

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
NORTH COAST REGION

CLEANUP AND ABATEMENT ORDER NO. R1-2019-0026
for

JULIET HEGDAL (OWNER)
BODEN HEGDAL (OPERATOR)
4111 BRICELAND THORNE ROAD
REDWAY, CA 95589
ASSESSOR PARCEL NUMBER 220-261-005-000
HUMBOLDT COUNTY

This Order is issued to Juliet Hegdal (landowner) and Boden Hegdal (operator) (hereafter referred to as the Dischargers) based on provisions of Water Code section 13304, which authorizes the North Coast Regional Water Quality Control Board (Regional Water Board) to issue a Cleanup and Abatement Order, and Water Code section 13267 Order, (collectively the Order) which authorizes the Regional Water Board to require the preparation and submittal of technical and monitoring reports.

The Executive Officer finds, with respect to the Dischargers' acts, and in some instances failure to act, the following:

1. **Site Conditions:** The Dischargers has caused or allowed the discharge and threatened discharge of waste to receiving waters through the construction of a pond and earthen berm (hereafter the Pond) at 4111 Briceland Thorne Road, Humboldt County, Assessor Parcel Number (APN) 220-261-005-000 (hereinafter the "Property"). The Pond was constructed to interrupt the flow paths of two Class III watercourses, in an area of probable wetlands, located adjacent to, with direct hydrologic connection to, and discharging to a Class II watercourse that enters Redwood Creek, a Class I¹ tributary to the South Fork Eel River. The actual and threatened discharges of waste threaten the quality of waters in Redwood Creek, its unnamed tributaries, and probable onsite wetlands; these watercourses and probable wetlands are waters of the state, as well as waters of the United States (references hereafter to waters of the United States are also waters of the state).² Available aerial imagery shows that the construction of the Pond

¹ California Forest Practice Rules define a Class I watercourse as 1) a watercourse providing habitat for fish always or seasonally, and/or 2) providing a domestic water source; a Class II watercourse is 1) a watercourse capable of supporting non-fish aquatic species, or 2) a watercourse within 1000 feet of a watercourse that seasonally or always has fish present; and a Class III watercourse is a watercourse with no aquatic life present, and that shows evidence of being capable of transporting sediment to Class I and Class II waters during high water flow conditions after completion of timber operations.

² The Regional Water Board administers and enforces the Clean Water Act (CWA). The CWA regulates what it refers to as "navigable waters" and defines those water as "waters of the United States." Waters of the United States includes all traditionally navigable waters and their tributaries as defined in 40 C.F.R. section 122.2. The California Water Code (Water Code) provides the Regional Water Board additional authority to regulate

began at the Property between 2012 and 2014, and that the Pond was expanded and an earthen berm was constructed between 2014 and 2016. As stated during the inspection of the Property on December 7, 2018, (December 2018 Inspection, Attachment 1) Mr. Hegdal used a backhoe to excavate surface waters to create the Pond and berm without applicable permits for the land clearing and grading, and dredge and fill work in surface waters. Regional Water Board staff observed the interior and exterior slopes of the unlined earthen pond had evidence of slope instability and slope failure along the Property's road, resulting in actual and threatened waste discharge to surface waters. In response to concern from qualified professionals that the interior water pressure on the cracked berm could lead to catastrophic failure of the Pond and their advice to immediately reduce water levels, on February 16, 2018, the Dischargers began efforts to lower and maintain water levels in the Pond. Regional Water Board staff inspected the Property on February 18 and 21, 2019, (February 2019 Inspections, report provided as Attachment 2) and observed that the cracks had grown in size, there was increased instability evident within the Pond, and new slope failures along the road, indicating downslope movement and actual and threatened waste discharge to surface waters, including two Class III watercourses, a Class II watercourse, and a Class I watercourse, Redwood Creek. The Dischargers' activities resulting in the discharges were conducted without authorization from the Regional Water Board, and the Dischargers have provided no evidence they received any additional necessary authorizations from applicable federal, state and local agencies

2. **Purpose of the Order:** This Order requires the Dischargers to clean up and abate the effects of discharging earthen material, including fine sediment, and sediment-laden water from the Property into unnamed tributaries of Redwood Creek, and eliminate the threat of future discharges. Investigation and cleanup actions required under this Order shall be conducted to comply with the Water Code (Water Code § 13000 *et seq.*), the *Water Quality Control Plan for the North Coast Region* (Basin Plan), State Water Resources Control Board (State Water Board) Resolution 92-49, *Policies and Procedures for Investigation and Cleanup and Abatement of Discharges under Water Code Section 13304* (Resolution 92-49), and other applicable State and Regional Water Board plans, policies, and regulations.
3. **Responsible Parties:** The Dischargers are the Property owner and operator and are the persons responsible for discharging waste or creating a threat of discharge of waste that is, or probably will be discharged into waters of the state and has created or threatened to create a condition of pollution or nuisance. The Dischargers had the ability to control the activities on the Property that resulted in the discharge and threat of discharge of waste. This Order finds that Juliet Hegdal and Boden Hegdal are the responsible parties for purposes of this Order and are jointly and severally liable:

discharges of waste into "waters of the state." (Wat. Code § 13260.) The term "waters of the state" is defined as "any surface water or groundwater, including saline waters, within the boundaries of the state." (Wat. Code § 13050 subd. (e).) All waters of the United States that are within the borders of California are also waters of the state for purposes of the Water Code.

- a. Per records from the Humboldt County Assessor-Recorder's Office, Juliet Hegdal owns approximately 23 acres, identified as APN 220-261-005-000.
 - b. During the December 2018 Inspection, Mr. Hegdal stated that he had constructed the Pond, the berm, and performed recent road grading and maintenance on the Property with a backhoe and bulldozer he owned. Ms. Hegdal stated during both the December and February inspections that Mr. Hegdal was the site operator of the cannabis cultivation activities, the Pond construction, and the road maintenance.
 - c. The Regional Board reserves the right to amend this Order or issue a separate Cleanup and Abatement Order pursuant to Water Code section 13304 to add additional responsible parties if those parties are identified.
4. **Property Location and Description:** The actual and threatened sediment discharges occurring at the Property are located at 4111 Briceland Thorne Road, in rural Humboldt County, near the town of Redway. Grading, and dredge and fill activities associated with pond construction occurred on the unnamed tributaries to Redwood Creek, tributary of the South Fork Eel River, in the vicinity of latitude 40.12649 and longitude -123.8733. This location is approximately 600 feet upstream of the confluences of the unnamed Class II watercourse with Redwood Creek.

