

Regional Water Quality Control Board
North Coast Region
Staff Summary Report
May 8, 2025

ITEM: 6

SUBJECT: Public Hearing on Order No. R1-2025-00XX to consider adoption of an Investigative and Time Schedule Order for Sexton Properties LLC

BOARD ACTION: The North Coast Water Board will consider evidence and testimony from the Discharger and Prosecution Team and consider whether to issue an Investigative Order and Time Schedule Order, including prescribed civil penalties that will apply if the Discharger does not comply with the schedule of required actions.

BACKGROUND: On February 19, 2025, the Advisory Team of the North Coast Regional Water Quality Control Board (North Coast Water Board) was notified that the Prosecution Team (North Coast Water Board and State Water Board Office of Enforcement) staff had issued a draft Investigative and Time Schedule Order (TSO or Order) to Sexton Properties, LLC (Discharger). The Order alleges that the Discharger failed to comply with certain actions required by Cleanup and Abatement and Investigative Order (CAO) No. R1-2023-0054.

The Discharger owns Humboldt County Assessor's Parcel Number (APN) 217-391-007-000 (Property). An unnamed tributary located on the south portion of the Property flows east to Larabee Creek located along the east side of the Property. Larabee Creek is a tributary to the Eel River, located in the Larabee Creek Hydrologic Subarea of the Lower Eel River Hydrologic Area.

The Order would require that the Discharger comply with six actions to plan for, implement, and report on activities to clean up and abate the effects of alleged unauthorized grading, road building, construction of a stream crossing, and excavation and alteration of watercourses, and to eliminate the threat of future discharges to tributaries of Larabee Creek from the Property. The Order would also prescribe civil penalties that would begin accruing upon failure to timely comply with required actions. To assess penalties for the failure to comply with the required actions of the Order, the Prosecution Team would have to issue an Administrative Civil Liability Complaint, alleging the penalties prescribed in the Order are due. The North Coast Water Board could consider assessment of the penalties following a hearing.

The Board has scheduled a hearing to consider the draft Investigative and Time Schedule Order at its upcoming public meeting scheduled for **May 8, 2025**. At the public hearing the North Coast Water Board will consider whether to issue the Order as drafted, to issue a modified order, decide not to issue an order, or it may refer the matter to the Attorney General's Office. The North Coast Water Board may also elect to continue the hearing to a later date or take the matter under submission.

DISCUSSION:

According to the Order, Sexton Properties, LLC took ownership of the Property on July 20, 2022. During the prior owner's (Dobrev Capital, LLC) ownership of the Property, several agencies, including staff from the State Water Resources Control Board (State Water Board) inspected the Property and documented water quality violations. Based on the observations of State Water Board staff, the North Coast Water Board issued Cleanup and Abatement and Investigative Order No. R1-2021-0029 to Dobrev Capital, LLC on May 21, 2021. Dobrev Capital, LLC subsequently hired consultants to submit a proposed Restoration, Mitigation, and Monitoring Plan (RMMP) to the North Coast Water Board for approval, as required under Order No. R1-2021-0029. The North Coast Water Board's Executive Officer approved the RMMP on March 7, 2022.

On October 1, 2022, Mr. Dobrev informed staff that Dobrev Capital, LLC no longer owned the Property. On October 21, 2022, State Water Board staff emailed Mr. Sexton regarding the transfer of ownership and to provide a copy of Order No. R1-2021-0029 that had been issued to Dobrev Capital, LLC. Staff did not receive a response from Mr. Sexton.

On July 6, 2023, North Coast Water Board staff transmitted a draft CAO to the manager/member of Sexton Properties, LLC, Fritz Sexton. In addition, staff sent the draft CAO to the agent for service of process for Sexton Properties, LLC, Maureen McCready, who signed for the delivery on July 7, 2023. Mr. Sexton accepted delivery by the process server on July 19, 2023.

Staff did not receive any response from Sexton Properties, LLC; however, staff subsequently proposed several substantive changes to the draft CAO that had been transmitted to Sexton Properties, LLC. Therefore, on September 21, 2023, staff transmitted a revised draft CAO to Sexton Properties, LLC, Mr. Sexton, and Ms. McCready. Ms. McCready signed for the delivery on September 26, 2023. The packages sent by certified mail to Mr. Sexton and to Sexton Properties, LLC's address were returned to sender.

The Order asserts that personnel of the California Department of Fish and Wildlife (CDFW) subsequently contacted State Water Board staff regarding a September 25, 2023 conversation they had with Mr. Sexton. According to CDFW staff, Mr. Sexton stated that he had not realized the extent of the violations on the Property, or the costs associated with the remediation, and that he was assessing whether he should dissolve the limited liability company (LLC).

On October 16, 2023, after having received no evidence or comments from Sexton Properties, LLC, the Executive Officer of the North Coast Water Board issued CAO No.

R1-2023-0054, which requires Sexton Properties, LLC to clean up and abate the effects of unauthorized grading, road building, construction of a stream crossing, and excavation and alteration of watercourses, and to eliminate the threat of future discharges to tributaries of Larabee Creek from the Property. On October 23, 2023, the CAO was delivered via USPS certified mail to Ms. McCready. The copy of the CAO sent via USPS certified mail to Mr. Sexton was returned as unclaimed. Sexton Properties, LLC did not contact staff in response to the CAO.

On March 7, 2024, staff issued a Notice of Violation for failure to comply with Required Actions Nos. 1 and 2 of the CAO as a result of Sexton Properties, LLC failing to submit a proposed RMMP, or written acknowledgement of intent to utilize the previously approved RMMP from Dobrev Capital, LLC, and for failing to implement winterization measures at the Property. The Notice of Violation was sent by email and USPS certified mail to Mr. Sexton, and by USPS certified mail to Ms. McCready. The copy of the Notice of Violation sent to Mr. Sexton was returned as unclaimed and the copy to Ms. McCready was refused.

