordinary high water mark (OHWM) in non-tidal waters require authorization by the Corps of Engineers under Section 404 of the Clean Water Act (33 U.S.C. §1344). "Waters of the United States" include, but are not limited to, coastal and inland waters, lakes, rivers and streams that are navigable waters of the United States, including adjacent wetlands; tributaries to "navigable waters of the United States," including adjacent wetlands; interstate waters and their tributaries, including adjacent wetlands; and all other waters of the United States, including wetlands and vernal pools.

Section 309 of the Clean Water Act (33 U.S.C. §1319) provides penalties that may be assessed upon conviction for violation of Section 301 of the Clean Water Act. It is illegal to discharge any dredged or fill material without a permit issued pursuant to Section 404 of the Clean Water Act. You may be subject to a maximum criminal fine of not more than \$250,000, or imprisonment for not more than 15 years, or both, or a civil penalty not to exceed \$25,000 per day for each violation.

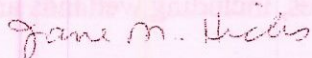
In accordance with the procedures specified in 33 CFR Section 326.3(d)(1), you are hereby ordered to implement initial corrective measures as follows:

1. Cease and Desist all activities that result in placement of fill in Waters of the United States.
2. A Corps of Engineers Section 404 permit application must be submitted within 30 days of from the receipt of this letter. Information regarding the application can be found at http://www.spn.usace.army.mil/Permits/regulatory_corps_permit.html.
3. A jurisdictional delineation map must accompany this application to identify all Waters of the United States within the property.
4. A proposed restoration plan must be submitted to this office within 60 days of the receipt of this letter and must describe measures that will be implemented to restore the creek to pre-construction conditions.

You are requested to provide this office, within 15 calendar days from the date of receipt of this letter, with information showing the history of your activity. A questionnaire is enclosed to guide you in the submittal of the requested information. You are advised that the information provided in this questionnaire may be used against you in any subsequent legal action. Finally, it is further requested that you allow Corps of Engineers personnel free access to the property referenced above to complete our investigation.

Should you have any questions regarding this matter, please call Kyle Dahl of our Regulatory Division at (415) 503-6783. Please address all correspondence to the Regulatory Division and refer to the File Number at the head of this letter.

Sincerely,



Jane M. Hicks
Chief, Regulatory Division

Enclosure