Property History: The Property has no prior regulatory oversight or history with the Regional Water Board. There is also no record of any person obtaining coverage 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 Operation with Similar Environmental Effects* (Regional Cannabis Waiver) or State Water Resources Control Board (State Water Board) Order No. WQ 2017-0023-DWQ *General Waste Discharge Requirements and Waiver of Waste Discharge Requirements for Discharges of Waste Associated with Cannabis Cultivation Activities* (Cannabis General Order) for activities occurring at the Property. If the Dischargers and/or any tenant(s) or lessee(s) wishes to continue cultivation, coverage under the Cannabis General Order or under individual waste discharge requirements is required pursuant to Water Code section 13260.

5. **Factual Basis of Order:** The Dischargers' activities and the conditions observed at the Property, as documented in the December 2018 Inspection Report (Attachment 1), February 2019 Inspection Report (Attachment 2), and as detailed below, created and threaten to create conditions of pollution and nuisance in waters of the state by unreasonably impacting water quality and beneficial uses. The factual allegations detailed below provide additional context to the Dischargers' activities, site conditions, and interactions between the Dischargers, the Dischargers' consultants and agents, and regulatory oversight agencies.

- a. On December 7, 2018, staff of the Regional Water Board, State Water Board Division of Water Rights and Division of Water Quality, and the California Department of Fish and Wildlife (CDFW) (collectively referred to as Agency Staff) inspected the Property as part of watershed-wide cannabis enforcement efforts in Redwood Creek. A complete description of the site conditions observed during the December 2018 Inspection are documented in the December 2018 Inspection Report (Attachment 1). Ms. Hegdal provided consent and access for Agency Staff to inspect the Property. Ms. Hegdal's son, Boden Hegdal, who operated the cultivation activities, provided access to the site and Mr. Hegdal accompanied Agency Staff on the Property during the December 2018 Inspection.
 - i. The Pond: During the December 2018 Inspection, Agency Staff observed an approximately 5,000 square foot onstream pond located on two Class III watercourses, adjacent to probable wetland features, and within a larger, unstable landslide feature. The area above and below the Pond consists of hummocky terrain and slide scarps, indicative of earthflow morphology. Following the inspection, Regional Water Board staff reviewed the available imagery and observed the preferential growth of darker colored vegetation during summer months, which indicates the Pond was developed in a potential wetland area; these observations are consistent with Ms. Hegdal's explanation for siting the Pond. When asked by Agency Staff during the inspection why they constructed the Pond in that location she said that area is wetter and stays wet longer than other places on the Property. Mr. Hegdal stated that he had constructed the Pond using a backhoe to excavate the area and construct the pond berm approximately 4 to 6 years ago by his recollection; the timeline is consistent with the available imagery showing excavation of the Pond occurred between 2012 when the Pond is not visible and 2014 when the Pond is present and contains water, and the Pond was expanded to its current dimensions between 2014 and 2016 when imagery shows the expansion of the Pond and the addition of the berm. During the inspection, Agency Staff observed that the Pond contained a 14-inch diameter plastic corrugated pipe acting as overflow from the Pond to an adjacent Class II watercourse where it was installed through the streambank with the unarmored outlet located above the stream grade of the Class II watercourse. During the inspection, the earthen pond berm showed evidence of slope movement and instability on the interior face of the berm in the form of crescent shaped extensional cracking, lateral cracking on the sides of the berm, and slumping and down dropping of sections of exterior face of the berm.
 - ii. Road Conditions: The Property is scattered with earthflow scarps and hummocky topography. The main road accesses the Property from Briceland Road and traverses the slope to a residence located at the top of the Property; it has steep segments, switchbacks, long inside ditches. Ms. Hegdal reports that she has used the road to access the residence since the mid-1980s. The main road on the Property is located on multiple unstable earthflow features and was

- constructed and graded with near vertical road cuts that are slumping; sections of the road appear to be either partially constructed on fill or have had fill material pushed over the side of the roadway leading to additional stability issues. The road surface is rilled and is graded to concentrate water into inside ditches that are hydrologically connected and discharge to unstable areas that show signs of instability including slumping and failure of the road surface. Short side roads access other portions of the Property, including a road leading to the Pond and to cultivation areas. Three locations along the main road to the residence showed signs of potential and active failure and appear to be influencing the larger landslide (as documented in the Inspection Observation section of the December 2018 Inspection Report, Attachment 1). Road point RP1 is located adjacent to the access road to the Pond and showed signs of instability during the inspection in the form of surface cracking. Road point RP2 is located uphill from RP1 and consisted of a section of road that had calved off and dropped approximately four vertical feet. Road point RP3 is located next to the Property's storage area, at the main switchback, where the inside ditch transports water off the road onto an unstable feature and showed signs of instability during the inspection in the form of crescent shaped lateral cracking.
- iii. Stream Crossings: Regional Water Board staff identified five stream crossings of varying sizes and conditions. Stream Crossing C1 (as documented in the Inspection Observation section of the December 2018 Inspection Report, Attachment 1) is located at the bottom of the Property at Briceland Thorne Road, a County maintained road. C1 consists of a 48-inch corrugated metal culvert with the inlet at the confluence of two Class II watercourses on the Property (the eastern Class II watercourse flows adjacent to the Pond and receives the Pond discharge), which then conveys flow under Briceland Thorne Road, where the culvert is not set to the stream grade, and discharges to Redwood Creek, a Class I tributary to the South Fork Eel River. Existing stream crossings on the Property are located on the main road and convey two Class III watercourses; Regional Water Board staff reviewed 1965 aerial imagery and identified the Class III watercourses evident prior to road development in the 1980's. Currently, the western Class III watercourse is interrupted by the Pond, and then flows down to Stream Crossing C2, which consists of a nonfunctioning crushed and partially buried 12-inch corrugated metal culvert with an open corrugated metal down spout. The eastern Class III watercourse is impacted by fill from road construction at the headwaters of Stream Crossing C4, where concentrated road runoff flows via an inside ditch, into the watercourse. C4 consists of a rusted 8-inch corrugated metal culvert that is partially crushed, with at least four tires placed below the outlet that leads down to the Pond. Below C4, the eastern Class III flows down into the Pond, where it is interrupted. Below the Pond, the eastern Class III watercourse again receives concentrated road runoff via the inside ditch at the entrance road to the Pond, where it enters Stream Crossing C3 on the main road. C3 consists of a rusted 24-inch corrugated metal culvert, which has a half dozen tires placed in the channel below the culvert outlet.

