

California Regional Water Quality Control Board
North Coast Region

Order No. R1-2008-0119

FOR

ADMINISTRATIVE CIVIL LIABILITY

IN THE MATTER OF

LAURENCE A. KLUCK

FOR

FAILURE TO SUBMIT A REPORT OF
WASTE DISCHARGE AS REQUIRED UNDER
SECTION 13264 OF THE CALIFORNIA WATER CODE

Humboldt County

Pursuant to California Water Code section 13265, this administrative civil liability order (Order) is issued to Laurence A. Kluck, owner and Project Proponent of Timber Harvest Plan (THP) 1-07-014 HUM. This Order is being issued consistent with the attached settlement agreement, entered into by and between Laurence A. Kluck and Luis G. Rivera, the Assistant Executive Officer of the North Coast Regional Water Quality Control Board, who is prosecuting Mr. Kluck for the alleged violation of Water Code section 13264. The alleged bases of the violations are the failure to properly enroll in General Waste Discharge Requirements for Discharges Related to Timber Harvest Activities on Non-Federal Lands in the North Coast Region, Order No. R1-2004-0030, and the failure to obtain a State Dredge and Fill permit for the installation of culverts into the stream channel, which could serve as future residential roads for development of Mr. Kluck's property located at Fairway Lane Subdivision, aka Mathews and Kluck Fairway Lane Construction Project intersecting Fairway Drive at Fairway Lane in Eureka, California in Humboldt County. Parcel numbers of the subject properties are as follows: APN #'s 018-301-058, 018-301-059, 018-301-061, 018-301-062, 018-301-063, and 018-301-064

Having provided public notice of the proposed settlement and provided not less than thirty (30) days for public comment, the California Regional Water Quality Control Board, North Coast Region (Regional Water Board), hereby finds that:

1. The facts that are the basis for the alleged violations are included in attachment A (Order No. R1-2007-0082, Administrative Civil Liability Complaint (ACLC) in the matter of Laurence A. Kluck).
2. After the ACLC was issued on September 10, 2007, the Discharger and his legal representative met with the Regional Water Board prosecution team to discuss

settlement. Negotiations continued through September 18, 2008, with multiple offers and counteroffers for settlement being made by both the Discharger and the Regional Water Board prosecution team. The Regional Water Board prosecution team and the Discharger were finally able to reach agreement on a settlement, which is attached hereto as Attachment B, and the terms of which are incorporated into this Order.

3. The settlement requires the Discharger to pay \$10,000.00 into the State Water Resources Control Board Cleanup and Abatement Account (CAA) and to contact the U.S. Army Corps of Engineers and the Regional Water Board prior to conducting any additional development, construction, and/or grading on his property that may affect wetlands, stream banks and channels, and/or riparian areas to determine whether any permitting is required. For any Clean Water Act section 404 permit, Mr. Kluck agrees to include a description of the project that includes all of the proposed work for the development of the property not previously permitted by the U.S. Army Corps of Engineers and/or the Regional Water Board, and work completed in conjunction with the implementation of Timber Harvest Plan 1-07-014 HUM, including the installation of culverts into the stream channel. If a section 404 permit is not required for any work that may affect waters of the State, including work that may occur in or adjacent to wetlands, stream banks and channels, and/or riparian areas on the site, Mr. Kluck agrees to file for a State Dredge and Fill Permit by submitting an Application for 401 Water Quality Certification and/or Waste Discharge Requirements (Dredge/Fill) to the Regional Water Board.
4. Public Notice of the settlement agreement and a draft of this Order was published on November 3, 2008 initiating a 30-day public comment period. All comments received were considered by the Assistant Executive Officer, consistent with the terms of the Agreement, and by the Regional Water Board.
5. In adopting this Order, the Regional Water Board has considered each of the factors prescribed in California Water Code section 13385(e), as set forth in the ACLC, in Attachment A.
6. Issuance of this Order 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, California Code of Regulations.

THEREFORE, IT IS HEREBY ORDERED, pursuant to California Water Code section 13265, that:

1. Pursuant to the terms of the settlement agreement executed by the Assistant Executive Officer and Laurence A. Kluck, Mr. Kluck shall pay \$10,000 into the CAA within 30 days of adoption of this Order.

2. The Executive Officer is authorized to refer this matter to the Office of the Attorney General for enforcement if Mr. Kluck fails to comply with any provision of the Settlement Agreement.

Certification

I, Catherine Kuhlman, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of a Resolution adopted by the California Regional Water Quality Control Board, North Coast Region, on December 11, 2008.

Catherine Kuhlman
Executive Officer

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Attachment A (Order No. R1-2007-0082)
Attachment B (Settlement Agreement)