January 9, 2017

Mr. Steven Westbrook
P.O. Box 75
Smith River, CA 95567
ReservationRanchSteven@gmail.com

Dear Mr. Westbrook:

Subject: **Notice of Violation and California Water Code Section 13267 Order for Technical Reports**

File: Reservation Ranch; WDID No. 1B11125DDN

You are receiving this Notice of Violation and order to submit information pursuant to California Water Code (Water Code) section 13267 (13267 Order) because, based on information available to the North Coast Regional Water Quality Control Board (Regional Water Board) staff, you are responsible for unlawful discharges of waste into waters of the state[1] and violations of the *Conditional Waiver of Waste Discharge Requirements, Order No. R1-2012-0003 for Existing Cow Dairies In the North Coast Region* (Conditional Waiver). This 13267 Order requires information from you about historical operations at Reservation Ranch in Del Norte County, which has been owned and operated by the Westbrook family since 1930.

On September 19, 2016, Regional Water Board staff obtained your consent to inspect the dairy at 370 Sarina Road, Smith River in Del Norte County and Del Norte County Parcels 103-010-01 and 103-010-02 (the "Site"), and conducted a Site inspection on September 21, 2016, to determine if any wastes were discharging to the Smith River and adjacent wetlands. During the inspection, Regional Water Board staff observed violations of the Conditional Waiver for the placement of manure, trash, and animal carcasses into waters of the state. Regional Water Board staff also observed multiple unpermitted discharges of waste, including dredge or fill material, into waters of the state (Islas Slough, Smith River and wetlands). The inspection report is attached as Attachment G for your reference. Per

[1] "Waters of the state" means "any surface water or groundwater, including saline waters, within the boundaries of the state." (Wat. Code, § 13050(e).) All "waters of the United States" in California are waters of the state. (*See* 33 C.F.R. § 328.3 (defining "waters of the United States," including wetlands for permitting decisions under federal Clean Water Act section 404).)

your request, copies of all the photos taken by Regional Water Board staff during the inspection are provided on the enclosed compact disc.

Additionally, Regional Water Board staff's review of aerial imagery revealed suspected unpermitted dredging of Ritmer Creek.

Violations

Regional Water Board staff observed[2] dirt (earthen material), manure, straw, animal carcasses and trash within Islas Slough, Smith River and wetlands. What appears to be unpermitted soil discharge to Islas Slough and wetlands is also evident in aerial photographs, as shown in Appendix E, *June 2010 Bing Imagery Showing Waste Discharge and Grading in State Waters*. These materials are defined as "waste" under California Water Code (Water Code) section 13050.[3] Water Code section 13264 states that no person shall initiate any new discharge of waste to waters of the state prior to filing a report of waste discharge with the Regional Water Board (see Wat. Code, § 13260 (explaining report of waste discharge procedures)). The Regional Water Board did not receive a report of waste discharge for the observed discharges of waste. These unpermitted discharges to waters of the state are subject to penalties under Water Code section 13350, subdivision (e), authorizing the Regional Water Board to impose an administrative civil liability of up to $5,000 per violation per day or $10 per gallon of waste discharged.

Regional Water Board staff observed violations of Conditional Waiver Prohibitions 22, 24-25, 29-30, and 32-33.[4] The discharges of earthen material, manure, animal carcasses, and trash as observed violate Prohibitions 22, 24-25, 29, and 33. The disposal of dead animals on State Lands Commission-owned Del Norte Parcel 103-010-10, violate Prohibitions 30 and 32. Any person who, in violation of a waiver condition or other order or prohibition issued by the Regional Water Board, discharges waste, or causes to permit waste to be deposited where it is to be discharged, into waters of the state is subject to penalties under Water Code section 13350, subdivision (e) (see above).

Based upon historical aerial photographs of the Smith River estuary and observations made on the ground, it appears that a (former) side channel of the Smith River was disconnected at its upstream end from the Smith River as a result of levee construction between possibly 1972 and 1974. (See Attachment D, *Historical Aerial Photos of Islas Slough*; Inspection Report, p. 7.) Aerial imagery also provides evidence that dredging of Ritmer Creek has occurred (See Attachment F, *June 2010 Bing Imagery Showing Apparent Dredging of Ritmer Creek*, showing piles of what appear to be material dredged from and placed along the length of the creek). The inspection report further details suspected

[2] Unless otherwise noted, all observations referenced herein were made during the inspection on September 21, 2016, and are explained in the inspection report.

[3] Water Code section 13050 defines "waste" as "sewage and any and all other waste substances, liquid, solid, or gaseous, or radioactive, associated with human habitation, or of human or animal origin . . . ."

[4] A copy of the Conditional Waiver, which includes the text of all Prohibitions, is available at: http://www.waterboards.ca.gov/northcoast/water_issues/programs/dairies/pdf/120127/waiver/120127_12_0003_Waiver_Dairy.pdf

discharges of fill materials to waters of the state and/or waters of the United States (Smith River, Ritmer Creek, and/or adjacent wetlands).

Under Water Code section 13376, a person who discharges pollutants or dredged or fill material to waters of the United States in the North Coast Region shall file a report of waste discharge pursuant to Water Code section 13260. Moreover, any person who discharges dredged or fill material to waters of the United States, including wetlands, must obtain a federal Clean Water Act (Clean Water Act) section 404 permit from the U.S. Army Corps of Engineers, and Clean Water Act section 401 water quality certification from the Regional Water Board. Unpermitted discharges of pollutants or dredged or fill materials to waters of the United States are violations of Clean Water Act section 301, subdivision (a).

The Regional Water Board has no evidence that Reservation Ranch obtained any permits or water quality certification for the discharges discussed in this 13267 Order and the inspection report. Clean Water Act section 301 violations are subject to penalties under Water Code section 13385, authorizing the Regional Water Board to impose an administrative civil liability of up to ten thousand dollars ($10,000) per violation per day and ten dollars ($10) per gallon discharged and not cleaned up in excess of 1,000 gallons.

Required Information

The Regional Water Board may investigate the quality of waters of the state within the North Coast Region. Water Code section 13267, subdivision (b)(1) states, in part:

> In conducting an investigation . . ., the regional board may require that any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste within its region . . . shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports. In requiring those reports, the regional board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports.

For the reasons explained above and in the attached inspection report you, Steven Westbrook, as co-owner and manager of Reservation Ranch, has discharged, discharges, or is suspected of having discharged waste into waters of the state within the North Coast Region.

The burdens, including cost, of the report required in this 13267 Order bears a reasonable relationship to the need for the report and the benefits to be obtained from the report. The report is required to obtain information that is necessary to: fully delineate the extent of actual and potential adverse impacts to water quality and beneficial uses caused by the unauthorized discharges; determine compliance with the Conditional Waiver, and water quality objectives and prohibitions in the Water Quality Control Plan for the North Coast

Basin (Basin Plan); and identify corrective actions, including the scope of restoration of surface waters, groundwater, and wetlands. The cost bears a reasonable relationship to the benefits because of the widespread potential for harm to beneficial uses that these historic unauthorized discharges have caused.

Pursuant to Water Code section 13267, you are hereby ordered to submit a technical report containing the following information by **April 6, 2017**:

1. **Wetland and Waters Delineation and Hydrology Report**
   Provide the following information for the area demarcated in Attachment A, *Area of Interest*:
   A) A jurisdictional wetland delineation performed in accordance with the United States Army Corps of Engineers May 2010 *Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Coast Region (version 2.0)*;
   B) A forensic wetland delineation to determine the extent and types of wetlands and waters that existed on October 18, 1972. This delineation shall be conducted through forensic historical ecology by a wetland professional. The delineation shall also include all waters that are "waters of the state" as defined in Water Code section 13050, subdivision (e). In addition to the delineation, estimate the volume of non-native material (see definition below) placed after October 18, 1972, within the area of the delineation;
   C) A hydrologic report summarizing topography, vegetation, geology, soil types, land use, drainage and runoff patterns, flooding patterns, tidal inundation ranges, and Islas Slough tidal inundation extent since October 18, 1972. High Tide Line, Mean Higher High Water, Mean High Water, and Mean Sea Level shall be identified; and
   D) A delineation of seasonally high groundwater elevations for Area 3 as demarcated in Attachment B.

2. **Non-Native Material Volume and Placement History**
   Submit a workplan to estimate the volume of non-native material[5] placed in Areas 1, 2, and 3, as demarcated in Attachment B. The workplan shall be subject to the review and acceptance of the Regional Water Board's Assistant Executive Officer (Assistant Executive Officer) and detail how native material will be differentiated from non-native material. Field investigations shall be performed to differentiate the materials in a manner that adequately characterizes and delineates the materials. The workplan shall detail the proposed methodology for estimating the volume of non-native material. The workplan shall be fully implemented and completed no later than sixty (60) days from the date of the Assistant Executive

[5] Non-native material refers to material, including but not limited to, earthen material, manure, straw, construction debris, and trash (e.g., treated wood, untreated wood, manufactured wood product, plastic, cement, etc.), that did not historically exist in its current footprint and was placed as a result of construction, agriculture, or other human development or production-related activities.

