

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
NORTH COAST REGION**

CLEANUP AND ABATEMENT ORDER AND INVESTIGATIVE ORDER NO. R1-2024-0019

for

2975 Calistoga Road
WDID No. 1B23164WNSO
Assessor's Parcel Number 028-100-002
Santa Rosa, Sonoma County

This Cleanup and Abatement and Investigative Order No. R1-2024-0019 (Order) is issued to Keith Courtney White (hereafter referred to as the Discharger) based on provisions of California Water Code (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 require the preparation and submittal of technical and monitoring reports.

FINDINGS

The Executive Officer finds, with respect to the Discharger's acts, or failure to act, the following:

1. **Purpose of the Order:** This Order requires the Discharger to clean up and abate the effects of unpermitted fill of soil, large woody debris and a culvert in unnamed tributaries to Mark West Creek, debris placed within associated riparian areas, and soil placed within wetlands. The unauthorized discharge of fine sediment and organic material to the wetlands and tributaries to Mark West Creek impacts beneficial uses of these surface waters and creates an imminent threat to the environment. This Order requires immediate investigation and cleanup actions to prevent further harm and discharge into wetlands and tributaries to Mark West Creek in compliance 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), Policies and Procedures for Investigation and Cleanup and Abatement of Discharges under Water Code Section 13304 (Resolution 92-49), and other applicable State and Regional Water Board plans, policies, and regulations.
2. **Responsible Parties:** The Discharger is the owner of 2975 Calistoga Road (Property) (June 21, 2022, grant deed, Permit Sonoma). As the owner of the

Property, as detailed below, the Discharger has caused or permitted, or threatened to cause or permit, waste to be discharged or deposited where it is, or probably will be, discharged into waters of the state and United States, which creates, or threatens to create, a condition of pollution or nuisance. The Discharger has the legal ability to control the activities at the Property that resulted in the discharge and/or threatened discharge of waste to waters of the state.

3. Property Location and Description: The Property is located at 2975 Calistoga Road, Santa Rosa, Sonoma County. The Property is located on Sonoma County Assessor's Parcel Number (APN) 028-100-002.

The Property is along and adjacent to Mark West Creek, which is a water of the state and a water of the United States (references hereafter to waters of the United States are also to waters of the state).^a The Property also includes wetlands and tributaries to Mark West Creek, waters of the state.

4. Watershed Setting and Beneficial Uses: The Property is located within the Mark West Creek Hydrologic Subarea (HSA) of the Russian River Hydrologic Unit (HU) (HU/HSA 114.23). The mainstem of Mark West Creek upstream of the confluence with the Laguna de Santa Rosa is listed as impaired on the federal Clean Water Act (Clean Water Act) section 303(d) list for excess sedimentation/siltation and elevated temperature.

The Water Quality Control Plan for the North Coast Region (Basin Plan) designates beneficial uses of water within each Hydrologic Unit within the North Coast Region.

- a. Existing downstream beneficial uses of Mark West Creek include Municipal and Domestic Supply (MUN); Agricultural Supply (AGR); Industrial Service Supply (IND); Groundwater Recharge (GWR); Freshwater Replenishment (FRSH); Navigation (NAV); Water Contact Recreation (REC-1) & Other Non-Contact Recreation (REC-2); Commercial and Sport Fishing (COMM); Wildlife Habitat (WILD); Rare, Threatened or Endangered Species (RARE); Cold Freshwater Habitat (COLD); Migration of Aquatic Organisms (MIGR); and Spawning, Reproduction, and/or Early Development (SPWN). Beneficial uses of any specifically identified water body generally apply to all its tributaries.

^a The Porter-Cologne Water Quality Control Act provides the Regional Water Board authority to regulate discharges of waste into "waters of the state." (Wat. Code, § 13000 et seq.) 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.

- b. Potential downstream beneficial uses of Mark West Creek and its tributaries include Industrial Process Supply (PRO); Hydropower Generation (POW); Shellfish Harvesting (SHELL); and Aquaculture (AQUA).
 - c. The existing beneficial uses freshwater wetlands include: Flood Peak Attenuation/ Flood Water Storage (FLD); Wetland Habitat (WET); and Water Quality Enhancement (WQE).
5. Water Quality Objectives: 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 activities include the following:
 - i. Settleable Material: “Waters shall not contain substances in concentrations that result in deposition of material that causes nuisance or adversely affect beneficial uses.”
 - ii. 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.”
 - iii. 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.”
6. Property History & Factual Basis of the Order: On September 28, 2023, the County of Sonoma (County) referred the Property to the Regional Water Board with a written description of County grading and zoning violations and five photographs. On October 6, 2023, Regional Water Board and County staff inspected the Property and observed numerous violations of the Water Code and of the Construction General Permit (CGP) requirements and Regional Water Board staff documented their findings in an inspection memo.^b The Discharger’s activities and the conditions observed at the Property, as documented in the inspection memo dated November 23, 2023 (Attachment A), were found to be in violation of the Water Code, Basin Plan, and possibly the Clean Water Act.

