
North Coast Regional Water Quality Control Board

January 28, 2015

Mr. Russ Shively
Mendocino Redwood Company, LLC
P.O. Box 489
Fort Bragg, CA 95437

Dear Mr. Shively:

Subject: Notice of Violation for Failure to Identify and Treat Controllable Sediment Discharge Source under Order No. R1-2004-0030, General Waste Discharge Requirements for Discharges Related to Timber Harvest Activities on Non-Federal Lands in the North Coast Region

File: Timber Harvest Plan 1-08-172 MEN, "North Tin Can" THP

The purpose of this letter is to notify you that you are in violation of conditions of Order No. R1-2004-0030 and subject to enforcement action and penalties under California Water Code section 13350. In addition, and as discussed in detail below, you must submit a revised ECP including corrective actions for Controllable Sediment Discharge Sources (CSDS) described to be completed by no later than October 15, 2015.

Timber Harvest Plan (THP) 1-08-172 MEN was enrolled under the *General Waste Discharge Requirements for Discharges Related to Timber Harvest Activities on Non-Federal Lands in the North Coast Region*, Order No. R1-2004-0030 (Order) on March 12, 2012. The Order requires the development and implementation of an Erosion Control Plan (ECP) designed to prevent and minimize the discharge or threatened discharge of sediment or other earthen material from controllable sediment discharge sources into waters of the state. (Order Section III(C)(1)(a).) The ECP must contain an inventory of all CSDSs within the Project area and a time schedule for implementation of management measures. (Order Section III(D).) Sites identified during the enrollment period must be addressed and ultimately amended into the ECP, pursuant to Order section III(F).

The Order also requires that landowners conduct inspections to assure that management measures are properly installed and maintained and to determine if new CSDSs have

developed. (Order Section III(F)(1).) If any new CSDSs are found, such sites shall be addressed in accordance with the provisions of section III(B)(3). (See also Order Section IV(R)(1)[Required Changes].)

August 26, 2014 Site Inspection:

On June 27, 2013, the North Coast Regional Water Quality Control Board (Regional Water Board) received a copy of the Notice of Termination (NOT) for the above-referenced THP. On August 26, 2014, Regional Water Board staff Joelle Geppert, accompanied by Mendocino Redwood Company (MRC) representatives Russ Shively and Wesley Hart, inspected portions of the THP area to determine if the THP met the definition of a “Completed Project,” as defined under Order No. R1-2004-0030. (See Order Section VI(A).) A project cannot be considered complete unless the entire site is stabilized and there is no potential for waste discharges from the Project in violation of the Basin Plan or the Order. In addition, all elements of the technical reports must be completed.

Violations of Order No. R1-2004-0030:

Regional Water Board staff evaluated portions of the THP area, including the majority of the road system and CSDSs included in the ECP. The CSDSs described below were either incorrectly described in the ECP as “functional” or “stable” and no corrective action was proposed, actions were taken but additional work is required, or corrective actions were inadequately implemented.

Failure to properly identify and treat CSDS in the ECP, or during subsequent annual inspections and prior to termination, are violations of terms and conditions the Order, specifically sections III(B), III(F)(1), and III(F)(2)(e). Penalties may be assessed for each day of violation, and may also be assessed based on the volume of waste discharged. (See Order Section IV(H)[Duty to Comply].)

Corrective measures are needed to prevent or minimize sediment discharges from the following watercourse crossings located on existing roads above Rockport and Hardy Creeks. For each of these sites, you must submit a treatment plan for the site and implement appropriate corrective action in order for the plan to be eligible for termination.

- Map Point T – The culvert bottom has rusted to the extent that holes are present in the interior portions of the culvert. During storm events, there is potential that water will flow into and saturate the road fill, increasing the risk of crossing failure and sediment discharge.
- Map Point V – The stream flow going into the inlet does not appear to be flowing through the outlet. The outlet is rusted and there is a visible crack inside the culvert. It is likely water is flowing into the road fill. This culvert is not properly functioning and therefore is considered to be a threatened sediment discharge.

- Between Map Points R and Y – The outlet on the existing 24” culvert on this Class II watercourse is shot gunned and energy dissipaters should be installed to minimize channel scouring.
- The Map Point H –The inlet was cleared as proposed. However, it is unclear if stream flow enters the inlet, possibly due to the presence of a soil pipe. Further the culvert outlet is shot gunned and at a minimum energy dissipation must be installed below the outlet. You must evaluate whether stream flow into soil pipes is occurring. If the stream is flowing into soil pipes and saturating road fill and the situation cannot be corrected, the culvert must be replaced.

Additional Measures Necessary to Prevent or Minimize Sediment Discharge

During the August 26, 2014 inspection, Regional Water Board staff identified the following additional sites along the seasonal road adjacent to Elk Creek that require additional corrective action:

- Site A –The waterbar downslope of the left approach to Map Point A needs to be rebuilt to minimize surface erosion. Also, the road bed through the ford watercourse crossing is not adequately rocked. This crossing should be rebuilt to accommodate truck traffic.
- Map Point C –The critical dip was not adequately installed to reasonably reduce the diversion potential. Therefore, this work must be redone.
- Map Point M –The upstream right bank approach of the newly installed bridge appears to be vulnerable to streambank erosion as illustrated in the photo included in Attachment A. The bank should be armored to ensure it does not fail, leaving the bridge exposed for failure.

Project Completion:

By February 15, 2015, you must submit to the Regional Water Board, a revised ECP specifying corrective action for each site described above. Corrective action must be implemented as described in the ECP following the 2014-2015 winter period, but no later than October 15, 2015. Following the 2014-2015 winter period, you must contact Regional Water Board staff to schedule a subsequent inspection so that we may evaluate whether corrective action has been successfully implemented and that the THP meets all of the conditions for a completed project. Please note that in order to evaluate the effectiveness the corrective action and implement additional measures as needed, the Regional Water Board typically does not terminate enrollment until all sites have gone through an entire winter period following treatment.

Please contact Jim Burke at 707-576-2289 or Joelle Geppert at 707-576-2346 if you have any questions or need more information regarding this matter.

Sincerely,

Fred Blatt
Division Chief
Nonpoint Source and Surface Water Protection Division

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Certified Return Receipt Requested