Officer's approval (Workplan Implementation Date). A final summary report on the findings obtained from the approved workplan shall be submitted to the Assistant Executive Officer no later than 30 working days after the Workplan Implementation Date.

The estimate of volume in the final summary report shall include a description of the methodology used to calculate the volume of non-native material as well as a map showing sampling locations, unique identifiers for each sample location, and data results collected at each unique sampling location.

A history of placement of non-native material shall also be provided for Areas 1, 2, and 3. The history shall provide a timeline of placement, the type of material placed, and the reason for placement.

3. **Trash**
   Provide an inventory and characterization of trash placed within "Area 4" as delineated in Attachment B. Information provided shall include:
   A) An inventory of the volume of trash present and a description of the specific method used to estimate trash volume;
   B) The specific type of trash present (e.g., treated wood, untreated wood, manufactured wood product, plastic, cement, etc.);
   C) The origin of the trash; and
   D) A timeline for the historic placement of trash.

4. **Animal Carcass Disposal Area**
   Provide a map showing current and historical extent of animal disposal within "Area 3" as delineated in Attachment B, as well as a characterization of any waste disposed of at this location other than animal carcasses. A volume estimate of animal carcasses and other wastes disposed of at this location is required above in item 2.

5. **Levee Construction**
   Provide the following information related to the levee that borders the Smith River as depicted in Attachment C, *Smith River Levee*:
   A) The date or dates of levee construction;
   B) The levee dimensions (i.e., length, width, height) along the entire length of the levee shown in Attachment C;
   C) The construction method and all materials used for levee construction; and
   D) Copies of all permits obtained for levee construction, including, but not limited to, permits from the United States Army Corps of Engineers, California Department of Fish and Wildlife, Humboldt County, and the Regional Water Board.

6. **Ritmer Creek**
   Provide the following information related to the dredging of Ritmer Creek, as shown in Attachment F:
   A) The dates of dredging within Ritmer Creek from 2010 until the date of this Order;
   B) The estimated volume of material dredged from 2010 until the date of this Order;
   C) The purpose and need for dredging in Ritmer Creek;
   D) Copies of all respective permits issued by, but not limited to, the United States Army Corps of Engineers, California Department of Fish and Wildlife, Humboldt County, and Regional Water Board; and
   E) Current photographs of Ritmer Creek, taken at ground level along the portion of the creek shown in Attachment F. Provide a map designating the photo points and direction of each photograph taken.

You shall provide documentation that the technical reports required in this 13267 Order were prepared under the direction of appropriately qualified professional(s). In preparing the technical report required by this 13267 Order, any scientific, engineering or geologic evaluations and judgements must be performed by or under the direction of registered professionals pursuant to California Business and Professions Code sections 6735, 7835, and 7835.1. A statement of qualifications and registration numbers of the responsible lead professional shall be included in the submitted report. The lead professional shall sign and affix his or her registration stamp to the report.

Any report submitted in response to this Order shall include the following perjury statement:

"*I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.*"

The technical reports required in items 1-6 shall be timely submitted electronically to:

Ms. Shin-Roei Lee
Assistant Executive Officer
North Coast Regional Water Quality Control Board
5550 Skylane Blvd., Suite A
Santa Rosa, CA 95403
Email: NorthCoast@waterboards.ca.gov

Any modification to this 13267 Order shall be in writing and approved by the Assistant Executive Officer, including any potential deadline extensions. If you are unable to perform any activity or submit any document in compliance with the schedule set forth herein, you may request, in writing, an extension of the time specified. The written extension request shall include justification(s) for the delay and shall be submitted to the Assistant Executive Officer at least 30 days prior to the deadline that you are requesting to extend. The Assistant Executive Officer may grant an extension in writing for good cause.

Failure to submit complete and timely technical and monitoring reports required in this 13267 Order will subject you to further enforcement action by the Regional Water Board. Pursuant to Water Code section 13268, any person failing or refusing to furnish technical or monitoring program reports required under Water Code section 13267, or falsifying any information provided therein, is guilty of a misdemeanor and subject to an administrative civil liability of up to one thousand dollars ($1,000) for each day in which the violation occurs. The Regional Water Board reserves its right to take any enforcement action as authorized by law.

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

For any questions on this matter, please contact Brendan Thompson at 707-576-2699 or via e-mail at Brendan.Thompson@waterboards.ca.gov.

Sincerely,

Shin-Roei Lee
2017.01.09
13:41:37 -08'00'

Water Boards

Shin-Roei Lee
Assistant Executive Officer

170109_BJT_er_ReservationRanch_13267_NOV

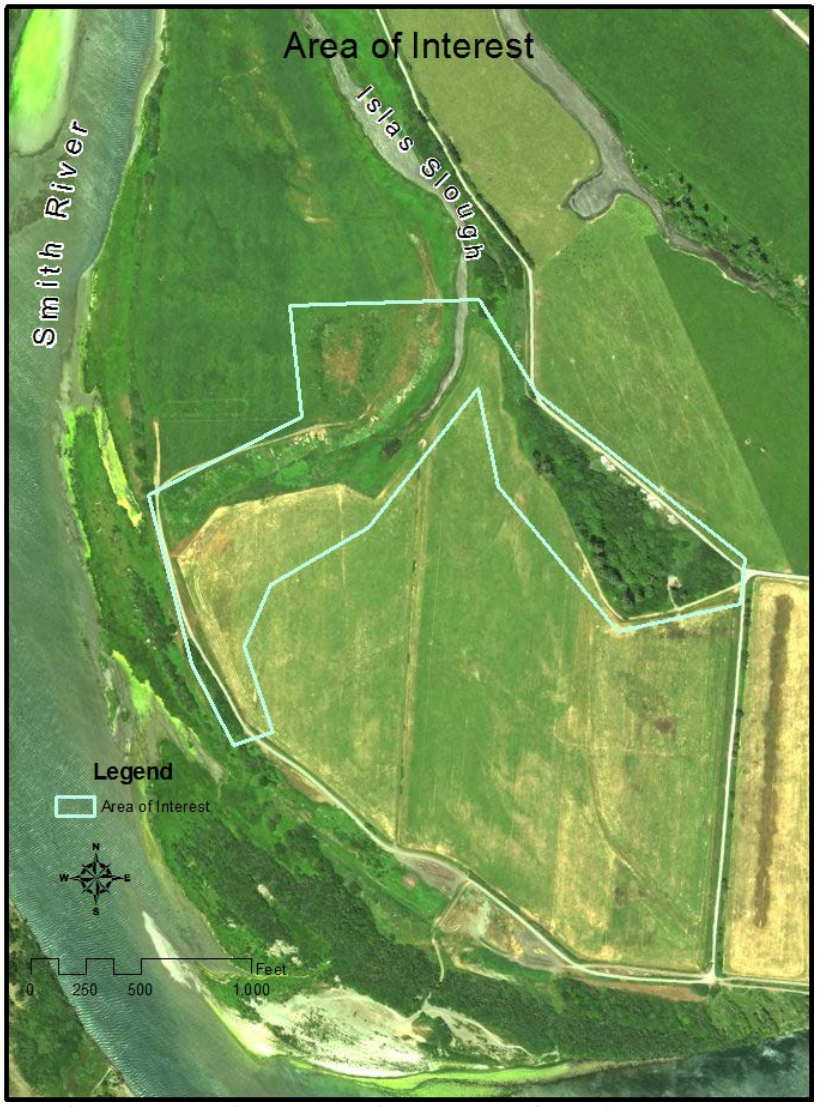
Attachments:
A: Area of Interest Map
B: Areas 1, 2, 3, and 4
C: Smith River Levee
D: Historical Aerial Photos of Islas Slough
E: June 2010 Bing Imagery Showing Waste Discharge and Grading in State Waters
F: June 2010 Bing Imagery Showing Apparent Dredging of Ritmer Creek
G: September 21, 2016 Inspection Report

Enclosure: 13267 Fact Sheet
DVD with September 21, 2016 Inspection Photos

Web link: Categorical Waiver (R1-2012-0003):
http://www.waterboards.ca.gov/northcoast/water_issues/programs/dairies/pdf/120127/waiver/120127_12_0003_Waiver_Dairy.pdf

cc: Via e-mail, with attachments:
Holly Costa, U.S. Army Corps of Engineers, Holly.N.Costa@usace.army.mil
Kasey Sirkin, U.S. Army Corps of Engineers, L.K.Sirkin@usace.army.mil
Josh Levine, California Coastal Commission, Joshua.Levine@coastal.ca.gov
Patrick Veesart, California Coastal Commission, Pat.Veesart@coastal.ca.gov
Cristin Kenyon, California Coastal Commission, Cristin.Kenyon@coastal.ca.gov
Gordon Leppig, California Department of Fish and Wildlife, Gordon.Leppig@wildlife.ca.gov
Michael van Hattem, California Department of Fish and Wildlife, Michael.vanHattem@wildlife.ca.gov
Rebecca Glyn, U.S. Environmental Protection Agency Glyn.Rebecca@epa.gov
Brendan Thompson, North Coast Regional Water Quality Control Board (NCRWQCB), Brendan.Thompson@waterboards.ca.gov
Cherie Blatt, NCRWQCB, Cherie.Blatt@waterboards.ca.gov
Stephen Bargsten, NCRWQCB, Stephen.Bargsten@waterboards.ca.gov
Fred Blatt, NCRWQCB, Fred.Blatt@waterboards.ca.gov
Diana Henrioulle, NCRWQCB, Diana.Henrioulle@waterboards.ca.gov
Jim Burke, NCRWQCB, James.Burke@waterboards.ca.gov
Shin-Roei Lee, NCRWQCB, Shin-Roei.Lee@waterboards.ca.gov
Peter Ciccarelli, State Water Resources Control Board (SWRCB), Peter.Ciccarelli@waterboards.ca.gov
Bryan Elder, SWRCB, Bryan.Elder@waterboards.ca.gov
Julia Hooten, SWRCB, Julia.Hooten@waterboards.ca.gov
Elizabeth Beryt, Office of Chief Counsel (OCC), SWRCB, Elizabeth.Beryt@waterboards.ca.gov
Nathan Jacobsen, OCC, SWRCB, Nathan.Jacobsen@waterboards.ca.gov

