

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2015-0520
IN THE MATTER OF

CHRISTOPHER CORDES, EDDIE AXNER CONSTRUCTION, INC., AND EDDIE AXNER

ASSESSOR PARCEL 041-300-035-000
SHASTA COUNTY

This Administrative Civil Liability Complaint is issued to Christopher Cordes, Eddie Axner, and Eddie Axner Construction Inc. (hereafter collectively referred to as Dischargers) pursuant to California Water Code section 13385, which authorizes the imposition of Administrative Civil Liability, and Water Code section 13323, which authorized the Executive Officer to issue this Complaint. This Complaint is based on evidence that the Dischargers violated Water Code section 13376, federal Water Pollution Control Act (Clean Water Act) (33 U.S.C. § 1311) Section 301 and prohibitions established in *The Water Quality Control Plan for the Sacramento River and San Joaquin River Basins, Fourth Edition* (Basin Plan), and seeks administrative civil liabilities pursuant to Water Code section 13385.

The Executive Officer of the Central Valley Regional Water Quality Control Board (Central Valley Water Board or Board) hereby finds the following:

BACKGROUND

1. Mr. Christopher Cordes purchased the property located off of Baker Ridge road, Shasta County Assessor Parcel Number (APN) 041-300-035-000 (hereafter referred to as the Site) on May 21, 2013. As owner of the Site, Mr. Cordes is ultimately responsible for the condition of the property and discharges of waste from the property. Mr. Cordes developed the Site and used and/or leased the Site out for marijuana cultivation.
2. In June of 2013 Mr. Eddie Axner in his capacity of owner and responsible corporate officer of Eddie Axner Construction, Inc. entered into verbal agreements with Mr. Cordes to conduct grading operations on the Site on a per hour basis. Persons employed by Eddie Axner Construction, Inc. conducted approximately 3.8 acres of clearing, grading, excavation, and/or other land disturbance to construct two large native soil surfaced terraces, and to widen and lengthen the native soil surfaced road accessing the Site from Baker Ridge road. No erosion control measures were implemented by the Dischargers on the property during or after this grading and earthmoving activities were conducted, through the winter 2013/2014, and the Site remained unprotected until after Regional Water Board staff (hereafter referred to as "Staff") conducted their first Site inspection in October 2014.
3. The natural topography of the Site is steep with 30 to 50 percent slopes. Soils on site are coarse sandy loams and coarse sandy silts, which are highly friable and erodible when disturbed, interpreted to be decomposed granite. There are numerous Class III (intermittent) watercourses and at least one Class II (aquatic life bearing) watercourse which begin on or adjacent to the Site, that discharge to Doby or Duckett Creeks, perennial tributaries to North Fork Cottonwood Creek.
4. Mr. Eddie Axner as the owner and as a responsible corporate officer of Eddie Axner Construction, Inc. had the ability to control activities at the Site. Mr. Axner has over 25 years' experience in the construction industry and is a licensed general engineering contractor and

a licensed timber operator. Eddie Axner Construction, Inc. is also advertised as having expertise in erosion control measures. As the owner and responsible corporate officer of Axner Construction, Inc., Mr. Axner could have sought and obtained the necessary permits and installed the appropriate erosion control measures to prevent the discharges alleged herein.

5. In 2014 Mr. Cordes asserts that he leased the Site to an individual and that it is this individual who graded approximately 1.5 miles of native soil surfaced road to access more of the Site west of the terraces, presumably to support additional cultivation. In addition to grading for constructing the road, the individual created two un-culverted unarmored watercourse crossings. Mr. Cordes has refused to divulge the identity of the individual who leased the Site and conducted this additional roadwork and grading, and has claimed that he is willing to assume responsibility for the individual's activities. As discussed in more detail below in section 8, no erosion control measures were implemented by the Dischargers on the Site during or after this grading was conducted and the Site remained unprotected until after Staff conducted their first Site inspection.
6. On 7 October 2014, Mr. John Tomasello from the Shasta County Department of Resource Management alerted the Central Valley Water Board that a large grading project had been conducted without permits off of Baker Ridge Road, east of Rainbow Lake in Ono, Shasta County. The Central Valley Water Board was advised that this illegal grading, which included unpermitted road construction and terracing, was conducted to establish a large marijuana growing operation. Staff confirmed that a Construction General Permit had not been issued for the Site.
7. On 27 October 2014, Staff obtained an inspection warrant granting access to the Site to conduct an inspection. Copies of the warrant are provided as Attachment C – 28 October 2014 Baker Ridge Inspection Report, Appendix C.
8. On the morning of 28 October 2014, Eddie Axner Construction, Inc. began installing erosion control measures on the Site. Prior to this day no erosion control measures were in place and the 2014-2015 wet weather period had already begun. During the 19 November 2014 inspection Staff observed that all surfaces disturbed by grading had been straw mulched and seeded and riprap had been used to stabilize multiple areas and as energy dissipators. The Dischargers will need to implement more erosion control measures during the 2015 dry season to fully stabilize the site and prevent further erosion and discharges of sediment laden storm water.
9. On 28 October 2014, Staff conducted an inspection of the Site in accordance with the warrant issued on 27 October 2014. A second Site inspection was conducted by Staff on 19 November 2014 with permission from the landowner, Mr. Cordes. Copies of the inspection reports for both inspections are provided as Attachments B and C to this Administrative Civil Liability Complaint.

SITE INSPECTION OBSERVATIONS

10. **28 October 2014 Inspection.** On October 28, 2014 Staff inspected the Site in accordance with the Inspection warrant.

During the 28 October 2014 inspection Staff noted two locations where the majority of storm water runoff from surfaces graded by Eddie Axner Construction, Inc., on the Site discharged to the unnamed tributaries of North Fork Cottonwood Creek. The first storm water runoff discharge location was in the northwest corner of the Lower Terrace (See Attachment C - 28 October 2014 Baker Ridge Inspection Report, Appendix A, Way Point 100). The Lower Terrace was void of vegetation and had a surface area of approximately 30,000 square feet. Storm water runoff from the Lower Terrace surface discharges at the before mentioned location in the northwest corner.

Staff found and documented evidence of large scale rill erosion on the south and west fill/side slopes of the lower terrace. Staff found and documented evidence that sediment from the large scale rill erosion on the south and west fill/side slopes had reached the unnamed tributary of North Fork Cottonwood Creek. Staff also discovered more than 1,900 cubic feet of potting soil that had been dumped down the fill/side slope of the east northeast side of that terrace. The presence of easily identifiable perlite in the potting soil, Staff was able to find and document evidence that potting soil from the dump location had discharged to an unnamed tributary of North Fork Cottonwood Creek and had been transported off the Site.

The second storm water runoff discharge location noted by Staff during the 28 October 2014 inspection was on the upstream side of the watercourse crossing located at the entrance to the Site (See Attachment C - 28 October 2014 Baker Ridge Inspection Report, Appendix A, Way Point 118). Storm water runoff from the Access Road, which is approximately 1000 feet long, 12-16 feet wide, and has a surface area of approximately 14,000 square feet, flows via an inside ditch to the before mentioned discharge location on the upstream side of the watercourse crossing, where it discharges to an unnamed tributary of North Fork Cottonwood Creek. At the time of the inspection, the crossing's 24-inch culvert was more than 50 percent plugged and staff found and documented areas along the banks of the watercourse where sediment from the road had discharged to the watercourse and a layer of sediment within the watercourse, 34 inches thick, directly below the storm water discharge point (Attachment C - 28 October 2014 Baker Ridge Inspection Report, Appendix B, Photograph #14).

Prior to the 28 October 2014 inspection, there were no Erosion Control/Sediment Control Best Management Practices implemented to reduce erosion and storm water discharge from the Site at the two before mentioned discharge locations. The two discharge locations and the terrace surface and road surface from which storm water runoff discharges to tributaries of North Fork Cottonwood Creek through those two discharge locations, were created by Eddie Axner Construction, Inc. in June of 2013 in conjunction with all other earthwork conducted on the Site by Eddie Axner Construction, Inc.

The two storm water discharge violations associated with the lower terrace and the access road discussed above in this section are referred to collectively hereafter as Violation 1.

During the 28 October 2014 inspection Staff also found a recently or newly constructed section of road with an un-culverted, non-armored watercourse crossing that was constructed by placing more than 3,840 cubic feet of native rock and soil in the streambed and banks of an unnamed tributary of North Fork Cottonwood Creek (See Attachment C - 28 October 2014 Baker Ridge Inspection Report, Appendix A, Way Point 117). Both Mr. Axner and Mr. Cordes have asserted that this newly constructed section of road and crossing were constructed by an undisclosed third party at some date after Eddie Axner Construction, Inc., conducted earthwork on the Site. Staff found and documented evidence that fill material

from this watercourse crossing had discharged to the unnamed tributary of North Fork Cottonwood Creek below the crossing. Due to time constraints Staff was unable to fully travel and inspection this recently or newly constructed section of road during the October 2014 inspection.

11. **19 November 2014 inspection.** A second follow-up inspection was conducted by Staff on 19 November 2014 with permission from Mr. Cordes obtained through Eddie Axner and his consultant Mr. Will Bond of SHN Consulting Engineers & Geologist, Inc. During the 19 November 2014 inspection Staff inspected more of the newly constructed section of road that starts above the upper terrace and loops westward as shown in Attachment B - 19 November 2014 Baker Ridge Inspection Report, Appendix A.

Satellite imagery establishes that the newly constructed road was built sometime between September 2013 and July 2014. Based on statements made by Mr. Axner during the 19 November 2014 inspection and collaborating statements from Mr. Cordes, the newly constructed section of road was constructed in April or May of 2014 by an entity other than Eddie Axner Construction, Inc. Mr. Cordes has stated that the recent road work was completed by a lessee of the Site and that he is unwilling to identify that party.

During the 19 November 2014 inspection, Staff found a second un-culverted, non-armored watercourse crossing on the newly constructed section of road. This crossing was constructed by placing more than 4,680 cubic feet of native rock and soil into a streambed and banks of an unnamed tributary of North Fork Cottonwood Creek (Attachment B - 19 November 2014 Baker Ridge Inspection Report, Appendix A, Way Point 2). Staff found and documented evidence that fill material from this watercourse crossing had discharged to the unnamed tributary of North Fork Cottonwood Creek below the crossing (Attachment B - 19 November 2014 Baker Ridge Inspection Report, Appendix B, Photograph #5).

The discharge of fill material to unnamed tributaries of North Fork Cottonwood Creek in order to create the watercourse crossing on the newly constructed section of road are referred to collectively hereafter as Violation 2.

BENEFICIAL USES OF RECEIVING WATERS

12. The *Water Quality Control Plan for the Sacramento River and San Joaquin River Basins, Fourth Edition* (hereafter Basin Plan) designates beneficial uses, establishes water quality objectives, contains implementation plans and policies for protecting waters of the basin, and incorporates by reference plans and policies adopted by the State Water Resources Control Board.

Surface water from unnamed tributaries on the Site discharge to Doby or Duckett Creeks, then to North Fork Cottonwood Creek, a tributary to Cottonwood Creek and the Sacramento River. North Fork Cottonwood Creek and the downstream waters are all navigable waters of the United States and are spawning habitat for anadromous fish.

Existing and potential beneficial uses for Cottonwood Creek include the following: Municipal & Domestic Supply (MUN); Agricultural Supply (AGR); Water Contact (REC-1) & Other Non-contact Recreation (REC-2); Warm (WARM) & Cold (COLD) Freshwater Habitat; Migration of Aquatic Organisms (MIGR); Spawning (SPWN); and Wildlife Habitat (WILD). Beneficial uses

of any specifically identified water body generally apply to all of its tributaries. (Basin Plan, p. II-2.00)

STORM WATER DISCHARGE VOLUME ESTIMATES

13. Staff used a highly conservative method to estimate that 56,456 gallons of sediment laden storm water was discharged in association with Violation 1. The following paragraphs describe how the volume was determined.

Using the USDA Natural Resources Conservation Service - Conservation Engineering Division Technical Release 55 Method (USDA TR-55 Method) and based on characteristics of the site (Newly graded area with no vegetation, Hydrologic Soil Group B) Staff determined that precipitation events greater than 1/3 of an inch over 24 hours would generate runoff from the Site. Using precipitation data from a Dept. of Water Resources/Flood Management gauging station (OGO Ranger Station) located approximately 5 miles southwest of the Site, Staff identified seven days with more than 2/3 of an inch of precipitation over a 24 hour period, between 19 November 2013 and 29 March 2014. Staff used 2/3 of an inch, twice the amount calculated to generate runoff (1/3 of an inch), to conservatively develop storm water discharge volumes.

Discharge Event	Dates	Total Runoff Volume from Lower Terrace (gallons)	Total Runoff Volume from Access Road (gallons)	Total Runoff (gallons)	Total Subject to Penalties (Total - 1,000 gallons*)	Days of Violation Subject to Penalties
#1	19 Nov 2013	1,711	799	2,510	1,510	1
#2	8 Feb 2014	3,327	1,553	4,880	3,880	1
#3	9 Feb 2014	2,002	934	2,936	1,936	1
#4	26 Feb 2014	6,151	2,870	9,021	8,021	1
#5	3 March 2014	14,199	6,626	20,825	19,825	1
#6	5 March 2014	2,634	1,229	3,863	2,863	1
#7	28 March 2014	8,469	3,952	12,421	11,421	1
	Total	38,493	17,963	56,456	49,456	7

*Per Water Code

For the purposes of calculating volume of runoff, Staff is using a discharge volume of 56,456 gallons (of this amount, 49,456 gallons subject to penalties as described below in section 26).

VIOLATION 1 – STORM WATER DISCHARGE VIOLATIONS ASSOCIATED WITH WORK CONDUCTED BY EDDIE AXNER CONSTRUCTION, INC.

14. **Violation 1:** Dischargers are alleged to have violated section 301 of the Clean Water Act, Water Code section 13376, and Basin Plan prohibitions detailed below by discharging at least 56,458 gallons of sediment laden storm water without obtaining coverage under the General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities Order No. 2009-0009-DWQ, NPDES No. CAS000002 (General Permit) over a period

of 7 days during storm water runoff generating rain events that occurred between 9 November 2013 and 29 March 2014.

15. **Clean Water Act Violations:** The Clean Water Act prohibits certain discharges of storm water containing pollutants except in compliance with a National Pollution Discharge Elimination System (NPDES) permit. Discharges to surface waters comprised of storm water associated with construction activity, including clearing, grading, excavation, and other land disturbance activities (except operations that result in disturbance of less than one acre of total land area and which are not part of a larger common plan of development or sale), are required to obtain coverage under the General Permit. Section 301 of the CWA prohibits the discharge of pollutants except as in compliance with the applicable General Permit or CWA Section 404 permit.
16. **Water Code Violations:** Water Code section 13376 requires any person discharging, or proposing to discharge, pollutants or dredge or fill material into waters of the United States to file a report of waste discharge. The Dischargers violated Water Code section 13376 by discharging sediment from disturbed land surfaces into waters of the United States without first filing a report of waste discharge or obtaining coverage under the General Permit.
17. **Basin Plan Prohibition Violations.** The Basin Plan prohibits the discharge of sediment and settleable material into surface waters in a manner that causes nuisance or adversely affects beneficial uses. (Basin Plan, p. III-7.00.) The Basin Plan also prohibits the discharge of materials resulting in changes in turbidity that cause nuisance or adversely affect beneficial uses. (*Id.* at p. III-9.00.) The Dischargers violated these Basin Plan prohibitions by discharging sediment from disturbed land surfaces and changes in turbidity that adversely affected beneficial uses.
18. **Responsible Parties.** The Dischargers are all joint and severally liable for the storm water discharge violations. The sediment laden storm water discharged into unnamed tributaries of North Fork Cottonwood Creek were the result of grading and road building activities that Mr. Cordes hired Mr. Eddie Axner and Eddie Axner Construction, Inc. to conduct. Mr. Cordes is liable as the owner of the Site and the person who contracted for the work that resulted in the discharge. Mr. Eddie Axner and Eddie Axner Construction, Inc. are liable for conducting the work that caused the discharge of sediment laden storm water in violation of the provisions discussed above in paragraphs 15 through 17. Mr. Eddie Axner is a responsible corporate officer of Eddie Axner Construction, Inc. and can be held personally liable in accordance with the responsible corporate office doctrine because; (1) he is in a position of responsibility with Eddie Axner Construction, Inc. that allows him to influence company policies and activities; (2) there is a nexus between Mr. Axner's position and the violations in questions such that he could have influenced the company's unlawful actions; and (3) Mr. Axner took action that facilitated the violations and through inaction failed to prevent the violations. (See *People v. Roscoe* (2009) 169 Cal.App.4th 829, 831; *Tehama Market Associates, LLC* (RWQCB 2007) ACL Order No. R5-2007-0054, p. 3; *Original Sixteen to One Mine, Inc.* (SWRCB 2003) Order No. WQO 2003-0006, pp. 6-7; *Mr. Kelly Engineer/All Star Gas* (SWRCB 2002) Order No. WQO 2002-001, p. 5; *People v. Pacific Landmark* (2005) 129 Cal.App.4th 1203, 1213-1216.)

**VIOLATION 2 - UNAUTHORIZED DREDGE AND FILL VIOLATIONS TO UNNAMED
TRIBUTARIES OF DOBY & DUCKET CREEKS**

19. **Violation 2:** Mr. Cordes is alleged to have violated section 301 of the Clean Water Act, and the Basin Plan prohibitions detailed below by discharging fill materials into the unnamed tributaries of North Fork Cottonwood Creek.
20. **Clean Water Act Violations:** Clean Water Act section 404 requires any person proposing to discharge dredge or fill material into navigable waters of the United States to obtain a Section 404 permit prior to such discharge. Section 401 of the Clean Water Act requires that any person obtaining a Section 404 permit must obtain water quality certification from the State in which the discharge occurs.
21. **Basin Plan Prohibition Violations.** The Basin Plan prohibits the discharge of sediment and settleable material into surface waters in a manner that causes nuisance or adversely affects beneficial uses. (Basin Plan, p. III-7.00.) The Basin Plan also prohibits the discharge of materials resulting in changes in turbidity that cause nuisance or adversely affect beneficial uses. (*Id.* at p. III-9.00.) Mr. Cordes violated the Basin Plan prohibitions by discharging, or allowing to be discharged on his property, fill material into navigable waters of the United States to construct road crossings.
22. **Responsible Parties.** Mr. Cordes as the owner of the Site is ultimately responsible for the conditions of the Site and the fill activities that occurred on the property. While Mr. Cordes has asserted that he leased the property out for some undisclosed period of time and that it was the lessee who conducted the dredge and fill activities on the Site, Mr. Cordes has not been willing to provide the name of that party or any information concerning the terms of that lease. Mr. Cordes was aware of the activity taking place on his property that resulted in the discharge and had the legal ability to prevent the discharge. It is even likely that Mr. Cordes benefited from the marijuana cultivation activity taking place at the Site based on the fact that Mr. Cordes is the sole corporate officer of Pacific Biodynamics, a corporation established to "provide a means for facilitating and coordination transactions, between members of the corporation, in medical marijuana" (Attachment D). Accordingly, liability for the dredge and fill violations can be imposed on Mr. Cordes.

ADMINISTRATIVE CIVIL LIABILITY PROVISIONS

23. Water Code section 13350 states, in relevant part:
 - (a) A person who (1) violates a cease and desist order or cleanup and abatement order hereafter issued, reissued, or amended by a regional board or the state board, or (2) in violation of a waste discharge requirement, waiver condition, certification, or other order or prohibition issued, reissued, or amended by a regional board or the state board, discharges waste, or causes or permits waste to be deposited where it is discharged, into the waters of the state . . . shall be liable civilly, and remedies may be proposed, in accordance with subdivision (d) or (e) . . .
 - (e) The state board or a regional board may impose civil liability administratively pursuant to Article 2.5 (commencing with Section 13323) of Chapter 5 either on a daily basis or on a per gallon basis, but not on both. (1) The civil liability on a daily basis shall not exceed five thousand dollars (\$5,000) for each day the violation occurs.

In the alternative:

24. Water Code section 13385 states, in relevant part:

(a) A person who violates any of the following shall be liable civilly in accordance with this section:

(1) Section 13375 or 13376. ...

(4) An order or prohibition issued pursuant to Section 13243 or Article 1 (commencing with Section 13300) of Chapter 5, if the activity subject to the order or prohibition is subject to regulation under this chapter.

(5) A requirement of Section 301, 302, 306, 307, 308, 318, 401, or 405 of the federal Clean Water Act (33 U.S.C. Sec. 1311, 1312, 1316, 1317, 1318, 1341, or 1345), as amended. ...

(c) Civil liability may be imposed administratively by the state board or a regional board pursuant to Article 2.5 (commencing with Section 13323) of Chapter 5 in an amount not to exceed the sum of both of the following:

(1) Ten thousand dollars (\$10,000) for each day in which the violation occurs.

(2) Where there is a discharge, any portion of which is not susceptible to cleanup or is not cleaned up, and the volume discharged but not cleaned up exceeds 1,000 gallons, an additional liability not to exceed ten dollars (\$10) multiplied by the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons.

(e) ...At a minimum, liability shall be assessed at a level that recovers the economic benefits, if any, derived from the acts that constitute the violation.

The violations alleged herein are subject to liability in accordance with Water Code section 13350 and Water Code section 13385 and the Central Valley Water Board in its discretion could elect to impose liability under either code section. Staff is recommending the proposed liability, as discussed in greater detail below, be imposed in accordance with Water Code section 13385.

