

California Regional Water Quality Control Board
North Coast Region

Cleanup and Abatement Order No. R1- 2003-0123-A
(Revised on October 24, 2003)

And

Request for Technical Reports

To

Mr. John Hanes,
Hanes Ranch, Inc.

On or About
Timber Harvest Plan 1-02-175 MEN
(Previously Submitted as THP 1-02-118 MEN)

And
Timber Harvest Plan 1-02-155 MEN
Navarro River Watershed

Mendocino County

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

1. Hanes Ranch Inc. and Mr. John Hanes, President of Hanes Ranch, Inc., (hereinafter referred to as the “Dischargers”), P.O. Box 528, Boonville, CA 95415, own land in the Navarro and Garcia River watersheds. The Dischargers are responsible for overseeing, controlling and/or conducting management activities and other activities within the ownership associated with, but not limited to: timber harvesting, forestry management, recreation activities, road construction, watercourse crossing construction, road maintenance, and erosion control maintenance. The Dischargers submitted Timber Harvest Plans (THPs) 1-02-118 MEN, 1-02-175 MEN and 1-02-155 MEN to the California Department of Forestry (CDF) for portions of their ownership in the Navarro River watershed during the spring and summer of 2002.
2. The THP areas described in Finding 1 are located in southwestern Mendocino County, approximately six air miles southwest of Boonville, California (portions of Sections 16, 17, 20, 21, 28, 29, 32, and 33, of Township 13 north, Range 14 west and Section 3 of Township 12 north, Range 14 west; Mount Diablo Base and Meridian) (see enclosed Exhibit 1). The THP areas and associated road systems drain into the Navarro River and are hereinafter referred to as the “Property.”
3. Mr. John Hanes, on behalf of Hanes Ranch, Inc., has signed THPs submitted to the California Department of Forestry (CDF) for the Property as the Timber Owner of Record, Timberland Owner of Record, and Plan Submitter. Mr. Hanes exercised and exercises

extensive personal direction and control over day-to-day operations of the Hanes Ranch, and is therefore named individually as a responsible party, in addition to the Hanes Ranch, Inc.

4. The Navarro River is listed under Section 303(d) of the Clean Water Act as impaired due to excessive sediment and temperature. Additionally, a Total Maximum Daily Load for sediment and temperature has been established by the U.S. Environmental Protection Agency for the Navarro River watershed. Enclosed Exhibit 1 shows the Property, including its appurtenant roads, that is referenced in this Order.
5. The beneficial uses of the Navarro River and its tributaries include:
 - a) domestic water supply
 - b) agricultural water supply
 - c) groundwater recharge
 - d) water contact recreation
 - e) non-contact recreation
 - f) sport fishing
 - g) cold freshwater habitat
 - h) wildlife habitat
 - i) rare, threatened and endangered species
 - j) migration of aquatic organisms
 - k) spawning, reproduction and/or early development of aquatic organisms
 - l) estuarine habitat
6. The Water Quality Control Plan for the North Coast Region (Basin Plan) contains specific standards and provisions for maintaining high quality waters of the state that provide for the beneficial uses listed above. The Action Plan for Logging, Construction and Associated Activities (Action Plan) contained in the Basin Plan includes two prohibitions relative to the discharge of soil, silt, bark, slash, sawdust, or other organic and earthen material and to the placing or disposal of such materials in a location where this material could pass into any stream or watercourse.
7. THP 1-02-118 MEN was submitted to CDF on May 13, 2002, and later withdrawn by the Dischargers on July 3, 2002. This THP was subsequently revised and resubmitted to CDF as THP 1-02-175 MEN on July 12, 2002. THP 1-02-175 MEN covers the same land area as THP 1-02-118 MEN. THP 1-02-175 MEN was denied by the CDF on November 27, 2002.
8. THP 1-02-155 MEN was submitted to CDF on July 1, 2002. THP 1-02-155 MEN was returned and subsequently resubmitted on July 12, 2002. THP 1-02-155 MEN was withdrawn by the Dischargers on August 2, 2002.
9. Regional Water Board staff conducted numerous pre-harvest inspections (PHI) of the subject THPs during the summer and fall of 2002. During the PHIs, staff identified over 30 erosion sites and revealed violations of Prohibition 1 of the Action Plan. Violations include the discharge of earthen material from watercourse crossings, road fill failures, inadequate

road drainage, watercourse diversions, and numerous surface erosion sites, within the THP area and along the road network into Minnie Creek, Big Rough Creek, Camp Creek, Rancheria Creek, German Creek and their tributaries. Exhibits 2,3, and 4 (enclosed) compiles site-specific findings from the numerous inspections.

