Inspection Report

Site: Gary VanDenBerghe, Mendocino County APN 056-170-10-00
CIWQS Place ID: 842079
Inspection Date: April 3, 2018
WDID No.: 1B171431CMEN

Property Information

County: Mendocino
Physical Address: 6565 Spyrock Road, Laytonville, CA 95490
Assessor's Parcel Number: 056-170-10-00
Owner: Gary VanDenBerghe
Size (acres): 59.3 acres

Inspection Information

Date/Time: April 3, 2018/ 09:00 am – 12:30 pm
Consent? Yes
Details: Gary VanDenBarghe, parcel owner, provided consent.
Inspection Type: Compliance
Attendance:
Connor McIntee, Environmental Scientist (ES), North Coast Regional Water Quality Control Board (Regional Water Board)
John Herrera, ES California Department of Fish and Wildlife (CDFW)
Zachary Gomer, Water Resource Control Engineer, Division of Water Rights (DIV)
David Avilas, ES, DIV
Weather Conditions: Sunny

Inspection Report Information

Prepared by/Date: Connor McIntee, Environmental Scientist, Regional Water Board, on November 1, 2018
Reviewed by/Date: Diana Henrioulle, P.E., on November 26, 2018
Photograph/Imagery/Water Quality Sample Source(s): All photographs taken by Connor McIntee unless otherwise noted.
CIWQS Inspection Report ID: 33271865

Property Setting and Background

Watershed: Cal Water 1114.420301; HUC12 180101050204; Blue Rock Creek Watershed; Middle Main Eel River Hydrologic Area; Spy Rock Hydrologic Subarea (HU/HA/HSA 114.42; Table 2-1, Water Quality Control Plan for the North Coast Region (Basin Plan))

Clean Water Act Section 303(d) Listings (if/as applicable): Sedimentation/ Siltation, Temperature, Aluminum.

https://www.waterboards.ca.gov/northcoast/water_issues/programs/tmdls/303d/pdf/150710/02_FinalNorthCoastRegion_2012_303dList.pdf

TMDLs (if/as applicable): Sediment and Temperature TMDL – December, 2002

https://www.waterboards.ca.gov/northcoast/water_issues/programs/tmdls/index.html

Development (historic imagery review; Google Earth Pro):
Pond, homestead, and general site development, including main road visible as of June 2009 imagery
Cannabis cultivation visible on parcel as of July 9, 2012, imagery.
Current cannabis cultivation sites visible as of August 12, 2017, imagery.

Regulatory/Enforcement (general):
The Property is currently enrolled for coverage, as a Tier 2 site, under the North Coast Regional Water Quality Control Board Order No. R1-2015-0023 (regional cannabis order), effective July 3, 2017, with WDID number 1B171262CMEN. Enrollment paperwork indicated that the Property was meeting all standard conditions, and that a water resource protection plan (WRPP) would be prepared by November 2017. The landowner had not yet prepared a WRPP for the Property at the time of the inspection, more than 180 days after enrollment.

