

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

CLEANUP AND ABATEMENT ORDER NO. R5-2022-0704

FOR  
SOUTHWICK CONTRUCTION LLC AND DARYLL STEVENS  
ASSESSOR'S PARCEL NUMBER 050-330-014-000  
NEVADA COUNTY

This Cleanup and Abatement Order (Order) is issued to Southwick Construction LLC and Daryll Stevens (hereafter referred to as "Dischargers") based on provisions of California's Porter-Cologne Water Quality Control Act (Water Code) section 13304, which authorizes the Central Valley Regional Water Quality Control Board (Central Valley Water Board) to issue an order requiring the cleanup and abatement of wastes, and Water Code section 13267, which authorizes the Central Valley Water Board to require the preparation and submittal of technical and monitoring reports.

The Executive Officer finds, with respect to the Dischargers' acts, or failures to act, the following:

**Purpose of the Order**

1. This Order requires the Dischargers to cleanup cannabis cultivation related waste and sediment that is discharging or threatening to discharge to Squirrel Creek, a tributary of the Yuba River. These discharges and threatened discharges of waste are the result of unauthorized grading and land disturbance activities related to cannabis cultivation at Nevada County Assessor's Parcel 050-330-014-000 (Site). These unauthorized activities have discharged wastes or threaten future discharges of waste to waters of the State of California (state) without authorization from applicable federal, state, or local agencies, including the Central Valley Water Board. This Order requires investigation and cleanup in compliance with the Water Code, the Water Quality Control Plan for the Sacramento River and San Joaquin River Basins, Fifth Edition, February 2019 (Basin Plan), State Water Resources Control Board (State Water Board), Policies and Procedures for Investigation and Cleanup and Abatement of Discharges (Resolution 92-49), and other applicable State and Central Valley Water Board plans, policies, and regulations. There is no record of prior regulatory oversight for the Site through the Central Valley Water Board.

**Site Location and Description**

2. The Site is located at 20693 Wildwood West Drive, Penn Valley, CA 95946 (GPS Coordinates: 39.229021, -121.234410). The Site is within the Squirrel Creek HUC-12 Hydrologic Unit Basin. Surface waters at the Site flow into Squirrel Creek,

which flows into Deer Creek, a tributary of the Yuba River. The Yuba River, and its tributaries, are waters of the state. Squirrel Creek is located approximately 150 feet from the west parcel boundary of the Site. An unnamed Class III watercourse runs along the south side of the Site and flows into Squirrel Creek.

### **Responsible Parties**

3. This Order finds that the Dischargers are responsible parties based on the following:
  - a. Southwick Construction LLC is the current owner of the Site and was the landowner during all inspections conducted by Central Valley Water Board staff. Based on Nevada County Assessor records, Southwick Construction LLC purchased the Site on November 28, 2016. The North Carolina Secretary of State Business Search online shows Mark D. Stevens as the Registered Agent for Southwick Construction LLC.
  - b. During the 17 December 2021 inspection, Daryll Stevens, brother of Mark D. Stevens, informed Central Valley Water Board staff that he was the individual responsible for the cannabis cultivation, grading, and soil disturbance that had occurred at the Site.
  - c. As the owner or operator at the time of the discharge and threatened discharge of waste, including the occasions when staff inspected the Site, the Dischargers had or should have had knowledge of the unauthorized activities that resulted in the discharge and threatened discharge, and had the legal ability to prevent the discharges from occurring. The Dischargers also have the ability to remediate conditions at the Site and prevent additional waste discharges.
4. The Central Valley Water Board reserves the right to amend this Order to add additional responsible parties if/when those parties are identified.
5. The Central Valley Water Board, by adopting this Order, is not making any determination as to apportionment of liability among or between responsible parties and nothing in this Order is intended to, or shall be interpreted as, limiting a responsible party's ability to seek reimbursement or indemnity from any and all other responsible parties.

### **Factual Basis of the Order**

6. On 24 September 2021, Central Valley Water Board Cannabis Regulatory Enforcement Unit (CREU) staff inspected the Site under a criminal search warrant

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obtained and served by the Nevada County Sheriff's Office. California Department of Fish and Wildlife (CDFW) scientists and wardens, and members of Nevada County Code Enforcement also participated in the search warrant inspection of the Site. During the Site inspection, CREU staff documented active cannabis cultivation and a variety of active and threatened discharges of waste in violation of the Water Code. Subsequent to the inspection, an Inspection Report was issued to the Dischargers on 25 October 2021.

