North Coast Regional Water Quality Control Board

TO: Diana Henrioulle

FROM: Brian Fuller

DATE: February 3, 2020

Inspection Report for October 23, 2019 Inspection of
Mendocino County Assessor's Parcel Number 037-620-07-00

File: Cannabis Program Inspections, Mendocino County, October 23, 2019
CAE Holdings Inc. and Ehud Lissauer, CIWQS Place ID 844208

Property Information

County: Mendocino

Physical address: 7801 Third Gate Road, Willits

APNs: 037-620-07-00

Owner: CAE Holdings Inc.
4335 Lime Court
Long Beach CA, 90807

Transaction History (per LandVision): Last recorded sale March 14, 2014; sellers Keith and Penny Lucero

Size: the parcel is approximately 20 acres.

Watershed: Eel River Hydrologic Unit; Upper Main Eel River Hydrologic Area; Outlet Creek Hydrologic Subarea (HU/HA/HSA 111.61; Table 2-1, Water Quality Control Plan for the North Coast Region).

Regulatory status with the Regional Water Board

Site Development: No permits were applied for to develop the site.

Applicable programs: An application for a Water Quality Certifications would be required for placing fill in the watercourse between WQ 3 and WQ 4 and to remove or replace the culverts near WQ 1 and WQ 4.

Onsite activities/operations:

- Enrolled in R1-2015-0023, effective April 26, 2017.
- Transferred enrollment to WQ 2019-0001-DWQ, effective July 1, 2019.
- On August 15, 2019, the Regional Water Board received the Site Management Plan required under order WQ 2019-0001-DWQ.

Inspection information:

Date/time: October 23, 2019/Morning

Type: Consent Inspection

Attendance:
North Coast Regional Water Quality Control Board (Regional Water Board)
Adona White, Water Resources Control Engineer
Brian Fuller, Engineering Geologist

Mendocino County
Nicholas Duncan, Department of Planning & Building Services Cannabis Program
Don Folsom, Code Enforcement
Daniel Knapp, Code Enforcement
Jessi Laughlin, Environmental Health

Background/Objective:
Regional Water Board staff (staff) participated with personnel from Mendocino County in inspecting Mendocino County Assessor's parcel number 037-620-07-00 (the Property) in response to a report of a diesel fuel spill into a pond. Inspection objectives for staff included observing site development and activities and identifying and assessing onsite features or conditions that are causing or may cause adverse impacts to the quality and beneficial uses of receiving waters, including surface and ground water.

