



North Coast Regional Water Quality Control Board

April 1, 2020

Duane and Karen Fredrickson
18565 Kneeland Road
Kneeland, CA 95549

Dear Duane and Karen Fredrickson,

Subject: Notice of Violation for 18565 Kneeland Road in Kneeland

File: Enforcement, Humboldt County, Fredrickson NTMP

The North Coast Regional Water Quality Control Board (Regional Water Board) is the public agency with primary responsibility for the protection of ground and surface water quality for all beneficial uses within the North Coast Region of the State of California. You are hereby notified that the subject parcel 31417501 at 18565 Kneeland Road in Kneeland has conditions or features violating the Water Quality Control Plan for the North Coast Region (Basin Plan), the California Water Code, or the federal Clean Water Act, due to the discharges and/or threatened discharges, of earthen material into waters of the state and United States. In particular, you have failed to comply with section 401 (33 U.S.C. 1341) and section 404 (33 U.S.C. 1344) of the Clean Water Act.

Legal Requirements

Landowners conducting timber operations under an approved nonindustrial timber management plan (NTMP) must enroll under either Tier A (for individual Notices of Timber Operations) or Tier B (for the entire NTMP) of Order No. R1-2013-0005, General Waste Discharge Requirements for Discharges for Timber Operations on Non-Industrial Timber Management Plans (NTMPs) in the North Coast Region (General NTMP WDR).

If a site is not associated with permitted timber operations, anyone proposing to conduct a project that involves dredge or fill activities that may result in a discharge to U.S. Surface waters and/or "Waters of the State" are required to obtain a Clean Water Act (CWA) section 401 Water Quality Certification and/or Waste Discharge Requirements (WDR) for dredge or fill projects from the Regional Water Board, verifying that the project will comply with state water quality standards. Certain specified Silviculture activities are exempt under CWA section 404(f).

Discharge, or threatened discharge of sediment is a violation of the discharge prohibitions from the Action Plan for Logging, Construction, and Associated Activities from section 4 of the Water Quality Control Plan for the North Coast Basin (Basin Plan).

VALERIE L. QUINTO, CHAIR | MATTHIAS ST. JOHN, EXECUTIVE OFFICER

- A. 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.
- B. 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.

On-Site Observations

During a January 21, 2020 inspection for Major Amendment #8 to Non-Industrial Timber Management Plan (NTMP) 1-99NTMP-046HUM, Regional Water Board (RWB) staff observed a culverted stream crossing upstream of NTMP Site 1A that is not included within the current NTMP documentation. The location is identified in the approximate location as WQ1 in Attachment A. The Registered Professional Forester (RPF) was present and confirmed that the culvert was not installed as part of NTMP operations and that the stream crossing is not necessary for timber operations.

There is a distinct change in channel morphology at the location of the crossing. Staff observed rubber tires at the outfall/downstream side of the crossing. Such materials have been used historically as “onsite” or “readily” available materials for erosion control, which, while inappropriate, possibly indicate an ongoing attempt to control the headcutting/channel incision. Because the crossing installation was not implemented using current standards of practice, it poses a risk for ongoing erosion and sediment discharge.

Water Quality Violations

The newly constructed culverted watercourse crossing upstream of NTMP Site 1A is not included within the current NTMP documentation and is not necessary for timber operations. As the subject stream crossing is not a part of the NTMP or used for timber operations, the CWA silviculture exemption does not apply. Therefore, prior to construction of the stream crossing, the landowner was required to obtain 401 Water Quality Certification and/or WDR from the Regional Water Board. The Regional Water Board has no evidence that the James Erwin Fredrickson and June G. Fredrickson 1991 Trust Darlene Ann Fredrickson-Shearer- Trustee obtained any permits or water quality certification for the discharges discussed in the inspection report.

Clean Water Act section 301 violations are subject to penalties under Water Code section 13385, authorizing the Regional Water Board to impose an administrative civil liability of up to ten thousand dollars (\$10,000) per violation per day and ten dollars (\$10) per gallon discharged and not cleaned up in excess of 1,000 gallons.

