ORDER TO SUBMIT INFORMATION

March 27, 2019 Certified Mail Number 7016 2710 0000 2635 5942

Mr. Danny Kuehl
P.O. Box 488
Lewiston, CA 96052

Dear Mr. Kuehl:

Subject: **Order Requiring Submittal of Technical Information** Pursuant to California Water Code section 13267 (Order)

File: Kuehl Property, 380, 441, & 553 Henrietta Road, Lewiston, Trinity County APNs 025-350-53-00, 025-350-52-00, and 025-350-22-00 (the Property); CIWQS Place ID No. 827450, WDID Nos. 1A161078CTRI and 153C378658

This is an order to provide information pursuant to Water Code section 13267 for the above-referenced Property. Specific applicable requirements are discussed in detail below. You are sometimes referred to as "Discharger" in this, and other, documents.

I. Background

On August 12, 2016, the North Coast Regional Water Quality Control Board (Regional Water Board) received an application from the Discharger for enrollment in the *Waiver of Waste Discharge Requirements and General Water Quality Certification for Discharges of Waste Resulting from Cannabis Cultivation and Associated Activities or Operations with Similar Environmental Effects in the North Coast Region, Order No. R1-2015-0023* (Cannabis Waiver) for Trinity County APNs 025-350-52-00 and 025-350-53-00 (described as 380 and 441 Henrietta Road, Lewiston, CA, respectively). On August 23, 2016, the Regional Water Board enrolled the properties described as 380 and 441 Henrietta Road as a Tier 2 site under the Cannabis Waiver. On or about December 5, 2016, the Discharger enrolled APNs 025-350-52-00 and 025-350-22-00 (described as 441 and 553 Henrietta Road, Lewiston, respectively) in the Construction General Permit Order No. 2012-0006 DWQ (CGP or

Construction General Permit) and submitted a Storm Water Pollution Prevention Plan (SWPPP). The property described as 553 Henrietta Road (APN 025-350-22-00) was not enrolled in the Cannabis Waiver or the CGP, even though cannabis cultivation was observed on this property during a June 9, 2017 inspection.

On June 9, 2017, staff from the Regional Water Board (Staff) and the State Water Resources Control Board inspected the Property while accompanied by the California Department of Fish and Wildlife (CDFW) Watershed Enforcement Team. The purpose of the inspection was to observe Property conditions related to water quality, water diversion, and use, and to evaluate impacts and potential impacts from the Property to the water quality and beneficial uses of receiving waters in the Trinity River watershed. Staff documented observed conditions in the Field Inspection Report (attached hereto as Attachment A) transmitted to you on August 23, 2018.

Based upon observations made during the inspection, Staff identified several locations with conditions that represent actual or threatened impacts to water quality requiring corrective action. A Notice of Violation was recently sent documenting observed violations at the Property.

On various dates in September, October, and November 2018, a number of consultants contacted Staff numerous times to determine how to correctly proceed with maintenance and development at the Property. When contacted, Staff provided guidance on correcting violations, including recommendations to develop a Restoration and Monitoring Plan (RMP) for the extensive grading causing water quality violations on the Property.

To date, we have not received a formal RMP. However, we acknowledge and appreciate that the Discharger is now working closely with us through consultant Jess Gregory, who met with Staff in the Regional Board office on November 20, 2018. During this meeting, Mr. Gregory, stated the Discharger would submit an RMP to us by December 31, 2018, and he requested clarification on the scope of work required. We acknowledge that the Discharger has been unable to submit an RMP by the end of 2018 because the Discharger has been waiting for direction from Staff on the scope of work.

This Order defines the scope of work necessary to correct violations and provides a timeline for submission of required technical information.

II. Applicable Legal Authority for Requirement to Submit Information

California Water Code section 13267 subdivision (b)(1) states, in part:

> *In conducting an investigation specified in subdivision (a), 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, or*

> *any citizen or domiciliary, or political agency or entity of this state who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge, waste outside of its region that could affect the quality of waters 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.*

Section V of this document requires that you submit an RMP, which is necessary to ensure water quality is protected while violations associated with the illegal development of the Property are addressed. In this case, the scope of work necessary to resolve the water quality issues associated with the illegal grading will likely require a licensed engineer to develop the required plans. As such, given the numerous violations of regional and state programs, the reports required by this Order are necessary to understand and protect water quality while work proceeds to address the violations at the Property.

III. Information Required

Water Code Section 13267 Requirement to Submit Technical and Monitoring Reports

The Directives, below, require that you submit a formal remediation plan. In summary, the Property construction and development work conducted under your direction resulted in, among other things, the complete excavation of a Class III stream in its headwaters and the burial of the same stream for over 200 feet downslope from the excavation; earth work on steep slopes in and adjacent to a stream; and placement of loose earthen materials in locations where they can discharge to surface water. As a result, significant amounts of earthen materials have eroded from the construction site, roads, and the cultivation area into watercourses.

The Regional Board requires that you submit an RMP that addresses the violations described herein and the threat of future discharges documented in the Field Inspection Report included as Attachment A to this correspondence.

The requirement to submit an RMP is made pursuant to Section 13267 of the California Water Code.

