

California Regional Water Quality Control Board
North Coast Region

Cleanup and Abatement Order and Request for Technical Reports
No. R1-2002-0102

To

Mr. John Hanes;
Hanes Ranch, Inc.

On or About
Timber Harvest Plan 1-02-175 MEN
(Previously Submitted as THP 1-02-118 MEN)

and

Timber Harvest Plan 1-02-155 MEN

Navarro River Watershed
Mendocino County

The California Regional Water Quality Control Board, North Coast Region (hereinafter Regional Water Board), finds that:

1. Mr. John Hanes, President of Hanes Ranch, Inc., P.O. Box 528, Boonville, CA, 95415 (hereinafter the Discharger), owns land in the Navarro and Garcia River watersheds. The Discharger is responsible for overseeing and/or conducting management activities and other activities within the ownership associated with, but not limited to: timber harvesting, forestry management, recreation activities, road construction, watercourse crossing construction, road maintenance, and erosion control maintenance. The Discharger has submitted Timber Harvest Plans (THPs) 1-02-118 MEN, 1-02-175 MEN and 1-02-155 MEN to the California Department of Forestry (CDF) for portions of his ownership in the Navarro River watershed.
2. The THP areas described in Finding 1 are located in southwestern Mendocino County, approximately six air miles southwest of Boonville, California (portions of Sections 16, 17, 20, 21, 28, 29, 32, and 33, of Township 13 north, Range 14 west and Section 3 of Township 12 north, Range 14 west; Mount Diablo Base and Meridian). The THP areas and associated road systems drain into the Navarro River and are hereinafter referred to as the "Property".
3. The Navarro River is listed under section 303(d) of the Clean Water Act as impaired due to excessive sediment and temperature. Additionally, a Total Maximum Daily Load for sediment and temperature has been established by the U.S. Environmental Protection Agency for the Navarro River watershed. Attached Exhibit 1 shows the Property, including its appurtenant roads, that is referenced in this Order.
4. The beneficial uses of the Navarro River and its tributaries include:
 - a) domestic water supply
 - b) agricultural water supply

- c) groundwater recharge
 - d) water contact recreation
 - e) non-contact recreation
 - f) sport fishing
 - g) cold freshwater habitat
 - h) wildlife habitat
 - i) rare, threatened and endangered species
 - j) migration of aquatic organisms
 - k) spawning, reproduction and/or early development of aquatic organisms
 - l) estuarine habitat
5. The Water Quality Control Plan for the North Coast Region (Basin Plan) contains specific standards and provisions for maintaining high quality waters of the state that provide for the beneficial uses listed above. The Action Plan for Logging, Construction and Associated Activities (Action Plan) included in the Basin Plan includes two prohibitions:
- 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.”*
6. The Action Plan states: “where investigations indicate that the beneficial uses of water may be adversely affected by waste dischargers, the staff shall require the submission of Reports of Waste Discharge.”
7. Section 3 of the Basin Plan contains water quality objectives that specify limitations on certain water quality parameters not to be exceeded as a result of waste discharges. The water quality objectives (page 3-2.00-3.00) that are considered of particular importance in protecting the beneficial uses from unreasonable effect due to discharges from logging, construction, or associated activities, include the following:
- Color: Waters shall be free of coloration that causes nuisance or adversely affects beneficial uses.
 - Suspended Material: Waters shall not contain suspended material in concentrations that cause nuisance or adversely affect beneficial uses.

