

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

CLEANUP AND ABATEMENT ORDER NO. R5-2024-0701

**FOR
JOHNATHAN MATTHEW CARLILE JR., LEOPOLDO BARAJAS,
CARMEN HERRERA, AND KURT MOFFIT,
ASSESSOR'S PARCELS 045-740-017-000 AND 045-740-019-000
SHASTA COUNTY**

This Cleanup and Abatement Order (Order) is issued to Johnathan Matthew Carlile Jr., Leopoldo Barajas, Carmen Herrera, and Kurt Moffit (hereafter referred to as "Dischargers") based on provisions of California's Porter-Cologne Water Quality Control Act (Water Code) section 13304, which authorizes the Central Valley Regional Water Quality Control Board (Central Valley Water Board) to issue an order requiring the cleanup and abatement of wastes, and Water Code section 13267, which authorizes the Central Valley Water Board to require the preparation and submittal of technical and monitoring reports.

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

Purpose of the Order

1. This Order requires the Dischargers to cleanup and abate the effects of waste that is discharging or threatening to discharge to waters of the state. These discharges and threatened discharges of waste are the result of unauthorized cannabis cultivation and associated grading and land disturbance activities. These activities occurred without authorization from applicable federal, state, or local agencies, including the Central Valley Water Board. This Order requires investigation and cleanup in compliance with the Water Code, the Water Quality Control Plan for the Sacramento River and San Joaquin River Basins, Fifth Edition, February 2019 (Basin Plan), State Water Resources Control Board (State Water Board), Policies and Procedures for Investigation and Cleanup and Abatement of Discharges (Resolution 92-49), and other applicable State Water Board and Central Valley Water Board plans, policies, and regulations.

Site Location and Description

2. The discharges and unauthorized discharges were observed on Shasta County Assessor's Parcels (Assessor's Parcels) 045-740-017-000 and 045-740-019-000 (collectively referred to as the Site). The Site is located approximately 11 miles west of Anderson and Cottonwood, within the Cottonwood Creek Watershed. The two parcels are adjoining and are approximately separated by a Class III watercourse. Cultivation activities were observed on both parcels which have

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resulted in discharges along the shared property boundary that are indistinct in origin.

- a. Assessor's Parcel 045-740-017-000 consists of 10.24 acres that lie within the Northeast one-quarter of Section 25, Township 30 North, Range 6 West, M.D.M., and identified as "Parcel A" in the Parcel Map recorded with Shasta County. Unnamed Class III tributaries flow through this parcel and runoff from the parcel flows to an unnamed Class III tributary of Dry Creek. Dry Creek is a tributary to Cottonwood Creek, which then flows into the Sacramento River approximately 15 miles east of the Site. The Sacramento River and its tributaries are waters of the state.
- b. Assessor's Parcel 045-740-019-000 consists of 10.44 acres that lie within the Northeast one-quarter of Section 25, Township 30 North, Range 6 West, M.D.M., and identified as "Parcel C" in the Parcel Map recorded with Shasta County. This parcel is adjacent, on the southwest boundary, to Assessor's Parcel 045-740-017-000. Unnamed Class III tributaries, as well as an unnamed Class III tributary of Dry Creek, flow through this parcel. Dry Creek is a tributary of Cottonwood Creek, which flows into the Sacramento River approximately 15 miles east of the Site. The Sacramento River and its tributaries are waters of the state.

Responsible Parties

3. This Order finds that the Dischargers are responsible parties based on the following:
 - a. Based on Shasta County property records, Leopoldo Barajas and Carmen Herrera purchased Assessor's Parcel 045-740-017-000 on 24 April 2023 and are the current owners of the property.
 - b. Prior to 24 April 2023, Assessor's Parcel 045-740-017-000 was owned by Johnathan Matthew Carlile Jr. based on a Standard Agreement for Sale of Real Estate provided to Central Valley Water Board staff, Johnathan Matthew Carlile (Sr.) and Johnathan Matthew Carlile Jr. purchased Assessor's Parcel 045-740-017-000 on 20 July 2009 from Ed Edwards. Mr. Edwards was the presumed owner of the property at the time of the inspection because the Standard Agreement for Sale of Real Estate, which transferred ownership from Mr. Edwards to Mr. Carlile Sr. and Mr. Carlile Jr., was never recorded.

