

ITEM: 12

SUBJECT: Eldorado County and the United States Department of Agriculture, Eldorado National Forest, Rubicon Trail

BOARD ACTION: *Consideration of a Cleanup and Abatement Order*

BACKGROUND: The Rubicon Trail is an internationally known, historic off-highway vehicle (OHV) trail in the Sierra Nevada Mountains that connects Georgetown to Lake Tahoe. The Trail is within the El Dorado National Forest, with two trailheads near Loon Lake. Significant numbers of OHV enthusiasts drive the trail each year. The Rubicon Trail ranges in condition from a well-defined dirt road to granite domes, ledges, and rock debris that creates moderate to difficult passage for street legal vehicles and OHVs.

The land surrounding the Trail drains to Ellis Creek, Gerle Creek, Loon Lake, and the Rubicon River. There are also numerous other small lakes and ponds within the watershed of the Trail, and portions of the Trail extends along wetlands and/or boggy areas. The Trail crosses approximately 32 watercourses.

In March 2008, Water Board staff began receiving complaints about water quality impacts along the Rubicon Trail. In the summer of 2008, Board staff conducted field visits with concerned citizens and environmental groups, and also with Eldorado County and El Dorado National Forest staff. In addition, Board staff completed a short-term sediment study on a portion of the Rubicon Trail in July and August 2008 to estimate the approximate volume of sediment discharging to streams and lakes adjacent to a one-mile section of the Rubicon Trail.

Based on staff's findings of existing and potential impacts, staff prepared a draft Cleanup and Abatement Order that named El dorado County Department of Transportation as the Discharger, and required maintenance and planning activities. The draft CAO was released for public review on 23 January 2009. Because of several requests for additional time, the public comment period was extended to 67 days. During this time, staff met with numerous stakeholders, and organized a full-day meeting in conjunction with the El Dorado County Supervisors. The tentative CAO has generated intense public interest, as evidenced by the 139 individual letters, 3,700 form letters, and 1,643 individually signed affidavits submitted during the comment period.

## ISSUES

Surface waters near the Rubicon Trail have the potential to be impacted by three constituents: sediment, human waste, and automotive fluids. Although the OHV user groups hold workdays to maintain the trail, large segments of the trail have significant erosion and other conditions of concern, resulting in sediment discharges or threatened discharges. Other than at the trailheads, there are no bathrooms along the Trail. A 2001 study estimated that 8,000 gallons of human waste is deposited along the Trail each year. In addition, petroleum-based automotive products spill onto rocks and soil along the Trail, especially when drivers overturn their vehicles or damage mechanical components while traversing rocky segments of the trail. All three of these constituents have the potential to enter surface waters after rainfall or as the snow melts each spring.

Attachment B of the Staff Report contains an extensive response to comments. El Dorado County contends that while it has voluntarily maintained the Trail, it cannot be compelled to do so under a Board Order. The Eldorado National Forest has been added as a responsible party to the Order because the majority of the Trail crosses land managed by the Forest and many of the water quality impacts take place on Forest Service land. El Dorado County and the Eldorado National Forest are jointly named as "Responsible Parties" in the proposed Order.

Although Eldorado County initiated a Rubicon Trail Management Plan process in 2003, the Draft EIR was not finalized because of budget constraints. Many of the issues will not be resolved unless a long-term management plan is created which delineates El Dorado County's and the USFS' responsibilities with regard to these issues. These include defining the exact location of the Trail, the need for a seasonal closure when soils are saturated, determining the carrying capacity of the trail, resolving human waste issues, long-term maintenance, obtaining a secure source of funding for trail management, and ensuring an adequate law enforcement presence.

The proposed Order requires the two Responsible Parties to prepare a plan that will address the above items. Many comments were received about these subjects, and the proposed Order contains more specific language as to how they shall be addressed in the Long Term Management Plan. The proposed Order has also been revised to require annual reports describing the progress made in implementing the Plan each year.

A significant number of comments were received on the subject of whether the Trail should be closed during the winter or when the soils are saturated. Staff agrees that vehicle use during saturated

soil conditions has a significantly potential to discharge sediment into streams. Therefore, the proposed Order requires the Responsible Parties to develop a plan which will protect water quality during times when the trail's soils are saturated. This plan could allow vehicle travel during dry portions of the winter, or propose other options that would allow vehicle travel but would still protect water quality.

**RECOMMENDATION:** Despite years of voluntary efforts by user groups and the County, the Rubicon Trail is alleged to still impact, and threaten to impact, water quality. The purpose of this proposed Cleanup and Abatement Order is to provide a framework for management of the Rubicon Trail and to provide a timeline for implementation.

Mgmt. Review\_\_\_WSW\_\_\_\_\_  
Legal Review\_\_PEP\_\_\_\_\_

23/24 April 2009 Central Valley Water Board Meeting  
11020 Sun Center Dr. #200  
Rancho Cordova, CA 95670