

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD

NORTH COAST REGION

Cleanup and Abatement and Investigative Order No. R1-2024-0044 for Larabee Ranch Holdings LLC

Humboldt County Assessor Parcel Number 209-271-016

WDID No. 1B117070HUM

This Order is issued to Larabee Ranch Holdings LLC (the Discharger) based on provisions of Water Code section 13304, which authorizes the North Coast Regional Water Quality Control Board (Regional Water Board) to issue a cleanup and abatement order, and Water Code section 13267, which authorizes the Regional Water Board to issue investigative orders requiring the preparation and submittal of technical and monitoring reports (collectively, the Order). The Executive Officer finds, with respect to the Discharger's acts, or failure to act, the following:

- 1. Site Conditions:** Site conditions on Humboldt County Assessor's Parcel Number (APN) 209-271-016 (the Property) have impacted and continue to pose threats to water quality and beneficial uses of water. The Discharger has caused or permitted the discharge and threatened discharge of waste to receiving waters by failing to replace the failing culvert with a bridge, as prescribed within Timber Harvest Plan (THP) 1-17-070 HUM and the associated Erosion Control Plan (ECP), submitted as a required Technical Report for enrollment of the THP under Regional Water Board Order No. R1-2004-0030, General Waste Discharge Requirements for Discharges Related to Timber Harvest Activities on Non-Federal Lands in the North Coast Region (GWDR). The bottom of the metal culvert, designated in the THP as Site 6, is substantially rusted, causing water to flow beneath the culvert, creating erosional voids in the road prism, and causing discharge of earthen fill into Chris Creek. In February 2024, staff learned that a sink hole had developed in the fill crossing prism resulting in partial failure of the outboard road edge. Site conditions pose a threat to water quality because culverts in such deteriorated condition are at high risk of total failure and the erosional void is unstable, has resulted in sediment discharges and threatens further direct delivery of sediment to Chris Creek.

The remainder of the road fill volume and the fine sediment wedge upstream is at risk of discharging to Chris Creek and waterways downstream of the crossing. The Discharger's failure to act has resulted in unauthorized discharge, and threatened discharge, of waste (fill soil constitutes a waste as defined by California Water Code (Water Code) section 13050) that creates or threatens to create a condition of pollution.

- 2. Purpose of the Order:** This Order requires the Discharger to implement immediate, short-term cleanup and stabilization measures necessary to clean up and abate the

effects of the failing culvert at THP Site 6 on Chris Creek and to eliminate the threat of future discharges to Chris Creek through the 2025 winter period (November 15, 2024 to April 1, 2025). Investigation and cleanup actions required under this Order shall be conducted to comply with the following laws and regulations:

- a. Porter-Cologne Water Quality Control Act (Wat. Code § 13000 et seq.);
- b. Water Quality Control Plan for the North Coast Region (Basin Plan);
- c. State Water Resources Control Board (State Water Board) Policies and Procedures for Investigation and Cleanup and Abatement of Discharges under Water Code Section 13304 (Resolution 92-49), and
- d. All other applicable State and Regional Water Board plans, policies, and regulations.

3. Responsible Parties: The Order finds that the Discharger is the responsible party based on the following:

- a. Parcel records available from the Humboldt County Assessor-Recorder's Office, as accessed via Digital Map Productions' LandVision online service, indicates that Larabee Ranch Holdings LLC owns approximately 314 acres, identified as APN 209-271-016.
- b. According to the California Secretary of State website, Larabee Ranch Holdings LLC registered in California on December 3, 2007, with Suzanne Murphy as Agent for Service of Process, and is an active business.
- c. Timber Harvesting Plan (THP) 1-17-070 HUM, submitted on behalf of Larabee Ranch Holdings LLC, is located on the Property and was approved by CAL FIRE on September 19, 2017. An enrollment package for coverage under the GWDR for THP 1-17-070 HUM, dated January 31, 2018, was submitted to the Regional Water Board. The application was determined to be complete and coverage under the GWDR took effect in accordance with the terms of the GWDR.
- d. For the purpose of this Order, the Regional Water Board finds that Larabee Ranch Holdings LLC is the responsible party under this Order, as it had or should have had knowledge of the activities that resulted in the discharges and threatened discharges of waste and had the ability and legal responsibility to prevent those discharges from occurring. Additionally, Larabee Ranch Holdings LLC has the ability and legal responsibility to remediate the conditions on the Property that have discharged or threaten to discharge waste to waters of the state.
- e. The Regional Water Board reserves the right to amend this Order, or issue a subsequent Order, to add additional responsible parties when/if those parties are identified.

