



North Coast Regional Water Quality Control Board

February 2, 2021

Nicholas D Brodrick & Kristen L Brodrick
1470 Felta Road
Healdsburg, CA 95448

Dear Nicholas and Kristen Brodrick:

Subject: Notice of Violation for unauthorized activities involving
the placement of fill in waters of the State in violation of the
Federal Clean Water Act and California Water Code.

File: Notice of Violation – Nicholas and Kristen Brodrick, Felta Creek

This letter serves to notify you that you may be in violation of the Federal Clean Water Act and the California Water Code for engaging in or allowing the following activities to occur on your property located at 1470 Felta Rd., Healdsburg, Sonoma County:

- Discharging waste (fill soil constitutes a waste as defined by California Water Code (Water Code) section 13050) to a stream in the Felta Creek watershed, a tributary to Dry Creek, a water of the state and/or United States, without filing a report of waste discharge and without an appropriate permit from the North Coast Regional Water Quality Control Board.

On December 1, 2020, while conducting an inspection of a nearby timber operation on Felta Road, North Coast Regional Water Quality Control Board (Regional Water Board) staff observed a potential water quality violation in Felta Creek.

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

5550 Skylane Blvd., Suite A, Santa Rosa, CA 95403 | www.waterboards.ca.gov/northcoast

On-site Observations

The site is located at approximately 122.8920°W, 38.5764°N in Felta Creek, just below Felta Creek Road (Fig. 1). As determined using the most recent Sonoma County assessor's parcel maps, the violation occurred on parcel number 110-190-010-000, located at 1470 Felta Rd, Healdsburg, CA. At the point where the violation was observed, Felta Creek is located approximately 20 to 30 feet to the south of Felta Creek Road, 10 to 15 feet below the road surface.

Vehicle tracks were observed in the soft sediment bed of Felta Creek. These tracks terminated at an accumulation of soil and large rocky debris. (Fig 2.). The Large rocky debris did not appear to be from natural sources and seemed to have been deposited in the channel intentionally. The soil fill also did not appear to have been deposited by water or other natural processes. The tracks ending at the fill seem to indicate this waste was deposited there using equipment after the last major rain event prior to our site visit.

Basin Plan Prohibitions, Objectives, and Violations

The Water Quality Control Plan for the North Coast Region (Basin Plan) contains an Action Plan for Logging, Construction, and Associated Activities (Action Plan, page 4-26.00) which includes two prohibitions that apply to the discharge of earthen materials or debris to surface waters:

- Prohibition 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.”*
- Prohibition 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.”*

Fill soil and rocky debris have been discharged/placed into or placed at sites where it threatens to discharge into waters of the state in violation of the Basin Plan. The Basin Plan identifies the beneficial uses for each hydrologic area in the Region, as well as for specific waterbodies and broad categories of waters and water bodies which are to be designated and protected. The beneficial uses of any specifically identified water body generally apply to all its tributaries. A complete list of the beneficial uses designated to the Russian River watershed can be found in the North Coast Basin Plan, chapter 2, table 2.1.

Water Code and Clean Water Act Section 401 and 404 Violations

Fill soil and rocky debris have been discharged/placed in waters of the state and may be in violation of the Federal Clean Water Act (CWA). Dredge and fill activities within waters of the United States require prior authorization from the U.S. Army Corps of Engineers under section 404 of the CWA and issuance of a state water quality certification by the Regional Water Board under section 401 of the CWA.

The discharge and/or placement of waste into waters of the state and/or United States without filing a report of waste discharge violates Water Code sections 13260, 13264, and 13376 and CWA section 301 (33 U.S.C. section 1311). Water Code sections 13260 and 13376, respectively, require that a person who discharges or proposes to discharge waste (including clean fill, riprap or other revetment, excavation sidecast, dredge spoils, soil displaced while clearing vegetation, etc.) that could affect the quality of waters of the State, or who discharges or proposes to discharge pollutants to navigable waters of the United States within the jurisdiction of the State, shall file a report of waste discharge, which will regulate the discharge as necessary to protect the beneficial uses of the waters. Pursuant to Water Code section 13264, no person shall initiate any new discharge prior to the filing of a waste discharge report as required by Water Code section 13260. Furthermore, CWA section 301 prohibits the unpermitted discharge of pollutants to waters of the United States.

