

Cannabis Water Quality, Wildlife, Water Rights, and Enforcement Programs

Matt St. John – North Coast Regional Board

Griffin Perea & Ashley Worth– Central Valley Regional Board

Yvonne West & Lt. DeWayne Little – State Water Board,
Office of Enforcement & Department of Fish and Wildlife

Erin Ragazzi – State Water Board, Division of Water Rights



Siskiyou County Board of Supervisors

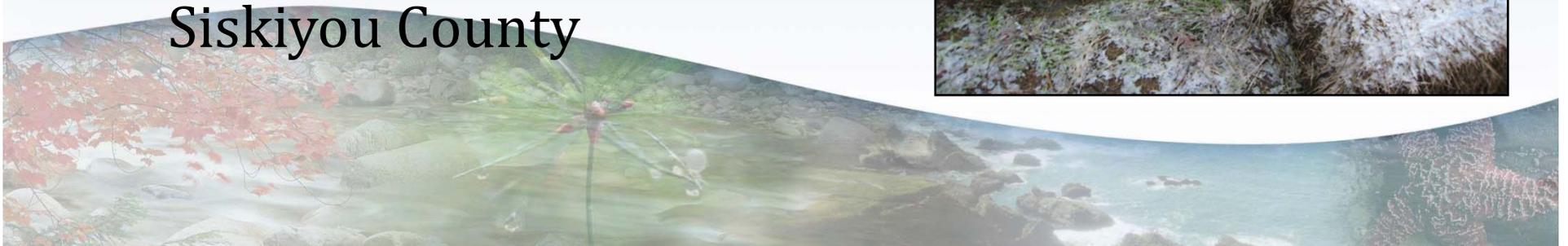
Yreka, CA

October 4, 2016



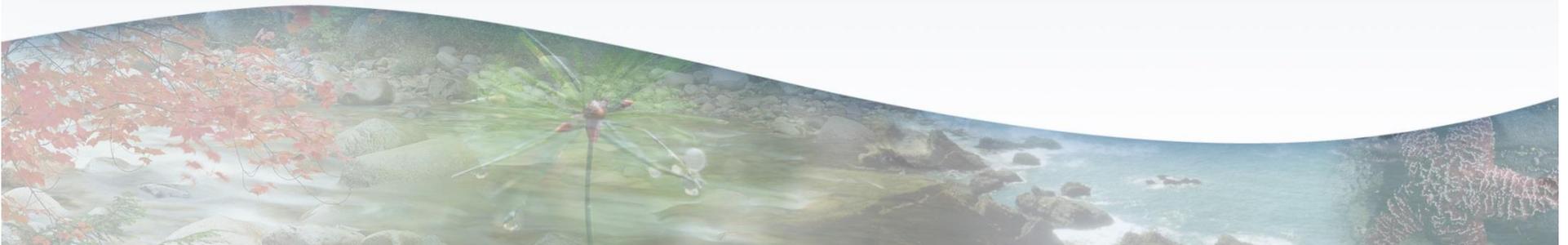
Presentation Overview

- Water quality and flow impacts
- Statewide Cannabis Strategic Initiative
- North Coast & Central Valley Regional Board regulatory programs
- Enforcement
- Division of Water Rights Cannabis Cultivation Related Projects
- Opportunities to assist Siskiyou County



Common issues with Cultivation

- Illegal or poorly designed site development and road and stream crossing construction
- Diversion of streams and groundwater pumping
- Runoff: sediment, nutrients, fertilizers and pesticides
- Household garbage - cultivation wastes
- Fuel storage and containment
- Human wastes



Large-scale grading



Improper site development and maintenance



Road Construction next to a fish bearing stream



Road surface runoff



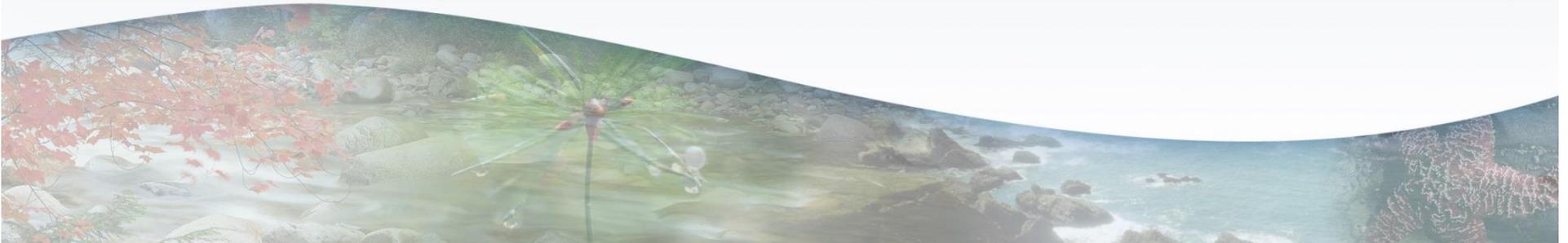
Runoff delivering to fish-bearing stream



Statewide Cannabis Initiative

Unregulated land development for cannabis cultivation threatens public safety, impacts wildlife, pollutes the land and streams, and destroys habitat.

- Pilot program initiated in July 2014
- Joint Water Boards/Fish and Wildlife Strategic Plan
- Four-pronged strategy:
 - Interagency coordination
 - Regulatory order development and implementation
 - Education and outreach
 - Enforcement



Strategy

Interagency Coordination



- Counties
- Cities
- Other Agencies

Education and Outreach

- This presentation
- Enrollment workshops
- Pre-Consults

Regulatory Program

- Order R1-2015-0023
- Order R5-2015-0013

Enforcement

- Identification of sites
- Watershed prioritization
- Ongoing inspections

Interagency Coordination

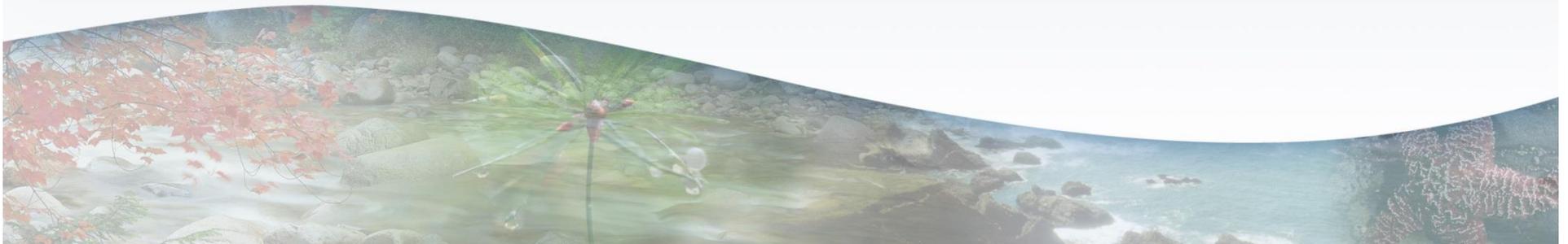
Primary Players: Dept. of Fish and Wildlife, Region 1, Region 5, and State Board Office of Enforcement, and State Board Division of Water Rights