A. Directives

1. The RMP shall include, but not be limited to, the following components (for additional background related to the necessary remedial work, see Attachment B which documents the "preexisting" condition that the Property must be restored to):

    a. A plan, developed by a qualified licensed professional, for Property restoration, including a description of how long-term impacts from erosion and sedimentation sources will be abated (e.g., re-grading and reengineering, graveling or paving road surface, etc.). The plan shall include a proposal to restore beneficial uses of any waters of the state on the Property that were adversely impacted by the unauthorized activities, including Trinity River and its unnamed tributaries, and any springs, seeps, bogs, or wetlands. In summary, the RMP shall include all measures necessary to restore the Property to its condition prior to the above-noted violations, including measures to address the issues described herein.

    b. A proposal to provide compensatory mitigation to compensate for any temporal and/or permanent impacts to wetlands and other waters of the state that resulted from unauthorized activities on the Property. Compensatory mitigation shall comply with the State's No Net Loss Policy[1] and be developed in accordance with the US Army Corps of Engineers Regulatory Program Standard Operating Procedure for Determination of Mitigation Ratios (12501-SPD)[2]. The proposal shall (1) describe existing site conditions at the proposed mitigation sites; (2) describe implementation methods used to provide compensatory mitigation; (3) include photo point monitoring that will be implemented and meets the following performance criteria: (i) photo point monitoring shall illustrate all slopes associated with construction and placement of earthen fill materials generated through construction; and (ii) additionally, all discharge points shall be photo point monitored by images of upstream, downstream and the point of discharge. Photo point and required CGP and Cannabis Waiver monitoring will be used to evaluate the success of the compensatory mitigation; and (4) submit a monthly progress report due on the 1st of each month until all required construction activities are completed.

[1] Executive Order W-59-93 aka "No Net Loss Policy".

[2] https://www.spd.usace.army.mil/Portals/13/docs/regulatory/qmsref/ratio/12501-SPD.pdf

c. Best management practices to be applied to all current and planned work associated with construction activities on the Property impacting, or having the potential to impact, the Trinity River, its unnamed tributaries, or any other waters of the state (e.g., wetlands). The RMP shall contain, at a minimum, design specifications for roads, watercourse crossings, in-stream structures and for aquatic and riparian habitat restoration, surface drainage controls, erosion and sedimentation controls, a monitoring and reporting plan, and success criteria for restoration and compensatory mitigation. The RMP shall incorporate use of appropriate native or endemic species in any re-vegetation efforts.

d. An implementation schedule that includes a time schedule for submitting permit applications to all applicable local, state, and federal agencies, as necessary, and detailed project milestones to fulfill the requirements of this Order once those permits are obtained**.** Any work in streams or wetlands requires an approved Water Quality Certification from the Regional Board. **The Regional Water Board expects that all restoration can be completed by October 15, 2019, and an implementation schedule acceptable to the Regional Water Board must include this as the proposed work completion date.**

e. A replanting plan must be included with the required RMP designs that meets the following requirements: All tree and shrub plantings shall have a minimum of 85% success of thriving growth at the end of five years, with a minimum of two consecutive years (two growing seasons) of monitoring after the removal of irrigation. Planting shall be spaced to ensure adequate vegetative cover to control surface erosion and increase soil stability. If this initial replanting fails, an additional round(s) of replanting is required, and monitoring shall be extended for another five years until the 85% success rate of vegetation re-establishment is accomplished. The Discharger is responsible for replacement planting, additional watering, weeding, invasive/exotic eradication, or any other practice to achieve the success criteria.

2. **The RMP is due on April 27, 2019**

Please submit an electronic and full-size hard copy of the RMP to:
Joshua Luders – Joshua.Luders@waterboards.ca.gov
North Coast Regional Water Quality Control Board
Attn: Joshua Luders
5550 Skylane Blvd. Suite A
Santa Rosa, CA 95401

IV. Basis for Requirements in this Letter

The Regional Water Board orders the Discharger to provide the required information to ensure that the Property is adequately stabilized and restored to prevent ongoing impacts to water quality. The Discharger is required to submit this information because it will facilitate resolution of the violations described in the March 26, 2019 Notice of Violation and restoration of water quality. According to Trinity County records, the Discharger is the current owner of the Property and was responsible for directing Property construction and development activities in, and prior to, 2017 when the discharges occurred. The Discharger is also the enrollee on record for the Property under Order No. R1-2015-0023 and the Construction General Permit. The evidence supporting this requirement is included in the Field Inspection Report included as Attachment A to the March 26, 2019 Notice of Violation.

The burden, including the costs, of producing this technical report bears a reasonable relationship to the need for the report since the report is necessary to quantify the impacts to water quality and ensure restoration occurs in a defined and appropriate manner.

Future correspondence regarding this matter will be sent to the Discharger at the above unless an alternative address is provided to the Regional Water Board. Failure to accept mail from the Regional Water Board is not a valid excuse for non-compliance with any future enforcement orders, and a failure to respond or otherwise appear at a future enforcement proceeding could subject the Discharger to a default order and the imposition of administrative civil liability. Continued cultivation of cannabis on the Property requires transitioning enrollment into the State Water Resources Control Board Cannabis Program no later than July 1, 2019.[3] Your 2018 annual report is also due by March 31, 2019. You can both transition your enrollment and submit your 2018 annual report through the Water Boards' online portal: https://public2.waterboards.ca.gov/cgo

V. Future Enforcement Action

Failure to submit the technical report may subject the Discharger to further enforcement action by the Regional Water Board, including the imposition of administrative civil liability, adoption of a cease and desist order or time schedule order, issuance of a cleanup and abatement order, or referral of the matter to the District Attorney or State Attorney General. Administrative liabilities may be assessed beginning with the date that a violation first occurred. Violating this Order may subject the Discharger to administrative liability up to $1,000 per day violation pursuant to Water Code section 13268.

3 https://www.waterboards.ca.gov/water_issues/programs/cannabis/docs/finaladoptedcango101717.pdf

VI. Petitioning this Order

Any person aggrieved by this action of the Regional Water Board may petition the State Water Board to review the action in accordance with California 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 p.m., 30 days after the date of this Order, except that if the thirtieth day following the date that this Order becomes final falls on a Saturday, Sunday, or state holiday (including mandatory furlough days), the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at: https://www.waterboards.ca.gov/public_notices/petitions/water_quality/ or will be provided upon request.

For any questions on this matter, please contact Joshua.Luders@waterboards.ca.gov or at (707) 576-2551.

