California Regional Water Quality Control Board
North Coast Region

Cleanup and Abatement Order No. R1-2009-0098

For

Violations of Waste Discharge Prohibitions Contained in the
Water Quality Control Plan for the North Coast Region

In the Matter of

Redwood Valley County Water District

Mendocino County

The Assistant Executive Officer of the Regional Water Quality Control Board, North Coast Region (Regional Water Board), hereby finds the following:

1. The Redwood Valley County Water District (hereinafter "Discharger") owns and operates a water supply system that serves approximately 15 square miles in Mendocino County, California, which includes Redwood Valley and the surrounding area. Three 500 horse power pumps at the Lake Mendocino Pumping Station may be turned on individually or in combination to pump water from Lake Mendocino through the main line to a surge tank located on Lake Ridge Road between the lake and the West Fork of the Russian River. The surge tank is fitted with an overflow drain; however, the surge tank is rarely full. The lake water is then pumped through the surge tank into another approximately 4.5 mile length of the main line to a 68 acre-foot holding pond. From the pond the water is distributed for irrigation or to the local water treatment plant to be treated and distributed to the Discharger's customers. The entire water system is owned, operated, and maintained by the Discharger.

2. The Discharger contracted with Granite Construction Company (Granite) to perform maintenance repairs on a section of 30-inch diameter transmission pipe line (main line) located on an easement across private property between Road A and Woodway Lane in Redwood Valley. The section of 30-inch main line where the repairs were made is located between the pond and the surge tank. Pursuant to the Discharger's contract for maintenance repairs on the 30-inch main line, Granite installed two 30-inch valves, two "tee" lines, and four 12-inch valves for two bypass lines. The two 12-inch bypass lines were installed to continue water service while Granite replaced a section of the main line located in a canyon approximately 1.7 miles from the discharge point. (See attached diagram). Each line (the two 12-inch bypass lines and the 30-inch main line) had two valves—one valve at the north end of the construction site and one valve at the south end of the construction site. (Incident Report prepared by the Discharger's General Manager William Koehler dated June 29, 2009 [hereinafter GM Report]). The Discharger's contract with Granite expressly states that the Discharger shall be responsible for all valve closures. (Paragraph 3.7.8).

3. On Thursday, June 11, 2009, the Discharger turned on two pumps at the Lake Mendocino Pumping Station at approximately 13:35 hours to pump lake water through the 30-inch main line. At approximately 15:45 hours the Discharger's staff turned off the pumps at the Lake Mendocino Pumping Station. The Discharger's records indicate that the pumps were pumping approximately 7,200 gallons of lake water per minute. (GM Report).

4. On Friday, June 12, 2009, the Discharger turned on one pump at the Lake Mendocino Pumping Station at approximately 14:20 hours to pump lake water through the 30-inch main line. The Discharger's records indicate that the pumps were pumping approximately 3,700 gallons of lake water per minute. At approximately 17:20 hours, the Discharger's staff received a phone call from a Millview County Water District (MCWD) employee. The MCWD employee explained that residents adjacent to the unnamed tributary had called MCWD to report a large amount of water flowing down the unnamed tributary adjacent to the residents' properties and under East Side Calpella Road. The MCWD employee also informed the Discharger's staff that he had received a similar call during the afternoon of June 11, 2009, and that he had investigated the site then, but the water flow had ceased by the time he arrived. MCWD later determined that the logical source of the first and second events was the Discharger's main line on the ridge above the road. At approximately 21:05 hours the Discharger's staff observed water overflowing from the surge tank located on Lake Ridge Road and shut off the pump at the Lake Mendocino Pumping Station ceasing the discharge. (GM Report; Transmission Main Discharge Event Summary Time Line prepared by the Discharger's employee Steven Gardner not dated).

5. On Saturday, June 13, 2009, a citizen notified a California Department of Fish and Game (CDFG) Warden that he had observed turbid water flowing down the West Fork of the Russian River on June 12, 2009. (Regional Water Board Memorandum dated June 25, 2009). The Warden investigated the site and found that the turbid water entered the West Fork of the Russian River from the unnamed tributary just south of the town of Calpella, approximately one mile from the source of the discharges. (CDFG Staff Environmental Scientist's memorandum dated June 19, 2009 [hereinafter CDFG Memorandum).

6. At approximately 15:00 hours on June 14, 2009, the Discharger and Granite notified the Regional Water Board staff of two discharges of lake water into an unnamed tributary, which feeds into the West Fork of the Russian River. The Discharger reported that the lake water pumped into the 30-inch mainline had backed up into the surge tank located on Lake Ridge Road and overflowed from the overflow drain into the unnamed tributary. The Discharger determined that the cause of the discharges was a closed valve at the south-end of the newly replaced 30-inch main line. The first discharge of approximately 980,000 gallons occurred on June 11, 2009. The second discharge of approximately 1,400,000 gallons occurred on June 12, 2009. (GM Report).

