

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
NORTH COAST REGION  
Draft  
Cleanup and Abatement and  
Investigative Order No. R1-2024-0050  
for  
OG Kush Diet, LLC and Ivan Vlahov  
Assessor's Parcel Number 024-010-044-000  
Trinity County**

This Clean up and Abatement and 13267 Order No.R1-2024-0050 (Order) is issued to OG Kush Diet, LLC and Ivan Vlahov (hereafter referred to as the Dischargers) based on provisions of Water Code section 13304, which authorizes the North Coast Regional Water Quality Control Board (North Coast Water Board) to issue a cleanup and abatement order, and Water Code section 13267, which authorizes the North Coast Water Board to issue investigative orders requiring the preparation and submittal of technical and monitoring reports.

The Executive Officer of the North Coast Water Board finds, with respect to the Discharger's acts, or failure to act, the following:

**PURPOSE OF THE ORDER**

1. This Order requires the Dischargers to clean up and abate the effects of discharges associated with the unauthorized grading, road building, construction of watercourse crossings, and excavation and altering of watercourses on Trinity County Assessor's Parcel Number (APN) 024-010-044-000 (hereafter the Property), and to eliminate the threat of future discharges to tributaries of Lower Trinity River. Investigation and cleanup actions required under this Order shall be conducted to comply with the Porter-Cologne Water Quality Control Act (Wat. Code § 13000 *et seq.*), the *Water Quality Control Plan for the North Coast Region* (Basin Plan), State Water Resources Control Board (State Water Board) Resolution 92-49 *Policies and Procedures for Investigation and Cleanup and Abatement of Discharges under Water Code Section 13304* (Resolution 92-49), and other applicable State and North Coast Water Board plans, policies, and regulations.

### **Property Location and Description**

2. The Property is located at 181 Oregon Mountain Road, Weaverville, in Trinity County and is identified as APN 024-010-044-000. The Property is located in the Helena Hydrologic Subarea of the Lower Trinity River Hydrologic Area. Slattery Gulch, a Class II watercourse, is a tributary to the Lower Trinity River that flows from east-to-west through the northern portion of the parcel. Staff observed three unnamed Class III watercourses that flow through the Property and are tributaries to Slattery Gulch. The first Class III watercourse staff observed flows from the southeast to the northwest and joins Slattery Gulch with the watercourse starting within the Property's boundaries. The second Class III watercourse staff observed is located on the southern portion of the Property and flows southeast to northwest where it joins Slattery Gulch. The third Class III watercourse flows through the southwest portion of the Property with a starting point within the Property's boundaries. Slattery Gulch is a water of the United States and the three observed Class III watercourses on the Property, tributary to Slattery Gulch, are waters of the state (references hereafter to waters of the United States are also waters of the state).<sup>1</sup>

### **Responsible Party**

3. This Order finds that the Dischargers are responsible parties based on the following:
  - i. Parcel information available from the Trinity County Assessor's Office, as accessed via Digital Map Products' LandVision™ online service, indicates that the Property was purchased by Ivan Vlahov on March 13, 2017, from Paul Perrone. Ivan Vlahov owned the Property at all times during Water Board staff's inspections and is currently listed as the Property owner.
  - ii. On March 28, 2019, the North Coast Water Board issued a Notice of Applicability of Waste Discharge Requirements (Notice of Applicability) to OG Kush Diet, LLC enrolling it under Water Quality Order WQ-2017-0023-

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<sup>1</sup> The North Coast Water Board administers and enforces the Clean Water Act (CWA). The CWA regulates what it refers to as "navigable waters" and defines those water as "waters of the United States." The Porter-Cologne Water Quality Control Act (Porter-Cologne) provides the North Coast 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.