4. Property Location and Description: The Property is located in Humboldt County, approximately 0.6 miles southeast of the unincorporated community of Holmes. The Property is located on slopes above Chris Creek and Larabee Creek, tributaries to

the Lower Eel River. The Lower Eel River watershed is a water of the state and a water of the United States¹. The Lower Eel River is a Clean Water Act section 303(d)-listed impaired water body due to sediment/siltation and high-water temperature. The U.S. Environmental Protection Agency established Total Maximum Daily Loads (TMDLs) for temperature and sediment for the Lower Eel River in 2007. The Property is forested, with established agriculture on the lower gradient flats. Elevations on the Property range from 140 to 300 feet above sea level with slope gradients ranging between generally flat to nearly 45%.

- 5. Property History:** Larabee Ranch Holdings LLC submitted a THP, which was accepted by the California Department of Forestry and Fire Protection (CAL FIRE) on July 13, 2017. The THP, which covers 33.65 acres of the Property, was given the number 1-17-070 HUM. The THP is located in the Chadd and Lower Larabee Creeks (1111.120102 and 1111.130300) CALWATER planning watersheds. The complete THP documents, including all associated documents and agency reports, may be accessed electronically on the CALTREES website². Regional Water Board staff (Staff) did not participate in the pre-harvest inspection (PHI) for the THP, which was conducted on July 19, 2017.

Timber operations for THP 1-17-070 HUM commenced on September 27, 2017. The Regional Water Board THP files indicate that on January 31, 2018, the supervised designee for the Registered Professional Forester (RPF) of record submitted an application for coverage under the GWDR. THP 1-17-070 HUM and the associated Erosion Control Plan (ECP) submitted pursuant to the GWDR identified the need to implement corrective measures at Site 6 to prevent and minimize sediment discharges and to support beneficial uses of water. The ECP identified that Site 6 was scheduled to be treated in conjunction with THP operations. The THP required all encroachments to be completed prior to THP expiration. However, the THP expired on September 18, 2022, without implementation of required corrective measures.

¹ The Regional Water Board administers and enforces the Clean Water Act (CWA). The CWA regulates what it refers to as “navigable waters” and defines those waters as “waters of the United States.” Waters of the United States includes traditionally navigable waters and tributaries as defined in 40 C.F.R. section 122.2. The Porter-Cologne Water Quality Control Act provides the Regional Water Board additional authority to regulate discharges of waste into “waters of the state.” (Wat. Code § 13260.) The term “waters of the state” is defined as “any surface water or groundwater, including saline waters, within the boundaries of the state.” (Wat. Code § 13050 subd. (e).) All waters of the United States that are within the borders of California are also waters of the state for purposes of the Porter-Cologne.

² (<https://caltreesplans.resources.ca.gov/caltrees/>)

The THP is still enrolled under the GWDR as termination of coverage has not been initiated by the Discharger. Further, the project is not considered complete as conditions described under GWDR Section VI. A Items 2-5 have not been met.

As documented in its July 25, 2017 PHI report, the California Department of Fish and Wildlife (CDFW) determined that the culvert at Site 6 is a barrier to fish passage, preventing juvenile and adult salmonid access to approximately 1.7 miles of potential fish habitat upstream, and therefore, fails to support beneficial uses of water related to anadromous salmonids. On September 21, 2020, CDFW Streambed Alteration agreement #1600-2017-0430-R1 (the LSAA) was finalized and provides additional site description and implementation parameters. Item 1.5 states that all work shall be in accordance with the project description submitted with the LSAA and THP 1-17-070 HUM. The CDFW LSAA permitted bridge replacement work to start after June 1, 2020.

- 6. Factual Basis of the Order:** Staff observed and documented conditions on the Property during site inspections on October 3, 2023, and August 19, 2024, including that no corrective measures had been implemented at Site 6 and that the failing stream crossing is at serious risk of sediment discharge and threatens to create a condition of pollution in waters of the state by unreasonably impacting water quality and beneficial uses.

On February 23, 2024, the Regional Water Board issued a Notice of Violation (NOV) (Attachment A – February 23, 2024 Regional Water Board Notice of Violation and January 25, 2024 Inspection Memorandum) to Larabee Ranch Holdings LLC for violations of the GWDR enrollment due to failure to implement corrective action identified in THP 1-17-070 HUM and the associated ECP. The NOV provides evidence that the Discharger caused or permitted or threatens to cause or permit waste to be discharged where it is, or probably will be, discharged into waters of the state and creates or threaten to create a condition of pollution associated with the failing stream crossing at Site 6. The February 23, 2024 NOV requested the Discharger to address Site 6 by July 1, 2024, and submit a report documenting the work within 10 days of completion of the required remediation.