7. Regional Water Board staff investigated the site of the discharges on June 15, 2009 with a CDFG warden, a CDFG Staff Environmental Scientist, and Granite staff. During the inspection, Regional Water Board staff observed that in several

places along the unnamed tributary there was damaged vegetation and that the discharges had jumped the banks of the tributary, which cut new channels. The discharges eroded the banks of the unnamed tributary and scoured the creek bed downstream of the discharge point. The discharges carried sediment from the upper reaches of the tributary and deposited that sediment along the lower reaches of the tributary including, but not limited to, the valley floor, river bar, and confluence and into the West Fork of the Russian River downstream of the point where the discharge entered the river. The CDFG Staff Environmental Scientist conducted electrofishing in the first 100 feet of the West Fork of the Russian River below the point where the discharge entered the river capturing the following aquatic vertebrates: California roach, sculpin, lamprey, bullfrog, and steelhead (a "threatened" species pursuant to the federal Endangered Species Act). (CDFG Memorandum).

8. According to the CDFG memorandum, the discharge likely resulted in a number of adverse impacts to the West Fork Russian River including the take of aquatic invertebrates and bottom-dwelling fish, gill irritation and infection of salmonids and other fish, reduced feeding and growth of fish resulting from turbid water and reduced food base (e.g., lost aquatic invertebrates), displacement of fish downstream resulting in overcrowding and predation, and loss of exposed interstitial spaces and protective cover amongst cobbles due to inundation with sediment. The CDFG report also indicates that, because the discharges occurred at the beginning of the low-flow season, the sediment layer will likely persist, and this section of the river will remain in an impaired state for fish and other aquatic species until winter and higher flows can flush the river system.

9. Fish that could be deleteriously affected by discharges of organic and earthen material to streams or watercourses include steelhead trout, and Chinook salmon, which are listed as threatened under the federal Endangered Species Act for the California Coastal Evolutionarily Significant Unit, (ESU). The Upper Russian River watershed provides habitat for these species.

10. Regional Water Board staff and the Discharger's staff conducted a follow-up inspection on June 25, 2009. During the inspection, Regional Water Board staff observed evidence of bank and creek bed erosion along the unnamed tributary, damaged vegetation, and extensive sediment deposits within the lower reaches of the tributary. Additionally, staff observed extensive sediment deposits along the banks and within the West Fork of the Russian River as a result of the discharges. Near the confluence area, fine sediment approximately three to five inches thick covered the bottom of the West Fork of the Russian River. No sediment deposits were observed upstream of the point where the discharge entered the river. The total volume of sediment deposited as a result of the discharges is unknown.

11. The Discharger has caused or permitted waste to be deposited where it was discharged into waters of the state. The waste was discharged in amounts deleterious to beneficial uses and created a condition of pollution and/or nuisance, as demonstrated in part by the adverse impacts described in Findings 4 through 9 above. Based on this conduct, the Discharger violated the following prohibitions set forth in the Action Plan for Logging, Construction, and Associated Activities

included in the Water Quality Control Plan for the North Coast Region (Basin Plan) (p. 4-26.00):

1. The discharge of soil, silt, bark, slash, sawdust, or other organic and earthen material from any logging, construction, or associated activity of whatever nature into any stream or watercourse in the basin in quantities deleterious to fish, wildlife, or other beneficial uses is prohibited.

2. The placing or disposal of soil, silt, bark, slash, sawdust, or other organic and earthen material from any logging, construction, or associated activity of whatever nature at locations where such material could pass into any stream or watercourse in the basin in quantities which could be deleterious to fish, wildlife, or other beneficial uses is prohibited.

12. Section 3 of the Basin Plan contains water quality objectives that set limitations for certain water quality parameters. The water quality objectives for inland surface water, enclosed bay, and estuaries (p. 3-3.00) that are important for protecting beneficial uses from discharges from logging, construction, or associated activities, such as the Discharger's activities, include the following:

Color
Waters shall be free of coloration that causes nuisance or adversely affects beneficial uses.

Suspended Material
Waters shall not contain suspended material in concentrations that cause nuisance or adversely affect beneficial uses.

Settleable Material
Waters shall not contain substances in concentrations that result in deposition of material that causes nuisance or adversely affect beneficial uses.

Sediment
The suspended sediment load and suspended sediment discharge rate of surface waters shall not be altered in such a manner as to cause nuisance or adversely affect beneficial uses.