- Settleable Material: Waters shall not contain substances in concentrations that result in deposition of material that causes nuisance or adversely affect beneficial uses.
 - Sediment: The suspended sediment load and suspended discharge rate of surface waters shall not be altered in such a manner as to cause nuisance or adversely affect beneficial uses.
 - Turbidity: Turbidity shall not be increased more than 20 percent above naturally occurring background levels. Allowable zones within which higher percentages can be tolerated may be defined for specific discharges upon the issuance of discharge permits or waiver thereof.
8. The following sections of the Porter-Cologne Water Quality Control Act authorizes the Regional Water Board Executive Officer to make the following requirements for persons suspected of violating the applicable Basin Plan objectives:
- Section 13267(a) - *“A regional board, in establishing or reviewing any water quality control plan or waste discharge requirements, or in connection with any action relating to any plan or requirement or authorized by this division, may investigate the quality of any waters of the state within its region.”*
 - Section 13267(b) - *“In conducting an investigation specified in subdivision (a), the regional board may require that any person who has discharged, discharges, or proposes to discharge waste within its region...that could affect the quality of waters within its region shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires.”*
 - Section 13267(c) - *“In conducting an investigation pursuant to subdivision (a), the regional board may inspect the facilities of any person to ascertain whether the purposes of this division are being met and waste discharge requirements are being complied with. The inspection shall be made with the consent of the owner or possessor of the facilities or, if the consent is withheld, with a warrant duly issued pursuant to the procedure set forth in Title 13 (commencing with Section 1822.50) of Part 3 of the Code of Civil Procedure. However, in the event of an emergency affecting the public health or safety, an inspection may be performed without consent or the issuance of a warrant.”*
 - Section 13304(a) - *“Any person who has discharged or discharges waste into the waters of this state in violation of any waste discharge requirement or other order or prohibition issued by a regional board or the state board, or who has caused or permitted, causes or permits, or threatens to cause or permit any waste to be discharged or deposited where it is, or probably will be, discharged into waters of the state and creates, or threatens to create, a condition of pollution or nuisance, shall upon order of the regional board, clean up the waste or abate the effects of the waste, or, in the case of threatened pollution or nuisance, take other necessary remedial action, including, but not limited to, overseeing cleanup and abatement efforts.”*

9. THP 1-02-118 MEN was submitted to CDF on May 13, 2002, and later withdrawn by the Discharger on July 3, 2002. This THP was subsequently revised and resubmitted to CDF as THP 1-02-175 MEN on July 12, 2002. THP 1-02-175 MEN covers the same land area as THP 1-02-118 MEN. As of the date of this Order, THP 1-02-175 MEN had not been approved by CDF.
10. THP 1-02-155 MEN was submitted to CDF on July 1, 2002. THP 1-02-155 MEN was returned and subsequently resubmitted on July 12, 2002. THP 1-02-155 MEN was withdrawn by the Discharger on August 2, 2002.
11. Regional Water Board staff conducted four inspections of THPs 1-02-118 MEN and 1-02-175 MEN on June 10, 2002, August 8, 2002, August 14, 2002, and September 16, 2002. These inspections identified over 30 erosion sites and revealed several violations of Prohibition 1 of the Action Plan. Violations include the discharge of earthen material from watercourse crossings, road fill failures, inadequate road drainage, watercourse diversions, and numerous surface erosion sites, within the THP area and along the road network into Minnie Creek, Big Rough Creek, Camp Creek, Rancheria Creek and their tributaries. Exhibit 2 (attached) compiles site-specific findings from the four separate inspections. The THP contains 37 mapped watercourse crossings, of which all had some type of threatened or existing erosional problem. Based on measurements taken of five of these crossings during the inspections, Regional Water Board staff calculated that these erosion sites have resulted in the discharge of approximately 300 cubic yards (yd³) of earthen material into waters of the state.
12. The inspections described in Finding No. 11 above also revealed several violations of Prohibition 2 of the Action Plan. Violations include locations where earthen material has been placed or deposited in a position that threatens to cause a discharge into Minnie Creek, Big Rough Creek, Camp Creek, Rancheria Creek and their tributaries. Based on measurements taken during inspections, Regional Water Board staff calculated that five of the erosion sites identified threaten to discharge approximately 70 yd³ of earthen material into waters of the state.
13. Regional Water Board staff conducted one inspection of THP 1-02-155 MEN on July 29, 2002. The inspection identified several erosion sites and revealed several violations of Prohibition 1 of the Action Plan. Violations include the discharge of earthen material into German Creek and its tributaries from watercourse crossings, road fill failures, inadequate road drainage, watercourse diversions, and numerous surface erosion sites, within the THP area and along the road network. Exhibit 3 (attached) compiles site-specific findings from the inspection. Based on measurements taken during the inspection, Regional Water Board staff calculated that eight of the erosion sites identified has resulted in the discharge of greater than 55 yd³ of earthen material into waters of the state. During the inspection, multiple non-disclosed items such as erosion sites, watercourse diversions, unstable features, as well as incomplete flagging or mapping of watercourses were identified. As a result of these findings, the CDF inspector terminated the inspection early, and therefore, not all watercourse crossings and road drainage structures were inspected.
14. The July 29, 2002, inspection, described in Finding No. 13 above, also revealed several violations of Prohibition 2 of the Action Plan. Violations include locations where earthen