- DWQ and assigning waste discharge identification (WDID) number 1\_53CC411330 to the enrollment. This notice informed OG Kush Diet, LLC of its responsibility for compliance with all applicable requirements of the State Water Board *Cannabis Cultivation Policy- Principles and Guidelines for Cannabis Cultivation* (Policy), and the *General Waste Discharge Requirements and Waiver of Waste Discharge Requirements for Discharges of Waste Associated with Cannabis Cultivation Activities*, Order No. WQ-2017-0023-DWQ (General Order).
- iii. For purposes of this Order, the North Coast Water Board is naming Ivan Vlahov, as a responsible party on the basis that he currently owns the Property, and OG Kush Diet, LLC, as the operator and cannabis cultivation waste discharger named in the Notice of Applicability for WDID 1\_53CC411330. The Dischargers know or should know of the conditions that resulted in the discharges and threatened discharges, and as the property owner and operator, the Dischargers have the legal responsibility and ability to prevent additional discharges.
4. The North Coast Water Board reserves the right to amend this Order to add additional responsible parties when/if those parties are identified.

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

5. On March 4, 2019, Ivan Vlahov submitted information for the Property, which listed himself as the landowner, to the State Water Board's online application portal for discharges of waste associated with cannabis cultivation related activities. In his application, Mr. Vlahov entered the size of the cultivation area as 10,000 square feet and the size of the disturbed area as 15,000 square feet and he selected that no portion of the disturbed area is located within the riparian setback requirements. Based on information submitted by Mr. Vlahov, the cannabis cultivation activities were automatically classified as Tier 1, Low Risk by the online application portal.
6. On April 13, 2023, in response to a complaint received by CDFW of winter grading, staff from the following four agencies inspected the Property: North Coast Water Board, California Department of Fish and Wildlife (CDFW), California Department of Cannabis Control (DCC), and Trinity County.
7. On May 11, 2023, the North Coast Water Board issued a Notice of Violation, based on observations during the April inspection, regarding discharges and threatened discharges of waste to surface waters and violations of the Basin Plan and Water Code requirements. Staff documented water quality concerns and violations observed on the Property, including the following:
  - a. Unauthorized storage of stockpile fill, grow bags, slash, trash, and other deleterious materials within the Cannabis Cultivation Policy's riparian setback requirements for multiple Class III watercourses;
  - b. Unauthorized discharge of soil, trash, and slash to surface waters at multiple locations;

- c. Unauthorized improper installation of undersized culverts misaligned with the watercourse channels and with perched outlets at multiple locations;
- d. Multiple dirt fords through Class III watercourses, which are tributary to Slattery Gulch;
- e. Unauthorized grading, dredging, filling, and de-vegetation within Class III watercourses and riparian zones at multiple locations;
- f. Unauthorized operation of heavy machinery during the rainy season within Class III watercourses;
- g. Significant site slope instability, evidence of recent landslides, and hillside erosion threatening to discharge into multiple Class III watercourses;
- h. Misrepresentation of cultivation site information and failure to fully disclose all relevant information to obtain enrollment in the Cannabis General Order; and
- i. Unauthorized material changes in the cultivation activity, character, location, and volume of discharges authorized under the Cannabis General Order.

In the Notice of Violation, North Coast Water Board staff requested that the Dischargers submit an application for Water Quality Certification/Waste Discharge Requirements for any work in surface waters and a Disturbed Area Stabilization Plan to guide remediation of the Property and to comply with permitting requirements of the Water Code and Clean Water Act.

8. On May 22, 2023, North Coast Water Board staff met with Mr. Vlahov and Jess Gregory of Gregory Engineering, Inc., at the Property to inspect and evaluate the property's conditions following cleanup efforts undertaken by the Dischargers associated with the violations observed by agency staff on April 13, 2023, and detailed in the North Coast Water Board's May 11, 2023, Notices of Violation.
9. On June 5, 2023, CDFW issued a Notice of Violation regarding violations of the Fish and Game Code requirements observed by its staff during the April 13, 2023, inspection.
10. On October 20, 2023, the State Water Board issued a Notice of Violation regarding discharges and threatened discharges of waste to surface waters and violations of Basin Plan requirements and Water Code requirements observed during the May 2023 inspection. At the time of issuance, LandVision identified the Parcel address as 181 Oregon Mountain Road, Junction City, CA 96048. Per county tax assessor records and Dischargers' filing with the California Secretary of State, however, the correct address for the Property is 181 Oregon Mountain Road, Weaverville, CA 96093.
11. On November 14, 2023, in response to the October 20, 2023, Notice of Violation, Jess Gregory of Gregory Engineering, Inc. emailed State Water Board staff a preliminary draft of an Interim Winterization Plan prepared for Mr. Vlahov. The preliminary draft Interim Winterization Plan included Mr.