7. Following the 24 September 2021 inspection, Daryll Stevens informed staff that he had performed some corrective actions at the Site, and then provided consent on 17 November 2021 for CREU staff to inspect the Site to document remediation work performed, as well as any changes to Site conditions due to recent rains.
8. A Notice of Violation (NOV) was issued to the Dischargers on 19 November 2021 requesting remediation and stabilization of grading and soil disturbance within the unnamed Class III watercourse and canal, and removal of native earthen materials discharged into the canal. The NOV further requested that all disturbed areas, including the graded pads, cut and fill slopes, access roads, potting soil piles, and the watercourse crossing, be stabilized and that best management practices (BMPs) be installed/implemented to mitigate unauthorized discharges of sediment to receiving waters. The NOV also requested proper storage or removal of all fertilizers, pesticides, generators, and petroleum products and removal of all cultivation-related materials, infrastructure, and miscellaneous debris and refuse from the Site.
9. During a 17 December 2021 consent inspection, CREU staff observed unlawful discharges and threatened discharges of waste to waters of the state, however, evidence of active cannabis cultivation was not observed. Observations made by staff during the consent inspection included the following:
  - a. Evidence of rilling in the surface of the bare native earthen material that comprised the cut and fill slopes around the sides of the pad in the West Cultivation Area (CA). Fine sediment had discharged from the slopes and accumulated at the toe of the slopes, as well as in some shallow pools of the unnamed Class III watercourse. Sediment had also been transported along the access road surface and had discharged down slope. Staff also documented erosional rills in the surface of the native material of the unarmored access roads of the West CA where BMPs were absent.
  - b. The previously observed and documented (in the 25 October 2021 Inspection Report) generators, gas-powered pumps, paint sprayers, and 5-gallon

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buckets containing unknown liquids, as well as the containers of insecticide and miticide, had been removed from the West CA. However, plastic tarps, plastic pots, irrigation tubing, woven plastic weed barriers, piled potting soil, and other cultivation related infrastructure were still present in the West CA. These items were located on the pad and piled along the eastern and western extent of the disturbed area. These items have the potential to discharge into the nearby unnamed Class III watercourse.

- c. Approximately 75 feet east of the West CA, staff observed that the slash and cut brush piled into and along the channel of the unnamed Class III watercourse was unchanged since the 24 September 2021 inspection.
- d. Upslope from the intersection of the unnamed Class III watercourse and a canal, an erosional gully had formed where bare native earthen materials and vegetation had been graded. Staff observed that sediment appeared to have washed away along the channel of the unnamed Class III watercourse due to the grading. Staff also observed a pile of fill material that had been placed into the canal next to the intersection of the unnamed Class III watercourse and canal. Staff noted that the pile of fill material appeared to be eroding and discharging downstream during storm events. Although the canal is no longer used or maintained by the Nevada Irrigation District, it likely conveys water during storm events. Water that collects in the canal flows into the Class III watercourse. At the intersection, water in the unnamed Class III watercourse passes through the berm of the canal via a concrete box, and continues downslope, carrying any discharge with it.
- e. The trench extending from a large pit that contained a septic tank located 140 feet southwest of the West CA pad appeared unchanged, compared to observations made during the 24 September 2021 inspection. Native material that had been removed from the trench and pit remained piled nearby and threaten to discharge downslope into the canal and then into the unnamed Class III watercourse. Staff noted that the previously observed backhoe tractor and skid steer in this area had been removed.
- f. A graded terrace cut into the hillside with a failing, exposed cut slope was observed at the Middle CA. Native material that had become saturated during recent rains was sloughing off the cut slope face. The slope failure appeared to be recent and was more extensive than when observed during the previous inspection on 24 September 2021. The lack of stabilization of the cut slope threatened to discharge sediment to the downslope Class III watercourse.