Additionally, we are available to meet to discuss this Order in more detail.

Sincerely,

Digitally signed by Claudia Villacorta
Date: 2019.03.27 09:44:21 -07'00'

Claudia E. Villacorta, P.E.
Assistant Executive Officer

190327_JAL_er_Danny Kuehl_13267

Attachments:

Attachment A - Field Inspection Report
Attachment B - Documentation of Preexisting Conditions

cc: Via email with attachments

Discharger and Consultant

Danny Kuehl, dam.dk45@gmail.com
Jess Gregory, laptop017@yahoo.com

Department of Fish and Wildlife

Jeremy Valverde, Esq., Jeremy.Valverde@wildlife.ca.gov
Tobi Freeny, Tobi.Freeny@wildlife.ca.gov
Lt. DeWayne Little, DeWayne.Little@wildlife.ca.gov

Trinity County

Leslie Hubbard, lhubbard@trinitycounty.org

United States Army Corps of Engineers

Holly Costa, holly.n.costa@usace.army.mil

State Water Resources Control Board, Division of Water Rights

Skyler Anderson, Skyler.Anderson@waterboards.ca.gov
Taro Murano, Taro.Murano@waterboards.ca.gov

State Water Resources Control Board, Office of Enforcement

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Joshua Luders, Joshua.Luders@waterboards.ca.gov
Nathan Jacobsen, Esq., Nathan.Jacobsen@waterboards.ca.gov

Field Inspection Report			
Name and Location of Facility Inspected	Danny Kuehl Properties: • 380 Henrietta Road, Lewiston, CA. 96052 • 441 Henrietta Road, Lewiston, CA. 96052 • 553 Henrietta Road, Lewiston, CA. 96052		
Inspection Date and Time	June 9, 2017 0800-1600 Travel Time Included	**Trinity County Assessor Parcel Numbers (APN)**	APN: 025-350-53-00 APN: 025-350-52-00 APN: 025-350-22-00
Name & Titles of On-Site Representatives and Consenting Parties	**Consent Provided?**		**Notified of Inspection?**
	W.E.T. Warrant Inspection		NO
Property Owner(s):	Danny Kuehl		
Physical Address:	380, 441, & 553 Henrietta Road, Lewiston, CA. 96052		
Mailing Address:	PO Box 488 Lewiston, Ca. 96052		
Property Representatives Present:	Danny Kuehl		
Report Prepared By:			
Joshua Luders, Water Resource Control Engineer (WRCE), North Coast Regional Water Board (RWB)			
Report Reviewed By: Stormer Feiler Senior Environmental Scientist Specialist (SESS)			
Attending Agency Representative:			
Water Boards	**Ca. Department of Fish and Wildlife (CDFW)**		
Stormer Feiler, SESS, RWB	Ashley Worth, ES		
Skyler Anderson, ES, State Water Resources Control Board, Division of Water Rights (Division)	DeWayne Little, Warden		
Michael Vella, ES, State Water Resources Control Board, Division of Water Rights (Division)			
Weather:	Mostly Sunny with clouds		
Facility Receiving Water Names:	Douglas City Hydrologic Subarea of Middle Trinity River Hydrologic Area, Trinity River Hydrologic Unit. Cal Water number 1106.310601, Deadwood Creek. HUC-12 180102110703, Deadwood Creek-Trinity River.		

Trinity County APNs 025-350-22, -52, and -53
June 9, 2017, Inspection
CIWQS Place ID 827450

Introduction

In response to complaints received alleging grading and site development associated with cannabis cultivation, staff of the California Department of Fish and Wildlife, North Coast Regional Water Quality Control Board (Regional Water Board), and State Water Resources Control Board Division of Water Rights (Division), inspected the subject parcels on June 9, 2017. All three parcels are owned by Danny Kuehl.

Before the inspection, Regional Water Board staff, Joshua Luders, reviewed enrollment status under Regional Water Board Order No. R1-2015-0023, Waiver of Waste Discharge Requirements and General Water Quality Certification for Discharges of Waste Resulting from Cannabis Cultivation and Associated Activities or Operations with Similar Environmental Effects in the North Coast Region (Regional cannabis order). Danny Kuehl enrolled two of the parcels (APN 025-350-52 and -53) for coverage as a Tier 2 site on August 23, 2016. The third parcel, APN 025-350-22, 380 Henrietta Road, is not enrolled under the Regional cannabis order. The Appendix C/Monitoring and Reporting Program form for enrollment indicated that the enrolled parcels were not meeting two standard conditions: 1) Site maintenance, erosion control, and drainage features, and 2) Stream crossing maintenance, and indicated an anticipated compliance date of October 2016.

During the inspection, Regional Water Board staff confirmed evidence of extensive grading/soil disturbance on the two enrolled parcels, including recently constructed roads, earthen fill pads, and watercourses filled with soil. Staff identified significant water quality violations on the enrolled parcels and staff determined that enrollment paperwork incorrectly characterized the site. Mr. Kuehl was unable to supply staff with a copy of the Water Resource Protection Plan (WRPP) for the enrolled parcels, when requested. Staff concluded that the extent of the disturbance, impacts to receiving waters, and continued threats to the quality and beneficial uses of receiving waters posed by the site warrant cleanup and restoration. Staff also observed approximately 2,000 square feet of cannabis cultivation on APN 025-350-22, but did not document any significant water quality concerns on this parcel.

Background

Table 1 identifies that dates that each of the subject parcels was transferred into Danny Kuehl's name, per Parcel Quest.