Based on Department of Public Health records, Johnathan Matthew Carlile (Sr.) passed away on 18 May 2017. Mr. Carlile Jr. was the sole owner of this parcel on

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the date that Central Valley Water Board staff inspected the property and observed discharges and threatened discharges of waste to waters of the state.

Ownership Summary - Assessor's Parcel 045-740-017-000

Date	Document	Transferred From	Transferred To	Notes
4/24/23	Grant Deed	Johnathan Matthew Carlile Jr.	Leopoldo Barajas and Carmen Herrera	Barajas/Herrera are current owners
5/18/17	California Dept. of Public Health, Center for Health Statistics	Johnathan Matthew Carlile Sr. and Johnathan Matthew Carlile Jr.	Johnathan Matthew Carlile Jr.	Johnathan Matthew Carlile Sr. passed leaving Johnathan Matthew Carlile Jr. sole owner
7/20/09	Standard Agreement for Sale of Real Estate	Ed Edwards	Johnathan Matthew Carlile Sr. and Johnathan Matthew Carlile Jr.	Grant Deed was not recorded at Shasta County Recorder until 15 August 2022.

- c. Kurt Moffit is the owner of Assessor's Parcel 045-740-019-000. Mr. Moffit has owned this property since 5 March 2013, and was the sole owner of the property when Central Valley Water Board staff inspected the property and observed discharges and threatened discharges of waste to waters of the state.
 - d. As the owners at the time of the discharge and threatened discharge of waste that was documented by Central Valley Water Board staff, Mr. Carlile Jr. and Mr. Moffit, had or should have had, knowledge of the unauthorized activities that resulted in the discharge and threatened discharges, and had the ability and legal responsibility to prevent the discharges from occurring. Mr. Moffit, Mr. Barajas, and Mrs. Herrera, as the current property owners, have or should have knowledge of the current conditions of their properties and have the legal ability to remediate the conditions that continue to discharge wastes and to prevent additional threatened discharges of waste to waters of the state.
4. The Central Valley Water Board reserves the right to amend this Order to add additional responsible parties if/when those parties are identified.

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5. Nothing in this Order is intended to, or shall be interpreted as, limiting apportionment of liability or a responsible party's ability to seek reimbursement or indemnity from any and all other responsible parties.

Factual Basis of the Order

6. On 29 July 2022, Central Valley Water Board staff accompanied staff from the California Department of Fish and Wildlife (CDFW) on criminal search warrant inspections of Assessor's Parcels 045-740-017-000 and 045-740-019-000 (Site). Based on property ownership records for Assessor's Parcel 045-740-017-000 available on LandVision, Ed Edwards was identified as the owner of that parcel. At this time, staff were not yet aware of the unrecorded sale agreement Ed Edwards entered into with Johnathan Matthew Carlile Sr. and Johnathan Matthew Carlile Jr. in 2009. Kurt Moffit was identified as the owner of Assessor's Parcel 045-740-019-000.
7. During the inspection of Assessor's Parcel 045-740-017-000, Central Valley Water Board staff documented active cannabis cultivation and a variety of active unauthorized discharges of wastes and threatened discharges of waste in violation of the Water Code, including the following:
 - a. Three cannabis cultivation areas, located adjacent to the Class III watercourse, in which cultivation was occurring within hoophouses with holes dug in native soil and backfilled with native soil amended with potting soil. Perlite was observed around the plant bases.
 - b. Lack of best management practices (BMPs) at and surrounding the cultivation areas to prevent erosion and sediment discharge from ground disturbances and discharges of wastes from cultivation infrastructure and associated materials, and refuse and debris.
 - c. Generators, fuel containers, petroleum products, fertilizers, pesticides, chemicals, and miscellaneous refuse and debris were observed improperly stored without secondary containment to prevent discharges/runoff to the Class III watercourses.
 - d. Evidence of burn piles within a Class III watercourse and riparian setback zones where plastics and other waste materials had burned, which likely released toxins and other hazardous chemicals into the watercourse.
 - e. Inactive cannabis cultivation infrastructure, potting soil, related waste materials, miscellaneous refuse and debris, and abandoned vehicles within the Class III watercourse, floodplain, and riparian setback zones.