Turbidity
Turbidity shall not be increased more than 20 percent above naturally occurring background levels. Allowable zones of dilution within which higher percentages can be tolerated may be defined for specific discharges upon the issuance of discharge permits or waiver thereof.

13. The West Fork of the Russian River falls within the Ukiah Hydrologic Subarea and the Upper Russian River Hydrologic Area of the Basin Plan (Fig. 1-1 [map pocket]). The beneficial uses of this reach of the Russian River are set forth in the Basin Plan (p. 2-12.00). Those beneficial uses that could be adversely affected by discharges of organic and earthen material, such as the discharges described herein, include the following:

a. Municipal and Domestic supply
b. Agricultural Supply
c. Industrial Service Supply
d. Groundwater Recharge
e. Freshwater Replenishment
f. Navigation
g. Hydropower Generation
h. Water Contact Recreation
i. Non-Contact Recreation
j. Commercial and Sport Fishing
k. Warm Freshwater Habitat
l. Cold Freshwater Habitat
m. Wildlife Habitat
n. Rare, Threatened, or Endangered Species
o. Migration of Aquatic Organisms
p. Spawning, Reproduction, and/or Early Development

Beneficial uses of any specifically identified water body generally apply to all of its tributaries. (Basin Plan, p. 2-1.00).

14. The Discharger violated prohibitions contained in the Basin Plan as set forth above. Under California Water Code (CWC) sections 13267 and 13304, the Regional Water Board Executive Officer may require persons who violate the Basin Plan standards to take various actions, including, but not limited to, the production of technical reports, and/or cleaning up and abating the affects of the discharge.

15. CWC section 13267, subdivision (a) provides that the Regional Water Board may investigate the quality of any waters of the state within its region in connection with any action relating to the Basin Plan. CWC section 13267, subdivision (b) provides that the Regional Water Board, in conducting an investigation, may require a discharger to furnish, under penalty of perjury, technical or monitoring program reports. The Erosion Control Plan, Abatement Plan, and Long Term Work Plan required by this Order, pursuant to CWC section 13267, are technical and/or monitoring reports that are necessary to ensure that the prior harm and future threat to water quality created by the discharges, described herein, are properly assessed, abated, and controlled. The burden of these technical reports bears a reasonable relationship to the need for these reports and the benefits to be obtained from them.

16. CWC section 13304, subdivision (a) provides:

> Any person who has discharged or discharges waste into the waters of this state in violation of any waste discharge requirement or other order or prohibition issued by a regional board or the state board, or who has caused or permitted, causes or permits, or threatens to cause or permit any waste to be discharged or deposited where it is, or probably will be, discharged into the waters of the state and creates, or threatens to create, a condition of pollution or nuisance, shall upon order of the regional board, clean up the waste or abate

the effects of the waste, or, in the case of threatened pollution or nuisance, take other necessary remedial action, including, but not limited to, overseeing cleanup and abatement efforts.

Water Code section 13050(l)(1)(A) defines pollution as an alteration of the quality of the waters of the state by waste to a degree which unreasonably affects the waters for beneficial uses.

17. This Cleanup and Abatement Order is issued pursuant to CWC section 13304(a). The discharges described herein violated the Basin Plan prohibitions set forth in the Action Plan for Logging, Construction, and Associated Activities. Further, the discharges eroded the banks of the unnamed tributary and scoured the creek bed, depositing organic and earthen material into the unnamed tributary and the West Fork of the Russian River, thus unreasonably affecting the beneficial uses of the unnamed tributary and the West Fork of the Russian River.

18. This enforcement action is being taken for the protection of the environment and, therefore, is exempt from the provisions of the California Environmental Quality Act (Pub. Resources Code, § 21000 *et seq.*) in accordance with section 15321, Chapter 3, Title 14, California Code of Regulations.

19. Failure to comply with the terms of this Cleanup and Abatement Order may result in a formal enforcement action pursuant to CWC section 13350(e). Any person failing to clean up or abate threatened or actual discharges as required by this Order may be subject to administrative civil liabilities of up to five thousand dollars ($5,000.00) per day or ten dollars ($10.00) per gallon of waste discharged. (CWC § 13350(e)). Pursuant to CWC section 13268, any person failing to provide technical reports containing information required by this Order by the required date(s) and/or falsifying any information in the technical reports is guilty of a misdemeanor and may be subject to administrative civil liabilities of up to one thousand dollars ($1,000.00) for each day in which the violation occurs.

20. Any person adversely 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 CWC 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 Order. 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 Order may request a hearing with the Executive Officer or the Regional Water Board to reconsider this Order. To be timely, any such request must be made within 30 days of the date of this Order. Note that if reconsideration by the Executive Officer or 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 Order or file a petition with the State Water Board, be advised that you must comply with the Order while your request for reconsideration and/or petition is being considered.

