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## North Coast Regional Water Quality Control Board

March 22, 2017

North Coast Timberlands, LLC  
1016 Lincoln Blvd. Mailbox #1  
San Francisco, CA 94129

Dear North Coast Timberlands LLC:

Subject: *Notice of Violation* for Activities Associated with Non-Industrial Timber Management Plan (NTMP) 1-96NTMP-016 HUM NTO#6

File(s): 1-96NTMP-016 HUM, Janes Creek Unit  
Humboldt County, CA

The purpose of this letter is to notify you that you are in violation of the General Waste Discharge Requirements for Discharges for Timber Operations on Non-Industrial Timber Management Plans (NTMP GWDR) in the North Coast Region (North Coast Regional Water Quality Control Board Order No. R1-2013-0005) for failure to identify and propose feasible measures to protect and restore the beneficial uses of water at sites within the Notice of Timber Operations (NTO) #6 that threaten to discharge sediment into waters of the State. In addition, the NTO did not include necessary updates to the NTMP identifying all watercourses and their appropriate classifications in order to ensure compliance with applicable requirements. Under California Water Code section 13350, you could be subject to enforcement actions and penalties resulting from the violation. To be in compliance with the NTMP GWDR section A(5), you must submit to the North Coast Regional Water Quality Control Board by no later than May 1, 2017, a written description of the sites that are violating or have the potential to violate applicable water quality requirements or adversely impact beneficial uses, are human caused, and can reasonably and feasibly be treated, with additional design and installation details of the proposed corrective actions. Corrective action must be completed no later than October 15, 2017.

### **Introduction**

NTMP 1-96NTMP-016 HUM encompasses 220 acres within the Janes and Ryan Creeks watersheds located in Humboldt Bay (Calwater numbers 1110.000700 and 1110.000104), in Humboldt County. The California Department of Forestry and Fire Protection (CAL

FIRE) approved the NTMP on October 23, 1996. On August 8, 2008, CAL FIRE received minor amendment No. 18, which incorporates into the NTMP the California Department of Fish and Wildlife (CDFW) Best Management Practices (BMPs) for roads associated with timber operations. To date, six NTOs have been submitted on the NTMP, with the most recent occurring on the Janes Creek Unit under NTO #6, submitted to CAL FIRE on August 18, 2015. The NTO #6 area encompassed 55 acres of single tree and group selection silviculture using ground based harvesting methods. Existing roads used to access NTO #6 cross watercourses at multiple locations. All timber operations associated with NTO #6 were deemed complete by CAL FIRE in a letter dated September 17, 2015. The prescribed erosion control maintenance period, pursuant to Forest Practice Rules (FPR) section 1050, ends September 16, 2018.

On August 13, 2015, your (Registered Professional Forester (RPF), David Cussins, submitted an enrollment form, certifying your intent to comply with the provisions of Tier A of the NTMP GWDR. The letter accompanying the GWDR enrollment form stated that there were currently no Controllable Sediment Discharge Source (CSDS) sites within the NTO #6 area as corrective actions had been implemented under previous NTOs and no new sites had been identified.

The following requirements found in Section A: Specific Requirements, pages 11-13, of the NTMP GWDR apply to NTOs enrolled in Tier A of the NTMP GWDR, including appurtenant roads, for the life of the NTO and the erosion control maintenance period:

2. The Landowner shall submit a copy of each NTO to the Regional Water Board three (3) days prior to commencement of operations under the NTO. The NTO certification shall be based on the RPF's evaluation of the entire NTMP acreage pursuant to FPR section 1090.7(1), including all features connected with the CEQA project, such as watercourse crossings of appurtenant roads, roads identified on the NTMP, skid trails, and landings;
5. Tier A  
For NTMPs approved before July 1, 2013, waste discharge requirements shall be established under Tier A for NTO areas, including appurtenant roads, for the life of the NTO and the erosion control maintenance period by complying with the requirements listed below:
  - a. The RPF shall conduct a field evaluation of current conditions in the NTO area to identify sites that are violating or have the potential to violate applicable water quality requirements or adversely impact beneficial uses, are human caused, and can reasonably and feasibly be treated.
  - b. The RPF shall propose measures to protect and restore the beneficial uses of water to the extent feasible at sites identified in A(5)(a) and the landowner shall implement such measures during the life of the NTO.

