MAY 24 2016

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May 17, 2016

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Blue Lake Power, LLC 200 Taylor Way Blue Lake, CA 95525	Glenn Zane Agent for Service of Process for Blue Lake Power LLC 1615 Continental Street, Suite 100 Redding, CA 96001
Blue Lake Power, LLC 1615 Continental Street, Suite 100 Redding, CA 96001	Glenn Zane Agent for Service of Process for Renewable Energy Providers, Inc. 1615 Continental Street, Suite 100 Redding, CA 96001
Renewable Energy Providers, Inc. 1615 Continental Street, Suite 100 Redding, CA 96001	Walter Nystrom, Plant Manager Blue Lake Power, LLC 1615 Continental Street, Suite 100 Redding, CA 96001

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

Dear Messrs. Zane and Nystrom:

This firm represents the Ecological Rights Foundation ("ERF") in regard to violations of the Clean Water Act ("CWA" or "the Act") occurring at the biomass power production facility located at 200 Taylor Way, Blue Lake, California, ("the Blue Lake Power Facility" or "the Facility") which is owned and/or operated by Renewable Energy Providers, Inc., Blue Lake Power, LLC, Mr. Glenn Zane, and Mr. Walter Nystrom (hereinafter collectively "You," "Your" or "Blue Lake Power"). The Waste Discharger Identification number ("WDID") for the Facility is 1 12I021571. This letter is being sent to You as the responsible owners, officers, and/or operators of the Facility. It addresses Your unlawful discharge of pollutants from the Facility into the Mad River.

CWA section 505(b) requires that sixty (60) days prior to the initiation of a civil action under CWA section 505(a), 33 U.S.C. § 1365(a), a citizen must give notice of his or her intent to file suit. Notice must be given to the alleged violator, the U.S. Environmental

Protection Agency, and the State in which the violations occur. This letter addresses Your violations of the substantive and procedural requirements of the CWA and National Pollution Discharge Elimination System ("NPDES") General Permit No. CAS000001, adopted by California State Water Resources Control Board ("SWRCB") Water Quality Order No. 2014-0057-DWQ ("2015 Industrial Storm Water Permit" or " WQO-2014-0057-DWQ"), which became effective July 1, 2015, and Your violations of the previous version of the Industrial Stormwater Permit, Water Quality Order No. 97-03-DWQ ("1997 Industrial Storm Water Permit" or "WQO-97-03-DWQ"). Renewable Energy Providers submitted a Notice of Intent to comply with the terms of the Industrial Storm Water Permit/WQO-2014-0057-DWQ on February 23, 2015, and had previously submitted a Notice of Intent to comply with the terms of WQO-97-03-DWQ. In its April 1, 2014 Order, the SWRCB ordered that "except for Order 97-03-DWQ's requirement to submit annual reports by July 1, 2015" and "*except for enforcement purposes,*" WQO-2014-0057-DWQ supersedes WQO-97-03-DWQ. Both versions of NPDES Permit No. CAS000001 had/have essentially the same terms and conditions.

ERF is a non-profit public benefit corporation organized under the laws of California, with its main office in Garberville, California. ERF's purpose is to educate the public about environmental practices which cause harm to human health, the environment and other natural resources, and to seek redress from those harms through litigation or alternative dispute resolution. ERF represents citizens in protecting California's waterways from pollution, securing the multitude of benefits that flow from clean, vibrant waters: safe drinking water, abundant and diverse wildlife populations, healthy recreational opportunities, and economic prosperity from commercial fishing, tourism, and other commercial activities that depend on clean water. To further its goals, ERF actively seeks federal and state agency implementation of state and federal water quality laws, including the CWA, and as necessary, directly initiates enforcement actions on behalf of itself and its members. ERF's members use and enjoy the waters and species impacted by Your Facility for various recreational, educational, aesthetic and spiritual purposes. These natural resources include the Mad River and the species that reside, breed, and forage in and around those waters.

On information and belief, Renewable Energy Providers, Inc. is the owner, corporate parent of, or otherwise exercises control over Blue Lake Power, LLC. Renewable Energy Providers, Inc. and Blue Lake Power, LLC are both actively registered with the California Secretary of State.

This Notice of Violation and Intent to File Suit provides notice of the violations that have occurred and which continue to occur at the Blue Lake Power Facility. ERF's investigations have uncovered significant violations of the 2015 and 1997 Industrial Stormwater Permits and the CWA at Your Facility. Consequently, You are hereby notified that, after the expiration of sixty (60) days from the date of this Notice, ERF intends to file suit in federal court against You under CWA section 505(a), 33 U.S.C. §1365(a). The violations of the 2015 and 1997 Industrial Stormwater Permits and the CWA are described more fully below.

I. THE LOCATION OF THE ALLEGED VIOLATIONS

The violations alleged in this notice letter have occurred and continue to occur at Your Facility located at the biomass power production facility located at 200 Taylor Way, Blue Lake, California. Blue Lake Power's Notices of Intent to be covered by the 2015 and 1997 Industrial Stormwater Permits, and its Storm Water Pollution Prevention Plan ("SWPPP") identify the Mad River as the receiving water for its stormwater discharges from the Facility. Mad River is a water of the United States. You have committed and continue to commit violations of the substantive and procedural requirements of the 2015 and 1997 Industrial Stormwater Permits and the CWA at the Facility.

A. The Blue Lake Power Facility

The Blue Lake Power facility is located on the northern side of the Mad River and its levee. The total area of the facility is approximately 25 acres, approximately 20% of which is covered by pavement or buildings. Stormwater runoff from the facility drains into drainage inlets, at various locations throughout the facility, and these empty into a vegetated ditch to the south. The vegetated southern ditch receives stormwater runoff from the facility at four discharge locations, and then discharges into the Mad River at the western end.

Discharges of stormwater and non-stormwater from biomass power production facilities are of significant concern because the industrial activities associated with these sites make various pollutants particularly accessible to stormwater. Specifically, facilities such as the Blue Lake Power Facility are engaged in the production of power using wood products ("biomass") as the primary fuel. The Blue Lake Power Facility can use approximately 260 to 300 bone dry tons of biomass per day, and produces a wood ash byproduct (also commonly referred to as "boiler ash") consisting of 18 to 22 tons per day, excluding reinjection. The wood ash is stored and transferred to local fields and used as a soil amendment. Industrial activities at the Facility include storing, handling, and burning of wood products. This entails trucking in wood; weighing the loads; dumping, screening, conveying and transferring the wood products out into the fuel storage yard; reloading wood products onto the reclaims conveyor, where a portion is transferred to the dryer; and drying the wood products prior to entering the boiler. A mixture of dried and un-dried wood products is then transferred into the boiler, where the steam is produced. The steam is piped to the turbine, where it is used to generate electricity, and the electricity is transferred into PG&E's electrical system. The cooling tower is used to cool the steam, after it leaves the turbine, which then produces condensate. Associated operations conducted at the facility include the storage of diesel in an aboveground storage tank ("AST"), and the associated fueling activities; the storage of petrochemicals and other potentially toxic fluids, and their associated transferring activities; the repair and maintenance of the facility equipment and rolling stock; and the storage and transfer of waste materials.

At the Blue Lake Power Facility, wood products, wood ash, vehicles, and other industrial materials are mostly stored uncovered outdoors, primarily in unpaved areas of the Facility. Stormwater comes into contact with these materials and the other pollutants at the Facility.

The Facility lacks sufficient and/or sufficiently well-maintained berms or other structural controls to retain stormwater on the Facility. Blue Lake Power does not sufficiently treat contaminated stormwater prior to discharge from the Facility. The large number of trucks and rolling stock entering and leaving the Facility track dirt, ash, metals, and other pollutants off-site and onto roads where rainfall washes these pollutants into the storm drain system or directly into waters of the United States. These industrial activities and operations result in wood products, wood ash, fuel, waste fluids, a wide range of metals, toxic and hazardous materials, and other pollutants coming into contact with stormwater.

The Blue Lake Power Facility operates at a site that was formerly a lumber mill, owned by Macintosh Lumber Company. Until they were banned by the U.S. Environmental Protection Agency in the late 1980's due to extreme toxicity, chlorophenolic wood treatment chemicals were widely used at Humboldt County lumber mills including the Blue Lake Power Facility. The chemicals themselves, pentachlorophenol and tetrachlorophenol, are known carcinogens, but even more problematic is the fact that chlorophenolic wood treatment products are invariably contaminated with polychlorinated dibenzo-p-dioxins ("dioxins") and polychlorinated dibenzofurans ("furans"). Dioxins and furans are widely recognized by the U.S. Environmental Protection Agency, the World Health Organization, and other governmental and nongovernmental organizations as among the most potent toxins known to humankind. Dioxins are well known to risk causing adverse human health effects and adverse effects on animal and plant life at extremely low concentrations. Even in minute quantities, dioxins can cause cancer, mutations, developmental abnormalities, or fatality in exposed human, animal and plant populations. Dioxins and furans are also extremely persistent in the environment, with some congeners having half-lives measured in decades. Soils contaminated with dioxins and furans are still present at the sites of many historic lumber mills in Humboldt County and throughout the nation, where sloppy use and improper disposal practices led to widespread contamination of soils, sediments and groundwater. Such contaminated soils and sediments pose significant risks to human health and the environment as they are widely dispersed into the environment by rainwater runoff, wind, and vehicle traffic.