10. The inspections described in Finding No. 9 above also revealed several violations of Prohibition 2 of the Action Plan. Violations include locations where earthen material has been placed or deposited in a position that threatens to cause a discharge into Minnie Creek, Big Rough Creek, Camp Creek, Rancheria Creek, German Creek and their tributaries.
11. On October 18, 2002, the Dischargers were issued Cleanup and Abatement and Request for Technical Reports Order (CAO 2002) No. R1-2002-0102 for the Property. CAO 2002 was issued by the Regional Water Board Executive Officer pursuant to California Water Code (CWC) Sections 13304 and 13267.
12. The Dischargers failed to comply with the CAO 2002 of the Executive Officer of the Regional Water Board requiring submittal of technical reports, pursuant to CWC Section 13267(b).
13. Based on a two-day compliance inspection conducted in the spring of 2003, it was determined that the Dischargers also failed to comply with the CAO 2002 by not cleaning up and abating soil discharges, pursuant to Section 13304(a) (see enclosed Exhibit 5).
14. On July 10, 2003, the Executive Officer of the Regional Water Board issued Administrative Civil Liability Complaint (Complaint) No. R1-2003-0081 to Hanes Ranch, Inc., and Mr. John Hanes, President of Hanes Ranch, Inc. The Complaint proposed the imposition of civil liabilities in the amount of \$100,000 for violations of CAO 2002 and Basin Plan prohibitions, pursuant to CWC Sections 13268 and 13350.
15. On August 7, 2003, the Dischargers submitted the *Hanes Ranch Long Term Erosion Control Plan, Landslide Investigation Report and Sediment Source Inventory including Culvert Inventory* (Hanes Ranch ECP) prepared by John W. Hanes, licensed civil engineer. Regional Water Board staff evaluated the Hanes Ranch ECP and determined that it does not comply with the requirements of the CAO 2002.
16. On September 24, 2003, the Regional Water Board adopted Administrative Civil Liability Order No. R1-2003-0093 (ACL Order). The ACL Order imposes an administrative civil liability of \$237,200 to be administered as follows: \$100,000 is payable within 30 days of the ACL Order adoption date and \$137,200 is suspended provided the Dischargers submit a long term erosion control plan acceptable to the Regional Water Board Executive Officer, not later than 180 days from the adoption of the Order.
17. The Dischargers have caused or permitted, continues to cause or permit, or threatens to cause or permit waste to be discharged or deposited where it is, or probably will be, discharged into the waters of the state and has created and/or threatens to create, a condition of pollution or nuisance. Continuing discharges are in violation of the Porter-

Cologne Water Quality Control Act and provisions of the Water Quality Control Plan for the North Coast Region (Basin Plan).

18. All of the technical reports required by this Cleanup and Abatement and Request for Technical Reports Order No. R1-2003-0123-A (CAO 2003-A) are necessary to ensure that the prior harm and future threat to water quality created by the discharges described above are properly abated and controlled. More detailed information is available in the Regional Water Board's public file on this matter.
19. 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 Title 14, California Code of Regulations, Section 15321.
20. Failure to comply with the terms of this CAO 2003-A may result in enforcement under the California Water Code. Any person failing to provide technical reports containing information required by this CAO 2003-A by the required date(s) or falsifying any information in the technical reports is, pursuant to Water Code Section 13268, guilty of a misdemeanor and may be subject to administrative civil liabilities of up to one thousand dollars (\$1,000) for each day in which the violation occurs. Any person failing to cleanup or abate threatened or actual discharges as required by this CAO 2003-A is, pursuant to Water Code Section 13350(e), subject to administrative civil liabilities of up to five thousand dollars (\$5,000) per day or ten dollars (\$10) per gallon of waste discharged. Any person discharging waste into navigable waters of the United States without waste discharge requirements is, pursuant to Water Code Section 13385(c), subject to administrative civil liabilities of up to ten thousand dollars (\$10,000) per day in which the discharge occurs plus ten dollars (\$10.00) per gallon of waste discharged and may also be subject to criminal prosecution pursuant to Water Code Section 13387.
21. Any person affected by this action of the Regional Water Board may petition the State Water Resources Control Board (State Water Board) to review the action in accordance with California Water Code Section 13320 and Title 23, California Code of Regulations, Section 2050. The petition must be received by the State Water Board within 30 days of the date of this CAO 2003-A. Copies of the law and regulations applicable to filing petitions will be provided upon request. In addition to filing a petition with the State Water Board, any person affected by this CAO 2003-A may request the Regional Water Board to reconsider this CAO 2003-A. To be timely, such request must be made within 30 days of the date of this CAO 2003-A. Note that even if reconsideration by the Regional Water Board is sought, filing a petition with the State Water Board within the 30-day period is necessary to preserve the petitioner's legal rights. If you choose to request reconsideration of this CAO 2003-A or file a petition with the State Water Board, be advised that you must comply with the CAO 2003-A while your request for reconsideration and/or petition is being considered.