The Property is adjacent to Mark West Creek on the eastern side. From the site inspection, aquatic resources on the Property include riparian areas, wetlands, and stream channels. Fill of an undetermined amount had been placed within one channel, altering the Property hydrology by impacting the channel north of the fill

^b See Regional Water Board inspection memo dated November 23, 2023, which was provided to the Discharger on December 29, 2023.

and cutting off the source of water to the wetlands west of the placed fill. Additionally, an unpermitted and potentially undersized culvert was placed within wetlands, woody debris had been placed within the northernmost channel, and riparian vegetation had been covered with debris. While the size of the fill material could not be determined during the site inspection, after the inspection, on October 10, 2023, Jamie Svanda of Robertson Engineering estimated the fill area to be approximately 2.07 acres. A historical analysis using aerial images from 2021 and 2023 indicates that fill was placed over, and now completely covers, a previously existing unnamed watercourse that flowed east to west towards Mark West Creek (Attachment A, Photos 11 and 12).

On December 29, 2023, the Regional Water Board issued a Notice of Violation (NOV) to the Discharger for violations of the California Water Code sections 13260, 13261(a), 13264(a), 13265(a), 13304, 13350 and 13376, the Water Quality Control Plan for the North Coast Region Section 4.2.1., and possibly the Clean Water Act sections 301, 401, and 404 pending federal jurisdictional determination. The NOV recommended the Discharger to enroll in the CGP, continue to winterize the site, and monitor discharges to aquatic resources throughout the wet season (October 15 – May 15).

The Discharger certified their enrollment in the National Pollutant Discharge Elimination System (NPDES) General Permit For Stormwater Discharges Associated With Construction And Land Disturbance Activities (Construction General Permit) Order WQ 2022-0057-DWQ NPDES NO. CAS000002 (WDID 149C402623), on November 15, 2023, and submitted a Stormwater Pollution Prevention Plan with erosion and sediment control measures. Best management practices (BMPs) of wattles, jute netting, rocked construction entrance, and seeding were recommended by the Regional Water Board staff and implemented on site within the fill area. The Discharger is required to comply with all the conditions of the Construction General Permit. Any permit noncompliance constitutes a violation of the Clean Water Act and may subject the Discharger to administrative civil liability pursuant to Water Code section 13385, subdivision (c).

On February 8, 2024, Regional Water Board 401 unit staff conducted a site inspection, along with staff from the County and California Department of Fish and Wildlife (CDFW), to investigate onsite conditions following a recent rain event. Regional Water Board staff observed that various types of BMPs had been deployed and vegetation was growing on the disturbed soils and the fill areas.

7. Property Features or Conditions Impacting or Threatening to Impact Water Quality and Beneficial Uses: The Discharger has caused or allowed the discharge and threatened discharge of waste to receiving waters by placing sediment, organic material, and waste into waters of the state and United States as documented in the

above-referenced Attachment A and findings from Attachment B as discussed below.