- g. Cultivation infrastructure, including hoop house frames, netting, cages, fabric smart pots and irrigation lines, remained in both the West CA and the Middle CA.
  - h. An unarmored ford-type crossing consisting of native earthen materials was constructed in the unnamed Class III watercourse where the access road continued onto a neighboring parcel to the southeast of the Middle CA. The ford-type crossing lacked any BMPs and appeared to be failing. Staff observed that this section of access road appeared frequently used. No culverts were observed at the crossing under the access road. Although it was not flowing at the time of the inspection, erosional evidence indicated water from the unnamed Class III watercourse had passed over the crossing fill material, causing rills to form along the downstream fill slope of the ford crossing. Sediment and gravel had been recently transported from the road surface and discharged into the unnamed Class III watercourse. These rills and discharges were not evident during the 24 September 2021 inspection.
  - i. In the East CA, staff observed irrigation tubing and some cultivation infrastructure still remaining.
10. On 26 March 2022, Daryll Stevens emailed CREU staff three low-resolution photos of the West CA, showing that the hoop houses and smart pots with potting soil remained, and indicated ongoing erosional concerns associated with the pad, fill material, and adjacent access roads. Staff noted that some vegetation had propagated in this area, but not in sufficient quantities to reduce the potential for erosion and discharge of the materials to surface waters.

### **Beneficial Uses and Water Quality Objectives**

11. The Basin Plan designates beneficial uses, establishes water quality objectives, contains implementation programs for achieving objectives, and incorporates by references, plans and policies adopted by the State Water Board.
12. The unnamed Class III watercourse at the Site, a water of the state, is a tributary to Squirrel Creek, which flows into Deer Creek, which is a tributary of the Yuba River. The designated beneficial uses for the Yuba River include the following: Municipal & Domestic Supply (MUN); Agricultural Supply (AGR); Industrial Power (POW); Water Contact (REC-1) & Other Non-contact Recreation (REC-2); Warm Freshwater Habitat (WARM); Cold Freshwater Habitat (COLD); Warm and Cold Migration of Freshwater Aquatic Organisms (MIGR); Warm and Cold Spawning of

Freshwater Aquatic Organisms (SPWN); and Wildlife Habitat (WILD). Beneficial uses of any specifically identified water body generally apply to all its tributaries.

13. The designated beneficial uses of the underlying groundwater for the Sacramento Valley hydrologic area, include municipal and domestic supply (MUN); agricultural supply (AGR); industrial service supply (IND); and industrial process supply (PRO).
14. The Basin Plan lists specific Water Quality Objectives for inland surface waters. These objectives include, in part, limitations on increased temperature, sediment, settleable and suspended material, and turbidity.

### **Legal Basis of the Order**

15. Water Code section 13304, subdivision (a) states, in relevant part, “any person who has discharged or discharges waste into waters of this state in violation of any waste discharge requirement or other order or prohibition issued by a regional board or the state board, or who has caused or permitted, causes or permits, or threatens to cause or permit, any waste to be discharged or deposited where it is, or probably will be, discharged into the waters of the state and creates, or threatens to create, a condition of pollution or nuisance, take other necessary remedial action, including, but not limited to, overseeing cleanup and abatement efforts. Upon failure of any person to comply with the cleanup and abatement order, the Attorney General, at the request of the board, shall petition the superior court for that county for the issuance of an injunction requiring the person to comply with the order. In the suit, the court shall have jurisdiction to grant a prohibitory or mandatory injunction, either preliminary or permanent, as the facts may warrant.”
16. “Waste” is defined by Water Code section 13050, subdivision (d) as, “sewage and any and all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing, or processing operation, including waste placed within containers of whatever nature prior to, and for the purpose of, disposal.”
  - a. Sediment, when discharged to waters of the state, is considered a “waste” as defined in Water Code section 13050, subdivision (d). As a result of the unauthorized grading and land disturbance activities, sediment was discharged or deposited where it will be, or has the potential to be, mobilized and discharged into waters of the state. Additionally, the trash, other miscellaneous debris that were observed adjacent to the unnamed Class III watercourse, and slash placed in the unnamed Class III watercourse are “waste” as defined in Water Code section 13050, subdivision (d).