On August 19, 2024, Regional Water Board Staff met onsite with representatives of the Discharger and CDFW and observed that Larabee Ranch Holdings LLC had not completed the stream crossing remediation work at Site 6. Additionally, a portion of the road prism had failed and discharged sediment to Chris Creek. The Regional Water Board never received a discharge notification, in violation of GWDR Section III.B.3.a & b.

Subsequent to the August 19, 2024 site visit, as documented in Regional Water Board staff memorandum dated September 13, 2024 (Attachment B), the Discharger has not demonstrated that the existing culvert can be replaced with the current materials onsite and ensure the site will be stable and not result in further sediment discharges occur,

The failure to adequately plan the remediation and implement sufficient erosion and sediment control measures has resulted in the unauthorized threatened and actual

discharge of waste from Site 6 to waters of the state, in violation of the enrollment under the GWDR, as well as the California Water Code and Water Quality Control Plan for the North Coast Region (Basin Plan). This Order is necessary to ensure corrective actions can be implemented immediately and prior to the 2024/2025 winter period to reduce further impacts to water quality and beneficial uses. Failure to take action to stabilize the site may result in discharges to Chris Creek given the deteriorated condition of the culvert at Site 6, its high risk of total failure, and the unstable erosional void that has developed.

7. Beneficial Uses, Basin Plan Prohibitions, and Water Quality Objectives: The Basin Plan³ designates beneficial uses within Hydrologic Subarea, establishes water quality objectives, contains implementation programs for achieving objectives, and incorporates by reference the plans and policies adopted by the State and Regional Water Boards.

- a. Existing and potential beneficial uses for the Larabee Creek Hydrologic Subarea of the Lower Eel River Hydrologic Area includes the following: Municipal and Domestic Supply (MUN), Agricultural Supply (AGR), Industrial Service Supply (IND), Industrial Process Supply (PRO), Groundwater Recharge (GWD), Freshwater Replenishment (FRSH), Hydropower Generation (POW), Native American Culture (CUL), Water Contact Recreation (REC-1) & Other Non-Contact Recreation (REC-2); Commercial and Sport Fishing (COMM); Cold Freshwater Habitat (COLD); Wildlife (Wild); Rare, Threatened, or Endangered Species (RARE); Migration of Aquatic Organisms (MIGR); Spawning, Reproduction, and/or Early Development (SPWN) and Aquaculture (AQUA).
- b. The Basin Plan contains specific standards and provisions for maintaining high-quality waters of the state that provide protection to the beneficial uses identified. The Basin Plan's *Action Plan for Logging, Construction, and Associated Activities* includes the following waste discharge prohibitions (see section 4.2.1 of the Basin Plan):
 - i. Prohibition 1 – “The discharge of soil, silt, bark, slash, sawdust, or other organic and earthen material from any logging, construction, or associated activity of whatever nature into any stream or watercourse⁴ in the basin in quantities deleterious to fish, wildlife, or other beneficial uses is prohibited.”

³ (https://www.waterboards.ca.gov/northcoast/water_issues/programs/basin_plan/)

⁴ As provided in section 4.2.2, paragraph B.2, of the Basin Plan, “[t]he definition for ‘stream or watercourse’ as those terms are used in the waste discharge prohibitions relative to logging and construction activities shall be interpreted by the Regional Water Board to mean the following: Natural watercourse as designated by a solid line or dash and three dots symbol shown in blue on the largest scale United State Geological Survey Topographic Map most recently published.”