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- f. Two watercourse crossings that were improperly designed, lacked BMPs, and showed evidence of erosion and sediment discharge to the watercourse.
 - i. Assessor's Parcel 045-740-017-000 Watercourse Crossing 1 appeared to have altered the natural path of the Class III watercourse and redirected flow along the length of the roadway surface, resulting in erosion, rilling, and gulying of the roadway surface and discharges of sediment.
 - ii. Assessor's Parcel 045-740-017-000 Watercourse Crossing 2 showed signs of erosion, rilling, and gulying with the access roadway surface and evidence of associated sediment discharge within the channel of the Class III watercourse.
8. During the inspection of Assessor's Parcel 045-740-019-000, Central Valley Water Board staff documented active cannabis cultivation and a variety of unauthorized discharges of wastes and threatened discharges of waste in violation of the Water Code, including the following:
 - a. A cannabis cultivation area consisting of three hoop houses, with active cannabis cultivation occurring in one hoop house in which holes had been dug in native soil and backfilled with native material. The disturbed cultivation area lacked BMPs to prevent erosion and sediment discharges to watercourses.
 - b. Improperly designed and constructed watercourse crossings.
 - i. Assessor's Parcel 045-740-019-000 Watercourse Crossing 1 was an unprotected ford-type crossing that lacked BMPs to prevent erosion and sediment discharge to the Class III watercourse.
 - ii. Assessor's Parcel 045-740-019-000 Watercourse Crossing 2 was located on a Class III watercourse and consisted of an approximate 36-inch diameter culvert crossing. Although this culvert appeared to be appropriately sized and installed, staff observed rilling and gulying in the roadway surface approach to the crossing, with evidence of sediment discharge to the watercourse.
 - iii. Assessor's Parcel 045-740-019-000 Watercourse Crossing 3 consisted of an approximate 18-inch diameter culvert that appeared undersized. Staff observed erosion of the roadway surface and shoulder around the discharge side of the culvert, indicating potential overtopping and inadequate capacity of the culvert.
 - c. Access roads showing signs of erosion, rilling and gulying, and evidence of sediment transport and direct discharge, without BMPs.

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- d. Threats of discharge from improperly designed and installed water storage tanks and nutrient mixing systems. Staff observed water storage tanks placed on native soil without restraint systems or devices designed to prevent overflow. The tanks showed evidence of discharge and corresponding erosion and gulying downgradient from the tanks. The totes used for nutrient mixing/storage were similarly placed on native soil, lacked secondary containment and restraint systems, and did not have devices installed to prevent overflow.
 - e. Improperly stored generators, fuel containers, petroleum products, fertilizers, pesticides, chemical and miscellaneous refuse and debris with no secondary containment to prevent discharge.
9. Subsequent to the inspection, an Inspection Report and Notice of Violation was issued to Ed Edwards on 26 August 2022 that identified the violations noted above for Assessor's Parcel 045-740-017-000. On the same day, Central Valley Water Board staff mailed an Inspection Report and Notice of Violation to Kurt Moffit that identified the violations noted above for Assessor's Parcel 045-740-019-000. The Notices of Violations required Mr. Edwards and Mr. Moffit to submit specific documentation that Site cleanup and restoration measures had been completed to address discharges and threats of future discharges to waters of the state by 30 September 2022.
 10. Central Valley Water Board staff did not receive a response from Mr. Moffit. However, United States Postal Service online tracking records indicate that the Inspection Report and Notice of Violation were received at Mr. Moffit's address.
 11. On 31 August 2022, Central Valley Water Board staff received a letter from Mr. Edwards stating that Johnathan Matthew Carlile was the owner of Assessor's Parcel 045-740-017-000. Mr. Edwards submitted a copy of a Standard Agreement for Sale of Real Estate dated 20 July 2009, through which he sold the property to Mr. Carlile Sr. and Mr. Carlile Jr.¹ Mr. Edwards stated that he had not recorded the 2009 property transfer. Mr. Edwards provided a copy of a request to record the

¹ Despite the apparent sale of the property in 2009 from Mr. Edwards to Mr. Carlile Sr. and Mr. Carlile Jr., Shasta County property tax records indicate that the property tax bills were sent to addresses associated with Mr. Edwards from 2016 (earliest available record) to 2023. The tax records indicate that the 2023-2024 tax bill was changed in 2023 from Mr. Edwards's to Mr. Barajas' address. Additionally, County transaction records indicate that Mr. Edwards entered into a refinancing agreement for the property on December 21, 2009, after the date of the purchase agreement with Mr. Carlile Sr. and Mr. Carlile Jr.