CALCULATION OF CIVIL LIABILITIES UNDER WATER CODE SECTION 13385 FOR VIOLATION 1

25. **Maximum Civil Liability for Storm Water Discharges to Surface Waters:** Per Water Code section 13385, civil liability administratively imposed by the Central Valley Water Board may not exceed \$10,000 per violation per day per violation, plus \$10 per gallon for each gallon of waste discharged but not cleaned up over 1,000 gallons. Staff conservatively estimated above in section 13 that in the period from 19 November 2013 until 29 March 2014 a total of 56,456 gallon of water and sediment discharging to surface waters over 7 days. Of the 56,456 gallons that were discharged, a total of 49,456 gallons were discharged in excess of 1,000 gallons per discharge event. Therefore, at \$10 per gallon for discharges in excess of 1,000 gallons, and at \$10,000 per day for each day of the seven days of discharge, the maximum administrative civil liability that may be assessed pursuant to section 13385 for violation 1 is **five hundred and sixty four thousand five hundred forty dollars (\$564,540).**

26. **Minimum Civil Liability for Storm Water Discharges to Surface Waters:** Pursuant to Water Code section 13385(e), civil liability, at a minimum, must be assessed at a level that recovers the economic benefits, if any, derived from the acts that constitute the violation. The discharge violations associated with the work conducted by Eddie Axner Construction, Inc. were due to a failure to obtain and comply with the State of California's NPDES General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities Order No. 2009-0009-DWQ, including the failure to implement appropriate erosion and sediment control. Delayed and avoided costs associated with obtaining and complying with the necessary authorizations are estimate at \$72,278. Using US EPA's BEN model, the economic benefit gained by non-compliance is calculated to be approximately \$8,912, which becomes the minimum civil liability which must be assessed pursuant to section 13385 for Violation 1. In addition, the Enforcement Policy requires that the minimum liability imposed be at least 10% higher than the economic benefit ($\$8,912 + 10\% = \$9,803$) so that liabilities are not construed as the cost of doing business and provide a meaningful deterrent to future violations.

CALCULATION OF CIVIL LIABILITIES UNDER WATER CODE SECTION 13385 FOR VIOLATION 2

27. **Maximum Civil Liability for Discharge of Fill Material to Surface Waters:** Per Water Code section 13385, civil liability administratively imposed by the Central Valley Water Board may not exceed \$10,000 per violation per day per violation, plus \$10 per gallon for each gallon of waste discharged but not cleaned up over 1,000 gallons. Mr. Cordes, and/or his lessee, discharged approximately 8,520 cubic feet of fill material into waters of the United States at two locations on the Site in order to construct road crossings. Each cubic foot of fill is equal to approximately 7.48 gallons. Accordingly, Staff conservatively estimates the discharge volume of 63,730 gallons (of this amount, 61,730 gallons subject to penalties as described below). Each of the crossings, at a minimum, took a day to construct for a total of 2 days of violation. Therefore, at \$10 per gallon for discharges in excess of 1,000 gallons, and at \$10,000 per day for each day of the two days of discharge, the maximum administrative civil liability that may be assessed pursuant to section 13385 is **six hundred thirty seven thousand three hundred dollars (\$637,300)**.
28. **Minimum Civil Liability for Discharge Fill Material to Surface Waters:** Pursuant to Water Code section 13385(e), civil liability, at a minimum, must be assessed at a level that recovers the economic benefits, if any, derived from the acts that constitute the violation. The discharge violations associated with the work conducted by Mr. Cordes and/or his lessee were due to a failure to obtain and comply with the State of California's NPDES General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities Order No. 2009-0009-DWQ and the unauthorized placement of fill without obtaining a Clean Water Act Section 404, Dredge and Fill Permit, and 401 Water Quality Certification. Delayed and avoided costs associated with obtaining and complying with the necessary authorizations are estimated at \$38,738. Using the US EPA's BEN model, the economic benefit gained by non-compliance is calculated to be approximately \$10,102, which becomes the minimum civil liability which must be assessed pursuant to section 13385 for violation 2. In addition, the Enforcement Policy requires that the minimum liability imposed be at least 10% higher than the economic benefit ($\$10,102 + 10\% = \$11,112$) so that liabilities are not construed as the cost of doing business and provide a meaningful deterrent to future violations.

PROPOSED ADMINISTRATIVE CIVIL LIABILITY

29. Pursuant to Water Code section 13385, subdivision (e), in determining the amount of any civil liability imposed under section 13385, subdivision (c), the Board is required to take into account the nature, circumstances, extent, and gravity of the violations, whether the discharges are susceptible to cleanup or abatement, the degree of toxicity of the discharges, and, with respect to the violator, the ability to pay, the effect on its ability to continue its business, any voluntary cleanup efforts undertaken, any prior history of violations, the degree of culpability, economic benefit or savings, if any, resulting from the violations, and other matters that justice may require.
30. On 17 November 2010, the State Water Board adopted Resolution No. 2009-0083 amending the Water Quality Enforcement Policy (Enforcement Policy). The Enforcement Policy was approved by the Office of Administrative Law and became effective on 20 May 2010. The Enforcement Policy establishes a methodology for assessing administrative civil liability. The use of this methodology addresses the factors that are required to be considered when imposing a civil liability as outlined in Water Code sections 13327 and 13385(e). The entire Enforcement Policy can be found at:
http://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/enf_policy_final11179.pdf
31. This administrative civil liability was derived from the use of the penalty methodology in the Enforcement Policy, as explained in detail in Attachment A to this Complaint. The proposed civil liability takes into account such factors as the Discharger's culpability, history of violations, ability to pay and continue in business, and other factors as justice may require.
32. As described above, the maximum penalty that can be imposed against **the Dischargers for Violation 1 is \$564,540** and the minimum penalty in accordance with the Enforcement Policy that would recover the economic benefit amount, plus 10%, is **\$9,803**. Based on consideration of the above facts, after applying the penalty methodology, and considering the Discharger's ability to pay, the Assistant Executive Officer of the Central Valley Water Board proposes that civil liability be imposed administratively on the Dischargers in the amount of **\$139,700** for Violation 1. The specific factors considered in this penalty are detailed in Attachment A to this Complaint.
33. As described above, the maximum penalty that can be imposed against **Mr. Cordes individually for Violation 2 is \$637,300** and the minimum penalty in accordance with the Enforcement Policy that would recover the economic benefit amount, plus 10%, is **\$11,112**. Based on consideration of the above facts, after applying the penalty methodology, and considering Mr. Cordes' ability to pay, the Assistant Executive Officer of the Central Valley Water Board proposes that civil liability for Violation 2 be imposed administratively on Mr. Cordes in the amount of **\$157,700**. The specific factors considered in this penalty are detailed in Attachment A to this Complaint.
34. Notwithstanding the issuance of this Complaint, the Central Valley Water Board retains the authority to assess additional penalties for violations of the requirements of the Discharger's waste discharge requirements for which penalties have not yet been assessed or for violations that may subsequently occur.

35. Issuance of this Administrative Civil Liability Complaint to enforce Water Code Division 7, Chapter 5.5 is exempt from the provisions of the California Environmental Quality Act (Public Resources Code § 21000 et seq.), in accordance with California Code of Regulations, title 14, sections 15307, 15308, 15321(a)(2) and all applicable law.

CHRISTOPHER CORDES, EDDIE AXNER CONSTRUCTION, INC., AND EDDIE AXNER ARE HEREBY GIVEN NOTICE THAT:

1. The Assistant Executive Officer of the Central Valley Water Board proposes that the Dischargers be jointly assessed an Administrative Civil Liability in the amount of **\$139,700** for storm water discharge violations (Violation 1) and that Mr. Cordes be separately assessed an additional Administrative Civil Liability in the amount of **\$157,700** for discharges of fill material (Violation 2). The amount of the proposed liabilities is based upon a review of the factors cited in Water Code sections 13327 and 13385, as well as the State Water Resources Control Board's 2010 Water Quality Enforcement Policy, and includes consideration of the economic benefit or savings resulting from the violations.
2. A hearing on this matter will be held at a regularly scheduled Central Valley Water Board meeting on **4 and 5 June 2015**, unless one of the following occurs by **3 April 2015**:
 - a) The Dischargers waive the hearing by completing the attached form (checking the box next to Option #1) and returning it to the Central Valley Water Board, along with payment for the combined total proposed civil liability of **\$297,400**; or
 - b) The Central Valley Water Board agrees to postpone any necessary hearing after the Dischargers' request a delay by checking the box next to Option #2 on the attached form, and returns it to the Board along with a letter describing the issues to be discussed.
3. If a hearing is held, the Central Valley Water Board will consider whether to affirm, reject, or modify the proposed Administrative Civil Liability, or whether to refer the matter to the Attorney General for recovery of judicial civil liability.
4. If this matter proceeds to hearing, the Assistant Executive Officer reserves the right to amend the proposed amount of civil liability to conform to the evidence presented, including but not limited to, increasing the proposed amount to account for the costs of enforcement (including legal and expert witness costs) incurred after the date of the issuance of this Complaint through completion of the hearing.



Clint E. Snyder, P.G.
Assistant Executive Officer

Date

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2015-0520
CHRISTOPHER CORDES, EDDIE AXNER CONSTRUCTION, INC.,
AND EDDIE AXNER

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Attachment A: Penalty Calculations for Violation 1 and 2
Attachment B: 19 November 2014 Baker Ridge Inspection Report
Attachemnt C: 28 October 2014 Baker Ridge Inspection Report
Attachment D: Secretary of State Filings for Pacific Biodynamics

**WAIVER FORM
FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT**

By signing this waiver, I affirm and acknowledge the following:

I am Christopher Cordes, Eddie Axner, Eddie Axner Construction, Inc., or a duly authorized to represent thereof (hereafter Dischargers) in connection with Administrative Civil Liability Complaint R5-2015-0520 (hereafter Complaint). I am informed that California Water Code section 13323, subdivision (b), states that, "a hearing before the regional board shall be conducted within 90 days after the party has been served. The person who has been issued a complaint may waive the right to a hearing."

(OPTION 1: Check here if the Dischargers waives the hearing requirement and will pay in full.)

- a. I hereby waive any right the Dischargers may have to a hearing before the Central Valley Water Board.
- b. I certify that the Dischargers have remitted payment for the proposed civil liability in the full amount of **\$297,400** by check/s that references "ACL Complaint R5-2015-0520" made payable to the *State Water Pollution Cleanup and Abatement Account*. Payment must be received by the Central Valley Water Board by **3 April 2015**.
- c. I understand the payment of the above amount constitutes a proposed settlement of the Complaint, and that any settlement will not become final until after a 30-day public notice and comment period. Should the Central Valley Water Board receive significant new information or comments during this comment period, the Central Valley Water Board's Executive Officer may withdraw the complaint, return payment, and issue a new complaint. I also understand that approval of the settlement will result in the Dischargers having waived the right to contest the allegations in the Complaint and the imposition of civil liability.
- d. I understand that payment of the above amount is not a substitute for compliance with applicable laws and that continuing violations of the type alleged in the Complaint may subject the Dischargers to further enforcement, including additional civil liability.

(OPTION 2: Check here if the Discharger/s waives the 90-day hearing requirement in order to extend the hearing date and/or hearing deadlines. Attach a separate sheet with the amount of additional time requested and the rationale.) I hereby waive any right the Discharger/s may have to a hearing before the Central Valley Water Board within 90 days after service of the complaint. By checking this box, the Discharger/s requests that the Central Valley Water Board delay the hearing and/or hearing deadlines so that the Discharger/s may have additional time to prepare for the hearing. It remains within the discretion of the Central Valley Water Board to approve the extension.

For Eddie Axner:

(Print Name and Title)

(Signature)

(Date)

For Eddie Axner Construction, Inc.:

(Print Name and Title)

(Signature)

(Date)

For Christopher Cordes:

(Print Name and Title)

(Signature)

(Date)

Attachment A – ACL Complaint No. R5-2015-0520
Specific Factors Considered for Administrative Civil Liability
Storm Water Discharges from Assessor Parcel 041-300-035-000

The State Water Board's *Water Quality Enforcement Policy* (Enforcement Policy) establishes a methodology for determining administrative civil liability by addressing the factors that are required to be considered under California Water Code section 13385(e). Each factor of the nine-step approach is discussed below, as is the basis for assessing the corresponding score. The Enforcement Policy can be found at:

http://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/enf_policy_final111709.pdf.

VIOLATION 1 - STORM WATER DISCHARGES FROM LOWER TERRACE & ACCESS ROAD TO UNNAMED TRIBUTARIES OF DOBY CREEK

Step 1 – Potential for Harm for Discharge Violations

The “potential harm to beneficial uses” factor considers the harm that may result from exposure to the pollutants in the illegal discharge, while evaluating the nature, circumstances, extent, and gravity of the violation(s). A three-factor scoring system is used for each violation or group of violations: (1) the potential for harm to beneficial uses; (2) the degree of toxicity of the discharge; and (3) whether the discharge is susceptible to cleanup or abatement.

Factor 1: Harm or Potential Harm to Beneficial Uses.

This factor evaluates direct or indirect harm or potential for harm from the violation. A score between 0 and 5 is assigned based on a determination of whether the harm or potential for harm to beneficial uses ranges from negligible (0) to major (5).

The designated beneficial uses of Cottonwood Creek that could be impacted by the unauthorized discharge include Municipal and Domestic Supply; Agricultural Supply; Water Contact Recreation; Noncontact Water Recreation; Warm Freshwater Habitat; Cold Freshwater Habitat; Migration of Aquatic Organisms; Spawning; and Wildlife Habitat. Storm water from Assessor Parcel 041-300-035-000 (hereafter referred to as the “Site”) discharged to unnamed tributaries of Doby Creek, which is a tributary of North Fork Cottonwood Creek, which is a major tributary of Cottonwood Creek. Beneficial uses of any specifically identified water body generally apply to all of its tributaries. Spawning, warm, and cold freshwater habitats were the beneficial uses most obviously affected by storm water discharges from the Site. Storm water discharges occurred on at least seven days, but likely more, during the period between 19 November 2013 and 29 October 2014. Fine sediments from discharges were observed in the unnamed tributaries on and adjacent to the Site during the 28 October 2014 inspection and the 19 November 2014 inspection.

The observed harm to beneficial uses was determined to be “Moderate” which is defined as “moderate threat to beneficial uses (i.e., impacts are observed or reasonably expected and impacts to beneficial uses are moderate and likely to attenuate without appreciable acute or chronic effects).” A score of 3 is assigned for this factor.

Factor 2: The Physical, Chemical, Biological or Thermal Characteristics of the Discharge.

A score between 0 and 4 is assigned based on a determination of the risk or threat of the discharged material. “Potential receptors” are those identified considering human, environmental, and ecosystem exposure pathways.

Streams immediately downstream of the discharge points were significantly affected by increased siltation, turbidity, and fines in the stream substrate. Discharges from the Site are deleterious to aquatic life and may cause a chronic impact due to habitat degradation.

The discharged material posed a moderate risk or threat to potential receptors (i.e., the chemical and/or physical characteristics of the discharged material have some level of toxicity or pose a moderate level of concern regarding receptor protection). A score of 2 was assigned for this factor.

Factor 3: Susceptibility to Cleanup or Abatement.

A score of 0 is assigned for this factor if 50% or more of the discharge is susceptible to cleanup or abatement. A score of 1 is assigned if less than 50% of the discharge is susceptible to cleanup or abatement. This factor is evaluated regardless of whether the discharge was actually cleaned up or abated by the discharger.

Less than 50% of the discharges from the Site are susceptible to cleanup or abatement, as the discharges entered unnamed tributaries of North Fork Cottonwood Creek and are no longer on Site. Therefore, a factor of 1 is assigned.

Final Score – “Potential for Harm”

The scores of the three factors are added to provide a Potential for Harm score for each violation or group of violations. In this case, a **final score of 6** was calculated. The total score is then used in Step 2, below.

Step 2 – Assessment for Discharge Violations

This step addresses administrative civil liabilities for the spills based on both a per-gallon and a per-day basis.

1. Per Gallon Assessments for Discharge Violations

When there is a discharge, the Board is to determine an initial liability amount on a per gallon basis, using the Potential for Harm score and the extent of Deviation from Requirement of the violation. The Potential for Harm Score was determined above, and is 6.

The Deviation from Requirement reflects the extent to which the violation deviates from the specific requirement (effluent limitation, prohibition, monitoring requirement, etc.) that was violated. For this discharge, the Deviation from Requirement is considered “**Major**” because the Discharger did not comply with the Water Code requirement to apply for a permit before discharging pollutants to waters of the U.S.

Table 1 of the Enforcement Policy (p. 14) is used to determine a “per gallon factor” based on the total score from Step 1 and the level of Deviation from Requirement. For this particular case, the factor is **0.22**. This value is multiplied by the volume of discharge and the per gallon civil liability, as described below.

For the penalty calculation, Staff used a highly conservative estimate of 56,456 gallons for the volume of discharge. The following paragraphs describe how the volume was determined.

Using the USDA Natural Resources Conservation Service - Conservation Engineering Division Technical Release 55 Method (USDA TR-55 Method) and based on characteristics of the site (Newly graded area with no vegetation, Hydrologic Soil Group B) Staff determined that precipitation events greater than 1/3 of an inch over 24 hours would generate runoff from the Site. Using precipitation data from a Dept. of Water Resources/Flood Management gauging station (OGO Ranger Station) located approximately 5 miles southwest of the Site, Staff identified seven days with more than 2/3 of an inch of precipitation over a 24 hour period, between 19 November 2013 and 29 March 2014. Staff used 2/3 of an inch, twice the amount calculated to generate runoff (1/3 of an inch), to be highly conservative in developing storm water discharge volumes.

During the 28 October 2014 inspection Staff noted two locations where the majority of storm water runoff from graded surfaces on the Site discharged to the unnamed tributaries of North Fork Cottonwood Creek. The first storm water runoff discharge location was in the northwest corner of the Lower Terrace (Attachment D - 28 October 2014 Baker Ridge Inspection Report, Appendix A, Way Point 100). The Lower Terrace was void of vegetation and had a surface area of approximately 30,000 square feet. Storm water runoff from the Lower Terrace surface discharges at the before mentioned location in the northwest corner.

The second storm water runoff discharge location noted by Staff during the 28 October 2014 inspection was on the upstream side of the watercourse crossing located at the entrance to the Site (Attachment D - 28 October 2014 Baker Ridge Inspection Report, Appendix A, Way Point 118). Storm water runoff from the Access Road, which is approximately 1,000 feet long, 12-16 feet wide, and has a surface area of an approximately 14,000 square feet, flows via an inside ditch to the before mentioned discharge location on the upstream side of the watercourse crossing, where it discharged to an unnamed tributary of North Fork Cottonwood Creek. Prior to the 28 October 2014 inspection, there were no Erosion Control / Storm Water Best Management Practices implemented to reduce erosion and storm water discharge from the Site at the two before mentioned discharge locations.

The first of the seven days where storm water runoff discharged from the Site occurred on 19 November 2013. A total of 0.76 inches of precipitation was recorded at the OGO Ranger Station on this date. Using the USDA TR-55 method Staff calculated that 1,711 gallons of storm water discharged from the Lower Terrace and 799 gallons from the Access Road.

The second of the seven days where storm water runoff discharged from the Site occurred on 8 February 2014. A total of 0.96 inches of precipitation was recorded at the OGO Ranger Station on this date. Using the USDA TR-55 method Staff calculated that 3,327 gallons of storm water discharged from the Lower Terrace and 1,553 gallons from the Access Road.

The third of the seven days where storm water runoff discharged from the Site occurred on 9 February 2014. A total of 0.8 inches of precipitation was recorded at the OGO

Ranger Station on this date. Using the USDA TR-55 method Staff calculated that 2,002 gallons of storm water discharged from the Lower Terrace and 934 gallons from the Access Road.

The fourth of the seven days where storm water runoff discharged from the Site occurred on 26 February 2014. A total of 1.24 inches of precipitation was recorded at the OGO Ranger Station on this date. Using the USDA TR-55 method Staff calculated that 6,151 gallons of storm water discharged from the Lower Terrace and 2,870 gallons from the Access Road.

The fifth of the seven days where storm water runoff discharged from the Site occurred on 3 March 2014. A total of 1.88 inches of precipitation was recorded at the OGO Ranger Station on this date. Using the USDA TR-55 method Staff calculated that 14,199 gallons of storm water discharged from the Lower Terrace and 6,626 gallons from the Access Road on 3 March 2014.

The sixth of the seven days where storm water runoff discharged from the Site occurred on 5 March 2014. A total of 0.88 inches of precipitation was recorded at the OGO Ranger Station on this date. Using the USDA TR-55 method Staff calculated that 2,634 gallons of storm water discharged from the Lower Terrace and 1,229 gallons from the Access Road.

The last of the six precipitation events where storm water runoff discharged from the Site occurred on 28 March 2014. A total of 1.44 inches of precipitation was recorded at the OGO Ranger Station on this date. Using the USDA TR-55 method Staff calculated that 8,469 gallons of storm water discharged from the Lower Terrace and 3,952 gallons from the Access Road.

For the purposes of the penalty calculation, Staff is using a discharge volume of 56,456 gallons (of this amount, 49,456 gallons subject to penalties as described below). The maximum civil liability allowed under Water Code section 13385 is \$10 per gallon discharged. The Per Gallon Assessment is calculated as (0.22 factor from Table 1) x (49,456 gallons) x (\$10 per gallon). The value is **\$108,800**.