- ii. Prohibition 2 – “The placing or disposal of soil, silt, bark, slash, sawdust, or other organic and earthen material from any logging, construction, or associated activity of whatever nature at locations where such material could pass into any stream or watercourse in the basin in quantities which could be deleterious to fish, wildlife, or other beneficial uses is prohibited.”
 - c. Chapter 3 of the Basin Plan contains water quality objectives not to be exceeded as a result of waste discharges. The water quality objectives that are considered of particular importance in protecting the beneficial uses from unreasonable effects due to waste discharges from land development and timber harvest include the following:
 - i. 3.3.11 Sediment: “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.”
 - ii. 3.3.12 Settleable Material: “Waters shall not contain substances in concentrations that result in deposition of material that causes nuisance or adversely affect beneficial uses.”
 - iii. 3.3.13 Suspended Material: “Waters shall not contain suspended material in concentrations that cause nuisance or adversely affect beneficial uses.”
 - iv. 3.3.17 Turbidity: “Turbidity shall not be increased more than 20 percent above naturally occurring background levels. Allowable zones of dilution within which higher percentages can be tolerated may be defined for specific discharges upon the issuance of discharge permits or waiver thereof.”
- 8. Regional Water Board TMDL Implementation:** As part of Regional Water Board's efforts to control sediment discharges and restore sediment-impaired water bodies, the Regional Water Board adopted the *Total Maximum Daily Load Implementation Policy Statement for Sediment Impaired Receiving Waters in the North Coast Region* (also known as the Sediment TMDL Implementation Policy), on November 29, 2004. This Policy was adopted through Resolution R1- 2004-0087. The Sediment TMDL Implementation Policy directs the Executive Officer to use “all available authorities, including existing regulatory standards and permitting and enforcement tools, to more effectively and efficaciously pursue compliance with sediment-related standards by all dischargers of sediment waste.” The goals of the policy are to control sediment discharges to impaired water bodies so that the TMDLs are met, sediment water quality objectives are attained, and beneficial uses are no longer adversely affected by sediment.

The Lower Eel River temperature TMDLs assigned temperature load allocations corresponding to solar radiation loads that occur when riparian vegetation is at full potential growth conditions. To address sources of elevated water temperature to reduce impairments, the Regional Water Board included in the Basin Plan, the *Action Plan to Address Elevated Water Temperatures in the Eel River Watershed*.

On nonfederal lands, parties conducting activities associated with timber harvesting that discharge waste or have the potential to discharge waste shall implement riparian management measures that meet the riparian shade load allocations (shade consistent with full potential vegetation conditions) and water quality standards.

- 9. Statewide Resolutions and Polices:** State Water Board 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 68-16, the *Statement of Policy with Respect to Maintaining High Quality Waters in California* ("Resolution 68-16"). Resolution 92-49 requires the waste to be cleaned up in a manner that promotes attainment of either background water quality, or the best water quality that 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 and cleanup and abatement proceed in a progressive sequence. To the extent practicable, it directs the Regional 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.
- 10. Legal Authority to Require Cleanup and Abatement:** Water Code section 13304, subdivision (a) states, in relevant part: "A person who has discharged or discharges waste into waters of this state in violation of any waste discharge requirements 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 causes, or threatens to create, a condition of pollution or nuisance, shall upon order of the regional board clean up the waste or abate the effects of the waste, or, in the case of threatened pollution or nuisance, take other necessary remedial action, including, but not limited to, overseeing cleanup and abatement efforts..."
- 11. Waste:** "Waste" is defined by Water Code section 13050, subdivision (d) to include, sewage and any other waste substances, whether 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 prior to, and for purposes of, disposal.

Earthen material, including sediment when discharged to waters of the state, is a "waste" as defined in Water Code section 13050, subdivision (d). The Discharger caused or permitted or threatens to cause or permit sediment waste to be discharged to Chris Creek in violation of Prohibition 2 of the Action Plan for Logging, Construction, and Associated Activities.

The Discharger's failure to implement remediation actions at Site 6 have caused or permitted or threaten to cause or permit waste to be discharged, or deposited where

it may be discharged, into the waters of the state in a manner that has created or threatens to create a condition of pollution by altering the quality of the waters of the state to a degree that unreasonably affects the waters for beneficial uses.

12. Pollution: "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 waters of the state for beneficial use or facilities which serve these beneficial uses.

Sediment from construction of the stream crossings and land clearing and grading activities that occurred within or adjacent to the unnamed tributaries can alter the quality of those waters and unreasonably affect beneficial uses.