- Below C3, the eastern Class III watercourse flows under Briceland Thorne Road to Redwood Creek. Stream crossing C5 is located next to the Property's residence on the upper extent of the eastern Class II watercourse that flows adjacent to the Pond and consists of a rusted 24-inch culvert.
- iv. Other Site Conditions of Concern: Based on available imagery, the graded flat for cultivation area CA1 was constructed between 2014 and 2016. Agency Staff observed that fill from grading activities had been placed on the hillside where it could be transported into the adjacent western Class II watercourse that flows to Redwood Creek. Adjacent to the road between cultivation area CA1 (as documented in the Inspection Observation section of the December 2018 Inspection Report, Attachment 1) and cultivation area CA2, Agency Staff observed cultivation related waste in the form of old cannabis stalks placed on the hillslope adjacent to the western Class II watercourse. At various locations throughout the Property, Agency Staff observed containers of soil amendments that were not stored appropriately or with secondary containment. At the Property's shop area, Agency Staff observed petroleum products without appropriate secondary containment or storage. Beneath the bulldozer parked in the shop area there was a piece of cardboard placed to catch actively leaking fluid, the cardboard showed evidence of the fluid flowing off the cardboard and onto the ground surface.
 - b. On February 12, 2019, Regional Water Board staff received an email from CDFW staff that the Dischargers' consultants Timberland Resources Consultants (TRC) and SHN Consulting Engineers and Geologists (SHN) had serious concerns about the stability of the Pond. On the same date, Gary Simpson, Certified Engineering Geologist for SHN, stated, in a voicemail to Regional Water Board staff, his concerns that the pond berm was unstable and could imminently fail if not addressed by pumping to lower the water level in the Pond.
 - c. On February 14 and 15, 2019, Regional Water Board staff provided recommendations, both verbally and via email, that measures should be taken to avoid a more serious threat to water quality and that any discharge to surface waters must not cause scour, erosion, or bank instability downstream. Staff also communicated that water from the Pond discharged to surface waters should be the cleanest possible and taken from the upper portion of the water column and any sludge be applied to land.
 - d. Beginning on February 16, 2019, the landowner, with help from a local contractor Justin French, began pumping down the water level of the Pond using two pumps each with a two-inch diameter hose equipped with a one-inch intake screen (as described to staff during the February 21, 2019, inspection). Water pumped from the Pond was discharged to the adjacent Class II watercourse. Pumping from the Pond from February 16, 2019, maintained the water level during the storm, which included 1.5 inches of precipitation in 24-hours. As the storm subsided between

February 18 and 20, 2019, the pumping rate of approximately 35,000 gallons/hour resulted in a drop of the water surface level in the Pond of approximately one-foot per hour using two pumps. The emergency pumping and discharge to surface waters facilitated a reduction in the water surface elevation in the Pond of approximately five feet, which reduced the immediate threat to Briceland Thorne Road.

e. On February 18 and 21, 2019 (February 2019 Inspections), Regional Water Board staff accompanied by Ron Pelletier from TRC, contractor Justin French, and on February 21, 2019 accompanied by staff of CDFW and Ms. Hegdal, inspected the conditions of the Pond and portions of the main road on the Property and noted various changes in the conditions relative to the December 2018 Inspection. Changes in the Pond and main road are discussed below and documented in the February 2019 Inspections Report (Attachment 2).

- i. Pond: During the February 2019 Inspections, staff observed a new crescent shaped crack within the top of the pond berm that extends the length of the berm and is approximately three inches wide and one inch deep. Previously observed cracks on the interior side of the pond berm appeared to have elongated, with portions of the berm having collapsed into the Pond.
- ii. Road Conditions: Three locations along the road to the residence observed during the December 2018 Inspection showed signs of active failure. Road point RP1 is located on the main access road, adjacent to the access road to the Pond, and had signs of instability in the form of surface cracking (as documented in the Inspection Observation section of the February 2019 Inspections Report, Attachment 1); during the February 2019 inspections, staff observed that a 15-foot long section of the main road had slumped approximately two vertical feet. Road point RP2 is located up the main road from RP1. During the December 2018 Inspection, RP2 consisted of a section of road that had slumped approximately four feet from land sliding; during the February 2019 Inspections, RP2 showed signs of recent erosion and vertical displacement. During the December 2018 Inspection, road point RP3, which is located next to the Property's storage area, showed signs of instability in the form of crescent shaped lateral cracking. During the February 2019 Inspections, a 20-foot long section of the road at RP3 had dropped approximately three vertical feet.

6. **Beneficial Uses, Basin Plan Prohibitions, and Water Quality Objectives:** The Basin Plan designates beneficial uses, establishes water quality objectives, contains implementation programs for achieving objectives, and incorporates by reference the plans and policies adopted by the State and Regional Water Board.

- a. The Property drains to Redwood Creek, which is a tributary to the South Fork Eel River. The existing beneficial uses of the Benbow Hydrologic Subarea of the South Fork Eel Hydrologic Area, as set forth and defined in the Basin Plan include Municipal and Domestic Supply (MUN), Agricultural Supply (AGR), Industrial Service Supply

(IND), Groundwater Recharge (GWR), Freshwater Replenishment (FRSH), Navigation (NAV), Water Contact Recreation (REC1), Non-Contact Water Recreation (REC2), Commercial or Sport Fishing (COMM), Warm Freshwater Habitat (WARM), Cold Freshwater Habitat (COLD), Wildlife Habitat (WILD), Rare, Threatened, or Endangered Species (RARE), Migration of Aquatic Organisms (MIGR), Spawning, Reproduction, and/or Early Development (SPWN). Potential beneficial uses include Industrial Process Supply (PRO), Hydropower Generation (POW), and Aquaculture (AQUA). Beneficial uses of any specifically identified water body generally apply to all of its tributaries.

