

August 20, 2013

Public Notice for Water Quality Certification (Dredge/Fill Projects)

Becki J. Rodriguez and Mario T. Apostolov
9444 Upper Mattole Canyon Road
Draft Cleanup and Abatement Order
WDID No. 1B13096CNHU

Humboldt County

On March 13, 2013, Regional Water Board staff and staff from other resource protection/regulatory agencies inspected and confirmed the following unauthorized conditions at the property located at 9444 Upper Mattole Canyon Road, near Ettersburg, in Humboldt County:

- a) Two large clearings, one approximately 3.96 acres, the other approximately 2.25 acres, with no apparent erosion or sediment controls in place; the latter clearing included unstable earthen fills perched above a Class I watercourse tributary to Mattole Canyon Creek;
- b) An instream pond and earthen dam without a stable spillway/overflow structure, located at the head of a watercourse;
- c) 1300+ feet of access road to the smaller clearing, showing evidence of chronic erosion and sediment delivery to Mattole Canyon Creek;
- d) Approximately 2300 feet of poorly constructed and maintained road between the two clearings, lacking proper drainage controls or features, with failing culverts, and evidence of altered or diverted stream flows caused by plugged or undersized culverts, and resulting in sediment delivery to tributaries of Mattole Canyon Creek.
- e) Approximately 600-900 feet of watercourse(s) that have either been filled in or that show evidence of impacts from sediment discharges or hydro-modification associated with site development.

These observed, recently constructed features on the property have directly affected and threaten to affect the beneficial uses of water because of the negative or potentially negative impacts associated with the introduction of earthen material and sediment directly into onsite streams. The unauthorized dredging and filling, tree falling, grading, and discharge of earthen and woody debris in significant quantities has potential negative effects to a number of beneficial uses including those related to fish and fisheries, and aquatic habitat, and constitute violations of the Water Quality Control Plan for the North Coast Region (Basin Plan).

In response, on August 19, 2013, the Regional Water Board Acting Assistant Executive Officer issued a draft Cleanup and Abatement Order (CAO) to the current property owner, Mr. Mario Apostolov, and to the former property owner, Becki J. Rodriguez, for a 30 day review and comment period prior to finalization and formal issuance. Activities to be

required under the CAO include development and implementation of a stream and slope restoration and monitoring plan (Plan) intended to: 1) remove all illegally placed earthen material and woody debris from streams, 2) restore the vegetative and hydrological functions of the damaged streams to ensure the long term recovery of the affected streams, 3) restore natural slope contours to ensure dispersed surface flows, 4) replant the slopes and stream side areas with native vegetation to prevent erosion, and as may be required by CAL FIRE or other agencies, and 5) to provide streamside protection, replant streamside areas with native species to reduce the potential for sediment delivery.

The CAO requires the restoration of all streams and wetlands impacted or obliterated by unauthorized site development activities, and therefore complies with Executive Order W-59-93, that establishes a policy of no net loss of wetland habitat. The CAO does not require any compensatory mitigation for temporal losses of stream and wetland function and value.

Any necessary plantings made under the CAO are to be monitored and maintained (including irrigation if necessary) for five years. All tree and shrub plantings are expected to have a minimum of 85% success of thriving growth at the end of five years with a minimum of two consecutive years (two growing seasons) of monitoring after the removal of irrigation. In the event that initial re-vegetation efforts fail, replanting is required, and post-project monitoring will be continued until re-vegetated areas show an 85% success rate.

The CAO will require monitoring and reporting for all site remediation to determine the success of stream restoration efforts and re-vegetation. Site monitoring will include regularly scheduled inspections for five years or until the site is restored, vegetation is reestablished, erosion is no longer ongoing and monitoring is no longer necessary.

All site restoration work will be conducted in accordance with a stream and slope restoration and monitoring plan reviewed and approved by the Regional Water Board. Short and long term erosion control measures are to be installed and in place by October 15 and maintained over winter periods by the property owner.

To the extent that a federal license or permit is required to conduct the work described herein, under section 401 of the federal Clean Water Act the CAO shall constitute water quality certification because it contains requirements that are equal to or more stringent than those that would be contained in any separate and subsequent certification order.

The CAO is an enforcement action taken by a regulatory agency for the protection of the environment, and is exempt from the provisions of the California Environmental Quality Act (Pub. Resources Code, section 21000 *et seq.*), in accordance with California Code of Regulations, title 14, sections 15308 and 15321.

Staff propose to regulate this project pursuant to Section 401 of the Clean Water Act (33 USC 1341) and/or Porter-Cologne Water Quality Control Act Authority. In addition, staff will consider all comments submitted in writing and received at this office by mail during a

21-day comment period that begins on the first date of issuance of this letter and ends at 5:00 p.m. on the last day of the comment period. If you have any questions or comments, please contact staff member Stormer Feiler at (707)543-7128, or at Stormer.Feiler@waterboards.ca.gov, within 21 days of posting of this notice.

This is a brief summary of the site conditions, CAO, and anticipated site restoration and cleanup work; all related documents, inspection reports, and comments currently available are on file and may be inspected or copied at the Regional Water Board office, 5550 Skylane Boulevard, Suite A, Santa Rosa, California. Appointments are recommended for document review. Appointments can be made by calling (707) 576-2220.

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