Gregory's professional opinion on the near-term, interim, and seasonal Best Management Practices available to Mr. Vlahov to protect the exposed ground surfaces of the Site from erosion and the impacts of sediment transportation to nearby surface waters during the winter period of 2023-2024. On November 17, 2023, Staff provided a review with comments to Mr. Gregory, who subsequently instructed Mr. Vlahov on November 28, 2023, to proceed with winterization efforts.

12. On May 16, 2024, North Coast Water Board, CDFW, and Trinity County staff met with Jess Gregory of Gregory Engineering, Inc. at the Property to allow recently assigned staff to inspect the winterization efforts and discuss further actions.
13. On June 19, 2024, the North Coast Water Board transmitted an inspection report documenting the site conditions observed during the May 2024 inspection and providing recommendations for further action related to work in surface waters and landslide stabilization. Staff did note, both in the field and in the inspection report, that the Dischargers had taken actions to resolve various violations that were previously present on the Property. However, multiple violations persist or were not fully resolved, despite these efforts, and further remedial action is necessary.

### **Beneficial Uses, Basin Plan Prohibitions, and Water Quality Objectives**

14. The Basin Plan designates beneficial uses within Hydrologic Subareas, establishes water quality objectives, contains implementation programs for achieving objectives, and incorporates by reference the plans and policies adopted by the North Coast Water Board.
  - a. Existing and potential beneficial uses for the Helena Hydrologic Subarea within the Trinity River Hydrologic Unit include the following: Municipal and Domestic Supply (MUN), Agricultural Supply (AGR), Industrial Service Supply (IND), Industrial Process Supply (PRO) Groundwater Recharge (GWR), Freshwater Replenishment (FRSH), Navigation (NAV), Hydropower Generation (POW), Water Contact Recreation (REC1), Non-Contact Water Recreation (REC2), Commercial or Sport Fishing (COMM), Cold Freshwater Habitat (COLD), Wildlife Habitat (WILD), Rare, Threatened, or Endangered Species (RARE), Migration of Aquatic Organisms (MIGR), Spawning, Reproduction, and/or Early Development (SPWN), Shellfish Harvesting (SHELL), and Aquaculture (AQUA). Beneficial uses of any specifically identified water body generally apply to all its tributaries.

- b. The Basin Plan<sup>2</sup> contains specific standards and provisions for maintaining high-quality waters of the state that provide protection to the beneficial uses listed above. The Basin Plan's Action Plan for Logging, Construction, and Associated Activities includes two 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 watercourse in the basin in quantities deleterious to fish, wildlife, or other beneficial uses is prohibited.”
  - 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 include the following:
- i. 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. Settleable Material: “Waters shall not contain substances in concentrations that result in deposition of material that causes nuisance or adversely affect beneficial uses.”
  - iii. Suspended Material: “Waters shall not contain suspended material in concentrations that cause nuisance or adversely affect beneficial uses.”
  - iv. 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.”

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<sup>2</sup> [The Basin Plan is available online at](https://www.waterboards.ca.gov/northcoast/water_issues/programs/basin_plan/)

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### **North Coast Water Board and State Water Board Resolutions**

15. As part of the North Coast Water Board's efforts to control sediment waste discharges and restore sediment-impaired water bodies, the North Coast Water Board adopted the *Total Maximum Daily Load Implementation Policy Statement for Sediment Impaired Receiving Waters in the North Coast Region*, which is 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 waste 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.
16. To address sources of elevated water temperature to reduce impairments to waters of the state and prevent further impairment, the North Coast Water Board adopted the *Policy for Implementation of the Water Quality Objective for Temperature in the North Coast Region* (Temperature Implementation Policy) through Resolution R1-2014-0006. To attain and maintain the water quality objectives for temperature, the policy directs the North Coast Water Board to implement programs and collaborate with others to prevent, minimize, and mitigate temperature alterations associated with certain activities, including, but not limited to, activities that result in either the removal of riparian vegetation that provide shade to a waterbody, sediment discharges, impoundments and other channel alterations, reduction of instream summer flows, and/or reduction of cold water sources.
17. 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 practical, it directs the North Coast 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.

