



**DEPARTMENT OF THE ARMY**

Corps of Engineers, Los Angeles District

P.O. Box 532711

Los Angeles, CA 90053-2325

February 19, 2009

REPLY TO

ATTENTION OF:

Office of the Chief  
Regulatory Division

**SUBJECT: CEASE AND DESIST ORDER  
NOTICE OF VIOLATION OF THE CLEAN WATER ACT  
ENFORCEMENT CASE NO. SPL-2008-01178-AJS**

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

James Van Trees  
Kentuck Trust  
P.O. Box 10046  
Beverly Hills, California 90213-3046

Dear Mr. Van Trees:

It has come to my attention that you or your contractors have been discharging dredged or fill material into Sespe Creek at 3561 Grand Avenue near the City of Fillmore, Ventura County, California. You are hereby ordered to immediately cease and desist from discharging additional dredged or fill material.

The Corps hopes that this problem can be resolved informally and amicably. However, you should recognize that under Sections 301 [33 U.S.C. §1311] and 404 [33 U.S.C. §1344] of the Clean Water Act and Corps regulations promulgated pursuant thereto, the discharge of dredged and/or fill material into waters of the United States is unlawful unless such discharge has been specifically authorized pursuant to Section 404 of the Act by the Secretary of the Army through a Corps of Engineers permit. The potential penalties for violation of this Section include a maximum criminal fine of \$50,000 per day and imprisonment for up to three years, and a maximum civil penalty of \$25,000 per day of violation [33 U.S.C. §1319].

Therefore, you are hereby ordered to immediately cease and desist from discharging additional dredged or fill material into Sespe Creek near the City of Fillmore, Ventura, CA.

Within the next 20 days, please provide any information you may have regarding this activity, including a project description, drawings, and photographs of the site to the Chief, Regulatory Division, Attn: Antal Szijj, Ventura Field Office, 2151 Alessandro Drive, Suite 110, Ventura, California 93001. During the next few weeks, Regulatory Division personnel will be conducting an investigation of this activity. By copy of this letter, I am requesting input from the agencies indicated in the final paragraph of this document to facilitate this investigation and my decision on what initial corrective measures may be necessary. Once this evaluation is complete, I will issue you an order for any required initial restoration and, if appropriate, will accept an after-the-fact permit application. If complete restoration is not required, you must apply for a Department of the Army Permit for the discharges already performed.

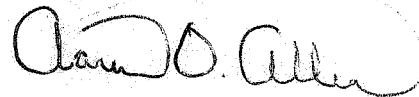
Failure to comply with this order may result in my recommendation to the United States Attorney to institute appropriate legal proceedings to enforce this order. Additionally, compliance with this order does not foreclose the Government's options to initiate appropriate legal action or to require the submittal of a permit application. By copy of this letter, I am requesting that the United States Attorney open a file on this unauthorized activity.

In accordance with a Memorandum of Agreement between the Department of the Army and the Environmental Protection Agency (EPA) concerning federal enforcement of Section 404 of the Clean Water Act, a copy of this notification is being sent to the EPA for review and coordination. My staff will conduct a preliminary investigation to determine whether EPA or the Corps will be the federal agency responsible for evaluating the unauthorized work. You will be notified whether EPA or the Corps will be the agency to work with you to resolve the violation.

If you have any question regarding this matter, please contact Antal Szijj in our Regulatory Division at 805-585-2147 or via e-mail at [Antal.J.Szijj@usace.army.mil](mailto:Antal.J.Szijj@usace.army.mil).

I am forwarding copies of this letter to: U.S. Fish and Wildlife Service, Attention: Ms. Diane Noda, 2493 Portola Road, Suite B, Ventura, California 93003; U.S. Environmental Protection Agency, Attention: Mr. Dave Smith, Chief, Wetlands Regulatory Office (WTR-8), 75 Hawthorne Street, San Francisco, California 94105; U.S. Environmental Protection Agency, Attn: Ms. Amy Miller, CWA Enforcement and Compliance (WTR-7), 75 Hawthorne St, San Francisco, CA 94105; U.S. Environmental Protection Agency, Attn: Geri Gilbert, Criminal Investigations Division, 75 Hawthorne Street (CID-1), San Francisco, CA 94105; National Marine Fisheries Service, Attn: Bill Struble, Office of Law Enforcement, Santa Maria Field Office, 2027 Preisker, Suite A, Santa Maria, CA 92454; California Department of Fish and Game, Attention: Larry Eng, 4949 View Ridge Avenue, San Diego, California 92123; U.S. Department of Justice, U.S. Attorney's Office, Attention: Mr. Leon W. Weidman, Room 7516, Federal Building, 300 North Los Angeles Street, Los Angeles, California 90012; California Regional Water Quality Control Board, Region 4, Los Angeles Region, Attention: Ms. Tracy Egoscue, 320 West 4th Street, Suite 200, Los Angeles, California 90013.

Sincerely,

A handwritten signature in black ink, appearing to read "David J. Castanon". The signature is written in a cursive style with a large, looping initial "D".

David J. Castanon, Chief for  
Regulatory Division