Project Completion:

Within two months of the date of this Notice of Violation, you must submit to the Regional Water Board a plan describing how the newly constructed culverted watercourse crossing upstream of NTMP Site 1A shall be either, a) be removed and an assessment of appropriate alternatives for addressing the channel incision shall be provided, or b) If the you choose to keep this crossing for ranch access or timber operations or to address the headward migration of channel incision, a proposal including an appropriate design using methods such as those described in *Designing Watercourse Crossings for Passage of 100-Year Flood Flows Wood, and Sediment (Updated 2017)* (<https://www.fire.ca.gov/media/8284/100-yr-revised-8-08-17-final-b-corrected-sept-11-2017.pdf>).

Prior to conducting any work in the stream channel to address corrective action of the culverted watercourse crossing, you must obtain all necessary Regional Water Board permits as well as any other agency permits as required by law. If the site is amended into the NTMP along with appropriate design and construction specification as discussed in the paragraph above, corrective action could be covered under the NTMP GWDR.

Please note that correcting the conditions of non-compliance at the Property does not preclude enforcement for the violations alleged in this notice. The Regional Water Board reserves its right to fully enforce the law against any violation and threatened violation by taking enforcement actions. Discharges or threatened discharges of waste, including earthen material, into waters of the state that create a condition of nuisance or pollution may subject a person to a Cleanup and Abatement Order pursuant to Water Code section 13304. An actual discharge to waters of the state, including allowing fill to remain within a wetland, may subject a person to an administrative liability up to \$5,000 per day of violation for each violation, or \$10 for each gallon of waste discharged pursuant to Water Code section 13350. Unlawful discharges to waters of the United States and/or violations of the Clean Water Act may subject a person to up to \$10,000 per day of violation for each violation, and up to \$10 per gallon of waste discharged over 1,000 gallons not cleaned up pursuant to Water Code section 13385. The Regional Water Board may refer this matter to the Attorney General for enforcement. We will contact you upon further assessment of these violations to discuss any potential associated civil liability.

Please submit all correspondence, including required technical reports, permit application, and other matters related to this Notice of Violation to Northcoast@waterboards.ca.gov and cc Joelle Geppert at Joelle.Geppert@waterboards.ca.gov.

If you have any questions regarding this matter, please contact Joelle Geppert at the above email or (707) 576-2848. You may also contact me at James.burke@waterboards.ca.gov or (707) 576-2289.

Sincerely,

Jim Burke
Senior Engineering Geologist
Southern Nonpoint Source and Forestry Unit

Exhibit A: Regulatory Citations

Exhibit B: Areas of Impact

cc:

Army Corps of Engineers, Roberta Morganstern,
Roberta.a.morganstern@usace.army.mil
State Water Resources Control Board, Stateboard401@waterboards.ca.gov
Jennifer Siu, EPA Wetlands Office, siu.jennifer@epa.gov
California Department of Forestry and Fire Protection, Dominik Schwab,
Dominik.Schwab@fire.ca.gov
Daniel G. Cohoon, RPF: DCohoon@ableforestry.com

Exhibit A: Regulatory Citations

Regulatory Section	Citation
California Water Code Section 13350	“A person who (1) violates a cease and desist order or cleanup and abatement order hereafter issued, reissued, or amended by a regional board or the state board, or (2) in violation of a waste discharge requirement, waiver condition, certification, or other order or prohibition issued, reissued, or amended by a regional board or the state board, discharges waste, or causes or permits waste to be deposited where it is discharged, into the waters of the state, or (3) causes or permits any oil or any residuary product of petroleum to be deposited in or on any of the waters of the state, except in accordance with waste discharge requirements or other actions or provisions of this division, shall be liable civilly, and remedies may be proposed, in accordance with subdivision (d) or (e).”

Regulatory Section	Citation
California Water Code Section 13385	"A person who violates any of the following shall be liable civilly in accordance with this section: (1) Section 13375 or 13376...(5) A requirement of Section 301...401...of the Federal Clean Water Act..."