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Grant Deed that he submitted, which was stamped as received by the Shasta County Recorder's Office on 15 August 2022.

12. Central Valley Water Board staff subsequently learned that Mr. Carlile Sr. passed away in 2017, prior to the inspection, and that Mr. Carlile Jr. was the apparent sole owner of Assessor's Parcel 045-740-017-000 at the time of the inspection.
13. On 3 October 2022, Central Valley Water Board staff spoke with Mr. Carlile Jr. by phone. Mr. Carlile Jr. stated that he intended to remediate all discharges of waste and threats of discharge of waste observed at his property. Staff generally described the violations and suggested they schedule a site visit with Mr. Carlile Jr. to discuss violations and path forward. Mr. Carlile Jr. indicated that cleanup at his property had already begun, and staff requested he provide photos documenting the work that had been completed to date.
14. On 3 October 2022, Mr. Carlile Jr. emailed Central Valley Water Board staff to document the earlier phone conversation with staff that day and to confirm he would provide photographs of cleanup that had been done at the property. Mr. Carlile Jr. emailed photographs to staff on 9 October 2022 that showed hoophouse structures and cultivation infrastructure had been removed. Central Valley Water Board staff responded to Mr. Carlile Jr. on 10 October 2022, acknowledging receipt of the photographs.
15. On 21 November 2022, the Assistant Executive Officer of the Central Valley Water Board issued to Mr. Carlile Jr. a Notice of Violation and Water Code section 13267 Order for submittal of technical or monitoring reports. The Water Code section 13267 Order required Mr. Carlile Jr. to submit documentation that the property had been fully restored or submit a work plan for restoration and mitigation to address the discharges and threats of discharge observed on the property. The deadline to comply with this requirement was 30 November 2022.² United States Postal Service (USPS) online tracking records indicate that the copy of the NOV and Water Code section 13267 Order sent to Mr. Carlile Jr. via certified mail was picked up from the post office. Staff did not receive a response from Mr. Carlile Jr. by the deadline identified in the Water Code section 13267 Order.

² This Order supersedes the Water Code Section 13267 Order previously issued to Johnathan Carlile Jr. on 21 November 2022; however, issuance of this Order does not eliminate days of violation that accrued under the Water Code Section 13267 Order prior to issuance of this Order, nor does it preclude the Central Valley Water Board's ability to pursue enforcement against Mr. Carlile Jr. for those days of violation.

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16. On 14 February 2023, Central Valley Water Board staff emailed Mr. Carlile Jr. to inform him that staff would be recommending additional enforcement due to his failure to respond to the Water Code section 13267 Order.
17. On 18 February 2023, Mr. Carlile Jr. left staff a voice mail stating that he is still living out of town, has only been able to get to the property one time, and that neighbors told him people are trespassing onto his property, stealing trailers, abandoning additional vehicles, and leaving trash.
18. On 21 February 2023, Central Valley Water Board staff issued a Notice of Violation to Mr. Carlile Jr. for failure to comply with the Water Code section 13267 Order issued to him on 21 November 2022. USPS online tracking records indicate that the copy of the Notice of Violation sent to Mr. Carlile Jr. via certified mail was picked up from the post office.
19. On 2 March 2023, staff called Mr. Carlile Jr., to discuss potential dates for Central Valley Water Board staff to visit the property to inspect the Site conditions and evaluate whether restoration and mitigation measures had been completed on the property. Mr. Carlile Jr. stated he lived 100 miles away, that it was difficult for him to get to the property and that he was not sure when he would be able to meet staff at his property. He also claimed trespassers continue to vandalize his property and leave trash, that the violations observed to the west, including the abandoned vehicles and trash within and adjacent to the Class III watercourse, are not located on his property, and he does not have permission to remove them.
20. On 6 March 2023, Central Valley Water Board staff received an email from Mr. Carlile Jr. stating that he was injured and that it would be several weeks before he would be able to get to the property.
21. On 15 March 2023, Central Valley Water Board staff went to the Shasta County Assessor's Office to confirm the boundaries of Assessor's Parcel 045-740-017-000. Staff obtained a copy of the deed description, which references a Parcel Map on file with Shasta County. Staff obtained a copy of that Parcel Map. Based on the boundaries described in the deed description and depicted in the Parcel Map, staff confirmed that several of the violations that had previously been identified on Assessor's Parcel 045-740-017-000 are in fact located on the neighboring parcel, Assessor's Parcel 045-740-019-000 that is owned by Mr. Moffit. These violations on the northern portion of Mr. Moffit's property (Assessor's Parcel 045-740-019-000) appear to have been the result of activity related to Mr. Carlile Jr.'s property (Assessor's Parcel 045-740-017-000) and include the following:

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- a. Plastic and waste burn piles within the Class III watercourses and riparian setback zones where plastics and other waste materials had burned likely causing release of toxins and other hazardous chemicals into waterways.
 - b. Miscellaneous refuse and debris, and abandoned vehicles within the Class III watercourse, floodplain, and riparian setback zones.
 - c. Access roads and watercourse crossings showing signs of flow alteration, erosion, rilling and gulying, and evidence of sediment transport and direct discharge to watercourse.
22. Following a subsequent search of Shasta County property records, Central Valley Water Board staff learned that Mr. Carlile Jr. sold Assessor's Parcel 045-740-017-000 to Leopoldo Barajas and Carmen Herrera on 24 April 2023.
23. On 21 September 2023, CDFW notified Central Valley Water Board staff and provided aerial imagery of Assessor's Parcel 045-740-017-000, that they acquired on 7 September 2023. The imagery showed evidence of a new hoop house that had been installed on the property as well as potential active outdoor cultivation that was occurring. On 3 October 2023, CDFW Wardens stated that they had confirmed via ground reconnaissance that cannabis cultivation was being conducted on the property.

Beneficial Uses and Water Quality Objectives

24. The Basin Plan designates beneficial uses, establishes water quality objectives, contains implementation programs for achieving objectives, and incorporates by references, plans and policies adopted by the State Water Board.
25. The unnamed Class III watercourses at the Site, are waters of the state, and are tributaries of Dry Creek, which flows into Cottonwood Creek, which is a tributary of the Sacramento River. The existing designated beneficial uses for Cottonwood Creek include the following: municipal and domestic supply (MUN), agricultural supply (AGR), groundwater recharge (GWR), water contact recreation (REC-1), non-contact water recreation (REC-2), warm freshwater habitat (WARM), cold freshwater habitat (COLD), migration of aquatic organisms (MIGR), spawning, reproduction and/or early development (SPWN), and wildlife habitat (WILD). Beneficial uses of any specifically identified water body generally apply to all its tributaries.
26. The Basin Plan lists specific Water Quality Objectives for inland surface waters. These objectives include, in part, limitations on increased temperature, sediment, settleable and suspended material, and turbidity.

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Legal Basis of the Order

27. Water Code section 13304, subdivision (a), states, in relevant part, “any person who has discharged or discharges waste into waters of this state in violation of any waste discharge requirement or other order or prohibition issued by a regional board or the state board, or who has caused or permitted, causes or permits, or threatens to cause or permit, any waste to be discharged or deposited where it is, or probably will be, discharged into the waters of the state and creates, or threatens to create, a condition of pollution or nuisance, take other necessary remedial action, including, but not limited to, overseeing cleanup and abatement efforts. Upon failure of any person to comply with the cleanup and abatement order, the Attorney General, at the request of the board, shall petition the superior court for that county for the issuance of an injunction requiring the person to comply with the order. In the suit, the court shall have jurisdiction to grant a prohibitory or mandatory injunction, either preliminary or permanent, as the facts may warrant.”
28. “Waste” is defined by Water Code section 13050, subdivision (d), as, “sewage and any and all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing, or processing operation, including waste placed within containers of whatever nature prior to, and for the purpose of, disposal.”
- a. Sediment, when discharged to waters of the state, is considered a “waste” as defined in Water Code section 13050, subdivision (d). As a result of the unauthorized cannabis cultivation and associated grading and land disturbance activities, sediment was discharged or deposited where it will be, or has the potential to be, mobilized and discharged into waters of the state. Additionally, infrastructure, cannabis cultivation related waste materials, trash, and other miscellaneous debris that were observed nearby and within the Class III watercourse are “waste” as defined in Water Code section 13050, subdivision (d).
29. “Pollution” is defined by Water Code section 13050, subdivision (l)(1), as, “an alteration of the quality of the waters of the state by waste to a degree which unreasonably affects either of the following: (A) the waters for beneficial uses, (B) facilities which serve these beneficial uses.”
- a. The various wastes observed by Central Valley Water Board staff have discharged and have the potential to discharge into unnamed Class III watercourses, creating or threatening to create a condition of pollution and unreasonably affecting the beneficial uses of waters of the state.