- b. The Basin Plan (available at: https://www.waterboards.ca.gov/northcoast/water_issues/programs/basin_plan/) contains specific standards and provisions for maintaining high-quality waters of the state that provide protection to the beneficial uses listed above. The Basin Plan's Action Plan for Logging, Construction, and Associated Activities (Action Plan) includes two waste discharge prohibitions (See section 4.2.1 of the Basin Plan):
- i. Prohibition 1 – “The discharge of soil, silt, bark, slash, sawdust, or other organic and earthen material from any logging, construction, or associated activity of whatever nature into any stream or watercourse in the basin in quantities deleterious to fish, wildlife, or other beneficial uses is prohibited.”
 - ii. Prohibition 2 – “The placing or disposal of soil, silt, bark, slash, sawdust, or other organic and earthen material from any logging, construction, or associated activity of whatever nature at locations where such material could pass into any stream or watercourse in the basin in quantities which could be deleterious to fish, wildlife, or other beneficial uses is prohibited.”
- c. Section 3 of the Basin Plan contains water quality objectives not to be exceeded as a result of waste discharges. The water quality objectives that are considered of particular importance in protecting the beneficial uses from unreasonable effects due to waste discharges from land development and cannabis cultivation activities include the following:
- i. Suspended Material: “Waters shall not contain suspended material in concentrations that cause nuisance or adversely affect beneficial uses.”
 - ii. Settleable Material: “Waters shall not contain substances in concentrations that result in deposition of material that causes nuisance or adversely affect beneficial uses.”
 - iii. Sediment: “The suspended sediment load and suspended sediment discharge rate of surface waters shall not be altered in such a manner as to cause nuisance or adversely affect beneficial uses.”

- iv. Turbidity: “Turbidity shall not be increased more than 20 percent above naturally occurring background levels. Allowable zones of dilution within which higher percentages can be tolerated may be defined for specific discharges upon the issuance of discharge permits or waiver thereof.”
 - v. Temperature: “The natural receiving water temperature of intrastate waters shall not be altered unless it can be demonstrated to the satisfaction of the Regional Water Board that such alteration in temperature does not adversely affect beneficial uses.”
 - vi. Biostimulatory Substances: “Waters shall not contain biostimulatory substances in concentrations that promote aquatic growths to the extent that such growths cause nuisance or adversely affect beneficial uses.”
7. **Regional Water Board Resolutions:** As part of Regional Water Board’s efforts to control sediment waste discharges and restore sediment impaired water bodies, the Regional Water Board adopted the *Total Maximum Daily Load Implementation Policy Statement for Sediment Impaired Receiving Waters in the North Coast Region*, which is also known as the Sediment TMDL Implementation Policy, on November 29, 2004. This Policy was adopted through Resolution R1-2004-0087. The Sediment TMDL Implementation Policy directs the Executive Officer to use “all available authorities, including existing regulatory standards and permitting and enforcement tools, to more effectively and efficaciously pursue compliance with sediment-related standards by all dischargers of sediment waste.” The goals of the policy are to control sediment waste discharges to impaired water bodies so that the TMDLs are met, sediment water quality objectives are attained, and beneficial uses are no longer adversely affected by sediment.

To address sources of elevated water temperature to reduce impairments to waters of the state and prevent further impairment, the Regional Water Board adopted the *Policy for Implementation of the Water Quality Objective for Temperature in the North Coast Region* (Temperature Implementation Policy) through Resolution R1-2014-0006. To attain and maintain the water quality objectives for temperature, the policy directs the Regional Water Board to implement programs and collaborate with others to prevent, minimize, and mitigate temperature alterations associated with certain activities, including, but not limited to, activities that result in either the removal of riparian vegetation that provides shade to a waterbody, sediment discharges, impoundments and other channel alterations, reduction of instream summer flows, and/or reduction of cold water sources.

8. **State Water Board Resolutions and Executive Order:** State Water Board Resolution 92-49 sets forth the policies and procedures to be used during an investigation and cleanup of a polluted site and requires that cleanup levels be consistent with State Water Board Resolution 68-16, the *Statement of Policy with Respect to Maintaining High Quality Waters in California* (“Resolution 68-16”). Resolution 92-49 requires the waste

to be cleaned up in a manner that promotes attainment of either background water quality, or the best water quality that is reasonable if background levels of water quality cannot be restored. Any alternative cleanup level to background must: (1) be consistent with the maximum benefit to the people of the state; (2) not unreasonably affect present and anticipated beneficial use of such water; and (3) not result in water quality less than that prescribed in the Basin Plan and applicable Water Quality Control Plans and Policies of the State Water Board. Resolution 92-49 directs that investigations and cleanup and abatement proceed in a progressive sequence. To the extent practical, it directs the Regional Water Board to require and review for adequacy written work plans for each element and phase, and the written reports that describe the results of each phase of the investigation and cleanup. Additionally, Executive Order W-59-93, also referred to as the "No Net Loss Policy," which has been incorporated into the Basin Plan, acknowledges the environmental and economic benefits of wetlands to the people of this state and identifies three primary objectives, including protection against net loss and an aim for long-term net gain in the quantity, quality, and permanence of wetlands acreage and values in California.

9. **Failure to Obtain Permits:** Regional Water Board staff has determined that the construction of the Pond at the Property, including soil disturbance, instream and wetland disturbance, and placement of fill in watercourses occurred without coverage under any of the following regulatory permits:
 - a. Coverage under the 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 Operation with Similar Environmental Effects* or State Water Resources Control Board Order No. WQ 2017-0023-DWQ *General Waste Discharge Requirements and Waiver of Waste Discharge Requirements for Discharges of Waste Associated with Cannabis Cultivation Activities*;
 - b. Clean Water Act section 401 Water Quality Certification from the Regional Water Board and Clean Water Act section 404 dredge and fill permit from the United States Army Corps of Engineers; and
 - c. Applicable Water Right from the State Water Resources Control Board, Division of Water Rights.
 - d. California Department of Fish and Wildlife section 1600 et seq. *Lake or Streambed Alteration Agreement* for substantial alteration to bed, bank, and hydrology of watercourses.
10. **Legal Authority to Require Cleanup and Abatement:** Water Code section 13304, subdivision (a) states, in relevant part:

A person who has discharged or discharges waste into waters of this state in violation of any waste discharge requirements or other order or prohibition issued by a regional board or the state board, or who has caused or permitted, causes or permits, or threatens to cause or permit any waste to be discharged or deposited where it is, or probably will be, discharged into the waters of the state and causes, or threatens to create, a condition of pollution or nuisance, shall upon order of the regional board clean up the waste or abate the effects of the waste, or, in the case of threatened pollution or nuisance, take other necessary remedial action, including, but not limited to, overseeing cleanup and abatement efforts....Upon failure of any person to comply with the cleanup or abatement order, the Attorney General, at the request of the board, shall petition the superior court for that county for the issuance of an injunction requiring the person to comply with the order. In the suit, the court shall have jurisdiction to grant a prohibitory or mandatory injunction, either preliminary or permanent, as the facts may warrant.

