
North Coast Regional Water Quality Control Board

January 6, 2014

Mr. Deakon Duey
Humboldt Redwood Company LLC
PO Box 712
Scotia, CA 95565

Dear Mr. Duey:

Subject: Notice of Violation for Failure to Identify and Treat Existing Controllable Sediment Discharge Source under Order No. R1-2004-0030, General Waste Discharge Requirements for Discharges Related to Timber Harvest Activities on Non-Federal Lands in the North Coast Region

File: Timber Harvest Plan 1-08-003 HUM (Panhandle 08 THP)

The purpose of this letter is to notify you that you have violated California Water Code (CWC) Section 13260(a). This CWC section requires that any person discharging or proposing to discharge waste that could affect the quality of waters of the state shall file a report of waste discharge containing information required by the appropriate Regional Water Board. On May 14, 2008, HRC enrolled Timber Harvest Plan (THP) 1-08-003 HUM for coverage under the General Waste Discharge Requirements for Discharges Related to Timber Harvest Activities on Non-Federal Lands in the North Coast Region (GWDR), under Order No. R1-2004-0030.

Compliance with the Specific and General Requirements of the GWDR, including preparing and including an inventory of Controllable Sediment Discharge Sources (CSDS) in an Erosion Control Plan (ECP) and conducting winter period inspections of the Project area, is intended to ensure compliance with the Water Quality Control Plan for the North Coast Basin (Basin Plan). HRC's GWDR application included an ECP and identified several CSDS sites to be treated during the enrollment period.

On June 20, 2013, we received your request to terminate coverage under the GWDR. The NOT package included the inspection history and a copy of the California Department of Forestry and Fire Protection final completion report, signed and dated February 8, 2013.

On July 2, 2013, Regional Water Board staff inspected the THP area to evaluate whether the THP met the definition of a "Completed Project" as defined under Order No. R1-2004-0030. A project is deemed complete when, in part, there is no potential for waste discharges from the Project in violation of the Basin Plan or the GWDRs. During the inspection, Regional Water Board staff identified an additional CSDS site within THP Unit 1, Site 11860 on road J32, displaying the following site conditions threatening to discharge sediment to the Class II watercourse in violation of the GWDR:

- The 48 inch culvert is undersized to accommodate the 100 year storm event and is currently not functioning properly. Updated calculations indicate a 72 inch culvert is necessary;
- The culvert inlet is damaged and is perforated by rust to the extent that stream flow infiltrates into the road fill material, which substantially increases the risk of crossing failure;
- The band connecting the metal sections of the culvert is separated and rusted through, further allowing water to infiltrate road fill;
- The culvert is not to grade and has resulted in channel erosion at the outlet.

HRC has estimated potential sediment discharges of approximately 519 yd³ of earthen materials to the affected Class II tributary to Howe Creek in the Lower Eel River. The Eel River and all its tributaries have been listed under section 303(d) of the Federal Clean Water Act as being impaired due to sediment and temperature. In 2007, the United States Environmental Protection Agency (US EPA) approved a Total Maximum Daily Load (TMDL) for sediment and temperature in the Lower Eel River. The identification and treatment of sediment sources is a main component of TMDL implementation under the GWDR. GWDR Section III. D. requires that all CSDS sites within the project area be identified within the Erosion Control Plan (ECP). Section III.F. of the GWDR requires dischargers to develop and implement an Inspection Plan for evaluating the implementation and effectiveness of the management measures in the Erosion Control Plan or other plans that may be developed to prevent and minimize discharges of waste, as well as to determine if any new controllable sediment discharge sources have developed within the Project area. Site 11860 was not identified in the original ECP nor during any subsequent inspections of the THP area.

HRC has violated terms and conditions of the GWDR as follows:

1. Site 11860 was not identified in the ECP submitted with the request for enrollment under the GWDR;
2. Site 11860 was not identified during the winter inspections of the THP units. According to the inspection record, HRC conducted ten winter inspections of the Project, beginning in 2009;
3. The NOT submitted states that there were no CSDS sites within the project area.

Following discovery of this site on July 2, 2013, Regional Water Board staff discussed with HRC staff the need to treat this site prior to the plan being eligible for termination. In response to a subsequent inquiry by staff as to the treatment status of this site, you stated that HRC did not treat this site during 2013 due to a lack of equipment and necessary permits. However, on November 12, 2013, you indicated that HRC has a programmatic 1600 permit from the California Department of Fish and Wildlife (CDFW) to conduct work on such sites. Therefore, lack of permit coverage does not appear to have been an obstacle to treatment of the site. On November 13, 2013, HRC submitted an amended ECP identifying Site 11860 as a high priority CSDS site with a scheduled implementation date of no later than October 15, 2014.

We are issuing this NOV because HRC failed to identify a site that clearly meets the definition of a CSDS in violation of the GWDR. Section IV. F. of the GWDR states that Porter-Cologne Water Quality Act provides significant penalties for any person who violates a permit prohibition, limitation, or provision. Any person who violates any permit condition of that Order may be subject to a penalty thereunder. Furthermore, Section IV. H. of the GWDR states that the Discharger must comply with all of the conditions of the General WDRs. Any noncompliance constitutes a violation of the Porter-Cologne Water Quality Control Act and is grounds for enforcement action and/or removal from General WDR coverage. Penalties may be assessed for each day of violation, and may also be assessed based on the volume of waste discharged. As noted above, you have incorporated this site into the project ECP, with a treatment date of October 15, 2014. Given that this site should have reasonably been treated within the enrollment period of the GWDR, be advised that should the culvert fail resulting in discharge of sediment, HRC may be subject to penalties associated with the time the site was not identified in the ECP.

Please contact Jim Burke of my staff at 707-576-2289 if you have any questions or require additional information regarding this matter.

Sincerely,

Fred J. Blatt
Division Chief,
Nonpoint Source and Timber Harvest Division

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Certified Return Receipt Requested