

CLEANUP AND ABATEMENT ORDER NO. R1-2007-0103

Amending CLEAN UP AND ABATEMENT ORDER NO R1-2007-0070

FOR  
Michael Lockwood

Humboldt County

The California Regional Water Quality Control Board, North Coast Region (hereinafter Regional Water Board) finds that:

1. Michael Lockwood, 6790 Clover Dr., Eureka, California (hereinafter the "Discharger"), is the listed timberland owner for Timber Harvest Plan (THP) 1-07-084 HUM. The Discharger is a Licensed Timber Operator (LTO) in the State of California (License # C475). The THP was accepted for filing by the California Department of Forestry and Fire Protection (CAL-FIRE) on May 29, 2006.
2. The 5 acre THP is located in the Lower Elk River Watershed (Calwater Number 1110.000402) in Humboldt County, in Section 21 Township 4 North and Range 1 West (Project area). The residence within the Project area associated with the violation is 6790 Clover Drive, Eureka, CA 95503 (Lockwood residence).
3. On June 19, 2007, Regional Water Board staff participated in a preharvest inspection of the Project area. During the inspection, agency representatives from the Regional Water Board, CAL-FIRE, California Department of Fish and Game (DFG), California Geological Survey (CGS), and the RPF of record, observed recent earthmoving activity within the bed and bank of a watercourse directly behind the Lockwood residence. Earth and debris had been moved, organic and earthen material had been placed in a location with the potential to discharge to waters of the state, and the drainage pattern of a watercourse had been altered such that it no longer flowed to the culvert inlet. In addition, recent bulldozer activity had disturbed soils along the length of the watercourse, leaving exposed soil in a location with the potential to discharge to the watercourse. No erosion control measures were observed. The watercourse classification could not be determined, as the lower portion of the watercourse was entirely obliterated by overlying soils and slash materials. However, some facultative aquatic vegetation (*Juncus* and Slough Sedge) was noted adjacent to the obscured watercourse channel, indicating that Class II habitat may have been buried by the soil and slash materials deposited in the watercourse channel. Class II habitat is defined in the Forest Practice Rules as capable of supporting non-fish aquatic species.
4. On August 13, 2007, subsequent to the Pre-harvest Inspection, CAO Order No. R1-2007-0070 was issued to the Discharger for violations of the Water Quality

Control Plan for the North Coast Region (Basin Plan) prohibitions. These prohibitions are in the Basin Plan Action Plan for Logging, Construction and Associated Activities. Please refer to Order No. R1-2007-0070 for a full list of all findings leading up to the issuance of Order No. R1-2007-0070.

5. On November 2, 2007, the THP 1-07-084 HUM was withdrawn by the Discharger's representative, the Registered Professional Forester of record.
6. Order No. R1-2007-0070, in brief, required the following:
  - a) A watercourse cleanup and restoration plan to be submitted by September 10, 2007.
  - b) Implementation of the cleanup and restoration plan following the Regional Water Board Executive Officer's approval of the plan, with all work completed by October 15, 2007, in order to avoid sediment discharges to watercourses resulting from winter rains.
  - c) The Discharger, or its duly authorized representative, to contact Regional Water Board staff upon completion of the Plan to schedule a mutually agreeable date for a site inspection of the completed work.
7. On November 2, 2007, the Regional Water Board received the required Restoration Plan in the form of a Storm Proofing and Restoration Plan (Plan) dated October 25, 2007. This is 52 days after the submittal date provided in Order No. R1-2007-0070 (finding 5a above). The late submittal of the required restoration plan obfuscates the required implementation deadline provided in Order No. R1-2007-0070 (finding 5b above). This CAO Order amends the deadlines in previous Order No. R1-2007-0070 to ensure adequate erosion control, monitoring, reporting, and final implementation of the Plan.
8. The Executive Officer concurs with the proposed work in the Plan titled "Cleanup and Abatement Order No. R1-2007-0070 Storm Proofing and Restoration Plan, 6790 Clover Dr. Eureka, Ca" (Attachment A), with the following exception. The Plan consists of two (2) components: a Reclamation plan (see pages 1-4 of Attachment A) and an Erosion Control and Storm Proofing Plan (see page 5 of Attachment A). Due to the late date of submittal and the threat of rains, the Reclamation Plan should not be implemented until soil moisture conditions are dry enough to implement without incurring discharge of sediment to waters of the State. However, the Erosion Control and Storm Proofing Plan should be implemented immediately to stabilize the site during the coming winter months.
9. The implementation framework, monitoring, monitoring reports, and inspections required by this Order are necessary to ensure that the threats to water quality created by the potential discharges described above are properly abated and controlled.