Boiler ash is known to contain concentrations of dioxins, furans, polynuclear aromatic hydrocarbons ("PAHs") and metals. Biomass power plants typically generate two distinct types of ash, which are generally referred to as fly ash and bottom ash. Fly ash is the lightest-weight component. It rises with the flue gases and is captured by a boiler or incinerator's air contaminant control equipment. Bottom ash, the material that falls to the bottom of the burner unit, consists of rocks, gravels and other non-combustible materials. Data indicates that of the two materials, fly ash generally has higher concentrations of metals and dioxins. Wood ash is considered solid waste and is subject to solid waste management requirements under both the Health and Safety Code and CalRecycle regulations. In accordance with those regulations, wood ash may have practical applications for re-use given certain criteria and management practices. However, if improperly managed, ash poses a threat to water quality.

Blue Lake Power's annual reports, filed with the California's North Coast Regional Water

Quality Control Board ("Regional Board"), indicate that discharges of stormwater from the Facility are consistently contaminated with higher levels of pollutants than permissible under the 2015 and 1997 Industrial Stormwater Permits and that You have therefore failed to develop and/or implement an adequate Stormwater Pollution Prevention Plan ("SWPPP"), Monitoring and Reporting Program ("MRP"), or best management practices ("BMPs") as required by the Industrial Stormwater Permit.

B. The Mad River

Stormwater discharged from Your Facility flows into the Mad River. The CWA requires that water bodies like the Mad River meet water quality objectives, which protect specific "beneficial uses." The beneficial uses of the portion of the Mad River affected by Your stormwater discharges include: Agricultural supply, Cold freshwater habitat, Commercial or sport fishing, Estuarine habitat, Freshwater replenishment, Groundwater recharge , Industrial service supply, Migration of aquatic organisms , Municipal water supply , Native American culture , Non-contact water recreation , Rare threatened or endangered species , Shellfish harvesting , Spawning, reproduction, and/or early development , Water contact recreation , and Wildlife habitat .

The Mad River Watershed provides habitat to a wide array of flora and fauna living within the riparian corridor from the headwaters to the estuary, including a number of species protected by the Federal Endangered Species Act ("ESA"). The Mad River's fall-run Chinook salmon are part of the California Coastal Chinook Evolutionarily Significant Unit ("ESU") ("CCC salmon"). The National Marine Fisheries Service ("NMFS") listed CCC salmon under the ESA as threatened on 16 September 1999. 64 Fed. Reg. 50394. The Mad River's Coho salmon are part of the Southern Oregon/Northern California Coast ESU ("SONCC salmon"). NMFS listed SONCC salmon under the ESA as threatened on 6 May 1997. 62 Fed. Reg. 24588. The Mad River's winter-run and summer-run steelhead belong to the Northern California Distinct Population Segment ("NC steelhead"). NMFS listed NC steelhead as threatened under the ESA on 7 June 2000. 65 Fed. Red. 36094. The lower stretch of the Mad River and its estuary are also home to the Southern Distinct Population Segment of Eulachon (*Thaleichthys pacificus*) listed as threatened under the ESA (75 Fed. Reg. 13012), and longfin smelt, which the California Fish and Game Commission (now the California Department of Fish and Wildlife) determined should be listed as threatened throughout their range in California. Other native fishes include resident rainbow trout, coastal cutthroat trout, California roach, three-spine stickleback, riffle and prickly sculpins, pacific lamprey, brook lamprey, green sturgeon, and the Humboldt sucker. Endangered avian species found within the riparian corridor include: the Willow Fly Catcher, Yellow Billed Cuco, Marbled Murrelet, and the Western Spotted Owl. Sensitive amphibians include the northern red legged and yellow legged frog, torrent salamander, tailed frog, and the Western pond turtle.

The Mad River is the source of drinking water for approximately 65% of Humboldt County's population. The Humboldt Bay Municipal Water District, formed in 1956, is

currently supplying drinking water to 80,000 Humboldt County residents in the cities of Blue Lake, Arcata, Eureka, and the unincorporated areas of McKinleyville, Fieldbrook, Glendale, Manila, and other rural residential areas within the county. Much of that municipal water is supplied from "Ranney wells" that draw from below the bed of the Mad River near Essex, downstream of the Blue Lake Power Facility.

It is unlawful to discharge pollutants to waters of the United States, such as the Mad River, without an NPDES permit or in violation of the terms and conditions of an NPDES permit. In May 2008, and February 2015, You submitted Notices of Intent ("2008 NOI" and "2015 NOI," respectively, and collectively "the NOIs") to be authorized to discharge stormwater from Your Facility by the 1997 and 2015 Industrial Stormwater Permits and thus at all relevant times have been a permittee subject to the Industrial Stormwater Permits' requirements. The 1997 and 2015 Industrial Permits are NPDES permits. Other than coverage under the Industrial Stormwater Permits, Your Facility lacks NPDES permit authorization for any wastewater discharges.

As discussed below, ERF's investigations have uncovered numerous significant violations of the 1997 and 2015 Industrial Stormwater Permits and of the CWA's prohibition on the unpermitted discharge of pollutants to waters of the United States. Consequently, You are hereby placed on notice that, after the expiration of sixty (60) days from the date of this Notice of Violation and Intent To File Suit, ERF intends to file suit in federal court against You under CWA section 505(a), 33 U.S.C. § 1365(a), for violations of the CWA.

II. THE ACTIVITIES AT THE FACILITY ALLEGED TO CONSTITUTE VIOLATIONS AND THE EFFLUENT LIMITATIONS VIOLATED

You conduct numerous pollutant-generating activities at Your Facility outdoors in uncovered areas exposed to rainfall and stormwater runoff. As a result, contaminated stormwater runs off the Facility from the discharge points identified in Your Annual Reports to the State Board, and Your Storm Water Pollution Prevention Plans, and discharges to the Mad River. Pursuant to the 1997 and 2015 Industrial Stormwater Permits, this contaminated stormwater discharge obligates You to develop, implement, and update and revise a SWPPP which minimizes the discharge of pollutants to a level commensurate with application of the Best Available Technology Economically Achievable ("BAT") and the Best Conventional Pollutant Control Technology ("BCT"). In addition, the SWPPP and Your implementation of the SWPPP must prevent Your discharges from causing or contributing to violations of Water Quality Standards for the Mad River. You must also monitor and sample the Facility's stormwater discharges, and meet various other limitations on its stormwater discharge.

As a result of the numerous pollutant-generating activities at Your Facility, contaminated stormwater runs off Your Facility and discharges into the Mad River. As further described below, You have failed to develop, implement, and revise an adequate SWPPP and have discharged stormwater polluted to levels exceeding BAT and BCT levels of control and

which have caused violations of Water Quality Standards. You further have failed to adequately monitor and sample Your stormwater discharges and failed to meet various other limitations on Your stormwater discharges set forth in the 1997 and 2015 Industrial Stormwater Permits. These actions all constitute violations of CWA effluent limitations.

A. Discharges in Violation of the Industrial Stormwater Permit

The CWA provides that "the discharge of any pollutant by any person shall be unlawful" unless the discharger is in compliance with the terms of a NPDES permit. CWA § 301(a), 33 U.S.C. § 1311(a); *see also* CWA § 402(p), 33 U.S.C. § 1342(p) (requiring NPDES permit issuance for the discharge of stormwater associated with industrial activities). The Facility discharges stormwater associated with industrial activity to the Mad River, and that stormwater is contaminated with pollutants. The Facility has discharge and continues to discharge stormwater pursuant to the 1997 and 2015 Industrial Stormwater Permits, which authorize these discharges conditioned on the Facility complying with the terms of these permits. Each of these permit terms constitutes an "effluent limitation" within the meaning of CWA section 505(f), 33 U.S.C. § 1365(f). The Facility's stormwater discharges have violated various of these permit terms, thereby violating CWA effluent limitations.