Address	Assessor Parcel Number	Transfer Date
380 Henrietta Road	025-350-22-00	12/9/2011
441 Henrietta Road	025-350-52-00	9/28/2015
553 Henrietta Road	025-350-53-00	9/12/2016

The properties are located in Hoadley Gulch in the Upper Middle Area of the Trinity River Watershed. The Trinity River Watershed is federal Clean Water Act Section 303(d)-listed for sediment and temperature impairments. The United States Environmental Protection Agency (EPA) established a technical Total Maximum Daily Load (TMDL) for the Trinity River on December 20, 2001 (EPA, 2017). The EPA determined that the Hoadley Gulch component of the Trinity River Watershed needs an 88% reduction in sediment to attain the desired TMDL. The TMDL identified the three major sources of sediment in the region as from roads, timber harvest, and legacy sites.

Property Information

Figures 1 and 2 show the three parcels. The map view provides a good indication of where the parcel boundaries are with respect to Henrietta Road, and the terrain image provides insight to the topography of the immediate area. Undisturbed areas on the property are well forested with Ponderosa Pine, Douglas fir, Oaks and Madrones; the understory is primarily manzanita.

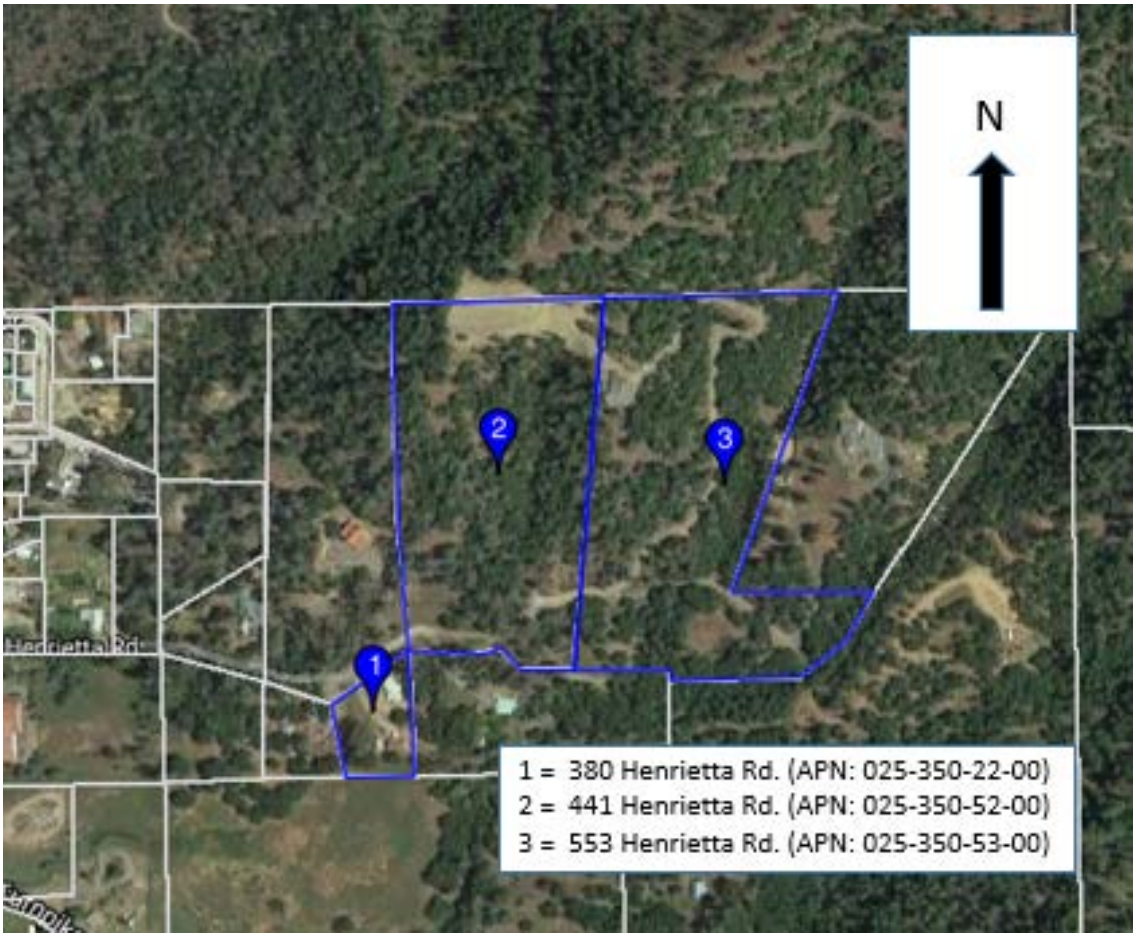

Figure 1: Parcels inspected, comprising the Property (Parcel Quest, 2017).

