

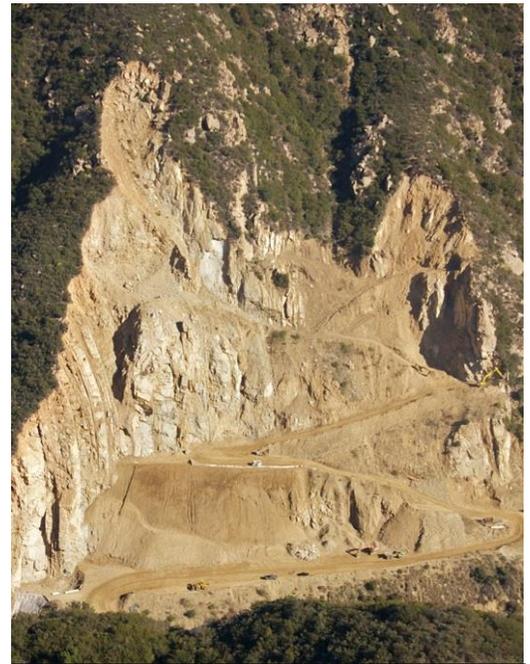
### Lawsuit Filed Against Ojai Quarry to Address Storm Water Pollution Impacts on Water Quality and Endangered Species

#### OVERVIEW

Santa Barbara Channelkeeper (SBCK) and the Environmental Defense Center (EDC) have filed a federal lawsuit against Gralar LLC, dba Mosler Rock Product, and owner/operator Larry Mosler, for violations of the Clean Water Act (CWA) and Endangered Species Act (ESA) at its Mosler Rock Ojai Quarry (Ojai Quarry). This 30-acre facility is situated directly on the Lower North Fork Matilija Creek, a major tributary of the Ventura River renowned for its pristine, free-flowing waters and excellent habitat for wildlife, including the endangered southern steelhead trout.

Quarry operations are conducted on steep slopes directly above North Fork Matilija Creek, and for the past several years, regulatory agencies such as the L.A. Regional Water Quality Control Board (Regional Board) and the National Marine Fisheries Service, as well as non-profit water quality watchdogs such as SBCK, have documented high levels of sedimentation and turbidity, landslides, and large rock boulders eroding and/or falling into North Fork Matilija Creek as a result of Defendants' poor land-use management practices at the Ojai Quarry. Despite these problems, the facility has failed to implement effective erosion control and storm water management measures.

SBCK and EDC have attempted to address the water quality and habitat degradation issues at the Ojai Quarry for years through cooperative approaches, including direct dialogue with the facility's owner and repeated appeals to regulatory agencies for enforcement action, but the pollution problems continue. SBCK and EDC now pursue legal, citizen enforcement action under the CWA and ESA as a last resort.



*Mining activities on the Ojai Quarry's steep erodible slopes generate copious volumes of sediment which is released to the North Fork Matilija Creek during storms. Photo by SBCK.*

#### CLEAN WATER ACT VIOLATIONS

Storm water is one of our region's leading sources of water pollution, as significant



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quantities of contaminants wash into our waterways during rain events. To combat this problem, the CWA requires industrial facilities such as the Ojai Quarry to control discharges of pollutants by using the best available technology economically achievable or best conventional pollutant control technology.

In California, industrial facilities typically meet this requirement by enrolling in the state's General Industrial Storm Water Permit, which establishes limits for identified categories of pollutants and prohibits discharges from causing or contributing to violations of water quality standards in receiving waters. The Permit requires owners and operators of industrial facilities to develop and implement a "Storm Water Pollution Prevention Plan" (SWPPP) that comprehensively identifies and evaluates sources of water pollution from their facilities, as well as the site-specific best management practices (BMPs) necessary to reduce or prevent such pollution.

In order to gauge the relative success of its SWPPP, the Industrial Permit also requires facility owners to conduct periodic water quality sampling during the rainy season (which generally runs from October-April in southern California), and to analyze samples for particular water pollutants such as sediment, oil and grease, acidity, toxic chemicals, and metals. In addition, facility owners must conduct periodic visual inspections of discharge points during rain events as well as dry periods. Facility owners must compile and report the results of their monitoring on an annual basis to the Regional Water Quality Control Board.

