FROM THE DESK OF
MARK A. RICHARDS

March 31,2009
Wendy S. Wyels, Chief
Compliance and Enforcement section
California Regional Water Quality Control Board
Central Valley Region
11020 Sun Center Drive
Rancho Cordova, California 95670-6114

Re: DRAFT CLEANUP AND ABATEMENT ORDER, RUBICON TRAIL, EL DORADO COUNTY

Dear Ms. Wyels:

Several statements made by the Central Valley Regional Water Quality Control Board (Agency) in the subject document are untrue and I request that they be addressed in the final revised Cleanup and Abatement Order, CAO. Also, the *Assessment of Sediment Delivery From the Rubicon Jeep Trail,* or report, makes numerous non-factual statements and misrepresentations and I request that it be extensively revised or retracted.

Statement 8, page 3 of the CAO, the Board offers

" low levels of oil and grease were identified in water and soil samples collected on the Rubicon Trail, and low levels of copper and cadmium were identified in soil samples. This contamination is due to motor oil, grease, and other petroleum-based fluids spilling and leaking from OHVs that have overturned or have damaged mechanical components while traversing rocky segments of the trail."

The referenced contamination was "identified" by samples that were not analyzed by a State-Certified analytical testing laboratory. As such, the results are merely hearsay in addition to not following the Board's required professional standards contained on page 8 of the CAO. The analytical method employed was a modification of EPA Method 1664. This testing did not use the industry standard silica gel cleanup, allowing the extraction and subsequent analysis of polar and non-polar hexane extractable organic compounds. This sample preparation omission means that the water sample chemical analysis is invalid as it can include any of many naturally occurring organic compounds introduced into the Ellis Creek watershed and waters of the creek. Attached to this letter are the results of chemical testing by a State-Certified analytical laboratory of Lodgepole Pine and White Fir needles and stems collected by me on March 21, 2009 at the Rubicon Trail head, Loon Lake Ski Chalet. These sample analytical results indicate concentrations of 6,400 mg/kg and 2,800 mg/kg respectively. These elevated concentrations of naturally occurring organic materials clearly show the possibility that native trees growing in and

around, and indeed, falling into Ellis Creek, area potential sources of the CAO referenced "oil and grease" found in the water samples. Because of the improper analytical methods employed and reported in the RTMP EIR and referenced in the CAO, and the fact that the "contamination" is in fact at least partially occurring, I request with emphasis, that any reference to "oil and grease" and water sample chemical analysis from Ellis creek be omitted from the revised and final CAO.

Statement 9 page 3 of the CAO summarizing the Agency's own Report offers "...and quantified the sediment volume along these trail segments by measuring the dust layer. With this information, staff estimated that between 75 and 100 cubic yards (or approximately 8 to 10, 10-yard dump trucks) of sediment is likely discharging from the El Dorado County portion of the Rubicon Trail to waters of the state annually.

The CAO does not state what the report does. Nowhere in the report does it state that sediment ***movement*** is measured. If the material can not be shown to be moving, or deposited, then it is not sediment. It is "dust", potential sediment. It may move. It may not. The Agency has not shown any movement. It may stay in place forever until buried and lithified into rock. And it has not been shown to be impacting waters of the State. The report did not measure any delivered dust sediment in Ellis Creek. If the "dust" was delivered sediment, it would have to be measured in Ellis Creek. No such measurements were made. Agency personnel stepped over sediment to count pebbles, but they did not measure any "dust" delivered into Ellis Creek. In fact, in the one location where agency personnel allegedly measured water deposited material, they did not report any sediment. They reported "pebbles". The agency assumes, estimates, quantified, and assessed. But they did not measure anything resembling dust in the one place it mattered, in Ellis Creek. There thousands of cubic yards of potential dust along the Rubicon trail, but it is in situ and is not being deposited in Ellis Creek.

Statement 10, page 3 of the CAO " Board staff also completed a pebble count survey at the Ellis Creek crossing of the Rubicon Trail and identified that the influx of sediment into this perennial fish-bearing stream is causing a fining of bed material downstream of the crossing. This increased sediment load fills spawning gravels and reduces aquatic habitat.... " and from of the approximate middle of the report "Sediment production is dependent on the depth of the dust layer and trail surface area (equation 3)."