Discharge Event	Dates	Total Runoff Volume from Lower Terrace (gallons)	Total Runoff Volume from Access Road (gallons)	Total Runoff (gallons)	Total Subject to Penalties (Volume - 1,000 gallons)*	Days of Violation Subject to Penalties
#1	19 Nov 2013	1,711	799	2,510	1,510	1
#2	8 Feb 2014	3,327	1,553	4,880	3,880	1
#3	9 Feb 2014	2,002	934	2,936	1,936	1
#4	26 Feb 2014	6,151	2,870	9,021	8,021	1
#5	3 March 2014	14,199	6,626	20,825	19,825	1
#6	5 March 2014	2,634	1,229	3,863	2,863	1
#7	28 March 2014	8,469	3,952	12,421	11,421	1
	Total	38,493	17,963	56,456	49,456	7
Per Water Code						

2. Per Day Assessments for Discharge Volumes

When there is a discharge, the Water Board is to determine an initial liability amount on a per day basis using the same Potential for Harm factor score (6) and the extent of Deviation from Requirement (Major) that were used in the per-gallon analysis. The "per day" factor (determined from Table 2 of the Enforcement Policy) is **0.22**.

The discharges that are the subject of this enforcement action occurred on at least seven different days. Therefore, the Per Day Assessment is calculated as (0.22 factor from Table 2) x (7 days) x (\$10,000 per day). The value is **\$15,400**.

Initial Liability Amount: The value is determined by adding together the per gallon assessment and the per day assessment. For this case, the total is \$108,800 + \$15,400 for a total initial liability amount of **\$124,200**.

Step 3 – Per Day Assessment for Non-Discharge Violation

The Enforcement Policy states that the Board shall calculate an initial liability for each non-discharge violation. In this case, this factor does not apply because all of the violations are related to the discharge from the Site, and the liability was determined in Step 2.

Step 4 – Adjustment Factors

There are three additional factors to be considered for modification of the amount of initial liability: the violator's culpability, efforts to clean up or cooperate with regulatory authority, and the violator's compliance history. After each of these factors is considered for the violations involved, the applicable factor should be multiplied by the proposed amount for each violation to determine the revised amount for that violation.

Culpability

Higher liabilities should result from intentional or negligent violations as opposed to accidental violations. A multiplier between 0.5 and 1.5 is to be used, with a higher multiplier for negligent behavior. The Dischargers were given a multiplier value of **1.5** because the Dischargers did not comply with the Water Code requirement to apply for a permit before discharging pollutants to waters of the U.S. and were knowledgeable of that requirement. In addition staff believes that negligence was involved because the Discharger failed to exercise a degree of care which a reasonable person would exercise under similar circumstances.

Cleanup and Cooperation

This factor reflects the extent to which a discharger voluntarily cooperated in returning to compliance and correcting environmental damage. A multiplier between 0.75 and 1.5 is to be used, with a higher multiplier when there is a lack of cooperation. The Dischargers have cooperated with the investigation thus far and have implemented some Best Management Practices since the 28 October 2014 inspection to reduce the amount of sediment and fill material that continues to discharge from the Site. Therefore, the Dischargers were given a multiplier value of **0.75**.

History of Violation

When there is a history of repeat violations, the Enforcement Policy indicates a minimum multiplier of 1.1 to be used. The Dischargers do not have a history of violations with the Central Valley Water Board. Therefore, the History of Violation factor is **1.0**.

Step 5 - Determination of Total Base Liability Amount

The Total Base Liability is determined by applying the adjustment factors from Step 4 to the Initial Liability Amount determined in Step 2.

Total Base Liability Amount: This value is calculated as the Initial Liability Amount (\$124,200) x Adjustment Factors (1.5) (0.75) (1) and is equal to **\$139,700**.

Step 6 - Ability to Pay and Ability to Continue in Business

The ability to pay and to continue in business factor must be considered when assessing administrative civil liabilities. The Dischargers have an ability to pay the total base liability amount proposed for Violation 1 based on the fact that the Dischargers own real property that collectively is worth in excess of the total base liability amount for Violation 1. Furthermore, Axner Construction, Inc., is a for profit business that generates income and owns assets. Based on this information, the total base liability amount for Violation 1 was not adjusted for the Dischargers' ability to pay.

Step 7 - Other Factors as Justice May Require

If the Central Valley Water Board believes that the amount determined using the above factors is inappropriate, the amount may be adjusted under the provision for "other factors as justice may require," but only if express findings are made to justify this.

Step 8 - Economic Benefit

Pursuant to CWC section 13385(e), civil liability, at a minimum, must be assessed at a level that recovers the economic benefits, if any, derived from the acts that constitute the violation. The Dischargers benefited economically by not enrolling and complying with the State of California's NPDES General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities Order No. 2009-0009-DWQ (NPDES No. CAS000002). To comply with this order the Dischargers would have had to pay an annual Construction Stormwater Program fee, hired a Qualified Storm Water Pollution Prevention Plan (SWPPP) Developer (QSD) to develop a SWPPP for construction and land disturbance activities on the Site, implement erosion and sediment control best management practices (BMPs) in accordance with the SWPPP, and hired a Qualified SWPPP Practitioner (QSP) to inspect those BMPs, monitor the Site and storm water discharges from the Site, take corrective actions when needed, and write and submit monitoring reports to the Central Valley Water Board.

The annual Construction Stormwater Program fee for fiscal year 2013-14 for the construction and land disturbance activities the dischargers conducted on the Site is \$715. This is considered an avoided cost because the Dischargers cannot retroactively enroll in the Construction Stormwater Program. The estimated cost to have a QSD develop a SWPPP for the Site and to have a QSP to inspect and monitor the site as needed to comply with the SWPPP and the General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities during fiscal year 2013-14 is \$5,100. This is considered an avoided

cost as the Dischargers cannot retroactively have a SWPPP developed, inspected, or monitored. The estimated cost to implement erosion and sediment control BMPs for the construction and land disturbance activities conducted by the Dischargers in 2013 is \$66,463. This is considered a delayed cost as the Dischargers will have to implement erosion and sediment control BMPs in compliance with Cleanup and Abatement Order R5-2015-0701.

The Dischargers economic benefit for noncompliance with the Construction Storm Water General Permit is calculated from the delayed and avoided costs listed above using the USEPA's BEN computer program, and is equal to the present value of the avoided costs plus the "interest" on delayed costs. This calculation reflects the fact that the discharger has had the use of the money that should have been used to avoid the instance of noncompliance. The total Benefit of Noncompliance to the Dischargers in regards to this violation is calculated to be \$8,912.

The Enforcement Policy states (p. 21) that the total liability shall be at least 10% higher than the economic benefit, "so that liabilities are not construed as the cost of doing business and the assessed liability provides a meaningful deterrent to future violations." Therefore, the economic benefit is estimated to be **\$9,803**, which becomes the minimum civil liability which must be assessed pursuant to section 13385.

Step 9 – Maximum and Minimum Liability Amounts

The maximum and minimum amounts for discharge violation must be determined for comparison to the amounts being proposed. These values are calculated in the ACL Complaint, and the values are repeated here.

Maximum Liability Amount: \$564,540

Minimum Liability Amount: \$9,803

Step 10 – Final Proposed Liability Amount for Violation 1

Based on the foregoing analysis, and consistent with the Enforcement policy, ***the final liability amount proposed for Violation 1 is \$139,700.***

VIOLATION 2- DISCHARGES OF FILL MATERIAL TO UNNAMED TRIBUTARIES OF DOBY & DUCKET CREEKS

Step 1 – Potential for Harm for Discharge Violations

The "potential harm to beneficial uses" factor considers the harm that may result from exposure to the pollutants in the illegal discharge, while evaluating the nature, circumstances, extent, and gravity of the violation(s). A three-factor scoring system is used for each violation or group of violations: (1) the potential for harm to beneficial uses; (2) the degree of toxicity of the discharge; and (3) whether the discharge is susceptible to cleanup or abatement.

Factor 1: Harm or Potential Harm to Beneficial Uses.

This factor evaluates direct or indirect harm or potential for harm from the violation. A score between 0 and 5 is assigned based on a determination of whether the harm or potential for

harm to beneficial uses ranges from negligible (0) to major (5).

The designated beneficial uses of Cottonwood Creek that could be impacted by the unauthorized discharge include Municipal and Domestic Supply; Agricultural Supply; Water Contact Recreation; Noncontact Water Recreation; Warm Freshwater Habitat; Cold Freshwater Habitat; Migration of Aquatic Organisms; Spawning; and Wildlife Habitat. The discharger(s) placed 8,520 cubic feet of fill in unnamed tributaries of Doby and Duckett Creeks, which are tributaries of North Fork Cottonwood Creek, which is a major tributary of Cottonwood Creek. Beneficial uses of any specifically identified water body generally apply to all of its tributaries. The fill material was observed in the unnamed tributaries on Assessor Parcel 041-300-035-000 (hereafter referred to as the "Site") during the 28 October 2014 inspection and the 19 November 2014 inspection.

The observed harm to beneficial uses was determined to be "Above Moderate" which is defined as "more than moderate threat to beneficial uses (i.e., impacts are observed or likely substantial, temporary restrictions on beneficial uses (e.g., less than 5 days), human or ecological health concerns)." A score of 4 is assigned for this factor.

Factor 2: The Physical, Chemical, Biological or Thermal Characteristics of the Discharge.
A score between 0 and 4 is assigned based on a determination of the risk or threat of the discharged material. "Potential receptors" are those identified considering human, environmental, and ecosystem exposure pathways.

Streams immediately downstream of where fill material was discharged were significantly affected by increased siltation, turbidity, and fines in the stream substrate. Discharges from the Site are deleterious to aquatic life and may cause a chronic impact due to habitat degradation.

The discharged material posed a moderate risk or threat to potential receptors (i.e., the chemical and/or physical characteristics of the discharged material have some level of toxicity or pose a moderate level of concern regarding receptor protection). A score of 2 was assigned for this factor.

Factor 3: Susceptibility to Cleanup or Abatement.

A score of 0 is assigned for this factor if 50% or more of the discharge is susceptible to cleanup or abatement. A score of 1 is assigned if less than 50% of the discharge is susceptible to cleanup or abatement. This factor is evaluated regardless of whether the discharge was actually cleaned up or abated by the discharger.

More than 50% of the discharged fill material on the Site is susceptible to cleanup or abatement. Therefore, a factor of 0 is assigned.

Final Score – "Potential for Harm"

The scores of the three factors are added to provide a Potential for Harm score for each violation or group of violations. In this case, a **final score of 6** was calculated. The total score is then used in Step 2, below.

Step 2 – Assessment for Discharge Violations

This step addresses administrative civil liabilities for the spills based on both a per-gallon and a per-day basis.

1. Per Gallon Assessments for Discharge Violations

When there is a discharge, the Board is to determine an initial liability amount on a per gallon basis, using the Potential for Harm score and the extent of Deviation from Requirement of the violation. The Potential for Harm Score was determined above, and is 6.

The Deviation from Requirement reflects the extent to which the violation deviates from the specific requirement (effluent limitation, prohibition, monitoring requirement, etc.) that was violated. For this discharge, the Deviation from Requirement is considered “**Major**” because the Discharger did not comply with the Water Code requirement to apply for a permit before discharging pollutants to waters of the U.S.

Table 1 of the Enforcement Policy (p. 14) is used to determine a “per gallon factor” based on the total score from Step 1 and the level of Deviation from Requirement. For this particular case, the factor is **0.22**. This value is multiplied by the volume of discharge and the per gallon civil liability, as described below. For the penalty calculation, Staff used a conservative estimate of 63,730 gallons for the volume of fill material discharged.

For the purposes of the penalty calculation, Staff is using a discharge volume of 63,730 gallons (of this amount, 61,730 gallons subject to penalties as described below). The maximum civil liability allowed under Water Code section 13385 is \$10 per gallon discharged. The Per Gallon Assessment is calculated as (0.22 factor from Table 1) x (61,730 gallons) x (\$10 per gallon). The value is **\$135,800**.

Fill material was discharged to unnamed tributaries on Site at two locations. At both locations fill material was discharged to construct an unculverted non-armored watercourse crossing. At the first location (Way Point 1, 19 November 2014 Baker Ridge Inspection Report) more than 3,840 cubic feet, or 28,725 gallons, of fill material was discharged to an unnamed tributary of Doby Creek. At the second location (Way Point 2, 19 November 2014 Baker Ridge Inspection Report) more than 4,680 cubic feet, or 35,005 gallons, of fill material was discharged to an unnamed tributary of Duckett Creek.

2. Per Day Assessments for Discharge Volumes

When there is a discharge, the Water Board is to determine an initial liability amount on a per day basis using the same Potential for Harm factor score (6) and the extent of Deviation from Requirement (Major) that were used in the per-gallon analysis. The “per day” factor (determined from Table 2 of the Enforcement Policy) is **0.22**.

The two watercourse crossings most likely were constructed on at least two separate days. Therefore, the discharges that are the subject of this enforcement action occurred on at least two different days. Therefore, the Per Day Assessment is calculated as (0.22 factor from Table 2) x (2 days) x (\$10,000 per day). The value is **\$4,400**.

Initial Liability Amount: The value is determined by adding together the per gallon assessment and the per day assessment. For this case, the total is \$135,800 + \$4,400 for a total initial liability amount of **\$140,200**.

Step 3 – Per Day Assessment for Non-Discharge Violation

The Enforcement Policy states that the Board shall calculate an initial liability for each non-discharge violation. In this case, this factor does not apply because all of the violations are related to the discharge from the Site, and the liability was determined in Step 2.

Step 4 – Adjustment Factors

There are three additional factors to be considered for modification of the amount of initial liability: the violator's culpability, efforts to clean up or cooperate with regulatory authority, and the violator's compliance history. After each of these factors is considered for the violations involved, the applicable factor should be multiplied by the proposed amount for each violation to determine the revised amount for that violation.

Culpability

Higher liabilities should result from intentional or negligent violations as opposed to accidental violations. A multiplier between 0.5 and 1.5 is to be used, with a higher multiplier for negligent behavior. The Dischargers were given a multiplier value of **1.5** because the Dischargers did not comply with the Water Code requirement to apply for a permit before discharging pollutants to waters of the U.S. In addition staff believes that negligence was involved because the Discharger failed to exercise a degree of care which a reasonable person would exercise under similar circumstances.

Cleanup and Cooperation

This factor reflects the extent to which a discharger voluntarily cooperated in returning to compliance and correcting environmental damage. A multiplier between 0.75 and 1.5 is to be used, with a higher multiplier when there is a lack of cooperation. The Dischargers have cooperated with the investigation and have implemented some Best Management Practices since the 28 October 2014 inspection to reduce the amount of sediment and fill material that continues to discharge from the Site. Therefore, the Dischargers were given a multiplier value of **0.75**.

History of Violation

When there is a history of repeat violations, the Enforcement Policy indicates a minimum multiplier of 1.1 to be used. The Dischargers do not have a history of violations with the Central Valley Water Board. Therefore, the History of Violation factor is **1.0**.

Step 5 - Determination of Total Base Liability Amount

The Total Base Liability is determined by applying the adjustment factors from Step 4 to the Initial Liability Amount determined in Step 2.

Total Base Liability Amount: This value is calculated as the Initial Liability Amount (\$140,200) x Adjustment Factors (1) (0.75) (1) and is equal to **\$157,700**.

Step 6 - Ability to Pay and Ability to Continue in Business

The ability to pay and to continue in business factor must be considered when assessing administrative civil liabilities. Mr. Cordes has an ability to pay the total base liability amount proposed for Violation 2 based on the fact that he owns real property in California and Texas with tax assessor values in excess of \$280,000. It is also unknown at this time what other sources of income and/or assets are available to Mr. Cortes and it is presumed that the other Dischargers will pay some portion of the liability imposed for Violation 1. Based on this information, the total base liability amount for Violation 2 was not adjusted for the Dischargers' ability to pay.

Step 7 – Other Factors as Justice May Require

If the Central Valley Water Board believes that the amount determined using the above factors is inappropriate, the amount may be adjusted under the provision for "other factors as justice may require," but only if express findings are made to justify this.

Step 8 – Economic Benefit

Pursuant to CWC section 13385(e), civil liability, at a minimum, must be assessed at a level that recovers the economic benefits, if any, derived from the acts that constitute the violation. The Dischargers benefited economically by not enrolling and complying with the State of California's NPDES General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities Order No. 2009-0009-DWQ (NPDES No. CAS000002) and for not obtaining a Clean Water Act Section 404 Permit or 401 Water Quality Certification for dredged and fill materials.

To comply with the General Construction Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities order the Discharger would have had to pay an annual Construction Stormwater Program fee, hire a Qualified Storm Water Pollution Prevention Plan (SWPPP) Developer (QSD) to develop a SWPPP for construction and land disturbance activities on the Site, implement erosion and sediment control best management practices (BMPs) in accordance with the SWPPP, and hire a Qualified SWPPP Practitioner (QSP) to inspect those BMPs, monitor the Site and storm water discharges from the Site, take corrective actions when needed, and write and submit monitoring reports to the Central Valley Water Board. To obtain a Clean Water Act Section 401 Water Quality Certification the Discharger would have had to submit an application and application fee.

The annual Construction Stormwater Program fee for fiscal year 2014-15 for the construction and land disturbance activities the dischargers conducted on the Site is \$745. This is considered an avoided cost because the Discharger cannot retroactively enroll in the Construction Stormwater Program. The estimated cost to have a QSD develop a SWPPP for the Site and to have a QSP to inspect and monitor the site as needed to comply with the SWPPP and the General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities during fiscal year 2014-15 is \$6,600. This is considered an avoided cost as the Discharger cannot retroactively have a SWPPP developed, inspected, or monitored. The estimated cost to implement erosion and sediment control BMPs for the construction and land disturbance activities conducted by the Dischargers in 2013 is \$30,296. This is considered a delayed cost as the Discharger will have to implement erosion and

sediment control BMPs in compliance with Cleanup and Abatement Order R5-2015-0701. The cost to obtain a Section 401 Water Quality Certification in 2014 is \$1097.

The Dischargers economic benefit for noncompliance with the Construction Storm Water General Permit is calculated from the delayed and avoided costs listed above using the USEPA's BEN computer program, and is equal to the present value of the avoided costs plus the "interest" on delayed costs. This calculation reflects the fact that the discharger has had the use of the money that should have been used to avoid the instance of noncompliance. The total Benefit of Noncompliance to the Dischargers in regards to this violation is calculated to be \$10,102.

The Enforcement Policy states (p. 21) that the total liability shall be at least 10% higher than the economic benefit, "so that liabilities are not construed as the cost of doing business and the assessed liability provides a meaningful deterrent to future violations." Therefore, the economic benefit is estimated to be **\$11,112**, which becomes the minimum civil liability which must be assessed pursuant to section 13385.

Step 9 – Maximum and Minimum Liability Amounts

The maximum and minimum amounts for discharge violation must be determined for comparison to the amounts being proposed. These values are calculated in the ACL Complaint, and the values are repeated here.

Maximum Liability Amount: \$637,300

Minimum Liability Amount: \$11,112

Step 10 – Final Liability Amount for Violation 2

Based on the foregoing analysis, and consistent with the Enforcement policy, the final liability amount proposed for Violation 2 is \$157,700.

Total Combined Liability Amount

The final liability amounts for Violation 1 and Violation 2 discussed above consists of the added amounts for each violation, with any allowed adjustments, provided amounts are within the statutory minimum and maximum amounts. Without further investigation of the discharge, calculation of economic benefits, and additional staff time, the proposed combined Administrative Civil Liability is **\$297,400** (consisting of Christopher Cordes, Eddie Axner and Eddie Axner Construction, Inc. being joint and severally liable for **\$139,700** and Christopher Cordes being individually liable for an additional **\$157,700**).

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2015-0520

CHRISTOPHER CORDES, EDDIE AXNER CONSTRUCTION, INC., AND EDDIE AXNER

ASSESSOR PARCEL 041-300-035-000

SHASTA COUNTY

Attachment B – 19 November 2014 Baker Ridge Inspection Report

CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD

INSPECTION REPORT

20 February 2015

PROPERTY OWNERSHIP: Shasta County APN: 041-300-035-000
Christopher Cordes, 101 South F Street,
Pensacola, FL 32502

PHYSICAL PROPERTY ADDRESS: Baker Ridge Road, Igo, CA 96047

CONTACT(S): Will Bond (Consultant to Eddie Axner Construction, Inc.)
530-221-5424 or 530-515-9658
wbond@shn-engr.com

RESIDENTS PRESENT: No residents present during the inspection

INSPECTION DATE & TIME: 19 November 2014 at 0845.

INSPECTED BY: Roy Sherrell, ES, Central Valley Regional Water Quality
Control Board

Kevin Pfeiffer, EG, Central Valley Regional Water Quality
Control Board

Patricia Vellines, EG, Central Valley Regional Water
Quality Control Board

Ashley Hampton, ES, Central Valley Regional Water
Quality Control Board

CONSENT/WARRANT: This inspection was conducted with consent from the
Property Owner

ACCOMPANIED BY: Clint Snyder, Assistant Executive Officer, Central Valley
Regional Water Quality Control Board
Will Bond, Senior Civil Engineer, SHN Consulting
Engineers & Geologists Inc.
Eddie Axner, Owner, Eddie Axner Construction

EQUIPMENT USED: Garmin Rino 655t GPS & Two-way Radio
Nikon Coolpix AW120 GPS Camera

ATTACHMENTS:

Appendix A – Figure 1

Appendix B – Photographs #1 - #6

Appendix C – SHN Erosion Control Plans

SITE DESCRIPTION

On 19 November 2014 Central Valley Regional Water Quality Control Board (Central Valley Water Board) staff conducted a follow-up inspection of Shasta County APN: 041-300-035-000 (hereafter referred to as the "Site").