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17. "Pollution" is defined by Water Code section 13050, subdivision (l)(1) as, "an alteration of the quality of the waters of the state by waste to a degree which unreasonably affects either of the following: (A) the waters for beneficial uses, (B) facilities which serve these beneficial uses."

- a. Sediment from the unauthorized grading and land disturbance activities, irrigation runoff, trash, and other miscellaneous debris has discharged, and has the potential to discharge into the unnamed Class III watercourse, creating or threatening to create a condition of pollution and unreasonably affecting the beneficial uses of waters of the state.
- b. Unauthorized discharges of sediment and other inert materials can alter the natural hydrologic and sediment transport regimes of surface waters by affecting the flow of water, sediment deposition, and establishment of vegetation. Such changes may lead to adverse conditions such as flooding, increases in suspended sediment and turbidity, accelerated erosion of the watercourse bed or banks, and localized accumulation of deleterious materials. Additionally, such discharges directly threaten wildlife habitat and aquatic species by impacting beneficial uses such as warm freshwater habitat, cold freshwater habitat, wildlife habitat, and spawning. Increased sedimentation and turbidity can result in increased treatment and/or maintenance costs for downstream agricultural and municipal users impacting the following beneficial uses such as municipal and domestic supply, agricultural supply, industrial process supply, and groundwater replenishment. Sediment laden storm water discharges to surface water and the resulting turbidity can also affect the recreational and aesthetic enjoyment of the surface waters impacting beneficial uses to include contact water recreation and non-contact water recreation.
- c. Precipitation runoff from the cultivation areas containing nutrients, fertilizers, chemicals and soil amendments also has the potential to alter the chemistry and water quality of surface and ground waters. Such changes may lead to increased treatment and/or maintenance costs for users of surface and ground waters which may impact beneficial uses such as municipal and domestic supply, agricultural supply, industrial process supply, and groundwater replenishment. Altered water chemistry and quality could be lethal to fish and other aquatic organisms and are known to contribute to harmful algal blooms.
- d. The dumping and discarding of trash, cultivation related debris, nutrient and chemical laden soils, and other miscellaneous refuse has the potential to alter

the hydrologic regimes of surface waters, threaten wildlife habitat and aquatic species, impact downstream infrastructure, and result in impacts to sediments and soils downstream. Microplastics, nutrients, chemical pesticides and herbicides contained in these wastes may adversely affect surface and ground water quality. As such, the beneficial uses impacted by the observed dumping and discard of trash are as follows: municipal and domestic supply, agricultural supply, industrial process supply, freshwater replenishment, contact water recreation, non-contact water recreation, warm freshwater habitat, cold freshwater habitat, and wildlife habitat.

18. Cleanup and abatement are necessary to ensure that any existing condition of pollution is remediated, that threatened unlawful discharges of waste to waters of the state from the Site are prevented, and that any impacts to beneficial uses are mitigated. The issuance of a Cleanup and Abatement Order pursuant to Water Code section 13304 is appropriate and consistent with policies of the Central Valley Water Board and State Water Board.
19. Resolution 92-49 sets forth the policies and procedures to be used during an investigation and cleanup of a polluted site and requires that cleanup levels be consistent with State Water Board Resolution No. 68-16, *Statement of Policy with Respect to Maintaining High Quality Waters in California* (Antidegradation Policy). Resolution 92-49 requires waste to be cleaned up in a manner that promotes attainment of either background water quality, or the best water quality which is reasonable if background levels of water quality cannot be restored. Any alternative cleanup level to background must: (1) be consistent with the maximum benefit to the people of the State; (2) not unreasonably affect present and anticipated beneficial use of such water; and (3) not result in water quality less than that prescribed in the Basin Plan and applicable Water Quality Control Plans and Policies of the State Water Board. Resolution 92-49 directs that investigations proceed in a progressive sequence. To the extent practical, it directs the Central Valley Water Board to require and review for adequacy written work plans for each element and phase, and the written reports that describe the results of each phase of the investigation and cleanup.