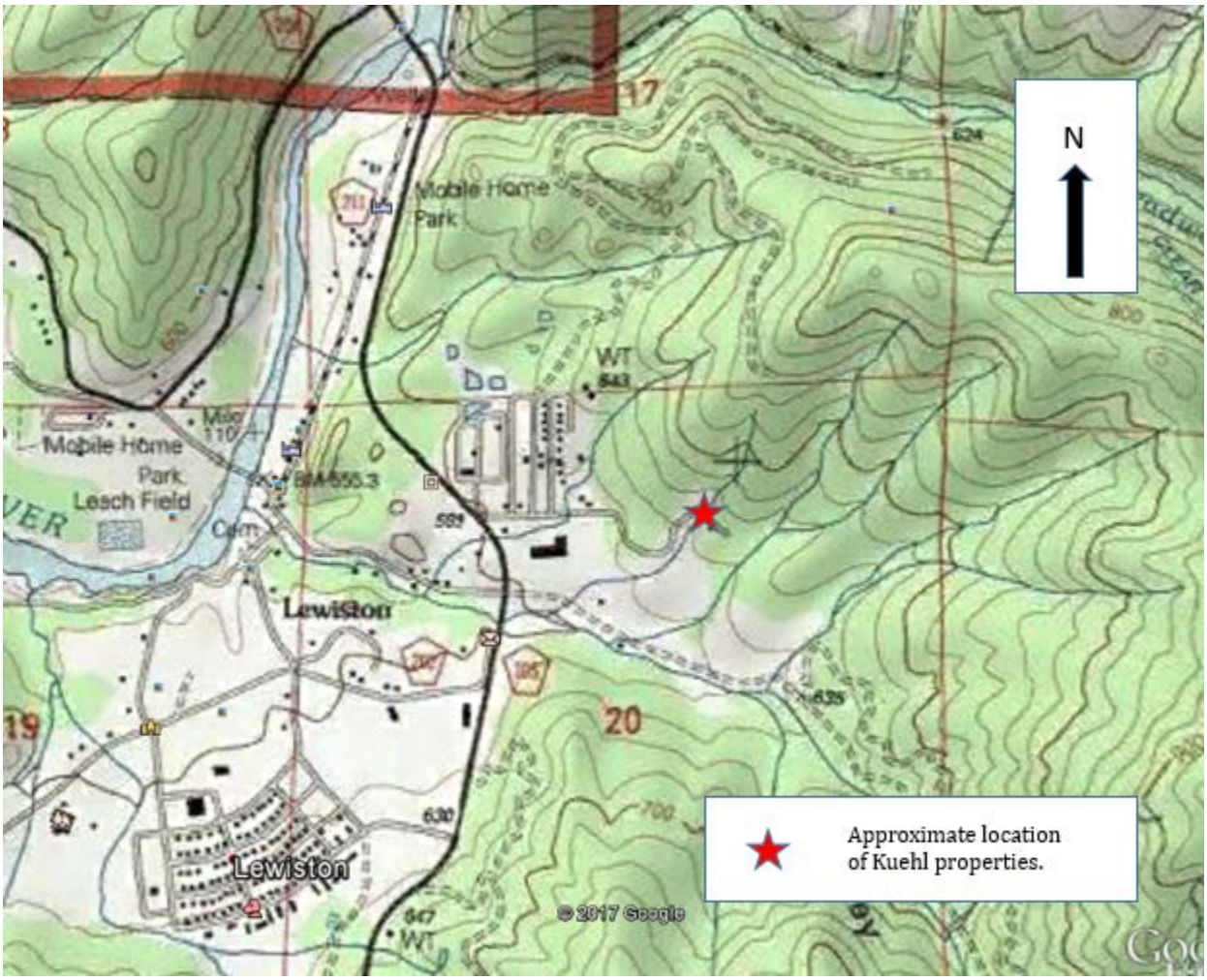

Figure 2: Topographic map of approximate location of Danny Kuehl properties investigated (Earth Point, 2017) (Edited by Luders, J.)

Inspection Observations

Reviewing Google Earth historical imagery, I attempted to identify the approximate time line of property development. Based on available imagery, it appears that sometime between July 10, 2012, and May 28, 2016, the Property was progressively graded and developed.

Based upon the apparent level of compaction or lack thereof, and the rough unwashed surface of many near vertical, recently worked earthen hillslopes, staff expect that most of the construction occurred sometime before May 28, 2016, and continued on into 2017. Mr. Kuehl told staff he was not yet finished with the work and he intended to perform additional work.

Figure 3: Aerial view of the three parcels and surroundings on July 10, 2012 (Google Earth Pro, 2017). No visible signs of significant land disturbance (Edited by Luders, J.).

Figure 4: Aerial view of the three parcels and surroundings on May 28, 2016 (Google Earth Pro, 2017). A large clearing is now visible (Edited by Luders, J).

On June 9, 2017, staff of the Regional Water Board, Division of Water Rights, and the Department of Fish and Wildlife inspected the three parcels. Figure 5 includes waypoints and points of interest discussed further below.

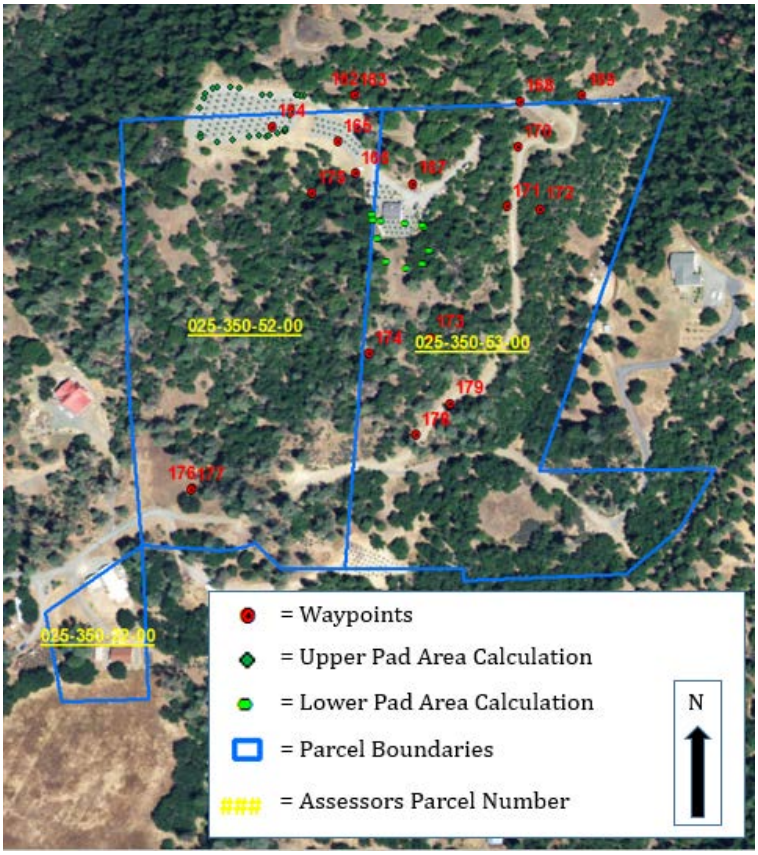

Figure 5: Inspection map of the three Danny Kuehl properties in Trinity County (ArcMap, 2017).