- a. "Waste" is defined by Water Code section 13050, subdivision (d) to include, sewage and any other waste substances, whether liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing, or processing operation, including waste placed within containers prior to, and for purposes of, disposal.
 - i. Sediment, when discharged to waters of the state, is a "waste" as defined in Water Code section 13050. The Dischargers caused or permitted waste to be discharged or deposited where it will be, or has the potential to be, discharged to Redwood Creek, a tributary of the South Fork Eel River, which is considered a water of the United State and water of the state.
- b. "Pollution" is defined by Water Code section 13050, subdivision (l)(1) as, an alteration of the quality of the waters of the state by waste to a degree which unreasonably affects either waters of the state for beneficial use or facilities which serve these beneficial uses.
 - i. Earthen material from onsite roads, cultivation areas located adjacent to watercourses, erodible soils on road and cultivated surfaces, improperly contained debris, fuels, and chemicals, and construction of the Pond in and near watercourses on property owned and/or used by the Dischargers has discharged, and still has the potential to discharge, sediment and other waste into Redwood Creek and its tributaries in violation of Clean Water Act Section 301, Water Code sections 13260, 13350, 13376, and 13385, and provisions of the Basin Plan, and creates or threatens to create a condition of pollution subject to this Order in accordance with Water Code section 13304.
 - ii. Site development activities conducted by the Dischargers, in addition to inadequate maintenance or pollution control efforts on existing site features,

- improper storage of fertilizers, soil amendments and other chemicals, resulted in the threat of discharge of waste into surface water and groundwater, and threaten to create, a condition of pollution by unreasonably affecting the beneficial uses of waters of the state. Tributaries of Redwood Creek pass through the Property with many features of concern located adjacent to or draining into the creeks and/or their tributaries, including the Pond built on an unstable landslide feature.
- iii. Discharges of sediment and other inert material alter the hydrologic and sediment transport regimes of surface waters by affecting the flow of water and establishment of vegetation. Such changes may lead to adverse conditions such as flooding, increases in suspended sediment and turbidity, accelerated erosion of the watercourse bed or banks, localized accumulation of deleterious materials, biostimulatory conditions, and increased temperatures. Additionally, such discharges directly threaten wildlife habitat and aquatic species (Beneficial Uses impacted: RARE, MIGR, SPWN, COLD, COMM, and WILD). Increased sedimentation and turbidity can result in increased treatment and/or maintenance costs for downstream agricultural and municipal users that withdraw and treat the water (Beneficial Uses impacted: AGR and MUN). Sediment laden storm water discharges to surface water and the resulting turbidity can also affect the recreational and aesthetic enjoyment of the surface waters (Beneficial Uses impacted: REC-1 and REC-2).
 - iv. The discharge of organic and earthen material in the South Fork Eel River watershed is especially problematic because, as noted above, the South Fork Eel River watershed is listed as an impaired water body under Section 303(d) of the Clean Water Act due to several pollutants, including temperature and sedimentation/siltation. Sediment delivery impacts the migration, spawning, reproduction, and early development of cold-water fish such as spring and fall run Chinook salmon, coho salmon, and steelhead trout.
 - v. Suspended sediment in surface waters can cause harm to aquatic organisms by abrasion of surface membranes, interference with respiration, and sensory perception in aquatic fauna. Suspended sediment can reduce photosynthesis in and survival of aquatic life by limiting the transmittance of light. The Basin Plan contains a water quality objective for sediment which requires that the suspended sediment load and suspended sediment discharge rate of surface waters shall not be altered in such a manner as to cause nuisance or adversely affect beneficial uses. As stated above, sediment is a pollutant that can have substantial biological, chemical, and physical effects on receiving waters.

These include: (1) increased turbidity (loss of clarity) and resulting decreased light transmittance, biological productivity, and aesthetic value; and (2) physical suffocation through burial of bottom dwelling (benthic) organisms, and salmonid eggs, and alevin (newly spawned salmon or trout still carrying its yolk). Sediment can also physically damage gills causing fish mortality;

increased physiological stress; reduce reproduction; impair normal feeding and predator avoidance behaviors, resulting in impacts to commercial and recreational fishing resources; increase water temperature; and fill in lagoons and wetlands converting them from aquatic to terrestrial habitat.

It should be noted that these water quality impacts occur both during sediment transport and sediment deposition. In addition to the problems associated with suspended sediment, sediment is also an excellent transport mechanism for toxics (e.g., metals and synthetic organics), which bind to sediment particles (Beneficial Uses impacted: REC-1, REC-2, COLD, SPWN, RARE, MIGR, COMM, MUN, and WILD).

- vi. Discharge of excess nutrients, especially nitrates and phosphorus, can lead to eutrophication and algal blooms. Algal blooms can block light, clog fish gills, and cause an increase for biological oxygen demand as they die, severely lowering dissolved oxygen levels available to sustain aquatic ecosystems. Lowered dissolved oxygen concentrations can also provide favorable conditions for proliferation of pathogenic bacteria. In addition, excess nutrients can contribute to toxic algal blooms which create bioaccumulative toxins that can be deleterious to aquatic ecosystems and wildlife that may consume aquatic fauna (Beneficial Uses impacted: RARE, MIGR, WILD, COLD, COMM, and SPWN). Eutrophication and algal blooms can also affect the recreational and aesthetic enjoyment of surface waters. Direct exposure to toxic algae can lead to rashes, respiratory problems, and neurological effects in humans, and can raise costs for water treatment plants and contribute to harmful byproducts when treated (Beneficial Uses impacted: REC-1, REC-2, and MUN).
- c. "Nuisance" is defined by Water Code section 13050, subdivision (m) as anything that meets all of the following requirements: (1) is injurious to health, indecent or offensive to the senses, or is an obstruction to the free use of property, such that it interferes with the comfortable enjoyment of life or property; (2) affects, at the same time, an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage may vary between individuals; and (3) occurs during, or as a result of, the treatment or disposal of wastes.
 - i. Potential catastrophic failure of the Pond and subsequent potential impacts to the Briceland Thorne Road, a major public road for rural southern Humboldt County located approximately 600 feet downhill, constitutes a nuisance under Water Code section 13050 (m). Failure of the Pond through landsliding within and below the berm when the pond water level is high, could create a massive slurry of water, sediment, and vegetative material flowing down slope to potentially block or destroy Briceland Thorne Road and discharge to Redwood Creek.