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

18. 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 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. Upon failure of any person to comply with the cleanup or 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.”
19. “Waste,” as defined by Water Code section 13050, subdivision (d), includes “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.” Earthen material, including sediment, when discharged to waters of the state, is a “waste” as defined in Water Code section 13050, subdivision (d). The Dischargers caused or permitted waste to be discharged or deposited where it will be, or has the potential to be, discharged to tributaries of Lower Trinity River.
20. “Pollution” is defined in Water Code section 13050, subdivision (l)(1), as an alteration of the quality of the waters of the state by waste to a degree that unreasonably affects either the waters for beneficial use, or facilities which serve these beneficial uses. Earthen material from construction of a stream crossing and onsite roads, land clearing and grading within or adjacent to watercourses, and the erodible soils from roads and graded areas on the Property has discharged, and still has the potential to discharge, into unnamed watercourses tributary to Lower Trinity River, creating or threatening to create a condition of pollution by unreasonably affecting the beneficial uses of waters of the state.
  - a. Discharges of sediment and other inert material 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). Increased sedimentation and turbidity can 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 discharges to surface water and the resulting turbidity can also affect the recreational and aesthetic enjoyment of the surface waters (Beneficial Uses impacted: REC-1 and REC-2).

- b. The discharge of organic and earthen material in the Lower Trinity River watershed is especially problematic because, as noted above, the Lower Trinity River is listed as an impaired water body under Section 303, subdivision (d), of the Clean Water Act due to several pollutants, including sedimentation/siltation. Sediment delivery impacts the migration, spawning, reproduction, and early development of cold-water fish.
  - c. Suspended sediment in surface waters can cause harm to aquatic organisms by abrasion of surface membranes and 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. Suspended sediment can result in (1) increased turbidity (loss of clarity) resulting in decreased light transmittance, biological productivity, and aesthetic value; and (2) physical suffocation through burial of bottom dwelling (benthic) organisms, salmonid eggs, and alevin (newly spawned salmon or trout still carrying its yolk). Sediment can also physically damage gills causing fish mortality; increase 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. These water quality impacts occur both during sediment transport and sediment deposition.
  - d. Sediment is also a known transport mechanism for toxics (e.g., metals and synthetic organics), which bind to sediment particles (Beneficial Uses impacted: REC1, REC-2, COLD, SPWN, RARE, MIGR, COMM, MUN, and WILD).
21. Cleanup and abatement is necessary to ensure that any existing condition of pollution is cleaned up, that the threat of unauthorized discharges to waters of the state from the Property are prevented, background water quality conditions are restored, and that any impacts to beneficial uses are mitigated. Issuance of a cleanup and abatement order pursuant to Water Code section

13304 is appropriate and consistent with the policies of the North Coast Water Board and State Water Board.

### **Technical Reports Required**

22. Water Code section 13267, subdivision (a), provides that the North Coast Water Board, “in establishing or reviewing any water quality control plan or waste discharge requirements, or in connection with any action relating to any plan or requirement authorized by this division [Division 7], may investigate the quality of any water of the state within its region.” Water Code section 13267, subdivision (b), provides that the North Coast 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 these technical reports shall bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.

The technical reports required by this Order pursuant to Water Code section 13267 are necessary to investigate the quality of any water of the state on the Property, assure compliance with this Order, and to protect the waters of the United States. The technical reports are further necessary to demonstrate that appropriate methods will be used to clean up waste discharged to waters of the United States; to ensure that cleanup complies with Basin Plan requirements and State Water Board Resolution 92-49; and to require the Dischargers to implement adequate and effective best management measures and practices to control and minimize future pollutant discharges from the Facility.

In accordance with Water Code section 13267, subdivision (b), the findings in this Order provide the Dischargers with a written explanation of the need for remedial action and technical monitoring reports, and identify the evidence supporting the requirements to implement cleanup and abatement activities and submit the reports.