Attachment A—Area of Interest Map



Base photo source, Attachments A, B, and C: 2016 National Agriculture Imagery Program (NAIP), image captured May 28, 2016 (2016 NAIP) and accessed here: URL: https://naip.nwgeo.com/arcgis/services/CA_EAWS_4B_2016/ImageServe

This polygon has vertices at the following latitude/longitude coordinates[6]:

1. 41.923124, -124.195728	2. 41.921749, -124.195514
3. 41.920755, -124.198049	4. 41.918660, -124.197285
5. 41.917649, -124.196556	6. 41.917825, -124.195905
7. 41.918890, -124.196404	8. 41.919653, -124.195989
9. 41.920381, -124.194362	10. 41.922123, -124.192587
11. 41.920916, -124.192216	12. 41.919139, -124.190178
13. 41.919495, -124.188158	14. 41.920059, -124.188088
15. 41.922085, -124.191597	16. 41.923236, -124.192588

[6] All latitude/longitude coordinates in this document use the North American 1983 geographic coordinate system

Attachment B—Areas 1, 2, 3, and 4

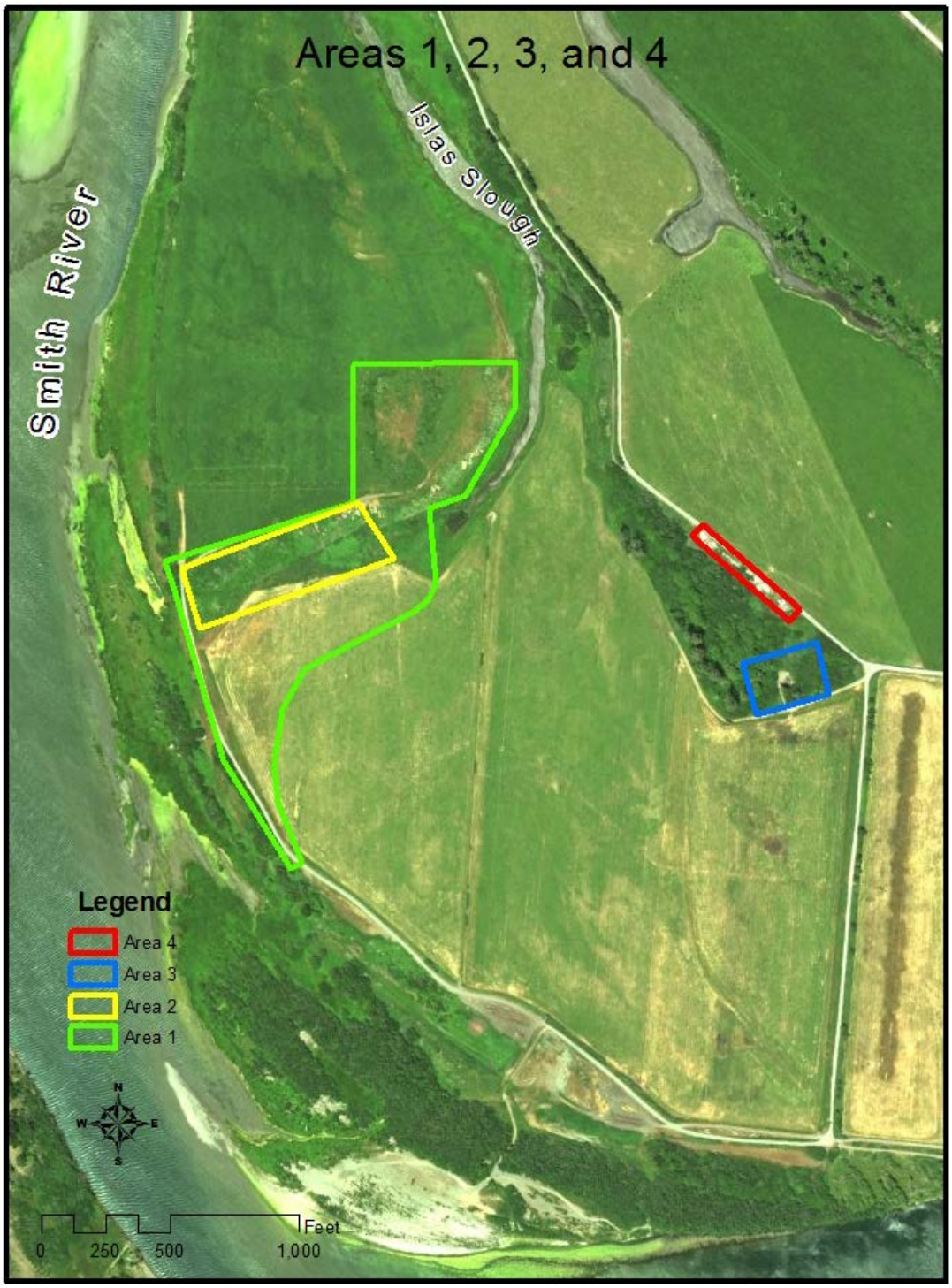


Photo source: 2016 NAIP

The latitude and longitude for each of the polygon vertices is listed on the following page.

Area 1	
1. 41.920909, -124.198139	2. 41.918795, -124.197248
3. 41.917659, -124.196284	4. 41.917719, -124.196127
5. 41.918338, -124.196467	6. 41.918746, -124.196546
7. 41.919353, -124.196429	8. 41.919784, -124.196116
9. 41.920532, -124.194380	10. 41.920719, -124.194267
11. 41.921518, -124.194376	12. 41.921664, -124.193862
13. 41.922613, -124.193166	14. 41.923100, -124.193187
15. 41.923042, -124.195496	16. 41.921575, -124.195450
Area 2	Area 3
1. 41.920844, -124.197900	1. 41.919907, -124.189883
2. 41.920211, -124.197622	2. 41.919367, -124.189675
3. 41.920971, -124.194875	3. 41.919593 -124.188632
4. 41.921566, -124.195397	4. 41.920151 -124.188829
Area 4	
1. 41.921380, -124.190469	2. 41.921259, -124.190614
3. 41.920370, -124.189207	4. 41.920492, -124.189067

Attachment C—Smith River Levee

Attachment D—Historical Aerial Photos of Islas Slough

Yellow stars (☆) are placed in each photo at approximately the same location for spatial reference

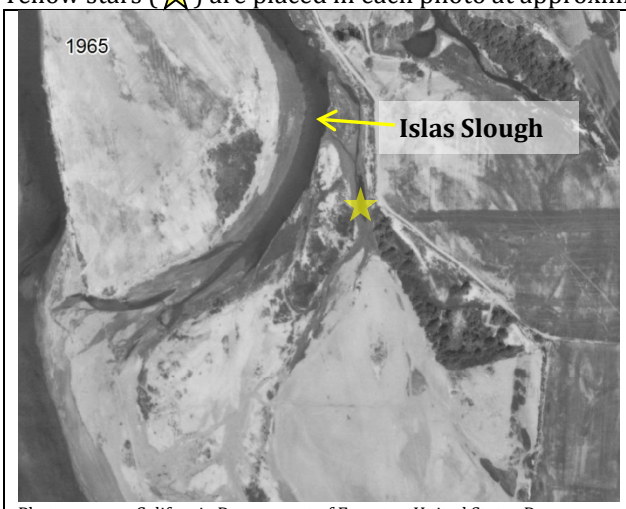


Photo source: California Department of Forestry, United States Department of Forestry. (CDF, USDA) Image capture date: July 8, 1965.