#### **Technical Reports Required**

20. Water Code section 13267, subdivision (a), provides that the Central Valley Water Board may investigate the quality of any water of the state within its region in connection with any action relating to the Basin Plan. Water Code section 13267, subdivision (b), provides that the Central Valley Water Board, in conducting an investigation, may require dischargers to furnish, under penalty of perjury, technical



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or monitoring program reports. The burden, including costs, of these technical reports shall bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports. Staff estimate the total cost of technical reports required by this Order to be approximately \$9,800 - \$34,000<sup>1</sup>. The costs of the technical or monitoring reports required by this Order bear a reasonable relationship to the need for these reports and the benefit to be gained by these reports, as discussed below:

- a. A Restoration Monitoring and Mitigation Plan (RMMP) is a technical report that is necessary to determine the scope and extent of actual and/or potential unlawful discharges of waste that could affect the quality of the waters of the state. By requiring the Dischargers to submit an RMMP, the Central Valley Water Board or its delegated officer can review and approve the proposed restoration and corrective actions to confirm the proposed measures will adequately address past discharges and prevent future discharges from impacting beneficial uses. The RMMP requirements and associated costs to prepare an RMMP (i.e., field inspection and report preparation) are comparable to that of preparing a combined Site Management Plan and Disturbed Area Stabilization Plan as presented in the 2017 Direct Cost Analysis, which is estimated to cost between \$3,660 and \$11,720. After consideration of these factors, staff has determined that the burden, including costs, of submitting the RMMP bears a reasonable relationship to the need for the report and the benefits to be obtained from the report.
- b. A RMMP Completion Report demonstrates to the Central Valley Water Board or its delegated officer that the restoration and corrective actions contained in the approved RMMP have been fully implemented. By requiring the Dischargers to submit documentation of the corrective actions, including pre- and post- remediation photographs and relevant maps and schematic diagrams, staff can confirm the RMMP has been fully implemented and that BMPs are adequate to prevent future unlawful discharges of waste into waters of the state. The cost to prepare an RMMP Completion Report is

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<sup>1</sup> The State Water Board considered the estimated costs associated with various technical reports regarding site characterization, stabilization, and restoration during the adoption and amendment of the Cannabis Cultivation Policy and General Order. Estimated costs for technical reports were presented in the State Water Board's 2017 Direct Cost Analysis For the [Proposed Cannabis Cultivation Policy](https://waterboards.ca.gov/water_issues/programs/cannabis/docs/policy/20171017_cannabis_cultivation_policy_cost_analysis.pdf) (2017 Direct Cost Analysis) (waterboards.ca.gov/water\_issues/programs/cannabis/docs/policy/20171017\_cannabis\_cultivation\_policy\_cost\_analysis.pdf). The costs to develop the technical reports required in this Order are anticipated to be comparable to the preparation of reports presented in the 2017 Direct Cost Analysis, as detailed in Paragraph 17, subparagraphs a-b.

comparable to the report preparation component of a combined Site Management Plan and Disturbed Area Stabilization Plan as presented in the 2017 Direct Cost Analysis, which is estimated to cost between \$2,900 and \$8,000. After consideration of these factors, staff determined that the burden, including costs, of submitting the RMMP Completion Report bears a reasonable relationship to the need for the report and the benefits obtained from the report.

- c. Annual Monitoring Reports are necessary to document the long-term stability of affected areas, to identify any areas where restoration activities are ineffective or require improvement, and to demonstrate the effectiveness of erosion control measures in preventing unlawful discharges of waste to waters of the state. Given the condition of the Site as a result of the unauthorized land disturbing activities, including erosion along access roads, erosion of the cut and fill slopes of the West CA constructed pad, slope failure at the Middle CA, sediment discharges resulting from the ford-type crossing, fill material placed within the channel of the unnamed Class III watercourse, and slash and cut brush piled in the channel of the unnamed Class III watercourse, a yearly monitoring report submitted for a period of three years will enable staff to confirm that the completed restoration and corrective actions documented in the RMMP Completion Report continue to be effective over wet and dry seasons. The cost to prepare an Annual Monitoring Report is comparable to producing a Site Closure Report as presented in the 2017 Direct Cost Analysis, which is estimated to cost between \$1,080 and \$4,760 per report, for a total of \$3,240 to \$14,280 for three annual reports. After consideration of these factors, staff has determined that the burden, including costs, of submitting the Annual Monitoring Reports bears a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.