- c. The landowner shall submit to the Regional Water Board a list containing each site identified in the NTO pursuant to Section A(5)(a) and a brief description of corrective action as proposed in Section A(5)(b). The location of each site must be shown on NTO maps.
- d. The landowner shall submit to the Regional Water Board a "WDR Enrollment Form" (Attachment A) and a copy of the NTO at least three (3) days prior to commencement of operations under each NTO. The enrollment form must be signed by the landowner or designated representative, provide the information as required by the form, and acknowledge that the NTMP landowner understands and intends to comply with all water quality requirements of the Order.
- e. Upon submittal of the WDR enrollment form and a copy of the NTO, the NTO area and appurtenant roads used for the NTO shall be covered under Tier A. WDR coverage for an NTO and appurtenant roads under Tier A will be in effect for the life of the NTO and the erosion control maintenance period.
- f. The NTMP landowner must submit a new WDR enrollment form and NTO for each subsequent NTO unless the NTMP becomes eligible for coverage under Tier B. NTMP landowners are encouraged to consult with Regional Water Board staff regarding developing or expanding an existing ECP to qualify for coverage under Tier B.
- g. Discharges of waste outside an NTO area shall be subject to the Basin Plan and all enforcement authorities under the Water Code, like any discharge of waste in the Region not covered under a waiver or other permit.

### **December 28, 2016 Site Inspection Compliance Issues**

In response to an anonymous complaint, Regional Water Board staff inspected area associated with NTO #6 on December 28, 2106. During the inspection, staff identified areas within NTO #6 that must be updated in the NTMP as well as several road points that meet the definition of a Controllable Sediment Discharge Source (CSDS)<sup>1</sup> under the NTMP GWDR. These sites are described below:

1. WQ Site 1 (Figure 1) is an existing 48" culvert on a Class I, fish bearing segment of Janes Creek. The culvert is showing signs of active failure such as erosion of the fill material above the culvert inlet. It appears that the culvert is fully submerged at high flows as is evident by the accumulation of debris on the upstream right bank near the inlet (See photos below). The channel upstream of the culvert is at least 6-feet wide. The culvert

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<sup>1</sup> Sites that discharge or have the potential to discharge sediment to waters of the state in violation of water quality standards, that are caused or affected by human activity, and that may feasibly and reasonably respond to prevention and minimization management measures.

outlet is perched above the stream channel and is torn and is likely a barrier to all stages of fish species. Based on these observations, this culvert is not properly functioning and is negatively impacting sensitive beneficial uses of water. The culvert must be replaced with a properly functioning drainage structure as soon as possible, but no later than October 15, 2017. The replacement structure must be designed to ensure fish passage for all life stages. The RPF is encouraged to consult with DFW regarding criteria and methods to ensure the design meets applicable current standards.



Figure 1. WQ1- View looking downstream to inlet of 48" diameter culvert on Class I tributary of Janes Creek. Photo taken by RWB staff Joelle Geppert December 28, 2016.



Figure 2. WQ1 - View looking upstream from near the culvert inlet on Class I tributary of Janes Creek. Photo taken by RWB staff Joelle Geppert December 28, 2016

2. The inlet of the 18 inch culvert at WQ 2 is plugged and stream flows have percolated through, and saturated, the road prism. The culvert is not functioning and does not

appear to be easily repairable. As such, the culvert should be replaced with a drainage structure designed and constructed to meet current applicable standards.

3. The culvert at WQ 3 is not to set to the channel grade and active erosion is slight, but evident. Additional energy dissipation is needed below the culvert outlet to prevent ongoing erosion. RWB staff observed evidence of persistent saturation in the area upslope of the culvert inlet, such as large patches of skunk cabbage. It appears there may be two separate watercourse channels flowing into this culvert. As such, NTMP maps must be updated to accurately depict individual watercourses and, as the presence of this skunk cabbage is an indicator of Class II habitat, the watercourses must be assessed for aquatic habitat. The contributing drainage area should be calculated, and if the existing culvert is not sized adequately to pass anticipated 50 year return interval flows plus debris, it should be replaced with a drainage facility designed and constructed to meet current applicable standards.
4. The CDFW has also identified a culvert in between WQ Points 2 and 3 that has failing fillslope that should be addressed by stabilizing or excavating potentially unstable fill material.
5. The outlet of the 24" culvert at WQ 4 is perched above the channel and is in need of energy dissipation to prevent and minimize additional erosion, such as placing additional rock to armor the channel or a downspout. This culvert is also lacking a critical dip to reduce the potential for diversion of the stream and resulting sediment discharges in the event of culvert failure. A plan to address the need for energy dissipation and installation of a critical dip should be developed. Regional Water Board staff recommend that given the amount of work needing to be done at this time throughout the plan area as well as to this particular crossing, it is advisable to assess culvert sizing and if warranted, replace the culvert with a new drainage structure designed and constructed to meet current applicable standards, including passing 100-year return interval flow and debris.
6. The culvert at WQ 6 is partially plugged with earthen material, likely due to the crushed inlet. Given the reduced capacity, the culvert is not functioning properly and as such the crossing should be evaluated for repair or replacement. There are patches of skunk cabbage around the seepy watercourse and, as at WQ 3, the watercourse classification should be re-evaluated for non-fish aquatic habitat as part of the plan updating process.
7. The inlet of the stream crossing at WQ 7 needs to be cleaned out. The culvert is otherwise functioning at this time.
8. Energy dissipation is needed to prevent erosion below the outlet of WQ 8. The culvert is otherwise functioning at this time.