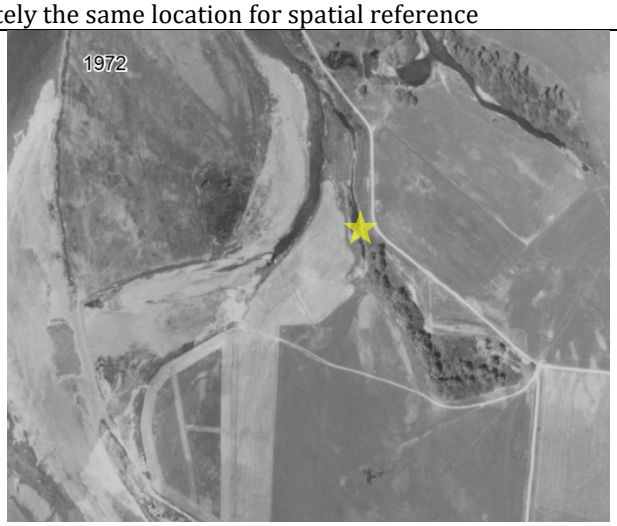


Photo source: CDF, USDA. Image capture date: August 2, 1972

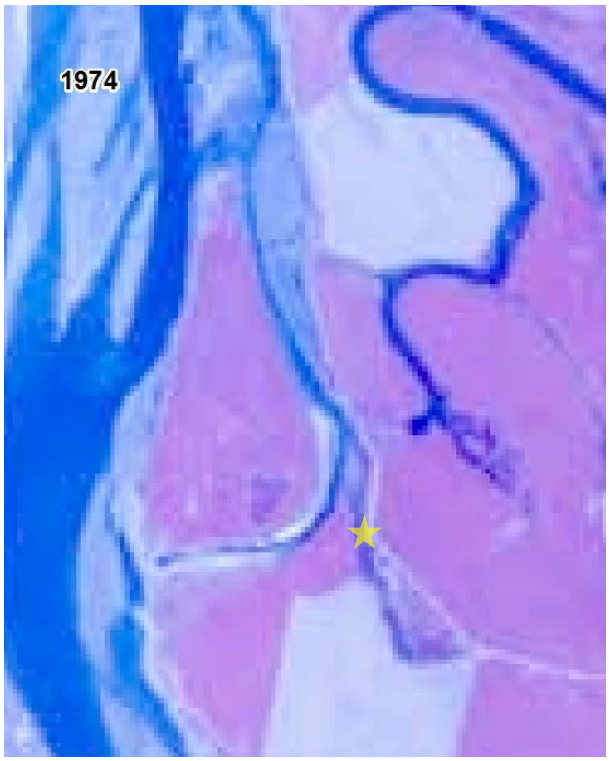


Photo Souce: United States Geological Survey (USGS), Single Frame Aerial Photography, color infrared, photo taken April 29, 1974 and accessed October 6, 2016, at https://earthexplorer.usgs.gov/

Photo Souce: USGS, Single Frame Aerial Photography, color infrared, photo taken January 6, 1977 and accessed October 6, 2016, at https://earthexplorer.usgs.gov/

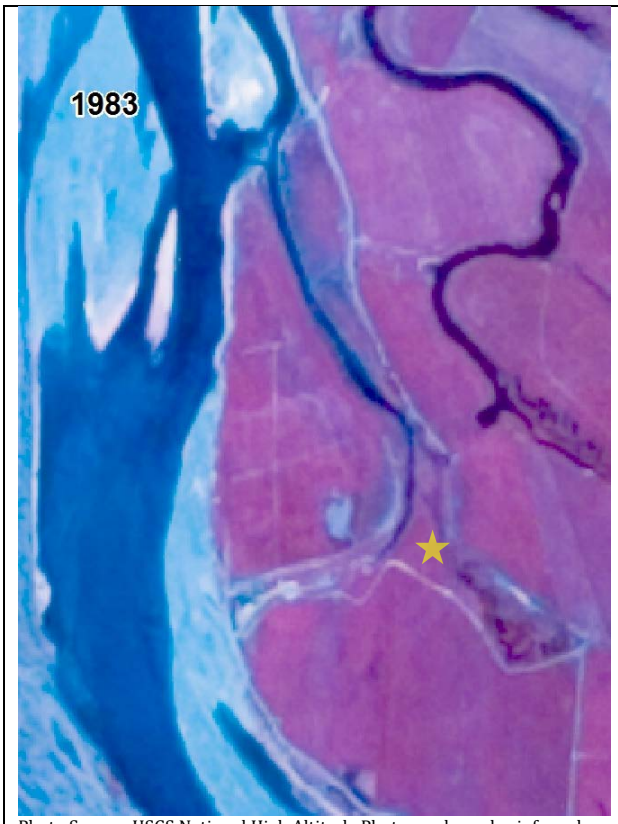


Photo Source: USGS National High Altitude Photography, color infrared, photo taken July 3, 1983 and accessed December 27, 2016, at https://earthexplorer.usgs.gov/

Photo Source: USGS Digital Orthophoto Quadrangle, color infrared photo taken August 25, 1988, and accessed December 27, 2016, at https://earthexplorer.usgs.gov/

Photo source: USGS Digital Ortho Quadrangle, photo taken June 12, 1993 and accessed December 27, 2016, at https://earthexplorer.usgs.gov/

Photo source: USGS, photo taken from Atlas of Historic Channel Planforms, prepared by Aldaron Laird and McBain & Trush, Inc., August 2005. Image Captured May 19, 2003

Photo source: 2014 National Agriculture Imagery Program (NAIP), image captured June 7, 2014.
URL: https://map.dfg.ca.gov/arcgis/services

Attachment E—June 2010 Bing Imagery Showing Waste Discharge and Grading in State Waters

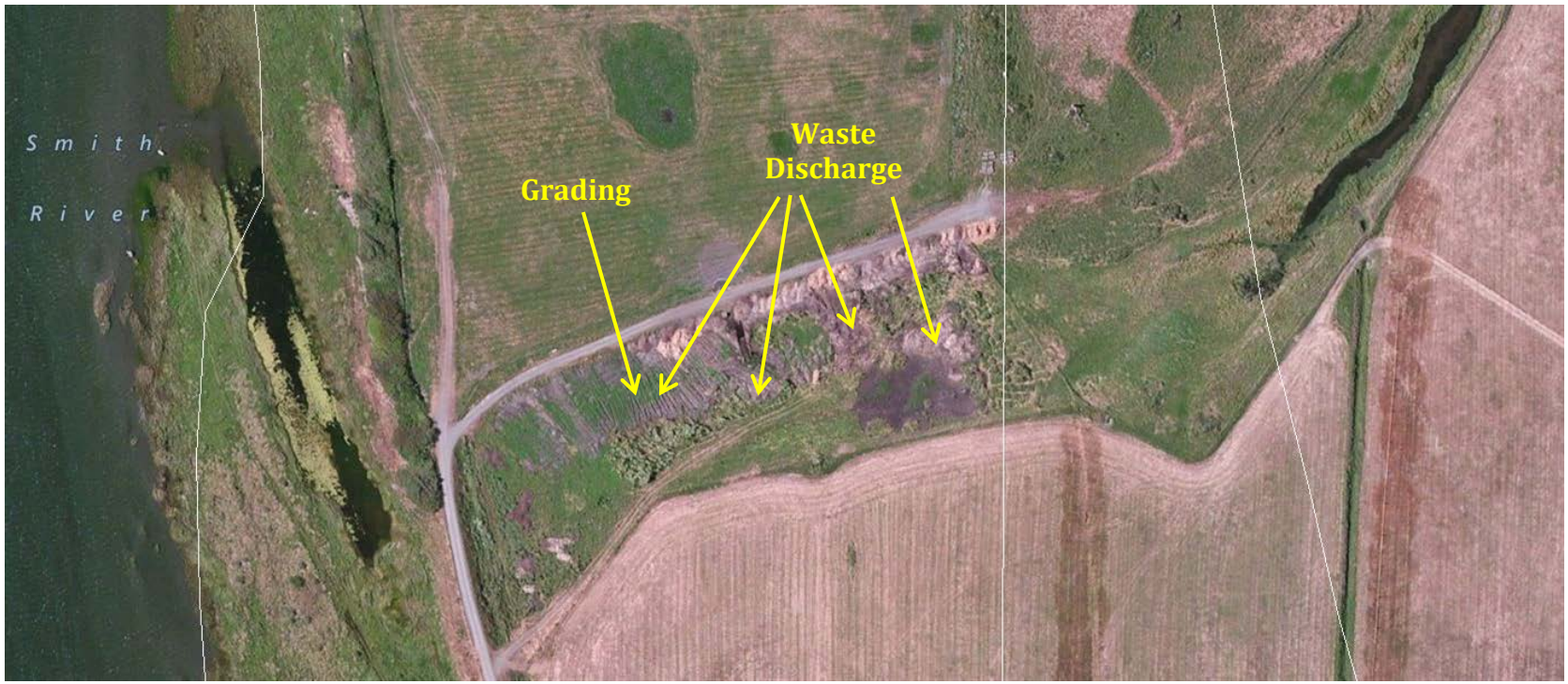


Photo Source: Bing imagery accessed via Land Vision by staff from the California Department of Fish and Wildlife on October 7, 2016. Received from CDFW staff via e-mail on October 7, 2016. Image capture date range June-July 2010 (date source: http://wiki.openstreetmap.org/wiki/Bing_imagery_analyzer_for_OSM).

Attachment F—June 2010 Bing Imagery Showing Apparent Dredging of Ritmer Creek

Photo Source: Bing imagery accessed via Land Vision by staff from the California Department of Fish and Wildlife on October 7, 2016. Received from CDFW staff via e-mail on October 7, 2016. Image capture date range June-July 2010 (date source: http://wiki.openstreetmap.org/wiki/Bing_imagery_analyzer_for_OSM).