1. Failure to Implement BMPs Constituting BAT/BCT

The Effluent Limitations of the 1997 and 2015 Industrial Stormwater Permits, (WQO-2014-0057-DWQ §§ V.A., X.H.1, X.H.2.; WQO-97-03-DWQ § B.3.; *see also* WQO-2014-0057-DWQ, Industrial General Permit Fact Sheet § D.1-5.), requires that You implement BMPs that constitutes BAT and BCT as the means to reduce or prevent discharges of pollutants. EPA and the State Board have published Numeric Action Level values ("NALs") set at the maximum level of pollutant loading generally expected if an industrial facility is employing BAT and BCT.[1] Attachment 1 to this Notice Letter compiles some of the self-monitoring data reported by the Facility to the Regional Board reflecting the Facility's sampling of actual stormwater discharges, as well as a sample taken by ERF at the Facility. As reflected in Attachment 1 to this Notice Letter, the Facility has repeatedly discharged stormwater with pollutant levels exceeding Benchmark Values and/or NALs, which establishes that the Facility has failed to employ BMPs constituting BAT and BCT (had the facility employed BMPs constituting BAT and BCT, it would not have repeatedly discharged storm water containing pollutant levels exceeding Benchmark Value and/or NALs). These discharges (and all discharges referred to in this Notice Letter) have occurred at the discharge locations identified in Your Annual Reports to the State Board as well as the discharge locations sampled by ERF consultants. The sample results reflected in Attachment 1 are representative of the pollutant levels in the Facility's discharge of stormwater, including such discharges that You did not sample or analyze. Thus, every instance when the Facility

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[1] The NALs can be found in Table 2 of the 2015 Industrial Storm Water Permit : http://www.waterboards.ca.gov/water_issues/programs/stormwater/industrial.shtml#igp_2014-0057-dwq These same values were previously referred to as 'Benchmark Values' under the 1997 Industrial Storm Water Permit and 2008 EPA multi-sector industrial permit.

has discharged stormwater, including instances when the Facility has discharged stormwater that it has not sampled, ERF alleges this stormwater discharge has contained levels of pollutants comparable to the levels set forth in Attachment 1.
While You should be aware of each day that You have discharged stormwater from the Facility (as the 1997 and 2015 Industrial Stormwater Permits require You to monitor such discharges), ERF alleges and puts You on notice that since You began industrial operations at the Facility, You have discharged stormwater containing pollutants from the Facility to the Mad River during at least every significant local rain event over 0.1 inches. Significant local rain events are reflected in the rain gauge data available at http://www.ncdc.noaa.gov/data-access. Attached as Attachment 2 is a table reflecting the rainfall data for the past five years, as reported to the Blue Lake California NOAA monitoring station, the closest monitoring station available on the NOAA website.

Your Facility's consistent discharge of stormwater exceeding Benchmark Values and NALs establishes that You have failed to implement BMPs at the Facility constituting BAT and BCT on every day that Your Facility has been in existence after the effective date of the 1997 Stormwater Industrial Permit (April 17, 1997). ERF alleges and puts You on notice that each day prior to July 1, 2015 that You failed to maintain BMPs at the Facility constituting BAT and BCT, You were in violation of Effluent Limitations § B.3 of the 1997 Industrial Storm water Permit. ERF additionally alleges and puts You on notice that each day after July 1, 2015 that You failed to maintain BMPs at the Facility constituting BAT and BCT, You were in violation of Effluent Limitations § V.A of the 2015 Industrial Stormwater Permit.

ERF alleges that You continue to fail to implement BMPs at the Facility constituting BAT and BCT and that as a result Your Facility continues to discharge with levels of pollutants exceeding BAT and BCT levels of control during all significant rain events. Each day in the future that You continue to fail to implement BMPs at the Facility constituting BAT and BCT will constitute a separate violation of the 2015 Industrial Stormwater Permit §§ V.A., X.H.1, X.H.2., and the CWA. You are subject to civil penalties for Your violations of the1997 and 2015 Industrial Stormwater Permits and the CWA that have occurred within the past five (5) years.

2. Discharges that Have Violated Water Quality Standards and Impaired Receiving Waters

The Discharge Prohibitions of the 1997 and 2015 Industrial Stormwater Permits, prohibit stormwater discharges that cause or threaten to cause pollution, contamination, or nuisance. WQO-2014-0057-DWQ § III.C; WQO-97-03-DWQ § A.2. The Receiving Water Limitations of the 1997 and 2015 Industrial Stormwater Permits also prohibit stormwater discharges that cause or contribute to an exceedance of any applicable Water Quality Standards in any affected receiving water. WQO-2014-0057-DWQ § VI.A; WQO-97-03-DWQ § C.2. Applicable Water Quality Standards are set forth in the Water Quality Control

Plan for the North Coast Region ("Basin Plan")[2] and the California Toxics Rule[3] ("CTR"). The Receiving Water Limitations of the 1997 and 2015 Industrial Stormwater Permits also prohibit stormwater discharges that adversely impact human health or the environment. WQO-2014-0057-DWQ § VI.B; WQO-97-03-DWQ § C.1. The Receiving Water Limitations or the Discharge Prohibitions of the 1997 and 2015 Industrial Stormwater Permits also prohibit stormwater discharges that contain pollutants in quantities that threatened to cause pollution or a public nuisance. WQO-2014-0057-DWQ § VI.C.; WQO-97-03-DWQ § A.2.

The Basin Plan, Section 3, establishes the following relevant Water Quality Standards (also known as Water Quality Objectives) for the Mad River:

1. Controllable water quality shall conform to the water quality objectives contained therein.

2. Dissolved oxygen levels shall be a minimum of 7.0 mg/L [7,000 ug/L].

3. The suspended sediment load and suspended sediment discharge rate of surface waters shall not be altered in such a manner as to cause nuisance or adversely affect beneficial uses.

4. Waters shall not contain substances in concentrations that result in deposition of material that causes nuisance or adversely affect beneficial uses.

5. Turbidity shall not be increased more than 20 percent above naturally occurring background levels.

6. Waters shall not contain oils, greases, waxes, or other materials in concentrations that result in a visible film or coating on the surface of the water or on objects in the water, that cause nuisance, or that otherwise adversely affect beneficial uses.

7. Waters shall be free of coloration that causes nuisance or adversely affects beneficial uses.

8. Waters shall not contain suspended material in concentrations that cause nuisance or adversely affect beneficial uses.

ERF alleges and puts You on notice that Your discharges of stormwater from the Facility have caused or contributed to an exceedance of the above-listed Water Quality Standards. These discharges (and all discharges referred to in this Notice Letter) have occurred at each

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2 The Basin Plan is published by the California North Coast Regional Water Quality Control Board on the internet at: http://www.waterboards.ca.gov/northcoast/water_issues/programs/basin_plan/basin_plan.shtml.

3 The CTR is set forth at 40 C.F.R. § 131.38 and is explained in the Federal Register preamble accompanying the CTR promulgation set forth at 65 Fed. Reg. 31682.

of the discharge locations identified in Your Annual Reports to the State Board and SWPPP. Attachment 1 to this Notice Letter compiles some of the self-monitoring data reported by the Facility to the Regional Board reflecting the Facility's sampling of stormwater discharges as well as a sample collected by ERF. The sample results reflected in Attachment 1 are representative of the pollutant levels in the Facility's discharge of stormwater, including such discharges that You did not sample or analyze. Thus, every instance when the Facility has discharged stormwater, including instances when the Facility has discharged stormwater that it has not sampled, this stormwater discharge has contained levels of pollutants comparable to the levels set forth in Attachment 1. As reflected in Attachment 1, Your Facility's stormwater discharges to the Mad River have routinely contained elevated levels of the following pollutants: Iron, Total Suspended Solids ("TSS"), Specific Conductance ("EC"), Total Organic Carbon ("TOC"), chemical oxygen demand ("COD"), and biochemical oxygen demand ("BOD").

The excessive TSS in Your Facility's stormwater discharges has caused or contributed and is continuing to cause or contribute to the Mad River not meeting applicable Water Quality Standards (Nos. 3, 5, and 8) in the Basin Plan for levels of suspended sediment adversely affecting beneficial uses and changes/increase in levels of turbidity. Furthermore, Your Facility's discharge of stormwater containing suspended and settleable toxic metals and other materials has contributed to the deposition and/or dispersal of materials that interfere with beneficial uses of the Mad River and a detrimental increase in concentrations of toxic substances found in bottom sediments or aquatic life due to bioaccumulation, and thus has caused or contributed and is continuing to cause or contribute to the Mad River not meeting applicable Water Quality Standards (Nos. 3, 4, and 8) in the Basin Plan. Your Facility's discharge of BOD and COD has caused or contributed and is continuing to cause or contribute to the Mad River not meeting applicable Water Quality Standards (Nos. 2) in the Basin Plan for dissolved oxygen. Your Facility's additional loading of sediment and TSS to the Mad River is particularly harmful environmentally as the Mad River is among the waters listed by the State Board and the U.S. Environmental Protection Agency under CWA § 303(d) as impaired for sedimentation/siltation and turbidity. By adding additional increment of sediment and TSS loading to the Mad River, Your Facility is necessarily contributing to a well-recognized existing exceedance of applicable Water Quality Standards in violation of the 1997 and 2015 Industrial Stormwater Permit's Receiving Water Limitations set forth at WQO-2014-0057-DWQ § VI.A and WQO-97-03-DWQ § C.2. Your Facility's stormwater discharges containing excessive sediment, TSS, BOD, and COD have further caused pollution, contamination, or nuisance and adverse effects on the environment in violation of the following Receiving Water Limitations and Discharge Prohibitions of the 1997 and 2015 Industrial StormWater Permits: WQO-2014-0057-DWQ § III.C., VI.B. & C. and WQO-97-03-DWQ § A.2 & C.1.

ERF alleges and puts You on notice that each day prior to July 1, 2015 that You discharged stormwater from the Facility, You were in violation of the 1997 Industrial Stormwater Permit's Receiving Water Limitations and Discharge Prohibitions set forth at WQO-97-03-DWQ §§ A.2, C.1, & C.2 by causing or contributing to exceedances of water quality

standards and causing pollution problems as described above. ERF additionally alleges and puts You on notice that each day after July 1, 2015 that You discharged stormwater from the Facility, You were in violation of the 2015 Industrial Stormwater Permit's Receiving Water Limitations set forth at WQO-2014-0057-DWQ §§, VI.A., B. & C by causing or contributing to exceedances of water quality standards and causing pollution problems as described above. While You should be aware of each day that You have discharged stormwater from the Facility (as the Industrial Stormwater Permits require You to monitor such discharges), ERF alleges and puts You on notice that since the effective date of the 1997 Industrial Stormwater Permit (April 17, 1997), You have discharged stormwater from the Facility during at least every significant local rain event over 0.1 inches that have caused or contributed to Water Quality Standards not being met in the Mad River (or for water quality standards established by the California Toxics Rule, since the May 24, 2000 effective date of the California Toxics Rule). Significant local rain events for the last five years are reflected in Attachment 2.