Site Map

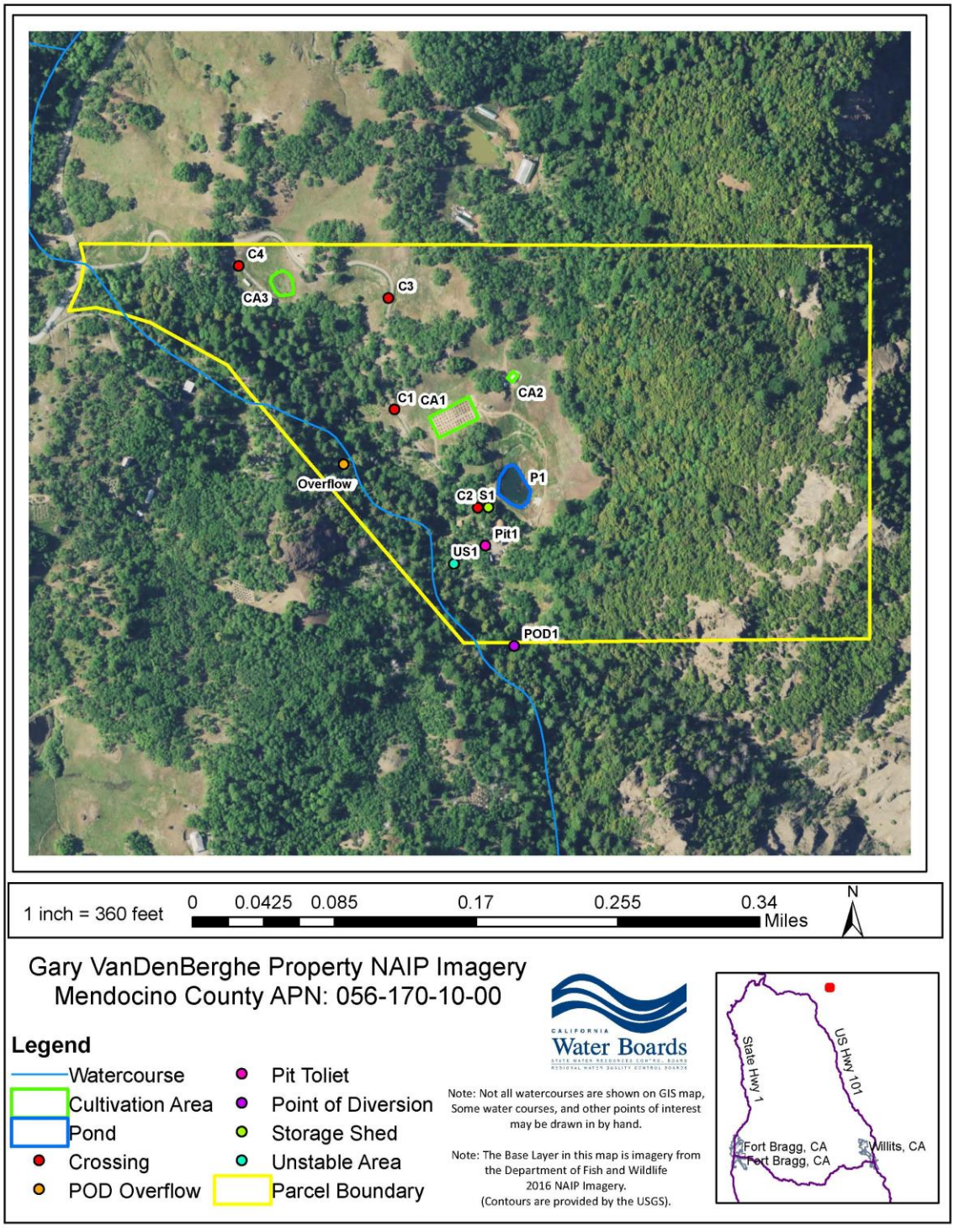

Figure 1 – Inspection points of interest

Inspection Observations/Discussion

On March 7, 2018, I inspected the above-referenced property (Property), in the company of staff from the State Water Board's Division of Water Rights, and the California Department of Fish and Wildlife. The property owner, Gary VanDenBerghe, provided consent, but was not present during the inspection. The purpose of the inspection was to assist CDFW staff in their assessment of compliance with a proposed 1600 agreement and to assess compliance with the terms of North Coast Regional Board Order R1-2015-0023, under which the Property was enrolled. Figure 1, above, shows inspection points identified and discussed below.

We accessed the Property via a long driveway off of Spy Rock Road, approximately 15 miles east by southeast of Leggett. Along the driveway, I observed four culverted stream crossings, identified as inspection points C1-C4. The culvert at C4 consists of an 18" corrugated metal pipe (CMP) with a slightly shotgunned outlet, and lacking sufficient armoring at the outfall to prevent/minimize erosion (Photo 1). The culvert at C3 consists of a 12" CMP that relieves the inboard ditch of the road and discharges into a class III watercourse (Photos 1-2). The culvert outlet is slightly misaligned from the channel and lacks adequate armoring to prevent/minimize erosion at the outfall. The culvert at C1 consists of a 24" CMP that conveys a class II watercourse under the access road; the culvert outlet is slightly shotgunned and lacks adequate armoring to prevent/minimize erosion at the outfall (Photos 3-4). The culvert at C2 consists of an 18" CMP that is partially occluded at both the inlet and outlet, and is not correctly aligned with the class III stream channel that it conveys. Outflows drain onto the hillslope before returning to the natural channel (Photos 5-7). On the watercourse channel upstream of the C2 inlet, I saw a structure (labeled S1), apparently used for storage, with assorted containers and bins (Photos 8-9).

Upstream of the storage structure, along the same watercourse, I observed an impoundment, identified as inspection point P1. The pond at this location is fed by two class III watercourses blocked by a large earthen dam (Photos 11-12). Along the dam, I observed several cracks that appeared surficial, but would require further investigation to determine the full extent of cracking and to identify any associated concerns with the stability of the berm (Photo 13). The pond outfall consists of an 18" CMP that is partially occluded at both the inlet and outlet and lacks adequate armoring to prevent/minimize erosion at the outlet (Photos 14-16). The pond is approximately 10 years old, based on imagery review.