The CAO and report statements are exclusive of each other. There is no measurement of pebbles on the trail, or pebble movement by any means. The measurements are of "dust". The counts and measurements allegedly done in the Ellis Creek at the Trail crossing by Board staff are of pebbles; there is no dust count. The Agency makes an untrue statement that does not even match it's own findings. The agency states that it's staff conducted a "pebble count". The report does not state that it's staff did anything, including count pebbles. Nowhere in the report does it state who collected or measured anything. The document is unsigned, there is no corroborating field notes or logs establishing or documenting any work whatsoever. The Board's statement in the CAO regarding an influx of

sediment to Ellis Creek, as noted above is false, because it's own document, the report, makes no such statements.

Misrepresetations made by the Report include the statements made about the Ellis reek Pebble count. The report states that "pebbles" averaging greater than 28 mm diameter were measured above the crossing, and < 5mm below. There is no statement in the report that the pebbles came from the Rubicon trail, or that the smaller pebble sizes are caused by trail traffic. No "pebbles" are measured on the trail anywhere in the text. The "study" in question does not address or encompass stream gradient at the sample site. The distribution of "settleable solids" is dependent partially on stream velocity and gradient. These factors are not even considered. The trail is over 100 years old. It is reasonable that gravel, "pebbles" were added to the creek at the ford site to ease vehicle traffic. This is never considered. The agency statement 10 above is false and unsubstantiated.

Regarding the report, the Board personnel's statement in the report that it has determined anything is a false statement. The first sentence of the report says that it assessed to determine. The first sentence of Section 5.0 Conclusion states that the report assessed to determine. In between the two uses of the word determine, the other words, in order of use, include:

suggests
related
estimated
estimated
assume
estimated
assume
estimated
estimated
estimated
estimated
assumed
assume
estimated
expected
estimated
estimated
estimated
estimated

In between the first and last determinations, there are a few points of non determination. And one of the apparent authors even quotes himself as a source twice in the process. The Board statement in the report that it has determined anything is a false statement and I request that it be corrected or retracted.

The Board's report never presents it's methods for measuring "dust" or even bothers to describe or define the key term in their own study. Dust is not an engineering unit of measure or grain size classification that would be appropriate as the Rubicon Trail is a public road. Roads fall under the jurisdiction of the Department of Transportation, and the DOT uses engineering units. The measurement locations are not provided. Board report personnel could have very easily and expeditiously used GPS coordinates to locate and document the sample locations, but they chose not to do this or provide the information. As there are no records of any dust measurements or the methods, there is no way to validate or check the author's work. The dust measurements, without any backing validation, do not meet the professional standards that the Board requires of it's addressees, nor do they meet the requirements provided on page 8 of the CAO. The California Geological Survey recently completed a study, and they had no trouble recording such information. The Board's personnel did not meet the standard set by other agency personnel completing the same tasks. In comparison to CGS personnel, they are literally unprofessional. The dust measurements may not be presented as fact and are hearsay.

The Board's report is written in a passive, reporting voice. It is as though it is reporting on something that someone else has done. The entire first two and one half pages do not report anything at all, they merely state what other people have reported. I find this highly unusual in a technical document that purports to determine anything. The report could more accurately be titled ***"Measurements of Clay and Silt Fraction Particles on Eight Sections of the Rubicon Trail, and One Pebble Count Survey Completed at One Location on Ellis Creek"***. The purpose of the Board is to serve and protect the health of the people of the State of California, not be used as a platform for political attacks or cater to special interest groups, or to provide an opportunity for Agency personnel to author a document. I request that the CAO be revised accordingly and the specious report be retracted.