The Dischargers named in this Order own or operate, and have owned or operated the Site from which waste was unlawfully discharged, and which threatens to discharge, as observed during the Site inspections, and thus are appropriately named as parties responsible for providing the reports.

### **California Environmental Quality Act**

21. Issuance of this Order is an enforcement action taken by a regulatory agency to enforce the regulatory provision of the Basin Plan, and is exempt from provisions of the California Environmental Quality Act (CEQA) (Public Resources Code, § 21000 et seq.) in accordance with California Code of Regulations, title 14, § 15321. This

action may also be considered exempt because it is an action by a regulatory agency for the protection of natural resources (Cal. Code Regs., tit. 14, § 15307) and an action by a regulatory agency for the protection of the environment (Cal. Code Regs., tit. 14, § 15308). To the extent that the Order requires earth disturbing and revegetation activities not to exceed five acres in size and to ensure restoration of stream habitat and prevent erosion, such actions are considered exempt from the provisions of CEQA pursuant to California Code of Regulations, title 14, § 15333. Should additional environmental review be required in connection with future discretionary regulatory actions at this site, the Central Valley Water Board may recover the costs associated with preparing and processing environmental documents from the Dischargers (Pub. Resources Code, § 21089).

### **Required Actions**

**IT IS HEREBY ORDERED** that, pursuant to Water Code sections 13267 and 13304, the Dischargers shall cleanup and abate or take other necessary remedial action with respect to the discharge and threatened discharge of waste to waters of the state and submit technical and/or monitoring reports as follows:

1. **Within 60 days** of the effective date of this Order, the Dischargers shall submit a proposed **Restoration Monitoring and Mitigation Plan (RMMP)** for approval by the Central Valley Water Board or its delegated officer. The RMMP shall detail proposed actions to clean up the observed unlawful discharges of waste to waters of the state, restore the impacted watercourse channels and riparian zones, and prevent the potential for future discharges at the Site. The RMMP shall include, at a minimum, plans for the following items:
  - a. Restoration of the unnamed Class III watercourse channel, canal, and riparian setbacks that were altered via grading and the placement of fill. The riparian setbacks are 50 feet from the top edge of the bank of the Class III watercourse. In the case of man-made irrigation canals, the setback is to be outside of the established riparian vegetation zone. Restoration shall include, at a minimum, the following:
    - i. Evaluation and methodology description for the removal of fill materials placed in the Class III watercourse channel and canal, and stabilization of the Class III watercourse banks and channel to reduce erosion. In channel work may require permits or authorization from the Central Valley Water Board and/or the CDFW. Therefore, pre-project consultation with both agencies is required before commencing work.

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- ii. Reestablishment of the unnamed Class III watercourse channel where discharged material will be removed to establish a natural contour and grade to prevent scour and channel migration. The goal should be to match the original course and gradient, and reduce scouring due to realignment and earth work.
  - iii. Removal of refuse and slash placed within the unnamed Class III watercourse channel, or other areas of the Site where it may be transported into the watercourse.
- b. Installation and maintenance of sediment and erosion control measures utilizing Best Management Practices (BMPs) along access roads, cut and fill slopes, cultivation areas, and areas of grading and ground disturbance, and to maintain the restored watercourse channel, with the goal of preventing excess sediment discharge or scouring. At a minimum, the sediment and erosion control measures must include the following:
- i. Revegetation of the riparian zone with regionally native vegetation or similar native species.
  - ii. Installation of BMPs during the implementation of all planned work associated with Site restoration and maintenance under the RMMP.
- c. Evaluation and reconstruction of the unnamed Class III watercourse crossing to prevent additional unlawful discharges, potential diversion of the watercourse, or failure of the ford-type crossing. The evaluation shall assess what BMPs should be put in place for the watercourse crossing to remain, or alternatively, that the crossing be permanently abandoned, decommissioned, and remediated to a natural and stable condition. The evaluation and reconstruction plans shall be prepared by an appropriately licensed professional. At a minimum, the evaluation shall assess the following:
- i. The current ford-type crossing's ability to pass 100-year flood flows and associated debris, and reconstruction plans for armoring and stabilization with BMPs, and/or the inclusion of a culvert. If installation of a culvert is proposed, the culvert shall be sized to accommodate 100-year flood flows along with the associated debris loads. Any proposed reconstruction of the crossing shall include plans to address diversion and failure potential and shall include design specifics for adequate armoring to prevent erosion of the crossing material and fill slopes.