During the inspection, I observed three cannabis cultivation areas throughout the Property, identified as inspection points CA1, CA2 and CA3. At CA1, I observed approximately 10,000 square feet of cultivation area, with signs of active cultivation (Photo 17). At CA2, I observed approximately 563 square feet of cultivation area, not apparently active (Photo 18). At CA3, I observed approximately 4,200 square feet of cultivation area, not apparently

active (Photo 19). I observed no water quality issues associated with any of the cultivation areas.
Southeast of crossing C2, along the northwest side of the access road, I observed multiple homestead structures (not photographed) immediately downslope from pond, P1. On the other side of the access road, I observed a platform structure, labeled as Pit1, that appeared to be used as a pit toliet. At the base of the pit toilet structure, I observed a plastic pipe leading away from structure down the hill towards a Class II watercourse less than 100 feet downslope (Photos 20-21).

Several feet downslope from the pit toilet structure, I observed a large scarp and unconsolidated soils that had slumped towards the class II watercourse below (Photos 26-28), labeled US1 on Figure 1. I did not identify an apparent cause for the slumping, but the access road, pit toilet, and various other structures are all located just upslope of the failure.

In the class II watercourse, upstream of US1, I observed a surface water diversion feature (POD1) consisting of a wooden chute structure leading to a 2" diameter plastic pipe that diverts the majority of the flow from the watercourse (Photo 22). I followed the diversion pipe to its terminus, several hundred feet downstream, labeled "overflow" on Figure 1, where I observed multiple lines leading into pickle barrels, overflow lines feeding excess water back into the class II watercourse, and others being directed upslope towards the residence and cultivation sites (photos 23-24).

At several locations throughout the parcel, I observed refuse and cultivation-related wastes strewn about in locations where they have the potential to enter waters of the state (photos 29-32).

Inspection Point	*Brief Description*	*Water Quality Concern*	*Associated Photo(s)*
N/A	Water Resource Protection Plan not available onsite.	Effective enrollment date under Regional cannabis order more than 180 days prior to inspection.	N/A
N/A	Appendix C/MRP for enrollment identified site as meeting all standard conditions pursuant to Regional cannabis order	During inspection, staff identified issues not meeting the following standard conditions: 1, 2, 3, 5, 10, and 11.	N/A

Inspection Point	*Brief Description*	*Water Quality Concern*	*Associated Photo(s)*
C1, C2, C3, C4	Stream Crossings	Stream Crossings not properly installed and/or sized. Discharges and/or threatened discharges to surface waters	1-9
S1	Storage shed in stream channel	Fill (structure) placed in a watercourse.	8-9
P1	Impoundment	Pond dam showing signs of potential instability; overflow structure partially blocked; overflow outlet discharge location not adequately armored to prevent/minimize erosion and sedimentation. Discharges and/or threatened discharges to surface waters	11-16
US1	Unstable Area	Unstable Earthen Material adjacent to watercourse Evidence of erosion on this feature. Discharges and/or threatened discharges to surface waters	26-28
Refuse Throughout	Refuse	Refuse and cultivation-related wastes placed where they can enter into surface waters. Discharges and/or threatened discharges to surface waters	29-32
Pit1	Pit Toliet Platform	Pit Toliet platform and infrastructure with outlet directing potential discharge along a slope towards a class II watercourse.	20-21

Inspection Point	*Brief Description*	*Water Quality Concern*	*Associated Photo(s)*
Pit1	Pit Toliet Platform	Human waste handling system potentially not in compliance with applicable county requirements. Discharges and/or threatened discharges to surface waters	20-21