Apparent dredge spoil piles are placed immediately adjacent the left bank of Ritmer Creek, in the two areas designated by the arrows and brackets.

Attachment G—September 21, 2016, Inspection Report

Inspection Report
Reservation Ranch

Date: November 14, 2016

From: Cherie Blatt, Water Resource Control Engineer, Regional Water Board
Brendan Thompson, Environmental Scientist, Regional Water Board

To: James Burke, Senior Engineering Geologist, Regional Water Board
Stephen Bargsten, Senior Environmental Scientist, Regional Water Board

Subject: Reservation Ranch Inspection

I. Introduction

North Coast Regional Water Quality Control Board (Regional Water Board) staff received a complaint referral from the California Department of Fish and Wildlife (CDFW) during the spring of 2016 regarding possible unauthorized discharges of waste into waters of the state (surface waters, groundwater, and/or wetlands) on the following properties:

- Reservation Ranch, Del Norte County Assessor's Parcel Numbers (APNs) 103-010-01 and 103-010-02; and
- California State Lands Commission, Del Norte County APN 103-010-10.

The original complaint to CDFW was anonymous and received online through CalTIP, a confidential secret witness program that encourages the public to provide CDFW with factual information related to poachers and polluters. Regional Water Board staff independently verified the potential unauthorized discharges of waste through aerial imagery before seeking consent to inspect the above-referenced properties.

On September 19, 2016, Cherie Blatt, Regional Water Board staff, telephoned Steven Westbrook, Manager/Part-Owner of Reservation Ranch, to request permission to inspect the dairy property on September 21, 2016, at 9:00 a.m., in order to follow up on the water quality complaint. Ms. Blatt spoke with Steven Westbrook and requested his permission to inspect three areas, including the milk production area of the dairy at 370 Sarina Road, Smith River, and Reservation Ranch-owned Del Norte County APNs 103-010-01 and 103-010-02. Ms. Blatt characterized the complainant as anonymous.

During this phone call, Ms. Blatt requested that consent be provided for the following staff to attend the inspection:

- Four staff from the CDFW: Gordon Leppig and Mike Van Hattem, Scientists; and Brent Chase and Ted Pinnow, Wardens;
- Two staff from the California Coastal Commission: Josh Levine and Pat Veesart, Enforcement; and
- Two staff from the Regional Water Board: Cherie Blatt, Dairy Program; and Brendan Thompson, Nonpoint Source and 401 Certification Unit.

Steven Westbrook granted consent for all above-listed state agency staff members (Inspection Team) to inspect the property as requested.

On September 20, 2016, Ms. Blatt again telephoned Steven Westbrook to confirm that the Inspection Team would be attending the inspection the next day and explained that during the inspection, any member of the Inspection Team may take notes, photographs, video, samples, and other measurements as necessary to document potential discharges. Mr. Westbrook consented to this type of inspection.

II. Conditional Waiver of Waste Discharge Requirements

Reservation Ranch is a conventional dairy enrolled under the Regional Water Board's Conditional Waiver of Waste Discharge Requirements for Existing Dairies in the North Coast Region, Order No. R1-2012-0003 (Conditional Waiver). Reservation Ranch's Waste Discharge Identification number is WDID#1B11125DDN. The Conditional Waiver contains multiple requirements including, among other things, compliance with the Water Quality Control Plan for the North Coast Basin (Basin Plan), waste discharge prohibitions, and the prohibition of adverse impacts to surface water and groundwater.

III. Inspection

The Inspection Team arrived at Reservation Ranch, 370 Sarina Road, Smith River, at 9:00 AM on September 21, 2016. Weather during the inspection was clear with a maximum temperature around 65 degrees. The Inspection Team met with the following ranch representatives upon arrival: Steven Westbrook, Manager/Part-Owner; Ernie Silva, retired Assistant Manager; Robert Westbrook, Part-Owner; and Blair Westbrook, Steven Westbrook's son (collectively Ranch Representatives).

Regional Water Board staff informed the Ranch Representatives that the Inspection Team would like to inspect the dairy milk production area, Reservation Ranch-owned APNs 103-010-01 and 103-010-02, and California State Lands Commission-owned APN 103-010-10. Regional Water Board staff further identified three areas within the above-referenced APNs (A, B, and C, as described below in this report) that the Inspection Team wished to inspect. Regional Water Board staff reminded Ranch

Representatives that the inspection may include taking photographs, videos, samples, measurements, and notes. Ranch Representatives did not withdraw consent for the inspection.

Regional Water Board staff's inspection objectives were to evaluate:

- Site conditions, including hydrology and topography;
- Adverse and potential impacts to surface waters and groundwater; and
- Compliance with water quality objectives and prohibitions contained in the Conditional Waiver and the Basin Plan.

1. **Dairy Milk Production Area**
   The Inspection Team inspected the dairy production area by walking the outside perimeter of the area, observing, taking notes and photographs, and discussing the operation with Ranch Representatives. The dairy production area is located in the southeast quadrant of Reservation Ranch, as shown in Figure 1. Attachment A contains the Figures referenced in this inspection report. Cherie Blatt asked Steven Westbrook about the dairy herd size. Steven Westbrook stated that there were approximately 730 milking cows, 16 bulls, 110 dry cows (adults not lactating), 150 calves, 300 heifers, and 160 steers (Holstein bulls to be sold in October), for a total population of approximately 1,466 cattle. Cherie Blatt observed and photographed a pile of straw/manure mixture near the stall barns, as shown in Photo 2 of Attachment B. Attachment B contains all the photos referenced in this inspection report. Cherie Blatt asked about the origin and fate of this pile. Steven Westbrook explained that the pile of straw/manure was bedding from the cow stalls that would eventually be spread on the fields as fertilizer. Nearby, the Inspection Team observed a manure separator. Steven Westbrook said that the manure solids are separated out, composted in a special compost shed, and then used as bedding for the animal stalls.

   Regional Water Board staff did not observe evidence of waste discharges to surface water or groundwater at the production area.

2. **Irrigation Water**
   The Inspection Team observed clear irrigation water being sprayed on ranch fields from multiple irrigation guns near the milk production area, and later in fields on the way to the western parcels. The Inspection Team asked Steven Westbrook about groundwater wells. He stated that there are four groundwater wells on the ranch. The Inspection Team then asked about irrigation. Steven Westbrook said that manure washwater is collected through the trenches seen at the dairy, stored in tanks, and eventually used to irrigate the fields. Steven Westbrook explained that Reservation Ranch is currently pumping water from the Smith River. He pointed to aerial maps brought by CDFW staff and explained that he installed fish screens on

the intake pump in the Smith River after receiving directions from National Marine Fisheries Service (NMFS) staff in summer of 2016. Steven Westbrook then explained that Reservation Ranch's current practice is to pump water from the Smith River to trenches and lagoons on and along the property, where the water is then pumped to irrigate the fields. He mentioned that salt water mixing (from pumping from the sloughs and river so close to the ocean) is not a problem and only fresh water is used to irrigate.

Regional Water Board staff did not observe any evidence of discharges to surface water or groundwater associated with irrigation, but this observation was made from a distance of several hundred feet.

3. Potential Discharge Areas

The Inspection Team next inspected three areas located to the west of the dairy production area and adjacent to the Smith River:

A. **Waste Pile (Area A)** – As shown on Figure 1 and 2, Area A is located along a road that extends west from the dairy, turns northwest and crosses through the State Lands Commission-owned parcel, Del Norte County APN 103-010-10, and then continues north through several parcels owned by Reservation Ranch and connects to a small neighborhood between the mouth of Smith River and Highway 101. The waste pile is located along the west side of this road and appeared to be partially on Reservation Ranch-owned APN 103-010-01 and partially on State Lands Commission-owned APN 103-010-10. Area A's approximate latitude/longitude is 41.920750, -124.189628[1]. Regional Water Board staff observed the waste pile which included lumber, treated wood, furniture, demolition debris, garbage, bed mattresses, and plastic materials and rubbish, including toys and containers (see Photo 4).

The Inspection Team asked Ranch Representatives about the origin of the waste shown in Photo 4. The Ranch Representatives stated that the fencing waste was from the dairy, and that other debris was from Ship Ashore Resort, associated recreational vehicle sheds (which are owned by Reservation Ranch), and employee housing. Ranch Representatives stated that other waste was dumped by people because the gate is kept open during daytime hours and gate access is not monitored. Ranch Representatives also explained that they burned wood piles for about 30 years, but no longer do so because current regulations do not allow it; Steven Westbrook stated that the burning of manufactured lumber is a

[1] All latitude/longitude are in WGS 84 datum

prohibited activity. Ernie Souza mentioned that the Wood/Trash pile is occasionally run over with a Cat (Caterpillar bulldozer).

Steven Westbrook said that the mattresses were in a separate pile because he understood that the mattresses should not be burned and need to be transported to a dump. At the time of the inspection, a dump trip had not been scheduled. Steven Westbrook said he would need to rent a dump truck because his farm trucks were not licensed for use on public roads. He further explained that, in general, waste had been on Area A for years and that he did not have a timeframe for removing the material, but hopes to start removing the material this year.