- 11. Cleanup and Abatement Action Necessary:** Cleanup and abatement is necessary to ensure that the existing condition of pollution or nuisance is cleaned up, that the threat of unauthorized discharges to waters of the state from the Property are prevented, background water quality conditions are restored, and that any impacts to beneficial uses are mitigated. The current condition of pollution is a priority violation and the issuance of a cleanup and abatement order pursuant to Water Code section 13304 is appropriate and consistent with the policies of the Regional Water Board.
- 12. Technical Reports Required:** Water Code section 13267, subdivision (a) provides that the Regional Water Board may investigate the quality of any water of the state within its region in connection with any action relating to the Basin Plan. Water Code section 13267, subdivision (b) provides that the Regional Water Board, in conducting an investigation may require a discharger to furnish, under penalty of perjury, technical or monitoring program reports. The technical reports required by this Order are necessary to assure compliance with this Order and to protect the waters of the state. The technical reports are further necessary to demonstrate that appropriate methods will be used to cleanup waste discharged to waters of the state and to ensure that cleanup complies with Basin Plan requirements and State Water Board Resolution 92-49. In accordance with Water Code section 13267, subdivision (b), the findings in this Order provide the Dischargers with a written explanation with regard to the need for remedial action and reports, and identify the evidence that supports the requirement to implement cleanup and abatement activities and submit the reports. The Dischargers named in this Order are the owner of the Property from which waste was discharged and threatened to be discharged, and the Operator, who is responsible for conducting activities on the property that led to the discharge and threatened discharge of waste, and thus are appropriately responsible for providing the reports.
- 13. Electronic Reporting Requirements:** Sampling data, reports, and plans shall be submitted to the Regional Water Board via email to NorthCoast.Cannabis@waterboards.ca.gov beginning with the subject line "Attn: Shannon Utley-Hegdal Pond CAO" followed by the type of information being transmitted.
- 14. California Environmental Quality Act:** Issuance of this Order is being taken for the protection of the environment and to enforce the laws and regulations administered by the Regional Water Board and, as such, is exempt from provisions of the California Environmental Quality Act (CEQA) (Public Resources Code section 21000 et seq.) in accordance with California Code of Regulations, title 14, sections 15061, subdivision (b)(3), 15306, 15307, 15308, and 15321. This Order generally requires the Dischargers to submit plans for approval prior to implementation of cleanup, abatement, and restoration activities at the Property. Mere submittal of plans is exempt from CEQA as submittal will not cause a direct or indirect physical change in the environment and/or is an activity that cannot possibly have a significant effect on the environment. CEQA review at this time would be premature and speculative, as there is simply not enough information concerning the Dischargers' proposed cleanup, abatement or restoration

activities and possible associated environmental impacts. To the extent that the Order requires earth-disturbing and re-vegetation activities not to exceed five acres in size and to assure restoration of stream habitat and prevent erosion, this Order is exempt from provisions of CEQA pursuant to California Code of Regulations, title 14, section 15333. If the Regional Water Board determines that implementation of any plan required by this Order will have a significant effect on the environment that is not otherwise exempt from CEQA, the Regional Water Board will conduct the necessary and appropriate environmental review prior to implementation of the applicable plan. The Dischargers will bear the costs, including the Regional Water Board's costs, of determining whether implementation of any plan required by this Order will have a significant effect on the environment and, if so, in preparing and handling any documents necessary for environmental review. If necessary, the Dischargers and a consultant acceptable to the Regional Water Board shall enter into a memorandum of understanding with the Regional Water Board regarding such costs prior to undertaking any environmental review.

IT IS HEREBY ORDERED that, pursuant to Water Code sections 13267 and 13304, the Dischargers shall clean up the wastes and abate the impacts to water quality in accordance with the scope and schedule set forth below and provide the following information. The Dischargers shall obtain all necessary permits for the activities required in this Order.

A. REQUIRED ACTIONS

1. **Immediately**, the Dischargers shall take all possible steps, after obtaining any necessary permits from local, state, and federal agencies, to prevent pond failure and/or to minimize, to the maximum extent possible, adverse impacts to water quality and beneficial uses associated with water and sediment releases from the Pond. Measures shall include the following:
 - a. Minimizing inflow into the Pond,
 - b. Maintaining a surface water elevation in the Pond that does not threaten the stability of the berm,
 - c. Minimizing turbid discharges to surface waters, especially between storm periods when streams are clear enough to allow fish to feed.
 - d. Monitoring the effectiveness of implementation actions and adaptively implementing those actions; monitoring shall include documentation of actions including, but not limited to, an activity log, notes, photographs, sketches, sampling results, etc.; characterization of the magnitude and extent of discharges to waters of the state, including sediment discharge volumes and concentrations.

2. **Within 7 days from issuance of this Order**, the Dischargers shall provide weekly monitoring reports regarding the actions taken and the results of those actions. Following the approval of the **Interim Site Stabilization Plan** as specified in Required Action No. 6, below, the monitoring and reporting schedule contained therein shall replace this weekly requirement.
3. Conduct all work under the direction of a licensed California professional civil engineer and/or professional geologist with experience in surface water quality and hydrology, geologic investigation and characterization, earth work and geotechnical investigation, and sediment and erosion control. All workplans and reports submitted to the Regional Water Board shall be signed and stamped by a qualified licensed professional.
4. Coordinate investigation, cleanup, and restoration activities associated with Property conditions and surface waters with Regional Water Board staff, California Department of Fish and Wildlife, Division of Water Rights, the County of Humboldt, U.S. Army Corps of Engineers, and other regulatory agencies potentially involved in the cleanup and restoration of the Property.
5. **Within 10 days from issuance of this Order**, the Dischargers shall conduct a site characterization of the entire Property, including geology, landslide potential and unstable areas, the Pond, road stability and drainage conditions, stream crossings, and associated receiving waters. This characterization must comply with Required Action No. 3, above, and
 - a. The Dischargers shall submit the site characterization **within 30 days** of conducting the site characterization.
6. **Within 30 days from issuance of this Order**, the Dischargers shall submit, for Regional Water Board Executive Officer approval, an **Interim Site Stabilization Plan** (Interim Plan) consistent with Required Action No. 3 and informed by Required Action No. 5, above, for the completion of cleanup of waste and trash, and stabilization measures necessary to prevent further erosion and discharge of sediment and other pollutants to Redwood Creek and its tributaries during the remainder of 2019. The Interim Plan shall include, but need not be limited to, the following:
 - a. Actions necessary to prevent and minimize further destabilization and failure of the roads and Pond on the Property over the remainder of the winter and spring of 2019.
 - b. Measures to prevent and minimize sediment discharges to waters of the state, including from discharges of water from the Pond. To the maximum extent possible, inflow to the Pond shall be conveyed out of the Pond via stable conveyance to prevent and minimize erosion and transport of any pollutants to downstream surface waters.
 - c. Identification of all additional areas of immediate stability concern on the Property.