material has been placed or deposited in a position that threatens to cause a discharge into German Creek. Based on measurements taken during the inspection, Regional Water Board staff calculated that eight of the erosion sites identified threaten to discharge approximately 200 yd³ of earthen material into waters of the state.

15. The Discharger has caused a discharge of waste into waters of the state. As explained above in Finding Nos. 11-14, the Discharger has caused the discharge of earthen material from some or all of the above-mentioned erosion sites into a number of onsite watercourses where it has resulted in the formation of bottom deposits. Regional Water Board staff has also concluded that the erosion sites will likely continue to discharge earthen material into watercourses unless preventive measures are taken. The Discharger has therefore placed waste where it has been and will probably be discharged into waters of the state.
16. The quantity of earthen materials discharged into the onsite watercourses has caused the formation of bottom deposits, which are deleterious to fish, wildlife, and other beneficial uses as described in attached Exhibits 2 and 3, and therefore violate Prohibitions 1 and 2 in the Action Plan. The quantity of material threatening to discharge into the onsite watercourses will exacerbate the formation of bottom deposits, would be deleterious to fish wildlife and other beneficial uses as described in attached Exhibits 2 and 3, and would therefore violate Prohibition 2 of the Action Plan.
17. The discharges and threatened discharges have created or threaten to create pollution or nuisance because, as described in Exhibits 2 and 3, they have created or threaten to exacerbate bottom deposits, which unreasonably interfere with beneficial uses. The discharge and threatened discharge of the earthen materials and the resulting creation of bottom deposits are therefore subject to cleanup and abatement under Water Code Section 13304.
18. All of the technical reports required by this Order are necessary to ensure that the prior harm and future threat to water quality created by the discharges described above are properly abated and controlled. More detailed information is available in the Regional Water Board's public file on this matter.
19. This is an enforcement action by a regulatory agency, being taken for the protection of the environment, and is exempt from the provisions of the California Environmental Quality Act (Public Resources Code, Section 21000 et seq.) in accordance with Title 14, California Code of Regulations, Section 15321.
20. Failure to comply with the terms of this Order may result in enforcement under the California Water Code. Any person failing to provide technical reports containing information required by this Order by the required date(s) or falsifying any information in the technical reports is, pursuant to Water Code Section 13268, guilty of a misdemeanor and may be subject to administrative civil liabilities of up to one thousand dollars (\$1,000.00) for each day in which the violation occurs. Any person failing to cleanup or abate threatened or actual discharges as required by this Order is, pursuant to Water Code Section 13350(e), subject to administrative civil liabilities of up to five thousand dollars (\$5,000.00) per day or ten dollars (\$10) per gallon of waste discharged. Any person discharging waste into navigable waters of the United States without waste discharge

requirements is, pursuant to Water Code Section 13385(c), subject to administrative civil liabilities of up to ten thousand dollars (\$10,000.00) per day in which the discharge occurs plus ten dollars (\$10.00) per gallon of waste discharged and may also be subject to criminal prosecution pursuant to Water Code Section 13387.

