

ITEM: 6

SUBJECT: Enforcement Team's Update on Cleanup and Abatement Order (CAO) R5-2009-0030 for El Dorado County and the United States Department of Agriculture, Eldorado National Forest, Rubicon Trail

BOARD ACTION: *None. Information Item only.*

BACKGROUND: CAO R5-2009-0030 was issued by the Central Valley Water Board on 23 April 2009. The CAO requires El Dorado County (County) and the United States Forest Service, Eldorado National Forest (Forest Service) to address sediment erosion, petroleum fluids spills, and sanitation issues on the Rubicon Trail in El Dorado County by developing a trail management strategy in the form of a *Saturated Soil Plan* and a *Long Term Management Plan*.

The *Saturated Soil Plan* is to address soil erosion caused by motorized vehicle use during wet weather conditions. The final Saturated Soil Plan amendment was received in April 2011 and approved by Board staff in January 2012. The 2012 annual review of the *Saturated Soil Plan*, designed to report on the effectiveness of the Plan, was received in October 2012 and staff is currently reviewing the report.

The *Long Term Management Plan* is to define trail responsibilities for the County and Forest Service, including maintenance activities, education, enforcement, seasonal closure, and all other actions to protect water quality. The County submitted a Draft Operating Agreement in place of the *Long Term Management Plan* on 30 December 2011, and stated that the Operating Agreement could not be finalized until the Forest Service approved a trail easement across federal lands.

2012 ACTIVITIES In April 2012, following a full NEPA review by the Forest Service, a Record of Decision (ROD) for the Rubicon Trail Easement and Route Improvements Final Environmental Impact Statement was signed by Forest Supervisor Kathy Hardy. The ROD was appealed by multiple environmental and off-road groups, resulting in a mediation process. The main issue was whether the trail should be closed when saturated soil conditions could lead to sediment runoff. The parties reached an agreement, identified as Exhibit C, which requires the County to monitor the trail during wet weather conditions and to close the trail to vehicle use when soils are saturated and flowing water is capable of transporting sediment generated from mechanical tire action. On 14 August 2012, the County Board of Supervisors certified acceptance of the Rubicon Trail Easement, which will allow the County to finalize the Operating Agreement.

Also in 2012, the El Dorado County Sheriff's Office provided officers on the trail—both on foot and in vehicles- during weekends and on different days during the week from Memorial Day through Labor Day. These officers enforced the vehicle code, kept motorized trail users from driving off the trail, and provided education to trail users. The California State Parks Off-Highway Motor Vehicle Recreation law enforcement officers also participated in patrols on the Rubicon Trail during high use periods and worked closely with the El Dorado County Sheriff's Office.

Trail maintenance work, which was designed to reduce sediment erosion and capture trail-derived sediment before it enters a water body, was completed from Walker Hill to the Rubicon River during the summer of 2012. This work included using helicopters to stage rock along the trail for the maintenance crew to use, and reducing some of the larger rocks in the Little Sluice Box to allow standard 4WD vehicles to drive through the this section of the trail. In addition to the trail maintenance work, members of the Rubicon Trail Foundation and Friends of the Rubicon maintained trail drainage BMPs, improved educational sign posts, completed multiple trail maintenance and cleanup days, cleaned up petroleum spills, and serviced portable toilets that were placed near the Little Sluice Box. Maintenance work on the final section of Trail, from the green bridge on the Rubicon River to the El Dorado/Placer County line, will be completed next summer.

In August 2012, work began on the Gerle Creek Bridge. This is one of the two bridge locations identified in the CAO that will improve water quality by providing a permanent creek crossing. As of 30 October 2012, the sides of the truss bridge were assembled and the contractor was closing up the construction site for the winter. The bridge deck will be poured when the contractor can gain access to the site in late Spring 2013.

DISCUSSION

Board staff recently inspected the trail (from the Loon Lake Kiosk to Little Sluice Box) during the warm weather period after the first snow of the season. Staff found that the County had made many physical improvements to direct running water off the trail, but that there were still areas in which water and sediment were flowing down the trail and had the potential to enter surface waters. In addition, some areas of the trail appear not to be adequately signed, and it appeared that vehicles were still being driven off the trail easement.

In the opinion of the Board's Team that advocated for the issuance of the CAO, El Dorado County and Forest Service staff has made great progress towards management of the Rubicon Trail. The

items required by the CAO that remain to be completed include finalizing the Long Term Management Plan/Operating Agreement, completing bridge installations at Gerle Creek and Ellis Creek, and submitting annual reports documenting that the trail is being managed to prevent soil erosion, addressing sanitation issues, and mitigating or preventing petroleum fluid spills. Staff is working with the County to understand and implement the wet weather monitoring stipulation (Appendix C to the ROD).

RECOMMENDATION: Staff commends the County, Forest Service, and user groups for their efforts to date to protect the Rubicon Trail. However, at a minimum, the CAO needs to remain in place until all elements of the Long Term Management Plan have been implemented, bridges have been completed, and the County's annual monitoring and wet weather monitoring demonstrate that the water quality issues have been resolved.

The CAO states that *“Three years after full implementation of the Long Term Management Plan, Water Board staff will evaluate (a) whether the Responsible Parties have taken all reasonable steps to protect water quality and (b) whether activities on the Rubicon Trail still impact, or threaten to impact, water quality.”* Board staff is committed to undertaking this evaluation once three years have elapsed from the start of the implementation of the Long Term Management Plan/Operating Agreement (which has not yet been finalized).

Mgmt. Review ___WSW___
Legal Review ___PEP___

6/7 December 2012 Central Valley Water Board Meeting

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