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- b. Unauthorized discharges of sediment and other inert materials can alter the natural hydrologic and sediment transport regimes of surface waters by affecting the flow of water, sediment deposition, and establishment of vegetation. Such changes may lead to adverse conditions such as flooding, increases in suspended sediment and turbidity, accelerated erosion of the watercourse bed or banks, and localized accumulation of deleterious materials. Additionally, such discharges directly threaten wildlife habitat and aquatic species by impacting beneficial uses such as warm freshwater habitat (WARM), cold freshwater habitat (COLD), wildlife habitat (WILD), and spawning, reproduction and/or early development (SPWN). Increased sedimentation and turbidity can result in increased treatment and/or maintenance costs for downstream agricultural and municipal users impacting the beneficial uses including as municipal and domestic supply (MUN) and agricultural supply (AGR). Sediment laden storm water discharges to surface water and the resulting turbidity can also affect the recreational and aesthetic enjoyment of the surface waters impacting beneficial uses to include contact water recreation (REC-1) and non-contact water recreation (REC-2).
 - c. Precipitation runoff from the cultivation areas containing fertilizers, pesticides, chemicals, and potting soil has the potential to alter the chemistry and water quality of surface and ground waters. Such changes may lead to increased treatment and/or maintenance costs for users of surface water, which may impact beneficial uses such as municipal and domestic supply (MUN) and agricultural supply (AGR). Altered water chemistry and quality could be lethal to fish and other aquatic organisms and are known to contribute to harmful algal blooms.
 - d. The dumping and discarding of trash, soil amendments, abandoned vehicles, miscellaneous refuse and debris, as well as the burning of plastic and waste piles, has the potential to alter the hydrologic regimes of surface waters, threaten wildlife habitat and aquatic species, impact downstream infrastructure, and result in impacts to sediments and soils downstream. Microplastics, nutrients, petroleum products, and/or chemicals contained in these wastes may adversely affect surface and ground water quality. As such, the beneficial uses impacted by the observed dumping and discarding of trash are as follows: municipal and domestic supply (MUN), agricultural supply (MUN), contact water recreation (REC-1), non-contact water recreation (REC-2), warm freshwater habitat (WARM), cold freshwater habitat (COLD), and wildlife habitat (WILD).
30. Cleanup and abatement are necessary to ensure that any existing condition of pollution is remediated, that threatened unlawful discharges of waste to waters of the state from the Site are prevented, and that any impacts to beneficial uses are mitigated. The issuance of a Cleanup and Abatement Order pursuant to Water Code

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section 13304 is appropriate and consistent with policies of the Central Valley Water Board and State Water Board.

31. Resolution 92-49 sets forth the policies and procedures to be used during an investigation and cleanup of a polluted site and requires that cleanup levels be consistent with State Water Board Resolution No. 68-16, *Statement of Policy with Respect to Maintaining High Quality Waters in California* (Antidegradation Policy). Resolution 92-49 requires waste to be cleaned up in a manner that promotes attainment of either background water quality, or the best water quality which is reasonable if background levels of water quality cannot be restored. Any alternative cleanup level to background must: (1) be consistent with the maximum benefit to the people of the State; (2) not unreasonably affect present and anticipated beneficial use of such water; and (3) not result in water quality less than that prescribed in the Basin Plan and applicable Water Quality Control Plans and Policies of the State Water Board. Resolution 92-49 directs that investigations proceed in a progressive sequence. To the extent practical, it directs the Central Valley Water Board to require and review for adequacy written work plans for each element and phase, and the written reports that describe the results of each phase of the investigation and cleanup.