THEREFORE, IT IS HEREBY ORDERED that, pursuant to CWC sections 13267(b) and 13304, the Discharger, or its duly authorized representative, shall:

A. Submit by **September 15, 2009**, an Erosion Control Plan (Erosion Plan) to the Regional Water Board Assistant Executive Officer. The Erosion Plan shall be developed by a California-licensed professional experienced in erosion control, and shall include measures to prevent and minimize the potential for further erosion along the unnamed tributary. The Erosion Plan shall identify and describe the methods that will be used to stabilize the banks along the unnamed tributary; particularly those reaches where existing erosion has been aggravated as a result of the discharges described herein, creating the potential to deliver additional sediment during the rainy season into the West Fork of the Russian River. A map shall be included that identifies specific mitigation points/areas proposed to be stabilized. The map shall be of sufficient detail to direct a licensed equipment operator and/or contractor in the completion of the specified mitigation.

B. Submit by **September 15, 2009**, an Abatement Plan to the Regional Water Board Assistant Executive Officer. The Abatement Plan shall be developed by a California-licensed professional experienced in the area of sediment cleanup and restoration work. The Abatement Plan shall include measures to prevent or minimize the potential for further sediment deposits within the West Fork Russian River, and to restore disturbed areas (resulting from the discharges described herein) along the West Fork Russian River. The Abatement Plan shall include a map identifying specific restoration points/areas and the applicable measures. The map shall be of sufficient detail to direct a licensed equipment operator and/or contractor in the completion of the specified cleanup and restoration.

C. Submit a copy of the Discharger's CDFG Lake and Streambed Alteration Agreement (LSAA) application for the measures proposed in the Erosion Plan and the Abatement Plan and the corresponding written notification from CDFG that the Discharger may commence the activity described in the LSAA application without an LSAA or the final LSAA, whichever is applicable.

D. Upon acceptance by the Regional Water Board Assistant Executive Officer of the above Plans, perform the erosion control work along the unnamed tributary and the cleanup and restoration work along the West Fork Russian River as detailed in the Erosion Plan and the Abatement Plan described above. By accepting the Erosion Plan and Abatement Plan, Regional Water Board staff believe that there is a reasonable possibility that performance of these plans will lead to compliance with this order. Acceptance of these plans does not relieve the Discharger of its responsibility to comply with this Cleanup and Abatement Order. All work shall be completed by **October 31, 2009**, to avoid sediment discharges resulting from winter rains.

E. Upon complete implementation of the Erosion Plan and Abatement Plan, contact the Regional Water Board to schedule a mutually agreeable date for a site inspection of the completed work to allow Regional Water Board staff to

determine whether the work has been accomplished according to those plans as submitted to, and accepted by, the Assistant Executive Officer as required by this Cleanup and Abatement Order.

F. Submit a Long Term Work Plan (Work Plan) to the Regional Water Board Assistant Executive Officer. The Work plan shall be developed by a California-licensed professional with a background in stream morphology and experienced in stream restoration work. The Work Plan shall include the following elements:

i. A detailed stabilization and restoration plan with measures to remediate the damage from the discharges designed to provide timely stabilization and restoration of the affected stream habitat. The plan shall contain a time schedule for all proposed measures; criteria to judge the success of the overall project; a monitoring plan designed to evaluate whether the success criteria are being met; and a plan to maintain implemented measures and/or to add or modify measures as necessary, in the event that monitoring shows that the success criteria are not being met. The plan shall address the reaches of the unnamed tributary and the West Fork of the Russian River affected by the discharges. The plan shall consider and include elements to address all beneficial uses adversely impacted by the discharges.

ii. A plan to provide additional mitigation to account for the temporal loss of stream habitat and associated beneficial uses that occurred as a result of the discharges. Such mitigation can include additional restoration and/or enhancement of stream habitat at another site in the watershed of the Upper Russian River.

iii. A copy of the Discharger's CDFG Lake and Streambed Alteration Agreement (LSAA) application for the measures proposed in the Work Plan and written notification from CDFG that the Discharger may commence the activity described in the LSAA application without an agreement or the final LSAA, whichever is applicable.

G. Upon acceptance of the Work Plan by the Regional Water Board Assistant Executive Officer, implement the Work Plan. By accepting the Work Plan, Regional Water Board staff believe that there is a reasonable possibility that implementing this plan will lead to compliance with this order. Acceptance of the Work Plan does not relieve the Discharger of its responsibility to comply with this Cleanup and Abatement Order. All work shall be completed no later than **October 31, 2010**.

Ordered by _____

Luis Rivera
Assistant Executive Officer
August 28, 2009