
North Coast Regional Water Quality Control Board

Inspection Memo

To: Gil Falcone, Senior Environmental Scientist, Southern Non-point Source and 401 Certification Unit

From: Scott A. Gergus, Engineering Geologist, Northern Non-point Source and 401 Certification Unit

Date: May 30, 2023

Subject: April 26, 2023, inspection of unpermitted failed dam at 36000 Covelo Road, Willits.

File: Justin C. Greer, 36000 Covelo Road, Willits, Mendocino County, southern parcel APN 036-130-026, northern parcel APN 036-110-011
ECM PIN: CW-889422, WDID No. 1B23108WNME

Background

North Coast Regional Water Quality Control Board (Regional Water Board) received an anonymous complaint alleging the property owner, “has taken tractors and equipment down into a tributary of Outlet Creek, put in a coffer dam and taken out saplings that were planted by CDFW on a gravel bar”. In addition, the complainant alleges “the man has blocked off part of the nearby railroad tracks...to store his equipment”. The storing of equipment on railroad tracks no longer in use is not considered a threat to water quality and will not be addressed. I interpreted the alleged complaint to be that the current landowner drove tractors and equipment down a tributary of outlet Creek, installed a dam, and removed riparian vegetation on a gravel bar.

The complaint is located at 36000 Covelo Road also known as Highway 162 (Property), 11.5 miles north of Willits, Mendocino County and includes two parcels (southern parcel APN 036-130-026, northern parcel APN 036-110-011). On February 1, 2023, the complaint was entered into the CalEPA complaint Data Base and assigned complaint number COMP-56152. The property is owned by Justin Greer. On April 11, 2023, I spoke with Mr. Greer, informed him of the complaint and requested a site inspection to investigate it further. Mr. Greer agreed to a site inspection on April 26, 2023.

Inspection

HECTOR BEDOLLA, CHAIR | VALERIE QUINTO, EXECUTIVE OFFICER

On April 26, 2023, I met with Mr. Greer at the Property. According to LandVision, Mr. Greer purchased the Property September 28, 2022, which included two parcels, the southern parcel APN 036-130-026 and northern parcel APN 036-110-011 totaling 16.8 acres. Mr. Greer said the Property is located on an elevated flood terrace of Outlet Creek and has been used for a variety of industrial purposes over the past 100 years. Prior to conducting the inspection, I reminded Mr. Greer of the anonymous complaint, our interpretation of it, and the purpose of my site inspection. Mr. Greer said California Department of Fish and Wildlife (CDFW) and Mendocino County Code Enforcement met with him in early February, 2023, to address a similar complaint. Mr. Greer granted me permission to access his property and take photographs.

Approximately 14 miles downstream of the Property, Outlet Creek discharges into mainstem Eel River. The Property is located within the Eel River Hydrologic Unit, Upper Main Eel River Hydrologic Area, Outlet Creek Hydrologic Subarea 111.61. California Department of Fish and Game, Stream Inventory Report for Outlet Creek, states salmonids present in Outlet Creek include chinook salmon, coho salmon, and steelhead trout. The south end of the Property is accessed off Covelo Road.

The complainant alleged the property owner had driven tractors and equipment into a tributary of Outlet Creek. We commenced the inspection, walking an estimated 1,500 feet along Outlet Creek top-of-bank, to locate the tributary tractors and equipment were allegedly driven down but could not locate it. I could not confirm tractors and equipment had accessed a tributary on the Property.

CDFW submitted photographs to the RWB of a failed wooden dam installed in a tributary of Outlet Creek. We proceeded to the dam site on the unnamed stream (latitude 39.5569, longitude -123.4178). The stream was flowing upstream of the dam but percolated into the streambed before reaching the dam. Mr. Greer said he constructed the wooden dam in the tributary and has not repaired or removed it since it failed early this winter. The dam was constructed using four 4 X 6 vertical timbers set into a deeply gullied streambed with several 2 X 12 horizontal planks attached to the vertical timbers. A wooden spillway was installed at the top of the dam. The horizontal planks and wing walls were keyed into both gully banks and the streambed to strengthen the dam and prevent leakage around the sides of the dam (Photographs 1 and 2). Mr. Greer said the streambed and banks consisted of gravel fill and buried concrete slab debris (Photographs 1 and 2). Streamflow retained behind the dam seeped around the sides of the dam, causing bank erosion, leading to the dam's failure and discharging soil and rocks to the tributary and Outlet Creek.



Photograph 1: Photographer is looking down the unnamed tributary to Outlet Creek showing the failed wooden dam. Large slabs of concrete are buried in the elevated flood terrace.



Photograph 2: Photograph taken by Mr. Greer. The photographer is looking up the tributary showing the failed wooden dam. Bank failure can be seen on the left side of the dam where the bank eroded away.

During the site visit, I explained to Mr. Greer that projects that directly and indirectly impact waters of the state require a permit from the RWB, and potentially other local, state, and federal agencies and/or entities. Mr. Greer said the dam was not engineered and installed without permits. I informed him that installing a wooden dam in a stream requires a permit from the RWB and if water is retained or diverted, he must also contact the State Water Resources Control Board, Division of Water Rights. I told Mr. Greer the unpermitted dam structure must be removed with a permit from our agency. Typically, a permit from the RWB (and other state and federal entities) is required before a dam can be installed. Regional Water Board records indicate a permit was not obtained for this structure. Typically, RWB staff engage early in the permit application process and ensuing discussions address avoidance and minimization methods for an entire Project. In this case, discussions would also include design plans stamped by a licensed professional engineer assuring the structure would not fail and damage the environment. Because no permit was obtained from the RWB, these discussions never occurred. Obtaining a permit from the RWB ensures the Project is the least environmentally damaging alternative.

A bulldozer path was observed below the failed dam along the bank of Outlet Creek (Photograph 3). Evidence of recent bulldozer access along the bank was not observed. I did not observe piles of cleared or damaged vegetation and could not confirm riparian vegetation had been removed (Photograph 4). Mr. Greer said Outlet Creek had experienced highwater several times this winter. I was unable to confirm if Mr. Greer or a previous owner(s) had accessed the Outlet Creek bank and/or gravel bar with heavy equipment and removed riparian vegetation.



Photograph 3: Photograph taken from top-of-bank of Outlet Creek showing bulldozed path along the bank of Outlet Creek.



Photograph 4: Photograph taken by Mr. Greer. Photographer is looking downstream showing the bulldozed path and riparian vegetation. Piles of cleared or damaged vegetation were not observed and sapling removal was not confirmed.

Conclusions and Recommendations

The Regional Water Board received a complaint alleging the property owner “had taken tractors and equipment down into a tributary of Outlet Creek, put in a coffer dam and taken out saplings that were planted by CDFW on a gravel bar”. Mr. Greer installed a failed wooden dam in a tributary to Outlet Creek without a permit. I was unable to confirm tractors and equipment had been taken down a tributary of Outlet Creek. I was unable to confirm if Mr. Greer or a previous owner(s) had accessed the Outlet Creek bank and/or gravel bar with heavy equipment and removed riparian vegetation.

To address unpermitted activities that directly and indirectly impact the unnamed tributary to Outlet Creek I recommend the following:

1. Issuing a Notice of Violation (NOV) to Mr. Greer,
2. Removal of the failed wooden dam installed in the unnamed tributary to Outlet Creek,
3. Stabilization of the channel,
4. A monitoring and reporting plan that ensures stabilization is successful,

5. Submittal of appropriate 401 Water Quality Certification or Waste Discharge Requirement application authorizing recommendations 2-4.