- Formal Management Coordination
- Prioritization and Resource Coordination:
 - Joint Prioritization efforts
 - Joint inspections and enforcement efforts
 - Environmental crimes task force meetings and field efforts
 - Local and state agency coordination: new codes and ordinances, new legislation, new regulations
- Coordination with local governments and Tribes

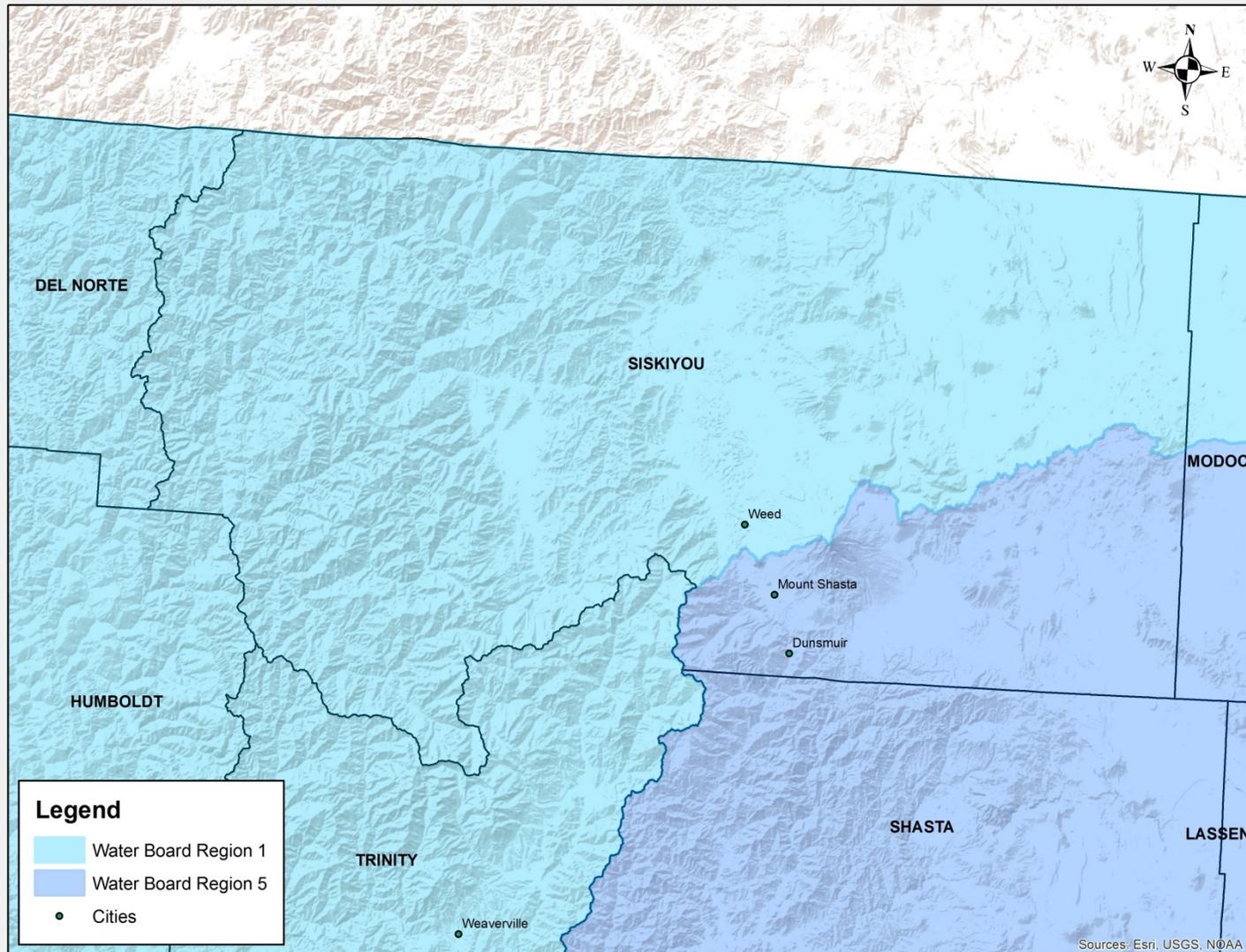


Waste Discharge Regulatory Programs

- Region 1: Adopted Order No. R1-2015-0023
- Region 5: Adopted Order No. R5-2015-0113
- Orders regulate the discharge of waste from cannabis cultivation and associated activities or operations with similar environmental effects.
- Do not authorize cultivation of cannabis
- Only apply to grows on private property

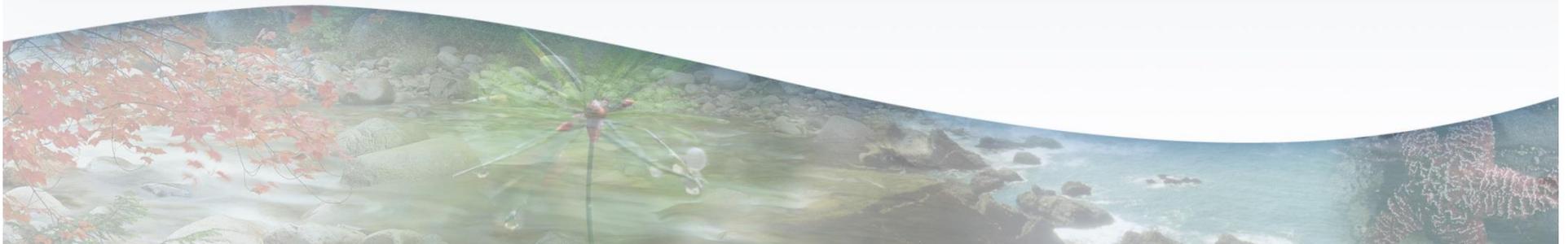


Regional Water Boards 1 & 5 Boundaries



Waste Discharge Regulatory Programs

- Standard Conditions – water quality and water conservation measures
- Tiered enrollment relative to water quality threats
 - Tier 1 – Low Threat
 - Tier 2 – Water Quality Management Tier
 - Tier 3 – Cleanup Tier
- Facilitate enforcement actions



Enforcement: Authority, Past Successes & Next Steps



Yvonne West

- Water Boards' Cannabis Regulation and Enforcement Unit

Lt. DeWayne Little

- California Fish & Wildlife Watershed Enforcement Team (WET)

Water Board Photo ©



Water Boards' Authority:

Water Quality & Water Rights



Above: Illegal water diversion at a recent inspection.
Right: Cloudy water & algal bloom due to sediments and elevated nutrients from discharge of fertilizers & potting soils.

