
North Coast Regional Water Quality Control Board

March 3, 2022

Mr. Ken Bareilles
533 E Street
Eureka, CA 95501y
pbareilles@sbcglobal.net

Dear Mr. Bareilles

Subject: Notice of Violation for Failure to Furnish a Technical Report to Comply with Cleanup and Abatement and Water Code Section 13267 Order No. R1-2022-0009, Emergency Notice 1-20EM-00125-SON, Sonoma County Assessor's Parcel Number (APN) 110-190-001-000

File: Ken Bareilles, Emergency Notice 1-20EM-00125-SON, Sonoma County Assessor's Parcel Number (APN) 110-190-001-000

This letter serves to notify you that you are in violation of California Water Code (CWC) section 13267 for failure to furnish the technical report as required by Cleanup and Abatement Order No. R1-2022-0009 (CAO). Failure to comply with the CAO may result in the assessment of an administrative civil liability of up to \$1,000 per violation per day. The Regional Water Board reserves its right to take any enforcement actions authorized by law, including, but not limited to, violation of the terms and condition of the CAO.

A. Background

The site is located in Sonoma County approximately 3.5 miles southwest of the City of Healdsburg. Following the Walbridge Fire, which burned much of the property in August 2020, the Discharger filed a "Notice of Emergency Timber Operations" (Emergency Notice) with the California Department of Forestry and Fire Protection (CAL FIRE), which was accepted on October 21, 2020. The Emergency Notice, which covers 106 acres of the 160-acre parcel, was given the number 1-20EM-00125-SON. Notices of Emergency Timber Operations are covered by Regional Water Board Order No. R1-2014-0011, *Categorical Waiver of Waste Discharge Requirements for Discharges Related to Timber Harvest Activities On Non-Federal Lands in the North Coast Region* (Categorical Waiver). The 160-acre parcel, Assessor's Parcel Number (APN) 110-190-001-000, is located on hillslopes above both banks of Felta Creek, a fish-bearing tributary to the Russian River.

On January 10, 2022, the Regional Water Board issued the CAO based on staff observations made during four inspections of the Site between July and November 2021. The CAO directed you to take immediate steps to cleanup and abate the discharge, and potential discharge of earthen materials into Felta Creek and nearby unnamed tributaries of the Russian River. All requirements issued under the CAO are enforceable. The CAO required that you submit an Interim Cleanup and Stabilization (hereafter "Interim Plan") Plan within 15 days of issuance, which was on January 10, 2022. As such, the Interim Plan should have been submitted to the Regional Water Board no later than January 25, 2022. We did not receive the Interim Plan, and you did not make an effort to contact us to discuss any aspect of the CAO or request an extension.

Beginning on January 26, 2022, Regional Water Board staff Jim Burke made a series of telephone calls to you attempting to discuss the CAO. Finally, on February 2 and 3, 2022, Regional Water Board staff spoke to you regarding the CAO. During those phone calls, Mr. Burke communicated to you the importance of understanding and complying with the requirements of the CAO. The outcome of those conversations was that you agreed to instruct your consulting Registered Professional Forester (RPF), Randy Jacobszoon, to prepare the Interim Plan. On February 7 and 8, 2022, Mr. Burke spoke with RPF Jacobszoon for the purpose of clarifying our expectations for the content of the Interim Plan and he indicated that he would be preparing the report and would submit it when complete.

B. Alleged Violations

This Notice of Violation (NOV) is for violation of the CAO for failure to submit the required technical report, specifically the Interim Plan, by January 25, 2022, the date specified in the CAO, in violation of CWC section 13267.

CWC § 13268. [Civil liability] states:

(a) (1) Any person failing or refusing to furnish technical or monitoring program reports as required by subdivision (b) of Section 13267, failing or refusing to furnish information as required by subdivision (a) or (b) of Section 13267.5, or failing or refusing to furnish a statement of compliance as required by subdivision (b) of Section 13399.2, or falsifying any information provided therein, is guilty of a misdemeanor, and may be liable civilly in accordance with subdivision (b).

(2) Any person who knowingly commits any violation described in paragraph (1) is subject to criminal penalties pursuant to subdivision (e).

(b) (1) Civil liability may be administratively imposed by a regional board in accordance with Article 2.5 (commencing with Section 13323) of Chapter 5 for a violation of subdivision (a) in an amount which shall not exceed one thousand dollars (\$1,000) for each day in which the violation occurs.

C. Response Required

To minimize the ongoing accrual of days of violation for required submittal of technical reports, please submit the Interim Plan for approval as soon as possible. The Regional Water Board or its delegated officer will consider the timeliness and adequacy of your response in determining our next enforcement steps. It is your responsibility to engage qualified professionals to develop the Interim Plan.

Future correspondence regarding this matter will be sent to you at the above addresses unless an alternative address is provided to the Water Boards. Failure to accept mail from the Regional Water Board is not a valid excuse for non-compliance with any future enforcement orders, and a failure to respond or otherwise appear at a future enforcement proceeding could subject you to a default order and the imposition of administrative civil liability.

I strongly urge you to make every effort to understand and comply with the CAO, including submittal of required technical reports at the earliest possible date. If you have any questions regarding the contents or requirements of the CAO, you should contact me by email at James.burke@waterboards.ca.gov, or by phone at (707) 477-9704 or our legal counsel, Chris Law, by email at Chris.law@waterboards.ca.gov, or by phone at 916-341-5869.

Please electronically submit all documents to Northcoast@waterboards.ca.gov and copy me at: James.burke@waterboards.ca.gov.

Sincerely,

James Burke
Senior Engineering Geologist
Southern Nonpoint Source and Forestry Unit

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cc: Mr. Christopher Law, State Water Resources Control Board, Office of Chief Counsel,
Chris.Law@waterboards.ca.gov