- a. Discharges of sediment and other inert material can alter the hydrologic and sediment transport regimes of surface waters by affecting the flow of water 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 (beneficial uses impacted: RARE, MIGR, SPWN, COLD, COMM, and WILD). Chris Creek provides habitat for amphibians and is tributary to Larabee Creek and the Lower Eel River that provide habitat for salmonids. Increased sedimentation and turbidity can also result in increased treatment and/or maintenance costs for downstream agricultural and municipal users that withdraw and treat the water (beneficial uses impacted: AGR and MUN). Sediment-laden storm water can also discharge to surface water and result in increased turbidity that may affect the recreational and aesthetic enjoyment of the surface waters (beneficial uses impacted: REC-1 and REC-2).
- b. The discharge of sediment is especially problematic in this watershed since the Lower Main Eel River is Clean Water Act section 303(d)-listed as impaired due to elevated sedimentation/siltation and elevated temperature. Sediment delivery to streams impacts the migration, spawning, reproduction, and early development of cold-water fish such as fall run Chinook salmon, coho salmon, and steelhead trout.
- c. Sediment delivery to headwater streams is especially problematic for amphibian species. Sediment deposition (i.e. bottom deposits) in headwater streams can result in the direct impact to native amphibians that rely on clean substrate to burrow in and access cold, clean water, including Southern Torrent Salamanders, Coastal Giant Salamanders, and Tailed Frogs. Southern Torrent Salamanders are primarily aquatic, extremely moisture dependent, burrow into streambed substrates during both low and high stream flows, and feed largely on aquatic macroinvertebrates. Southern Torrents lay single eggs that take approximately eight months to hatch, and their larvae take up to two and a half years to metamorphose.

- d. Suspended sediment in surface waters can cause harm to aquatic organisms by abrasion of surface membranes, interference with respiration, and sensory perception in aquatic fauna. Suspended sediment can reduce photosynthesis in and survival of aquatic life by limiting the transmittance of light. The Basin Plan contains a water quality objective for sediment, which requires that 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.
- e. Suspended sediment can also physically damage gills causing fish mortality; increased physiological stress; reduce reproduction; impair normal feeding and predator avoidance behaviors, resulting in impacts to commercial and recreational fishing resources; increase water temperature; and fill in lagoons and wetlands converting them from aquatic to terrestrial habitat.
- f. Impacts to beneficial uses occur both during sediment transport and sediment deposition. In addition to the problems associated with suspended sediment, sediment is also an excellent transport mechanism for toxics (e.g., metals and synthetic organics) and nutrients, which bind to sediment particles. (beneficial uses impacted: REC1, REC-2, COLD, SPWN, RARE, MIGR, COMM, MUN, and WILD).

13. Cleanup and Abatement Action Necessary: Cleanup and abatement is necessary to ensure that any discharge of waste or existing condition of pollution is cleaned up, that the threat of unauthorized discharges to waters of the state from the Property that may create a condition of pollution are prevented, that the background water quality conditions or the water quality that is feasible is restored, 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 the policies of the Regional Water Board and State Water Board.

14. Technical Reports Required: Water Code section 13267, subdivision (a) provides that the Regional Water Board “in establishing or reviewing any water quality plan or waste discharge requirements, or in connection with any action relating to may investigate the quality of any water of the state within its region.” Water Code section 13267, subdivision (b) provides that the Regional Water Board, in conducting an investigation, may require a discharger to furnish, under penalty of perjury, technical or monitoring program reports. The burden, including costs, of preparing these reports must bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports. This Order requires two types of technical and monitoring reports. Staff estimate the total cost of technical reports required by this Order to be approximately \$3,840 to \$14,6805. The costs of the technical or

⁵ 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 State Water Resources Control Board Cannabis Cultivation Policy Principles and Guidelines for Cannabis Cultivation and General

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. The Interim Cleanup and Stabilization Plan (Interim Plan) is a technical report that is necessary to: (1) assess site conditions at Site 6 to identify where sediment discharge to waters of the state has occurred, or threatens to occur; (2) determine the appropriate stabilization and abatement work to prevent or minimize sediment discharge; and (3) create a plan along with an implementation schedule that will guide the scope of work to stabilize the site and clean up and abate the discharges and threat of discharge on the Property. The anticipated benefits from the Interim Plan include protection from actual and threatened waste discharges that impact beneficial uses and water quality objectives during the winter of 2024-2025. In addition, by requiring the Discharger to submit an Interim Plan, the Regional Water Board or its delegated officer will have the opportunity to review and approve the scope of the proposed stabilization and abatement actions to confirm the proposed work will adequately remediate site conditions and prevent sediment discharges from further impacting the beneficial uses of sensitive water bodies.