9. The culvert at WQ 9 is mapped as a 24" pipe; however, we measured a 30' culvert at this location. Upstream of the crossing, a sediment wedge was observed, indicating that this culvert has had a history of slowing stream flow and possibly plugging. No recent indicators of plugging were noted. The stream grade steepens below the outlet. The downstream fill slope is showing signs of recent erosion and is in need of armoring. The stream appears to be "hydro-mined," where high velocity flows erode the downstream channel. This is another indicator of an undersized culvert. Photos of this location turned out blurry and these features were difficult to discern. The RPF should provide the culvert sizing for this stream crossing to determine how undersized this culvert is to assess the immediate need for replacement or if armoring the outlet can be sufficient until the culvert exhibits other signs of impaired function.

### **Requirements of the NTMP GWDR**

The letter from the RPF accompanying the GWDR enrollment form states that there were no sites meeting the definition of a CSDS site at the time the NTO was submitted. However, FPR section 1050(c) states: "The landowner is responsible for inspection and any needed repair and maintenance of erosion controls during the remainder of the prescribed maintenance period." Timber operations under the NTO appear to have been conducted quickly as the CAL FIRE completion report was dated 2 months following the NTO submittal in September and was prior to the onset of the subsequent winter period. As previously noted, this NTO is under the prescribed maintenance period. As such, applicable requirements of the NTMP GWDR are in effect for the NTO and appurtenant roads until September 16, 2018, including the requirement that the landowner conduct inspections and identify sites where sediment discharge prevention measures are not functioning as intended, and implement corrective action as needed to protect the beneficial uses of water. When the RPF was notified of the anonymous complaint regarding the fill failure at WQ Site 1 in October 2016, a treatment plan for this and the other sites identified during the December 28, 2016 should have been developed and submitted to the RWB.

FPR section 1090.7(l) requires that the NTO certification should be based on the RPF's evaluation of current conditions in the entire NTMP (not just the NTO), including all features connected with the CEQA project, such as watercourse crossings of appurtenant roads, roads identified on the NTMP, skid trails, and landings<sup>2</sup>. In addition to identifying and proposing treatment for sites that were identified during the December 28, 2016 inspection, review of the NTO maps indicates the RPF did not provide updated maps with current conditions such as inclusion of watercourse areas noted at WQ Sites 3 and 6. These areas must be re-evaluated for accurate stream identification and classification and the maps updated to accurately depict site conditions.

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<sup>2</sup> October 5, 2012 memorandum from Bill Snyder, Deputy Director Resource Management, CAL FIRE, [http://calfire.ca.gov/resource\\_mgt/downloads/NTMP\\_Information\\_for\\_RPFs\\_Related\\_to\\_WaterQuality\\_andCumulativeImpacts\\_100512.pdf](http://calfire.ca.gov/resource_mgt/downloads/NTMP_Information_for_RPFs_Related_to_WaterQuality_andCumulativeImpacts_100512.pdf)

Based on conversations with the RPF, RWB staff understand that he is taking measures to address these issues. It is important that a revised road work plan addressing all locations within the NTO area that are in need of corrective action to reduce future sediment discharges and updated maps accurately reflecting current conditions be submitted by no later than May 1, 2017 to ensure the work is fully implemented prior to October 15, 2017 so as to avoid sediment discharges to receiving waters. Be advised that the violations described herein may be subject to additional enforcement action, including administrative civil liability. Your efforts and timeliness in correcting these violations will factor significantly into any assessment of penalties in this matter.

If you have any questions or comments regarding this matter, please contact Joelle Geppert at (707) 576-2346 or, by email, at [Joelle.Geppert@waterboards.ca.gov](mailto:Joelle.Geppert@waterboards.ca.gov), or her supervisor, Jim Burke at (707) 576-2289 or, by email, at [James.Burke@waterboards.ca.gov](mailto:James.Burke@waterboards.ca.gov).

Sincerely,

Fred J. Blatt  
Division Chief  
Nonpoint Source and Timber Harvest Division

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