Technical Reports Required

32. Water Code section 13267, subdivision (a), provides that the Central Valley 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 Central Valley Water Board, in conducting an investigation, may require dischargers 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. Hourly rates for a licensed professional vary significantly in the industry, however, for this estimate staff assumed an average billing rate of \$200 per hour for a licensed professional. Staff estimate the total cost of technical reports required by this Order to be approximately \$16,000 - \$24,000 (see below for individual estimates). The costs of the technical or monitoring reports required by this Order bear a reasonable relationship to the need for these reports and the benefit to be gained by these reports, as discussed below:
- a. A Restoration Monitoring and Mitigation Plan (RMMP) is a technical report that is necessary to determine the scope and extent of actual and/or potential unlawful discharges of waste that could affect the quality of the waters of the state. By requiring the Dischargers to submit an RMMP, the Central Valley Water Board or

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its delegated officer can review and approve the proposed restoration and corrective actions to confirm the proposed measures will adequately address past discharges and prevent future discharges from impacting beneficial uses. Based on the conditions noted at the Site, staff estimates the level of effort to perform additional field surveys/inspections and prepare and submit the RMMP is approximately 40 – 60 hours, for a total cost between \$8,000 and \$12,000. After consideration of these factors, staff has determined that the burden, including costs, of submitting the RMMP bears a reasonable relationship to the need for the report and the benefits to be obtained from the report.

- b. A RMMP Completion Report demonstrates to the Central Valley Water Board or its delegated officer that the restoration and corrective actions contained in the approved RMMP have been fully implemented. By requiring the Dischargers to submit documentation of the corrective actions, including pre- and post-remediation photographs and relevant maps and schematic diagrams, staff can confirm the RMMP has been fully implemented and that BMPs are adequate to prevent future unlawful discharges of waste into waters of the state. Staff estimated the level of effort to perform a field inspection of completed work at the Site and prepare and submit the Completion Report is approximately 16 – 24 hours, for a total cost between \$3,200 and \$4,800. After consideration of these factors, staff determined that the burden, including costs, of submitting the RMMP Completion Report bears a reasonable relationship to the need for the report and the benefits obtained from the report.
- c. Annual Monitoring Reports are necessary to document the long-term stability of affected areas, to identify any areas where restoration activities are ineffective or require improvement, and to demonstrate the effectiveness of erosion control measures in preventing unlawful discharges of waste to waters of the state. Given the condition of the Site as a result of the unauthorized cannabis cultivation and associated land disturbance activities, including erosion along access roads and watercourse crossings, a yearly monitoring report submitted for a period of three years will enable staff to confirm that the completed restoration and corrective actions documented in the RMMP Completion Report continue to be effective over wet and dry seasons. Staff estimates the level of effort to prepare and submit an Annual Monitoring is approximately 8 - 12 hours, resulting in a cost between \$1,600 and \$2,400 per report, for a total cost between \$4,800 and \$7,200 to prepare three reports between 2025 and 2027. After consideration of these factors, staff has determined that the burden, including costs, of submitting the Annual Monitoring Reports bears a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.

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The Dischargers named in this Order own, or previously owned, the parcels from which waste was unlawfully discharged, and which threatens to discharge, as observed during the 29 July 2022 inspection, and thus are appropriately named as parties responsible for providing the reports.

California Environmental Quality Act

33. Issuance of this Order is an enforcement action taken by a regulatory agency to enforce the regulatory provision of the Basin Plan and is exempt from provisions of the California Environmental Quality Act (CEQA) (Public Resources Code, § 21000 et seq.) in accordance with California Code of Regulations, title 14, § 15321. This action may also be considered exempt because it is an action by a regulatory agency for the protection of natural resources (Cal. Code Regs., tit. 14, § 15307) and an action by a regulatory agency for the protection of the environment (Cal. Code Regs., tit. 14, § 15308). To the extent that the Order requires earth disturbing and revegetation activities not to exceed five acres in size and to ensure restoration of stream habitat and prevent erosion, such actions are considered exempt from the provisions of CEQA pursuant to California Code of Regulations, title 14, § 15333. Should additional environmental review be required in connection with future discretionary regulatory actions at this site, the Central Valley Water Board may recover the costs associated with preparing and processing environmental documents from the Dischargers (Pub. Resources Code, § 21089).