21. Any person affected by this action of the Regional Water Board may petition the State Water Resources Control Board (State Water Board) to review the action in accordance with California Water Code Section 13320 and Title 23, California Code of Regulations, Section 2050. The petition must be received by the State Water Board within 30 days of the date of this Order. Copies of the law and regulations applicable to filing petitions will be provided upon request. In addition to filing a petition with the State Board, any person affected by this Order may request the Regional Water Board to reconsider this Order. To be timely, such request must be made within 30 days of the date of this Order. Note that even if reconsideration by the Regional Water Board is sought, filing a petition with the State Water Board within the 30-day period is necessary to preserve the petitioner's legal rights. If you choose to request reconsideration of this Order or file a petition with the State Water Board, be advised that you must comply with the Order while your request for reconsideration and/or petition is being considered.

THEREFORE, IT IS HEREBY ORDERED that, pursuant to California Water Code Sections 13267(b) and 13304, the Discharger shall:

Short-Term Emergency Erosion Control

1. By **November 8, 2002**, implement short-term emergency mitigation measures at the Property to prevent erosion, control sediment sources, and prevent the discharge of earthen material into waters of the state. The short-term emergency erosion control measures may include, but are not limited to, such measures as: unplugging culverts, seeding and mulching bare exposed soils near crossings, use of applicable materials (such as straw wattles or rock armored ditches, etc.) within ditches to minimize sediment delivery to watercourses, placement of energy dissipators and/or downspouts to prevent erosion of fill material and/or watercourse bed and bank, removal of perched earthen materials to a stable location, installation of additional drainage facilities, and other management practices and control techniques determined to be at least equally effective at preventing discharges. Erosion control measures implemented shall adequately address existing erosion sources within the Property.
2. By **November 8, 2002**, the Discharger shall implement short-term emergency erosion control measures on all applicable erosion sites as summarized in Findings 11-14 above and identified in Exhibits 2 and 3, as well as other erosion sites on the Property.
3. All short-term emergency erosion control measures shall be routinely maintained throughout the winter period (**November 15, 2002, through May 1, 2003**) to provide adequate functional protection to waters of the state.

Short-Term Emergency Erosion Control Monitoring and Reporting

The following monitoring and reporting activities shall be conducted to measure the effectiveness of short-term emergency erosion control measures that have been developed and implemented for the Property:

4. By **November 15, 2002**, submit a Short-Term Erosion Control Completion Report (STCR) to the Regional Water Board Executive Officer. The STCR shall fully document the implementation of specific short-term erosion control measures, describe the specific locations of those measures, and identify the locations on [a USGS topographic map at a scale of not less than one inch to the mile. The STCR shall be prepared and signed by a professional engineer or geologist licensed in the State of California and experienced in erosion control. The STCR shall include photographs, descriptions, and mapped locations of all erosion control measures that have been implemented to control sediment delivery to waters of the state from the Property.
5. Initial monitoring of the measures identified in the STCR shall be conducted within 24 hours of the first storm event after **November 8, 2002**, that produces one inch or more of rain within a 24-hour period. The monitoring, inspection, and reporting shall be conducted in accordance with the provisions described under Paragraph Nos. 6 and 7 below.
6. Inspections of the measures identified in the STCR shall be routinely conducted throughout the **November 2002 to May 2003** winter period under the supervision of a California licensed professional engineer or geologist experienced in erosion control. No more than one monitoring inspection needs to be conducted within any given month. The inspection shall be conducted within 24 hours of a storm event that produces one inch or more of precipitation within 48 hours. Notification of the day of each inspection shall be provided to Regional Water Board staff to allow them to attend and potentially collect water quality samples.
7. By the **fifteenth day of each calendar month (November through May)**, the Discharger shall submit to the Regional Water Board Executive Officer a monthly monitoring report. The monthly monitoring report shall be signed by a licensed professional experienced in erosion control and shall include the following items:
 - a) mapped locations of all short-term emergency erosion control measures;
 - b) mapped locations of any new erosion sites (such as rill and gully erosion, inside ditch erosion, watercourse diversions, fill and cutslope failures, mass wasting, culvert failures, culvert plugging, etc.) not previously documented;
 - c) photographs of newly identified erosion sites;
 - d) photographs of existing sites where additional mitigation measures are needed;
 - e) descriptions of any alteration, repair or enhancement of specific erosion control measures performed or needed;
 - f) precipitation amounts for each day of the month (as recorded in Boonville, California, and reported in the Press Democrat newspaper);
 - g) the name of the inspector; and
 - h) the date of the inspection.