Water Board photos ©

CA Fish & Wildlife Enforcement Authority



FGC §1602 – An entity may not:
substantially divert or obstruct the natural flow;
substantially change or use material from; deposit
or dispose debris into any river, stream, or lake
without first notifying CDFW in writing. CDFW
determines if notification is complete, and the
entity pays applicable fees.



FGC §12025(a)(1)(A) – Up to \$10,000 for each
violation of §1602 in connection with cannabis
cultivation while trespassing on public or private
land;

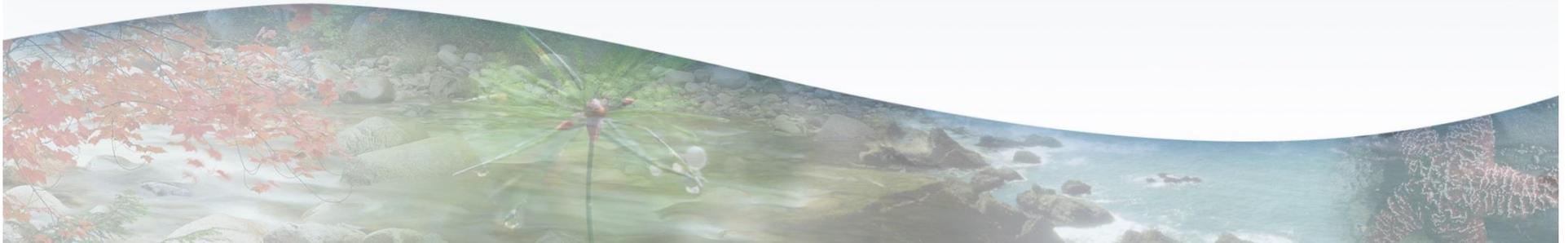
FGC §12025(b)(1)(A) – Up to \$8,000 for each
violation of §1602 in connection with cannabis
cultivation on land not subject to trespass;

FGC §12025(b)(2) Each day violation occurs or
continues to occur is a separate violation.

Violations Observed During 2015 Field Inspections and Observations

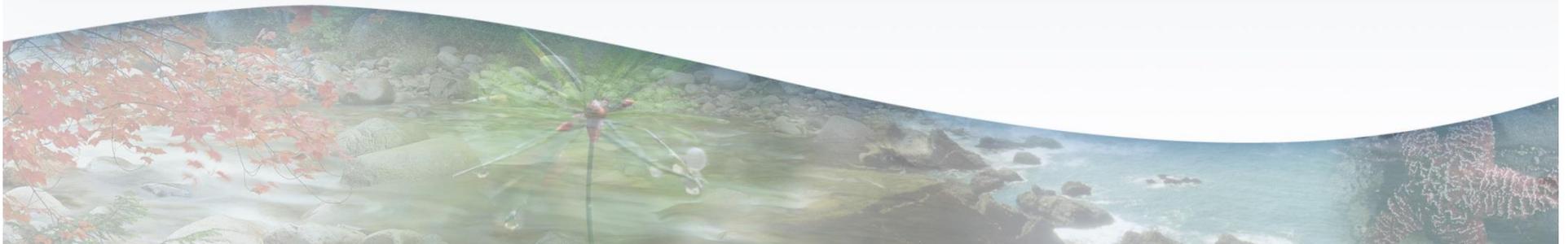
Cannabis Program Enforcement/Task Force Inspections in 2015:

- ~50% had one or more moderate violations (e.g., undersized crossings, small controllable sediment sites, housekeeping issues)
- ~25% had significant violations (e.g., fill in surface waters, poorly sited and constructed roads, widespread poor housekeeping practices)
- ~25% had no violations or very minor concerns
- ~95% of sites using surface water had water rights violations;



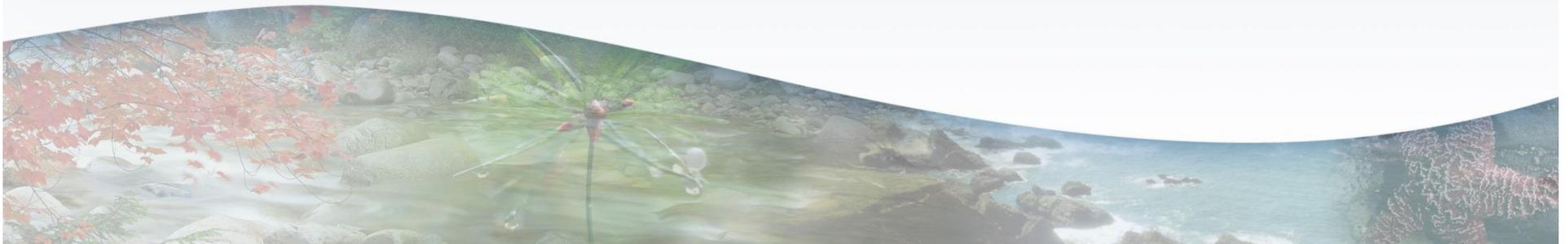
Task Forces Accomplishments

- CDFW & Water Boards participated in over 220 inspections in Northern CA Counties, including: Shasta, Tehama, Butte, Humboldt, Trinity, & Mendocino;
- Documented many water right, water quality & Fish and Game Code violations including unauthorized diversion & use violations;
- Served property owner with detailed Water Rights & Water Quality inspection reports to property owners detailing violations, potential violations, & provided compliance recommendations and NOV from CDFW;
- Substantial increase in Water Rights reporting and applications, & LSA ;
- Issued formal enforcement orders requiring site clean up and seeking in liability.



Task Force Case Highlights

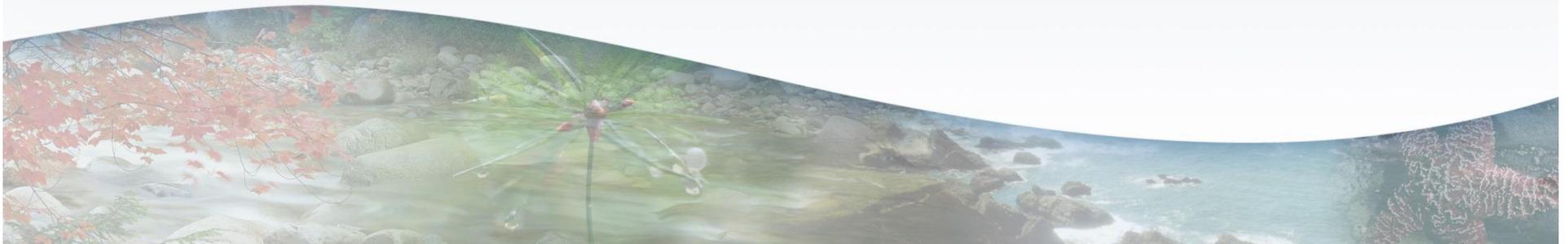
- **The Central Valley Regional Water Board imposed \$297,400 liability against property owner & contractor (June 2015)**
 - 1st penalty action with multiagency Cannabis Pilot Project;
 - Large-scale grading activities resulting in actual and potential harm to surface waters in the Ono area of Shasta County;
 - Grading resulted in unlawful discharges of sediment to pristine surface waters that provide habitat to aquatic organisms which are an important food source for fish, amphibians, birds & other wildlife.
 - The contractor conducted the grading operations on part of the property without permits & was held jointly liable for up to \$139,700 of the penalty.



