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October 6, 2011

***VIA CERTIFIED MAIL -
RETURN RECEIPT REQUESTED***

Paul J. Hobbs
Paul Hobbs Trust
3361 Highway 116, North
Sebastopol, CA 95472

Re: Supplemental Notice of Violations and Intent to File Suit Under the Clean
Water Act

Dear Mr. Hobbs:

The Clean Water Act ("CWA" or "Act") Section 505(b) requires that sixty (60) days prior to the initiation of a civil action under CWA § 505(a), 33 U.S.C. § 1365(a), a citizen must give notice of the intent to sue to the alleged violator, the Environmental Protection Agency ("EPA") and the State in which the violations occur.

Northern California River Watch ("River Watch") hereby gives notice to Paul J. Hobbs and the Paul Hobbs Trust (collectively, "the Discharger") that following the expiration of sixty (60) days from the date of this Notice, River Watch intends to bring suit in the United States District Court against the Discharger for continuing violations of "an effluent standard or limitation", permit condition or requirement and/or "an order issued by the Administrator or a State with respect to such standard or limitation" under CWA § 505(a)(1), 33 U.S.C. § 1365(a)(1), the Code of Federal Regulations, and the Regional Water Quality Control Board's Basin Plan, as exemplified by the incidents of non-compliance identified and outlined in this Notice.

INTRODUCTION

The CWA regulates the discharge of pollutants into navigable waters. The statute is structured in such a way that all discharge of pollutants is prohibited with the exception of enumerated statutory exceptions. One such exception authorizes a polluter, who has been issued a permit pursuant to CWA § 402, to discharge designated pollutants at certain levels subject to certain conditions.

The effluent discharge standards or limitations specified in a National Pollutant Discharge Elimination System (“NPDES”) permit define the scope of the authorized exception to the 33 U.S.C. § 1311(a) prohibition, such that violation of a permit limit places a polluter in violation of 33 U.S.C. § 1311(a) and thus in violation of the CWA. Private parties may bring citizens’ suits pursuant to 33 U.S.C. § 1365 to enforce effluent standards or limitations, which are defined as including violations of 33 U.S.C. § 1311(a) and 33 U.S.C. § 1365(f)(1).

The CWA provides that authority to administer the NPDES permitting system in any given state or region can be delegated by the EPA to a state or to a regional regulatory agency, provided that the applicable state or regional regulatory scheme under which the local agency operates satisfies certain criteria. See 33 U.S.C. § 1342(b). In California, the EPA has granted authorization to a state regulatory apparatus comprised of the State Water Resources Control Board and several subsidiary regional water quality control boards, to issue NPDES permits. The entity responsible for issuing NPDES permits and otherwise regulating discharges in the region at issue in this Notice is the Regional Water Quality Control Board, North Bay Region (“RWQCB”).

River Watch contends the Discharger has no NPDES permit regulating the discharges of pollutants to waters of the United States as identified in this Notice, and is therefore in violation of the CWA for the discharge of pollutants to United States waters without a NPDES permit, 33 U.S.C. § 1311(a) and 33 U.S.C. § 1365(f)(1).

The CWA requires that any notice regarding an alleged violation of an effluent standard or limitation, or of an order with respect thereto, shall include sufficient information to permit the recipient to identify:

1. *The specific standard, limitation, or order alleged to have been violated*

To comply with this requirement River Watch has identified 33 U.S.C. § 1311(a).

2. *The activity alleged to constitute a violation*

River Watch has set forth narratives below describing with particularity the activities leading to violations and incorporating by reference public documents in the Discharger's possession or otherwise available to the Discharger.

3. *The discharger responsible for the alleged violation.*

The discharger responsible for the alleged violations is Paul J. Hobbs and the Paul Hobbs Trust, referred to as "the Discharger" throughout this Notice. River Watch contends the liability of Paul J. Hobbs stems from his ownership, management, or operation of the site and facilities which are the subject of this Notice, or due to the activities conducted on said site and facilities by the Paul Hobbs Trust.

4. *The location of the alleged violation.*

The location or locations of the various violations are identified in the narrative section of this Notice and in records of regulatory agencies with jurisdiction over the site and the logging activities, or records created or maintained by or for the Discharger which relate to activities at the site. The primary location of the violations is the real property located at 11835 Highway 116, Forestville, Sonoma County, California.