- d. Proposed cleanup and stabilization measures to be implemented at each area of concern on the Property during the remainder of the winter and spring of 2019, including the removal, containment, and/or covering of any soil and waste piles, and stabilization of disturbed areas on the Property. Cleanup and stabilization measures shall include, but need not be limited to:
 - i. Stabilization of all disturbed areas with erosion control mulches, blankets, mats, tarps, berms or other erosion controls measures to protect the disturbed areas from the forces of rain drop impact and overland flow;
 - ii. Proper storage and containment of chemicals, pesticides, waste piles, soil amendments and fertilizers to avoid accidental release into surface waters and groundwater. This includes proper disposal of waste materials, including empty or partially used containers per manufacturer and waste disposal guidelines. Copies of receipts from the disposal facility (i.e. transfer station) including the date, amount of waste disposed, and types of material disposed shall be submitted to the Regional Water Board as part of the monitoring and reporting plan; and
 - iii. Measures to prevent leaks and releases from fuel storage tanks, vehicles, machinery, and water storage tanks, and from transporting pollutants to groundwater and surface waters.
 - e. An implementation schedule with specific dates for each measure to be implemented or installed.
 - f. A monitoring and reporting plan that shall include documentation of actions including, but not limited to, an activity log, receipts for disposal of waste, notes, photographs, sketches, sampling results, etc.; characterization of the magnitude and extent of discharges to waters of the state, including sediment discharge volumes and concentrations.
 - g. A scope of work for developing the Cleanup, Restoration and Monitoring Plan (Required Action 10).
7. Upon receipt, the Regional Water Board Executive Officer or a delegated officer will review the Interim Plan for adequacy. The Interim Plan must be approved by the Regional Water Board Executive Officer, in coordination with other responsible agencies, prior to implementation of any proposed actions. Upon approval, the Dischargers shall immediately, and no later than 5 business days after approval, begin work to implement the approved Interim Plan.
 8. **Within 45 days of approval by the Regional Water Board Executive Officer**, the Dischargers shall have completed the work specified in the approved Interim Plan.

9. **Within 15 days of completion of the Interim Plan** the Dischargers shall provide a report of completion of the Interim Plan to the Regional Water Board Executive Officer for approval. This report shall include a summary and photographs of the completed cleanup and stabilization measures.

10. **Within 60 days of issuance of this Order**, the Dischargers shall submit to the Regional Water Board a proposed **Cleanup, Restoration, and Monitoring Plan (CRMP)** acceptable to the Regional Water Board Executive Officer or a delegated officer. The CRMP shall include but need not be limited to:
 - a. An assessment of any direct and indirect impacts to any waters of the state on the Property, including, but not limited to, seeps, springs, bogs, and wetlands, caused by the unauthorized activities, including all areas that have been developed or disturbed, and identify controllable sediment sources requiring restoration. The assessment shall be completed by an appropriately qualified professional, and must at a minimum address channel hydrology, bed and bank stability, aquatic and riparian habitat and the loss thereof, channel slope stability, instream reservoirs, active or potential erosion and sedimentation sites, culverts, and other stream crossings, as well as roads and all disturbed areas on the Property. The assessment shall include aerial photographs and/or satellite images, photographs, wetland and watercourse delineation reports, topographic maps, or drawings, etc., of Property conditions prior to and after conducting the unauthorized activities, and include a detailed map of features accurately depicting the Property's topography, all graded surfaces, all waters of the state and waters of the United States, drainages, and stream crossings, instream structures, and the functional status of these features. Assessment findings before and after the unauthorized activities shall serve as the basis for the CRMP;

 - b. A plan for Property cleanup and restoration of the area impacted by the Pond, including the impacted watercourses and potential wetlands, hillslope stability, and riparian areas. The plan shall include a description of how long-term impacts from erosion and sedimentation sources will be abated (for example, berm removal and stabilization of Class III watercourse channels), as well as a proposal to restore beneficial uses of any waters of the state on the Property that were adversely impacted by the unauthorized activities, including Redwood Creek and its unnamed tributaries, and any springs, seeps, bogs, or wetlands (for example restoration of the channels of the Class III watercourses interrupted by the Pond).

 - c. 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 Basin Plan. The proposal shall (1) describe existing site conditions at the proposed mitigation site; (2) describe implementation methods used to provide compensatory mitigation; (3) include monitoring that will be implemented and

performance criteria that will be used to evaluate the success of the compensatory mitigation; and (4) include an implementation schedule.

- d. 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, Redwood Creek and its unnamed tributaries. The CRMP shall contain, at a minimum, design specifications for roads, any water crossing, in-stream structure, and for riparian and aquatic habitat restoration, surface drainage controls, erosion and sedimentation controls, an implementation schedule, a monitoring and reporting plan, and success criteria for restoration and compensatory mitigation.
 - e. An implementation schedule that includes a time schedule for submitting permit applications to all applicable local, state, and federal agencies necessary and detailed project milestones to fulfill the requirements of this Order once those permits are obtained.
11. **No more than 60 days** after approval of the CRMP by the Regional Water Board Executive Officer or a delegated officer, the Dischargers shall begin to implement the CRMP per the approved implementation schedule.
 - a. The Dischargers shall notify and provide rationale to Regional Water Board staff and obtain approval at least **14 days** prior to making any modifications to the approved CRMP.
 12. Submit monthly progress reports beginning **30 days** after approval of the CRMP, through completion of cleanup, stabilization, restoration, and mitigation work. Include photographs at each photo monitoring point, as depicted on site maps/figures.
 13. **By September 15, 2019**, submit a **Completion Report** for approval by the Regional Water Board Executive Officer or a delegated officer. The Completion Report shall include accurate depictions, documentation, and as-built of all completed restoration construction and/or abatement measures included in the approved CRMP to restore the Redwood Creek and its unnamed tributaries to demonstrate the CRMP has been fully implemented. This report shall also include pre- and post-construction photographs taken at each photo point, as depicted on site maps/figures.
 14. Upon completion of the restoration and mitigation of waters of the state, submit annual monitoring reports by **January 31** of each year for at least five years or until the Regional Water Board or its delegated officer approves a request to discontinue monitoring. Such a request may be submitted when the approved success criteria in the CRMP are met with supporting documentation. Each annual monitoring report shall include, at a minimum, a completed inspection checklist, photos of areas restored, a description of any locations where restoration is failing and/or needs to be corrected to achieve the success criteria.