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- d. Removal or proper disposal of infrastructure and items related to cannabis cultivation which have the potential to degrade under environmental pressures, making discharge into watercourses at the Site likely. This includes plastic tarps, plastic pots, irrigation tubing, woven plastic weed barriers, plastic containers, potting soil, and cannabis plant material. Alternatively, if the infrastructure is to remain at the Site, describe a means of securing and maintaining it so that it will not degrade or result in unlawful discharges of waste to waters of the state.
- e. Removal of all refuse, garbage, and debris from the Site that has the potential to be transported into any watercourses at the Site, including transport due to restoration activities, environmental degradation, earthmoving, precipitation runoff or stormwater, and natural stream flow.
- f. Cleanup and proper storage or disposal of any potting soils. Stored soil piles shall be location and stabilized outside of riparian setbacks. The riparian setbacks are 50 feet from the top edge of the Class III watercourse bank. In the case of man-made irrigation canals, the setback is to be outside of the established riparian vegetation zone. Alternatively, potting soils may be spread to a depth of no more than six inches on level surfaces, with a covering of straw and native seed mix.
- g. Evaluation, identification and proposed remediation of all locations where sediment or other wastes have discharged or threaten to discharge to surface watercourses or drainages.
- h. The RMMP shall contain, at a minimum: design specifications and drawings (e.g., areas to be regraded, watercourse crossings, BMPs to be installed); a detailed area map accurately depicting the site topography, graded and disturbed areas, cuts and fill material, cultivation areas, access roads, watercourse crossings, and all surface watercourses and drainages; an implementation schedule that includes a timeline for submitting permit applications to all applicable local, state, and federal agencies along with detailed project milestones to fulfill the requirements of this Order; and a monitoring plan.
- i. The RMMP shall contain a monitoring plan that will include reporting on observations of the intersection of the Class III watercourse and canal, the cut and fill slopes of the West CA pad and adjacent access roads, the trench, the cut and fill slopes of the Middle CA, and the ford crossing and fill material placed in the Class III watercourse. Monitoring events shall occur in November and May of each year and annual reports shall be submitted for monitoring occurring during

the previous November through May. Additionally, the plan shall detail the effectiveness of installed BMPs, and document any discharges of waste.

2. **No later than 30 days** after approval of the RMMP by the Central Valley Water Board or its delegated officer, the Dischargers shall begin implementation of the RMMP in accordance with the approved implementation schedule.
3. **By 1 July 2023**, the Dischargers shall complete all approved restoration and mitigation measures described in the approved RMMP.
4. **No later than 60 days** after completing implementation of the approved RMMP, the Dischargers shall submit an **RMMP Completion Report** for approval by the Central Valley Water Board or its delegated officer. The RMMP Completion Report shall include accurate depictions, documentation, and as-built designs of all completed restoration construction and/or abatement measures included in the approved RMMP to demonstrate the RMMP has been fully implemented. This report shall also include pre- and post-construction photographs taken at each photo point, to be shown on a site map/figures. Photo points shall include up and down slope images of the following locations, at minimum: The intersection of the Class III watercourse and canal, the cut and fill slopes of the West CA pad and adjacent access roads, the trench, the cut and fill slopes of the Middle CA, and the ford crossing and fill material placed in the Class III watercourse. Upon approval of the RMMP Completion Report, the Dischargers shall submit Annual Monitoring Reports by **1 July** of each year for at least three years or until the Central Valley Water Board or its delegated officer approves a request to discontinue monitoring. Such a request may be submitted when the approved success criteria in the RMMP are met with supporting documentation. Each Annual Monitoring Report shall include, at a minimum, a completed inspection checklist, photographs of areas restored, a description of any locations where restoration is failing and/or needs to be corrected to achieve the success criteria.

### **General Requirements and Notices**

#### **Use of Qualified Professionals**

1. All technical reports required by this Order that involve planning, investigation, evaluation, or design, or other work requiring interpretation and proper application of engineering or geological sciences, shall be prepared by or under the direction of persons registered to practice in California pursuant to California Business and Professions Code sections 6735, 7835, and 7835.1. As required by these laws, completed technical reports must bear the signature(s) and seal(s) of the registered

professional(s) in a manner such that all work can be clearly attributed to the professional responsible for the work.