Your unlawful discharges from the Facility continue to occur presently during all significant rain events. Each discharge from Your Facility that causes or contributes to an exceedance of an applicable Water Quality Standard or otherwise violates the 1997 and 2015 Industrial Stormwater Permit's Receiving Water Limitations and Discharge Prohibitions set forth at WQO-97-03-DWQ §§ A.2, C.1, & C.2 and WQO-2014-0057-DWQ §§, VI.A., B. & C and constitutes a separate violation of the Industrial Stormwater Permits and the CWA. The stormwater discharges and practices that are causing and contributing to these violations are ongoing. You are subject to penalties for violations of the Industrial Stormwater Permits and the CWA within the past five (5) years. ERF hereby places You on notice that it intends to bring claims against You for violations of the above provisions of the 1997 and 2015 Industrial Stormwater Permits (violations occurring on or after July 1, 2015 are subject to WQO-2014-0057-DWQ, and violations occurring before July 1, 2015 subject to WQO-97-03-DWQ).

3. Exceedances of Numeric Action Levels and Failure To Implement Exceedance Response Actions

The 2015 Industrial Stormwater Permit incorporates a multiple objective performance measurement system that includes NALs, new comprehensive training requirements, Level 1 Exceedance Response Actions ("ERA Reports"), Level 2 ERA Technical Reports, and Level 2 ERA Action Plans. The 2015 Industrial Stormwater Permit contains two types of NALs: (1) an annual NAL and (2) an instantaneous maximum NAL. WQO-2014-0057-DWQ § XII.A.1. & 2. Dischargers exceed an annual NAL when the average of all their stormwater discharge sampling results within a reporting year for a single parameter (except pH) exceeds the applicable annual NAL. Dischargers exceed an instantaneous maximum NAL when two or more analytical results from their stormwater discharge sampling results for any parameter within a reporting year exceed the applicable instantaneous maximum NAL value. Instantaneous maximum NALs are only for TSS and Oil and Grease. If dischargers' stormwater discharges exceed these NALs, the 2015 Industrial Stormwater

Permit deems dischargers to be in "Level 1 status" and requires such dischargers to complete a Level 1 status evaluation by October 1, 2016 (and annually thereafter so long as their stormwater discharges continue to exceed NALs) of the industrial pollutant sources at the facility that are or may be related to the NAL exceedance(s). WQO-2014-0057-DWQ § XII.C.1. Additionally, such dischargers must submit a Level 1 ERA Report to the State Board by January 1, 2017 (and annually thereafter so long as their stormwater discharges continue to exceed NALs and until they have completed ERAs) summarizing their Level 1 status evaluation and describing their revisions to their SWPPPs and any additional BMPs they are implementing. WQO-2014-0057-DWQ § XII.C.2. If a discharger further exceeds NALs while in Level 1 status, then the 2015 Industrial Stormwater Permit assigns the discharger "Level 2 status." WQO-2014-0057-DWQ § XII.D. The 2015 Industrial Stormwater Permit requires dischargers in Level 2 status to develop and implement a Level 2 action plan by January 1 following the discharger acquiring Level 2 status setting forth the measures the discharger will implement to avoid future NAL exceedances. WQO-2014-0057-DWQ § XII.D.1. By the following January 1, the dischargers must further submit a Level 2 technical report analyzing the BMPs implemented and whether these BMPs will avoid NAL exceedances and whether additional BMPs are needed to avoid BMP exceedances. WQO-2014-0057-DWQ § XII.D.2. As detailed in Attachment 1, You have discharged stormwater with pollutant levels that exceed the NALs for BOD, COD, TSS, and iron, and, on information and belief, You have not implemented the required Level 1 status evaluation or Level 1 ERA Report. ERF hereby places You on notice that if You fail to do so by the deadlines in the 2015 Industrial Stormwater Permit, You will be in violation of the 2015 Industrial Stormwater Permit and ERF will seek to pursue CWA citizen suit claims for these violations. ERF further hereby places You on notice that if Your Facility's discharges further exceed NALs thereafter while the Facility is in Level 1 status and You fail to develop a Level 2 action plan and/or a Level 2 technical report by the deadlines in the 2015 Industrial Stormwater Permit, You will be in further violation of the 2015 Industrial Stormwater Permit and ERF will seek to pursue CWA citizen suit claims for these additional violations.

4. Violations of Industrial Stormwater Permit Conditions Related to Development and/or Implementation of an Adequate Stormwater Pollution Prevention Plan ("SWPPP")

WQO-97-03-DWQ, Section A: Stormwater Pollution Prevention Plan Requirements, ¶ 1 required dischargers covered by the Industrial Stormwater Permit and commencing industrial activities before October 1, 1992 to develop and implement an adequate SWPPP by October 1, 1992. The Provisions of the 1997 Industrial Stormwater Permit, ¶ C.1 also required dischargers to make all necessary revisions to existing SWPPPs promptly, and in any case no later than August 1, 1997. WQO-2014-0057-DWQ, which became effective July 1, 2015, contains essentially identical SWPP requirements, but with the inclusion of a new set of minimum BMPs and additional Advanced BMPs. WQO-2014-0057-DWQ § X.A-I. The 2015 Industrial Permit requires dischargers to implement their revised SWPPP by July 1, 2015 or upon commencement of industrial activity. WQO-2014-0057-DWQ, §

X.B. The 1997 and 2015 Industrial Stormwater Permits require dischargers to develop and implement a site-specific SWPPP for each covered industrial facility that contain the following elements: 1. Facility Name and Contact Information; 2. Site Map; 3. List of Industrial Materials; 4. Description of Potential Pollution Sources; 5. Assessment of Potential Pollutant Sources; 6. Minimum BMPs; 7. Advanced BMPs, if applicable; 8. Monitoring Implementation Plan; 9. Annual Comprehensive Facility Compliance Evaluation (Annual Evaluation); and, 10. Date that SWPPP was initially Prepared and the Date of Each SWPPP Amendment, if Applicable. WQO-97-03-DWQ, Section A; WQO-2014-0057-DWQ, X.A., X.H.1. In addition, after July 1, 2015, the SWPPP must identify and describe any advanced BMPs implemented to reduce or prevent pollutants in industrial stormwater discharges and authorized non-stormwater discharges ("NSWDs"). WQO-2014-0057-DWQ, X.H.2. The SWPPP must further identify and describe conditions or circumstances which may require future revisions to be made to the SWPPP. WQO-2014-0057-DWQ, X.C.

As further described below, prior to July 1, 2015, Your SWPPP failed to comply with the SWPPP requirements in the 1997 Industrial Stormwater Permit and/or You failed to implement Your SWPPP. Additionally, as also further described below, Your present SWPPP fails to comply with the SWPPP requirements in the 2015 Industrial Stormwater Permit and/or You have failed since July 1, 2015 to implement Your SWPPP.

a. Failure to Adequately Assess, Identify and Describe Potential Pollutant Sources.

Dischargers must ensure that a SWPPP is prepared to identify and evaluate all sources of pollutants that may affect the quality of industrial storm water discharges and authorized NSWDs. WQO-2014-0057-DWQ §§ X.C.1.A., X.G.2; WQO-97-03-DWQ §§ A.6, A.7. The SWPPP must describe each industrial process and the "type, characteristics, and approximate quantity of industrial materials used in or resulting from" industrial processes. WQO-2014-0057-DWQ § X.G.1.A; WQO-97-03-DWQ § A.6.(a)(i). Dischargers must also ensure the SWPPP describes all activities that generate a significant amount of dust or particulate that may be deposited within the facility boundaries, including the locations, source and characteristics of the dust or particulate pollution. WQO-2014-0057-DWQ, X.G.1.C; WQO-97-03-DWQ § A.6.(a)(iii).