As detailed in the SBCK/EDC lawsuit, the Ojai Quarry has systematically failed to meet the most basic terms of the Industrial Permit over the past five years. The Quarry, for example, has rarely conducted water quality sampling, and the sampling it has conducted demonstrates levels of pollutants, particularly of total suspended solids and turbidity (common measures of sediment) in excess of applicable limitations. SBCK has conducted its own independent water quality sampling around the Quarry for several years, also consistently documenting high levels of sediment in discharges from the site. Despite clear and consistent data demonstrating chronic water pollution problems, the Quarry has failed to implement sufficient BMPs to effectively address sediment discharges into North Fork Matilija Creek from the site.

#### **ENDANGERED SPECIES ACT VIOLATIONS**

The Endangered Species Act (ESA) was enacted in 1973 in response to the growing extinction crisis. The intent of the ESA is to recover species to the point where the Act's

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protections are no longer necessary. In order to meet this goal, the ESA establishes strict prohibitions on the 'taking' of endangered species and the destruction of their habitat.



Stormwater runoff from the Ojai Quarry contains harmful levels of sediment and turbidity that negatively impact steelhead trout. Photo by SBCK.

Southern steelhead trout are one of several 'distinct population segments' of this ocean-going form of rainbow trout, which is native to coastal streams along the Pacific coast from Alaska to Baja California in Mexico. Although most steelhead populations are imperiled, southern California steelhead (between the Santa Maria River and the U.S.-Mexico border) are particularly endangered due to habitat loss from dam construction, water diversions, urbanization, and harmful land use practices such as mining and quarrying.

As detailed in the SBCK/EDC lawsuit, the Ojai Quarry's longstanding failure to adequately manage and control storm water runoff from the facility has resulted in chronic discharges of sediment and periodic landslides that unlawfully 'take' southern steelhead trout in two primary ways: 1) periodic landslides, rock fall, and other ground movement caused by Quarry operations have deposited large rocks, boulders, and other geological debris into North Fork Matilija Creek, where they substantially impair or block upstream steelhead migration and movement; and 2) sediment discharged from the Ojai Quarry negatively affects all phases of the steelhead life cycle (for example, by covering the gravel substrate that steelhead utilize for spawning, incubation, and development).

### ABOUT THE OJAI ROCK QUARRY

Quarry activities take place along approximately 0.31 miles of the Lower North Fork Matilija Creek, just above the Creek's confluence with Matilija Creek, where the two creeks join to form the Ventura River. Areas above the Quarry are designated as critical habitat for the endangered steelhead trout. These upstream areas are considered to be some of the



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most valuable steelhead habitat in the Ventura River watershed, with healthy riparian forest and largely undisturbed spawning gravels.

The Ojai Quarry discharges storm water runoff through at least one outfall into Lower North Fork Matilija Creek, which then runs into the Ventura River, eventually flowing into the Pacific Ocean.

#### **CLEAN WATER ACT AND ENDANGERED SPECIES ACT CITIZEN SUITS**

In enacting both the Clean Water Act and Endangered Species Act, Congress expressly included "citizen suit" provisions which provide the public with the right to file a civil enforcement suit against a corporation to remedy violations of those laws where the government has failed to undertake effective enforcement actions.

On October 31, 2012, SBCK and EDC sent the Ojai Quarry a Notice of Violations and Intent to File Suit (Notice Letter). Under the Clean Water Act and Endangered Species Act, the first legally required step in the citizen suit enforcement process is filing the Notice Letter. Subsequent negotiations with the Quarry owner have been unsuccessful, leading SBCK and EDC to file suit.

#### **CONTACT INFO**

**Santa Barbara Channelkeeper** is a non-profit public benefit corporation whose mission is to protect and restore the Santa Barbara Channel and its watersheds through science-based advocacy, education, field work, and enforcement. For information about SBCK, or to support our efforts, please visit [www.sbck.org](http://www.sbck.org)

The **Environmental Defense Center** (EDC) is a non-profit, public interest law firm that protects and enhances coastal and ocean resources, open space and wildlife, and human and environmental health through education, advocacy, and legal action, primarily within Ventura, Santa Barbara, and San Luis Obispo counties. For information about the EDC, or to support our efforts, please visit [www.EnvironmentalDefenseCenter.org](http://www.EnvironmentalDefenseCenter.org)