- a. The unauthorized discharge of sediment, organic material, and waste into jurisdictional waters, causing impacts of the tributaries, wetlands, and riparian areas to Mark West Creek.
 - b. The unpermitted grading, fill, placement of a culvert, large wood, and vegetation removal, and modification of the tributaries, wetlands, and riparian area.
8. Findings of Pollution: The discharges and/or threatened discharges described in Findings 6 and 7, above, have altered and/or threaten to further alter the quality of waters of state and/or the United States to a degree that unreasonably affects waters for beneficial uses. Therefore, the discharges and threatened discharges of waste create a condition of pollution subject to this Order in accordance with Water Code section 13304, as follows:
- a. Discharges of sediment and other inert materials 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. Sediment-laden storm water discharges to downstream surface waters and the resulting turbidity can affect the recreational and aesthetic enjoyment of those surface waters (REC-1, REC-2, COMM), domestic and municipal drinking water supplies (MUN), agricultural supply and economic uses (AGR, IND, and NAV), replenishment of groundwater and freshwater (GWR and FRSH), and wildlife habitat and aquatic species (RARE, MIGR, SPWN, COLD, COMM, and WILD). Additionally, such discharges directly threaten functions and features of freshwater wetlands including Flood Peak Attenuation and Flood Water Storage (FLD), Wetland Habitat (WET), and Water Quality Enhancement (WQE).
 - b. Sediment and waste fill material are pollutants that can have substantial biological, chemical, and physical impacts on wetlands. Placing fill material within wetlands can eliminate opportunities for vegetation establishment and development, impacting unique wetland functions, water storage, fish, shellfish, invertebrates, insects, and wildlife habitat. Sediment and waste fill material may interfere with the wetland function of supporting natural enhancement or improvement of water quality in or downstream of a waterbody including, but not limited to, erosion control, filtration and purification of naturally occurring water pollutants, streambank stabilization, maintenance of channel integrity, and siltation control.

- c. Suspended sediment from these discharges into 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.
 - d. The discharge of organic and earthen material is especially problematic for cold-water fish in water bodies that are listed as impaired under Section 303(d) of the Clean Water Act due to pollutants such as temperature and sedimentation/ siltation. Sediment delivery impacts the migration, spawning, reproduction, and early development of cold-water fish such as coho salmon and steelhead trout. Impacts include (1) increased turbidity (loss of clarity) and resulting 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. Also, sediment can clog fish gills, reducing resistance to disease, lowering growth rates, and affecting fish egg and larvae development.
(https://cfpub.epa.gov/npstbx/files/ksmo_sediment.pdf)
 - e. Sediment is a pollutant that can have substantial biological, chemical, and physical impacts on receiving waters. It should be noted that these water quality impacts occur during both 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), which bind to sediment particles.
9. Failure to Obtain Necessary Permits: The Discharger's activities of placing fill material within waters of the state were conducted inconsistent with, and without authorization from, applicable federal, state, and local agencies, including coverage under any of the following regulatory permits:
- a. A Clean Water Act section 401 Water Quality Certification, Waste Discharge Requirements, or a Waiver thereof, from the Regional Water Board.

- b. A Clean Water Act section 404 permit from the Army Corps of Engineers for dredge and fill activities in waters of the United States (pending federal jurisdictional determination).
 - c. A Lake and Streambed Alteration Agreement from CDFW for substantial change to bed and banks of streams and obstruction of flow.
 - d. A Use Permit and/or other applicable permits from Sonoma County.
10. State Water Board Resolutions and Orders: 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 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.
11. Legal and Regulatory Authority: 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....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.

- a. "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.
 - i. Sediment, when discharged to waters of the state, is a "waste" as defined in Water Code section 13050. The Discharger caused or permitted waste to be discharged or deposited where it will be, or has the potential to be, discharged to Mark West Creek, a water of the state and United States.
 - b. "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. (See Finding 4 above.)
12. Cleanup and Abatement Action Necessary: Cleanup and abatement is necessary to ensure that discharges of waste to waters of the state in violation of Regional Water Board orders and/or Basin Plan prohibitions, and/or discharges or threatened discharges of waste to waters of the state creating a condition of pollution, are appropriately cleaned up, that background water quality conditions are restored, and that any impacts to beneficial uses are mitigated.

The unauthorized discharge of soil, large woody debris, and a culvert, discharged into watercourses, wetlands, and riparian areas adjacent to Mark West Creek alter the quality of waters of the state and impacts beneficial uses. The discharges are not in compliance with Executive Order 59-93 nor the State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State. The current condition of pollution is a violation of applicable water quality regulations and the issuance of this Order pursuant to Water Code section 13304 is appropriate and consistent with the policies of the Regional Water Board.

13. Technical Reports Required: Water Code section 13267, subdivision (a) provides that the Regional Water Board may investigate the quality of any water of the state within its region in connection with any action relating to the Basin Plan. Water Code section 13267, subdivision (b) provides that the 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 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 state, to ensure that cleanup complies with Basin Plan requirements and State Water Board Resolution 92-49, and that the Discharger will implement adequate and effective best management measures and practices to control and minimize future pollutant discharges from the Property.