Regards,

Mark A. Richards

Mark A. Richards

attachment: Kiff Analytical Lab Report

FROM THE DESK OF
MARK A. RICHARDS

5612 Sparas St Loomis, California 95650

March 31,2009
Wendy S. Wyels, Chief
Compliance and Enforcement section
California Regional Water Quality Control Board
Central Valley Region
11020 Sun Center Drive
Rancho Cordova, California 95670-6114

Re: Laboratory Analytical Results of Samples From Two Trees at Loon Lake Ski Chalet, Loon Lake, California

Dear Ms. Wyels:

Enclosed are laboratory analytical results from the testing for oil and grease of needles and stems collected from two conifer trees at the subject location. The samples were collected by me on March 20, 2009 directly from two growing trees at the east end of the Loon Lake Ski Chalet parking lot. Sample 1 is from a Lodgepole Pine, and sample 2 is from a fir, either White Fir or Red Fir. The samples were taken directly after collection to Kiff Analytical, a state certified testing laboratory located in Davis, California for analysis of hexane extractable oil and grease by EPA Method 1664.

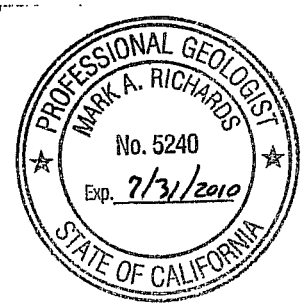
The results indicate concentrations ranging from 2,800 to 6,400 mg/kg of extractable oil and grease. The results show that native vegetation growing at the Rubicon Trail Location bear chemicals that may be identified and reported by EPA oil and grease test methods.

Regards,

Mark A. Richards

Mark A. Richards

California Professional Geologist No. 5240



Enclosure

KIFF Analytical LLC

Report Number : 67822
Date : 03/30/2009

Mark Richards
Mark A. Richards
5612 Sparas St.
Loomis, CA 95650

Subject : 4 Samples
Project Name : Loon Lake Ski Chalet
Project Number :

Dear Mr. Richards,

Chemical analysis of the samples referenced above has been completed. Summaries of the data are contained on the following pages. Sample(s) were received under documented chain-of-custody. US EPA protocols for sample storage and preservation were followed.

Kiff Analytical is certified by the State of California (# 2236). If you have any questions regarding procedures or results, please call me at 530-297-4800.

Sincerely,

Joel Kiff

Calscience
Environmental
Laboratories, Inc.

March 30, 2009

Joel Kiff
Kiff Analytical
2795 2nd Street, Suite 300
Davis, CA 95616-6593

Subject: **Calscience Work Order No.: 09-03-1974**
Client Reference: Loon Lake Ski Chalet

Dear Client:

Enclosed is an analytical report for the above-referenced project. The samples included in this report were received 3/21/2009 and analyzed in accordance with the attached chain-of-custody.

Unless otherwise noted, all analytical testing was accomplished in accordance with the guidelines established in our Quality Systems Manual, applicable standard operating procedures, and other related documentation. The original report of subcontracted analysis, if any, is provided herein, and follows the standard Calscience data package. The results in this analytical report are limited to the samples tested and any reproduction thereof must be made in its entirety.

If you have any questions regarding this report, please do not hesitate to contact the undersigned.

Sincerely,

Amanda Porter

Calscience Environmental
Laboratories, Inc.
Amanda Porter
Project Manager

Calscience Environmental Laboratories, Inc.

Analytical Report

Kiff Analytical
2795 2nd Street, Suite 300
Davis, CA 95616-6593

Date Received: 03/21/09
Work Order No: 09-03-1974

Project: Loon Lake Ski Chalet

Client Sample Number	Lab Sample Number	Date Collected	Matrix
LLSC1	**09-03-1974-1**	**03/20/09**	**Solid**

Parameter	Result	RL	DF	Qual	Units	Date Prepared	Date Analyzed	Method
HEM: Oil and Grease	6400	100	1		mg/kg	03/26/09	03/26/09	EPA 1664A M

Client Sample Number	Lab Sample Number	Date Collected	Matrix
LLSC2	**09-03-1974-2**	**03/20/09**	**Solid**

Parameter	Result	RL	DF	Qual	Units	Date Prepared	Date Analyzed	Method
HEM: Oil and Grease	2800	100	1		mg/kg	03/26/09	03/26/09	EPA 1664A M

Client Sample Number	Lab Sample Number	Date Collected	Matrix
Method Blank		**N/A**	**Solid**

Parameter	Result	RL	DF	Qual	Units	Date Prepared	Date Analyzed	Method
HEM: Oil and Grease	ND	10	1		mg/kg	03/26/09	03/26/09	EPA 1664A M

RL - Reporting Limit , DF - Dilution Factor , Qual - Qualifiers

Calscience Environmental Laboratories, Inc.