As discussed above, wood ash is known to contain concentrations of dioxins, furans, PAHs, and metals. A characterization of wood ash completed by Ultrapower, the prior operator of the Blue Lake Power biomass generator, found significant levels of dioxins, furans, PAHs (naphthalene, chrysene, benzo(b)fluoranthene, benzo(k)fluoranthene) and metals (including barium, chromium, copper, lead, nickel, and vanadium). The wood ash also was found to have a pH of 12.6. At the Blue Lake Power Facility, wood ash is stored uncovered and outdoors, exposed to wind and rain. Transportation activities further spread boiler ash through the Facility and track it, on the tires of vehicles, onto public roads. Stormwater comes into contact with the boiler ash and it becomes suspended in the water. The high

suspended solids discharged from the Facility in its stormwater contains boiler ash and its contaminants dioxins, furans, PAHs, and metals. The boiler ash waste at the Facility raises the pH of the Facility's stormwater discharges. Additionally, as discussed above, the Facility operates on the site of the former Macintosh Lumber mill, where, on information and belief, ERF alleges chlorophenolic wood preservatives were used. Your current SWPPP and versions of Your SWPPP in effect prior to July 1, 2015 fails/failed to adequately identify, evaluate and assess these sources of pollutants that likely affect the quality of the Facility's industrial stormwater discharges. Therefore, on each and every day from April 17, 1997 to June 30, 2015, You were in continuous violation of the requirement in the 1997 General Permit § A.6.(a)(i) to describe each industrial process and the type, characteristics, and approximate quantity of industrial materials used in or resulting from industrial processes at the Facility. Further, on each and every day since July 1, 2015, You have been in continuous violation of the requirement in the 2015 General Permit § X.G.1.A to describe each industrial process and the type, characteristics, and approximate quantity of industrial materials used in or resulting from industrial processes at the Facility.

b. Failure to Specify and Implement Adequate Best Management Practices.

The 1997 Industrial Stormwater Permit requires SWPPPs to specify BMPs designed to reduce pollutant discharge to BAT and BCT levels, including BMPs already existing and BMPs to be adopted or implemented in the future. 1997 Industrial Stormwater Permit at 17, Section A: Stormwater Pollution Plan Requirements, ¶ 8. The 2015 Industrial Stormwater Permit requires dischargers to specify in their SWPPPs a set of minimum BMPs and to implement such BMPs. WQO-2014-0057-DWQ §§ X.H.1. & X.H.4. Such minimum BMPs include: minimizing or preventing material tracking; covering all stored industrial materials that can be readily mobilized by contact with stormwater; and containing and covering all stored non-solid industrial materials or wastes (*e.g.*, particulates, powders . . .) that can be transported or dispersed by the wind or contact with stormwater. In addition, the 2015 Industrial Stormwater Permit requires dischargers to specify in their SWPPPs and to implement any advanced BMPs necessary to reduce or prevent discharges of pollutants in stormwater in a manner that reflects best industry practice considering technological availability and economic practicability and achievability. WQO-2014-0057-DWQ §§ X.H.2. & X.H.4. Implementation of the minimum BMPs, in combination with any necessary advanced BMPs serve as a key basis for compliance with the 2015 Industrial Stormwater Permit's Effluent Limitations, Discharge Prohibitions and Receiving Water Limitations. *See* WQO-2014-0057-DWQ §§ V.A., X.H.1 & X.H.2.

The continuing discharges of stormwater from the Facility containing levels of pollutants above Benchmark Values, NALs and/or that commensurate with application of BAT and BCT-based levels of control necessarily means that Your SWPPPs have not specified and/or You have not developed and/or implemented BMPs at the Facility sufficient to comply with either the BMP requirements of the 1997 Stormwater Permit (1997 Industrial Stormwater Permit at 17, Section A: Stormwater Pollution Plan Requirements, ¶ 8) or the 2015 Industrial

Stormwater Permit (WQO-2014-0057-DWQ §§ X.H.1. & X.H.4). For instance among other BMPs, the timber storage areas in Drainage Area 3 could be lined with crushed rock or gravel or porous pavement to promote infiltration, minimize discharge, and provide sediment and erosion control, and further, piles could be covered or consolidated to minimize surface areas exposed to precipitation. Likewise, stormwater from Drainage Area 1 should be treated with additional filters to reduce pollutants in the discharges from the settlement basin. The settlement basin volume could be increased and the facility discharge locations could be eliminated. . Therefore, on each and every day from April 17, 1997 to June 30, 2015, You were in continuous violation of the BMPs requirement in the 1997 General Permit Section A: Stormwater Pollution Plan Requirements, ¶ 8. Further, on each and every day since July 1, 2015, You have been in continuous violation of the BMPs requirement in the 2015 General Permit §§ V.A., X.H.1 & X.H.2.

c. Failure to Develop an Adequate Site Map.

The 1997 Industrial Stormwater Permit requires SWPPPs to include a site map showing the stormwater conveyance system and areas of actual and potential pollutant contact and all areas of on-going industrial activity. 1997 Industrial Stormwater Permit at 12-13, Section A: SWPPP Requirements, ¶ 4. The 2015 Industrial Stormwater Permit (WQO-2014-0057-DWQ § X.E.), requires dischargers to prepare a site map (or multiple maps) that includes:

a. The facility boundary, storm water drainage areas within the facility boundary, and portions of any drainage area impacted by discharges from surrounding areas. Include the flow direction of each drainage area, on-facility surface water bodies, areas of soil erosion, and location(s) of nearby water bodies (such as rivers, lakes, wetlands, etc.) or municipal storm drain inlets that may receive the facility's industrial storm water discharges and authorized NSWDs;

b. Locations of storm water collection and conveyance systems, associated discharge locations, and direction of flow. Include any sample locations if different than the identified discharge locations;

c. Locations and descriptions of structural control measures11 that affect industrial storm water discharges, authorized NSWDs, and/or run-on;

d. Identification of all impervious areas of the facility, including paved areas, buildings, covered storage areas, or other roofed structures;

e. Locations where materials are directly exposed to precipitation and the locations where identified significant spills or leaks (Section X.G.1.d) have occurred; and

f. Areas of industrial activity subject to this General Permit. Identify all industrial storage areas and storage tanks, shipping and receiving areas, fueling areas, vehicle and equipment storage/maintenance areas, material handling and processing areas,

waste treatment and disposal areas, dust or particulate generating areas, cleaning and material reuse areas, and other areas of industrial activity that may have potential pollutant sources.

Your site map fails to include all the information required by the 1997 and 2015 Industrial Stormwater Permits. For example, the site map fails to identify the locations of impervious areas, locations where materials are directly exposed to precipitation, industrial storage areas and storage tanks, shipping and receiving areas, fueling areas, vehicle and equipment storage/maintenance areas, material handling and processing areas, waste treatment and disposal areas, dust or particulate generating areas, cleaning and material reuse areas, and other areas of industrial activity that may have potential pollutant sources. Therefore, on each and every day from April 17, 1997 to June 30, 2015, You were in continuous violation of the site map requirement in the 1997 General Permit Section A: SWPPP Requirements, ¶ 4. On each and every day since July 1, 2015, You have been in continuous violation of the site map requirement in the 2015 General Permit § X.E.

d. Failure to Revise SWPPP

The 1997 Industrial Stormwater Permit requires dischargers to revise a SWPPP within 90 days after a determination that the SWPPP is in violation of any requirements of the permit. 1997 Industrial Stormwater Permit at 23, Section A: SWPPP Requirements, ¶ 10.d. The 2015 Industrial Stormwater Permit requires dischargers to revise their SWPPPs whenever necessary to ensure permit compliance. 2015 Industrial Stormwater Permit § X.B.1. The 2015 Industrial Stormwater Permit further requires dischargers to perform an annual comprehensive facility compliance evaluation every reporting year (July 1 to June 30) and revise their SWPPPs to reflect any changes to BMPs or other measures as shown warranted by this compliance evaluation. 2015 Industrial Stormwater Permit § XV.

You have failed to revise Your SWPPP as required to address and eliminate the inadequacies in your SWPPP described in the preceding sections. Further, You have failed to perform an adequate annual comprehensive facility compliance evaluation in the reporting year that will end on June 30, 2016. Therefore, on each and every day from April 17, 1997 to June 30, 2015, You were in continuous violation of the SWPPP revision requirement in the 1997 General Permit Section A: SWPPP Requirements, ¶ 10.d. On each and every day since July 1, 2015, You have been in continuous violation of the SWPPP revision requirement in the 2015 General Permit § XV.

5. Failure to Develop and/or Implement an Adequate Monitoring and Reporting Program and Perform Annual Comprehensive Site Compliance Evaluations as Required by the Industrial Stormwater Permit.

The Monitoring and Reporting Program (MRP) Requirements of the 1997 and 2015 Industrial Stormwater Permits require dischargers to develop and implement a facility-specific monitoring program. WQO-2014-0057-DWQ § XI; WQO-97-03-DWQ Section B:

Monitoring and Reporting Program (MRP) Requirements, ¶ 1, and Provisions, ¶ E.3. The monitoring data is used to determine whether effluent and receiving water limitations are being met; to determine the presence of pollutants in storm water that may trigger the need for additional BMPs and SWPPP revisions, and to determine the effectiveness of BMPs in reducing or preventing pollutants in discharges. Dischargers are required to evaluate their facilities and analyze storm water samples for facility-specific parameters, as well as enumerated "indicator parameters." All dischargers must submit a certified Annual Report documenting monitoring activity by July 15 each year. 1997 Industrial Stormwater Permit Section B: MRP Requirements, ¶ 14; 2015 Industrial Stormwater Permit § XVI. In addition, dischargers are required to certify, based on annual site inspection, that their permitted facilities are in compliance with the Permit and to report any noncompliance with its terms. 1997 Industrial Stormwater Permit Section C: Standard Provisions, ¶¶ 9 and 10; 2015 Industrial Stormwater Permit § XVI.B. As described below, however, You have not adopted or have not fully implemented an adequate MRP, have failed to provide complete and accurate Annual Reports, and have failed to provide accurate reporting of noncompliance with the terms of the 1997 and 2015 Industrial Stormwater Permits.