Long-Term Erosion Control Plan

8. By **January 15, 2003**, the Discharger shall submit a long-term erosion control plan (ECP) for review and approval by the Regional Water Board Executive Officer. The ECP shall include a sediment source inventory, a landslide investigation report, and a remediation plan as described below in Items 9-11.
9. The sediment source inventory (Inventory) shall identify all sources of sediment delivery to waters of the state associated with the Property. A map of the Property shall be prepared using a USGS topographic map at a scale not less than one inch to the mile that identifies watercourses, watercourse crossings, roads, and skid trails. The Inventory shall be prepared and stamped by a California licensed geologist or civil engineer experienced in erosion control, road design, and watercourse crossing design. The Inventory shall identify all erosion sites at the Property, including but not limited to those referenced in Exhibits 2 and 3. The Inventory shall identify and describe in detail such features as:
 - a) improperly installed watercourse crossing structures;
 - b) culverts with inadequate capacity to carry flows and associated watershed debris from the 100-year storm;
 - c) watercourse crossings lacking structures or facilities to prevent diversion of flow down the road;;
 - d) rusted, bent, crushed, or corroded culverts;
 - e) eroding sidecast and perched fill materials near watercourses;
 - f) downcutting inside ditches that deliver sediment to a watercourse;
 - g) road drainage features in close proximity to watercourses that show evidence of sediment delivery to watercourses;
 - h) lengths of road that are “hydrologically connected” to watercourses (i.e., drain toward watercourse crossings) and descriptions of road drainage conveyances (e.g., inside ditches);
 - i) culverted watercourse crossings that are not properly aligned with the stream channel;
 - j) culverts placed above natural stream grade;
 - k) shot-gunned culverts;
 - l) existing trash racks above culvert inlets;
 - m) watercourses diverted out of the natural stream channel;
 - n) gully and rill erosion that has delivered or has the potential to deliver sediment to a watercourse; and
 - o) depth and width of rocked watercourse crossings, with construction specifications.
10. The landslide investigation report shall be prepared by a licensed geologist experienced in landslide investigation and shall contain site-specific descriptions of all unstable features that include:
 - a) size and location of all landslides;
 - b) proximity to watercourses;
 - c) stability analysis, including proposed management on or adjacent to the unstable area, and risk of discharge to a watercourse; and
 - d) a description of any proposed mitigation designed to control reactivation or prevent further disturbance of the unstable features. Site-specific design and construction standards and material specifications shall be included where mitigation of unstable features is proposed.

11. The remediation plan shall be prepared and stamped by a California licensed geologist or civil engineer experienced in erosion control, road design, and watercourse crossing design and shall include permanent mitigations to address potential and chronic sediment delivery from the locations identified in the Inventory described under No. 9 above. Following review and approval by the Regional Water Board Executive Officer, the remediation plan shall be fully implemented prior to **August 1, 2003**.
12. By **September 1, 2003**, submit a completion report prepared and stamped by a California licensed geologist or civil engineer experienced in erosion control, road design, and watercourse crossing design that clearly documents the full and complete implementation of the approved remediation plan and landslide investigation report mitigation measures.

Ordered by _____
Susan A. Warner
Executive Officer

October 18, 2002

Attachments:

1. Exhibit 1: Property Map
2. Exhibit 2: Regional Water Board Inspection Memorandum for THP 1-02-175 MEN
3. Exhibit 3: Regional Water Board Inspection Memorandum for THP 1-02-155 MEN