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

This Order requires two technical reports, including (1) a Stream and Wetland Delineation and Impact Assessment Report and (2) a Cleanup, Restoration, and Monitoring Plan, which includes annual monitoring and completion reports. Regional Water Board staff estimate that the total cost of preparing and submitting the two technical reports is between approximately \$22,000 – \$45,000. The costs of the technical or monitoring reports required by this Order bear a reasonable relationship to the need for these reports and the benefit to be gained by these reports, as discussed below:

- a. **Stream and Wetland Delineation and Impact Assessment** is a determination and mapping of wetlands and all waters of the state within the area impacted and identified within the Notice of Violation. This delineation is in accordance with the 1987 USACE Wetland Delineation Manual, Regional Supplements and the State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State. The delineation shall include all wetlands, waters of the state, and waters of the United States within the impacted Property area. Where fill has been placed, the Discharger shall conduct a forensic delineation to determine wetlands and waters of the state filled using historical information, excavation or past delineations. The result of the *Stream and Wetland Delineation and Impact Assessment Report* shall map and quantify the area of each aquatic resource both existing (unimpacted) and filled (impacted).
- b. **Cleanup, Restoration, and Monitoring Plan (CRMP)** is a technical report that is necessary to: (1) identify the impacted and unimpacted areas delineated in the *Stream and Wetland Delineation and Impact Assessment Report*; (2) determine the appropriate cleanup and abatement work to remove fill placed within waters of the state and completely restore aquatic functions due to unpermitted fill and prevent and/or minimize the mobilization and transport of sediment and organic material; (3) create a plan along with an implementation schedule that will guide the scope of work to stabilize the site, cleanup and

abate the discharges and threat of discharge from the Property, and restore and mitigate for any temporal and/or permanent impacts to wetlands and other waters of the state that resulted from unauthorized activities on the Property using the US Army Corps standard operating procedure 12501 for determination of mitigation ratios; and (4) include 5 years of proposed monitoring that will be conducted including annual performance measures and final success criteria that will be used to demonstrate full aquatic resource restoration, as well as one completion report that will demonstrate full implementation of the CRMP.

The anticipated benefits from the CRMP include complete restoration of wetlands (meeting the state definition of wetlands), stream channel functions and protection from actual and threatened waste discharges that impact beneficial uses and water quality objectives. In addition, by requiring the Discharger to submit a CRMP, the Regional Water Board or its delegated officer will have the opportunity to review and approve the scope of the proposed abatement and stabilization actions to confirm that the proposed work will adequately remediate site conditions and prevent further impacts to beneficial uses of sensitive waterbodies.

As previously mentioned, the mainstem of Mark West Creek upstream of the confluence with the Laguna de Santa Rosa is listed as impaired on the Clean Water Act section 303(d)-list for elevated sedimentation/siltation and elevated temperature. The impairments of Mark West Creek thereby heighten the need for this technical report to reduce further impairment to waters of the state.

14. 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. 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 cleanup, abatement or restoration activities and possible associated environmental impacts. To the extent that the Order requires earth-disturbing and re-vegetation activities 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, section

15333. 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. The Discharger will bear the costs, including the Regional 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 Regional Water Board to satisfy its environmental review obligations under CEQA. 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 13304 and 13267, 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 technical reports and information as required below.

1. **No later than August 31, 2024**, pursuant to Water Code section 13267, the Discharger shall submit a **Stream and Wetland Delineation and Impact Assessment Report** prepared by an appropriately qualified professional to the Regional Water Board for approval.
2. **No later than October 31, 2024**, pursuant to Water Code section 13267, the Discharger shall submit a **Cleanup, Restoration, and Monitoring Plan (CRMP)** prepared by an appropriately qualified professional for the completion of measures necessary to cleanup and abate wastes and to prevent further unauthorized discharges of sediment, organic matter, and waste to the wetlands and tributaries to Mark West Creek. The CRMP shall be subject to review and approval by the Regional Water Board Executive Officer. The CRMP shall include information listed in Finding 13.b. and the following:
 - a. A characterization of all waste(s), including an estimate of volume, that have discharged from the Property or have the potential to further transport and/or discharge, into the aquatic resources previously delineated, including the wetlands, stream channels and riparian areas of Mark West Creek.
 - b. Using the above information and including the aquatic resource delineation, a description of proposed cleanup, stabilization, discharge location(s), and potential discharge site(s) that are necessary to prevent and minimize sediment and organic material transport and discharge from the Property. The cleanup plan shall include a basis of design for aquatic restoration actions, project

objectives, plans for grading impacted areas to pre-project contours, a planting palette with plant species native to the area and invasive special management. Include a site map depicting topography, existing watercourses and wetlands to be avoided, graded/disturbed surfaces, areas of accumulated sediment and organic materials, and areas of erosion and scour from the stormwater discharges. Proposed stabilization measures to provide bank stabilization and to prevent any discharges of sediment. Remediation and cleanup oversight and documentation by a qualified professional.