Task Force Case Highlights (cont.)

State Water Board Enforcement against Bulk Water Hauler results in \$35,000 Settlement (October 2015)

- ACL Complaint issued for Water Rights Violations against Trinity County property owner for unauthorized diversion from Hayfork Creek;
- Settlement for full amount of proposed liability;
 - Made possible by remote surveillance with DFW's assistance;
 - Some water deliveries were allegedly as far away as Humboldt County.



State Water Resources Control Board, Division of Water Rights Implementation of Senate Bill (SB) 837

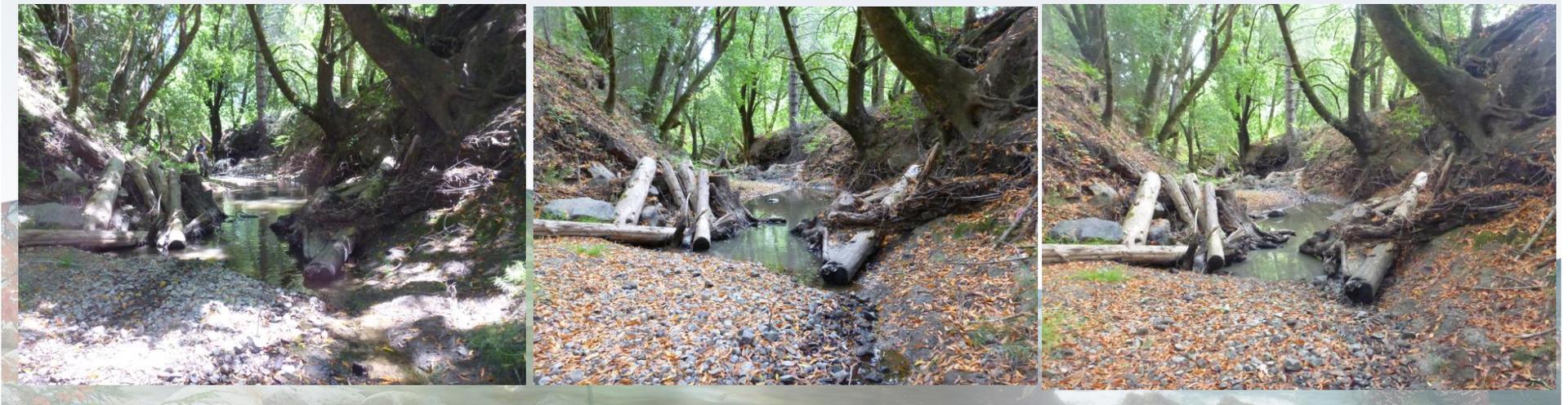
Cannabis Interim Principles and Guidelines

October 4, 2016 - Yreka
State Water Resources Control Board
Division of Water Rights
Erin Ragazzi



State Water Board Responsibilities

- Ensure individual and cumulative effects of water diversion and discharge associated with cannabis cultivation do not affect instream flows needed for fish spawning, migration, and rearing, and flows needed to maintain natural flow variability



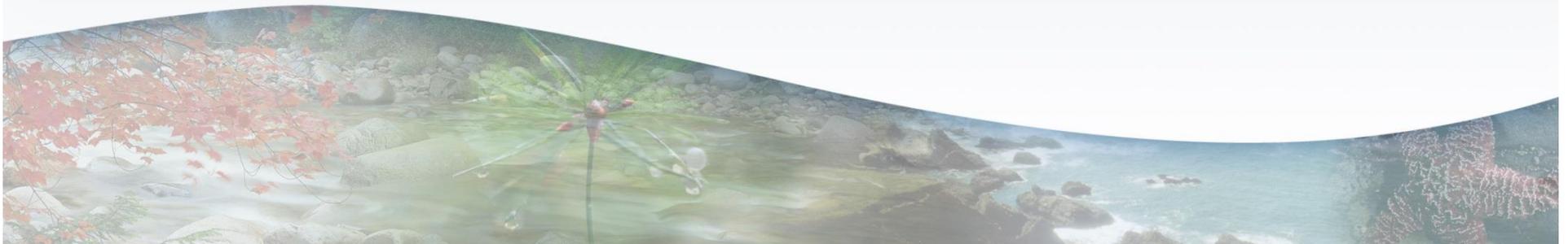
Principles and Guidelines

- Developed by State Water Board in consultation with California Department of Fish and Wildlife
- For diversion and use of water for cannabis cultivation in areas where cultivation may have potential to substantially affect instream flows



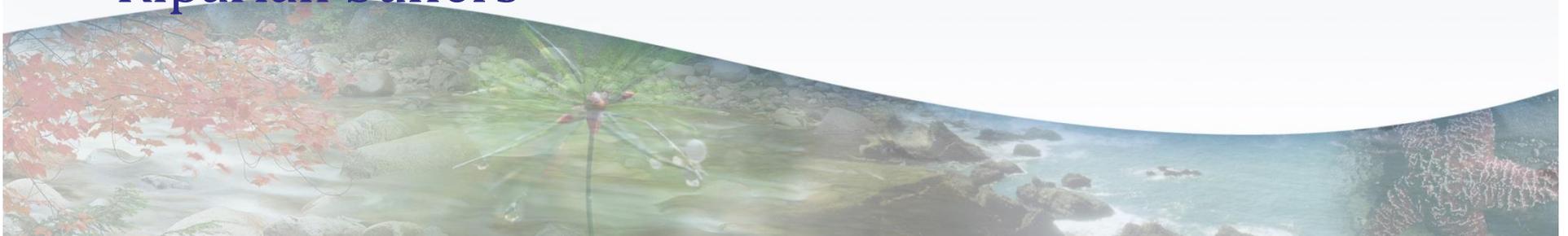
Principles and Guidelines (cont.)