The Site, located off of Baker Ridge Road, east of Rainbow Lake in Ono, Shasta County lies adjacent to a seasonal stream and several seasonal drainages that exist as unnamed tributaries to the North Fork Cottonwood Creek. The North Fork Cottonwood Creek is a major tributary of Cottonwood Creek. The existing beneficial uses of Cottonwood Creek are listed in the Water Quality Control Plan for the Sacramento River and San Joaquin River Basins (Basin Plan) as: Municipal & Domestic Supply; Agricultural Supply; Water Contact & Non-contact Recreation; Warm & Cold Freshwater Habitat; Migration of Cold Freshwater Aquatic Organisms; Spawning, Reproduction, and/or early Development; and Wildlife Habitat. The potential beneficial uses of Cottonwood Creek as listed in the Basin Plan include: Industrial Process Supply, Industrial Service Supply, and Industrial Power.

A summary of the inspection and water quality concerns associated with the Site are included below. Appendix A includes an overview figure summarizing the site including labels, tracks, and waypoints for roads, water crossings, and graded areas. Corresponding inspection photographs documenting Site details and water quality concerns are included as Appendix B. Plans for erosion control measures to be implemented at the Site as provided by SHN Consulting Engineers & Geologists are included as Appendix C. A copy of the 28 October 2014 Baker Ridge Inspection Report is included with and is referenced in this report.

BACKGROUND

On 28 October 2014 Central Valley Water Board, California Department of Fish & Wildlife (CDFW), and Shasta County Department of Resource Management staffs conducted an inspection of the Site. During this inspection Central Valley Water Board staff inspected areas surrounding the two main terraces and the access road that connects the terraces to Baker Ridge Road (see 28 October 2014 Baker Ridge Inspection Report). During the 28 October 2014 inspection, Staff discovered a previously unknown and recently constructed section of road that started from the north side of the upper terrace and traveled west, accessing more of the Site (hereafter "New Road"). Due to time constraints Staff was unable to fully inspect the New Road during that inspection.

On 7 November 2014, CDFW staff returned to the Site and conducted another inspection which included a full inspection of the New Road. Following that inspection CDFW staff informed Central Valley Water Board staff that some erosion control measures had been installed at the Site and that there were several areas on the New Road that had discharged sediment laden stormwater to unnamed tributaries of North Fork Cottonwood Creek including two watercourse crossings, one of which was observed during the October inspection. After being notified of the

issues Staff contacted Mr. Will Bond, who had created an Erosion Control Plan for the Site, to ask for a meeting at the Site to view and evaluate the recently installed erosion control measures and to inspect the New Road. Permission to enter the property was obtained by Mr. Bond from the property owner for Central Valley Water Board staff to access the property and conduct an inspection. Confirmation with Shasta County verified that no permits of any kind had been issued for the New Road construction at the Site.

OBSERVATIONS AND COMMENTS

On 19 November 2014 at 0845 hours the above identified Central Valley Water Board staff, Mr. Will Bond from SHN Consulting Engineers & Geologists Inc., and Mr. Eddie Axner of Eddie Axner Construction met at the Site on the lower terrace.

Per Eddie Axner, Eddie Axner Construction constructed the upper and lower terraces as well as additional development of the existing main access road between Baker Ridge Road and the terraces. Since the 28 October 2014 inspection, Eddie Axner Construction has also installed erosion control measures which Staff met on Site to inspect. Mr. Bond was present to discuss the recently developed Site erosion control plans.

The weather for the duration of the inspection was cloudy with rain, and there was evidence that it had rained overnight and in the morning just before the inspection.

Staff's focus was directed towards several water quality concerns present at the Site and described in further detail below, including:

- Main Access Road
- Graded Upper and Lower Terraces
- New Road – Including two water crossings

Staff also interviewed both Mr. Axner and Mr. Bond in order to acquire further information regarding Site development and its conditions, and information regarding the land owner, Mr. Cordes.

Main Access Road

The Site is accessed via Baker Ridge Road by a main access road. The main access road leading up to the lower terrace, which was further developed by Mr. Axner from an existing access road and described in detail in the inspection report from the 28 October 2014 inspection, consists of a watercourse crossing and an in-sloped road with an inboard ditch that drains directly to the creek on the upstream side of the watercourse crossing. The crossing itself is composed of a 24 inch metal culvert with tires and native soil used as fill. Since the previous inspection by Central Valley Water Board staff, this main access road was mulched and seeded with straw and rye grass seed. In addition, 4 to 6 inch angular rock had been placed in the inboard storm water drainage ditch to dissipate energy and protect fill material from further erosion and discharge to the Unnamed Class III Tributary of North Fork Cottonwood Creek. Erosion control efforts implemented at this location appeared to be effective at the time of inspection and were successful at abating further discharge to the watercourse, however ongoing maintenance will need to be employed to ensure continuing function.

Upper and Lower Terraces

Staff evaluated erosion control measures implemented on the upper and lower terraces and discussed them with Mr. Bond and Mr. Axner. Erosion control blankets had been installed on the east fill/side slope of the lower terrace where Staff had observed heavy equipment operating during the 28 October 2014 inspection. Erosion control blankets were also installed along the cut banks of the access road between the upper and lower terrace. Straw was used to mulch all other areas of the upper and lower terrace surfaces and fill/side slopes. Angular rock, sized between 4 and 6 inches, had been placed in several areas where stormwater drains from the roads along the terraces in approximate 100 foot spaced check dams as visually estimated (and as specified in Erosion Control Plans included in Appendix C) to act as energy dissipaters and to protect fill material from further erosion. Straw mulch and rye seed had been applied to all of the areas exposed by grading and the rye had just begun to sprout at the time of this inspection.

It was evident due to rain and runoff before and during this inspection that the seed and straw mulch, while effective on the flatter areas of the terraces and the road, was insufficient to fully protect and prevent erosion on the steep (greater than 50% grade as measured during 28 October 2014 inspection) south and west fill/side slopes of the lower terrace. On these steep fill/side slopes the seeds and straw mulch had been mobilized downslope and into rills by wind and rain, leaving the majority of the erodible fill/side slope surfaces exposed and vulnerable to further erosion (Photograph.#1). Mr. Axner stated that he would like to "pull back" those fill/side slopes to make them less steep then install erosion control blankets to protect the slopes.

New Road

After inspecting the erosion control measures implemented on the upper and lower terraces, Staff, Mr. Axner, and Mr. Bond walked the New Road. This unpermitted section of road begins on the north side of the upper terrace and travels west. Approximately 300 yards due west of the upper terrace the road splits to form a loop with two dead end spur road sections which extend to the south and southwest (see Figure 1). Mr. Axner stated that Mr. Cordes "rented a dozer, probably a D6, and had one of his guys conduct the [new] road work". Mr. Axner also stated that Mr. Cordes told him that he created the New Road as a "dirt bike track". Staff found several areas where the fill/side slopes of this road had sloughed off or eroded away discharging fill and road material to watercourses below (Photograph #2 and Photograph #4). All areas disturbed by the road construction had been mulched and seeded by Eddie Axner Construction since the 28 October 2014 inspection; however the straw mulch and seed was not effective at preventing erosion on the steep fill/side slopes.

Watercourse Crossings, Way Points 1 & 2

Staff identified two watercourse crossings (Refer to Figure 1) on the New Road. Both were constructed by pushing/grading native soil material into a watercourse and riparian zones, to form a surface over which vehicles could pass.

Crossing 1, Photograph #3

At Way Point 1, Eddie Axner Construction had placed riprap in a deep erosional scar that was created by flow from the watercourse passing over the crossing then exiting the road surface to the downstream side. This riprap could prevent the current erosional scar from growing, but will not prevent flow of the watercourse from continuing to erode this un-armored watercourse

crossing and discharging fill/road material to the watercourse. Mr. Axner agreed that a significant amount of fill and road material had already discharged to the watercourse, and that additional measures were needed to stabilize this watercourse crossing and prevent it from discharging more fill/road material to the watercourse. The crossing was conservatively measured during the 28 October 2014 inspection as being approximately 32 feet long, over 20 feet wide, with an average thickness of over 12 feet on the downstream side, 0 feet on the upstream side, and was constructed by placing more than 3,840 cubic feet (as calculated from measurements) of native rock and soil in the watercourse and adjacent riparian areas at this location. No permits were obtained for the construction of this watercourse crossing.

Crossing 2, Photograph #5

At Way Point 2, staff estimated more than 75 feet of stream channel had been filled using more than 4,680 cubic feet (as calculated from measurements) of native earthen materials to construct the watercourse crossing. The crossing was conservatively measured by CDFW staff during their 7 November 2014 inspection as being approximately 78 feet long, over 12 feet wide, with an average thickness of over 10 feet on the downstream side, 0 feet on the upstream side. There is no culvert or armoring at this crossing, meaning that flow from the watercourse passes over the road surface composed of native soil that is highly erosive and largely un-compacted decomposed granite fill and then down the fill/side slope to the channel below. Mr. Axner and Mr. Bond agreed that a significant amount of fill and road material had already discharged to the watercourse from this crossing, and that significant erosion control measures were needed to stabilize this watercourse crossing and prevent it from discharging more fill/road material. It is the consensus of Staff that, due to the topography and the erodibility of soils at this location, a watercourse crossing should never have been constructed at this location. Again, no permits were obtained nor plans submitted for the construction at this crossing.

Additional Comments

While conducting the inspection Staff learned several things about the history of the Site from Mr. Axner. According to Mr. Axner, the site was originally a "dump site" where locals disposed of old cars and appliances among other things. He claimed that a realtor had purchased the property, removed some of the junk, and then flipped the property selling it to Mr. Cordes. Mr. Axner stated that his company, Eddie Axner Construction, was hired to construct the upper and lower terraces and to improve the access road from Baker Ridge Road to the terraces. Mr. Axner stated that Mr. Cordes wanted the upper and lower terraces for a home site and to grow "his 99 medical marijuana plants". Mr. Axner stated that his company was hired on a per-hour basis and that they never had, and did not currently have, a contract with Mr. Cordes. When asked about plans for the terrace structures, Mr. Axner stated that they never surveyed or planned the excavation/grading of the terraces and that they just followed Mr. Cordes' orders. When questioned about a grading stake that was found at the Site during the 28 October inspection (Photograph #6), Mr. Axner admitted that it was, in fact, one of his teams' grading stakes; however it was not from surveying and planning of the construction. Mr. Axner also stated that, "Chris [Cordes] dumped the potting soil" over the side of the terraces.

It should be noted that Mr. Axner is, and has been for many years, a licensed contractor and licensed timber operator. This means that he was knowledgeable and aware of the fact that a Grading Permit from Shasta County and a Stormwater Construction Permit from the Central Valley Water Board was needed to conduct the grading/construction of the terraces. It also means that he was knowledgeable and aware that significant stabilization and erosion control

measures where required following a grading/construction project of this size on soils such as those present at the Site.

In addition, erosion control plans drawn by SHN Consulting Engineers & Geologists, Inc. (Appendix C) and provided by Mr. Bond include labels diagramming the existing seasonal drainages along the new road. The identification of these drainages (corresponding with Crossing #1 and Crossing #2) confirms knowledge of their existence and need for adequate measures to be taken to prevent further erosion. The currently implemented erosion control measures along these water crossings do not follow those indicated in the plan and are insufficient for the prevention of gross erosion along the road on these highly erosive soils.

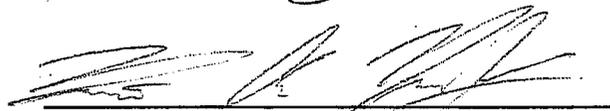
ENFORCEMENT DISCRETION

The observations in this report will be assessed for violations of the California Water Code. The Central Valley Water Board reserves its rights to take any enforcement action authorized by law.

Inspectors Signatures



Ashley Hampton,
Environmental Scientist



Kevin Pfeiffer, G.I.T
Engineering Geologist

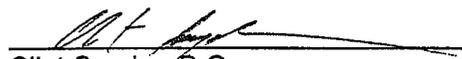


Roy Sherrell, MFR
Environmental Scientist



Patricia Vellines, P.G.
Engineering Geologist

Reviewer Signature



Clint Snyder, P.G.
Assistant Executive Officer

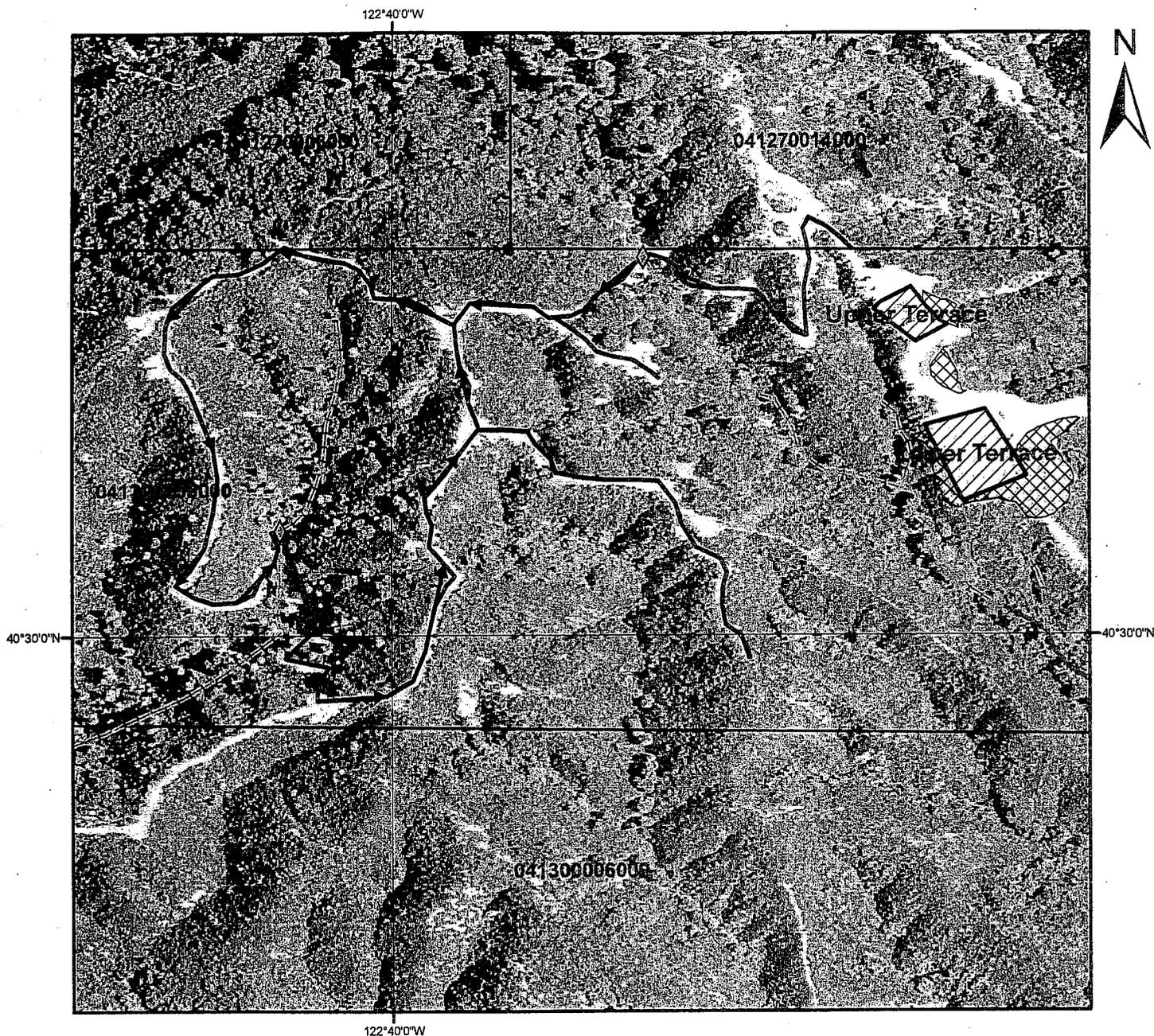
19 NOVEMBER 2014 BAKER RIDGE INSPECTION REPORT

ASSESSOR PARCEL 041-300-035-000

SHASTA COUNTY

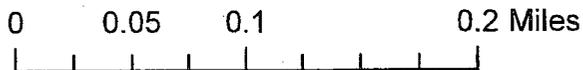
Appendix A – Figure 1

Baker Ridge Rd. Grow: 11-19-14 Inspection on NAIP 2014 Imagery



Description of Lines and Units

- ◆ Waypoints Identifying Significant Water Crossings
- New Road/ Unpermitted Construction by Cordes
- ==== Class III Waterway
- Class II Waterway
- Route taken by Water Board Staff
- ▨ Area Graded by Eddie Axner
- ▩ Side Castings and DG Fill Material/ Eddie Axner
- Parcel Boundaries



1:5,000

Map Created By: Kevin Pfeiffer G.I.T
 Engineering Geologist
 Watershed Enforcement Team
 Central Valley Regional Water Quality Control Board
 Date: 1/13/2015



19 NOVEMBER 2014 BAKER RIDGE INSPECTION REPORT

ASSESSOR PARCEL 041-300-035-000

SHASTA COUNTY

Appendix B – Photographs #1 - #6



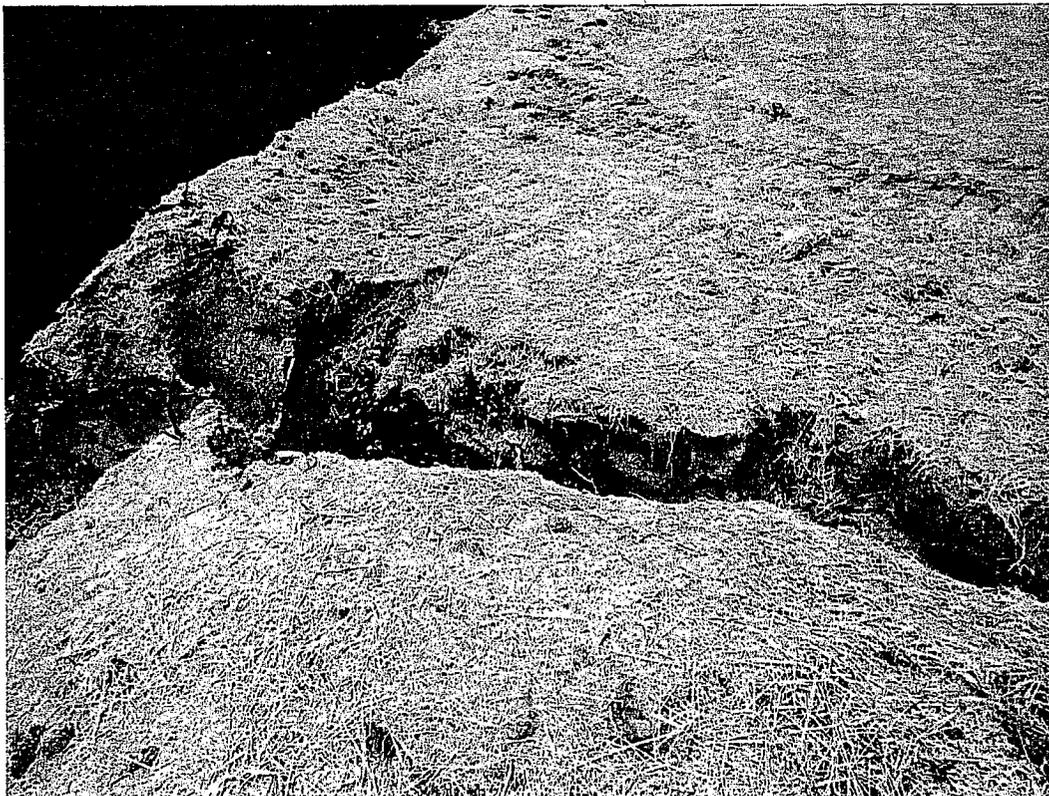
Photograph #1. West fill/side slope of lower terrace with straw mulch ineffectively protecting fill material from erosion.



Photograph #2. Area where road and fill material from the New Road has discharged to an un-named tributary of North Fork Cottonwood Creek.



Photograph #3. Way Point 1 - Riprap in deep erosional scar on downstream side of watercourse crossing.



Photograph #4. Stormwater discharge location on New Road approximately 100 yards south of Way Point 2.



Photograph #5. Way Point 2 – Fill and road material from New Road/watercourse crossing within watercourse on downstream side of watercourse crossing.