- c. A proposed schedule outlining the actions to be implemented at each area of concern, including compensatory mitigation for any temporal and/or permanent impacts to wetlands and other waters of the state that resulted from unauthorized activities on the Property. Compensatory mitigation shall comply with Executive order 59-93 and the State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State using the US Army Corps standard operating procedure 12501 for determination of mitigation ratios. The CRMP shall describe the type and amount of mitigation proposed, existing site conditions at the proposed mitigation site, and implementation methods used to provide compensatory mitigation.
 - d. A 5-year monitoring and reporting plan that includes annual performance measures and final success criteria that will be used to evaluate the success of the cleanup, stabilization, and compensatory mitigation, including an implementation schedule. Upon completion of final success criteria, the monitoring plan shall include a final aquatic resource delineation to map, quantify area of all resources, and demonstrate wetlands meet the state wetland definition.
3. **No later than October 15, 2025, submit an Interim Completion Report** pursuant to Water Code section 13304 and subsequent to the Discharger obtaining the appropriate permits, demonstrating completion of the work specified in the approved CRMP (with the exception of ongoing monitoring), cleaning up and stabilizing prior to the winter wet-weather period (i.e., October 15 - May 15).
 4. **By June 15 of each year, upon completion of the CRMP, submit annual monitoring reports** pursuant to Water Code section 13267 for at least five years or until the Regional Water Board or its delegated officer approves a request to discontinue monitoring. Such a request may be submitted when the approved success criteria in the CRMP are met with supporting documentation. Each annual monitoring report shall include, at a minimum, the following: a completed inspection checklist, photos of areas restored, through scientific survey and analysis a demonstration whether annual performance measures are being met, and a

description of any locations where restoration is failing or adaptive management is needed to achieve the success criteria.

- 5. No later than June 15, 2030**, pursuant to Water Code section 13267, the Dischargers shall **submit a Completion Report** for the CRMP for approval by the Regional Water Board or its delegated officer. This report shall include a summary and photographs of all completed restoration construction and/or abatement measures included in the approved CRMP to demonstrate the CRMP has been fully implemented. Include photographs of all areas where corrective action has taken place, clearly keyed to site map(s).

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 stream and wetland delineation shall be completed by a qualified professional with education and experience in the Army Corps delineation methodology and state wetland definition. The lead professional shall sign and affix their registration stamp to the report, plan, or document. The required activities must be implemented and overseen by the appropriately qualified/licensed professional as otherwise required by law.
- 2. Signatory Requirements:** All technical 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 Change in Ownership or Occupancy:** The Discharger shall file a written report on any changes in the 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.
4. **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.
5. **Reasonable Access:** The Discharger shall allow the 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.
6. **Cost Recovery:** Pursuant to Water Code section 13304, 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. The Discharger shall enroll in the State Water Board’s Cost Recovery Program managed by the State Water Board for the discharges addressed by this Order and shall reimburse the State of California for all reasonable costs actually incurred by the Regional Board pursuant to the procedures established in that program. Pursuant to Water Code section 13304 subdivision (c)(2), any costs not reimbursed constitute a lien on the affected property upon the Regional Water Board’s serving notice of the lien on the property owner and recordation of the lien.
7. **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 Executive 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 Executive Officer.
8. **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 day of violation of Order requirements under Water Code section 13304 and up to \$1,000 per day of violation of Order technical reporting requirements under Water Code section 13267. (Wat. Code, §§ 13350, 13268.) The Regional 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.

- 9. 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.
- 10. 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.
- 11. Requesting Review by the State Water Board:** Any person aggrieved by this, or 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: [Filing Petition](#) (http://www.waterboards.ca.gov/public_notices/petitions/water_quality) or will be provided upon request.

This Order is effective upon the date of signature.

Valerie Quinto

Executive Officer

Keith Courtney White
2975 Calistoga Road
Cleanup and Abatement Order R1-2024-0019

Attachment A: Site Inspection Memo, 2975 Calistoga Road, Santa Rosa, Sonoma
County

Attachment B: Notice of Violation, 2975 Calistoga Road, Santa Rosa, Sonoma County;
APN 028-100-002