This Order requires four types of technical reports, including: a Restoration, Monitoring and Mitigation Plan (RMMP), Monthly Progress Reports, RMMP Completion Report, and Annual Monitoring Reports. Staff estimates the total cost of technical reports required by this Order to be approximately \$12,080 to \$35,960<sup>3</sup>. The costs of the technical or monitoring reports required by this

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<sup>3</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 \(2017 Direct Cost](#)

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 Restoration, Monitoring, and Mitigation Plan (RMMP)** is a technical report that is necessary to assess impacts to waters of the state resulting from the unauthorized land disturbance activities and to determine the appropriate restoration and abatement work to correct those impacts. By requiring the Dischargers to submit an RMMP, the North Coast Water Board or its delegated officer has the opportunity to review and approve the scope of the proposed restoration and corrective 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 Trinity River is Clean Water Act section 303(d)-listed as impaired due to sediment/siltation, thereby heightening the need for this technical report to reduce further impairment to waters of the state. The plan 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 (SMP) and Disturbed Area Stabilization Plan (DASP) as presented in the 2017 Direct Cost Analysis, which is estimated to cost between \$3,660 and \$11,720. Note, an approved RMMP satisfies the Tier 1 High Risk enrollment requirement for the preparation of an SMP and DASP. As such, the above estimate is a standalone cost already required per the Dischargers' enrollment in the Cannabis General Order and not to be considered a supplemental cost incurred in addition to the preparation of an SMP and DASP.
- b. **The Monthly Progress Reports** are periodic reports that the Dischargers must prepare to demonstrate and communicate progress on implementation of the RMMP. The cost of preparing a Monthly Progress Report is based on the cost estimated in the 2017 Direct Cost Analysis for report production of a Site Closure Report which is estimated to cost \$120 an hour. Staff estimates that it will take four to eight hours to prepare a Monthly Progress Report, resulting in a cost between \$480 and \$960 per report, for a total cost between \$3,360 and \$6,720 to prepare seven monthly reports during the period of April

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[Analysis](#)

([www.waterboards.ca.gov/water\\_issues/programs/cannabis/docs/policy/20171017\\_cannabis\\_cultivation\\_policy\\_cost\\_analysis.pdf](http://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

through October when on-site restoration activities may be authorized. Monthly Progress Reports are necessary to ensure that the restoration and corrective actions are being performed consistent with the approved RMMP and that implementation of the RMMP will be completed by the deadline contained in this Order. Timely implementation is crucial to ensure the Property is restored and erosion control measures are in place prior to the next wet weather period to prevent discharges of sediment into waters of the state.

- c. **The RMMP Completion Report** is a report that demonstrates to the North Coast Water Board or its delegated office 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-construction photographs, staff can confirm the RMMP has been fully implemented and that the erosion control measures are adequate to prevent future discharges of sediment into waters of the state. The cost to prepare an RMMP Completion Report is 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.
- d. **Annual Monitoring Reports** are necessary to document the long-term stability of **restored** areas, to identify any areas where restoration is failing or needs improvement, and to demonstrate the effectiveness of erosion control measures in preventing sediment discharges to waters of the state. Given the condition of the Property as a result of the unauthorized land disturbance activities, including extensive grading and placement of fill, subsequent failure of an access road, and sediment discharge to waters of the state, a yearly report for a minimum of two years will enable staff to confirm that the completed restoration and corrective actions documented in the RMMP Completion Report continue to be effective. 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 \$2,160 to \$9,520 for two annual reports. After consideration of these factors, staff 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.

### **California Environmental Quality Act**

24. Issuance of this Order is an enforcement action by a regulatory agency to enforce the regulatory provisions 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, section 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 assure restoration of stream habitat and prevent erosion, such actions are exempt from provisions of CEQA pursuant to California Code of Regulations, title 14, section 15333. Should additional environmental review be required by the North Coast Water Board in connection with future discretionary regulatory actions at the Property, the North Coast Water Board may recover the costs associated with preparing and processing environmental documents from the Dischargers (Pub. Resources Code, § 21089). The Dischargers will bear the costs, including the North Coast Water Board's costs, of determining whether implementation of any plan required by this Order will have a significant effect on the environment and, if so, in preparing any documents necessary for the North Coast Water Board to satisfy its environmental review obligations under CEQA. If necessary, the Dischargers and a consultant acceptable to the North Coast Water Boards shall enter into a memorandum of understanding with the North Coast Water Board regarding such costs prior to undertaking any environmental review.