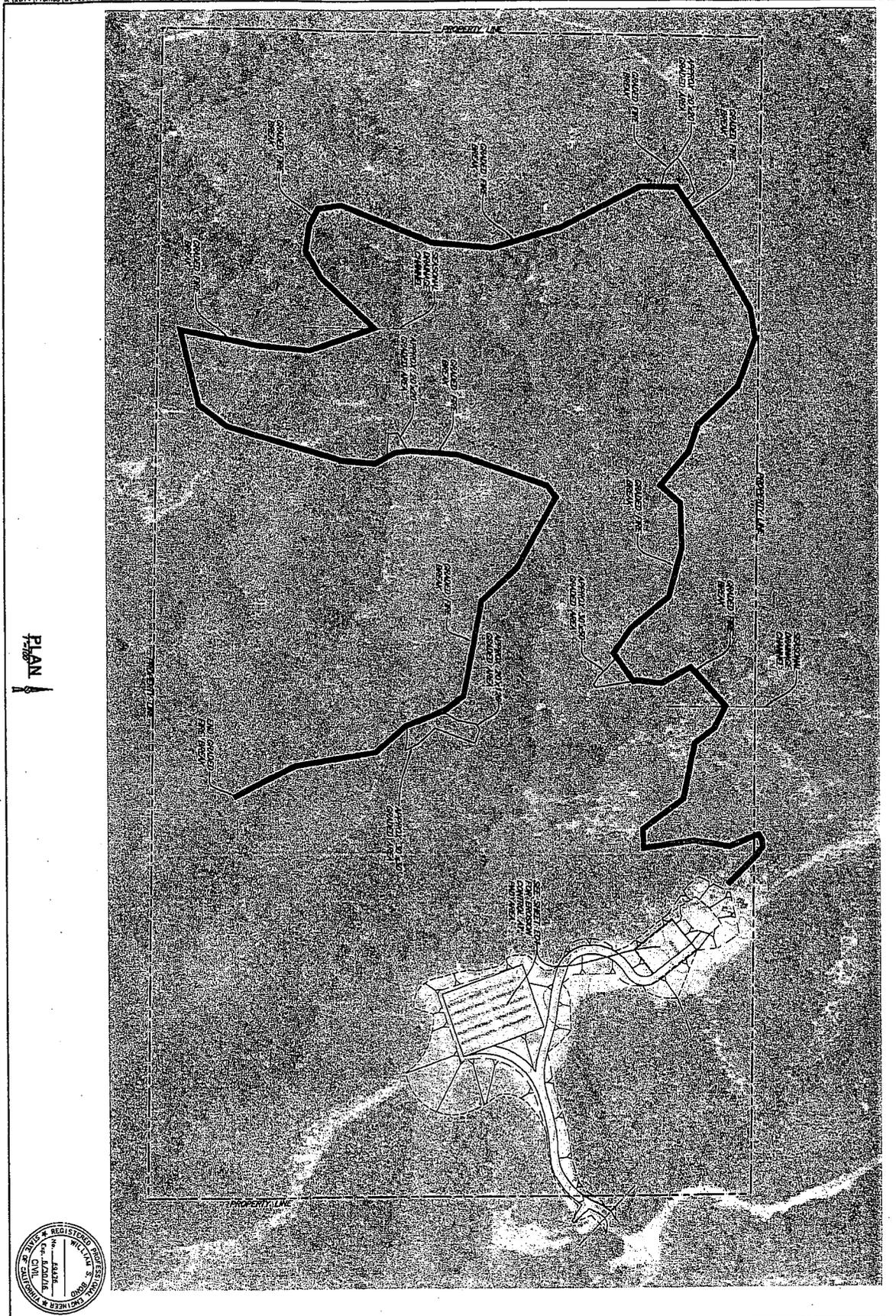
Photograph #6. Eddie Axner Construction grading stake documented during the 28 October 2014 inspection.

19 NOVEMBER 2014 BAKER RIDGE INSPECTION REPORT

ASSESSOR PARCEL 041-300-035-000

SHASTA COUNTY

Appendix C – SHN Erosion Control Plans



PLAN
 1/8" = 1'

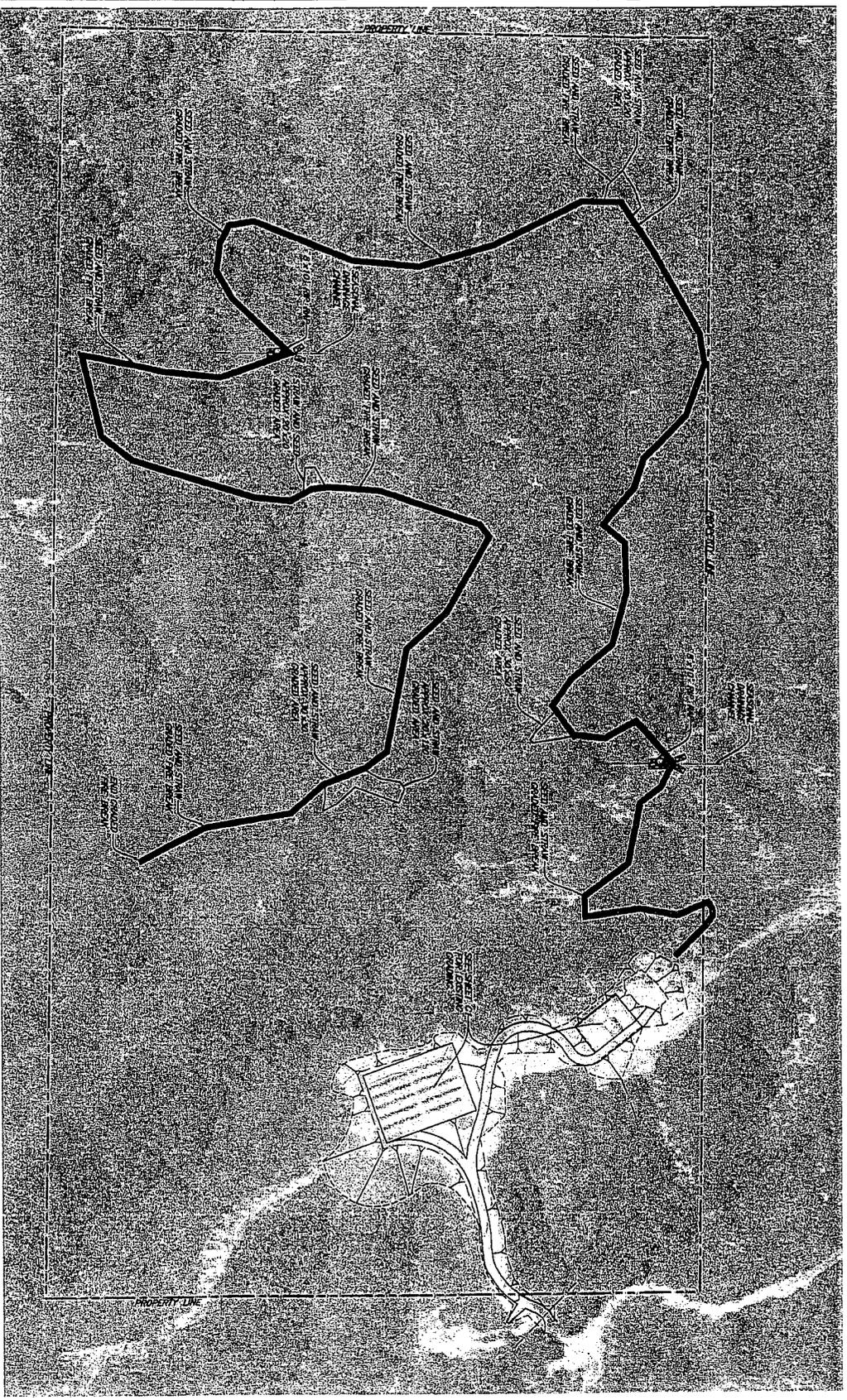


REGISTERED PROFESSIONAL ENGINEER STATE OF CALIFORNIA LICENSE NO. 54341 CIVIL	BAKER RIDGE - CHRIS GORDES APN: 0041-300-035 ORO, SHASTA COUNTY, CALIFORNIA		DESIGN: WSB DRAWN: WSB CHECKED: WSB APPROVED:	NO. DATE REVISION BY	SW CONSULTING ENGINEERS & GEOLOGISTS, INC. 350 Hartnell Avenue Redding, CA 96002 (530)221-5424 FAX (530)221-0135	VERIFY SCALES DATE IS ONE INCH ON ORIGINAL DRAWING IF NOT ONE INCH ON THIS SHEET, ADJUST SCALES ACCORDINGLY
	SHEET 2 DATE: 10/20/14 PRINT NO.: 514027	EXISTING CONDITIONS SITE PLAN		C2		

EROSION CONTROL PLAN NOTES:

1. USE STONE AND MESH BARRIERS TO PREVENT SOIL EROSION AND STABILIZE CHANNELS. STABILIZATION SHOULD BE COMPLETED PRIOR TO THE START OF CONSTRUCTION. STABILIZATION SHOULD BE COMPLETED PRIOR TO THE START OF CONSTRUCTION. STABILIZATION SHOULD BE COMPLETED PRIOR TO THE START OF CONSTRUCTION.
2. WHERE AND WHEN CHECK DAMS, Silt PANS, STORM WATERS, WATERSHEDS, DRAINAGE CANALS, AND OTHER EROSION CONTROL MEASURES ARE REQUIRED TO BE INSTALLED IN FIELD OF SITE.

PLAN



DATE: 10/20/14
 SHEET: 4
 PROJECT: 1514022
 DRAWING NO.: 514027

BAKER RIDGE - CHRIS CORDES
 APN: 0041-300-035
 ORO, SHASTA COUNTY, CALIFORNIA

EROSION CONTROL PLAN

DSK	WSB				
DR	WSB				
CHK	WSB				
APP					
NO.	DATE	REVISION	BY		

SHW CONSULTING ENGINEERS & GEOLOGISTS, INC.
 350 Hartnell Avenue
 Redding, CA 96002 FAX (530)221-0135

VERIFY SCALES
 BAR IS ONE INCH ON ORIGINAL DRAWING
 0.5" = 1' SCALE
 * FOR ONE INCH ON THIS SHEET, ADJUST SCALE ACCORDINGLY

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2015-0520

CHRISTOPHER CORDES, EDDIE AXNER CONSTRUCTION, INC., AND EDDIE AXNER

ASSESSOR PARCEL 041-300-035-000

SHASTA COUNTY

Attachment C – 28 October 2014 Baker Ridge Inspection Report

CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD

INSPECTION REPORT

20 February 2015

PROPERTY OWNER: Christopher Cordes

ACCESSOR PARCEL NUMBER & COUNTY: APN 041-300-035-000
Shasta County

PHYSICAL PROPERTY ADDRESS: Igo, CA 96047

PROPERTY OWNER MAILING ADDRESS: 101 South F Street, Pensacola, FL 32502

CONTACT(S): N/A

RESIDENTS PRESENT: N/A – There were no residents present on the property during inspection

INSPECTION DATE & TIME: 28 October 2014 at 0900.

INSPECTED BY: Roy Sherrell, ES, Central Valley Regional Water Quality Control Board
Kevin Pfeiffer, EG, Central Valley Regional Water Quality Control Board
Patricia Vellines, EG, Central Valley Regional Water Quality Control Board

CONSENT/WARRANT: This inspection was conducted in accordance with an administrative inspection warrant issued by the Shasta County Superior Court

ACCOMPANIED BY: Lieutenant DeWayne Little, California Department of Fish & Wildlife
Steven Crowl, Warden, California Department of Fish & Wildlife
Tobi Freeny, ES, California Department of Fish & Wildlife
Dannas Berchtold, Engineering Associate, Central Valley Regional Water Quality Control Board

Clint Snyder, Assistant Executive Officer, Central Valley
Regional Water Quality Control Board
John Tomasello, Code Enforcement Officer, Shasta
County Department of Resource Management

EQUIPMENT USED:

Garmin Rino 655t GPS & Two-way Radio
Haglof Inc. C1 Inclinometer
Bushnell Yardage Pro Laser Rangefinder
Measuring Tape 300 feet
Tape Measure 25 feet
Nikon Coolpix AW120 GPS Camera

Attachments:

Appendix a – Figures 1- 3
Appendix b – Photographs #1 - #14
**Appendix c – Warrant and Affidavit in support of
Warrant**

OBSERVATIONS AND COMMENTS

BACKGROUND

On 7 October 2014 Mr. John Tomasello from the Shasta County Department of Resource Management alerted the Central Valley Regional Water Quality Control Board (Central Valley Water Board), Redding Office that a large grading project had been conducted without permits off of Baker Ridge Rd. east of Rainbow Lake in Ono, Shasta County, Assessor Parcel Number 041-300-035-000 (here after "Site"). The Central Valley Water Board was advised that this illegal grading, which included unpermitted road construction and terracing, was conducted to establish a large marijuana growing operation. Mr. Tomasello also indicated in his correspondence that the Shasta County Sheriff's Department served a warrant on 7 October 2014 at the Site, where they found and eliminated marijuana plants.

On 22 October 2014 Mr. Marc Pelote and Mr. John Tomasello from the Shasta County Department of Resource Management conducted an inspection of Site. During this inspection they took photographic evidence of extensive grading and newly constructed roads, with rills forming on unprotected slopes and the general failure of erosion controls. They passed those photos to Lt. DeWayne Little of the California Department of Fish and Wildlife (CDFW), who provided them to Central Valley Water Board staff the following day, and informed the Central Valley Water Board of their findings.

On 23 October 2014 representatives from the Central Valley Water Board met with Lt. Little to discuss the Site's conditions. Lt. Little had conducted a fly over of the site on 15 May 2014, and had been in frequent communication with Shasta County Department of Resource Management representatives as well as the Shasta County Sheriff's Department regarding the Site. Lt. Little and Central Valley Water Board staff determined during this meeting that the road construction and hillside terracing had inadequate erosion control measures in place and presented a significant sediment discharge hazard to nearby Doby Creek, a tributary of the North Fork Cottonwood Creek, an anadromous fishery. Due to the activities taking place in close proximity to a fish bearing stream, Central Valley Water Board and CDFW staff decided to conduct a follow up inspection of the Site.

Approved:		
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The North Fork Cottonwood Creek is a major tributary of Cottonwood Creek. The beneficial uses of Cottonwood Creek are listed in The Water Quality Control Plan for the Sacramento and San Joaquin River Basins as: Municipal & Domestic Supply; Agricultural Supply; Water Contact & Non-contact Recreation; Warm & Cold Freshwater Habitat; Migration of Aquatic Organisms; Spawning, Reproduction, and/or early Development (fish); and Wildlife Habitat.

Based on evidence gathered and statements made by Mr. Marc Pelote and Mr. John Tomasello of the Shasta County Department of Resource Management, and Lt. DeWayne Little of CDFW, Central Valley Water Board staff obtained an administrative inspection warrant from the Shasta County Superior Court to inspect the Site and surrounding properties, and to document any water quality violations including, but not limited to:

- a) Entering the premises and observing the physical conditions,
- b) Taking photographs and video of the physical conditions of the site and documenting any processes or activities being conducted,
- c) Questioning or conferring with persons present on the property privately,
- d) Measuring the pumping rate of surface water diversion, water diversion area, height and facilities
- e) Collecting and analyzing samples of water potentially impacted by contaminants of concern,
- f) Testing water for pollutants including sediment, fertilizers, pesticides, and
- g) Inspecting and duplicating any writings and records of spills or emergencies, business plans, contingency plans, etc.

ONSITE INSPECTION: 28 October 2014

On 28 October 2014 at 0730 hours, Roy Sherrell, Kevin Pfeiffer, Pat Vellines, Danna Berchtold, and Clint Snyder from the Central Valley Water Board, Lt. DeWayne Little, Warden Steve Crowl and Environmental Scientist Tobi Freeny of CDFW and John Tomasello of the Shasta County Department of Resource Management met at the CDFW office in Shasta County.

Site safety and expectations of serving the Inspection Warrant were discussed, as well as general inspection guidelines and communication protocol. During the inspection, Central Valley Water Board staff carried the original signed warrant and copies of the signed warrant to provide to landowners. See Figure 1 for general site vicinity and location.

APN 041-300-035-000 Inspection (Christopher Cordes' Property)

Refer to Figures 1 - 3 for locations

At approximately 0900 hours, Central Valley Water Board and CDFW staff arrived at the property and entered onto Parcel APN 041-300-035-000. They found the gate to the property open and staff from Eddie Axner Construction working on the Site. Several men (approximately 5) were installing straw erosion control blankets on berms along the road section connecting the upper terrace to the lower terrace, while two other men were operating heavy equipment (a Komatsu PC 200 LC & Caterpillar D4G) on the east fill slope of the lower terrace. The inspection team parked on the lower terrace then Lt. Little informed the working men that the Central Valley Water Board and CDFW were there to conduct an inspection. The Site is composed of two terraces with a native soil surfaced road connecting the upper and lower terraces to Baker Ridge Road. Recent road construction has continued this road from the north side and to the west of the upper terrace. Central Valley Water Board staff collected information at GPS Way Point locations 025 and 100-118 on this parcel (Figures 1 - 3).

Approved:		
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The lower terrace was constructed by grading down a ridge and pushing the graded material to the west and southeast piling it to form an approximately 0.9 acre rectangular terrace with approximately 5 feet tall berms around the perimeter. On the northwest corner of the lower terrace (Way Point 100) Central Valley Water Board staff (Staff) found a storm water drainage discharge for the lower terrace surface. Directly adjacent to and below this discharge site staff encountered a large amount of potting soil that had been dumped over the edge and down the side slopes of the lower terrace (Photograph #1) as well as tires, metal, and other debris that had been incorporated into the fill of the terrace. The debris had been exposed by erosion (Way Point 101, Photograph #2). The potting soil covered an area on the side slope of approximately 1900 ft² and had an average depth of more than 12 inches. There was evidence that some of the potting soil, through visible rills, had washed downhill prior to our inspection. A sample was taken from the center of the potting soil mass (Way Point 102).

Staff followed the fill slope erosion scars, created by storm water drainage discharge from the lower platform surface, down the fill/side slope of the lower platform to a Class III (intermittent) watercourse below. The fill/side slope was approximately 60 feet long with greater than 55% slopes, as measured using a measuring tape and inclinometer. Staff measured one rill with a length of 54 feet, an approximate average width of at least 4 inches, and an approximate average depth of at least 6 inches on this fill/side slope (Photograph #3). Upon reaching the watercourse, Staff discovered clear evidence that storm water, sediments, and potting soil from the terrace surface, fill/side slopes, and potting soil dump had discharged directly into the watercourse (Way Point 103, Photograph #4).

Staff began following the watercourse, which did not have water flowing in it at the time but was very wet, downstream. The stream substrate was composed of fine material with the same color and composition as the fill/side slopes of the lower terrace. Approximately 40 feet downstream from Way Point 103 Staff discovered an area where during the most recent precipitation event a back eddy had formed allowing very fine sediments to become entrapped and fall out of suspension (Way Point 104, Photograph #5). Staff continued downstream documenting the composition of the stream substrate as well as areas where perlite from the potting soil had accumulated in and on the banks of the watercourse (Way Points 105 -109, Photograph #6).

At Way Point 108 Staff encountered flowing water in the watercourse along with two ephemeroptera (mayfly) larvae within the watercourse and aquatic plants along its banks (Photograph #7). At this point the watercourse changes from Class III (intermittent) to Class II (aquatic life bearing). Staff continued downstream until they reached the confluence of another class III watercourse (Way Point 109) that originated at the toe of the fill/side slope of the south side of the lower terrace. Staff followed the class III watercourse up to the toe of the fill/side slope of the south side of the lower terrace.

From Way Point 110 Staff took multiple photos of the slash that was used, but failed as evident from the deep rills under the slash, to protect the side slopes of the southeastern side of the lower terrace from erosion (Photograph #8). At Way Point 111 Staff found a stake with writing presumably used to plan and construct the lower terrace. This suggests that the terrace design and construction was conducted by individuals with knowledge in grading techniques and intent. At Way Point 112 Staff took multiple photos of the previously mentioned heavy equipment being used on the fill/side slope of the east side of the lower terrace to push the slash down the hill and remove rills that had formed as a result of the failed erosion controls (Photograph #9).

Approved:		
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From Way Points 113 and 114 Staff took multiple photos of the large scale rill erosion that had occurred on the unprotected southern and western slopes of the lower terrace. There was no evidence that erosion control measures had ever been placed on these slopes (Photograph #10), and from Way Point 114 Staff could see that sediment from this erosion had reached the watercourse below.

A representative sample of the native soil was collected at Way Point 025. The very fine particles had washed off leaving a "crusty" sandy surface that had to be removed before a representative sample could be collected. The sample was described as being a Silty Sand: yellow-light brown, moist, with approximately 55% well graded (fine to coarse) angular sand; approximately 45% fines with low to medium plasticity, little to no dry strength, no dilatency, and high toughness; with trace angular, fine, hard gravels; and is interpreted to be decomposed granite.

The upper terrace was constructed similar to the lower, by grading material to form a rectangular native soil surface with large berms around the perimeter. Using a GPS, Staff determined that this terrace surface is approximately 0.3 acres in size. Two 3000 gallon water tanks were located upslope and to the north northwest of the upper terrace surface (Photograph #11) and Staff found another area of dumped potting soil on the east fill/side slope of the upper terrace. At the time of the inspection the 1 water tank was full and the other approximately half full and there were no pipes connected to these tanks.

Staff discovered a previously unknown and recently constructed section of road that started from the north side of the upper terrace and traveled west ("New Road"). Staff investigated a section of the New Road discovering areas with fresh tracks from heavy equipment and identifying several areas where sediment had been discharged directly to a watercourse (Way Point 115). Staff also discovered a watercourse that had been diverted by the road construction (Way Point 116), and an un-culverted, non-armored watercourse crossing that used more than 3840 ft³ of fine grained fill material (Way Point 117, Photograph #12). Above this crossing the watercourse had a more stable substrate with very little, if any, of the sand that formed the substrate of the watercourse below this crossing and the terraces.

Finally, Staff stopped to inspect a watercourse crossing located at the entrance to the property (Way Point 118). The crossing was composed of a 24" metal culvert with tires and native soil used as fill (Photograph #13). The native soil surfaced road between the lower terrace and the watercourse crossing was in-sloped with no outlets. All storm water runoff from that section of road discharges directly to the watercourse on the upstream side of this watercourse crossing. The culvert was more than 50% plugged and Staff found areas along the banks of this watercourse, where sediment from the road had discharged to the watercourse. Staff found a layer of sediment within the watercourse from the road, 34 inches thick, directly below the storm water discharge of the road. (Photograph #14)

Enforcement Discretion

The observations in this report will be assessed for violations of the California Water Code. The Regional Water Board and the State Water Board reserve the rights to take any enforcement action authorized by law.