The attached map and images from ParcelQuest.com (see Figure 4.a and 4.b.) show that the California State Lands Commission owns Del Norte County APN 103-010-10, and that much of the waste pile is located on that parcel. The Inspection Team asked Ranch Representatives if they knew where the State Lands Commission-owned APN 103-010-10 boundary was located. Ernie Souza said he didn't realize that the California State Lands Commission owned the parcel where some of the wood waste was placed.

Inspection Team members Cherie Blatt, Pat Veesart, and Brendan Thompson measured the approximate height and length of the visible waste piles with a tape measure and stadia rod. The piles collectively measured approximately 430 feet long along the west side of the ranch dirt road, 25-30 feet wide, and up to 7.5 feet high for an estimated volume of 2,400 cubic yards of waste above grade. It is important to note that Josh Levine, Brendan Thompson, Gordon Leppig, and Mike Van Hattem observed more waste below ground level and to the west of the waste piles. Josh Levine photographed the partially buried waste. Mike Van Hattem and Gordon Leppig inspected the area and stated that they found living obligate wetland plants among the buried and piled debris.

Ernie Silva left the site for an appointment while the Inspection Team was measuring the waste site.

B. **Dead Cattle Disposal (Area B)** – As shown in Figure 1 and 2, Area B appears to be entirely located on the State Lands Commission-owned parcel, APN 103-010-10, approximately 70 yards southwest of the southern extent of the waste pile at Area A. Area B's approximate latitude/longitude is 41.919758, -124.189268. Regional Water Board staff observed a clearing surrounded by dense stands of willow and Himalayan blackberry and containing loose soil spread over cattle carcasses (see Photo 5). The Inspection Team concluded that the area had been recently graded with heavy equipment based on the presence of machinery track

marks, the appearance of the soil, and the lack of vegetation starts. Regional Water Board staff observed an approximately 5 to 6-foot-deep, 6-feet-wide, 25-foot-long trench adjacent to the recently graded area. The trench bottom was densely covered with bones and the wall of the trench consisted of dead cattle on one side and a matrix of dirt and bones on the other side (see Photo 6 and Photo 7).

The Inspection Team asked Ranch Representatives about the dead cattle disposal area. Steven Westbrook explained that dead cattle are left out in this area where scavengers (wildlife) may have access to them, and about every three months, a heavy machinery operator from Reservation Ranch pushes soil and rock over the dead cattle and grades the area. According to Steven Westbrook, the last time Reservation Ranch graded and covered cattle was in June 2016. Steven Westbrook asked if his practice of dead cattle disposal was an issue, and asked what he was supposed to do with dead cattle since there is no rendering facility in Del Norte County or nearby. Cherie Blatt said that the California Dairy Quality Assurance (CDQAP) annual report writing workshops review dead animal disposal methods allowed in California. Later that afternoon, Cherie Blatt told Steven Westbrook that the next CDQAP meeting is on October 19 at 9:30 AM at Ferndale City Hall and that CDQAP would be sending flyers soon to local dairy operators.

Steven Westbrook stated that dead cattle have been disposed of in the manner explained above for at least as long as Ernie Silva was employed. Mr. Silva worked at Reservation Ranch from around 1967 to 2000-01. Steven Westbrook estimated that Reservation Ranch has been using Area B for cattle carcass disposal for about 50 to 60 years.

C. **Islas Slough and Manure/Straw/Spoiled Silage/Earthen and Organic Material Dump/Storage (Area C)** – As shown in Figure 1, Area C is located in the vicinity of the Islas Slough open water terminus of open water at approximate latitude/longitude 41.921474, -124.193851.

The Inspection Team visited Area C because potential discharges of fill material to waters of the state were observed previously on Google Earth aerial photo imagery (for example, see Figure 5). Historical aerial images also provide evidence that Islas Slough was a side channel of the Smith River until the upstream extent was blocked from the main stem by a levee constructed likely sometime between 1972 and 1974. At the time of the site inspection, Regional Water Board staff observed that the open water portion of Islas Slough terminated approximately 1,100 feet from the inboard side of the Smith River

levee (see Figure 3, which shows 2016 imagery approximating the extent of the open water channel at the time of our visit).

The Inspection Team observed two hydrologically distinct areas of potential impact on either side of an existing fence running northwest to southeast across the channel (see Figure 3 for fence location). East of the fence, Regional Water Board staff observed evidence that the slough channel is inundated by Islas Slough, whereas the channel west of the fence appears to be remnant slough/river channel that has been cut off from the Islas Slough hydrology.

East of the fence and towards the direction of the wetted portion of Islas Slough, the Inspection Team noted that the channel was dominated by wetland vegetation with hydric soils, and there were no obvious indications of recently deposited material in the channel; however, the Inspection Team found broken concrete and an abandoned rusted culvert partly overgrown with plants just outside the Islas Slough wetted channel (see Photo 20 and Photo 21). It appeared that the slough channel had been encroached upon by placement of earthen/organic material along the entire length of the left (northwestern) channel bank. Indications of encroachment into the channel can also be seen on aerial imagery, where there is an abrupt change in vegetation types. Moving along a perpendicular line away from the center of the channel toward the left bank, low lying portions of the channel dominated by wetland vegetation give way to an abrupt elevation increase, presumably from historically deposited materials that now form a terrace. Brendan Thompson stood at the lower slough elevation and took photographs of Josh Levine holding a stadia rod at the base of the terrace, at various locations along the slough (see representative Photo 17). This terrace showed indications that new fill material was regularly deposited in this area, and either left in place or subsequently removed.

West of the fence shown in Figure 3 and Photo 14, the Inspection Team observed numerous piles of earthen and organic material throughout the remnant river/slough channel. The Inspection Team observed a large continuous area of deposited fill material at approximate latitude/longitude 41.921092, -124.195179, immediately on the west side of the fence (see dashed black lines in Figure 3. This area of fill extended across the width of the remnant channel and consisted of a non-uniform distribution of several piles. Wetland vegetation was evident between the piles and the fence in low-elevation areas where little or no material had been placed. The continuous area of wetland vegetation on the east side of the fence continued across the fence into the western area, but the Inspection Team observed “fingers” of wetland vegetation reaching into the area of deposited fill material that ended abruptly at the margins of the mounds of fill material. It appeared that the fill material prevents wetland hydrology from

extending as far up the remnant slough channel as it would naturally or possibly did in the past. On the western side of this deposited material, wetland vegetation was present in low-lying elevations that appeared to be unaffected by fill material. Mike Van Hattem dug a hole in one of these areas, and found that the material had a high concentration of river gravel, indicating that a side channel of the Smith River was likely present at that location at some time in the past (see Photo 24). A pile of dirt covered by thatch was observed in this vicinity at approximate latitude/longitude 41.921009, -124.195769 (see Photo 25).

Also, as with the northwest bank of Islas Slough on the eastern side of the fence, it appeared that a significant amount of material had been dumped from the side of the dirt road into the remnant slough channel. Figure 3 shows the approximate areas where it appears material had been deposited, outlined in a dashed black line. It appears both from aerial imagery and observations on the ground that fill material has been placed in this area over several years, and much of the material is covered with well-established vegetation suggesting that it has been in place for some time. However, Regional Water Board staff also observed a number of piles off the side of the road that appeared to have been dumped within the past year because visible, undecomposed manure and straw was still visible; also, the lack of established vegetation indicated the material was recently placed (for example, see Photo 15 and Photo 16). Robert and Steven Westbrook said that the material on the piles was decomposing silage (cow feed) and straw (stall bedding). Robert Westbrook noted that the material is brought to Area C from April through August each year, and that ranch staff had begun removing this material and applying it to other parts of the property, starting about two weeks prior to our inspection. Both Robert and Steven Westbrook said that Area C would look different within the next two weeks after the material was removed and applied on the lily bulb fields. Steven Westbrook said that Mr. Silva did this practice for years. Recently placed material, possibly of the type observed and described by Ranch Representatives, is visible in the Figure 3 aerial photo as white or light blue areas. It appeared to Regional Water Board staff that there had been a net import of fill material in the area over the years that likely encroached into the slough channel.

Regional Water Board staff observed recent tire tracks and what appeared to be heavy equipment bucket scrape marks between the road and Islas Slough, east of the fence and slightly below the dirt road level, at approximate latitude/longitudes 41.921780, -124.194232, and 41.922556, -124.193581 (see Photo 18 and Photo 19). Reservation Ranch representatives said that material including cow stall bedding and waste silage feed had recently been removed from these areas. These areas smelled like manure and contained flat, graded, soil that was significantly darker in color than nearby soils in the area. Regional

Water Board staff estimated that each of these two areas was about a tenth of an acre in size. At 41.921780, -124.194232, the graded area and disturbed material abutted wetland vegetation, as identified by Gordon Leppig, at the boundary between the terrace and the top of the Islas Slough bank (see Photo 26).

In Area C, Cherie Blatt observed and photographed the area between the Smith River to the west and the tidal influenced area near the head of Islas Slough, to the east. The area between the road and the slough had a hummocky, uneven surface. Regional Water Board staff observed tall plants up to four feet high growing on much of the uneven surface.