5. *The date or dates of violation or a reasonable range of dates during which the alleged activities occurred.*

River Watch has examined RWQCB records as well as records on file with the Sonoma County Permit and Resource Management Department, the California Department of Forestry and Fire Protection ("CalFire") and the Discharger's records (or lack thereof) for the period from February 1, 2011 to the present time, and contends the Discharger has been in violation of the CWA since at least February 1, 2011. Disposition, discharge, and release of pollutants can be traced as far back as February 1, 2011. The range of dates covered by this Notice is February 1, 2011 to September 30, 2011.

River Watch will from time to time update and further supplement this Notice to include all violations which occur after the date of this Notice. The violations identified in this Notice – discharging pollutants to waters of the United States from a point source without a NPDES permit – initially occurred during the operations which cleared the land, the effects of which have not been mitigated. Said violations will continue to occur every day from and after February 1, 2011 when there is sufficient rain to cause runoff from the site

into Pocket Canyon Creek, every day when there are sufficient winds to convey pollutants from the site into Pocket Canyon Creek, and every day when human activity dislodges pollutants deposited by the initial clearing activity which are discharged into Pocket Canyon Creek.

6. *The full name, address, and telephone number of the person giving notice.*

The full name, address, and telephone number of the person giving notice is Northern California River Watch referred to in this Notice as “River Watch,” a non-profit corporation dedicated to the protection and enhancement of the waters of the State of California including all rivers, creeks, streams and groundwater in Northern California. River Watch is organized under the laws of the State of California. Its address is P.O. Box 817, Sebastopol, CA 95472, Telephone 707-824-4372.

HISTORY OF OPERATIONS

The Discharger owns and operates real property located at 11835 Highway 116, Forestville, Sonoma County, California, identified as Assessor’s Parcel Number 085-140-015-000. Included in this parcel of land was a forested ridge top located above Pocket Canyon Creek, a tributary to the Russian River. The property is located above a domestic community water well and is characterized by steep slopes. During the rainy season in the months of February through April of 2011, the Discharger engaged in a major timber conversion on the property, identified in Timber Harvest Plan 1-08-149 SON. Forests were cut down, felled trees were skidded into piles, stumps were pulled out of the ground and logs were hauled away in logging trucks.

CalFire granted approval to the Discharger for this logging operation with the condition that no logging could occur until proper application and enrollment in the Waste Discharge program for Discharges Related to Timber Harvest Activities on Non-federal Lands in Northern California (General Waste Discharge Requirement Order No. R1-2004-0030) was accomplished. General Waste Discharge Requirement Order No. R1-2004-0030 contains discharge prohibitions and receiving water limitations, as well as requiring the submittal of technical reports, an inspection schedule, and a filing/annual fee. Further, the Discharger was required to obtain local government approvals as well as prepare and submit an erosion control plan for approval.

River Watch contends the Discharger failed to apply for and obtain enrollment in a waste discharge program for logging activities pursuant to Order No. R1-2004-0030 prior to engaging in clear cut logging activities which were carried out on the steep slopes above

Pocket Canyon Creek and other tributaries of the Russian River. Further, that the Discharger failed to obtain local government approvals for the logging activities and failed to prepare and submit an erosion control plan for approval for the logging activities which resulted in the discharge of sediment and other pollutants into Pocket Canyon Creek.

The Russian River is critical habitat for fish species listed as in danger of extinction, and is on the federal list of impaired water bodies for sediment and siltation. Samples taken from Pocket Canyon Creek following the Discharger's logging operations taking place in February through April of 2011 indicated significant turbidity and siltation resulting from these operations. As a result of the Discharger's logging activities as identified in this Notice, pollutants including dirt, soil, sediment, mud and woody debris were discharged and continue to be discharged to receiving waters and waters of the United States.