- Principles and guidelines shall include measures to protect springs, wetlands, and aquatic habitat from negative impacts of cannabis cultivation
- May include requirements that apply to groundwater extractions



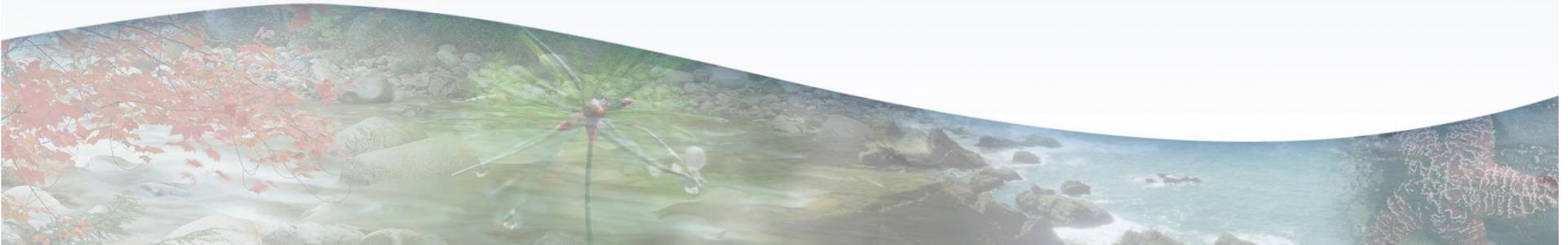
Interim Principles and Guidelines - Concept

- Surface water diversion forbearance period
 - Dry period – will vary by location depending on climate and hydrology
- Flow requirements for diversion period (wet season)
 - Maintain first flush flows, spring recession flows, and portions of other high flow events
- Fish screens and removal of passage barriers
- Conservation measures (drip, micro-spray irrigation)
- Riparian buffers



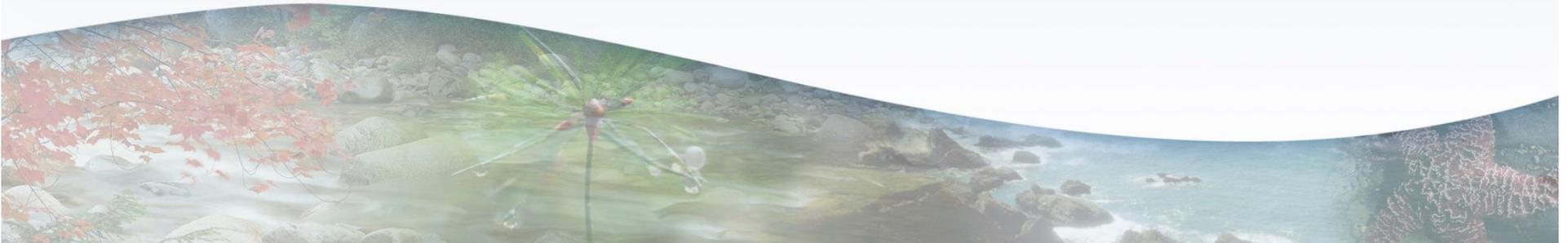
Implementation and Enforcement

- Goal: Develop interim principles and guidelines that are easily understood and enforceable
- State Water Board has primary enforcement responsibility for any principles and guidelines implemented as a result of SB 837
- Must notify California Department of Food and Agriculture of any enforcement action taken
- SB 837 does not limit the regulatory authority of the State Water Board under other provisions of law



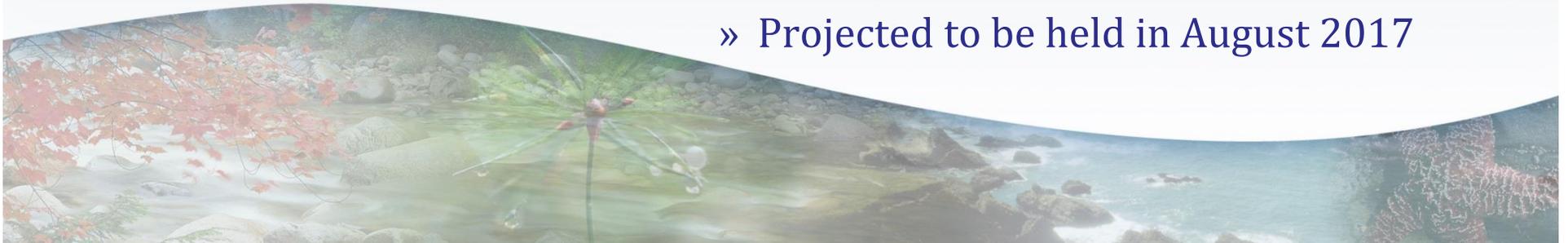
Projected Timeline

- Conduct initial outreach meetings in key regions: August - October 2016
 - Last meeting today, October 4, in Rancho Cordova from 2:00-4:00 pm (webcast available)
- Release draft policy, with principles and guidelines, for public review (60 days): March- May 2017
- State Water Board meeting for consideration of proposed principles and guidelines: August 2017



Public Participation

- How can you participate?
 - Submit written comments (tell us what you like and/or provide recommendations)
 - Deadline to submit comments is **October 7, 2016**
 - Email: cannabisWR@waterboards.ca.gov
 - Written Correspondence:
State Water Resources Control Board - Division of Water Rights
Cannabis Interim Flow Unit
P.O. Box 2000
Sacramento, CA 95812-2000
 - Submit comments on Draft Interim Principles and Guidelines
 - Attend State Water Board meeting, and provide comments
 - » Projected to be held in August 2017



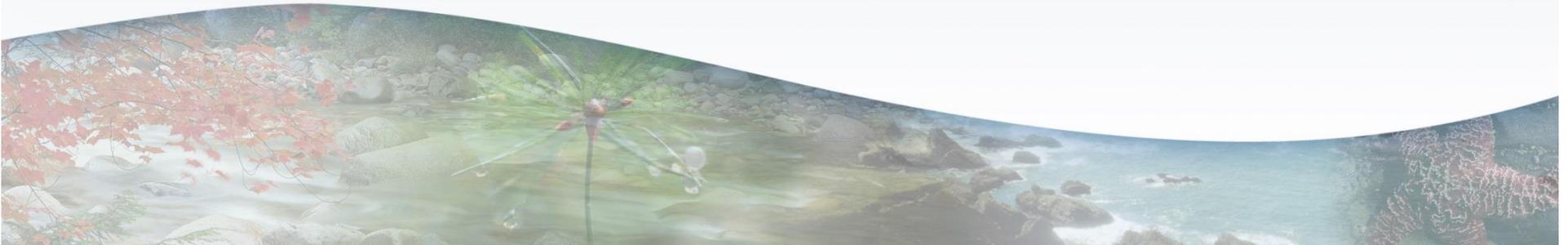
Registrations

- Develop general terms and conditions for the Small Irrigation Use registration program that can be applied statewide to support cannabis cultivation