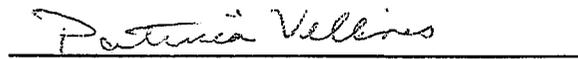
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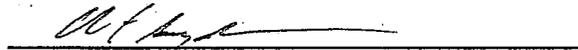
Inspectors Signatures


Kevin Pfeiffer, G.I.T
Engineering Geologist


Roy Sherrell, MFR
Environmental Scientist


Patricia Vellines, P.G.
Engineering Geologist

Reviewer Signature


Clint Snyder, P.G.
Assistant Executive Officer

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Approved:

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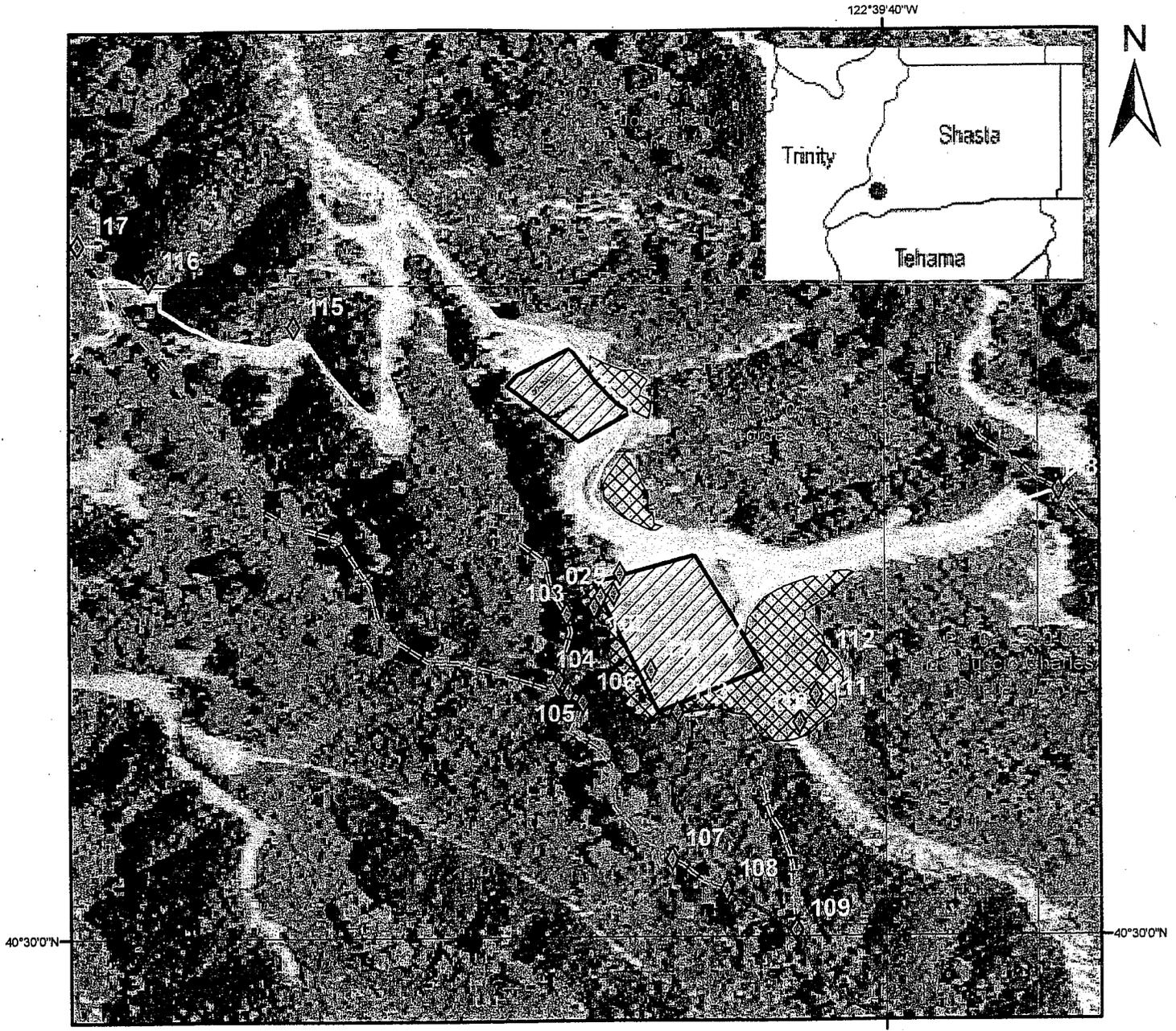
28 OCTOBER 2014 BAKER RIDGE INSPECTION REPORT

ASSESSOR PARCEL 041-300-035-000

SHASTA COUNTY

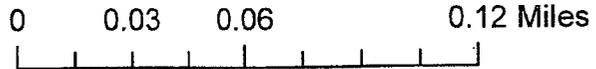
Appendix A – Figures 1 - 3

Baker Ridge Rd. Grow: 10-28-14 Inspection on NAIP 2014 Imagery



Description of Lines and Units

- ◆ Waypoints
- Road
- ==== Class III Waterway
- Class II Waterway
- ▨ Area Graded by Eddie Axner
- ▩ Side Castings and DG Fill Material
- Parcel Boundaries



1:3,000



Map Created By: Kevin Pfeiffer G.I.T
 Engineering Geologist
 Watershed Enforcement Team
 Central Valley Regional Water Quality Control Board

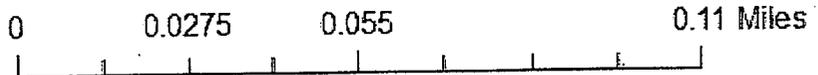
Baker Ridge Rd. Grow: 10-28-14 Inspection on NAIP 2014 Imagery Upper Pad and Roads

122°39'50"W



Description of Lines and Units

- Waypoints
- Road
- Class III Waterway
- Class II Waterway
- Graded Area
- Side Castings and DG Fill Material
- Parcel Boundaries



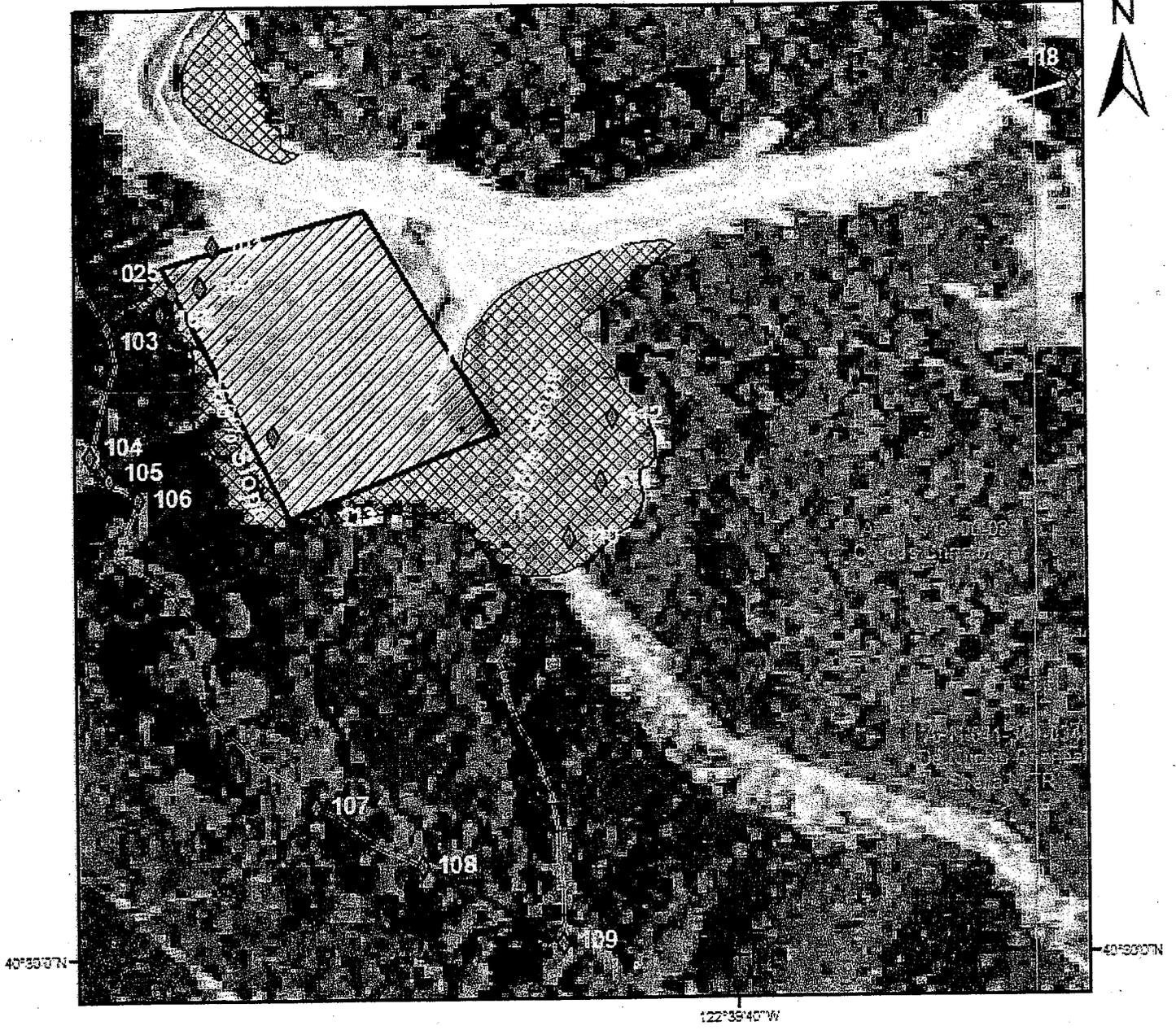
1:1,800

Map Created By: Kevin Pfeiffer G.I.T
Engineering Geologist
Watershed Enforcement Team
Central Valley Regional Water Quality Control Board



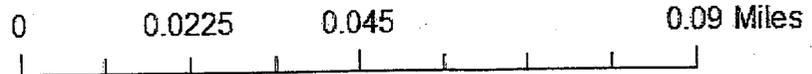
Baker Ridge Rd. Grow: 10-28-14 Inspection on NAIP 2014 Imagery Lower Pad

122°35'40"W



Description of Lines and Units

- ◆ Waypoints
- Road
- ==== Class III Waterway
- Class II Waterway
-  Graded Area
-  Side Castings and DG Fill Material
-  Parcel Boundaries



1:1,500

Map Created By: Kevin Pfeiffer G.I.T
 Engineering Geologist
 Watershed Enforcement Team
 Central Valley Regional Water Quality Control Board



28 OCTOBER 2014 BAKER RIDGE INSPECTION REPORT

ASSESSOR PARCEL 041-300-035-000

SHASTA COUNTY

Appendix B – Photographs #1 - #14

28 October 2014 Baker Ridge Inspection Photos 10-28-2014



Photograph #1. Way Point 102 – Potting soil that was dumped on fill/side slope of lower terrace.



Photograph #2. Way Point 101 – Tires and metal incorporated into fill material, now exposed by erosion.

28 October 2014 Baker Ridge Inspection Photos 10-28-2014



Photograph #3. Rill through dumped potting soil on fill/side slope of lower terrace leading directly to watercourse.

28 October 2014 Baker Ridge Inspection Photos 10-28-2014



Photograph #4. Way Point 103 – Sediments from lower terrace surface and fill/side slopes in watercourse.

28 October 2014 Baker Ridge Inspection Photos 10-28-2014



Photograph #5. Way Point 104 – Area where very fine sediments (Silts & Clays) have accumulated along one side of the watercourse.

28 October 2014 Baker Ridge Inspection Photos 10-28-2014



Photograph #6. Way Point 106 – Perlite from potting soil entrapped on banks of watercourse.

28 October 2014 Baker Ridge Inspection Photos 10-28-2014



Photograph #7. Way Point 108 – Hydrophytic plants where the watercourse class changes from Class III to Class II (aquatic life bearing).



Photograph #8, Way Point 110 – Slash used in a failed attempt to protect steep (+55%) fill/side slopes from erosion.

28 October 2014 Baker Ridge Inspection Photos 10-28-2014

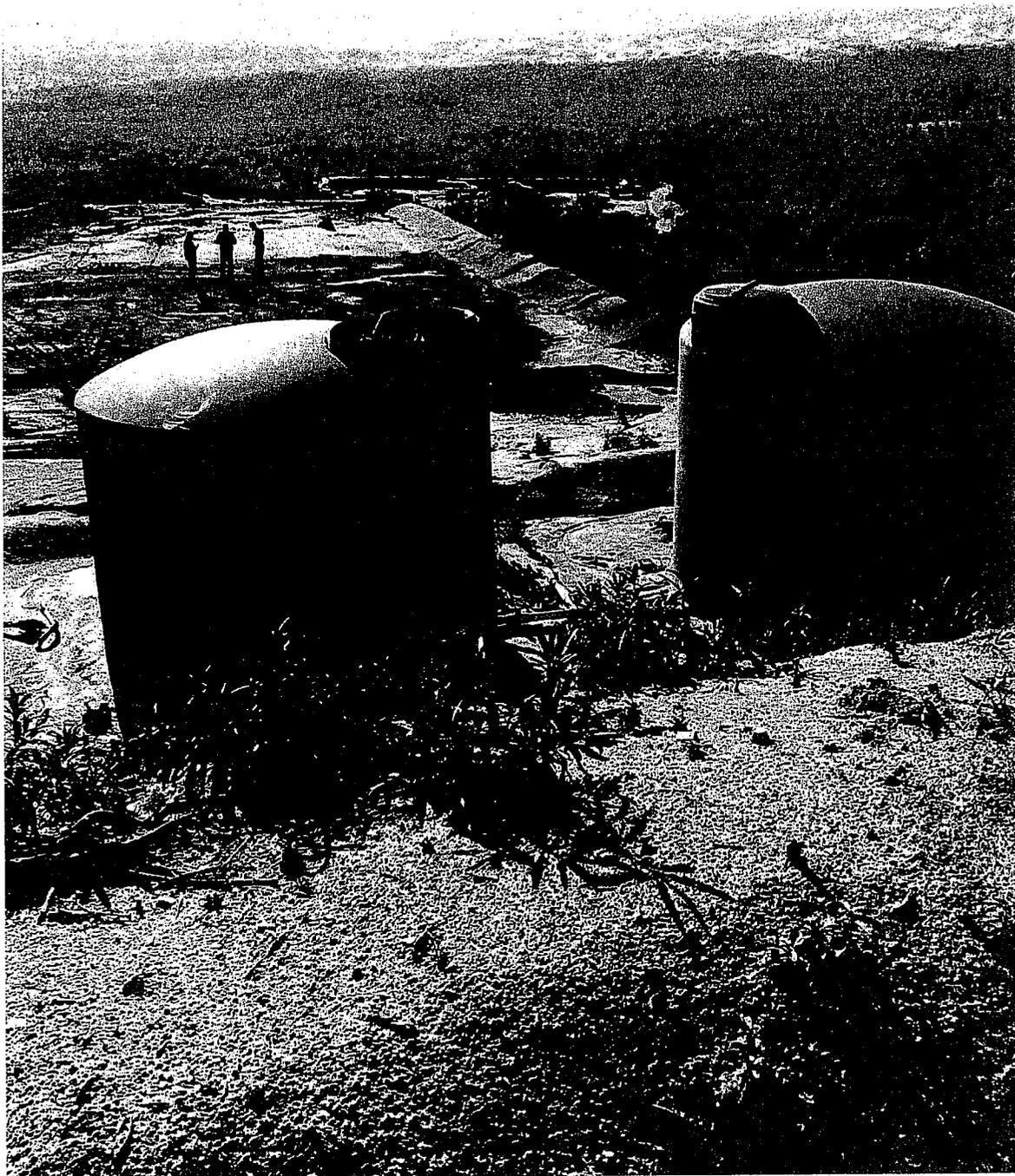


Photograph #9, Way Point 112 – Heavy equipment being operated on steep (+55%) fill/side slopes



Photograph #10. Way Point 113 – Large scale rill erosion on the unprotected steep (+60%) south and west fill/side slopes of the lower terrace.

28 October 2014 Baker Ridge Inspection Photos 10-28-2014



Photograph #11 – Two 3000 gallon tanks in front of upper (foreground) and lower (background) terraces.

28 October 2014 Baker Ridge Inspection Photos 10-28-2014

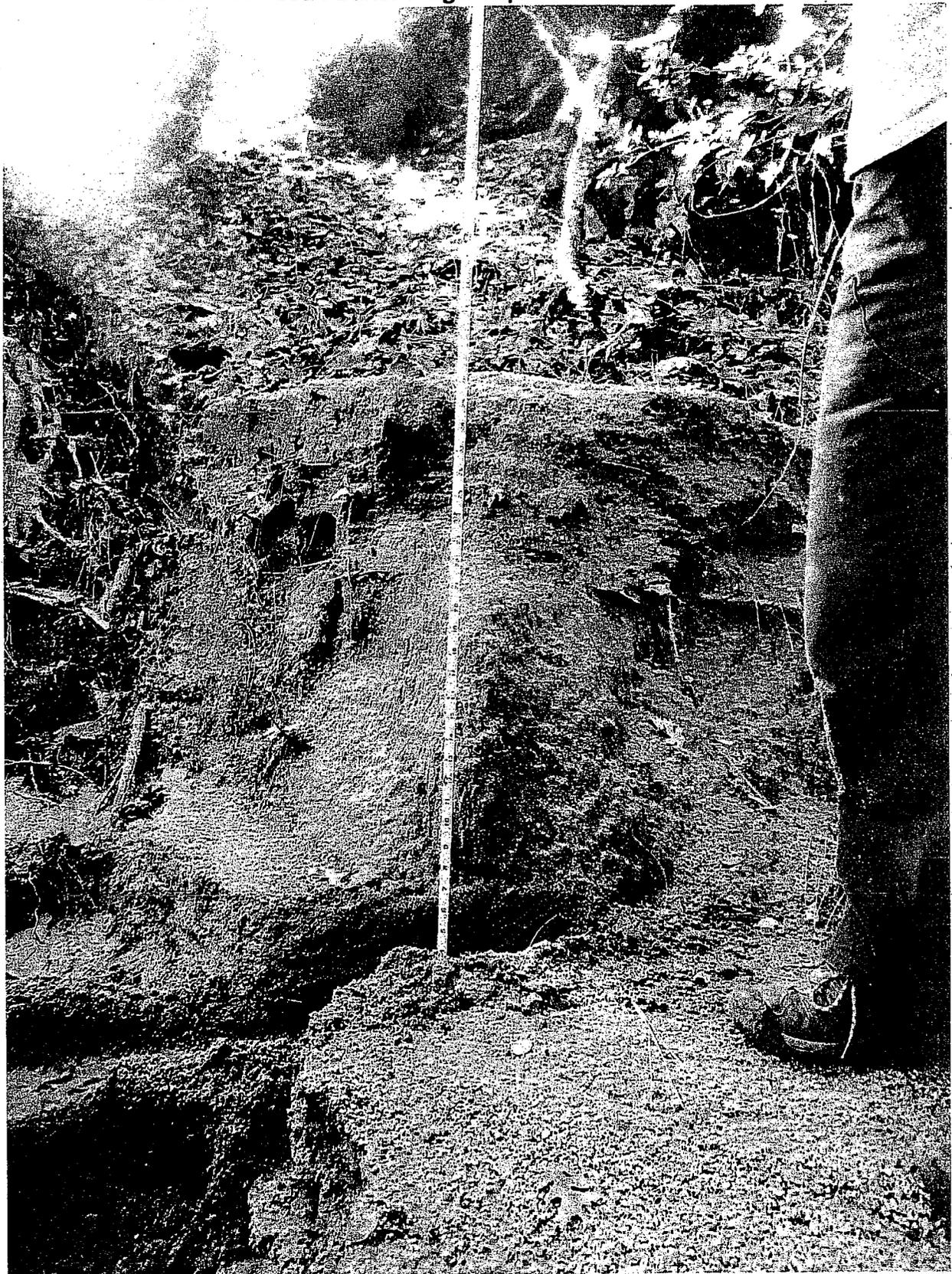


Photograph #12. Way Point 117 – Un-culverted, non-armored watercourse crossing with native soil used for fill.



Photograph #13. Way Point 118 – Culverted watercourse crossing with tires and native soil used as fill.

28 October 2014 Baker Ridge Inspection Photos 10-28-2014



Photograph #14. Way Point 118 – Sediment from road surface stacked as high as 34" along banks of watercourse.