Required Actions

IT IS HEREBY ORDERED that, pursuant to Water Code sections 13267 and 13304, the Dischargers shall cleanup and abate or take other necessary remedial action with respect to the discharge and threatened discharge of waste to waters of the state and submit technical and/or monitoring reports as further described below. For purposes of this Order, the Dischargers' obligations are limited to the property that they own or previously owned. Therefore, the obligations of Mr. Carlile Jr., Mr. Barajas, and Mrs. Herrera under this Order are limited to Assessor's Parcel 045-740-017-000, and Mr. Moffit's obligations under this Order are limited to Assessor's Parcel 045-740-019-000.

1. **Within 90 days** of the effective date of this Order, the Dischargers shall submit a proposed **Restoration Monitoring and Mitigation Plan (RMMP)** for approval by the Central Valley Water Board or its delegated officer. The Dischargers may choose to submit a combined RMMP that addresses the actions to be taken at the Site as a whole, or they may elect to submit separate RMMPs for the actions to be taken at their respective property. The RMMP, whether combined or separate, shall be prepared by a qualified professional and shall detail the proposed actions to clean up the observed discharges of waste to waters of the state, restore the impacted

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watercourse channel and riparian zones, and prevent the potential for future discharges.

- a. The RMMP shall include, at a minimum, plans for Site restoration, including how long-term impacts from the Site runoff will be abated (e.g., re-grading, establishing permanent ground cover, watercourse crossing re-design, etc.), as well as proposed mitigation to restore beneficial uses and to compensate for and minimize any further impacts to water of the state, including the following elements:
 - i. A detailed area map accurately depicting existing topography, graded areas, access roads, watercourse crossings, and all surface water courses/drainages.
 - ii. Identification of all locations where plastic and waste burn piles, cultivation infrastructure, potting soil, disturbed areas including access roads, miscellaneous refuse and debris, and abandoned vehicles have discharged wastes or threaten to discharge wastes to waters of the state.
 - iii. Removal of any remaining plastic and waste burn piles from the Site and disposal at an authorized landfill or other disposal site in compliance with state and local laws, ordinances, and regulations.
 - iv. Removal from Site or proper storage of any remaining cannabis cultivation infrastructure, potting soil, related waste materials, miscellaneous refuse and debris, and abandoned vehicles from within the watercourse and riparian setback zones, and plan to stabilize and restore the Class III watercourse channel and riparian setback. The riparian setbacks are 50 feet from the top edge of the bank of the Class III watercourse. In-channel work may require permits or authorization from the Central Valley Water Board and/or the CDFW. Therefore, pre-project consultation with both agencies is required before commencing work. Materials shall be disposed of at an authorized landfill or other disposal site in compliance with state and local laws, ordinances, and regulations.
 - v. Method for stabilizing all disturbed areas to prevent erosion and additional discharges or threats of discharge of sediment.
 - vi. Method to hydrologically disconnect access roads from the watercourse and installation of BMPs along access roads and watercourse crossings to prevent further erosion and sediment discharge.

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a proposed scope for the Annual Monitoring Reports, including a map of proposed monitoring locations.

5. **Starting 1 January 2025**, the Dischargers shall submit Annual Monitoring Reports by **1 May of each year for at least three years** or until the Central Valley Water Board or its delegated officer approves a request to discontinue monitoring. Such a request may be submitted when the approved success criteria in the RMMP are met with supporting documentation. Each Annual Monitoring Report shall include, at a minimum, a completed inspection checklist, photographs of areas restored, and a description of any locations where restoration is failing and/or needs to be corrected to achieve the success criteria.

General Requirements and Notices

Use of Qualified Professionals

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

Signatory Requirements

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

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

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Notice of Change in Ownership or Occupancy

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

Compliance with Other Regulatory Requirements

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

Cost Recovery

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

Submissions

6. All technical reports or notices required under this Order shall be submitted to: Ryan Cornwall, (530) 224-4851, ryan.cornwall@waterboards.ca.gov.

Delayed Compliance

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

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Modification of Order

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

Enforcement Authority

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

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

Cleanup & Abatement

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

PATRICK PULUPA

Executive Officer

April 12, 2024

Date