Inspection Map

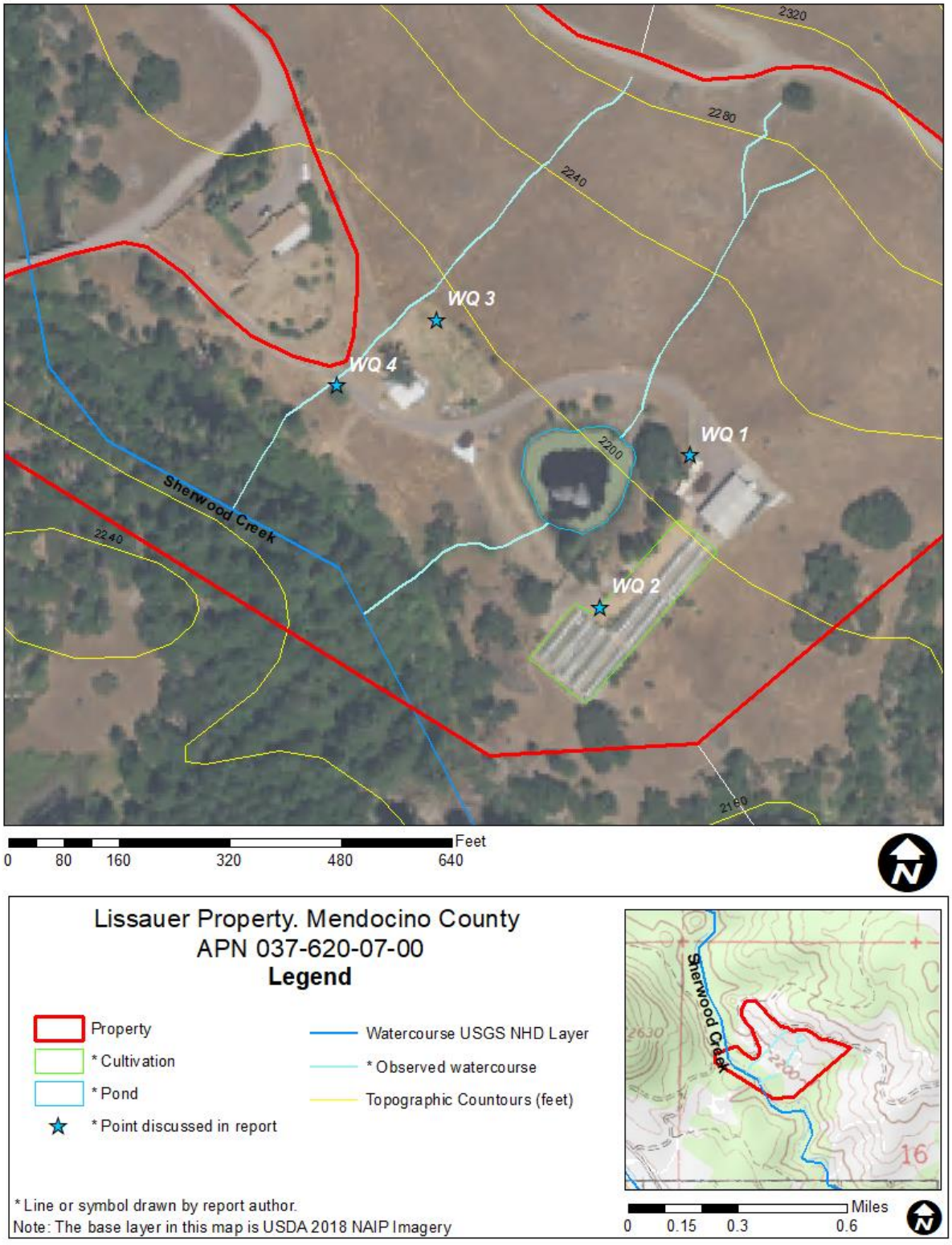

Figure 1: Map of Property, including Inspection Points of Interest

Inspection Observations

Staff followed Mendocino County personnel to the pond location labeled as WQ 1 on the map. Here we met with site representatives Mr. Jay Brown and Mr. Ehud Lissauer. Staff asked about the fuel spill alleged in a complaint and neither Mr. Brown nor Mr. Lissauer acknowledged there had been a spill. I observed that the pad occupied by a shipping container had been excavated, creating a near vertical boundary (Photo 1 and Photo 2), when asked about the excavation Mr. Brown, replied that the excavation occurred while cleaning up a fallen tree. I asked Mr. Lissauer if I could take some pictures and he said yes.

I observed a granular material that resembled kitty litter (Photo 3) and I smelled several dark clumps of earth that had a strong odor of diesel fuel. East of the contaminated soil, I observed a scour feature where surface water from the hillslope to the north (Photo 4) would flow toward the pond (Photo 5). I did not observe a culvert at this location, but the Site Management Plan map and photos 36 and 37 show a culvert at this location. The Site Management Plan does not identify this feature as a watercourse.

From WQ 1, I observed a standpipe on the east side of the pond (Photo 6) which delivered the pond outflow to a pipe on the southwest side of the pond (Photo 6/Photo 7). I observed a watercourse extending from the pond outlet to Sherwood Creek (Photo 8). The Site Management Plan does not identify this feature as a watercourse. The pond drainage inlet is less than 50 feet from the Cannabis cultivation pad.

I walked from the pond to a southeastern entrance to the cultivation area at WQ 2. Here I observed potting soils uncovered and surrounded by aged/decomposed wattles which were not effective at preventing the spread of potting soils (Photo 9 and Photo 10). I observed that the potting soils were sitting on an incline dipping towards Sherwood Creek (Photo 11) and are susceptible to being transported by stormwater to receiving waters.

I walked back to WQ 3 and asked Mr. Lissauer if I could inspect the leach field where contaminated soil had allegedly been placed. Mr. Lissauer agreed, and I walked around the leach field located in the vicinity of WQ 3 (Photo 12). I observed earth deposited on top of vegetation and the same imported rock material that I had observed armoring the pad at WQ 1. I also smelled the odor of diesel fuel in the soil at this location.