Staff began the inspection near the structure located immediately south west of waypoint (WP) WP-167. Staff observed equipment commonly used for excavation work parked on the Property and evidence of recent grading, as shown in Figure 6.

Figure 6: The left photo is aerial imagery of the Property prior to significant development (Google Earth Pro, 2017). The yellow star indicates the approximate location where I was standing when I took the photo on the right, looking southward toward the house located on APN 025-350-53-00 (IMG_4129 S. Feiler).

Disruption of the Natural Hydrology

Recent site development included hillslope excavation and construction on the north side of the house (Figure 7). The original contour of the ridgeline that once extended towards the house can be seen outlined in red. The hillslope excavation and earthwork altered the natural hydrology, filled in streams, and created drainage patterns that will likely concentrate surface flows into existing and altered stream systems.

The historic ridgeline, prior to construction, had a definitive watershed boundary, delivering rainfall runoff via sheet flow to two different drainage areas. Removal of the ridge has now altered drainage patterns, likely redirecting a portion of the flows towards, rather than away from the Property. It appears that the soil excavated from the ridgeline was used to create a fill pad on top of the mountain and to expand an existing pad in front of the house.

Figure 7: Ridgeline cut back to increase the size of the pad. The red line indicates the original contour of the ridge that had previously extended downhill towards the house. There is a terrace wide enough to drive a vehicle, midway up the cut face (IMG_4117 S. Feiler) (Edited by Luders, J.).

Discharge of Sediment to Create a Pad South of the House

As noted above, we observed that soil had been added to an earthen pad south of the house, increasing its size over what is visible in the July 2012 imagery. Figure 8, created using ArcGIS and a global positioning system (GPS), depicts, with green dots the perimeter of the expanded surface area of the pad, as recorded by staff on June 9, 2017. Fill material extends at slopes ranging from 75%-80% downhill to the fill toe. GPS points 173 and 174 mark two points along the fill toe.

Figure 8: Green dots depict the perimeter of the expanded portion of the pad. WP-174 and WP-173 mark two locations along the toe of the pad.

Staff estimate that the increased pad surface area (shown in Figure 9) is approximately 11,200 ft^2, based on GPS measurements collected during the inspection.

Figure 9: Recently constructed 11,200 square foot earthen pad expansion area. Note trench crossing the pad, possibly intended for placement of the irrigation pipe visible on the left (DSCN1211 Luders, J.).

I observed standing trees partially buried in the earthen materials and a 200-foot long erosion rill in earthen fill slope (Figure 10, Figure 11, and Figure 12). Buried tree trunks suggest that the slope was not properly prepared prior to constructing the fill prism, increasing the likelihood for future pad settlement and slope failure. In addition, burying tree trunks in soil causes the trees to die and, once dead, the trees decay, reducing slope stability and consequently threatening sediment transport into nearby waterways.

Figure 10: A conifer, with its base buried in earthen materials. (DSCN1222 Luders, J.)

Figure 11: Trees near the toe of the earthen pad, with trunks partially buried in the deposited soils. The conifers in the foreground show signs of damage. (DSCN1217 Luders, J.).

Figure 12: A 200-foot long rill has formed on the fill slope. (IMG_4094 S. Feiler)

Figure 13: Looking up from WP-173 to the top of the expanded pad. The person standing at the top is approximately six feet tall (DSCN1285 Luders, J.).

Swale Earthen Materials

On the uphill side of the Property, at WP-163, I observed a cut and filled drainage swale/Class III watercourse channel. Figure 14 shows the channel just uphill of a road/terrace. We did not observe any constructed conveyance for streamflows, and it appears that earthen fill was sidecast onto the downhill side, filling the channel below the road crossing as well. This swale/channel is the headwaters of the filled canyon discussed in the next section.

Figure 14: Stream channel above the road crossing at WP-163 (DSCN1238 Luders, J.)

Filled canyon

Below the road crossing at WP-163, staff observed an earthen pad constructed in what had formerly been the upper reach of a canyon. Figures 15, 16, and 17 show the magnitude of the excavation and fill removal and placement. Earthen materials placed in the canyon buried the stream and tree trunks (see Figure 18).

Figure 15: The red rectangle outlines the approximate area of surface drainage affected by filling in the watercourse. Notice how soil was side cast (discharged) in the upper reach of the canyon (Google Earth Pro, 2017).

