



Matt Rodriguez
Secretary for Environmental
Protection

**California Regional Water Quality Control Board
North Coast Region
Geoffrey M. Hales, Chairman**

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Edmund G. Brown Jr.
Governor

September 16, 2011

Christianne Tiemann
31781 Via-Allegre
Trabuco Canyon, CA 92679

Dear Ms. Tiemann:

Subject: NOTICE OF VIOLATION: Unauthorized Activities Involving Discharge of Earthen Materials into Surface Waters

File: Christianne Tiemann, 2880 B-Bar-K Road Near Douglas City, Trinity County, Waste Discharge Identification Number (WDID) 1A11144CNTR

This letter serves to notify you that you are in violation of the law and may be subject to enforcement action for engaging in and/or allowing the following activity or activities on your property located at 2880 B-Bar-K Road near Douglas City, Trinity County, APN 015-390-02:

- Discharging waste (sediment constitutes a waste, as defined by the California Water Code (CWC) section 13050) to Brown's Creek, a water of the State and/or United States (U.S.), without filing a report of waste discharge and without an appropriate permit from the North Coast Regional Water Quality Control Board (Regional Water Board).

On December 12, 2010 and February 1, 2011, in response to continuing complaints, Regional Water Board staff (Staff) inspected the road adjacent to and below the entrance to your property located at 2880 B-Bar-K Road near Douglas City CA. During the inspection(s), Staff observed that earthen materials were eroding from and/or being transported down the road accessing your property, and travelling down B-Bar-K Road to Brown's Creek, a surface water of the State and the United States (U.S.). Enclosed with this Notice of Violation is an inspection report that provides a written record of the observations made by Staff during their inspections.

In addition, on August 5, 2011 Regional Water Board staff, in response to further complaints, reviewed the recent road work, which we understand was conducted under the direction of Brian Verberg who informed our staff by voice mail on August 31, 2011

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that he is representing your interests and operating under your direction. It appears that this work has stabilized the road surface leading to your property, and we appreciate the effort. However, staff did not observe evidence that the source of the erosion and concentrated runoff flows described in the attached inspection report have been addressed. Furthermore, redirecting road surface runoff to a different watercourse does not address the underlying problems or causes, but only changes the location where sediment delivery occurs.

The discharge and/or placement of waste into waters of the state and/or U.S. without filing a report of waste discharge violates CWC sections 13260, 13264, and 13376 and CWA section 301 (33 U.S.C. § 1311). CWC sections 13260 and 13376, respectively, require that a person who discharges or proposes to discharge waste that could affect the quality of the waters of the State or who discharges or proposes to discharge pollutants to the navigable waters of the U.S. within the jurisdiction of the State shall file a report of waste discharge. Pursuant to CWC section 13264, no person shall initiate any new discharge prior to the filing of a waste discharge report as required by CWC section 13260. Furthermore, CWA section 301 prohibits the unpermitted discharge of pollutants to waters of the U.S.

Additionally, the Basin Plan prohibits the discharge and/or the placement or disposal of soil, silt, bark, slash, sawdust, or other organic and earthen material from any logging, construction, or associated activity of whatever nature into or where it can enter any stream or watercourse in the basin in quantities deleterious to fish, wildlife, or other beneficial uses. The Basin Plan also contains specific narrative and numeric water quality objectives for inland surface waters of the North Coast Region (pages 3-3.00 – 3-11.00) that include limitations on sediment, floating material, suspended material, color, and turbidity. The discharge of waste into the stream below your property violates the prohibitions set forth in the Basin Plan. This discharge also creates or threatens to create a condition of pollution or nuisance by increasing or potentially increasing levels of sediment, turbidity, floating materials, or suspended materials in violation of the Basin Plan's water quality objectives.

Pursuant to CWC 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. Additionally, pursuant to CWC 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 CWC section 13376, for discharge to waters of the United States and violation of the Basin Plan, as noted above. In order to avoid incurring additional violations, you must immediately cease any activities that involve the discharge or

placement of waste into the stream located on your property. The Regional Water Board reserves the right to take any enforcement action authorized by law.

To remedy this Notice of Violation we recommend that you engage a California-licensed professional experienced in erosion control and current best management practices for road construction and maintenance to develop an Erosion Control Plan (ECP) to prevent erosion and sediment transport from the subject parcel. The ECP must inventory, prioritize, and include a time schedule for mitigation work for all human-caused controllable sources of sediment on your subject property. In order to minimize the chance for further discharges of sediment from your property, subjecting you to further potential enforcement and penalties, we recommend you complete implementation of the erosion control work by no later than October 15, 2011.

To ensure that the ECP addresses erosion sites of concern from a water quality perspective, the licensed professional retained should use the following definition to guide road inventory preparation and implementation.

“Controllable Sediment Source” means sites or locations within the Project area that meet all the following conditions:

1. is discharging or has the potential to discharge sediment to waters of the state,
2. was caused or affected by human activity, and
3. may feasibly and reasonably respond to prevention and minimization management measures.

In addition, an ECP inventory should include the following:

- A brief description of the methods used to conduct the inventory;
- A description of each identified controllable sediment source, with sufficient detail to explain why it is a source and to understand current conditions;
- A topographic map at a scale of 1:12000 or greater (e.g., 1:6000) with no greater than 80 foot contours;
- A narrative description of the site-specific management measure proposed to remedy the problem including sufficient design and construction standards to evaluate effectiveness of proposed remedy. (Design and construction standards may include, but are not limited to, diagrams, minimum rock size, and/or performance standards as needed to implement effectively);
- Priority for repair and a time schedule for the repairs. Identify priority by considering the estimated deliverable sediment volume of a site, the potential for immediate or delayed failure, and the sensitivity of receiving waters. In general,

the highest priority is assigned to sites with large sediment volumes with an imminent risk of failure into waters that support domestic water supplies or fish. The time schedule must schedule work based upon potential for site failure and site priority.

Prior to commencing work implementing the ECP, but no later than October 16, 2011, please submit the complete ECP to this office for Executive Officer review and approval. All erosion control plan work should be completed by November 15, 2011 weather permitting.

If you and/or your authorized representative have any questions, please contact Stormer Feiler at (707) 543-7128 or by email at sfeiler@waterboards.ca.gov or his supervisor Diana Henrioulle at (707) 576-2350 or by email at dhenrioulle@waterboards.ca.gov.

Sincerely,

David F. Leland
Chief, Watershed Protection Division

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Enclosures: Regional Water Board staff inspection report

Certified Mail Return Receipt Required

cc: Brian Verberg, 32701 Seven Seas Drive, Bana Point, CA 92629