### REQUIRED ACTIONS

**IT IS HEREBY ORDERED** that, pursuant to Water Code sections 13267 and 13304, the Dischargers 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.

1. Within 90 days of the effective date of this Order, the Discharger shall do the following:
  - a. Submit a **Restoration, Monitoring, and Mitigation Plan (RMMP)** acceptable to the North Coast Water Board or its delegated officer. The RMMP shall include, but not be limited to:
    - i. An assessment of any direct and indirect impacts to any waters of the state on the Property. The assessment shall be completed by an appropriately qualified professional. Assessment findings comparing site conditions before and after the unauthorized activities shall serve as the basis for the RMMP. This assessment shall include, but not be limited to the following:
      1. temporary and permanent impacts to rivers, watercourses, seeps, springs, bogs, and wetlands caused by the unauthorized grading and dredge and fill activities, including all areas that have been developed or disturbed;

2. identification of controllable sediment sources requiring restoration;
  3. all disturbed areas located within the riparian setbacks from watercourses, wetlands and springs;
  4. surface water hydrology, bed and bank stability, riparian and aquatic habitat and loss thereof, channel slope stability, active or potential erosion and sedimentation sites, stability of graded and disturbed features, culverts and other watercourse crossings, as well as roads and all disturbed areas on the Property;
  5. site maps detailing the area and linear feet of all temporary and permanent impacts to aquatic resources;
  6. aerial photographs and/or satellite images, photographs, topographic maps, or drawings, etc., of Property conditions prior to and after conducting the unauthorized activities; and
  7. a detailed map of features accurately depicting the Property's topography, all graded surfaces, delineation of riparian setbacks from surface water features, delineation of all waters of the state and waters of the United States, drainages, and watercourse crossings, instream structures, and the functional status of these features.
- ii. A plan for Property restoration, including:
    1. a description of how short-term and long-term impacts from erosion and sedimentation sources will be abated (e.g. immediate implementation of erosion and sediment controls and re-grading and re-engineering, graveling or paving road surface, etc.); and
    2. a proposal to restore beneficial uses of any waters of the state on the Property that were adversely impacted by the unauthorized activities, including unnamed tributaries of Lower Trinity River, and any springs, seeps, bogs, or wetlands.
  - iii. A compensatory mitigation proposal to offset any temporary or permanent impacts to waters of the state;
  - iv. Best management practices to be applied to all current and planned work associated with construction activities on the Property impacting, or having the potential to impact, Lower Trinity River and its unnamed tributaries, including surface drainage, erosion and sedimentation controls.
  - v. Design specifications for roads, watercourse crossings, and instream structures.
  - vi. A monitoring and reporting plan to keep track of project progress and provide regular updates to the North Coast Water Board.
  - vii. Success criteria for restoration and compensatory mitigation.

- viii. An implementation schedule that includes a time schedule for submitting permit applications to all applicable local, state, and federal agencies necessary, and detailed project milestones to fulfill the requirements of this Order once those permits are obtained.
2. **By October 15, 2024**, the Dischargers shall implement winterization measures at the Property to prevent discharges of sediment and sediment-laden stormwater to waters of the state, and submit documentation of completed implementation of winterization measures.
3. **By June 15, 2025**, the Dischargers shall begin implementation of an RMMP approved by the Executive Officer in accordance with an approved implementation schedule.
4. The Dischargers shall submit monthly progress reports beginning **the first day of the month** following the start of implementation of the RMMP through completion of cleanup, stabilization, restoration, and mitigation work. The monthly progress reports shall include photographs at each photo monitoring point, as depicted on site maps/figures.
5. **By October 31, 2025**, the Dischargers shall complete implementation of the restoration and mitigation measures contained in the RMMP.
6. Within 60 days after fully completing implementation of the RMMP, **but no later than December 30, 2025**, the Dischargers shall submit an RMMP Completion Report for approval by the North Coast 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 restoration and mitigation measures contained in the RMMP have been fully implemented. This report shall also include pre- and post-construction photographs taken at each photo point, as depicted on site maps/figures.
7. Upon completion of the restoration and mitigation measures contained in the RMMP, the Dischargers shall submit annual monitoring reports by **January 31** of each year for at least two years or until the North Coast Water Board or its delegated officer approves a request to discontinue monitoring. Such a request may be submitted when the approved success criteria identified in the approved 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**