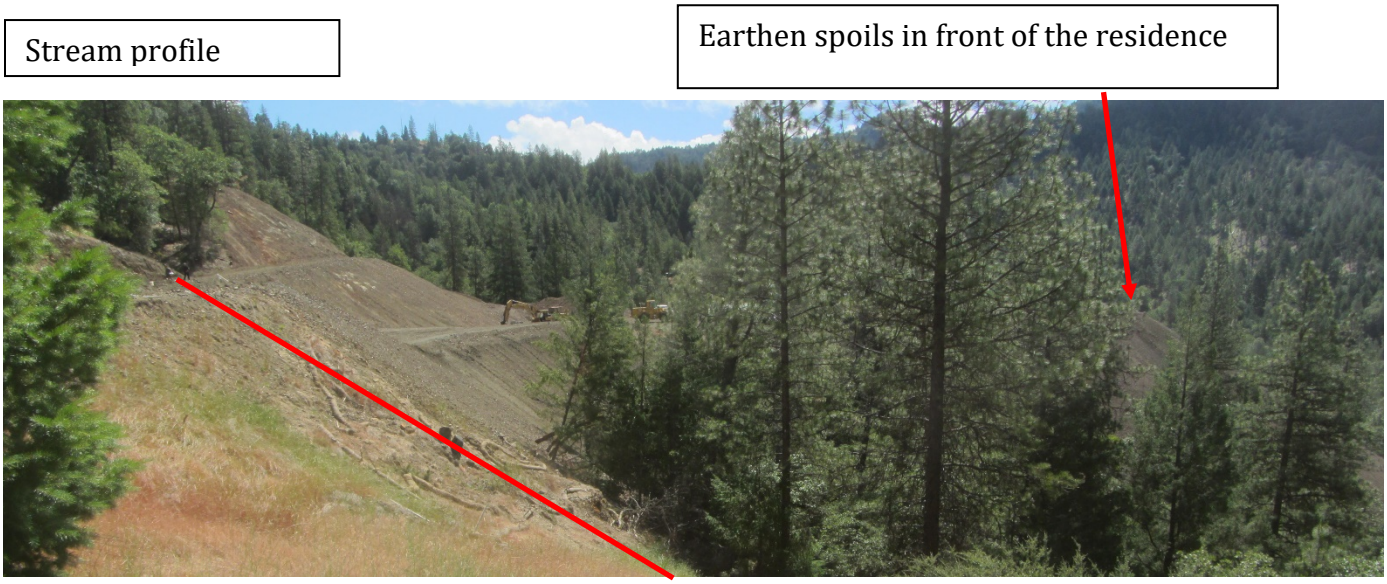

Figure 16: The red line shows the approximate alignment of the stream that was excavated and buried during construction. Earthen spoils in front of the home are partially visible through the trees (IMG_4164_4165 S. Feiler) (Cropped and edited by Luders, J.).

Figure 17: The red line outlines the approximate contour of the filled canyon. The upper edge of this over steepened slope terminates with an abrupt shelf. Staff measured slopes on the fill face at 75%-80% (IMG_4181 S. Feiler) (Cropped and edited by Luders, J.).

Figure 18: A buried oak tree near the base of the filled canyon. (DSCN1296 Luders, J.).

Road Crossing without a Culvert

At inspection point WP-175, staff observed a road along the base of the filled canyon discussed above. Below the road, staff observed a Class III watercourse channel (see Figures 19 and 22). It also appears that the roadway in this area, shown in Figure 20, was partially constructed from sidecast earthen materials.

Figure 19: Overview of road at the base of the filled canyon, crossing a Class III watercourse channel (IMG_4233_4234 S. Feiler) (Edited by Luders, J.).

Figure 20: Blue line shows the approximate alignment of the watercourse channel filled in and crossed by the roadway. Viewed from WP-175 (DSCN1296 Luders, J.) (Edited by Luders, J.).

Figure 21: Blue line shows the approximate historic channel alignment above the roadway. View from WP-175 (DSCN1294 Luders, J.) (Edited by Luders, J.).

Figure 22: Blue line shows approximate historic alignment of the channel downstream of the roadway. Fill material placed in the stream channel is likely to fail and travel or be transported downstream during the winter period. View from WP-175 (DSCN1294 Luders, J.) (Edited by Luders, J.).

Upper Cultivation Site

At the northwest portion of the Property, on the pad along the excavated ridgeline, we observed a grouping of fabric planters (Figure 23), comprising approximately 13,330 square feet.

Figure 23: Fabric planters on the large earthen pad on the excavated ridgeline. WP-164 is located near the leftmost fabric planter pot visible in the photo (DSCN1236 Luders, J.).

Road Drainage

The access road to the upper home site and construction area is insloped, with some crown. Grading patterns have hydrologically connected a large area of upper road and pads to this lower access road. I observed a ditch relief culvert (DRC) on the inside ditch along the access road. The DRC outlet drains onto a wooded hillslope which drains towards a Class III stream. We observed muddy slurry deposits extending from the outlet of the DRC to the Class III stream below. The slurry deposits extended downstream in the Class III channel for over 100 feet, reaching the confluence with another stream.

Figure 24: Access road is insloped into a ditch that concentrates surface runoff to a ditch relief culvert visible below, which then drains downhill from the road into an adjacent drainage area. View from WP-170 (DSCN1269 Luders, J.)

Figure 25: Inlet of the ditch relief culvert at WP-171 (IMG_4211 S. Feiler).

Figure 26: Slope below the ditch relief culvert outlet. An erosional channel is visible among the grasses. (IMG 4212 S. Feiler)

Figure 27: An example of the fine sediment deposited in the class III stream channel. (IMG 4220 S. Feiler)

Water Diversion from One Class III System to Another

The residence on the lower parcel is located in the path of a former Class III waterway. Figure 28 shows the stream channel above the residence and the road. The road intercepts streamflows, and diverts them via an inside ditch to a ditch relief draining to an adjacent drainage system below the road (Figure 28- Figure 30).

Figure 28: Class III watercourse channel upstream of the road and house. View from WP-177 (DSCN1302 Luders, J.)

Figure 29: Inside ditch along the road that carries flows from the intercepted Class III watercourse (Figure 28) to an adjacent watershed beyond the ridge (DSCN1307 Luders, J.).

Figure 30: The diverted Class III drains through the grass and towards the large conifers in the background. Flowing waters has eroded a channel through the grasses and down the slope. (DSCN1309 Luders, J.).

Cannabis Cultivation on APN 025-350-22-00

Staff observed an approximately 2,000 square foot cannabis cultivation area on APN 025-350-22-00. Staff did not observe any significant water quality concerns on this parcel.

Figure 31: ~2000 ft. ^{2} cannabis cultivation on APN 025-350-22-00 (DSCN1322 Luders, J.).

Summary/Discussion

Cannabis Program: Regional Water Board Order No. R1-2015-0023:

As noted above two of the three parcels staff inspected are enrolled under the Regional cannabis order as a single Tier 2 site, with an enrollment date of August 23, 2016. The Appendix C/Monitoring and Reporting Program form for enrollment stated that a Water Resource Protection Plan (WRPP) would be completed by December 2016, and that the property did not meet two standard conditions: 1) Site maintenance, erosion control, and drainage features, and 2) Stream crossing and maintenance; both with anticipated compliance date of October 2016.