28 OCTOBER 2014 BAKER RIDGE INSPECTION REPORT

ASSESSOR PARCEL 041-300-035-000

SHASTA COUNTY

Appendix C – Warrant and Affidavit in support of Warrant

1 Christian Carrigan, Director, SBN 197045
2 Yvonne M. West, Attorney IV, SBN 221414
3 Office of Enforcement
4 California State Water Resources Control Board
5 1001 I St., 16th Floor
6 Sacramento, CA 95814
7 Phone (916) 341-5445
8 Fax (916) 341-5896

FILED

NOV 05 2014

CLERK OF THE SUPERIOR COURT
BY: J. GREENE, DEPUTY CLERK

6 Attorneys for Applicant:
7 California Regional Water Quality Control Board,
8 Central Valley Region

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

9 **IN AND FOR THE COUNTY OF SHASTA**

10 IN THE MATTER OF THE INSPECTION OF:) No.
11)
12 Baker Ridge Road Parcels) INSPECTION WARRANT
13 APNs 041-270-003-000, 041-270-014-000,) (Code Civ. Proc., § 1822.50 et seq.)
14 041-300-006-000, 041-300-033-000, 041-300-034-000,) (Wat. Code, §§ 1051, 13267)
15 and 041-300-035-000)
16 _____)

16 PAMELA C. CREEDON, Executive Officer of the California Regional Water Quality
17 Control Board, Central Valley Region (Central Valley Water Board); and her authorized
18 representatives:

19 PROOF, by affidavit, having been made before me by Mr. Clint Snyder:

20 THAT THERE IS REASON TO BELIEVE that there may exist on property located
21 along Baker Ridge Road, Shasta County Assessor's Parcel Numbers (APNs): 041-270-003-000,
22 041-270-014-000, 041-300-006-000, 041-300-033-000, 041-300-034-000, and 041-300-035-000
23 (collectively referred to as the "Property"), conditions of and/or threatened conditions of,
24 pollution or nuisance resulting from discharges of waste to waters of the State and of the United

1 States resulting from the cultivation of marijuana and associated activities including, but not
2 necessarily limited to, chemicals and/or hazardous wastes from pesticides, fertilizers and leaking
3 fuel tanks or other chemical storage containers, stream dredging, in-stream dams, grading, road
4 construction, and construction debris from constructing structures and roads, in violation of the
5 Porter-Cologne Water Quality Control Act (Wat. Code § 13000 et seq.) and the Federal Water
6 Pollution Control Act (33 U.S.C. § 1251 et seq.); AND the diversion, use, and/or storage of
7 water in violation of the California Water Code (Wat. Code §§ 1052(a) and 5101);

8 AND that there is authorization for an inspection by the Central Valley Water Board
9 pursuant to Water Code section 1051 and Water Code section 13267, subdivision (c), with
10 respect to the Property identified in Exhibit A to the accompanying Affidavit by Central Valley
11 Water Board staff, attached hereto and incorporated herein by this reference as required by
12 California Code of Civil Procedure section 1822.50 et seq. for the issuance of an inspection
13 warrant:

14 YOU ARE THEREFORE COMMANDED TO INSPECT, INVESTIGATE, AND
15 SEARCH.

16 SAID INVESTIGATION SHALL INCLUDE entering upon and conducting a visual
17 inspection of the entire Property and conducting and documenting such inspection by taking such
18 samples and reviewing such writings and records that are kept and maintained on the Property as
19 is necessary to determine compliance with the statutory provisions cited above.
20
21

1 The inspection shall include, but is not limited to the following:

- 2 a) entering the Property, observing the physical conditions of the Property, and any
3 equipment located thereon and any operations, processes or other activities being
4 conducted thereon, including, but not limited to, water diversions, graded areas,
5 cultivated areas, road crossings, disposal areas, ponds, surface drainages, watercourses,
6 material stockpiles, storage, and buildings located on the Property;
- 7 b) taking photographs and video of the physical conditions of the Property and any
8 equipment located thereon and any operations, processes or other activities being
9 conducted thereon;
- 10 c) questioning of or conferring with persons present on the property privately to obtain
11 information bearing on whether violations of the laws and regulations occurred;
- 12 d) the measurement of the pumping rate, if extant; the measurement of each reservoir's area,
13 dam height, and diversion facilities, if extant;
- 14 e) collecting and analyzing samples of water, raw, graded, processed or stored materials,
15 chemical, fuel, waste, and/or other stored or contained materials;
- 16 f) testing for water pollutants, including but not limited to sediment, fertilizers and
17 pesticides, from any source whether mechanical, process or natural;
- 18 g) inspecting and duplicating any writings and records of spills or emergencies, business
19 plans, contingency plans, or any other information authorized under California Water
20 Code section 13267, subdivision (c).

21 This inspection warrant does not authorize the entry or inspection of any residence that
22 may be located on the Property. This inspection shall be reasonably conducted so as to effect as

1 minimal an intrusion as possible on the normal operations of the business. You shall not interfere
2 with the property owner's observation of the inspection.

3 The inspection shall be made during the daylight hours between 8:00 a.m. and 6:00 p.m.
4 In the event that the inspection cannot be completed in a single day, you may return and reenter
5 the Property for further inspection as you find necessary on a subsequent day or days, subject to
6 the daylight-hours restriction above, prior to the expiration of this inspection warrant.

7 The inspection may be made in the absence of the owner and/or occupant.

8 The inspection may be made without 24-hour notice to the owner and/or occupant that
9 the warrant has been issued.

10 Forcible entry may be used to gain access to the Property.

11 This inspection shall be for the entirety of the Property located on Baker Ridge, Shasta
12 County, APNs: 041-270-003-000, 041-270-014-000, 041-300-006-000, 041-300-033-000, 041-
13 300-034-000, and 041-300-035-000, and more particularly described on **Exhibit A** of the
14 accompanying Affidavit by Central Valley Water Board staff.

15 This inspection warrant shall be effective for 14 days, unless extended or renewed, and
16 shall be executed within the 14-day period and returned to this Court within 10 days from the
17 date of execution, or within the period of extension or renewal.

18 Given under my hand and dated this 27th day of October, 2014.

19
20
21
22 M Marlow

23 Judge of the Superior Court

1 Attachments:

2 Affidavit of Clint Snyder and Exhibits thereto

3 Exhibit A – ParcelQuest Map of Property

4 Exhibit B – Investigation Summary

5 Exhibit C – CDFW Warden Lt. DeWayne Little's Statement

6
7 AUTHORIZATION TO EXECUTE IN ABSENCE OF OWNER OR OCCUPANT

8 FOR GOOD CAUSE SHOWN BY AFFIDAVIT, execution of this INSPECTION

9 WARRANT in the absence of the owner or occupant is hereby authorized, as set forth above and
10 in the affidavit.

11
12 Dated: 10-27-14

M Marlow

13 JUDGE OF THE SUPERIOR COURT,
14 SHASTA COUNTY

1 Christian Carrigan, Director, SBN 197045
2 Yvonne West, Attorney IV, SBN 221414
3 Office of Enforcement
4 California State Water Resources Control Board
5 1001 I St., 16th Floor
6 Sacramento, CA 95814
7 Phone (916) 322-3626
8 Fax (916) 341-5896

9 Attorneys for Applicant:
10 California Regional Water Quality Control Board,
11 Central Valley Region

12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

13 **IN AND FOR THE COUNTY OF SHASTA**

14 IN THE MATTER OF THE INSPECTION OF:) No.
15)
16 Baker Ridge Parcels) AFFIDAVIT IN SUPPORT OF
17 APNs 041-270-003-000, 041-270-014-000,) INSPECTION WARRANT
18 041-300-006-000, 041-300-033-000, 041-300-034-000,) (Code Civ. Proc., § 1822.50 et seq.)
19 and 041-300-035-000) (Wat. Code, §§ 1051, 13267)
20 _____)

21 I, Clint Snyder, declare as follows:

22 1. I am employed by the Regional Water Quality Control Board for the Central Valley
23 Region ("Central Valley Water Board" or "Board") in the Board's Redding office. I have a
Bachelor of Science in Geology from the California State University, Chico. I have been
employed by the Central Valley Water Board since 2008. Prior to working for the Central
Valley Water Board, I had been employed by VESTRA Resources, Inc. from January 2002 to
May 2008 and SHN Consulting Engineers and Geologists, Inc., from July 2001 to January 2002.
During my employment with VESTRA Resources, I was a Senior Geologist, principal, and
member of the Board of Directors.

1 2. During my time with the Central Valley Water Board, I have worked in various
2 programs, including permitting, enforcement, inspections, site cleanup, underground storage
3 tanks (USTs), and landfills. From January 2011 through February 2013, I was the Supervising
4 Senior for the UST, Site Cleanup, and Land Disposal Unit of the Central Valley Water Board. I
5 am currently the Assistant Executive Officer in the Redding Office of the Central Valley Water
6 Board and manage the Redding office.

7 3. As Assistant Executive Officer of the Central Valley Water Board's Redding office, I
8 provide Executive Management oversight for all programs conducted by the Board including,
9 Point Source and Non-Point Source Discharge Programs, Water Quality Certification, Storm
10 Water, Timber Harvest, Mines, Site Cleanup, Underground Storage Tanks, Land Disposal,
11 Dairies, Irrigated Lands, and Enforcement Programs. My duties at the Central Valley Water
12 Board include oversight of environmental investigations at various facilities and properties
13 throughout the region for the type and character of water code violations that are frequently
14 associated with marijuana cultivation, such as, discharges of wastes including, but not limited to,
15 earthen materials, chemical reagents, cement wastes, or petroleum products, affect or threaten to
16 affect the quality of waters of the state.

17 4. I am also the Central Valley Water Board's Lead Prosecution Officer for all matters
18 originating from the Redding Office. This includes Administrative Civil Liability Complaints,
19 Cleanup and Abatement Orders issued pursuant to Water Code section 13304, and all orders for
20 technical reports issued pursuant to Water Code section 13267, and water quality certifications
21 issued pursuant to section 401 of the federal Clean Water Act.

22 5. This affidavit is made in support of the Central Valley Water Board's request for an
23 Inspection Warrant pursuant to Code of Civil Procedure section 1822.50 et seq., Water Code

1 section 13267, subdivision (c), and Water Code section 1051; to establish reason to believe that
2 conditions of nonconformity with the Water Code regarding the cultivation of marijuana and
3 related activities may exist at the property described below; and to set forth reasons why it is
4 necessary to have law enforcement personnel accompany the Central Valley Water Board for the
5 inspection.

6
7 **PROPERTY**

8 6. The properties to be inspected are located along Baker Ridge Road in Shasta County,
9 Assessor's Parcel Numbers (APNs): 041-270-003-000, 041-270-014-000, 041-300-006-000,
10 041-300-033-000, 041-300-034-000, and 041-300-035-000 (collectively referred to as the
11 "Property"). Plats and aerial photographs of the Property are attached as **Exhibit A** hereto. The
12 Property to be inspected is within the jurisdiction of the Central Valley Water Board. According
13 to County records, the current owners of the individual parcels that make up the Property are as
14 follows:

15 APN	Owner	Address
16 041-270-003-000	Siller Brothers INC	1255 Smith Rd, 17 Yuba City, CA 95991
18 041-270-014-000	Johnathan Camara & 19 Leiko Edmoundson	P.O. Box 372, Igo, CA 96047
20 041-300-006-000	Robert F. & Maria D. Scott	P.O. Box 2133, 21 Redway, CA 95560
22 041-300-033-000	William Clagett	3628 18 th St., 23 San Francisco, CA 94110

1 041-300-034-000 Charles A. & Sheila M TR 3335 Placer St. #166,
2 De Nuccio Redding, CA 96001
3 041-300-035-000 Christopher Cordes 101 South F St.,
4 Pensacola, FL 32502
5

6 **SUMMARY OF INFORMATION**

7 7. Central Valley Water Board staff has received information from representatives from the
8 Shasta County Department of Resource Management and the Department of Fish and Wildlife
9 that a person or persons on the Property likely conducted unpermitted marijuana cultivation
10 operations, along with associated activities including grading, road construction, construction
11 debris, construction of stream crossings, storage and use of chemicals and/or fertilizers, fuel
12 tanks, stream diversion, stream dredging, in-stream dams, and structures. **Exhibit B** is a report
13 prepared at my direction summarizing the investigation and information obtained to date. I
14 incorporate Exhibit B as if set forth fully here. I have discussed the content of exhibit B with
15 Mr. John Tomasello from the Shasta County Department of Resource Management and
16 Lieutenant DeWayne Little from the California Department of Fish and Wildlife (CDFW). I am
17 fully apprised of the investigation they conducted as set forth in Exhibit B. I declare that Exhibit
18 B is a true and correct summary of that investigation to the best of my knowledge and belief.

19 8. As described in **Exhibit C**, Patrol Lieutenant DeWayne Little of the CDFW, along with
20 members of the Shasta County Sheriff Marijuana Investigations Team, conducted several
21 overflights of the Igo-Ono area during the spring and summer of 2014. During these overflights
22 they observed large scale grading and the installation of marijuana cultivation infrastructure on

1 Baker Ridge. Based on his experience, Lt. Little believes that the site possess a significant threat
2 to the waters of the State.

3 9. On October 22nd, 2014 Mr. Marc Pelote and Mr. John Tomasello conducted an inspection
4 of the Property. That afternoon, they reported to the Central Valley Water Board that erosion and
5 sediment control measures implemented at the site are failing. Exhibit B includes photos taken
6 by Mr. Marc Pelote and Mr. John Tomasello on 22 October 2014. The CDFW and Shasta
7 County Department of Resource Management have requested the Central Valley Water Board to
8 conduct an inspection of the Property.

9 10. In my experience and judgment, marijuana cultivation and unpermitted grading activities
10 like those documented in the photographs provided in Exhibit B and C, and described by Mr.
11 Tomasello, Mr. Pelote, and Lt. Little, may be associated with conditions of and/or threatened
12 conditions of, pollution or nuisance resulting from discharges of waste to waters of the State and
13 of the United States involving chemicals and/or hazardous wastes from pesticides, fertilizers and
14 leaking fuel tanks or other chemical storage containers, earthen materials from grading, road
15 construction, stream dredging, in-stream dams, and construction debris from constructing
16 structures and roads, in violation of the Porter-Cologne Water Quality Control Act (Wat. Code §
17 13000 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.). Such
18 activities may also be associated with the diversion, use, and/or storage of water in violation of
19 the California Water Code (Wat. Code §§ 1052(a) and 5101).

20 **CENTRAL VALLEY WATER BOARD LEGAL AUTHORITY**

21 11. Water Code section 13050, subdivision (d) defines waste as "any and all other waste
22 substances, liquid, solid, gaseous, or radioactive; associated with human habitation, or of human

1 or animal origin, or from any producing, manufacturing, or processing operation, including waste
2 placed within containers of whatever nature prior to, and for purposes of, disposal.”

3 12. Pursuant to Water Code section 13260, any person discharging waste, or proposing to
4 discharge waste, that could affect the quality of the waters of the state must file a report of waste
5 discharge. A report of waste discharge provides technical information necessary to evaluate the
6 waste discharge, including, but not limited to, waste characteristics, geologic and climatologic
7 characteristics of the discharge site and surrounding region, installed features, operation plans for
8 waste containment, and precipitation and drainage controls.

9 13. Water Code section 13267, subdivision (a) authorizes the Central Valley Water Board to
10 “investigate the quality of any water of the state” within the Central Valley Region. Section
11 13267, subdivision (c) states that the Central Valley Water Board “may inspect the facilities of
12 any person to ascertain whether the purposes of [the Porter-Cologne Water Quality Control Act
13 (Cal. Wat. Code § 13000 et seq.)] are being met.”

14 14. Pursuant to Water Code section 1052, subdivision (a), “the diversion or use of water
15 subject to [Division 2 of the Water Code] other than as authorized [in Division 2] is a trespass.”
16 Water Code section 5101 requires that persons who divert water shall file annual statements of
17 diversion and use with the State Water Resources Control Board.

18 15. Water Code section 1051 authorizes the Board to investigate streams and stream systems,
19 take testimony in regards to water rights or water use, and to “ascertain whether or not water
20 heretofore filed upon or attempted to be appropriated is appropriated under the laws of this
21 State.”

1 **SCOPE OF INSPECTION**

2 16. The purpose of the Inspection Warrant is to determine the existence of and, if extant, the
3 sources of waste discharge or threat of discharge to surface waters, surface water drainage
4 courses, or ground water and the compliance of those sources with the Porter Cologne Water
5 Quality Control Act (Wat. Code § 13000 et seq.) and the Federal Clean Water Act (33 U.S.C. §
6 1251 et seq.), and to determine the existence of diversions of surface waters and, if extant, the
7 compliance of those diversions with the California Water Code (Wat. Code § 1000 et seq.).

8 17. The inspection shall include entering upon and conducting a visual inspection of the
9 entire Property and conducting and documenting such inspection by taking such samples and
10 reviewing such writings and records that are kept and maintained on the Property as is necessary
11 to determine compliance with the statutory provisions cited above. The inspection may include:

12 (a) entering the Property, observing the physical conditions of the Property, and any
13 equipment located thereon and any operations, processes or other activities being
14 conducted thereon, including, but not limited to, water diversions, graded areas,
15 cultivated areas, road crossings, disposal areas, ponds, surface drainages, watercourses,
16 material stockpiles, storage, and buildings located on the Property;

17 (b) taking photographs and video of the physical conditions of the Property and any
18 equipment located thereon and any operations, processes or other activities being
19 conducted thereon;

20 (c) questioning of or conferring with persons present on the Property privately to
21 obtain information bearing on whether violations of the laws and regulations occurred;

22 (d) the measurement of the pumping rate, if extant; the measurement of each
23 reservoir's area, dam height, and diversion facilities, if extant;

1 (e) collecting and analyzing samples of water, raw, graded, processed or stored
2 materials, chemical, fuel, waste, and/or other stored or contained materials;

3 (f) testing for water pollutants, including but not limited to sediment, fertilizers and
4 pesticides, from any source whether mechanical, process or natural;

5 (g) inspecting and duplicating any writings and records of spills or emergencies,
6 business plans, contingency plans, or any other information authorized under California
7 Water Code section 13267, subdivision (c).

8 18. The nature of the marijuana cultivation operations and CDFW's reports raise concerns
9 regarding the timeliness of executing the warrant, particularly the need to ensure that the owners
10 or occupants do not tamper with evidence, making it reasonably necessary to execute the
11 Inspection Warrant without providing at least twenty-four hour notice. I request that permission
12 be given to conduct the inspection without notifying the owners or operators of the Property in
13 advance of executing the warrant.

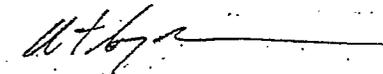
14 19. The Central Valley Water Board anticipates the execution of the Inspection Warrant may
15 be adversarial and the potential for physical violence may be present. I request that permission
16 be given to conduct the inspection accompanied by the Sheriff and/or other law enforcement
17 personnel, and CDFW's Law Enforcement Division.

18 20. Due to the nature of the marijuana cultivation operations and CDFW's reports, I request
19 that permission be given to conduct the inspection with force including but not limited to, cutting
20 chains or forcing open door locks necessary to execute this Inspection Warrant, authorizing law
21 enforcement personnel to detain any persons on the Property who resist, obstruct, or interfere
22 with Central Valley Water Board staff or law enforcement personnel in executing this Inspection
23 Warrant.

1 **WHEREFORE**, I respectfully request an Inspection Warrant be issued pursuant to Code of
2 Civil Procedure sections 1822.50 et seq. to Pamela C. Creedon, Executive Officer of the
3 California Regional Water Quality Control Board, Central Valley Region, her agents, and
4 employees to permit an inspection and investigation of the Property named above, as set forth
5 fully in the Inspection Warrant.

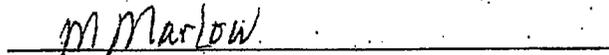
6 I declare under penalty of perjury that the foregoing is true and correct to the best of my
7 knowledge, information, and belief.

8 Executed this 27th day of October 2014 at Shasta County, California.

9
10 

11 Mr. Clint Snyder
12 Assistant Executive Officer
13 California Regional Water Quality Control Board,
14 Central Valley Region

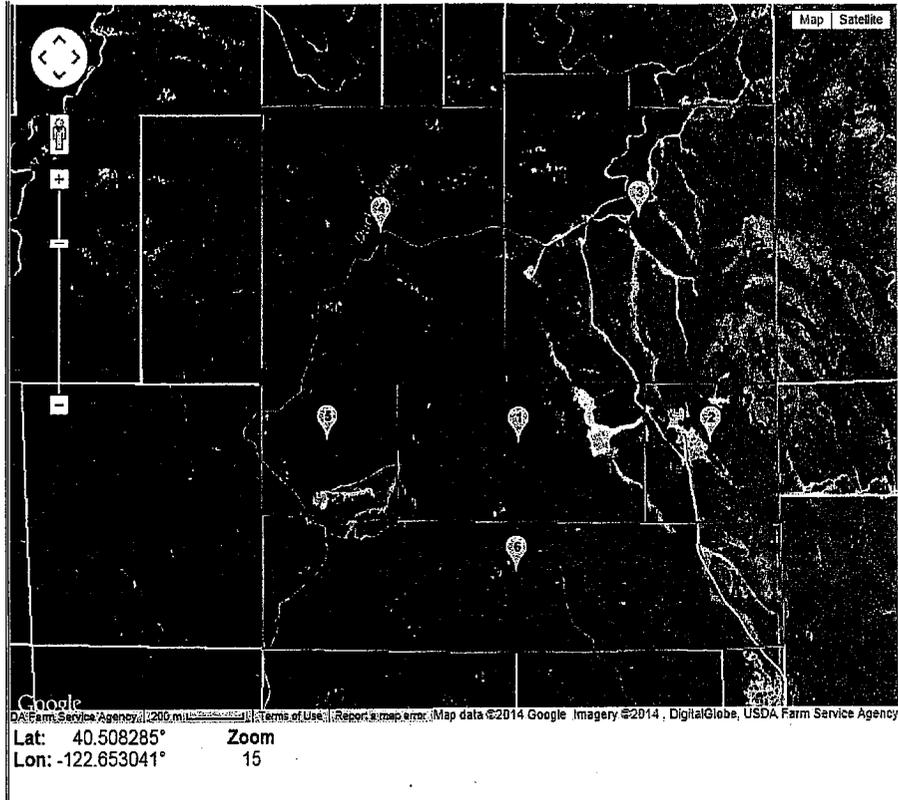
15 Subscribed and sworn before me on this 27th day of October 2014.

16 

17 Judge
18 of the Superior Court, Shasta County
19
20
21

Exhibit A

Parcel information found using ParcelQuest online services.



select: all none		Total pages: 1		ParcelQuest	
6 / 6 selected		[page: 1]			
ID	Co//APN	Owner	Address	Map	
4	SHA 041-270-003-000	SILLER BROTHERS INC		MAP	INDEX Co Idx
3	SHA 041-270-014-000	CAMARA JOHNATHAN & EDMOUNDSON LEIKO		MAP	INDEX Co Idx
6	SHA 041-300-006-000	SCOTT ROBERT F & MARIA D	IGO CA 96047	MAP	INDEX Co Idx
5	SHA 041-300-033-000	CLAGETT WILLIAM	IGO CA 96047	MAP	INDEX Co Idx
2	SHA 041-300-034-000	DE NUCCIO CHARLES A & SHEILA M TR	7381 BAKER RIDGE RD IGO CA 96047-9749	MAP	INDEX Co Idx
1	SHA 041-300-035-000	CORDES CHRISTOPHER	IGO CA 96047	MAP	INDEX Co Idx
					page size: 50
**The information provided here is deemed reliable, but is not guaranteed.					