I observed the topographic form of a watercourse on the hillslope northeast of WQ 3 (Photo 13), which passes the leach field before being culverted at a road crossing at WQ 4 (Photo 14). Downstream from the road the watercourse flows towards Sherwood Creek (Photo 15). Between WQ 3 and WQ 4, I observed that the land had been disturbed by the placement of shipping containers that were encroaching on the watercourse (Photo 16 and Photo 17). I asked Mr. Brown if the storage containers were going to be used for the cannabis operation and he said yes.

Map point	*Feature*	*Brief Description*	*Water Quality Concern*	*Associated Photo(s)*
WQ 1	Pond	Pond receives water from an interrupted ephemeral watercourse and discharges to an ephemeral tributary to Sherwood Creek	Pond is onstream and should meet applicable protections requirements.	Photo 4 thru Photo 8
WQ 2	Soils storage	Potting soils are uncovered and located on an incline dipping towards Sherwood Creek	Threatened discharge of waste to receiving waters	Photo 9 thru Photo 11
WQ 1 and WQ 3	Diesel spill	Contaminated soil from Diesel remains above pond and was inappropriately disposed at leach field.	Threatened discharge of waste to receiving waters	Photo 1 thru Photo 3 and Photo 12
WQ 4	Fill encroaching on watercourse.	Pad constructed for storage containers is encroaching on watercourse.	Unauthorized dredge/fill in surface water	Photo 13 thru Photo 17

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

1. Site maintenance, erosion control and drainage features: I did not observe any water quality issues associated with the main road that passed along the north side of the pond. I did not review the road that passed along the south side of the pond. The pad underlying the storage container at WQ 1 was recently excavated at the edge and susceptible to erosion. The pad underlying the storage containers at WQ 2 has loose unvegetated earth that is susceptible to being transported into the bordering watercourse.

2. Stream crossing maintenance and improvement: I did not observe a culvert at WQ 1. The pond outlet is rusted and perched. The culvert at WQ 4 is narrower than the channel width and partly blocked at the inlet.

3. Riparian and wetland protection and management: The western edge of the cultivation pad dips directly into the pond to with less than 50 feet of leaf-covered earth between the pad and the pond edge when filled. This is not an adequate buffer between the cultivation area and the pond which discharges into Sherwood Creek. The pad constructed between WQ 3 and WQ 4 encroaches on a tributary to Sherwood Creek.

4. Spoils management: Potting soils at WQ 2 are uncovered and located on an incline dipping towards Sherwood Creek.

5. Water storage and use: Some water for irrigating cannabis comes from the pond which is onstream. I did not review the rain catchment system north east of the cultivation area.

6. Irrigation runoff: Staff did not observe water quality concerns associated with irrigation runoff.

7. Fertilizers and soil amendments: As noted above, potting soils at WQ 2 are uncovered and located on an incline dipping towards Sherwood Creek.

8. Pesticides: Staff did not review pesticide use or storage on the property.

9. Petroleum products and other chemicals: Diesel fuel had been spilled above the pond and was inappropriately disposed of at the leach field. Staff did not review chemical and fuel storage areas.

10. Cultivation-related wastes: As noted above, potting soils at WQ 2 are uncovered and located on an incline dipping towards Sherwood Creek.

11. Refuse and human waste: Staff observed black pipes extending from a trench within the area of disturbance for the pad constructed between WQ 3 and WQ 4. The pipes appear to connect to the septic system. Other than observing the sanitary pipe in open ditch, I did not review human waste disposal facilities on the property. I did not observe water quality concerns associated with refuse on the property.

Recommendations

1. Retain a licensed professional to investigate the extent of contaminated soil, surface water and groundwater associated with the diesel spill and develop a workplan and schedule for cleaning up the spill.

2. Retain a licensed professional to inventory, assess, and develop a workplan and schedule to implement measures to ensure that all developed features, roads, watercourse crossings, and cultivation areas throughout the Property are corrected, restored, and/or maintained in conditions that prevent or minimize erosion, sediment transport/delivery, and adverse impacts to water quality and beneficial uses. Include measures to ensure all land disturbance, cannabis cultivation activities, and facilities are setback the minimum required distance stated in the State Water Resources Control Board Cannabis Policy (Cannabis Policy). Dispose of all development and restoration-related earthen spoils in a manner to prevent/minimize transport and delivery to receiving waters.