Webpages

- State and Regional Water Board cannabis cultivation information available at: waterboards.ca.gov/cannabis - portal to all Water Boards cannabis programs



Email Subscriptions

Sign up for to receive emails about the State Water Board commercial cannabis cultivation:

- State Water Board:
http://www.waterboards.ca.gov/resources/email_subscriptions/
 - Select “Water Rights” and “Cannabis Cultivators”
- North Coast Regional Board:
http://www.waterboards.ca.gov/resources/email_subscriptions/reg1_subscribe.shtml
 - Select “Cannabis Discharge Regulatory Program”
- Central Valley Regional Board:
http://www.waterboards.ca.gov/resources/email_subscriptions/reg5_subscribe.shtml
 - Select “Cannabis Cultivation Waste Discharge Regulatory Program”



Contacts

Matt St. John Executive Officer, North Coast Regional Water Quality Control Board	707.570.3762 Matt.St.John@waterboards.ca.gov
Lt. DeWayne Little Supervising Warden, California Department of Fish and Wildlife	530.604.9789 DeWayne.Little@wildlife.ca.gov
Yvonne West Senior Staff Counsel, State Water Board's Office of Enforcement	916.322.3626 Yvonne.West@waterboards.ca.gov
Ashley Worth Environmental Scientist, Central Valley Regional Water Quality Control Board	530.224.6130 Ashley.Worth@waterboards.ca.gov
Erin Ragazzi Environmental Program Manager, State Water Board's Division of Water Rights	916.322.9634 Erin.Ragazzi@waterboards.ca.gov
Daniel Schultz Senior Environmental Scientist, State Water Board's Division of Water Rights	916.323.9392 Daniel.Schultz@waterboards.ca.gov

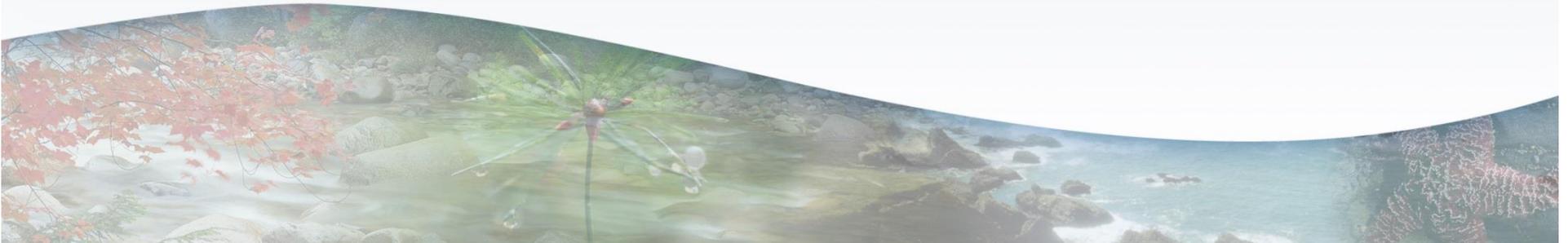
Extra Slides

11/10/2016

34

Water Board Enforcement

- Administrative
- Civil
- Criminal
- Regulatory Tools
 - Prohibitions
 - Waste Discharge Requirements or Waivers thereof
 - NPDES Permits



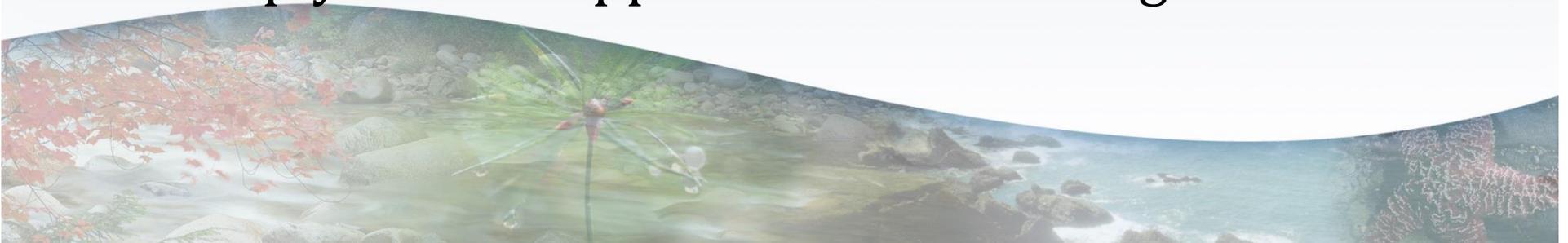
North Coast Regulatory Program

- August 13, 2015: Adopted Order No. R1-2015-0023
 - Does not authorize cultivation of cannabis
 - Regulates the discharge of waste from cannabis cultivation and associated activities or operations with similar environmental effects.
 - As of February 15, 2016: cultivators with 2000 square feet or more of cannabis were required to enroll for coverage under the Order.



North Coast Regulatory Program

- Property-wide coverage
- Standard Conditions – water quality and water conservation
- Tiered enrollment relative to water quality threats
 - Tier 1 – Low Threat
 - Tier 2 – Water Quality Management Tier
 - Tier 3 – Cleanup Tier
- Framework for third party programs
- Program compliance does not preclude the need to comply with all applicable laws and regulations



Central Valley Regulatory Program

Current Enrollments (30 September 2016)

