

Executive Officer's Summary Report
9:00 a.m., October 23, 2008
Weaverville Victorian Inn
2015 Main Street
Weaverville, CA 96093

ITEM: 5

SUBJECT: Public Hearing Order No. R1-2008-0113 to Consider Whether to Affirm, Reject, or Modify an Administrative Civil Liability Complaint issued on August 28, 2008, for violations of Waste Discharge Requirements, State Water Board Order No. 99-08 DWQ, in the matter of Ronald E. Yingling WDID No. 153C349380, Trinity County.

DISCUSSION

Mr. Ronald E. Yingling owns a 3.2 acre property located on State Highway 3 in Weaverville. The property is located adjacent to a large county drainage ditch that leads to East Weaver Creek, tributary to the Trinity River. Mr. Yingling began grading his property during the summer of 2007 for what he stated was a small residential subdivision.

On September 18, 2007 staff responded to a citizen complaint regarding Mr. Yingling's grading activities by inspecting the site. The inspection documented ongoing construction activities and the possibility for discharges of construction-related sediment to receiving waters. Staff then contacted Mr. Yingling and raised concerns about the extensive grading and the lack of any applicable permits for such work. Mr. Yingling was warned about the potential for sediment discharges with forthcoming rains and the need for installation of best management practices (BMPs) to help prevent soil erosion. Mr. Yingling responded by obtaining Regional Water Board construction permit coverage, Order 99-08-DWQ in October 2007.

On January 14, 2008 Regional Board received a second citizen complaint regarding significant sediment discharges to the Highway 3 drainage ditch and to East Weaver Creek. Staff re-inspected the site on February 19, 2008, noting minimal efforts to control sediments onsite, severe site erosion and copious volumes of sediments within the Highway 3 drainage ditch. Sediment depths of up to six inches deep covered the entire 200' X 40' drainage ditch leading to the culvert that crosses under Highway 3 and into East Weaver Creek. Conditions within this drainage ditch and waters of the state, were considered violations and threatened violation of water quality objectives. The drainage ditch remains in that condition to this date. Mr. Yingling has been contacted several times in an effort to encourage him to work cooperatively with Caltrans to clean the sediment out of the drainage ditch.

On August 28, 2008 the Regional Water Board Assistant Executive Officer issued Administrative Civil Liability Complaint (ACLC) R1-2008-0105 in the amount of \$5,000 to Mr. Yingling (hereinafter Discharger) for the February 19, 2008 discharge of sediments to surface waters.

CIVIL LIABILITY

Section 13385(a)(4) of the California Water Code provides for the imposition of civil liabilities against dischargers who violate any order or prohibition issued pursuant to California Water Code Section 13243 or Article 1 of Chapter 5. As detailed above, the Discharger violated the discharge prohibitions and requirements of Water Quality Order No. 99-08-DWQ.

The Discharger did not provide a written response to the ACLC. Staff have contacted the discharger by phone in order to facilitate a response to the Complaint. At this time, the Discharger has expressed a desire for a public hearing but has not submitted any written material for submittal to the Regional Water Board.

Based on the serious nature of the violations, the failure to comply after repeated efforts to inform the discharger of his 99-08-DWQ permit responsibilities, the failure to implement effective BMPs onsite, and consideration of the factors described in CWC Section 13327 and discussed in Findings 3-5 of the Administrative Civil Liability Order, staff recommends imposition of a Civil Liability in the amount of \$5,000.

PRELIMINARY STAFF

RECOMMENDATION: Adopt the proposed Administrative Civil Liability Order.