THEREFORE, IT IS HEREBY ORDERED that Cleanup and Abatement and Request for Technical Reports Order R1-2002-0102 (CAO 2002) and Cleanup and Abatement and Request for Technical Reports Order R1-2002-0123 (CAO 2003) issued on October 20, 2003 to the

Hanes Ranch Inc., and Mr. John Hanes, President of Hanes Ranch Inc., are rescinded, that Cleanup and Abatement and Request for Technical Reports Order No. R1-2003-0123-A replaces CAO 2002 and CAO 2003 and that pursuant to California Water Code Sections 13267(b) and 13304, the Dischargers shall:

Short-Term Emergency Erosion Control

1. By **November 10, 2003**, implement short-term emergency mitigation measures at the Property, and including the specific sites identified in Exhibits 2, 3 and 4, to prevent erosion, control sediment sources, and prevent the discharge of earthen material into waters of the state. The short-term emergency erosion control measures may include, but are not limited to, such measures as: unplugging culverts, seeding and mulching bare exposed soils near crossings, use of applicable materials (such as straw wattles or rock armored ditches, etc.) within ditches to minimize sediment delivery to watercourses, placement of energy dissipators and/or downspouts to prevent erosion of fill material and/or watercourse bed and bank, removal of perched earthen materials to a stable location, installation of additional drainage facilities, and other management practices and control techniques determined to be at least equally effective at preventing discharges. Erosion control measures implemented shall adequately address existing erosion sources within the Property.
2. All short-term emergency erosion control measures shall be routinely maintained throughout the winter period (**November 15, 2003, through May 1, 2004**).

Short-Term Emergency Erosion Control Monitoring and Reporting

The following monitoring and reporting activities shall be conducted to measure the effectiveness of short-term emergency erosion control measures that have been developed and implemented for the Property:

3. By **November 17, 2003**, submit a Short-Term Erosion Control Completion Report (STECR) to the Regional Water Board Executive Officer. The STECR shall fully document the implementation of specific short-term erosion control measures, describe the specific locations of those measures, and identify the locations on a USGS topographic map at a scale of not less than one inch to the mile. The STECR shall be prepared and signed by a professional engineer or geologist licensed in the State of California and experienced in erosion control. The STECR shall include photographs, descriptions, and mapped locations of all erosion control measures that have been implemented to control sediment delivery to waters of the state from the Property.
4. Initial monitoring of the measures identified in the STECR shall be conducted within 24 hours of the first storm event after **November 10, 2003**, that produces one inch or more of rain within a 48-hour period. The monitoring, inspection, and reporting shall be conducted in accordance with the provisions described under Paragraph Nos. 5 and 6 below.
5. Inspections of the measures identified in the STECR shall be routinely conducted throughout the **November 2003 to May 2004** winter period under the supervision of a

California licensed professional engineer or geologist experienced in erosion control. No more than one monitoring inspection needs to be conducted within any given month. The inspection shall be conducted within 24 hours of a storm event that produces one inch or more of precipitation within 48 hours. Notification by telephone of the day of each inspection shall be provided to Regional Water Board staff to allow them to attend and potentially collect water quality samples.