The 1997 and 2015 Industrial Stormwater Permits require that Your MRP provide for visual monitoring and recording of stormwater discharge from one rainfall event per month during the October 1 to May 30 wet season. 1997 Industrial Stormwater Permit, Section B: MRP Requirements, ¶¶ 3, 4 and 7; 2015 Industrial Stormwater Permit XI.A.1, A.2. (visual observation of stored or contained stormwater must be made during release). Your Annual Reports submitted to the Regional Board for the Facility indicate that in all years from at least 2011 to the present, You have not made and recorded at least one visual observation of all points of discharge of stormwater from Your Facility during at least one rainfall event per month from October 1 to May 30. There were several months in this time period during which Your Facility had stormwater discharges from self-reported and unreported discharge points but You failed to monitor stormwater discharges and record the results of this monitoring. Specifically, You failed to make the required visual observations of storms in at least the following months: 2013-November, December; 2014-January, March, April, May, October, November, December; 2015-January, February, and March. Your Annual Report simply skipped some of these months altogether and otherwise failed to report on days where applicable NOAA climate data (see Attachment 2) reports that there was rain over 0.1 inches locally. Thus, there necessarily had to have been stormwater discharges from the Facility that You failed to observe and report. Additionally, You have repeatedly failed to include all discharge points in Your wet season monthly monitoring. For example, you failed to collect samples from discharge location 2 in either the 2013-2014 or 2014-2015 wet seasons. . You have thus failed to conduct and/or report visual observations or to record discharges at each of the Facility's discharge points.

During each of these months from April 17, 1997 to June 30, 2015 when Your Facility discharged stormwater but You failed to make a required visual observation of the discharge, You committed a violation of the visual monitoring requirement in the 1997 General Permit Section B: Monitoring and Reporting Program (MRP) Requirements, ¶¶ 3,

4, 7. Further, during each of these months since July 2015 when Your Facility discharged stormwater but You failed to make a visual observation of the discharge, You committed a violation of the visual monitoring requirement in the 2015 General Permit § XI.A.

The 1997 Industrial Stormwater Permit required that Your MRP provide for analysis of stormwater samples for TSS, pH, specific conductance, and total organic carbon ("TOC") or oil and grease. 1997 Industrial Stormwater Permit, Section B: Monitoring and Reporting Program (MRP) Requirements, ¶ 5.c.i. Similarly, the 2015 Industrial Stormwater Permit requires that Your MRP provide for analysis of stormwater samples for TSS, pH, and oil and grease. 2015 Industrial Stormwater Permit § XI.B.6. In addition, the 1997 and 2015 Industrial Stormwater Permit required that Your MRP provide for analysis of stormwater samples for the other analytical parameters listed either in the 1997 Industrial Stormwater Permit under Table D or set out in the 2015 Industrial Stormwater Permit under Table 1. For Your SIC code 4911-Electric Services, this includes iron, for your SIC code 2411-Logging, this includes TSS, and for the SIC code 2491-Wood Preserving that should be applicable to your Facility given its former use for wood preserving, arsenic and copper. 1997 Industrial Stormwater Permit Section B: Monitoring and Reporting Program (MRP) Requirements, ¶ 5.c; 2015 Industrial Stormwater Permit § XI.B.6, Table 1. Finally, the 1997 and 2015 Industrial Stormwater Permits require that Your MRP provide for analysis of toxic chemicals and other pollutants that are likely to be present in Your stormwater discharges. 1997 Industrial Stormwater Permit Section B: Monitoring and Reporting Program (MRP) Requirements, ¶ 5.c; . Similarly, the 2015 Industrial Stormwater Permit § XI.B.6 requires You to sample for additional parameters that serve as indicators of the presence of all industrial pollutants identified in the pollutant source assessment (Section X.G.2) which includes "pollutants likely to be present in industrial storm water discharges and authorized NSWDs" (Section X.G.2.a). Sampling conducted by You and by ERF has shown that Your stormwater discharges, in addition to these aforementioned pollutants, contain elevated biochemical oxygen demand and chemical oxygen demand, pollutants typically associated with wood and wood waste storage. "Wood yard leaching" occurs when the by-products of chemical and biological decomposition products of wood materials are carried away by water, potentially causing adverse impacts to surface waters and/or groundwater. The soluble or misable products of wood leaching include tanins, lignins, turpins, high chemical oxygen demand and biochemical oxygen demand, and in some cases "black liquor" from fermentation. Your MRP is inadequate because it fails to provide for analysis of biochemical oxygen demand, chemical oxygen demand, arsenic, or copper in the Facility's stormwater discharges and other pollutants likely to be present based on the historical industrial activities performed at Your Facility.

For instance, based on the boiler ash characterization completed by Ultrapower, and general knowledge in the industry, dioxins, furans, PAHs and metals are likely to be present in Your stormwater discharges, as ash is stored uncovered and outdoors, and wind, rain, trucks and rolling stock spread boiler ash throughout the Facility, into drainage pathways and onto public roads. Stormwater comes into contact with the boiler ash and it becomes suspended in the water. The high suspended solids discharged from the Facility in its stormwater is

likely to contain boiler ash and its contaminants dioxins, furans, PAHs, and metals. The likelihood of dioxins and furans being present in the Facility's discharges is increased by the fact that it operates on the site of the former Macintosh Lumber mill, where, on information and belief, chlorophenolic wood preservatives were used. Your MRP is inadequate because it fails to provide for analysis of dioxins, furans, pentachlorophenol, tetrachlorophenol, hexachlorobenzene, PAHs and metals (including arsenic, barium, chromium, copper, lead, nickel, and vanadium) in the Facility's stormwater discharges.

As discussed above, You have not developed and implemented an adequate MRP. Therefore, on each and every day from April 17, 1997 to June 30, 2015, You were in continuous violation of the requirement in the 1997 Industrial Stormwater Permit Section B: Monitoring and Reporting Program (MRP) Requirements, ¶ 1, and Provisions, ¶ E.3 to develop and implement an adequate MRP. Further, on each and every day since July 1, 2015, You have been in continuous violation of the requirement in the 2015 Industrial Stormwater Permit § XI to develop and implement an adequate MRP. You will continue to be in violation every day that You fail to develop and implement an adequate MRP for the Facility.

As also discussed above, You have not submitted accurate and complete Annual Reports and reports of Your noncompliance with the 1997 and 2015 Industrial Stormwater Permits. Therefore, for each Annual Report due from April 17, 1997 to June 30, 2015, You were in violation of the requirement in the 1997 Industrial Stormwater Permit Section B: Monitoring and Reporting Program (MRP) Requirements ¶ 14 to submit accurate and complete Annual Reports every day since each of Your Annual Reports were due. Further, for each Annual Report due since July 1, 2015, You were in violation of the requirement in the 2015 Industrial Stormwater Permit § XVI to submit accurate and complete Annual Reports every day since each of Your Annual Reports were due.

You are subject to civil penalties for each day of each of all Your violations of the 1997 and 2015 Industrial Stormwater Permits and the CWA identified in this letter occurring within the past five (5) years.

III. PERSONS RESPONSIBLE FOR THE VIOLATIONS

Renewable Energy Providers, Inc., Blue Lake Power, LLC, Mr. Glenn Zane, and Mr. Walter Nystrom are the persons responsible for the violations at the Facility described above.

IV. NAME AND ADDRESS OF NOTICING PARTY

Our name, address, and telephone number is as follows:

Ecological Rights Foundation

867 B Redwood Drive
Garberville, CA 9542
(707) 923-4372

V. COUNSEL

ERF has retained legal counsel to represent it in this matter. Please direct all communications to:

Fredric Evenson Ecology Law Center P.O. Box 1000 Santa Cruz, CA 95061 (831) 454-8216 Email: evenson@ecologylaw.com	Christopher Sproul Environmental Advocates 5135 Anza Street San Francisco, CA 94121 (415) 533-3376 email: csproul@enviroadvocates.com

VI. REMEDIES

ERF will seek injunctive and declaratory relief preventing further CWA violations pursuant to CWA sections 505(a) and (d), 33 U.S.C. §1365(a) and (d), and such other relief as permitted by law. In addition, ERF will seek civil penalties pursuant to CWA section 309(d), 33 U.S.C. § 1319(d) and 40 C.F.R. section 19.4, against each defendant in this action of up to $32,500 for all violations on or after March 15, 2004. *See* 69 Fed. Reg. 7121 (Feb. 13, 2004). ERF will also seek to recover costs and attorneys' fees in accord with CWA section 505(d), 33 U.S.C. § 1365(d).

ERF believes this Notice of Violations and Intent to Sue sufficiently states grounds for filing suit. We intend, at the close of the 60-day notice period or thereafter, to file a citizen suit under CWA section 505(a) against You for the above-referenced violations. During the 60-day notice period, we are willing to discuss effective remedies for the violations noted in this letter. If You wish to pursue such discussions in the absence of litigation, we suggest that You initiate those discussions within the next 20 days so that they may be completed before the end of the 60-day notice period. We do not intend to delay the filing of a complaint in federal court if discussions are continuing when that period ends.