4. End of Inspection

At the end of the inspection, Steven Westbrook requested that the Regional Water Board send him copies of photos, videos, sample results, and reports related to the September 21, 2016, inspection. Regional Water Board staff did not take samples and did not take videos during the inspection. All photos taken by Regional Water Board staff are provided on a compact disc (CD), which is enclosed with this inspection report. This inspection report is the final report documenting all observations made on September 21, 2016.

Steven Westbrook told the Inspection Team that he knows Area A (Wood/Trash pile) needs to be cleaned up and he does not want to add material to the site. Steven Westbrook asked what he was supposed to do with the dead cattle. He said that he feels that Ranch Representatives are appropriately managing the disposal of dead cattle on Area B. He further stated that every piece of land he owns is in the coastal zone, and other dairies in the area have the same practices as him.

Steven Westbrook asked who the complainant was. Cherie Blatt stated that the complainant was anonymous.

At approximately 2:00 PM, after completing inspection activities at Area C, the Inspection Team ended its inspection and Regional Water Board staff left the property.

IV. Conclusions and Recommendations

At each of the three areas, the Inspection Team observed features that indicate that Reservation Ranch has caused waste to be discharged into waters of the State, or that Reservation Ranch has caused or permitted, causes or permits, or threatens to cause or permit waste to be discharged or deposited where it is, or probably will be, discharged into the waters of the State and creates, or threatens to create, a condition of pollution or nuisance. The waters of the State at issue include groundwater, river, sloughs, and wetlands. Disposal at Areas A, B, and C do not appear necessary to carry on agricultural

activities. Unpermitted discharges of waste into waters of the State that are also are waters of the United States, violate Water Code section 13260, federal Clean Water Act section 301, 401, and 404, Discharge Prohibitions of the Conditional Waiver R1-2012-0003, and Discharge Prohibitions of the Basin Plan. Regional Water Board staff recommends that the owners/operators of Reservation Ranch provide a technical report that:

- Provides a historical account of waste discharge to Areas A, B, and C. Waste material should be characterized to help determine contaminants and constituents of concern for waste, soil, water, and groundwater sampling in the three areas;
- Delineates surface waters and wetland features in and around Areas A, B, and C. The delineated areal extent should be sufficient to identify unimpacted surface water features beyond the influence of the waste material;
- Determines the volume, nature, and lateral and vertical extent of waste material over time that has been placed in wetlands and other surface waters;
- Provides a restoration plan for Regional Water Board approval that details:
    - Removal and legal placement/disposal of waste material;
    - Restoration of filled/impacted water features; and
    - Management practices for future waste disposal/storage/placement on the property, demonstrating that materials/wastes will not adversely impact surface and ground waters.

Attachment A: Figures

Figure 1: Reservation Ranch Site Map, 2016 Aerial Photo
Figure 2: Area A and B Inspection Area, 2016 Aerial Photo
Figure 3: Area C Inspection Area, 2016 Aerial Photo
Figure 4a: Screenshot of ParcelQuest showing ownership of Del Norte APN 103-010-10
Figure 4b: Screenshot from ParcelQuest showing closer view of east boundary of Del Norte APN 103-010-10 overlain on 2016 photo imagery. Waste material is clearly visible along the road.
Figure5: June 7, 2013, Google Earth imagery indicating potential fill discharge to waters of the state

Attachment B: Photo Log

161114_CAB_BJT_ReservRanchInspectReprt.docx

Attachment A—Figures

Figure 1: Reservation Ranch Site Map, 2016 Aerial Photo

Base photo source, Figures 1, 2, and 3: 2016 National Agriculture Imagery Program (NAIP), image captured May 28, 2016 (2016 NAIP) and accessed here: URL: https://naip.nwgeo.com/arcgis/services/CA_EAWS_4B_2016/ImageServe

Figure 2: Area A and B Inspection Area, 2016 Aerial Photo

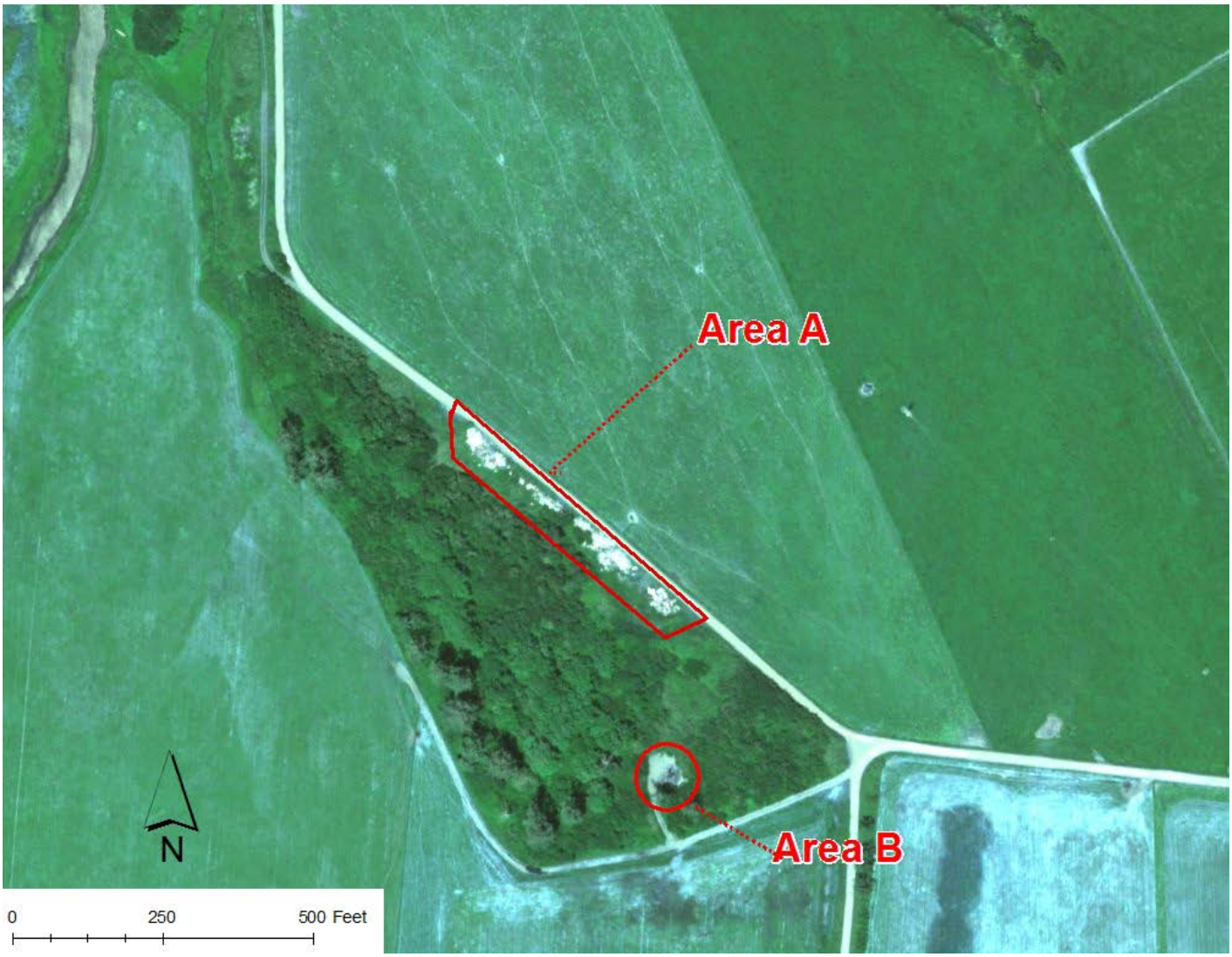


Photo Source: 2016 NAIP

Figure 3: Area C Inspection Area, 2016 Aerial Photo

Photo Source: 2016 NAIP

Figure 4a: Screenshot from ParcelQuest showing ownership of Del Norte APN 103-010-10