10. This enforcement action is for the protection of the environment and, therefore, is exempt from the provisions of the California Environmental Quality Act (Public Resources Code, Section 21000 et seq.) in accordance with Section 15321, Chapter 3, Title 14, of the California Code of Regulations.
11. Failure to comply with the terms of this Order may result in enforcement under the California Water Code. Any person failing to provide technical reports containing information required by this Order by the required date(s) or falsifying any information in the technical reports is, pursuant to Water Code section 13268, guilty of a misdemeanor and may be subject to administrative civil liabilities of up to one thousand dollars (\$1,000) for each day in which the violation occurs. Any person failing to clean up or abate threatened or actual discharges as required by this Order is, pursuant to Water Code section 13350(e), subject to administrative civil liabilities of up to five thousand dollars (\$5,000) per day or ten dollars (\$10) per gallon of waste discharged.
12. Any person affected by this action of the Regional Water Board may petition the State Water Resources Control Board (State Water Board) to review the action in accordance with California Water Code section 13320 and Title 23, California Code of Regulations, Section 2050. The petition must be received by the State Water Board within 30 days of the date of this Order. Copies of the law and regulations applicable to filing petitions will be provided upon request. In addition to filing a petition with the State Water Board, any person affected by this Order may request a hearing with the Executive Officer or the Regional Water Board to reconsider this Order. To be timely, any such request must be made within 30 days of the date of this Order. Note that even if reconsideration by the Executive Officer or Regional Water Board is sought, filing a petition with the State Water Board within the 30-day period is necessary to preserve the petitioner's legal rights. If you choose to request reconsideration of this Order or file a petition with the State Water Board, be advised that you must comply with the Order while your request for reconsideration and/or petition is being considered.

THEREFORE, IT IS HEREBY ORDERED that, pursuant to California Water Code Sections 13267(b) and 13304, the following shall be implemented by the discharger:

- A. The Erosion Control and Storm Proofing Plan (page 5 of attachment A) shall be implemented immediately and the work done in accordance with the Plan monitored throughout the winter period after each significant rainfall event. A significant rainfall event shall be defined as 1.0 inches in a 24 hour period. If there is not a significant rain event, then the discharger shall conduct one inspection prior to March 15, 2008.
- B. Upon complete implementation of the Erosion Control and Storm Proofing Plan, the discharger, or his duly authorized representative, shall contact Regional Water Board staff to schedule a mutually agreeable time for inspection. Board

staff shall determine if the work was accomplished according to the designs submitted to, and approved by, the Executive Officer.

- C. The discharger shall report the results of the monitoring in writing, and include the following information: 1) date of the inspection, 2) a description of the status of site erosion controls, and 3) a description of any work conducted to maintain the erosion controls. This report shall be submitted by April 30, 2008 for all inspections triggered by rainfall for the 2007/2008 winter period up to April 1, 2008. Submitting an inspection log that includes the required information is permissible.
- D. The Reclamation portion of the Plan (page 1-4 of Attachment A) shall be implemented after June 1, 2008 by or under the supervision of a general engineering contractor licensed in the State of California who is experienced in erosion control and watercourse reconstruction/drainage work. The discharger may choose to have SHN consulting oversee the work, as SHN consulting developed the work plan.
- E. Prior to April 15, 2008, the discharger shall provide in writing to the Regional Water Board staff the name, license number, address, and phone number of the licensed general engineering contractor retained to oversee or implement the Reclamation work.
- F. Upon completion of the Reclamation work the discharger, or his duly authorized representative, shall contact Regional Water Board staff to schedule a mutually agreeable time for inspection. Board staff shall determine if the work was accomplished according to the designs submitted to, and approved by, the Executive Officer.

This Order does not replace or preclude the need for any permits that may be required from the Regional Water Board or any other agency. The Discharger is urged to contact the California Department of Fish and Game to apply for a 1600 permit for this site. The Regional Water Board will be providing copies of this Order and its attachments to California Department of Forestry and Fire Protection, and the Department of Fish and Game.

Ordered by \_\_\_\_\_

Robert Klamt  
Interim Executive Officer

November 26, 2007