Sincerely,
Fredric Evenson

Counsel for Ecological Rights Foundation

ADDITIONAL SERVICE LIST – FEDERAL & STATE AGENCIES

Gina McCarthy, Administrator U.S. Environmental Protection Agency Ariel Rios Building 1200 Pennsylvania Avenue, N.W. Washington, D.C. 20460	Eric Holder, U.S. Attorney General U.S. Department of Justice 950 Pennsylvania Avenue, N.W. Washington, D.C. 20530-0001
Jared Blumenfeld, Regional Administrator U.S. Environmental Protection Agency Region IX 75 Hawthorne Street San Francisco, California 94105	Thomas Howard Executive Director State Water Resources Control Board P.O. Box 100 Sacramento, California 95812-0100
Matthias St. John, Executive Officer Regional Water Quality Control Board Region 1 5550 Skylane Blvd., Suite A Santa Rosa, CA 95403	

ATTACHMENT 1

Attachment 1 - Blue Lake Power Stormwater Sampling Results

DATA REPORTED BY BLUE LAKE IN ANNUAL REPORTS

DATE	POLLUTANT	RESULT	EPA BENCHMARK and/or STATE BOARD ANUUAL NALs	TIMES EXCEEDED
2/6/2014 (Outfall 1)	Total Oraganic Carbon (TOC)	15 mg/L	110 mg/L	
2/6/2014 (Outfall 1)	Electrical Conductivity (EC)	48 uS/cm	200 uS/cm	
2/6/2014 (Outfall 1)	Total Iron	30,000 ug/L (30 mg/L)	1 mg/L	30.00
2/6/2014 (Outfall 1)	Total Suspended Solids (TSS)	510 mg/L	100 mg/L (or 400 mg/L instant. Max.)	5.10
2/6/2014 (Outfall 1)	Oil and Grease	ND	15 mg/L	
3/25/2014 (Outfall 1)	Total Oraganic Carbon (TOC)	14 mg/L	110 mg/L	
3/25/2014 (Outfall 1)	Electrical Conductivity (EC)	28uS/cm	200 uS/cm	
3/25/2014 (Outfall 1)	Total Iron	17,000 ug/L (17 mg/L)	1 mg/L	17.00
3/25/2014 (Outfall 1)	Total Suspended Solids (TSS)	290 mg/L	100 mg/L (or 400 mg/L instant. Max.)	2.90
3/25/2014 (Outfall 1)	Oil and Grease	ND	15 mg/L	
10/23/2014 (Outfall 1)	Total Oraganic Carbon (TOC)	9.3 mg/L	110 mg/L	
10/23/2014 (Outfall 1)	Electrical Conductivity (EC)	26 uS/cm	200 uS/cm	
10/23/2014 (Outfall 1)	Total Iron	7,000 ug/L (7 mg/L)	1 mg/L	7.00
10/23/2014 (Outfall 1)	Total Suspended Solids (TSS)	100 mg/L	100 mg/L (or 400 mg/L instant. Max.)	
10/23/2014 (Outfall 1)	Oil and Grease	ND	15 mg/L	
10/23/2014 (Outfall 3)	Total Oraganic Carbon (TOC)	190 mg/L	110 mg/L	1.70

DATA REPORTED BY BLUE LAKE IN ANNUAL REPORTS

DATE	POLLUTANT	RESULT	EPA BENCHMARKS and/or STATE BOARD ANNUAL MAL
2/6/2014 (Outfall 1)	Total Organic Carbon (TOC)	15 mg/L	110 mg/L
2/6/2014 (Outfall 1)	Electrical Conductivity (EC)	65 µS/cm	200 µS/cm
2/6/2014 (Outfall 1)	Total Iron	30,000 ug/L (30 mg/L)	1 mg/L
2/6/2014 (Outfall 1)	Total Suspended Solids (TSS)	310 mg/L	100 mg/L (or 400 mg/L instant Max.)
2/6/2014 (Outfall 1)	Oil and Grease	ND	15 mg/L
3/25/2014 (Outfall 1)	Total Organic Carbon (TOC)	4 mg/L	110 mg/L
3/25/2014 (Outfall 1)	Electrical Conductivity (EC)	28 µS/cm	200 µS/cm
3/25/2014 (Outfall 1)	Total Iron	4,000 ug/L (4 mg/L)	1 mg/L
3/25/2014 (Outfall 1)	Total Suspended Solids (TSS)	25 mg/L	100 mg/L (or 400 mg/L instant Max.)
3/25/2014 (Outfall 1)	Oil and Grease	ND	15 mg/L
10/23/2014 (Outfall 1)	Total Organic Carbon (TOC)	5.4 mg/L	110 mg/L
10/23/2014 (Outfall 1)	Electrical Conductivity (EC)	23 µS/cm	200 µS/cm
10/23/2014 (Outfall 1)	Total Iron	7,000 ug/L (7 mg/L)	1 mg/L
10/23/2014 (Outfall 1)	Total Suspended Solids (TSS)	100 mg/L	100 mg/L (or 400 mg/L instant Max.)
10/23/2014 (Outfall 1)	Oil and Grease	ND	15 mg/L
10/23/2014	Total Organic Carbon (TOC)	120 mg/L	110 mg/L

Attachment 1 - Blue Lake Power Stormwater Sampling Results

DATA REPORTED BY BLUE LAKE IN ANNUAL REPORTS

DATE	POLLUTANT	RESULT	EPA BENCHMARK and/or STATE BOARD ANUUAL NALs	TIMES EXCEEDED
10/23/2014 (Outfall 3)	Electrical Conductivity (EC)	760 uS/cm	200 uS/cm	3.80
10/23/2014 (Outfall 3)	Total Iron	2,200 ug/L (2.2 mg/L)	1 mg/L	2.20
10/23/2014 (Outfall 3)	Total Suspended Solids (TSS)	15 mg/L	100 mg/L (or 400 mg/L instant. Max.)	
10/23/2014 (Outfall 3)	Oil and Grease	ND	15 mg/L	
3/24/2015 (Outfall 1)	Total Oraganic Carbon (TOC)	17 mg/L	110 mg/L	
3/24/2015 (Outfall 1)	Electrical Conductivity (EC)	78 uS/cm	200 uS/cm	
3/24/2015 (Outfall 1)	Total Iron	75,000 ug/L (75 mg/L)	1 mg/L	75.00
3/24/2015 (Outfall 1)	Total Suspended Solids (TSS)	1000 mg/L	100 mg/L (or 400 mg/L instant. Max.)	10.00
3/24/2015 (Outfall 1)	Oil and Grease	ND	15 mg/L	
3/24/2015 (Outfall 3)	Total Oraganic Carbon (TOC)	190 mg/L	110 mg/L	1.70
3/24/2015 (Outfall 3)	Electrical Conductivity (EC)	420 uS/cm	200 uS/cm	2.10
3/24/2015 (Outfall 3)	Total Iron	1,700 ug/L (1.7 mg/L)	1 mg/L	1.70
3/24/2015 (Outfall 3)	Total Suspended Solids (TSS)	19 mg/L	100 mg/L (or 400 mg/L instant. Max.)	
3/24/2015 (Outfall 3)	Oil and Grease	ND	15 mg/L	

DATA REPORTED BY BLUE LAKE IN ANNUAL REPORTS

EPA BENCHMARK BOARD ANNUAL MGD/DAY STATE			
DATE	POLLUTANT	RESULT	MGD
10/31/2014	Effluent Conductivity (EC)	200 uS/cm	500 uS/cm
10/31/2014	Effluent Dissolved Oxygen	7.250 mg/L (5.7 - 11.0)	1 mg/L
10/31/2014	Effluent Total Suspended Solids	20 mg/L	30 mg/L (30 - 300 mg/L)
10/31/2014	Effluent Total Organic Carbon (TOC)	1.1 mg/L	10 mg/L
10/31/2014	Effluent Conductivity (EC)	200 uS/cm	500 uS/cm
10/31/2014	Effluent Total Suspended Solids	1/mo 0001	1 mg/L
10/31/2014	Effluent Dissolved Oxygen	7.5 mg/L	1 mg/L
10/31/2014	Effluent Total Organic Carbon (TOC)	1.1 mg/L	010 mg/L
10/31/2014	Effluent Conductivity (EC)	200 uS/cm	500 uS/cm
10/31/2014	Effluent Dissolved Oxygen	7.250 mg/L (5.7 - 11.0)	1 mg/L
10/31/2014	Effluent Total Suspended Solids	1/mo 0001	1 mg/L (30 - 300 mg/L)
10/31/2014	Effluent Total Organic Carbon (TOC)	1.1 mg/L	010 mg/L
10/31/2014	Effluent Conductivity (EC)	200 uS/cm	500 uS/cm
10/31/2014	Effluent Dissolved Oxygen	7.250 mg/L (5.7 - 11.0)	1 mg/L
10/31/2014	Effluent Total Suspended Solids	1/mo 0001	1 mg/L (30 - 300 mg/L)
10/31/2014	Effluent Total Organic Carbon (TOC)	1.1 mg/L	010 mg/L
10/31/2014	Effluent Conductivity (EC)	200 uS/cm	500 uS/cm
10/31/2014	Effluent Dissolved Oxygen	7.250 mg/L (5.7 - 11.0)	1 mg/L
10/31/2014	Effluent Total Suspended Solids	1/mo 0001	1 mg/L (30 - 300 mg/L)
10/31/2014	Effluent Total Organic Carbon (TOC)	1.1 mg/L	010 mg/L
10/31/2014	Effluent Conductivity (EC)	200 uS/cm	500 uS/cm
10/31/2014	Effluent Dissolved Oxygen	7.250 mg/L (5.7 - 11.0)	1 mg/L
10/31/2014	Effluent Total Suspended Solids	1/mo 0001	1 mg/L (30 - 300 mg/L)
10/31/2014	Effluent Total Organic Carbon (TOC)	1.1 mg/L	010 mg/L
10/31/2014	Effluent Conductivity (EC)	200 uS/cm	500 uS/cm
10/31/2014	Effluent Dissolved Oxygen	7.250 mg/L (5.7 - 11.0)	1 mg/L
10/31/2014	Effluent Total Suspended Solids	1/mo 0001	1 mg/L (30 - 300 mg/L)
10/31/2014	Effluent Total Organic Carbon (TOC)	1.1 mg/L	010 mg/L