Photos

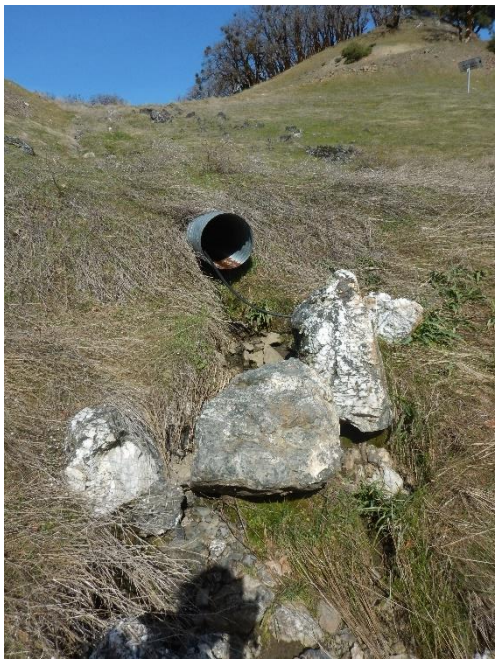

Photo 1 – C4 Outlet

Photo 2 – C3 Outlet and Class III channel

Photo 3 – C1 Inlet

Photo 4 – C1 Outlet

Photo 5 – Channel Downstream of C1

Photo 6 – C2, partially occluded outlet

Photo 7 – C2, partially occluded inlet

Photo 8 – C2 Upstream, with structure in watercourse

Photo 9 – Contents of structure upstream of C2

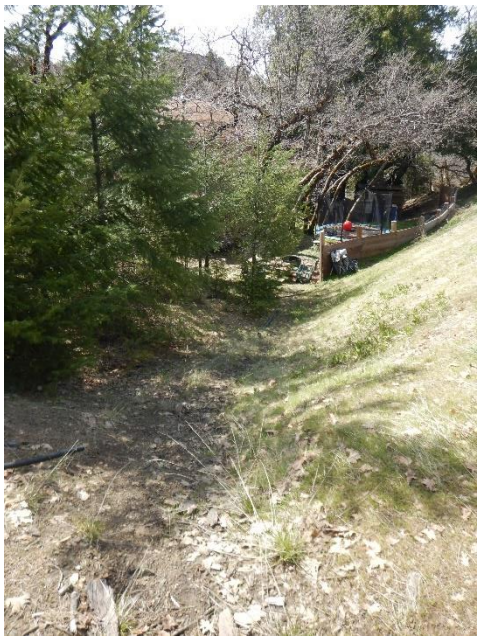

Photo 10 - Channel upstream of structure upstream of C2, pond P1 dam on right side of channel

Photo 11 – P1, Class III channel inlet visible

Photo 12 – P1 Overview

Photo 13 – P1 dam with shallow surface cracking visible

Photo 14 – P1 outfall inlet

Photo 15 – P1 Outlet

Photo 16 – Channel below P1 outlet

Photo 17 – CA1

Photo 18 – CA2

Photo 19- CA3

Photo 20 –Pit Toliet platform.

Photo 21 – Outlet of pipe from apparent pit toliet.

Photo 22 – Intake of POD on CII Watercourse

Photo 23 – POD pump system and overflow

Photo 24 – Overflow actively discharging back into CII watercourse

Photo 25 – Overflow actively discharging back into CII watercourse. Refuse in watercourse.

Photo 26 – Downslope view of US1 immediately downhill from apparent pit toliet platform and adjoining road.

Photo 27 – Upslope view of US1

Photo 28 – Channel cutting through US1, upslope view.

Photo 29 – Discarded cultivation pots adjacent to watercourse

Photo 30 – Discarded hosing near main residence

Photo 31 – Out of use outhouse along CII watercourse, downhill from residence

Photo 32 – Refuse along POD pipeline pathway

Summary (Water Code Section 13276(b), Water Quality Requirements)

A comparison of conditions observed on the site with categories of activities typically associated with water quality concerns at cannabis cultivation sites:

a. Site Maintenance, Erosion Control and Drainage Features: In addition to the features mentioned in b., c., and e., below, staff observed a large unstable area that has the potential to deliver to a class II watercourse, US1.
b. Stream Crossing Maintenance: As noted above, I observed 4 watercourse crossings of concern. All crossing are undersized, misaligned and/or causing erosion.
c. Riparian and Wetland Protection and Management: I observed no water quality concerns relating to Riparian and Wetland Protection and Management, however, as noted above, I observed a storage structure sitting in a class II watercourse channel.
d. Spoils Management: I observed no water quality concerns associated with spoils management on the Property.
e. Water Storage and Use: I observed a diversion point within a class II watercourse, as well as unregulated overflow from the diversion point discharging back into the watercourse several hundred feet downstream. Additionally, I observed an onstream impoundment with a berm that had cracking visible and an outfall that may be undersized for the expected flow and is not armored to prevent erosion and sediment discharge.
f. Irrigation Runoff: I observed no evidence of water quality issues associated with irrigation runoff on the Property.
g. Fertilizers and Soil Amendments: I observed no water quality concerns associated with the storage/use of fertilizer and soil amendments on the Property.
h. Pesticides/Herbicides: I observed no water quality concerns associated with the storage and use of pesticides and herbicides on the Property.

i. Petroleum Products and Other Chemicals: I observed no water quality concerns associated with the storage and use of petroleum products on the Property.
j. Cultivation-related Wastes: I observed cultivation related wastes adjacent to a class II watercourse on the parcel downhill from CA3.
k. Refuse and Human Waste: I observed an abandoned outhouse structure and a platform of a potential pit toliet structure with a pipe leading from the structure downslope towards a class II watercourse. I did not observe apparent evidence of discharge from this pipe.

