

Monte Hendricks

Pollock Pines, CA 95726

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24 March 2009

Pamela Creedon, Executive Officer  
Central Valley Regional Water Quality Control Board  
Central Valley Region  
11020 Sun Center Drive, Suite 200  
Rancho Cordova, CA 95670-6144

VIA: Electronic Submission  
Hardcopy if Requested

RE: Draft Cleanup and Abatement Order for El Dorado County Department of  
Transportation, Rubicon Trail, El Dorado County

Dear Ms. Creedon:

I have reviewed the Draft Cleanup and Abatement Order, El Dorado County Department of Transportation Rubicon Trail, El Dorado County and I submit the following comments. I request status as a designated party for this proceeding.

I have lived in El Dorado County since Jan. 1977. My first trip out the Rubicon Trail was the summer of 1977 when I used it as part of my hiking route to access the remote reaches of the Rubicon River between Rubicon Springs and Hell Hole Reservoir for trout fishing. Healthy populations of wild trout and the clean water and habitat they are so dependant on are of special concern to me. Since 1988 I have regularly backcountry skied the areas north and east of Loon Lake out as far as Buck Island Lake on day trips. I know the area well in all seasons.

I began attending meetings of El Dorado County's Rubicon Oversight Committee (ROC) in the fall of 2003 as a representative of the local non-motorized community. During this time the County was in the process of developing a Rubicon Trail Master Plan (RTMP) and associated environmental documents. The purpose of the ROC was to shepherd this process with input from agencies and interested citizen groups. Our hopes were high. Just as we were expecting release of the Final Environmental Impact Report and a decision by the Board of Supervisors on adoption of a RTMP, in March 2008 it was announced, without any prior consultation or input from the ROC, that the County was killing the RTMP.

As a backcountry skier accustomed to seeing the Trail in the winter, I began hiking and looking at the Trail in the spring of 2007. I was shocked at the changes I now saw especially when compared to the conditions observed in 1977. The conditions I saw with regards to oil spills, human waste, and erosion were appalling. My concerns multiplied because the actual condition of the Trail differed significantly from 4x4 users' claims I had repeatedly heard at ROC meetings: their reports of tens of thousands of volunteer hours on various projects and their refrain that the trail "had never been in better shape."

El Dorado County & the 4x4 community have a long history of using the trail's "county road" designation as an issue to keep regulation and oversight by the U.S. Forest Service at bay. The County is actually currently running an extreme off road Vehicle Park under the guise of a county road. Impacts from motorized recreation are the main issue causing the documented resource damage and water quality degradation as opposed to the Trail being used as a travel corridor or public road. The County has asserted itself to be the responsible party with implied authority and liability with its Board resolution declaring the Trail a public road, its continuing denial of Eldorado National Forest jurisdiction over the Trail, and its continued applications for and acceptance of hundreds of thousands of state grant monies for use on the Trail or for a Trail plan.

The County has empowered the 4x4 community to conduct work as a volunteer crew to work on Trail projects. Use of volunteers where appropriate is a vital and needed resource for all our communities and I strongly support that role. However in this case this empowerment has lead to unplanned, unsupervised, non-engineered, most likely illegal, probably ineffective, and possibly dangerous projects. Case in point is the log stringer "FOTR Bridge" below Walker Hill that must have accounted for many of those volunteer hours. This structure was built without prior authorization; without environmental review to satisfy either CEQA or NEPA requirements; without engineered, stamped, or approved drawings or plans; without any permit to harvest or transport the materials used in the construction; without any Department of Fish & Game review or permits for stream bed work or alteration; and no on the ground review for cultural resource impacts as required to meet the conditions of the programmatic agreement with the State Historic Preservation Office.





There is a valid and necessary role for volunteers work projects in the future of the Trail for simpler supervised maintenance efforts. Many of the necessary fixes and restoration needs are beyond the scope of hand work. Believing that the majority of the necessary mitigations and remediation required to meet water quality standards can be met with volunteer projects is irresponsible and illustrates a lack of understanding or serious commitment to tackle the problems that currently exist on the Trail. The Rubicon Trail needs to be fixed, fixed right, fixed using the most appropriate and efficient equipment, and within the shortest time period possible in order to minimize the ongoing degradation.

I appreciate, thank and strongly commend staff and the Water Board for stepping in and taking on such a political hot potato and taking action to assure clean up and abatement of a mess that has been too long overlooked. Strong action by the Water Board is needed now to end the old cycle of good sounding promises by El Dorado County with little to no results, overstated stories of mitigation successes by the 4x4 volunteer work parties, and inaction by sister agencies valuing a congenial relationship with the County over needed resource protection. Staff's assessments of the ongoing sediment delivery and impacts to trout spawning habitat were made on the Trail after a claimed 20,000 to 30,000 documented volunteer hours on projects by the 4x4 community. These are the projects they insist are solving the water quality issues. This volunteer effort has not been overlooked and must be recognized it is not the solution. Strong pressure by the water board is warranted based on staff's assessment of the Trail. It is evident after El Dorado County failed to deliver on adopting a Rubicon Trail Master Plan after spending over \$400,000 in grant money received from the State of California for that purpose that

they have no intention of taking necessary action to address current or future impacts from the Trail.