Central Valley Regional Water Quality Control Board

Exhibit B

Baker Ridge Illegal Grading Summary

Initial Complaints

On 7 October 2014 Mr. John Tomasello from the Shasta County Department of Resource Management alerted the Central Valley Regional Water Quality Control Board (Water Board), Redding Office that a large grading project was being conducted without permits off of Baker Ridge Rd. east of Rainbow Lake in Igo CA. The Water Board was advised that this illegal grading, which included unpermitted road construction and terracing, was being conducted to establish a large marijuana growing operation. Mr. Tomasello also indicated in his correspondence that the Shasta County Sheriff's Department served a warrant on 7 October 2014 for the property associated with the illegal grading, where they found and eliminated marijuana plants.

On 22 October 2014 Mr. Marc Pelote and Mr. John Tomasello from the Shasta County Department of Resource Management conducted an inspection of the property associated with the illegal grading. During this inspection they took photographic evidence, including the photographs provided below, of extensive grading and newly constructed roads, with rills forming on unprotected slopes and the general failure of erosion controls. They passed those photos to Lt. DeWayne Little of the California Department of Fish and Wildlife (CDFW) who in turn provided them to Water Board staff. That afternoon they alerted the Water Board that the erosion and sediment control measures implemented at the site were failing and that sediment from the site had entered watercourses on and adjacent to the property.

On 23 October 2014 representatives from the Water Board met with Lt. Little to discuss the before mentioned property and obtained the photo's provided below. Lt. Little had conducted a fly over of the site on 15 May 2014, and has been in frequent communication with the Shasta County Department of Resource Management representatives as well as the Shasta County Sheriff's Department regarding the site. Lt. Little and Water Board staff determined during this meeting, that the road construction and hillside terracing have inadequate erosion control measures in place and present a significant sediment discharge hazard to nearby Duckett Creek and Doby Creek, tributaries of the North Fork Cottonwood Creek. Due to the activities taking place in close proximity to a fish bearing stream, it is strongly recommended that the Water Board participate with CDFW in a follow up inspection.

Property Information

Grading and road construction operations on the property were done without a permit from Shasta County Resource Management. The construction project also lacks a Construction General Permit from the Central Valley Water Quality Control Board. Mr. Tomasello and Mr. Pelote feel that there are numerous water quality risks associated with the road construction

and the grading, and fully support the Water Boards need for a follow up inspection of the property.

The area in question is located north of North Fork Cottonwood Creek, and between two of its tributaries, Duckett Creek and Doby Creek. The grading done on this parcel has created a platform with steep slopes on granitic soils. The graded platforms and road construction on the property lack adequate erosion control measures and have a high possibility of discharging large quantities of sediment into nearby waterways. It is the Water Board's opinion that the unregulated land use activities associated with the Baker Ridge Rd. marijuana grow site could have significant cumulative impacts given the current rainy season. Therefore the Water Board's role in a joint inspection with CDFW is necessary to document the violations that have occurred and assist with the ongoing case against the appropriate landowners.

During the inspection, Regional Water Board and DFW staff would be looking for potential regulatory violations including, but not limited to the following:

- Un-Permitted grading.
- Un-permitted road construction.
- Potential sediment discharge from the road construction activities.
- Possible water contamination from use of fertilizers and herbicides/pesticides.
- Potential illegal water diversion from nearby waterways.

The specific parcels associated with (and immediately adjacent) to the activities associated with marijuana cultivation and road construction are:

041-270-003-000
041-270-014-000
041-300-006-000
041-300-033-000
041-300-034-000
041-300-035-000

All of the properties associated with the grow site and road construction do not have residences and are believed to be vacant except for 041-270-014-000, 7381 Baker Ridge Rd. Igo, CA, which has a structure that may have occupants. The Water Board is only requesting permission to enter onto the property, not to enter the structure. It is unclear whether all of the marijuana grows were performed by the same person or group of people, and whether or not the landowners were aware of the activities taking place on their properties.

Overflight

On 15 May 2014 Lt. DeWayne Little participated in a helicopter overflight of the area. According to Lt. Little, the site was located near several drainages that may be impacted by road construction and side casting from the grading. From his calculations, the graded areas far exceeded one acre.

Summary

Based on the information presented by representatives from the Shasta County Department of Resource Management and CDFW, including the attached photos, it is the Water Board's position that an inspection of the property by Water Board staff in conjunction with CDFW staff is necessary to protect the beneficial uses of waters of the State. To the best of my knowledge and belief, the information provided in this summary is a true and correct representation of the investigation of the Properties to date.

Clint Snyder
Assistant Executive Officer

Attached Photos

Photos 1-9 were taken by representatives from Shasta County Department of Resource Management during the 22 October 2014 inspection of the property in question, and serve as further evidence for the involvement of the Water Board and DFW.



Photo 1: Photo shows deep rills developing in road material from the recent rain events showing high potential for future erosion.



Photo 2: Photo shows erosion features running through Manzanita slash. This slash was used as an erosion control, and is not effective.



Photo 3: Photo shows erosion features from the recent rain activity on the side casting from the grading.

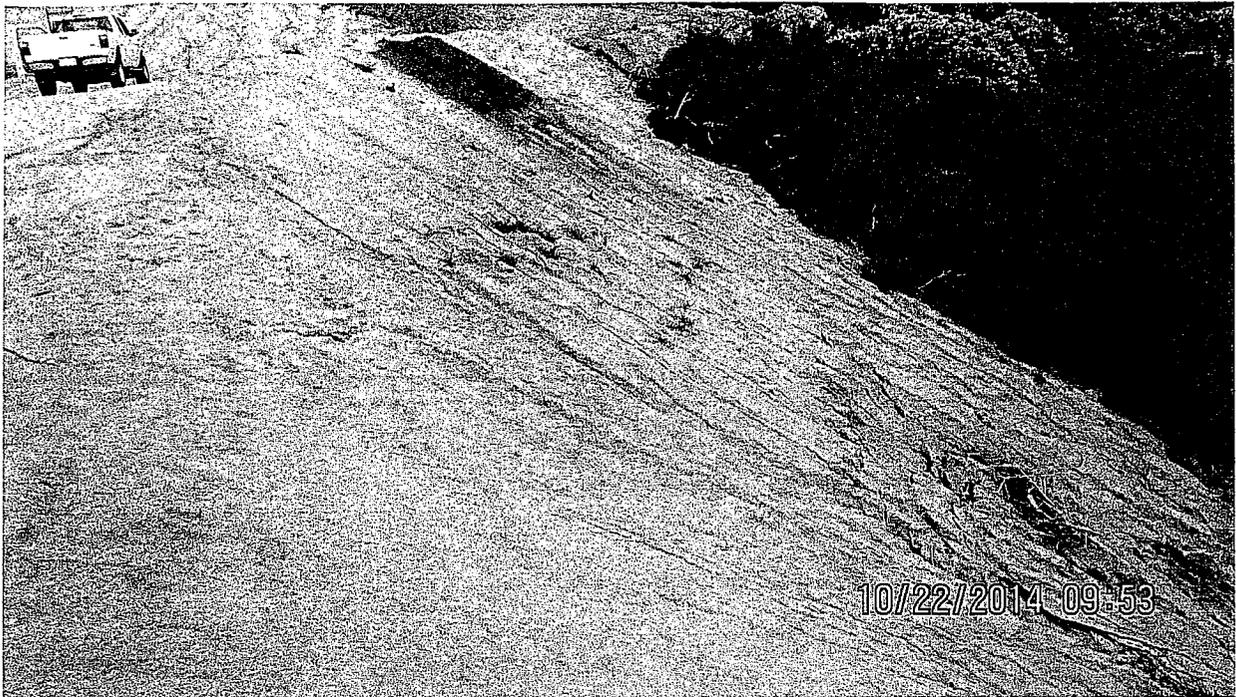


Photo 4: Photo shows the steep slopes of the side casting from grading, and erosional features from the recent rain storm.



Photo 5: Photo shows ponding of water in the graded material.



Photo 6: Photo shows deep gully forming in an unpermitted road. Photo also shows the lack of erosion control best management practices.



Photo 7: Photo shows sediment discharge from unpermitted road through abandoned tires.

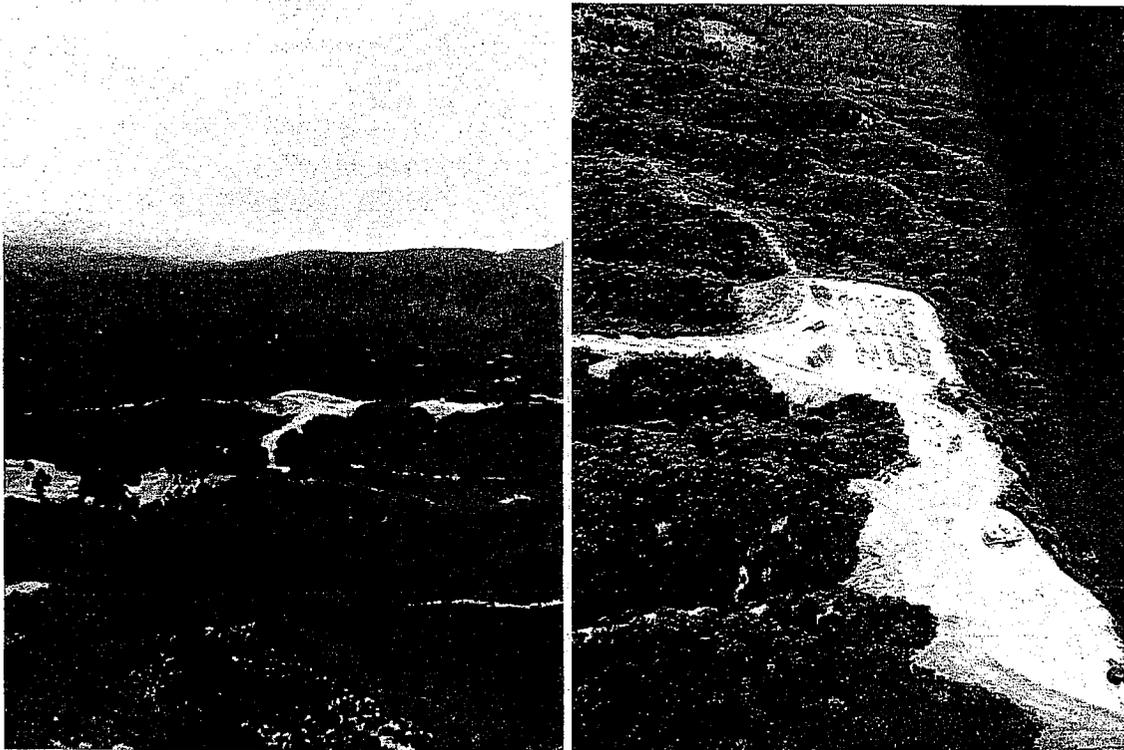


Photo 8: Photo shows the large quantity of abandoned tires embedded in poorly designed watercourse crossing structure.



Photo 9: Photo shows abandoned tires and an improperly installed culvert. Culvert placement should be parallel to grade and terminate on a level surface without a cascading discharge.

During the spring and summer of 2014, I conducted several overflights of the Igo-Ono area of western Shasta County. During those flights, I observed large scale grading on Baker Ridge with the corresponding GPS coordinates of 40° 30.113'N 122° 39.706'W. Incorporated within one of the graded flats, I saw what based on my training and experience; I recognized as potentially the infrastructure for marijuana cultivation. I also noted several drainages nearby that may be impacted by road construction and side casting from the grading. From Google Earth imagery, and area calculating devices, I was able to determine that the graded areas far exceeded one acre. See attached images below taken by me on May 15th 2014:



I later researched several Parcel Quest and Land Vision programs, and determined that the impacted property has an Assessor's Parcel Number of 041-300-035. I also contacted the Shasta County Assessor's Office and determined that the property owner is recorded as Christopher Cordes, 101 South F Street, Pensacola, FL 32502, 832-274-3248.

In addition, images collected by Shasta County Marijuana Investigations Team Deputies Tom Barner and Ron Smith during subsequent overflights, and later transferred to me, also documented the grading and marijuana cultivation activity on May 22nd and August 19th of 2014. During those overflights, more apparent marijuana infrastructure was added.

See image below:

May 22, 2014

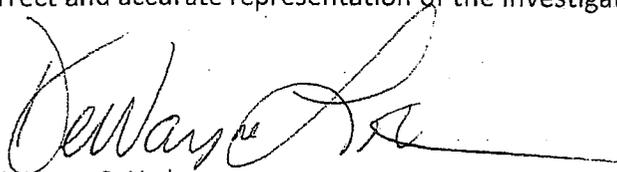


August 19, 2014



Based on my 30 years and training and experience as a California State Fish and Wildlife Officer, I believe that the grading and potential sediment discharge to be deleterious to waters of the state (FGC 5650), and in violation of the State Water Resources storm water discharge regulations.

I declare that this summary and the above photos that I took on May 15th 2014 are a true, correct and accurate representation of the investigation and conditions.

A handwritten signature in black ink, appearing to read "DeWayne C. Little". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

DeWayne C. Little
Lieutenant Supervisor
Watershed Enforcement Team
California Department of Fish and Game
601 Locust Street
Redding, CA 96001
(530) 225-2300

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2015-0520

CHRISTOPHER CORDES, EDDIE AXNER CONSTRUCTION, INC., AND EDDIE AXNER

ASSESSOR PARCEL 041-300-035-000

SHASTA COUNTY

Attachment D – Secretary of State Filings for Pacific Biodynamics

3401573

ARTICLES OF INCORPORATION

FILED
in the office of the Secretary of State
of the State of California

LB0

AUG 01 2011

The name of the corporation is **PACIFIC BIODYNAMICS.**

II

- A. This corporation is a nonprofit **Mutual Benefit Corporation** organized under the Nonprofit Mutual Benefit Corporation Law. The purpose of this corporation is to engage in any lawful act or activity, other than credit union business, for which a corporation may be organized under such law.
- B. The specific purpose of this corporation is to provide a means for facilitating and coordinating transactions, between members of the corporation, in medical marijuana lawfully recommended to such members by licensed physicians pursuant to California law; to secure non-diversion of medical marijuana; and to provide safe access to same for corporation members.

III

The name and address in the State of California of this corporation's initial agent for service of process is:

Name: **KEITH C. COPE**
 Address: **3918 SILVER LACE LANE**
 City: **REDDING** State: **CALIFORNIA** Zip Code: **96001**

IV

Notwithstanding any of the above statements of purposes and powers, this corporation shall not, except to an insubstantial degree, engage in any activities or exercise any powers that are not in furtherance of the specific purposes of this corporation.

Christopher Cordes

Christopher Cordes, Incorporator

August 1, 2011

13-110657



State of California Secretary of State

N

63

Statement of Information

(Domestic Nonprofit, Credit Union and Consumer Cooperative Corporations)

Filing Fee: \$20.00. If this is an amendment, see instructions. IMPORTANT - READ INSTRUCTIONS BEFORE COMPLETING THIS FORM

FILED Secretary of State State of California NOV 18 2013

1. CORPORATE NAME PACIFIC BIODYNAMICS

2. CALIFORNIA CORPORATE NUMBER C3401573

This Space for Filing Use Only

Complete Principal Office Address (Do not abbreviate the name of the city. Item 3 cannot be a P.O. Box.)

3. STREET ADDRESS OF PRINCIPAL OFFICE IN CALIFORNIA, IF ANY CITY STATE ZIP CODE 5716 CORSA AVE #110 WESTLAKE VILLAGE CA 91362-7354

4. MAILING ADDRESS OF THE CORPORATION CITY STATE ZIP CODE SAME

Names and Complete Addresses of the Following Officers (The corporation must list these three officers. A comparable title for the specific officer may be added; however, the preprinted titles on this form must not be altered.)

5. CHIEF EXECUTIVE OFFICER/ ADDRESS CITY STATE ZIP CODE CHRISTOPHER CORDES 19519 GLENWOOD CANYON LANE CYPRESS TX 77433

6. SECRETARY ADDRESS CITY STATE ZIP CODE CHRISTOPHER CORDES 19519 GLENWOOD CANYON LANE CYPRESS TX 77433

7. CHIEF FINANCIAL OFFICER/ ADDRESS CITY STATE ZIP CODE CHRISTOPHER CORDES 19519 GLENWOOD CANYON LANE CYPRESS TX 77433

Agent for Service of Process. If the agent is an individual, the agent must reside in California and Item 9 must be completed with a California street address, a P.O. Box address is not acceptable. If the agent is another corporation, the agent must have on file with the California Secretary of State a certificate pursuant to California Corporations Code section 1505 and Item 9 must be left blank.

8. NAME OF AGENT FOR SERVICE OF PROCESS

INCORP SERVICES INC

C 2294569

9. STREET ADDRESS OF AGENT FOR SERVICE OF PROCESS, IN CALIFORNIA, IF AN INDIVIDUAL CITY STATE ZIP CODE 5716 CORSA AVE # 110 WESTLAKE VILLAGE CA 91362-7354

Davis-Stirling Common Interest Development Act (California Civil Code section 1350, et seq.)

10. Check here if the corporation is an association formed to manage a common interest development under the Davis-Stirling Common Interest Development Act.

NOTE: Corporations formed to manage a common interest development must also file a Statement by Common Interest Development Association (Form SI-CID) as required by California Civil Code section 1363.6. Please see instructions on the reverse side of this form.

11. THE INFORMATION CONTAINED HEREIN IS TRUE AND CORRECT.

11/12/2013 DATE

CHRISTOPHER CORDES TYPE/PRINT NAME OF PERSON COMPLETING FORM

CEO TITLE

Christopher Cordes SIGNATURE

14-664254



State of California
Secretary of State

N

Statement of Information

51 pp

(Domestic Nonprofit, Credit Union and Consumer Cooperative Corporations)

Filing Fee: \$20.00. If this is an amendment, see instructions.
IMPORTANT - READ INSTRUCTIONS BEFORE COMPLETING THIS FORM.

FILED
Secretary of State
State of California
MAR 10 2014

1. CORPORATE NAME
PACIFIC BIODYNAMICS

2. CALIFORNIA CORPORATE NUMBER
C3401573

NF This Space for Filing Use Only

Complete Principal Office Address (Do not abbreviate the name of the city. Item 3 cannot be a P.O. Box.)

3. STREET ADDRESS OF PRINCIPAL OFFICE IN CALIFORNIA, IF ANY	CITY	STATE	ZIP CODE
5716 CORSA AVE #110	WESTLAKE VILLAGE	CA	91362-7354

4. MAILING ADDRESS OF THE CORPORATION	CITY	STATE	ZIP CODE
19519 GLENWOOD CANYON LANE	CYPRESS	TX	77433

Names and Complete Addresses of the Following Officers (The corporation must list these three officers. A comparable title for the specific officer may be added; however, the preprinted titles on this form must not be altered.)

5. CHIEF EXECUTIVE OFFICER/	ADDRESS	CITY	STATE	ZIP CODE
CHRISTOPHER CORDES	19519 GLENWOOD CANYON LANE	CYPRESS	TX	77433
6. SECRETARY	ADDRESS	CITY	STATE	ZIP CODE
CHRISTOPHER CORDES	19519 GLENWOOD CANYON LANE	CYPRESS	TX	77433
7. CHIEF FINANCIAL OFFICER/	ADDRESS	CITY	STATE	ZIP CODE
CHRISTOPHER	19519 GLENWOOD CANYON LANE	CYPRESS	TX	77433

Agent for Service of Process If the agent is an individual, the agent must reside in California and Item 9 must be completed with a California street address, a P.O. Box address is not acceptable. If the agent is another corporation, the agent must have on file with the California Secretary of State a certificate pursuant to California Corporations Code section 1505 and Item 9 must be left blank.

8. NAME OF AGENT FOR SERVICE OF PROCESS INCORP SERVICES INC				
9. STREET ADDRESS OF AGENT FOR SERVICE OF PROCESS IN CALIFORNIA; IF AN INDIVIDUAL	CITY	STATE	ZIP CODE	
5716 CORSA AVE #110	WESTLAKE VILLAGE	CA	91362-7354	

Common Interest Developments

10. Check here if the corporation is an association formed to manage a common interest development under the Davis-Stirling Common Interest Development Act (California Civil Code section 4000, et seq.) or under the Commercial and Industrial Common Interest Development Act (California Civil Code section 6500, et seq.). The corporation must file a Statement by Common Interest Development Association (Form SI-CID) as required by California Civil Code sections 5405(a) and 6760(a). Please see instructions on the reverse side of this form.

11. THE INFORMATION CONTAINED HEREIN IS TRUE AND CORRECT.

03/03/2014	CHRISTOPHER CORDES	CEO	<i>Christopher Cordes</i>
DATE	TYPE/PRINT NAME OF PERSON COMPLETING FORM	TITLE	SIGNATURE

State of California
Secretary of State

CERTIFICATE OF STATUS

ENTITY NAME:

PACIFIC BIODYNAMICS

FILE NUMBER: C3401573
FORMATION DATE: 08/01/2011
TYPE: DOMESTIC NONPROFIT CORPORATION
JURISDICTION: CALIFORNIA
STATUS: SUSPENDED

I, ALEX PADILLA, Secretary of State of the State of California,
hereby certify:

The records of this office indicate the California Franchise Tax Board suspended the entity's powers, rights and privileges on January 02, 2014, pursuant to the provisions of the California Revenue and Taxation Code, and the entity's powers, rights and privileges remain suspended.



IN WITNESS WHEREOF, I execute this certificate
and affix the Great Seal of the State of
California this day of January 15, 2015.

ALEX PADILLA
Secretary of State