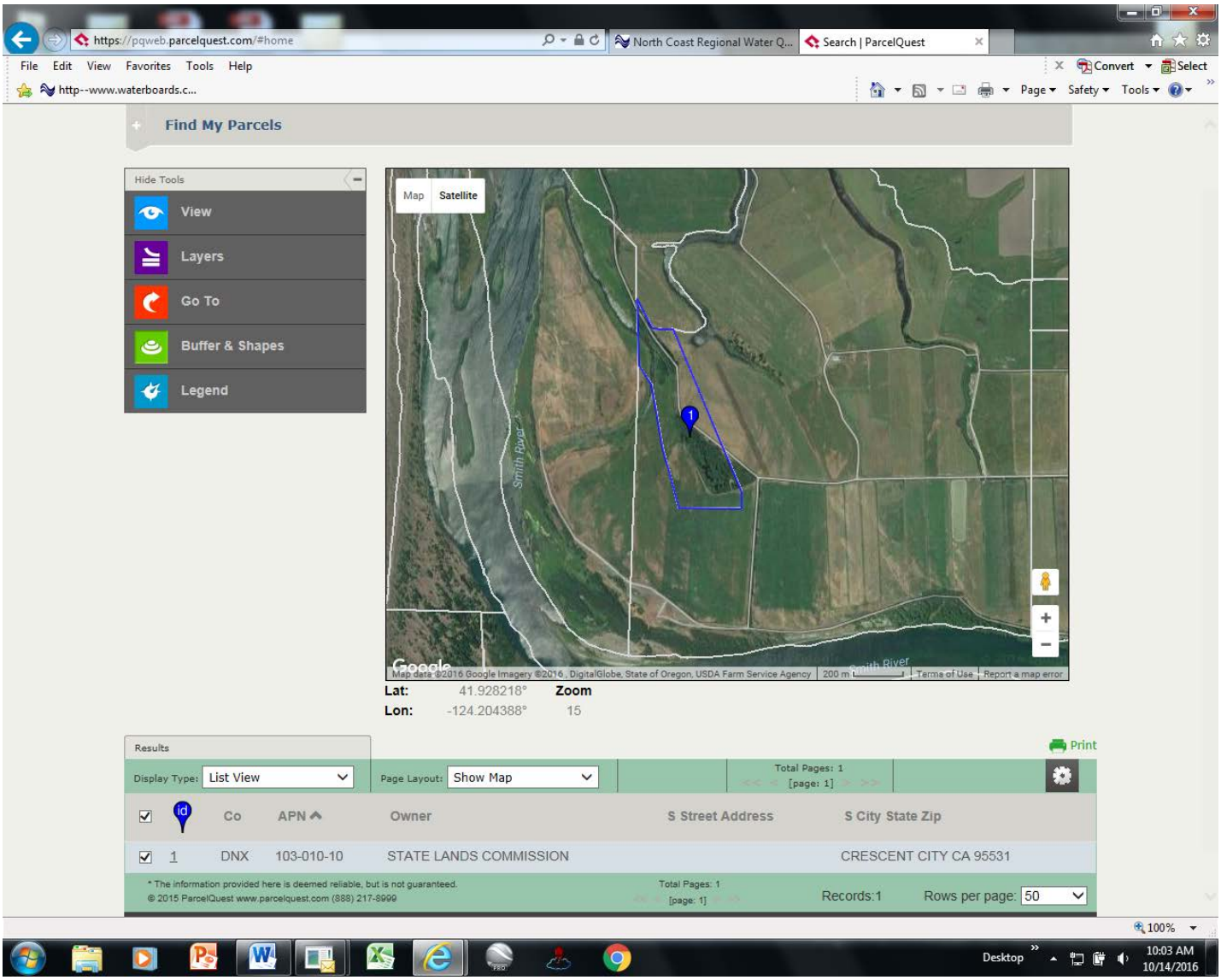


Figure 4b. Screenshot from ParcelQuest showing closer view of east boundary of Del Norte APN 103-010-10 overlain on 2016 photo imagery. Waste material is clearly visible along the road.

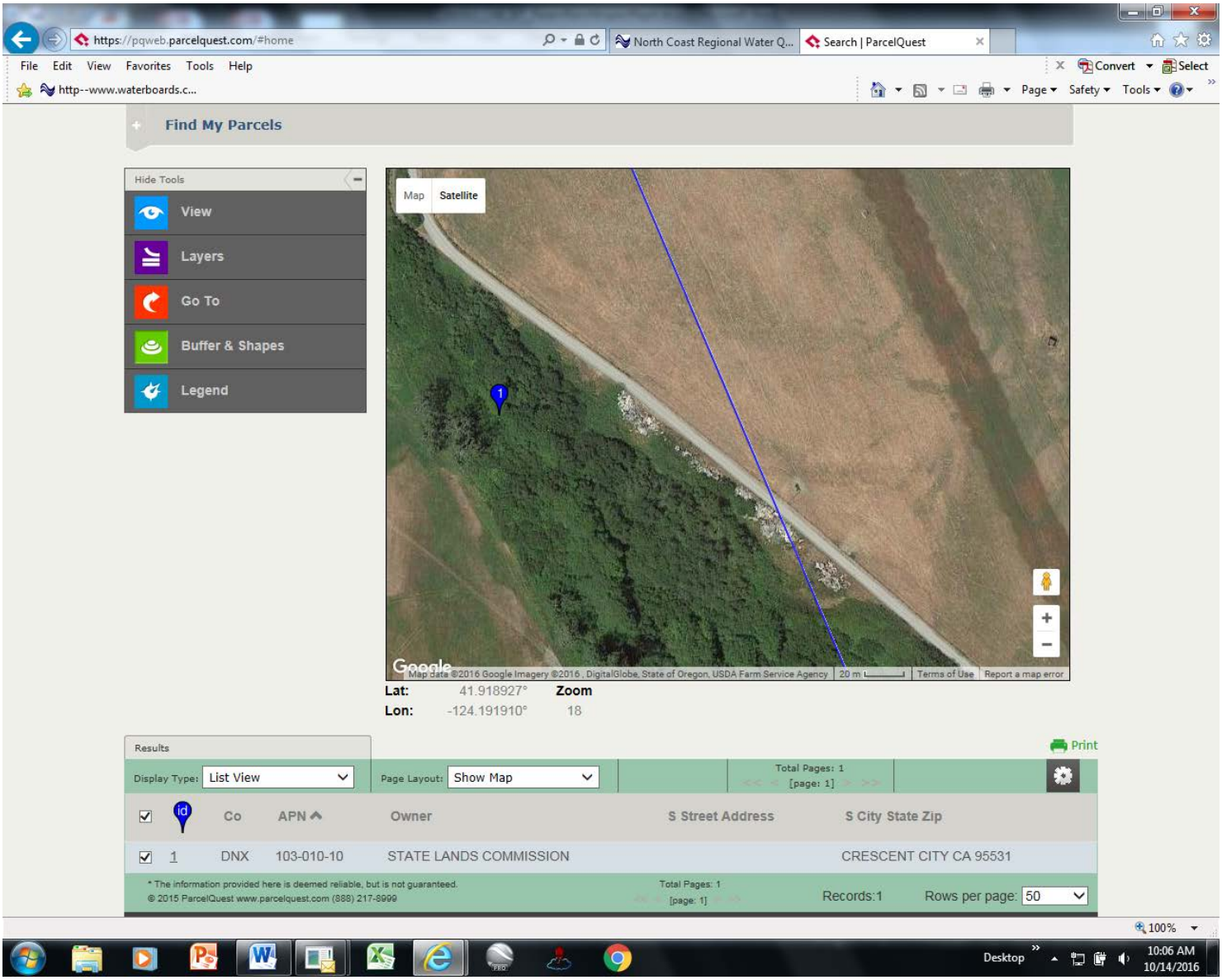


Figure 5: June 7, 2013, Google Earth imagery indicating potential fill discharge to waters of the state

Attachment B—Photo Log

September 21, 2016, Reservation Ranch Inspection Report
Photos by Cherie Blatt and Brendan Thompson, Regional Water Board

Photo 1: Cow at Reservation Ranch

Photo 2: Manure/straw bedding from Stall Barn at ranch.

Photo 3: Irrigation on west fields.

Photo 4: Area A: Waste pile.

Photo 5: Area B--Soil graded over dead cattle. Thick layer of willow and Himalayan blackberry.

Photo 6: Area B—Trench wall of dead cattle below top soil layer.

Photo 7: Area B--opposite trench bank from previous photo.

Photo 8: Smith River view from top of levy, looking southwest of Islas Slough.

Photo 9: Smith River on left. Levy road center. Remnant Islas Slough channel to the right.

Photo 10: Islas Slough in Area C looking north toward its connection with the Smith River.

Photo 11: Area C. Current open water terminus of Islas Slough at low tide.

Photo 12: Area C. Islas Slough at low tide, looking southeast.

Photo 13: Area C. Islas Slough a few hours later as tide rises. This shows the wetted channel.

Photo 14: Area C. Standing on the road looking southeast at the fence line. Dumped material in the foreground.

Photo 15: Area C. Looking northwest from the fence line up to the vantage point of Photo 14.

Photo 16: Area C. Dumped organic material on the bank between ranch road (left) and Islas Slough (far right), as looking northeast.

Photo 17: Area C. Measuring the height of accumulated material at left bank of Islas Slough.

Photo 18: Area C. Recent grading on bank between ranch road and Islas Slough as looking southeast.

Photo 19: Area C. Tractor track marks on flat area between ranch road and Islas Slough.

Photo 20: Area C. Concrete debris in Islas Slough channel at approximate latitude/longitude 41.921795, -124.193744.

Photo 21: Area C. Old culvert debris in Islas Slough channel at approximate latitude/longitude 41.921795, -124.193744.

Photo 22: Area C. Manure/straw piles between ranch road and Islas Slough.

Photo 23: Area C. Manure/straw piles between ranch road and Islas Slough.

Photo 24: Area C. Inspector dug a hole in the lower elevation of the remnant slough channel, which showed a high concentration of river gravel.

Photo 25: Area C. Dirt material deposited in remnant slough channel covered by thatch.

Photo 26: Area C. Recently disturbed organic material pushed up against wetland vegetation at approximate latitude/longitude 41.921658 , -124.194131.