As previously mentioned, the Lower Eel River is a Clean Water Act section 303(d)-listed impaired water body due to sediment/siltation and high-water temperature, thereby heightening the need for this technical report in order to reduce further impairment to waters of the state. The Interim Plan requirements (i.e., field inspection and report preparation) are comparable to that of preparing a Site Erosion and Sediment Control Plan as required in the State Water Resources Control Board, October 2017, Direct Cost Analysis for the Proposed Cannabis Cultivation Policy (2017 Direct Cost Analysis), which is estimated to cost between \$2,760 and \$9,920. The burden, including costs, of preparing and submitting the Interim Plan therefore bears a reasonable relationship to the need for this planning and assessment report to restore the Property to conditions that will prevent further erosion and sedimentation of sensitive water bodies.

- b. A Completion Report is necessary to demonstrate that the Discharger has successfully implemented and completed the Interim Plan activities in a timely manner in accordance with the implementation schedule set forth in the ICSP and this Order. The benefit derived from a Completion Report is the Regional

Order. Estimated costs for technical reports were presented in the [State Water Board's 2017 Direct Cost Analysis For the Proposed Cannabis Cultivation Policy \(2017 Direct Cost Analysis\)](#)

(www.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 24, subparagraphs a-d.

Water Board's, or its delegated officer's, ability to verify that remedial activities and best management practices were implemented to ensure that stabilization and abatement activities adequately prevent water quality threats and impacts to Chris Creek and downstream waters during the 2024-2025 winter period⁶. The scope of a Completion Report (i.e., field inspection and report preparation) is comparable to that of preparing a Site Closure Report as described in the 2017 Direct Cost Analysis, which is estimated to cost between \$1,080 and \$4,760. The burden, including costs, of preparing and submitting a Completion Report bears a reasonable relationship to the need for the report as assurance to verify remedial actions are accomplished as proposed in the Interim Plan and that the resulting conditions ensure the protection of water quality.

- c. Monthly Monitoring and Discharge Notification Report are necessary to identify sediment discharges, to assess treatment effectiveness and compliance with this Order, and trigger immediate corrective measures to control further sediment discharges. The benefit derived from Monitoring and Discharge Notification Reports is the Regional Water Board's, or its delegated officer's, ability to verify that remedial activities and best management practices were effective to ensure that stabilization and abatement activities adequately prevent water quality threats and impacts to Chris Creek and downstream waters during the 2024-2025 winter period and to take immediate corrective actions when measures are not effective. The scope of a Monthly Monitoring and Discharge Notification Report (i.e., field inspection and report preparation) is estimated to include three hours for field inspection and three hours for office preparation for a cost of \$600-\$720 per report, and \$3600 to \$4320 for six monthly reports between December 1, 2024 and May 1, 2025. The burden, including costs, of preparing and submitting a Completion Report bears a reasonable relationship to the need for the report as assurance to verify remedial actions are accomplished as proposed in the Interim Plan and that the resulting conditions ensure the protection of water quality.

The Discharger named in this Order currently owns and/or operates the Property and/or owned the Property at the time of Staff's inspections during which the discharges and threatened discharges were observed, and thus are appropriately responsible for providing the reports.

15. California Environmental Quality Act: Issuance of this Order is being taken for the protection of the environment and to enforce the laws and regulations administered by the Regional Water Board and, as such, is exempt from provisions of the California Environmental Quality Act (CEQA) (Public Resources Code section 21000 et seq.) in accordance with California Code of Regulations, title 14, sections 15061, subdivision (b)(3), 15306, 15307, 15308, and 15321. To the extent that thus Order requires minor alterations to land and/or earth-disturbing and re-vegetation activities

⁶ Defined in 14CCR 895.1 as the period between November 15 to April 1.

not to exceed five acres in size and to assure restoration of stream habitat and prevent erosion, this Order is exempt from provisions of CEQA pursuant to California Code of Regulations, title 14, sections 15304 and 15333. This Order generally requires the Discharger to submit plans for approval prior to implementation of cleanup, abatement, and restoration activities at the Property. Mere submittal of plans is exempt from CEQA as submittal will not cause a direct or indirect physical change in the environment and/or is an activity that cannot possibly have a significant effect on the environment. CEQA review at this time would be premature and speculative, as there is simply not enough information concerning the Discharger's proposed remedial activities and possible associated environmental impacts. If the Regional Water Board determines that implementation of any plan required by this Order will have a significant effect on the environment that is not otherwise exempt from CEQA, the Regional Water Board will conduct the necessary and appropriate environmental review prior to implementation of the applicable plan. Should additional environmental review be required in connection with the requirements of this Order, the Regional Water Board may recover costs associated with preparing and submitting any documents necessary for environmental review. If necessary, the Discharger and a consultant acceptable to the Regional Water Board shall enter into a memorandum of understanding with the Regional Water Board regarding such costs prior to undertaking any environmental review.