Quality Control - LCS/LCS Duplicate

Kiff Analytical
2795 2nd Street, Suite 300
Davis, CA 95616-6593

Date Received: N/A
Work Order No: 09-03-1974

Project: Loon Lake Ski Chalet

Matrix: Solid

Parameter	Method	Quality Control Sample ID	Date Extracted	Date Analyzed	LCS % REC	LCSD % REC	%REC CL	RPD	RPD CL	Qual
HEM: Oil and Grease	EPA 1664A M	099-12-040-189	03/26/09	03/26/09	92	82	80-120	11	0-20	

RPD - Relative Percent Difference , CL - Control Limit

Calscience Environmental Laboratories, Inc.

Glossary of Terms and Qualifiers

Work Order Number: 09-03-1974

Qualifier	Definition
*	See applicable analysis comment.
1	Surrogate compound recovery was out of control due to a required sample dilution, therefore, the sample data was reported without further clarification.
2	Surrogate compound recovery was out of control due to matrix interference. The associated method blank surrogate spike compound was in control and, therefore, the sample data was reported without further clarification.
3	Recovery of the Matrix Spike (MS) or Matrix Spike Duplicate (MSD) compound was out of control due to matrix interference. The associated LCS and/or LCSD was in control and, therefore, the sample data was reported without further clarification.
4	The MS/MSD RPD was out of control due to matrix interference. The LCS/LCSD RPD was in control and, therefore, the sample data was reported without further clarification.
5	The PDS/PDSD associated with this batch of samples was out of control due to a matrix interference effect. The associated batch LCS/LCSD was in control and, hence, the associated sample data was reported with no further corrective action required.
A	Result is the average of all dilutions, as defined by the method.
B	Analyte was present in the associated method blank.
C	Analyte presence was not confirmed on primary column.
E	Concentration exceeds the calibration range.
H	Sample received and/or analyzed past the recommended holding time.
J	Analyte was detected at a concentration below the reporting limit and above the laboratory method detection limit. Reported value is estimated.
ME	LCS Recovery Percentage is within LCS ME Control Limit range.
N	Nontarget Analyte.
ND	Parameter not detected at the indicated reporting limit.
Q	Spike recovery and RPD control limits do not apply resulting from the parameter concentration in the sample exceeding the spike concentration by a factor of four or greater.
U	Undetected at the laboratory method detection limit.
X	% Recovery and/or RPD out-of-range.
Z	Analyte presence was not confirmed by second column or GC/MS analysis.

(1974)

KIFF Analytical LLC

2795 Second Street, Suite 300
Davis, CA 95618
Lab: 530.297.4800
Fax: 530.297.4808

Calscience
7440 Lincoln Way
Garden Grove, CA 92841-1427
714-895-5494

COC No. **67822** Page 1 of 1

Chain-of-Custody Record and Analysis Request

Project Contact (Hardcopy or PDF to): Scott Forbes

EDF Report? NO

Company/Address: Kiff Analytical

Recommended but not mandatory to complete this section:

Sampling Company Log Code:

Phone No.: 530-297-4800 | FAX No.: 530-297-4808

Global ID:

Project Number: | P.O. No.: 67822

Deliverables to (Email Address): inbox@kiffanalytical.com

Project Name: Loon Lake Ski Chalet

Project Address:

Sample Designation	Sampling Date	Sampling Time	Container / Preservative: 8 Oz. Glass None	Matrix: Solid	Analysis Request: Hold Sub	TAT: 4-Days	For Lab Use Only
LLSC1	03/20/09	11:21	1	X	X	X	1
LLSC2	03/20/09	11:20	1	X	X	X	2
LLSC3	03/20/09	11:21	1	X	X	X	3
LLSC4	03/20/09	11:21	1	X	X	X	4

Relinquished by: Kiff Analytical	Date 032009	Time 1900	Received by:	Remarks:
Relinquished by:	Date	Time	Received by:	
Relinquished by: OnTrac 3/02373036170	Date 3/21/09	Time 0900	Received by Laboratory: CEL	Bill to: Accounts Payable

Calscience Environmental Laboratories, Inc.