B. GENERAL REQUIREMENTS AND NOTICES

1. **Duty to Use Qualified Professionals:** The Dischargers shall provide documentation that plans and reports required under this Order are prepared under the direction of appropriately qualified professionals. As required by the California Business and Professions Code sections 6735, 7835, and 7835.1, engineering and geologic evaluations and judgments shall be performed by or under the direction of registered professionals competent and proficient in the fields pertinent to the required activities. The Dischargers shall include a statement of qualification and registration numbers of the responsible lead professionals in all plans and reports required under this Order. The lead professional shall sign and affix their registration stamp to the report, plan, or document. The required activities must be implemented by the appropriately qualified/licensed professional as otherwise required by law.
2. **Signatory Requirements:** All technical reports submitted by the Dischargers shall include a cover letter signed by the Dischargers, or a duly authorized representative, certifying under penalty of law that the signer has examined and is familiar with the report and that to his/her knowledge, the report is true, complete, and accurate. The Dischargers shall also state in the cover letter whether he/she will implement the recommendations/proposals provided in the report and the schedule for implementation. Any person signing a document submitted under this Order shall make the following certification:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my knowledge and on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."
3. **Notice of Onsite Work:** The Dischargers, or a duly authorized agent, shall notify Regional Water Board staff at least 48 hours prior to any onsite work, testing, or sampling that pertains to environmental remediation and investigation and is not routine monitoring, maintenance, or inspection. The Dischargers may contact the Regional Water Board using the general phone line at (707) 576-2676 or email Shannon Utley at Shannon.Utley@waterboards.ca.gov.
4. **Notice of Change in Ownership or Occupancy:** The Dischargers shall file a written report on any changes in the Property's ownership or occupancy. This report shall be filed with the Regional Water Board no later than 30 days prior to a planned change and shall reference the number of this Order.
5. **Reasonable Access:** The Dischargers shall allow the Regional Water Board, or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to enter at reasonable times to inspect the Property and any

records that must be kept under the conditions of this Order for the purposes of assuring compliance with this Order or as otherwise authorized by the Water Code.

6. **Submissions:** All monitoring reports, technical reports or notices required under this Order shall be submitted by email to the following recipients:
 - a. NorthCoast.Cannabis@waterboards.ca.gov (preferred), or by mail to NCRWQCB, 5550 Skylane Blvd. Suite A, Santa Rosa, CA 95403, and
 - b. Executive Officer - Matt St. John, Matt.St.John@waterboards.ca.gov, and
 - c. Shannon Utley, Engineering Geologist, Shannon.Utley@waterboards.ca.gov
7. **Other Regulatory Requirements:** The Dischargers shall obtain all applicable local, state, and federal permits necessary to fulfill the requirements of this Order prior to beginning the work. For example, Fish and Game Code (FGC) section 1602 requires a person or entity to notify CDFW before: 1) substantially diverting or obstructing the natural flow of a river, stream, or lake; 2) substantially changing the bed, channel, or bank of a river, stream, or lake; 3) using any material from the bed, channel, or bank of a river, stream, or lake; or 4) depositing or disposing of debris, waste, material containing crumbled, flaked, or ground pavement where it may pass into a river, stream, or lake. The failure to notify CDFW constitutes a violation of FGC section 1602.
8. **Cost Recovery:** Pursuant to Water code section 13304, the State or Regional Water Board is entitled to all reasonable costs it actually incurs to investigate and abate the effects of unauthorized discharges of waste and to oversee/supervise the cleanup of such waste, or other restoration action, required by this Order and shall reimburse the State of California for all reasonable costs actually incurred by the Regional Board pursuant to the procedures established in that program.
9. **Delayed Compliance:** If for any reason, the Dischargers are unable to perform any activity or submit any document in compliance with the schedule set forth herein, or in compliance with any work schedule submitted pursuant to this Order and approved by the Executive Officer, the Dischargers may request, in writing, an extension of the time specified. The extension request shall include justification for the delay. Any extension request shall be submitted as soon as a delay is recognized and at least 5 days prior to the compliance date. An extension may only be granted by modification of this Order or by approval from the Executive Officer. The Regional Water Board acknowledges that local, state, and federal permits may cause a delay beyond the control of the Dischargers and will take all the available relevant facts into consideration when considering whether or not to exercise its enforcement authority.
10. **Potential Liability:** If the Dischargers fails to comply with the requirements of this Order, this matter may be referred to the Attorney General for judicial enforcement or a complaint for administrative civil liability may be issued by the Regional Water Board.

Failure to comply with this Order may result in the assessment of an administrative civil liability of up to \$10,000 per violation per day and \$10 per gallon when the violation results in the discharge of waste, pursuant to California Water Code sections 13268, 13350, and/or 13385. The Regional Water Board reserves its right to take any enforcement actions authorized by law, including, but not limited to, violation of the terms and condition of this Order.

11. **No Limitation of Water Board Authority:** This Order in no way limits the authority of the Regional Water Board to institute additional enforcement actions or to require additional investigation and cleanup of the Property consistent with the Water Code. This Order may be revised as additional information becomes available.
12. **Modifications:** Any modification to this Order shall be in writing and approved by the Regional Water Board or its delegated officer including any potential extension requests.
13. **Requesting Review by the State Water Board:** Any person aggrieved by this or any final action of the Regional Water Board may petition the State Water Board to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, section 2050 et al. The State Water Board must receive the petition no later than 5:00 p.m., 30 days following the date of this Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, the petition must be received on the next business day. Copies of the law and regulations applicable to filing petitions will be provided upon request or may be found on the Internet at:
https://www.waterboards.ca.gov/public_notices/petitions/water_quality/

This Order is effective upon the date of signature.

Matthias St. John
Executive Officer