REQUIRED ACTIONS

IT IS HEREBY ORDERED, pursuant to Water Code sections 13267 and 13304, that the Discharger shall clean up the wastes and abate the impacts to water quality in accordance with the scope and schedule set forth below and provide the following information. The Discharger shall obtain all necessary permits for the activities required in this Order.

- 1. Submit an Interim Cleanup and Stabilization Plan:** By October 7, 2024, the Discharger shall submit an Interim Cleanup and Stabilization Plan (Interim Plan) for concurrence by the Regional Water Board or its delegated officer. The Interim Plan shall be prepared by an appropriately licensed professional and shall describe short-term cleanup and stabilization measures necessary to clean up wastes and to prevent further erosion and discharge of sediment to Chris Creek during the 2024-2025 winter period. The Interim Plan shall include, but not be limited to, the following:
 - a. A detailed site map accurately depicting the road and crossing location at Site 6, Chris Creek in the vicinity of Site 6, areas of perched or failing road fill and unstable stream banks affected, or potentially affected, by the culvert or hydrologically connected road segments;
 - b. Using the above information, identify all areas that are actively discharging or have the potential to discharge, along with proposed cleanup and stabilization measures to be implemented at the site that are necessary to prevent and minimize sediment transport and discharge and stabilize the crossing and

road approaches. Cleanup and stabilization measures included in the interim plan shall include, but not be limited to, the following:

- i. Stabilization of earthen material to prevent erosion of road fill material or channel destabilization;
 - ii. Disconnection of road drainage from all hydrologically connected areas as well as potentially unstable fills.
 - ii. A winter period monitoring plan and schedule to regularly inspect Site 6 to determine if actions are being implemented as planned, evaluate the effectiveness of cleanup and stabilization measures and corrective actions, and identify where additional work and maintenance of site cleanup and stabilization measures may be needed.
- 2. Implement the Interim Plan:** Within 20 days from the day the Regional Water Board concurs with the Interim Plan, but no later than November 15, 2024, the Discharger shall have completed the cleanup and stabilization work specified in the approved Interim Plan, including but not limited to the work specified in 1.b.i and 1.b.ii above.
- 3. Submit Completion Report for Interim Plan:** Within 15 days from completion of the work in the Interim Plan, but no later than December 1, 2024, the Discharger shall provide a report of completion of the Interim Plan to the Regional Water Board for approval. This report shall include a summary and photographs of the completed cleanup and stabilization measures. Include photographs of all areas where corrective action has taken place, clearly keyed to site map(s).
- 1. Submit Monthly Monitoring Reports:** Following completion of the cleanup and stabilization work specified in the Interim Plan, the Discharger shall submit monthly monitoring reports during the 2024/2025 winter period. Beginning December 1, 2024, and continuing monthly until May 1, 2025, the reports shall describe the monitoring results from previous month, describing the effectiveness of cleanup and stabilization measures and corrective actions and identify where additional work and maintenance of site cleanup and stabilization measures may be needed.
- 2. Submit Discharge Notifications:** Within 24 hours of a discovery of discharges that are causing or contributing to a violation or an exceedance of an applicable water quality requirement or a violation of a General WDR prohibition, the Discharger shall contact Regional Water Board staff.

GENERAL REQUIREMENTS AND NOTICES

- 1. Duty to Use Qualified Professionals:** The Discharger shall provide documentation that plans and reports required under this Order are prepared under the direction of appropriately qualified professionals. As required by the California Business and Professions Code sections 6735, 7835, and 7835.1, engineering and geologic evaluations and judgments shall be performed by or under the direction of registered professionals competent and proficient in the fields pertinent to the required activities. The Discharger shall include a statement of qualification and registration

numbers of the responsible lead professionals in all plans and reports required under this Order. The lead professional shall sign and affix their registration stamp to the report, plan, or document. The required activities must be implemented by the appropriately qualified/licensed professional as otherwise required by law.

- 2. Signatory Requirements:** All reports submitted by the Discharger shall include a cover letter signed by the Discharger, or a duly authorized representative, certifying under penalty of law that the signer has examined and is familiar with the report and that to his/her knowledge, the report is true, complete, and accurate. The Discharger shall also state in the cover letter whether he/she will implement the recommendations/proposals provided in the report and the schedule for implementation.