   Cannabis Policy:

   https://www.waterboards.ca.gov/water_issues/programs/cannabis/docs/policy/final_cannabis_policy_with_attach_a.pdf

3. 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 using the water in the onstream pond for cannabis cultivation. If the existing surface water diversions do not meet applicable CDFW or DIV requirements, remove diversion infrastructure from surface waters and ensure that restoration plans developed pursuant to this recommendation, include provisions for restoring any instream or riparian disturbance associated with this features or removal thereof.

4. Prior to conducting any instream work associated with the above recommendations, submit to the Regional Water Board an application for Clean Water Act section 401 water quality certification, and secure approval from the Regional Water Board.

   The 401 Application may be found at the following hyperlink:

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

5. 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. You may find further information about Water Board permits that may apply to proposed site development or land use activities at this hyperlink:

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

6. Confirm work associated with exposing the septic lines near WQ 3 is consistent with applicable County requirements.

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.

PHOTO APPENDIX

Photo 1—Looking east at area of reported diesel spill WQ 1. The pond is to the right of the image.

Photo 2—Looking at area of excavated bench. Some of the rock that was used to armor the bench surface can be seen in the excavation area.

Photo 3—Granular material that resembles kitty litter can be seen upslope of the pond at WQ 1.

Photo 4—Looking north at the pond. The topographic form of a watercourse can be seen on the hillside in the background of the image. The watercourse passes by a tree near the center of the image also pictured in Photo 5.

Photo 5—Shows suspected flow path of surface water from the watercourse pictured in Photo 4 before it flows south into the pond.

Photo 6—Shows the east bank of the pond. The standpipe inlet for the pond outflow can be seen in the center back of the image.

Photo 7—Shows the outlet pipe for the standpipe pictured in Photo 6.

Photo 8—Shows the same outlet pipe pictured in Photo 7. Note the watercourse channel leading to Sherwood Creek in the right of the image.

Photo 9—Looking north at potting soils uncovered on bare ground in the vicinity of WQ 2.

Photo 10—Looking south at potting soils uncovered on bare ground in the vicinity of WQ 2.

Photo 11—Looking north west at potting soils uncovered on bare ground in the vicinity of WQ 2. Sherwwod Creek is in the background of the image.

Photo 12—Looking northwest at leach field area where contaminated soils was disposed of.

Photo 13—Looking northeast from a point west of WQ 3. The topographic form of a watercourse can be seen in the center of the image.

Photo 14—Looking southwest of at road crossing at WQ 3.

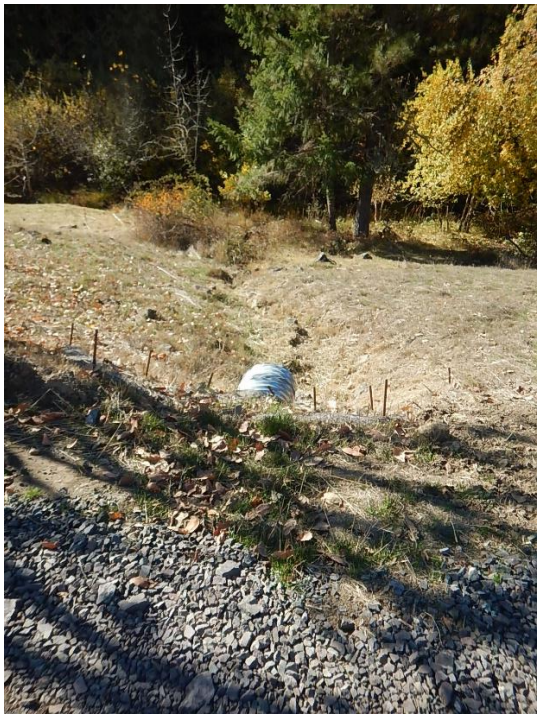

Photo 15—Looking southwest of at WQ 3 culvert outlet.

Photo 16—Looking west at shipping containers encroaching on watercourse between WQ 3 and WQ 4.Note the septic pipe to the right of the person standing in the middle of the watercourse.

Photo 17—Looking southwest at shipping containers encroaching on watercourse between WQ 3 and WQ 4. Note black plastic pipes protruding from the ground in the lower left of the image.