On March 26, 2024, following the unsuccessful delivery of the Notice of Violation, State Water Board staff conducted a business status check with the California Secretary of State's website for Sexton Properties, LLC. Mr. Sexton had filed a certificate of cancellation to terminate the LLC on September 29, 2023, shortly after his conversation with CDFW staff. Additionally, Ms. McCready had filed a resignation of agent for service of process on October 23, 2023, the same day that she had signed for delivery of the CAO.

On May 30, 2024, staff reissued the Notice of Violation to Sexton Properties, LLC for failure to comply with Required Actions Nos. 1 and 2 of the CAO and to inform him of Sexton Properties, LLC's ongoing obligations under the CAO, despite the certificate of cancellation that was filed with the Secretary of State. The copy sent via USPS certified mail was returned as unclaimed; however, the copy sent to Mr. Sexton via FedEx, with electronic confirmation of delivery, was delivered to the intended address on May 31, 2024. Staff did not receive any response to the Notice of Violation.

On November 14, 2024, staff issued another Notice of Violation for failure to comply with Required Actions No. 5 of the CAO as a result of Sexton Properties, LLC failing to complete implementation of the restoration and mitigation measures required to be contained in an approved RMMP by October 31, 2024. The copy sent to Mr. Sexton via USPS certified mail was returned as unclaimed; however, the copy sent to Mr. Sexton via GLS, with electronic confirmation of delivery, was delivered to the intended address on November 15, 2024.

The Order alleges that, since issuance of the November 14, 2024 Notice of Violation, Sexton Properties, LLC has further violated Required Actions No. 6 of the CAO, which required them to submit an RMMP Completion Report no later than December 30, 2024. And that, to date, Sexton Properties, LLC has not contacted State Water Board or North Coast Water Board staff in response to the CAO or the multiple Notices of Violation issued.

The Order alleges that Sexton Properties, LLC continues to violate the requirements of the CAO; specifically, by failing to comply with Required Actions Nos. 1, 2, 3, 5, or 6 of the CAO in accordance with the deadlines contained therein.

If adopted, the Order would establish a time schedule consisting of new deadlines and civil penalties for several required actions contained in the CAO.

The CAO contains additional required actions (Required Action No. 4 and Required Action No. 7) for which there is no continuing or threatened violation. These required actions do not have specific dates as deadlines because they are contingent upon the Discharger completing a prior action to trigger the monthly or annual reporting requirement. Therefore, the Order does not modify these deadlines through a time schedule nor prescribe a civil penalty. Rather, these required actions remain obligations with which the Discharger must comply under the CAO. To provide a comprehensive list of the required actions and deadlines with which Sexton Properties, LLC must comply, the Order incorporates the continuing obligation to provide these reports so that all requirements and deadlines are contained within a single order.

The requirements contained in the Order are:

Requirement	Deadline	Prescribed Civil Penalty
1. Acknowledge the intent to use and fully implement the North Coast Water Board-approved RMMP previously submitted by Dobrev Capital, LLC pursuant to Order R1-2021-0029, or submit an acceptable RMMP for approval by the North Coast Water Board or its delegated officer.	July 1, 2025	Daily Rate of \$1,100 for each day of violation to a maximum of \$10,819
2. Monthly progress reports	First day of the month following the start of RMMP implementation	N/A, but subject to administrative civil liability up to \$1,000 per day pursuant to Water Code section 13268 for failure to comply
3. Complete implementation of the RMMP	October 31, 2025,	Daily Rate of \$5,500 per day of violation to a maximum of \$184,009
4. Winterization measures if the North Coast Water Board or its	October 31, 2025	Daily rate of \$5,500 up to a

delegated officer extend the RMMP implementation deadline		maximum of \$8,614
5. RMMP Completion Report	Within 60 days of completing implementation of the RMMP, but no later than December 30, 2025.	Daily rate of \$1,100 up to a maximum of \$7,667
6. Annual monitoring reports	January 31 of each year	N/A, but subject to administrative civil liability up to \$1,000 per day pursuant to Water Code section 13268 for failure to comply

The Advisory Team issued a Hearing Procedure to the Prosecution Team and Discharger on March 13, 2025. The Prosecution Team submitted comments timely on March 21, 2025. The Advisory Team made two changes to the Hearing Procedure, adding a deadline for submission of any objections to rebuttal evidence, due on April 30, 2025, and extending the deadline for rebuttal evidence, responses to interested persons' comments and written objections to evidence to April 28, 2025. Those changes were transmitted to the parties via email on April 4, 2025.

The Prosecution Team timely submitted its prehearing evidence and legal analysis on April 7, 2025. The Discharger's prehearing evidence and argument to contest the Order were due on April 21, 2025. The Advisory Team did not receive any submissions or communication from the Discharger.

No written comments were received from interested persons.

As stated in the Hearing Procedure, April 30, 2025, is the deadline for the Discharger to submit a proposed Order, and for the Prosecution Team to submit revisions to their draft Order. These documents will be provided to Board members when they are received.

RECOMMENDATION:

At this time, the Executive Officer does not have a recommendation. At the conclusion of the hearing and any deliberations, the Executive Officer may provide a recommendation.

SUPPORTING DOCUMENTS:

1. Draft Time Schedule and Investigative Order No. R1-2025-00X (includes Attachment A, Implementation Costs)
2. Notice of Public Hearing and Hearing Procedure
3. Prehearing Evidence and Legal Analysis
4. Proposed Orders (if submitted by parties)

Copies of the supporting documents and evidence not posted on the agenda page are available upon request by emailing Nathan.Jacobsen@waterboards.ca.gov.