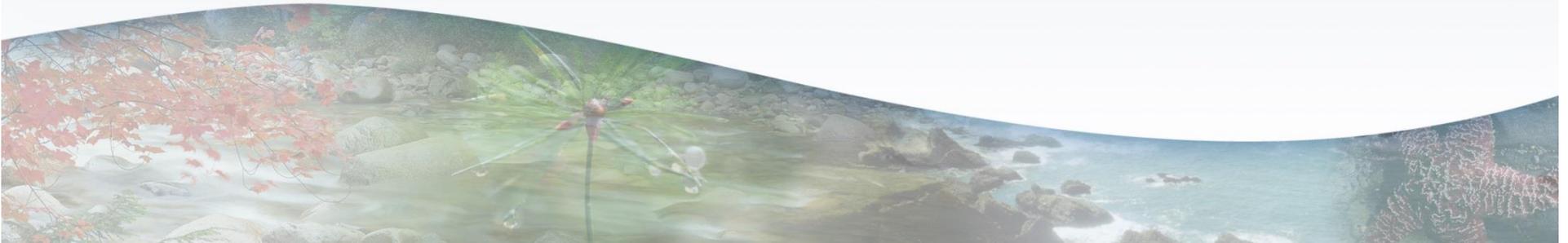
Ashley Worth

Enforcement, Central Valley Regional
Water Quality Control Board



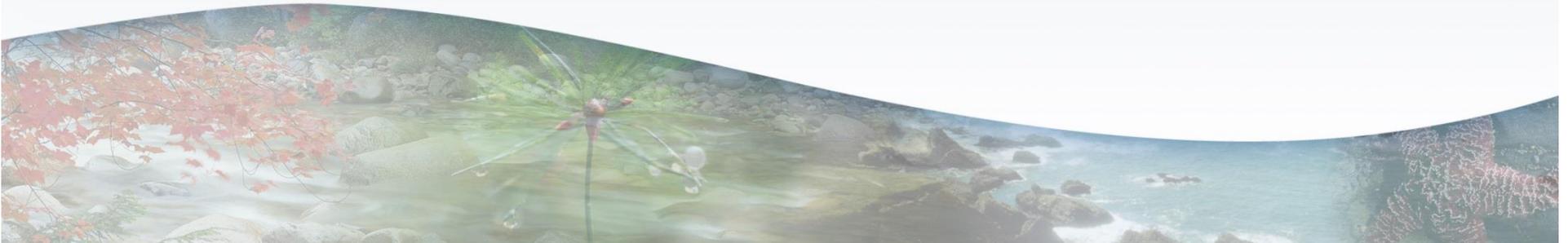
Central Valley Water Board's Regulatory Program

- The General Order regulates the discharge of wastes from outdoor or mixed indoor/outdoor cannabis cultivation operations that occupy and/or disturb more than 1,000 square feet.
- The General Order does not authorize, endorse, sanction, permit, or approve the cultivation, use, or sale of cannabis.
- Provides primacy to local jurisdictions



Central Valley Water Board's Regulatory Program (cont.)

- Uses Discharge Prohibitions, Discharge Specifications, and Best Management Practices to Reduce and Eliminate Waste Discharges from Medicinal Cannabis Cultivation Activities
 - Discharge Prohibition: Hazardous Waste
 - Discharge Specification: 100' from surface water
 - Best Management Practices (BMPs) Manual: Erosion and Sediment Control Measures



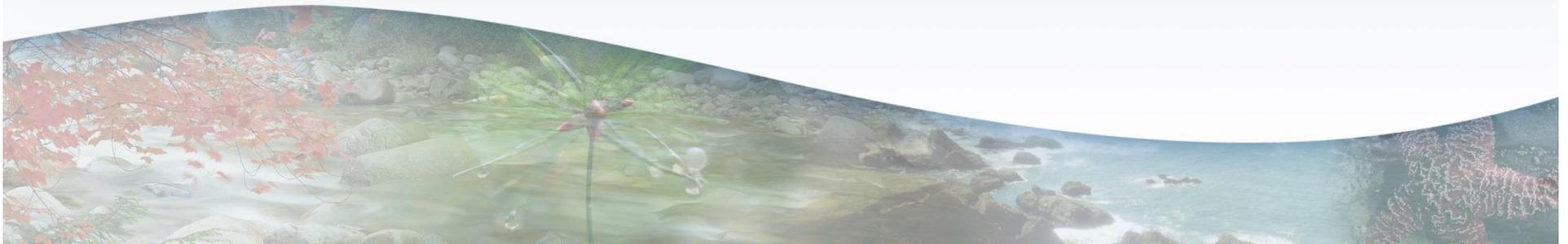
Tiers

***De minimus*: < 1,000 square feet**

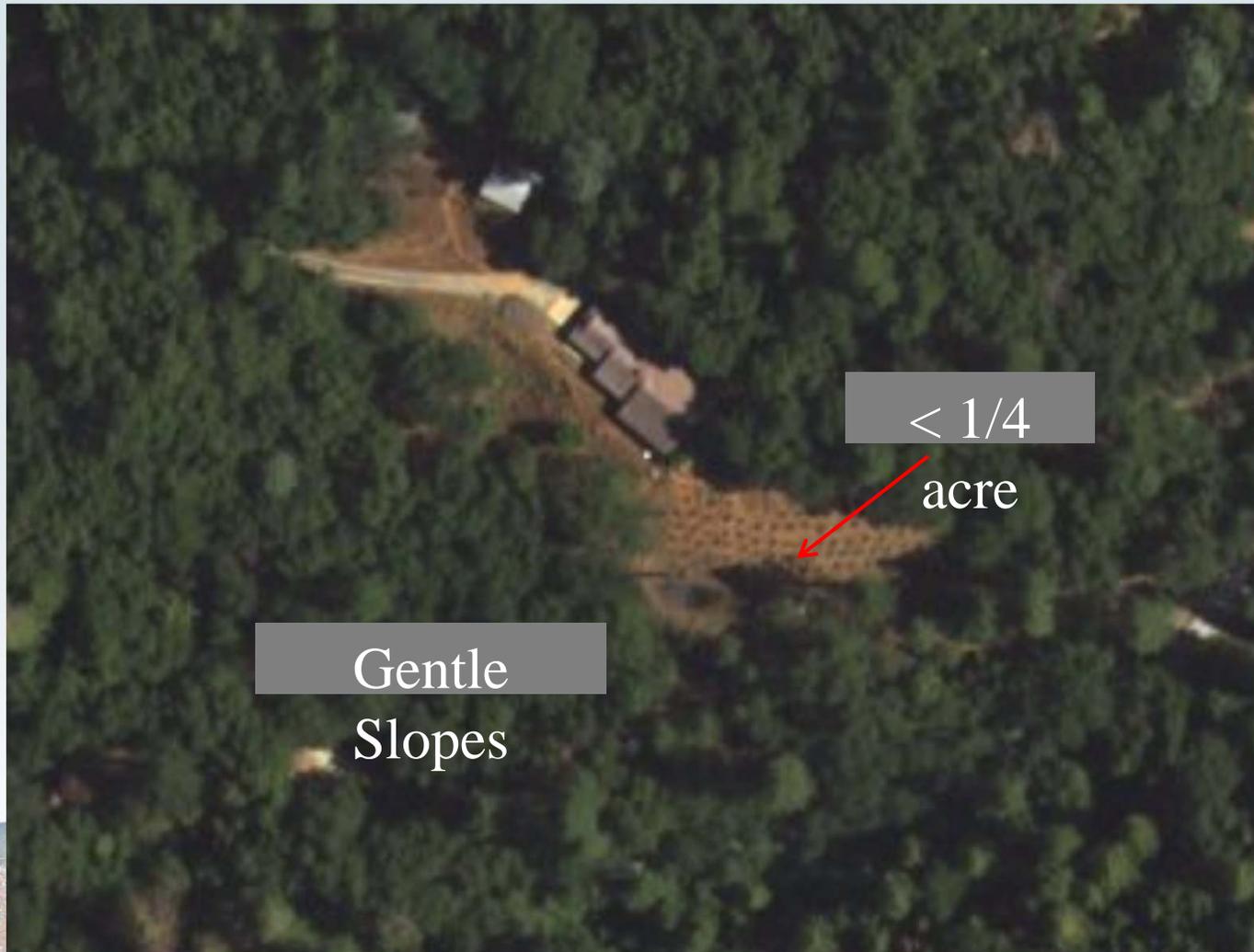
Tier I (Low Threat): <30% Slopes, <1/4 Acre,
AND >200 feet from aquatic life bearing water body