WORK ORDER #: 09-03-171874

SAMPLE RECEIPT FORM

Cooler 1 of 1

CLIENT: Scott Forbes

DATE: 03/21/09

TEMPERATURE: (Criteria: 0.0 °C – 6.0 °C, not frozen)

Temperature 3.0 °C - 0.2 °C (CF) = 2.8 °C ☑ Blank ☐ Sample

☐ Sample(s) outside temperature criteria (PM/APM contacted by: _____).

☐ Sample(s) outside temperature criteria but received on ice/chilled on same day of sampling.

☐ **Received at ambient temperature, placed on ice for transport by Courier.**

Ambient Temperature: ☐ Air ☐ Filter ☐ Metals Only ☐ PCBs Only **Initial:** YL

CUSTODY SEALS INTACT:

☑ Cooler ☐_____ ☐ No (Not Intact) ☐ Not Present ☐ N/A **Initial:** YL

☑ Sample ☐_____ ☐ No (Not Intact) ☐ Not Present **Initial:** KN

SAMPLE CONDITION:	Yes	No	N/A
Chain-Of-Custody (COC) document(s) received with samples	☑	☐	☐
COC document(s) received complete	☑	☐	☐
☐ Collection date/time, matrix, and/or # of containers logged in based on sample labels.			
☐ COC not relinquished. ☐ No date relinquished. ☐ No time relinquished.			
Sampler's name indicated on COC	☐	☐	☑
Sample container label(s) consistent with COC	☑	☐	☐
Sample container(s) intact and good condition	☑	☐	☐
Correct containers and volume for analyses requested	☑	☐	☐
Analyses received within holding time	☑	☐	☐
Proper preservation noted on COC or sample container	☐	☐	☑
☐ Unpreserved vials received for Volatiles analysis			
Volatile analysis container(s) free of headspace	☐	☐	☑
Tedlar bag(s) free of condensation	☐	☐	☑

CONTAINER TYPE:

Solid: ☐4ozCGJ ☑8ozCGJ ☐16ozCGJ ☐Sleeve ☐EnCores® ☐TerraCores® ☐_____

Water: ☐VOA ☐VOAh ☐VOAna_2 ☐125AGB ☐125AGBh ☐125AGBpo_4 ☐1AGB ☐1AGBna_2 ☐1AGBs ☐500AGB ☐500AGBs ☐250CGB ☐250CGBs ☐1PB ☐500PB ☐500PBna ☐250PB ☐250PBn ☐125PB ☐125PBznna ☐100PBsterile ☐100PBna_2 ☐_____ ☐_____ ☐_____

Air: ☐Tedlar® ☐Summa® ☐_____ **Sludge/Other:** ☐_____ **Checked/Labeled by:** KN

Container: C:Clear A:Amber P:Poly/Plastic G:Glass J:Jar B:Bottle **Reviewed by:** YL

Preservative: h:HCL n:HNO_3 na_2:$Na_2S_2O_3$ na:NaOH po_4:H_3PO_4 s:H_2SO_4 znna:$ZnAc_2$+NaOH **Scanned by:** KN

KIFF Analytical LLC

2795 Second Street, Suite 300
Davis, CA 95618
Lab: 530.297.4800
Fax: 530.297.4808

Calscience
7440 Lincoln Way
Garden Grove, CA 92841-1427
714-895-5494

COC No. **67822** Page 1 of 1

Chain-of-Custody Record and Analysis Request

Project Contact (Hardcopy or PDF to): Scott Forbes

EDF Report? NO

Company/Address: Kiff Analytical

Phone No.: 530-297-4800 FAX No.: 530-297-4808

Project Number: P.O. No.: 67822

Project Name: Loon Lake Ski Chalet

Project Address:

Recommended but not mandatory to complete this section:

Sampling Company Log Code:

Global ID:

Deliverables to (Email Address): inbox@kiffanalytical.com

Sample Designation	Sampling Date	Sampling Time	Container / Preservative: 8 Oz. Glass None	Matrix: Solid	Analysis Request: Hexane-Extractable Oil and Grease	Analysis Request: Hold Sub	TAT: March 30, 2009 (4-Day TAT)	For Lab Use Only
LLSC1	03/20/09	11:21	1	X	X		X	
LLSC2	03/20/09	11:20	1	X	X		X	
LLSC3	03/20/09	11:21	1	X		X	X	
LLSC4	03/20/09	11:21	1	X		X	X	

Relinquished by:	Date	Time	Received by:
Relinquished by:	Date	Time	Received by:
Relinquished by:	Date	Time	Received by Laboratory:

Remarks:

Bill to: Accounts Payable

KIFF Analytical LLC

2795 2nd Street, Suite 300
Davis, CA 95618
Lab: 530.297.4800
Fax: 530.297.4802

SRG # / Lab No. 67822

Page 1 of 1

Chain-of-Custody Record and Analysis Request

Project Contact (Hardcopy or PDF To): Mark A. Richards	California EDF Report? ☐ Yes ☐ No
Company / Address: 5612 Sparer St	Sampling Company Log Code:
Phone Number: 916 296 0213 Loomis, CA	Global ID:
Fax Number:	EDF Deliverable To (Email Address): dustonzz@mge.com
Project #: P.O. #:	Bill to:
Project Name: Loon Lake SK. Chalet	Sampler Print Name: Mark Richards
	Sampler Signature: Mark A. Richards

Project Address:	Sampling		Container						Preservative					Matrix				Analysis Request (PLEASE CIRCLE METHOD)																		TAT	For Lab Use Only
Sample Designation	Date	Time	40 ml VOA	Sleeve	Poly	Glass	Tedlar		HCl	HNO_3	None			Water	Soil	Air	Solid	MTBE @ 0.5 ppb (EPA 8260B)	BTEX (EPA 8260B)	TPH Gas (EPA 8260B)	5 Oxygenates (MTBE, DIPE, ETBE, TAME, TBA) (EPA 8260B)	7 Oxygenates (5 oxy + EtOH, MeOH) (EPA 8260B)	Lead Scav. (1,2 DCA & 1,2 EDB) (EPA 8260B)	Volatile Halocarbons (EPA 8260B)	Volatile Organics Full List (EPA 8260B)	Volatile Organics (EPA 524.2 Drinking Water)	TPH as Diesel (EPA 8015M)	TPH as Motor Oil (EPA 8015M)	CAM 17 Metals (EPA 200.7 / 6010)	5 Waste Oil Metals (Cd,Cr,Ni,Pb,Zn) (EPA 200.7 / 6010)	Mercury (EPA 245.1 / 7470 / 7471)	Total Lead (EPA 200.7 / 6010)	W.E.T. Lead (STLC)	Oil & Grease EPA 1664	Do Not use Silica Gel Cleanup	Hold		☐ 12 hr ☐ 24 hr ☐ 48hr ☐ 72hr ☒ 1 wk	
LLSC1	3/20	11:14				X					X					X	X																X	X			01
LLSC2	3/20	11:20				X					X					X	X																				02
LLSC3	3/20	11:21				X					X					X	X																		X		03
LLSC4	3/20	11:21				X					X					X	X																		X		04

Relinquished by:	Date	Time	Received by:
Mark A. Richards	3/20/09	14:07	
Relinquished by:	Date	Time	Received by:
Relinquished by:	Date	Time	Received by Laboratory:
	032009	1407	KIFF Analytical

Remarks:

For Lab Use Only: Sample Receipt

Temp °C	Initials	Date	Time	Therm. ID #	Coolant Present
6.5	LTR	032009	1355	IR-2	(Yes) / No

Distribution: White - Lab; Pink - Originator
Rev: 061708