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."*

- 3. Notice of Onsite Work:** The Discharger, or a duly authorized agent, shall notify Regional Water Board staff at least 48 hours prior to any onsite work, testing, or sampling that pertains to environmental remediation and investigation and is not routine monitoring, maintenance, or inspection. The Discharger shall contact Joelle Geppert at 707-576-2346 or by email Joelle.Geppert@waterboards.ca.gov.
- 4. Notice of Change in Ownership or Occupancy:** The Discharger shall file a written report on any changes in either Property's ownership or occupancy. This report shall be filed with the Regional Water Board no later than 30 days prior to a planned change and shall reference the number of this Order.
- 5. Reasonable Access:** The Discharger shall allow the State Water Board and Regional Water Board, or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to enter at reasonable times to inspect the Property and any records that must be kept under the conditions of this Order for the purposes of assuring compliance with this Order or as otherwise authorized by the Water Code. Such inspections shall be conducted consistent with Water Code section 13267(c) and other applicable law.
- 6. Submissions:** The Interim Plan and all monitoring reports, technical reports, or notices required under this Order shall be submitted to Regional Water Board staff at the addresses provided below. Regional Water Board staff will coordinate to obtain approval of the required submittals.

By email (preferred) to: Joelle Geppert, Water Resource Control Engineer,
Joelle.Geppert@waterboards.ca.gov

Or by mail to:

North Coast Regional Water Quality Control Board

Attn: Joelle Geppert
5550 Skylane Blvd, Suite A
Santa Rosa, CA 95403

- 7. Other Regulatory Requirements:** The Discharger shall obtain all applicable local, state, and federal permits necessary to fulfill the requirements of this Order prior to beginning the work. For example, Fish and Game Code (FGC) section 1602 requires a person or entity to notify CDFW before: 1) substantially diverting or obstructing the natural flow of a river, stream, or lake; 2) substantially changing the bed, channel, or bank of a river, stream, or lake; 3) using any material from the bed, channel, or bank of a river, stream, or lake; or 4) depositing or disposing of debris, waste, material containing crumbled, flaked, or ground pavement where it may pass into a river, stream, or lake.
- 8. Cost Recovery:** Pursuant to Water Code section 13304(b), the State or Regional Water Board is entitled to all reasonable costs it actually incurs to investigate and abate the effects of unauthorized discharges of waste and to oversee/supervise the cleanup of such waste, or other restoration action, required by this Order. If requested by the Regional Water Board or State Water Board, the Discharger 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 State Water Board and Regional Water Board.
- 9. Delayed Compliance:** If for any reason, the Discharger is unable to perform any activity or submit any document in compliance with the schedule set forth herein, or in compliance with any work schedule submitted pursuant to this Order and approved by the Regional Water Board or its delegated officer, the Discharger 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 only be granted by modification of this Order or by a letter from the Regional Water Board or its delegated officer.
- 10. Potential Liability:** If the Discharger fails to comply with the requirements of this Order, this matter may be referred to the Attorney General for judicial enforcement or a complaint for administrative civil liability may be issued by the Regional Water Board. Failure to comply with this Order may result in the assessment of an administrative civil liability of up to \$5,000 per violation per day and \$10 per gallon when the violation results in the discharge of waste, pursuant to California Water Code sections 13268 and/or 13350. The Regional Water Board reserves its right to take any enforcement actions authorized by law, including, but not limited to, violation of the terms and condition of this Order.
- 11. No Limitation of Water Board Authority:** This Order in no way limits the authority of the Regional Water Board to institute additional enforcement actions or to require additional investigation and cleanup of the Property consistent with the Water Code. This Order may be revised as additional information becomes available.

12. Modifications: Any modification to this Order shall be in writing and approved by the Regional Water Board or its delegated officer including any potential extension requests.

13. Requesting Review by the State Water Board: Any person aggrieved by any final action of the Regional 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, section 2050 et al. The State Water Board must receive the petition no later than 5:00 p.m., 30 days following 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 on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at the [State Water Resources Control Board's Water Quality Petitions](http://www.waterboards.ca.gov/public_notices/petitions/water_quality) (http://www.waterboards.ca.gov/public_notices/petitions/water_quality) webpage or will be provided upon request.

This Order is effective upon the date of signature.

Valerie Quinto
Executive Officer

Larabee Ranch Holding Proposed_Emergency-CAO_ADA

List of Attachments

- Attachment A: February 23, 2024 Regional Water Board Notice of Violation and January 24, 2023 Regional Water Board Inspection Memorandum
- Attachment B: August 19, 2024 Regional Water Board Inspection Memorandum