Staff asked Mr. Kuehl to show them the WRPP. Mr. Kuehl was not able to produce a WRPP, and told staff that they should go talk to Downriver Consulting because they had his documentation and were responsible for installing the erosion control visible on site.

Staff noted that as constructed, development on the site did not meet all of the standard conditions defined in Order No. R1-2015-0023. For example, roads and pads did not meet the standard condition regarding site maintenance, erosion control, and drainage features. Best management practices (BMP) had not been fully implemented to prevent sediment transport during a rain event. Recently excavated areas had loose soils visible on slopes leading to and deposited in watercourses.

Tier 2 requirements aside, it was clear that site development to construct the cut/fill earthen pads, access roads, and stream crossings had involved dredge and fill placement in multiple watercourses, loss of stream function and value in those stream segments that had been buried and/or obliterated, and presence of erodible and/or potentially unstable earthen fill prisms posing an ongoing threat of sediment discharges to receiving waters. Conditions observed by staff at the time of inspection indicated that the two parcels should be enrolled as a Tier 3 site under the Regional cannabis order, requiring preparation and implementation of a cleanup and restoration plan.

Recommendations

1. Restore the natural drainage of the graded slopes and restore streams to functioning conditions. Evaluate the diversion of streams from one watershed into the adjacent watershed to determine if there is a feasible remedy to restore natural drainage paths. Upon completion of restoration, replant with native species in sufficient abundance to ensure erosion control of surface soils and long-term maintenance of the hillside and waterways.

2. Develop a short-term erosion control plan for winter 2018, and a cleanup and restoration plan for all illegally constructed roads and pads; include restoration design and implementation scheduling for meeting recommendation one above. Ensure that all retained roads meet standard conditions and effective drainage features are implemented throughout the property. In areas where restoration is required, develop a replanting plan designed to effectively restore the areas to natural vegetative conditions with native species planted in adequate abundance to control surface erosion while site recovery occurs. A monitoring plan will be required for reconstruction and re-planting requirements to ensure project success. All plans should be approved by the executive officer prior to vetting with regulatory permitting agencies.

3. If still cultivating cannabis on APN 025-350-22, review the requirements of the statewide general order for cannabis cultivation waste discharges, Order WQ-2017-0023-DWQ (CANGO), and enroll for coverage if/as applicable. Here is a link to the order: https://www.waterboards.ca.gov/water_issues/programs/cannabis/docs/finaladoptedcango101717.pdf

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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Attachment B – Documentation of Preexisting Conditions

Kuehl Property, 380, 441, & 553 Henrietta Road, Lewiston, CA, Trinity County APNs 025-350-53-00, 025-350-52-00, and 025-350-22-00 (the Property); CIWQS Place ID No. 827450, WDID Nos. 1A161078CTRI and 153C378658

For clarification, the Property must be restored to preexisting conditions as shown in Figure 1 below. The filling and dredging of the watercourse on the Property, as well as the sediment deposition throughout the Property in adjacent waterway(s) caused by road and site construction and ongoing use needs remediation.

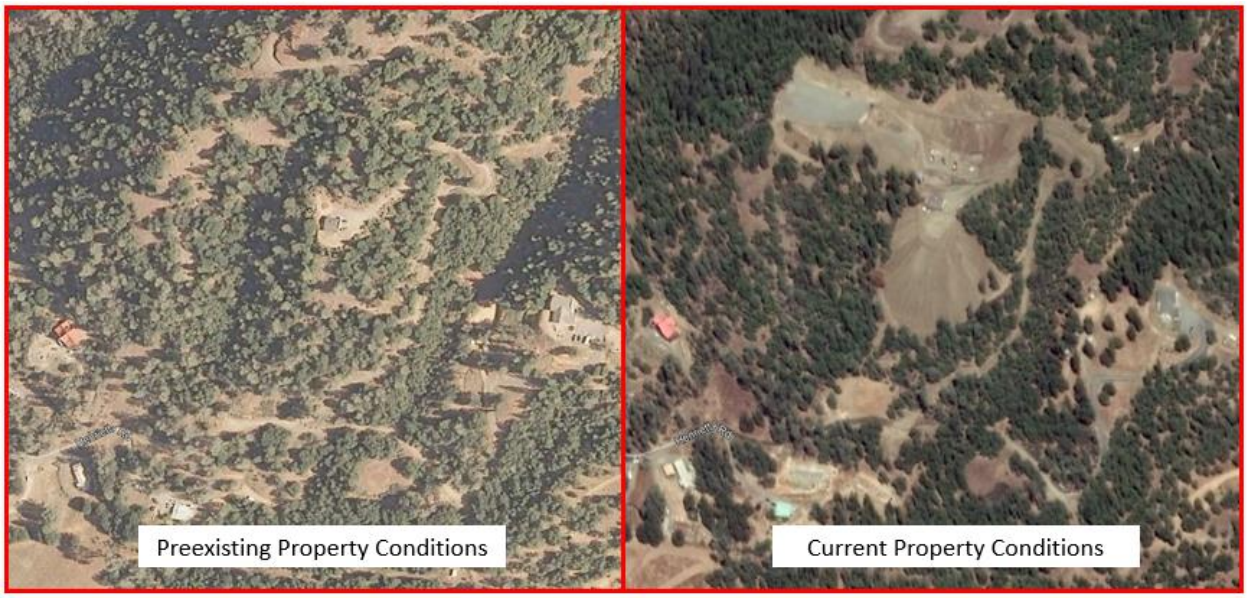

Figure 1: Comparison of Preexisting Property Conditions and Current Property Conditions. Preexisting Property Conditions is from 7/10/2018 Google Earth Imagery and Current Property Conditions Imagery is from 8/1/2018 Google Earth Imagery.