6. By the **fifteenth day of each calendar month (December through May)**, the Dischargers shall submit to the Regional Water Board Executive Officer a monthly monitoring report for the previous month (e.g., the report for the month of November of 2003 is due by December 15, 2003). The monthly monitoring report shall be signed by a licensed professional engineer or geologist experienced in erosion control and shall include the following items:
 - a) Mapped locations of all short-term emergency erosion control measures;
 - b) Mapped locations of any new erosion or sediment source sites (such as rill and gully erosion, inside ditch erosion, watercourse diversions, fill and cutslope erosion or failures, mass wasting, culvert failures, culvert plugging, etc.) not previously documented;
 - c) Photographs of newly identified erosion or sediment source sites;
 - d) Photographs of existing sites where additional mitigation measures are needed to prevent sediment delivery to watercourses;
 - e) Descriptions of any alteration, repair or enhancement of specific erosion control measures performed or needed;
 - f) Precipitation amounts for each day of the month (as recorded in Boonville, California, and reported in the Press Democrat newspaper);
 - g) The name of the inspector; and
 - h) The inspection date.

Long-Term Erosion Control Plan

7. By **December 23, 2003**, the Dischargers shall submit a revised draft long-term erosion control plan (ECP) for review and comment by the Regional Water Board Executive Officer. Following receipt of written comments by the Regional Water Board Executive Officer, the Dischargers shall revise the draft ECP and submit a Final ECP by **February 23, 2004**, for review and approval by the Regional Water Board Executive Officer. As directed by the Regional Water Board in the ACL Order No. R1-2003-0093 adopted on September 24, 2003, the ECP must be finalized in a form acceptable to the Executive Officer not later than **March 22, 2004**, 180 days from the date of the ACL Order. The draft and the Final ECP shall include a sediment source inventory, a landslide investigation report, and a remediation plan as described below in Paragraphs 8 through 10.
8. The sediment source inventory (Inventory) shall identify all sources of sediment delivery to waters of the state associated with the Property. A map of the Property shall be prepared using a USGS topographic map at a scale not less than one inch to the mile that identifies watercourses, watercourse crossings, roads, and skid trails. The Inventory shall be prepared and stamped by a California licensed geologist or civil engineer experienced in

erosion control, road design, and watercourse crossing design. The Inventory shall identify all erosion sites and sources of sediment delivery at the Property, including but not limited to those referenced in Exhibits 2, 3, and 4. The Inventory shall identify and describe in detail, but not be limited to, such features as:

- a) Improperly installed watercourse crossing structures;
 - b) Culverts with inadequate capacity to carry flows and associated watershed debris from the 100-year storm, and provide the sizing calculations for culverted watercourse crossings;
 - c) Watercourse crossings lacking structures or facilities to prevent diversion of flow down the road;
 - d) Rusted, bent, crushed, or corroded culverts;
 - e) Eroding sidecast and perched fill materials near watercourses;
 - f) Downcutting and long inside ditches with inadequate ditch relief that deliver sediment to a watercourse;
 - g) Road drainage features in close proximity to watercourses that show evidence of sediment delivery to watercourses;
 - h) Lengths of road that are "hydrologically connected" to watercourses (i.e., drain toward watercourse crossings) and descriptions of road drainage conveyances (e.g., inside ditches);
 - i) Culverted watercourse crossings that are not properly aligned with the stream channel;
 - j) Culverts placed above natural stream grade;
 - k) Shot-gunned culverts;
 - l) Existing trash racks above culvert inlets;
 - m) Watercourses diverted out of the natural stream channel;
 - n) Gully and rill erosion that has delivered or has the potential to deliver sediment to a watercourse; and
 - o) Depth and width of rocked watercourse crossings, with construction specifications.
9. The landslide investigation report shall be prepared by a licensed geologist experienced in landslide investigation and shall contain site-specific descriptions of all unstable features that include:
- a) Size and location of all landslides;
 - b) Proximity to watercourses;
 - c) stability analysis, including proposed management on or adjacent to the unstable area, and risk of discharge to a watercourse; and
 - d) A description of any proposed mitigation designed to control reactivation or prevent further disturbance of the unstable features. Site-specific design and construction standards and material specifications shall be included where mitigation of unstable features is proposed.
10. The remediation plan shall be prepared and stamped by a California licensed geologist or civil engineer experienced in erosion control, road design, and watercourse crossing design and shall include permanent mitigations to fully address potential and chronic sediment delivery from the locations identified in the Inventory described under Paragraph 8 above. The remediation plan shall also include the proposed landslide mitigation measures