#### Signatory Requirements

2. All technical reports submitted by the Dischargers shall include a cover letter signed by the Dischargers, or a duly authorized representative, certifying under penalty of law that the signer has examined and is familiar with the report and that to their knowledge, the report is true, complete, and accurate. The Dischargers shall also state if they agree with any recommendations/proposals and whether they approve implementation of said proposals. Any person signing a document submitted under this Order shall make the following certification:

*“I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my knowledge and on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.”*

#### Notice of Change in Ownership or Occupancy

3. The Dischargers shall file a written report on any changes in the Site’s ownership or occupancy. This report shall be filed with the Central Valley Water Board no later than 30 days prior to a planned change and shall reference the number of this Order.

#### Compliance with Other Regulatory Requirements

4. The Dischargers shall obtain all applicable local, state, and federal permits necessary to fulfill the requirements of this Order prior to beginning work.

#### Cost Recovery

5. Pursuant to Water code section 13304, the Central Valley Water Board is entitled to, and may seek reimbursement for, all reasonable costs it incurs investigating and abating the effects of the unlawful discharges of waste and to oversee/supervise the cleanup of such waste, or other remedial action, required by this Order. If requested by the Central Valley Water Board, the Dischargers shall enroll in the State Water Board’s Cost Recovery Program and shall reimburse the State of California for all reasonable costs actually incurred by the Central Valley Water Board.

#### Submissions

6. All technical reports or notices required under this Order shall be submitted to: Nathan Cullen, (530) 224-4847, [nathan.cullen@waterboards.ca.gov](mailto:nathan.cullen@waterboards.ca.gov).

#### Delayed Compliance

7. If for any reason, the Dischargers are unable to perform any activity or submit any document in compliance with Required Actions, or in compliance with any work schedule submitted pursuant to this Order and approved by the Central Valley Water Board or its delegated officer, the Dischargers may request, in writing, an extension of the time specified. The extension request shall include justification for the delay. Any extension request shall be submitted as soon as a delay is recognized and prior to the compliance date. An extension may be granted by revision of this Order or by a letter from the Central Valley Water Board or its delegated officer. The Central Valley Water Board acknowledges that local, state, and federal permits may cause a delay beyond the control of the Dischargers and will take all the available relevant facts into consideration when considering whether to grant an extension request.

#### Modification of Order

8. Any modification to this Order shall be in writing and approved by the Central Valley Water Board or its delegated officer, including any potential extension requests.

#### Enforcement Authority


9. If the Dischargers fail to comply with the requirements of this Order, the Central Valley Water Board or its delegated officer may refer this matter to the Attorney General for judicial enforcement, may issue a complaint for administrative civil liability, or may take other enforcement actions. Failure to comply with this Order may result in the assessment of Administrative Civil Liability of up to \$10,000 per violation, per day, depending on the violation, pursuant to the Water Code, including sections 13268, 13350, and 13385. The Central Valley Water Board reserves its right to take any enforcement actions authorized by law.



CLEANUP AND ABATEMENT ORDER R5-2022-0704  
DARYLL STEVENS / SOUTHWICK CONSTRUCTION LLC  
ASSESSOR PARCEL 050-330-014-000  
NEVADA COUNTY

Any person aggrieved by this action of the Central Valley Water Board may petition the State Water Board to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, sections 2050, et seq. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of this Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. [Copies of the law and regulations](#) applicable to filing petitions may be found on the Internet at: ([http://www.waterboards.ca.gov/public\\_notices/petitions/water\\_quality](http://www.waterboards.ca.gov/public_notices/petitions/water_quality) or will be provided upon request).

This Order is issued under authority delegated to the Executive Officer by the Central Valley Water Board pursuant to Resolution R5-2018-0057 and is effective upon the date of signature.

**Adam Laputz**  Digitally signed by Adam Laputz  
Date: 2022.12.14 10:01:34 -08'00'

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PATRICK PULUPA  
Executive Officer

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14 December 2022

Date