Pursuant to Water Code sections 13261 and 13265, respectively, you may be subject to administrative civil liability in an amount not to exceed \$1,000 for each day you continue to fail to submit a report of waste discharge and for each day you discharge waste prior to filing that report. Pursuant to Water Code section 13385 you may be subject to administrative civil liability in an amount not to exceed \$10,000 per day of violation or judicial civil liability in an amount not to exceed \$25,000 per day of violation for violations of Water Code section 13376, for discharge to waters of the United States and violation of the Basin Plan, as noted above.

Project Completion

Be advised that, as set forth above, you have discharged without a permit in violation of state and federal law pursuant to Water Code sections 13350 and 13385. We are not taking any action at this time, but further violations could be subject to administrative civil liability of up to \$10,000 per day of violation.

If you are planning further work in Felta Creek, please work with Regional Water Board staff and other applicable local and state agencies to acquire the necessary permits.

If you have any questions please contact me at:
James.Burke@waterboards.ca.gov or Izaak Russo at:
Izaak.Russo@waterboards.ca.gov.

Sincerely,

Jim Burke
Senior Engineering Geologist
Southern Nonpoint Source & Forestry Unit

210202_IBR_mc_FeltaCreek_BrodrickNOV

cc: Diana Henrioulle, Diana.Henrioulle@waterboards.ca.gov

Site Map and Photographs

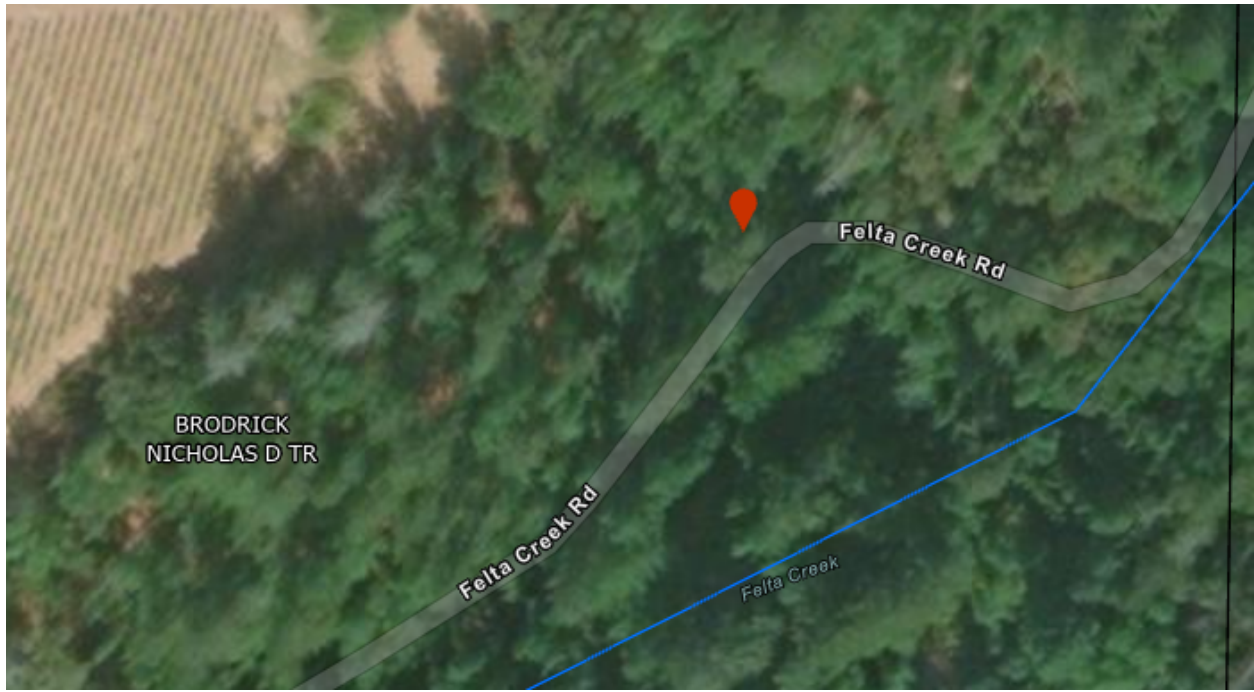


Figure 1 Site Map showing approximate location of violation and property ownership.

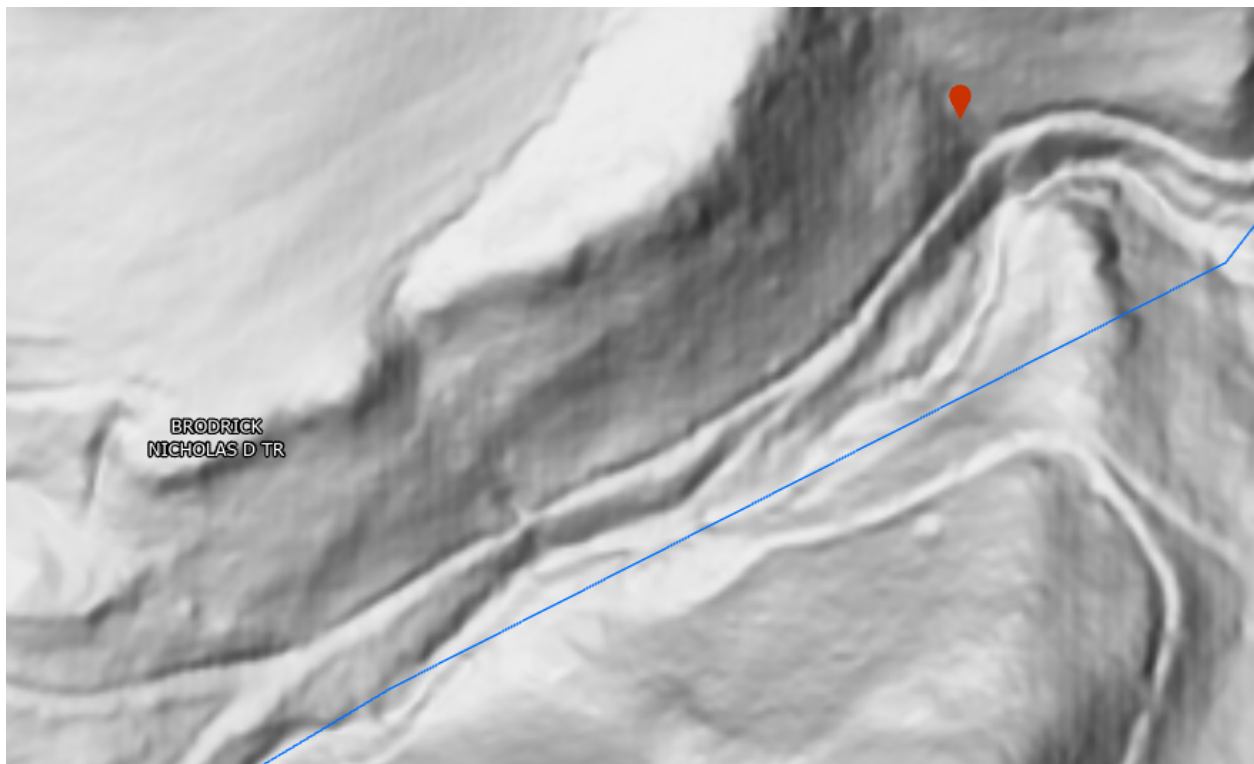


Figure 2 Site map LIDAR imagery more clearly shows roads and stream channel.



Figure 3 Earthen fill and rocky debris in channel of Felta Creek in violation of California Water Code and Federal Clean Water Act.