Attachment 1 - Blue Lake Power Stormwater Sampling Results

Attachment 1 - Blue Lake Power Stormwater Sampling Results

ERF SAMPLE RESULTS

DATE	POLLUTANT	RESULT	EPA BENCHMARK and/or STATE BOARD NALs	TIMES EXCEEDED	CTR (Fresh)	TIMES EXCEEDED	Region 1 BASIN PLAN Table 3-2	TIMES EXCEEDED
2/19/2016 (Outfall 2)	Total Oraganic Carbon (TOC)	120 mg/L	110 mg/L	1.1				
2/19/2016 (Outfall 2)	Chemical Oxygen Demand (COD)	440 mg/L	120 mg/L	3.7				
2/19/2016 (Outfall 2)	Biochemical Oxygen Demand (BOD)	52 mg/L	30 mg/L	1.7				
2/19/2016 (Outfall 2)	Iron	1.9 mg/L	1 mg/L	1.9				

ERF SAMPLE RESULTS

DATE	POLLUTANT	RESULT	EPA BENCHMARK and/or STATE BOARD NALs		CTR (Fresh)		Region 3 BASIN PLAN Table 3-2	
2/19/2016	Total Organic Carbon (TOC)	120 mg/L	110 mg/L					
2/19/2016	Chemical Oxygen Demand (COD)	440 mg/L	120 mg/L	4.1				
2/19/2016	Biochemical Oxygen Demand (BOD)	52 mg/L	30 mg/L	3.7				
2/19/2016	Iron	1.9 mg/L	1 mg/L	1.5				

ATTACHMENT 2

NOAA BLUE LAKE WEATHER STATION (US1CAHM0039)
Days with Precipitation over 0.1 inches, June 2011 to April 2016

DATE (Format: Year-Month-Date)	Rainfall (INCHES)
20110628	0.85
20110629	0.33
20110719	0.15
20111003	0.47
20111004	0.6
20111005	1.16
20111010	0.9
20111012	0.23
20111103	0.37
20111106	1.11
20111107	0.12
20111117	0.38
20111118	0.67
20111119	0.75
20111120	0.11
20111124	1.24
20111125	0.11
20111215	0.25
20111226	0.17
20111228	0.21
20111229	0.45
20111230	1.3
20111231	0.3
20120130	0.12
20120201	0.51
20120208	0.15
20120210	0.15
20120211	0.49
20120218	0.13
20120225	0.4
20120229	0.92
20120316	2.1
20120317	1.24
20120318	0.39
20120319	0.23
20120320	0.34
20120321	0.25
20120322	0.75
20120324	0.27
20120325	0.26
20120327	0.16

NOAA BLUE LAKE WEATHER STATION (US1CAHM0039)
Days with Precipitation over 0.1 inches, June 2011 to April 2016

DATE (Format: Year-Month-Date)	Rainfall (INCHES)
20120328	0.55
20120329	0.22
20120330	2.39
20120331	0.95
20120401	0.59
20120404	0.74
20120405	0.27
20120409	0.12
20120411	0.46
20120412	0.55
20120414	0.1
20120417	0.11
20120418	0.12
20120419	0.52
20120420	0.17
20120426	0.96
20120503	0.17
20120504	0.19
20120522	0.27
20120525	0.1
20120603	0.23
20120605	2.2
20120623	0.82
20120626	0.1
20120701	0.11
20120717	0.56
20120718	0.14
20120720	0.11
20121012	0.23
20121016	1.2
20121020	0.12
20121022	1.04
20121024	0.59
20121109	0.12
20121110	0.18
20121120	0.25
20121121	1.26
20121128	0.11
20121204	0.18
20121205	0.79
20121212	0.8

NOAA BLUE LAKE WEATHER STATION (US1CAHM0039)
Days with Precipitation over 0.1 inches, June 2011 to April 2016

DATE (Format: Year-Month-Date)	Rainfall (INCHES)
20121216	0.18
20121219	0.29
20121220	1.08
20121222	1.23
20121225	0.3
20121226	1.1
20121227	0.33
20130208	0.32
20130219	0.75
20130228	0.49
20130306	1.04
20130307	0.48
20130327	0.1
20130331	0.57
20130404	0.29
20130408	0.95
20130507	0.28
20130516	0.17
20130522	0.21
20130526	0.18
20130527	0.59
20130619	0.34
20130624	0.24
20130626	0.31
20131108	0.18
20131112	0.11
20131113	0.18
20131119	0.4
20131120	0.44
20131203	0.54
20131207	0.52
20140109	0.24
20140110	0.1
20140111	0.42
20140112	0.5
20140129	0.43
20140130	0.45
20140302	0.12
20140303	0.27
20140304	0.25
20140305	0.2

NOAA BLUE LAKE WEATHER STATION (US1CAHM0039)
Days with Precipitation over 0.1 inches, June 2011 to April 2016

DATE (Format: Year-Month-Date)	Rainfall (INCHES)
20140306	0.18
20140309	1.22
20140310	2.79
20140317	0.24
20140325	0.39
20140326	0.76
20140327	0.31
20140328	0.21
20140329	1.06
20140401	0.5
20140422	0.48
20140424	0.5
20140425	0.55
20140427	0.13
20140505	0.4
20140509	0.77
20140510	0.17
20140518	0.14
20140519	0.1
20140626	0.38
20140628	0.1
20140924	0.41
20140925	2
20140926	0.56
20141015	0.82
20141018	0.36
20141020	0.85
20141025	0.89
20141026	0.53
20141031	1.11
20141107	0.2
20141113	0.35
20141115	0.22
20141120	0.63
20141121	0.47
20141122	1.95
20141129	1.08
20141208	0.4
20141211	0.9
20141212	0.37
20141213	1.05

NOAA BLUE LAKE WEATHER STATION (US1CAHM0039)
Days with Precipitation over 0.1 inches, June 2011 to April 2016

DATE (Format: Year-Month-Date)	Rainfall (INCHES)
20141218	0.3
20141219	0.66
20141220	0.62
20141221	2.25
20141222	0.91
20150116	0.64
20150118	1.3
20150202	0.62
20150203	1.06
20150205	0.19
20150206	0.76
20150207	1.15
20150210	0.25
20150227	0.31
20150312	0.11
20150316	0.59
20150321	0.41
20150322	0.29
20150323	0.81
20150406	0.15
20150407	0.85
20150414	0.39
20150709	0.1
20150710	0.33
20150829	0.4
20150917	0.35
20151017	0.11
20151026	0.15
20151028	0.63
20151101	0.63
20151102	0.32
20151108	0.5
20151109	0.18
20151115	0.79
20151116	0.17
20151117	0.19
20151118	0.59
20151120	0.33
20151124	0.57
20151125	0.25
20151202	0.18

NOAA BLUE LAKE WEATHER STATION (US1CAHM0039)
Days with Precipitation over 0.1 inches, June 2011 to April 2016

DATE (Format: Year-Month-Date)	Rainfall (INCHES)
20151203	0.14
20151204	1.55
20151206	0.29
20151209	1.2
20151210	0.76
20151211	0.96
20151213	1.9
20151214	0.84
20151217	0.44
20151218	1.35
20151219	0.91
20151220	0.11
20151221	0.33
20151222	1.31
20151223	0.49
20151224	0.94
20151225	0.92
20151228	0.51
20151230	0.27
20160105	0.63
20160106	0.16
20160108	0.12
20160109	0.3
20160110	0.89
20160118	1.43
20160119	0.43
20160120	0.25
20160122	0.47
20160123	0.99
20160124	0.48
20160125	0.34
20160129	1.71
20160130	0.62
20160204	0.35
20160213	0.11
20160218	0.91
20160219	1.23
20160220	0.3
20160222	0.1
20160227	0.43
20160229	0.11

NOAA BLUE LAKE WEATHER STATION (US1CAHM0039)
Days with Precipitation over 0.1 inches, June 2011 to April 2016

DATE (Format: Year-Month-Date)	Rainfall (INCHES)
20160303	0.5
20160305	0.18
20160306	1.34
20160307	0.12
20160309	0.32
20160310	1.01
20160312	0.54
20160313	0.54
20160314	0.72
20160322	1.67
20160327	0.1
20160404	0.11
20160414	0.71
20160415	0.2