Under 33 U.S.C. § 1362 (12), the term "discharge of a pollutant" and "discharge of pollutants" each means "(A) any addition of any pollutant to navigable waters from any point source". Under 33 U.S.C. § 1362 (6), the term "pollutant" includes dredged spoil, rock, sand and agricultural waste discharged into water. Piles of debris remain at the site. Said piles are point sources under the CWA, from which pollutants are discharged to Pocket Canyon Creek during rains and high winds. The tractors used to cut and stack the logs, which left behind the dirt, debris and sediment subsequently discharged to Pocket Canyon Creek, are point sources under the CWA. These discharges are prohibited under state and federal law and are in violation of the CWA.

VIOLATIONS

The RWQCB has adopted a Water Quality Control Plan or Basin Plan which designates all surface and groundwater within the North Coast and San Francisco Bay regions as capable of supporting domestic water supply. The Basin Plan also identifies water quality objectives, discharge prohibitions and effluent limitations intended to protect beneficial uses of the Russian River. Beneficial uses of the Russian River include municipal and domestic water supply, agricultural water supply, navigation, water contact and non-contact recreation, commercial and sport fishing, wildlife habitat, cold freshwater and warm freshwater habitat, fish migration and spawning, and estuarine habitat.

Pursuant to CWA § 301(a), 33 U.S.C. § 1311(a), the EPA and the State of California have formally concluded that the logging operations by the Discharger as identified in this Notice are prohibited by law. Beneficial uses of the Russian River are being adversely affected in a prohibited manner by these violations. The EPA and the State of California have

identified the Discharger's operations at the site as the source of pollutants to the Russian River and its tributaries, contributing to violations of applicable water quality standards.

River Watch contends that from February 1, 2011 through September 30, 2011, the Discharger has violated the CWA by discharging pollutants to United States waters without a NPDES permit. Recent sampling indicates the continued presence of sediment and debris from the site in Pocket Canyon Creek.

Piles of residual debris from the logging operation remain on the site and continue to discharge pollutants to Pocket Canyon Creek during rainfall and high wind events. These events represent continuing and ongoing violations of the CWA. Each and every discharge is a separate violation of the CWA.

River Watch believes the violations set forth in this Notice are continuing in nature or will likely continue after the filing of a lawsuit. Specific dates of violations are evidenced in the Discharger's own records (or lack thereof) or files and records of other regulatory agencies including the RWQCB, Sonoma County Permit and Resource Management Department, and CalFire. This Notice also covers any and all violations which may have occurred but for which data may not have been available or submitted or apparent from the face of the reports or data submitted by the Discharger to the RWQCB or other regulatory agencies.

Pursuant to CWA § 309(d), 33 U.S.C. § 1319(d), each of the above-described violations of the Act subjects the violator to a penalty of up to \$32,500.00 per day/per violation for violations occurring within five (5) years prior to the initiation of a citizen enforcement action. In addition to civil penalties, River Watch will seek injunctive relief preventing further violations of the Act pursuant to CWA § 505(a) and § 505(d), 33 U.S.C. §§ 1365(a) and (d), and such other relief as is permitted by law. CWA § 505(d), 33 U.S.C. § 1365(d) permits prevailing parties to recover costs and fees.

The violations of the Discharger as set forth in this Notice affect the health and enjoyment of River Watch and its members who reside, work and recreate in the affected area. River Watch members use the Russian River watershed for domestic water supply, agricultural water supply, recreation, sports, fishing, swimming, hiking, photography, nature walks and the like. Their health, property rights, use and enjoyment of this area is specifically impaired by the Discharger's violations of the CWA as described in this Notice.

CONTACT INFORMATION

River Watch has retained legal counsel with respect to the issues set forth in this Notice. All communications should be addressed to:

Jack Silver, Esq.,
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CONCLUSION

River Watch believes this Notice sufficiently states grounds for filing suit. At the close of the 60-day notice period or shortly thereafter River Watch intends to file a citizen's suit under the Act against the Discharger for the violations enumerated herein. During the 60-day notice period, River Watch is willing to discuss effective remedies for the violations noted herein. However, if the Discharger wishes to pursue such discussions in the absence of litigation, it is suggested those discussions be initiated within the next twenty (20) days so that they may be completed before the end of the 60-day notice period. River Watch does not intend to delay the filing of a lawsuit if discussions are continuing when that period ends.

Very truly yours,


Jack Silver

JS:lh

cc:

Administrator

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