

California Regional Water Quality Control Board
North Coast Region

Cleanup and Abatement Order No. R1-2002-0016

For

Mr. Ken Bareilles

On or About

THP 1-99-091 MEN
§3,9,10 T21N, R16W
Humboldt Meridian

Mendocino County

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

1. Mr. Ken Bareilles, 3702 "O" Street, Eureka, California, as the licensed timber operator (hereinafter the LTO), conducted timber operations under timber harvest plan (THP) 1-99-091 MEN. THP 1-99-091 MEN, submitted by Mr. Bareilles, was approved by the California Department of Forestry and Fire Protection on July 27, 1999. A Road Rehabilitation Plan was amended into the THP on May 24, 2001.
2. The THP is located in northwestern Mendocino County, approximately 3.2 air miles northeast of Branscomb, California (portions of sections 3, 9 and 10 ,T12N, R16W, HB&M). The THP area and associated road system drain into Rock Creek, a fish bearing tributary of the South Fork Eel River. The South Fork Eel River is listed as sediment impaired under Section 303(d) of the federal Clean Water Act. Approximately 2 miles of the road used for the subject THP (hereinafter Rock Creek Road), runs parallel to and within 10-200 feet of Rock Creek.
3. Regional Water Board staff conducted five inspections of Rock Creek Road. These inspections revealed several violations of the prohibitions contained in the Water Quality Control Plan for the North Coast Region (Basin Plan). The LTO did not adequately implement the Road Rehabilitation Plan which, combined with the onset of winter rains, led to discharge and threatened discharge of earthen material to Rock Creek from the Rock Creek Road. The discharge of approximately 4 yd³ of earthen material was documented from one site along the road. This discharge was in violation of prohibition 1 of the Action Plan for Logging, Construction and Associated Activities (Action Plan).
4. Conditions exist at numerous sites along the Rock Creek Road which threaten to cause the discharge of earthen material into Rock Creek in violation of prohibition 2 of the Action Plan. These conditions include, but are not limited to, surface erosion from poorly rocked sections of the road, inadequate or lack of properly designed and constructed road drainage and watercourse crossing structures, surface erosion from the near stream rock quarry, and placement of quarry overburden directly above the creek.

5. Regional Water Board staff informed the LTO of the Basin Plan violations in two separate written reports (dated September 26 and November 28, 2001). The November 28, 2001 inspection report requested the submission of an Erosion Control Plan (ECP) for the Rock Creek Road. The ECP was to be prepared, and submitted to Regional Water Board staff by December 12, 2001. A response has yet to be received by this office.
6. The beneficial uses of the South Fork Eel River, including its tributary Rock Creek, as designated in the Water Quality Control Plan for the North Coast Region, include:
 - a. municipal and domestic supply
 - b. agricultural supply
 - c. industrial service supply
 - d. groundwater recharge
 - e. navigation
 - f. hydropower generation
 - g. water contact recreation
 - h. non-contact recreation
 - i. commercial and sport fishing
 - j. warm freshwater habitat
 - k. cold freshwater habitat
 - l. wildlife habitat
 - m. rare, threatened and endangered species
 - n. migration of aquatic organisms
 - o. spawning, reproduction and/or early development
 - p. estuarine habitat
 - q. aquaculture
7. The LTO has caused and continues to threaten to cause a discharge of earthen material into waters of the State, triggering the provisions of Water Code section 13304. Further, the LTO has caused the discharge of earthen material to a stream, and has placed earthen materials in locations where such material could further pass into a watercourse, both in quantities which could be deleterious to fish, wildlife or other beneficial uses described above. These activities also violate prohibitions 1 and 2 of the Basin Plan.
8. This is an enforcement action by a regulatory agency, being taken for the protection of the environment, and is exempt from the provisions of the California Environmental Quality Act (Public Resources Code, Section 21000 et seq.) in accordance with California Code of Regulations, Title 14, Section 15321.

THEREFORE, IT IS HEREBY ORDERED that, pursuant to California Water Code Sections 13267(b) and 13304, Mr. Ken Barielles shall:

1. By February 1, 2002, submit for approval by the Regional Water Board Executive Officer (EO), an Erosion Control Plan (ECP), prepared by a licensed professional experienced in erosion control, for the haul road associated with THP 1-99-091 MEN located along Rock Creek. The ECP shall contain site-specific design and construction standards and materials specifications, and an associated map, for each of the sites along the Rock Creek Road

where earthen material has discharged or is in a position to be discharged into waters of the State in violation of the Basin Plan.

2. By February 28, 2002, complete all work detailed in the approved ECP. An extension request may be submitted. However, any such request is subject to EO approval and must be submitted prior to February 21, 2002.
3. By March 15, 2002, submit a completion report to the EO that clearly documents the full and complete implementation of the approved ECP.

Ordered by _____

Susan A. Warner
Executive Officer

January 17, 2002