1. **Duty to Use Qualified Professionals:** The Dischargers shall provide documentation that identifies 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 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 his/her knowledge, the report is true, complete, and accurate. The Dischargers 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 Dischargers, or a duly authorized agent, shall notify State 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 Dischargers shall contact Shannon Utley at (707) 445-6125 or by email [Shannon.Utley@waterboards.ca.gov](mailto:Shannon.Utley@waterboards.ca.gov).
4. **Notice of Change in Ownership or Occupancy:** The Dischargers shall file a written report on any changes in the Property’s ownership or occupancy. This report shall be submitted to State Water Board staff no later than 30 days prior to a planned change and shall reference the number of this Order.
5. **Reasonable Access:** The Dischargers shall allow the State Water Board and North Coast 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.
6. **Submissions:** The RMMP and all monitoring reports, technical reports, or notices required under this Order shall be submitted to State Water Board staff at the addresses provided below. State Water Board staff will coordinate with the North Coast Water Board or its delegated officer to obtain approval of the required submittals.

By email (preferred) to:  
Shannon Utley, Engineering Geologist



[Shannon.Utley@waterboards.ca.gov](mailto:Shannon.Utley@waterboards.ca.gov)

Or by mail to:

North Coast Regional Water Quality Control Board

Attn: Shannon Utley

5550 Skylane Blvd., Ste. A

Santa Rosa, CA 95403

7. **Other Regulatory Requirements:** The Dischargers shall obtain all applicable local, state, and federal permits necessary to fulfill the requirements of this Order prior to beginning the work.
8. **Cost Recovery:** Pursuant to Water Code section 13304, the State Water Board and North Coast Water Board are entitled to all reasonable costs actually incurred 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 North Coast Water Board or State 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 State Water Board and North Coast Water Board.
9. **Delayed Compliance:** If for any reason, the Dischargers are 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 North Coast 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 only be granted by modification of this Order or by a letter from the Executive Officer. The North Coast Water Board acknowledges that local, state, and federal permits may cause a delay beyond the control of the Discharger and will take all the available relevant facts into consideration when considering whether or not to exercise its enforcement authority.
10. **Modifications:** Any modification to this Order shall be in writing and approved by the North Coast Water Board or its delegated officer including any potential extension requests.
11. **Enforcement Authority:** If the Dischargers fail 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 North Coast Water Board. Failure to comply with this Order may result in the assessment of an administrative civil liability of up to \$10,000 per violation per day and/or up to \$10 per gallon when the violation results in the discharge of waste, pursuant to Water Code sections 13268, 13350, and/or 13385. The North Coast Water Board reserves the right to take any enforcement actions authorized by law, including, but not limited to, violation of the terms and conditions of this Order.
12. **No Limitation of Water Board Authority:** This Order in no way limits the authority of the North Coast 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 modified if additional information becomes available.

13. **Requesting Review by the State Water Board:** Any person aggrieved by this action of the North Coast 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 seq. 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: ([https://www.waterboards.ca.gov/public\\_notices/petitions/water\\_quality/](https://www.waterboards.ca.gov/public_notices/petitions/water_quality/)) or will be provided upon request.

This Order is effective upon the date of signature.

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Valerie Quinto  
Executive Officer

Attachments: Attachment 1 – May 11, 2023, Notice of Violation and associated Water Quality Inspection Report  
Attachment 2 – October 20, 2023, Notice of Violation and associated Water Quality Inspection Report  
Attachment 3 – June 19, 2024, Water Quality Inspection Report and associated documents