Tier II (Moderate Threat): <30% Slopes, < 1 Acre, AND
>200 feet from aquatic life bearing water body

Tier III (Elevated Threat): >30% Slopes, > 1 Acre,
OR <200 feet from aquatic life bearing water body



Tier 1 Operation



< 1/4
acre

Gentle
Slopes

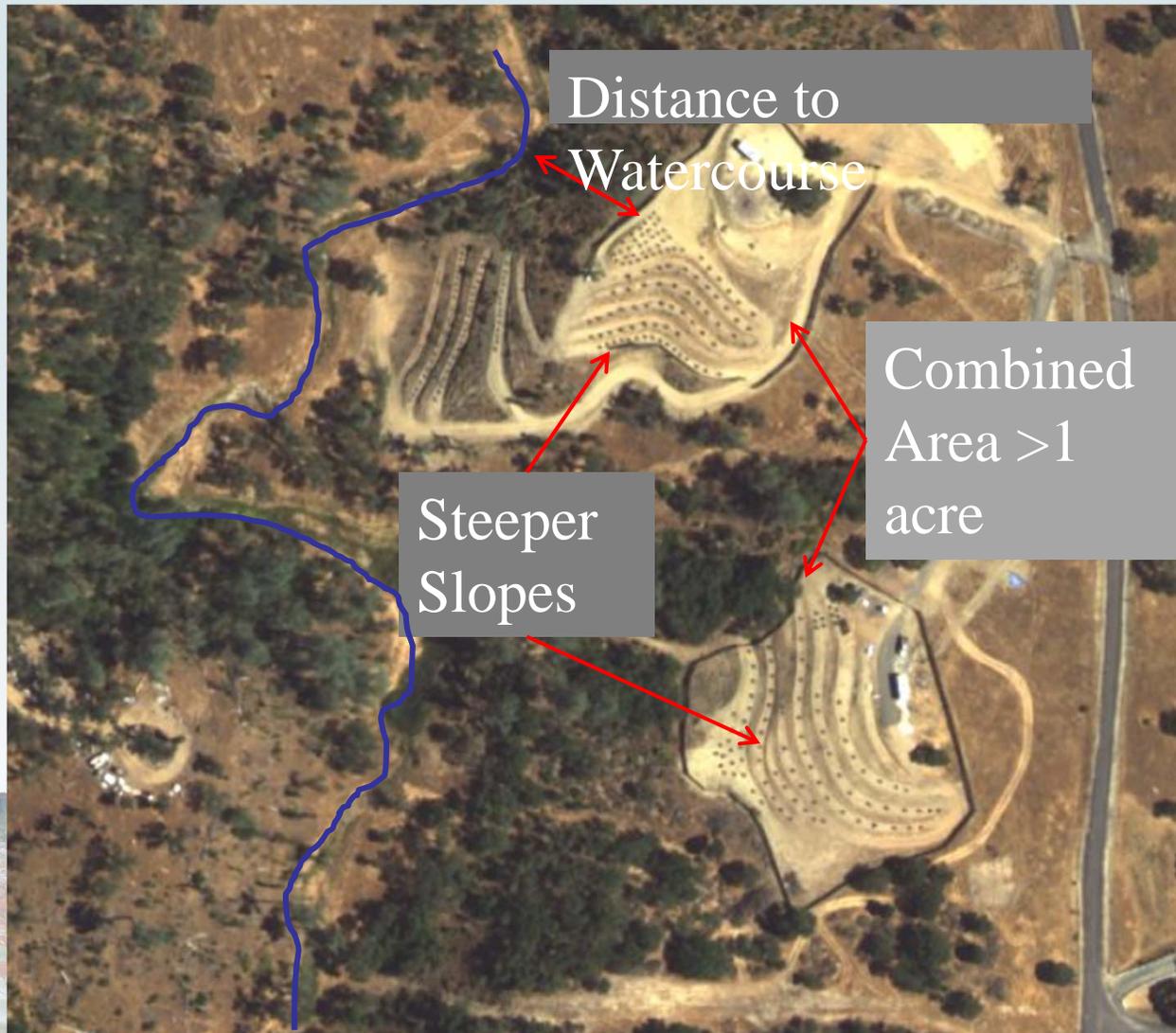
Tier 2 Operation



>1/4 acre, <1
acre

Gentle
Slopes

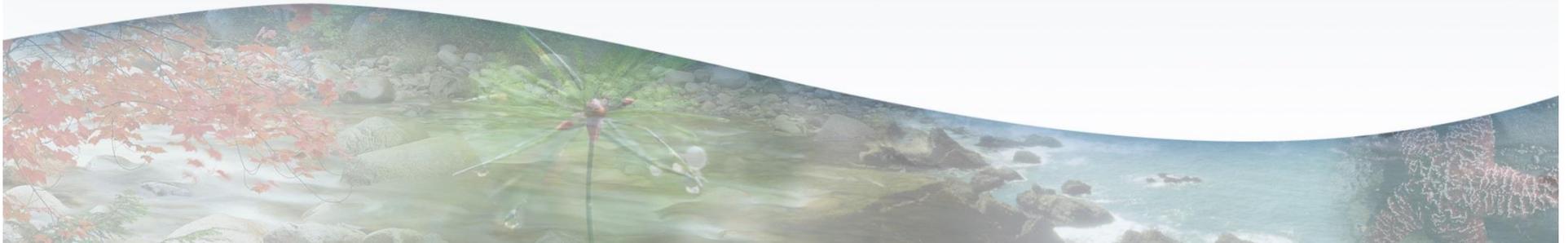
Tier 3 Operation



North Coast Regulatory Program

Current Enrollments (01-Sept-16)

Tier	County					
	Hum	Mendo	Sis	Son	Tri	All
1	46	25	0	2	10	83
2	268	41	2	6	59	376
3	2	0	0	0	0	2
Total:	316	66	2	8	69	461
In process:						273
						Grand Total
						734



Central Valley Regulatory Program

Current Enrollments (30 September 2016)

Tier	County							All
	Calaveras	Lake	Mariposa	Nevada	Plumas	Sierra	Yolo	
1	173	4	1	2	4	2	20	206
2	153	3	0	0	0	1	21	178
3	14	0	0	0	0	0	1	15
Total:	340	7	1	2	4	3	42	399
In Process:	263	2	0	2	0	0	11	278
								Grand Total: 677