specified in Paragraph 9(d) above. Site-specific design and construction standards and material specifications shall be included in the description of permanent mitigation measures. Design diagrams with culvert sizing calculations shall be included for any watercourse crossing replacement or reconstruction. Replaced or reconstructed culverted crossings shall have a designed capacity to carry at a minimum the flows and associated watershed debris from the 100-year storm.

Following review and approval by the Regional Water Board Executive Officer, the remediation plan shall be fully implemented prior to **August 1, 2004**. The requirements of CAO 2003-A, including implementation of the remediation plan, does not obviate the Dischargers responsibility to obtain all necessary permits from other agencies, including the California Department of Fish and Game, and the Army Corp of Engineers.

11. By **September 1, 2004**, submit a completion report prepared and stamped by a California licensed geologist or civil engineer experienced in erosion control, road design, and watercourse crossing design that clearly documents the full and complete implementation of the approved remediation plan and landslide investigation report mitigation measures.

Long-Term Erosion Control Monitoring and Reporting

The following monitoring and reporting activities shall be conducted to measure the effectiveness of ECP measures that have been developed and implemented for the Property:

12. Monitoring inspections of the erosion sites and implemented erosion control measures identified in the ECP shall be routinely conducted throughout the **November 2004 to May 2005** and **November 2005 to May 2006** winter periods, and continue for a minimum of two years of winter period monitoring following complete implementation of the ECP. The monitoring inspections shall be conducted under the supervision of a California licensed professional engineer or geologist experienced in erosion control. No more than one monitoring inspection needs to be conducted within any given month. The inspection shall be conducted within 24 hours of a storm event that produces one inch or more of precipitation within 48 hours.
13. Notification by telephone of the day of each inspection shall be provided to Regional Water Board staff to allow them to attend and potentially collect water quality samples.
14. By the **fifteenth day of each calendar month (December through May)**, the Dischargers shall submit to the Regional Water Board Executive Officer a monthly monitoring report for the inspections described under Paragraph 12 above. The monthly monitoring report shall be signed by a licensed professional engineer or geologist experienced in erosion control and shall include the following items:
 - a) Mapped locations of all short-term emergency erosion control measures;
 - b) Mapped locations of any new erosion sites (such as rill and gully erosion, inside ditch erosion, watercourse diversions, fill and cutslope failures, mass wasting, culvert failures, culvert plugging, etc.) not previously documented;
 - c) Photographs of newly identified erosion sites;

- d) Photographs of existing sites where additional mitigation measures are needed;
 - e) Descriptions of any alteration, repair or enhancement of specific erosion control measures performed or needed, and anticipated dates for conducting corrective erosion control work;
 - f) Precipitation amounts for each day of the month (as recorded in Boonville, California, and reported in the Press Democrat newspaper);
 - g) The name of the inspector; and
 - h) The inspection date.
16. If for any reason, the Dischargers are unable to perform any activity or submit any document in compliance with the schedule set forth herein pursuant to this CAO 2003-A, the Dischargers may request in writing an extension of the time specified. The extension request shall be submitted a minimum of five days in advance of the due date and shall include justification for this delay including a description of the good faith effort performed to achieve compliance with the due date. The extension request shall also include a proposed time schedule with new performance dates for the due date in question and all dependent dates. An extension may be granted if the Dischargers have demonstrated good cause that is acceptable to the Executive Officer.

Ordered by _____
Catherine Kuhlman
Executive Officer

October 24, 2003

Enclosures:

- 1. Exhibit 1: Property Map
- 2. Exhibit 2: Regional Water Board Inspection Memorandum for THP 1-02-118 MEN
- 3. Exhibit 3: Regional Water Board Inspection Memorandum for THP 1-02-175 MEN
- 4. Exhibit 4: Regional Water Board Inspection Memorandum for THP 1-02-155 MEN
- 5. Exhibit 5: Regional Water Board Warrant Inspection Memorandum