Recommendations

1. Engage appropriately qualified, licensed professional(s) to develop a plan, including design and construction standards and an implementation schedule to repair and/or replace stream crossings C1-C4, identified in this report.

2. Submit an evaluation of the pond embankment identified at P1 in this report, prepared by a qualified, appropriately licensed professional. The evaluation should, at a minimum, characterize the stability of the embankment and outflow structure and flow path. Recommended performance standards are that the berm has slopes not more than 2H:1V and exhibits no cracking or slumping; the pond is maintained to have at least 2' of freeboard; the outflow conveyance structure is adequately sized to pass the 100-year recurrence interval expected outflow plus debris; and the outlet does not exhibit actual or threatened erosion and sediment discharge to surface waters. Based upon the assessment, submit a plan and schedule for corrective actions of P1.

3. Submit an evaluation of the unstable feature identified as US1 in this report, prepared by a qualified, appropriately licensed professional. The evaluation should characterize the feature, including likely contributing factors, activity level, a description of potential future sediment delivery, and identify feasible sediment control strategies to prevent and minimize additional sediment delivery. Based upon the assessment, submit a plan and schedule for corrective actions at US1

4. Remove the storage structure from the watercourse upstream of crossing C2, and ensure that storage facilities/features are located away from surface waters and active drainageways. Restore any associated disturbance to the watercourse channel and/or adjacent riparian areas.

5. Collect and dispose of or contain all refuse and cultivation-related wastes in a location and manner so as to minimize potential for these wastes to enter or be transported into receiving waters.

6. Discontinue use of and dismantle any outhouse/pit toilet features and work with Mendocino County to ensure that all domestic and human wastes are collected and disposed of consistent with applicable County requirements.

7. Work with CDFW and the State Water Resources Control Board's Division of Water Rights (DIV) to determine and secure any applicable permits or licensing required for surface water diversion, storage, and use on the Property, including the instream and pond diversions.

8. Update and submit to Regional Water Board staff a copy of the WRPP for this site, incorporating/addressing the recommendations provided herein.

9. By July 1, 2019, transition enrollment of this property from the North Coast Regional Water Quality Control Board Order R1-2015-0023 to the State Water Resources Control Board Cannabis General Order No. WQ-2017-0023.

   The application for the Statewide Order can be found here:

   https://public2.waterboards.ca.gov/cgo

10. Prior to conducting any instream work associated with recommendations 1. and 2., above, submit to the Regional Water Board an Appendix D (instream workplan) or an application for Clean Water Act section 401 water quality certification, and secure approval from the Regional Water Board.

    The Appendix D application may be found here:
    https://www.waterboards.ca.gov/northcoast/board_decisions/adopted_orders/pdf/2015/150728_Appendix_D_Surface%20Water%20Correction%20Workplan%20Requirements.pdf

    The 401 Application may be found here:

    https://www.waterboards.ca.gov/northcoast/water_issues/programs/wqc_docs/031616_401-Application.pdf

11. In the event that the property owner and/or tenant(s) propose in the future to develop or use the Property in a manner or method that will or may result in a discharge of waste to waters of the state in the future, staff recommend that the owner(s)/tenant(s) be aware of and comply with relevant regulatory requirements for water quality protection. For example, Water Code section 13260 requires that a person discharging waste, or proposing to discharge waste, within any region that

could affect the quality of the waters of the state, other than into a community sewer system shall file with the appropriate regional board a report of the discharge. Further, Water Code section 13264 states, in part: "No person shall initiate any new discharge of waste or make any material changes in any discharge…prior to the filing of the report required by Section 13260." In addition, projects involving the disturbance of an acre or more of land are subject to regulation under the State Water Board's Construction General Stormwater permit, and projects involving dredge or fill in waters of the United States are subject to regulation under Clean Water Act section 401. For more information about Water Board permits that may apply to proposed site development or land use activities, refer to this link:

https://www.waterboards.ca.gov/northcoast/water_issues/programs/permit/

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.