**I strongly support the Draft Cleanup and Abatement Order with the following recommendations:**

- 1. The requirement for wet season closure should be strengthened making a seasonal closure mandatory.** All native surface roads (with nowhere near the erosion or water quality issues) on the Eldorado National Forest are closed seasonally to ensure resource protection. New drainage structures are needed in many places along the Rubicon Trail. These will also need to be protected. A reasonable plan would be an inspection of the Trail each October to insure all drainage structures are in place and working (with necessary repairs completed) prior to the wet season, the Trail closed November 1<sup>st</sup> for wet season conditions and protection of drainage structures and all other mitigation measures, after the spring snowmelt and runoff the Trail should be inspected for damage (and any damage repaired) and a determination made as to an appropriate opening date for motorized use for the summer dry season. A proven simple form of enforcement of winter wet season closure is the use of gates at access points. Opening or closing of gates is a strong public notification tool on whether a road or trail is open for motorized use. Gates are used on public lands all over our country and are also used by El Dorado County. The photo below is of the County's gate on Park Creek Road here in Pollock Pines that closes the road seasonally.



- 2. Further studies and monitoring are needed and should be required.** The conclusions by staff supporting the CAO are based on an excellent but short term survey of the trail completed this past summer. The disturbing findings documented in the assessment may only be the tip of the iceberg; the true extent of resource damage is not yet known. The same kind of impacts noted at the Ellis Creek crossing are likely occurring at the crossings of the "Little Rubicon" below the dam on Buck Island Lake and on sections of the Rubicon River near the Trail. The sedimentation impacts to the stream bed and affects on aquatic life must be determined, restoration and cleanup done, mitigation measures taken to insure

the impacts do not reoccur, and monitoring in place to insure the mitigation is effective. The same is needed in regard to vehicle oil spills and human waste all along the Trail that can lead to contamination to our water bodies. Many alpine ponds are nearby and directly downstream from Rubicon Trail segments. The possible impacts to these resources and associated species so dependent on these water features has not yet been properly determined.

3. **Cleanup of sediments in streams and water bodies affected by the Trail and cleanup of vehicle oil spills along all segments of the Trail should be required with a firm timeframe for completion.**
4. **Cleanup or stabilization of sediment deposits above waterways with a firm timeframe for completion.** There are several places along the Trail where sediments are deposited from erosion off the Trail. In places these deposits are above stream courses and it's probable they will be carried into waterways in a large storm or runoff event. Measures should be required to insure this does not take continue.
5. **Street legal vehicle use only with the elimination of green stickered, non-street legal "extreme vehicles."** The restoration of 4x4 use to the historic street legal slightly modified vehicle will eliminate much of the abusive vehicle, driver, and spectator behavior that has significantly contributed to resource and water quality degradation over the last several years. This would also eliminate legal questions over the use of non-street legal vehicles on a county road.
6. **The timetable called for in the draft CAO is appropriate and necessary.** The County, unfortunately, in the instances I have already sited, has failed to take its responsibility seriously. Pressure and possible fines by the CVRWCB is exactly what is needed to end the resource abuse and water quality issues present now out on the Rubicon Trail. This kind of action is a long overdue wake up call.
7. **Determining carrying capacity, adopting use quotas, and implementing user fees are appropriate.** I took part in public meetings prior to the adoption of the new management plan for nearby Desolation Wilderness. Carrying capacities were determined in that plan with quotas and permit fees implemented. The improvements you can now see on the ground to the resources and the quality of the experience visitors to Desolation now have are testament that this management plan is working. I have hiked and backpacked in Wilderness areas throughout the western states. Desolation Wilderness is one of the best insofar as management of visitor impacts and resource protection. I have the honor and responsibility of being appointed as a member of the California Recreation Resource Advisory Committee. This committee makes recommendations on pretty much all recreation fees on USFS and BLM lands in California (USFS Region 5) and is authorized through the Federal Lands Recreation Enhancement Act. During my tenure there have been several proposed fee increases and new fees for OHV areas on BLM lands that have come before us. From my memory each one of these new fees or increases has been supported during the public comment period by the representatives for the OHV community with no one speaking against them. I am frankly surprised at the negative rhetoric surrounding possible user fees for the Rubicon Trail. It is my experience that user fees work.

In closing I want to thank you again for taking action on the Rubicon Trail and providing this opportunity to comment. I do not want the Rubicon Trail to close. It is a valuable historic asset to El Dorado County and the surrounding area. With the continuing degradation, resource damage, water quality issues, reckless behavior, extreme vehicle use, and associated problems it is in serious danger of closing forever with the resulting lost of any economic benefits to the area. Big changes are needed if future motorized use of the Rubicon Trail is allowed. Current environmental and water quality standards must be met. The first step is the recognition of the serious problems that exist out there. The Water Board staff has accomplished that and is performing a valuable service to our environment, every citizen of this state, and following generations by bringing these issues forward and taking action to correct them. This strong action by the Central Valley Regional Water Quality Control Board is necessary to save the Rubicon Trail. The time to act is now. Thank you.

Sincerely,

*/s/ Monte Hendricks*

Monte Hendricks

**Attachments:**

Attachment A – May 2008 report on Trail conditions

Attachment B – Report on Trail conditions, 27 May 2008 field trip

Attachment C – Report on Trail conditions, Buck Island Lake, 16 July 2008

Attachment D – Continued report on conditions, Buck Island Lake, 16 July 2008

Attachment E – Report on Winter Use, January 2009 (edited March 2009)