
North Coast Regional Water Quality Control Board

May 21, 2021

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD NORTH COAST REGION

Cleanup and Abatement and 13267 Order No. R1-2021-0029

for

Dobrev Capital, LLC

Assessor Parcel Number 217-391-007

Humboldt County

This Order is issued to Dobrev Capital, LLC (hereafter referred to as the Discharger) 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, which authorizes the Regional Water Board to require the preparation and submittal of technical and monitoring reports (Order).

The Executive Officer finds, with respect to the Discharger's acts, or failure to act, the following:

1. **Site Conditions:** Larabee Creek, and its unnamed tributaries, 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).¹ The Discharger has caused or allowed the discharge and threatened discharge of waste to receiving waters through site development, including clearing, grading, and construction of roads, flat areas, and a stream crossing without adequate erosion and sediment control best management practices to ensure water quality protection. The Discharger's activities resulting in the discharge were conducted without authorization from applicable federal, state, and local agencies, including the Regional Water Board. Three areas of the site were filled and graded for the construction of flat areas.

¹ 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" has been interpreted broadly by the agencies responsible for implementing the CWA to include all traditionally navigable waters and their tributaries. (40 C.F.R. 122.2) The Porter-Cologne provides the Regional Water Board additional authority to regulate 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 Porter-Cologne.

The surface of the graded flat areas and associated drainage ditches lacked erosion and sediment control measures. Drainage ditches for the graded areas discharged sediment to unnamed tributaries of Larabee Creek. Unpaved access roads and a stream crossing were constructed without adequate erosion control measures. An unnamed watercourse was altered by the installation of the stream crossing and placement of earthen fill material in the unnamed watercourse directly upstream and downstream of the stream crossing. In addition, two ephemeral watercourses were altered by grading and road building.

2. **Purpose of the Order:** This Order requires the Discharger to cleanup and abate the effects of unauthorized grading, road building, construction of a stream crossing, and excavation and altering of watercourses to eliminate the threat of future discharges to tributaries of Larabee Creek. Investigation and cleanup actions required under this Order shall be conducted to comply with the Porter-Cologne Water Quality Control Act (Wat. 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 Party:** The Discharger, as the property owner and the entity discharging or creating a threat of discharge, with the legal ability to control the activities on the property that resulted in the discharge and/or threat of discharge, is the responsible party for purposes of this Order. This Order finds that Dobrev Capital, LLC is the responsible party based on the following:
 - a. Parcel information available from the Humboldt County Assessor's Office, as accessed by State Water Board staff via Digital Map Products' LandVision™ online service, lists approximately 40 acres, identified as Assessor's Parcel Number (APN) 217-391-007-000 (hereafter Property), was transferred by Robert A. and Pamela Pryor to Dobrev Capital, LLC on November 15, 2019.
 - b. Per records from the Humboldt County Assessor's Office, as presented in Digital Map Products' LandVision™ online service, Dobrev Capital, LLC owned the Property at the time that State Water Board staff inspected the Property on March 9, 2020 and is currently the owner of the Property.
 - c. The Regional Water Board reserves the right to amend this Order to add additional responsible parties when/if those parties are identified.
4. **Property Location and Description:** The Property is located at 29211 Alderpoint Road, Blocksburg, in Humboldt County. This location is approximately one-mile northwest of the town of Blocksburg. An unnamed tributary located on the south portion of the Property flows east to Larabee Creek located along the east side of the Property. Grading, placement of earthen material for roadways, and stream alteration activities occurred in and adjacent to tributaries of Larabee Creek in the vicinity of latitude 40.28728° and longitude -123.65173°.

5. **Property History:** The Property has no prior regulatory oversight or history with the Regional Water Board. Prior to the March 2020 inspection, there was no record of any person obtaining coverage under 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* (Cannabis General Order), as amended by Order No. WQ 2019-0001-DWQ, for activities occurring at the Property. On August 18, 2020, Dobrev Capital, LLC applied for coverage under the Cannabis General Order and was listed as the cannabis cultivator on the Property. Enrollment under the Cannabis General Order for the Property is on hold pending submission of an application fee.
6. **Factual Basis of Order:** The Discharger's activities and/or the conditions observed at the Property, as documented in the State Water Board March 2020 inspection report (Attachment 1), and as detailed below, have caused or permitted, cause or permit, or threaten to cause or permit waste to be discharged or deposited where it is, or probably will be, discharged into unnamed tributaries to Larabee Creek, and created and/or threaten to create a condition of pollution by unreasonably impacting water quality and beneficial uses.
 - a. The Larabee Creek is a tributary to the Eel River, located in the Larabee Creek Hydrologic Subarea of the Lower Eel River Hydrologic Area. Larabee Creek and its unnamed tributaries are waters of the state, as well as waters of the United States. The lower Eel River is Clean Water Act section 303(d)-listed as impaired due to sediment/siltation and high-water temperature. On December 18, 2007, the U.S. Environmental Protection Agency approved Total Maximum Daily Loads (TMDL) for temperature and sediment for the Lower Eel River and its tributaries. The TMDL indicates that the cold freshwater habitat is the most sensitive of beneficial uses in the watershed. As such, protection of this beneficial use is presumed to protect any of the other beneficial uses that might also be harmed by sedimentation.
 - b. On March 9, 2020, staff of the State Water Board and California Department of Fish & Wildlife (CDFW) inspected the Property, executing a search warrant obtained by the CDFW from Humboldt County Superior Court. The attached Notice of Violation and Water Quality Inspection Report document the water quality concerns and violations that staff observed on the Property, including the following:
 - i. Recently constructed large-scale (greater than one acre in total) graded earthen flats on slopes, draining towards watercourses, with insufficient erosion and sediment controls in place.
 - ii. Recently constructed stream crossing of an unnamed Class II (intermittent) watercourse with insufficient erosion and sediment controls.

- iii. Placement of earthen fill material and discharge of sediment to the unnamed Class II watercourse.
- iv. Alteration of the unnamed Class II watercourse by construction of a stream crossing.
- v. Alteration of two unnamed Class III (ephemeral) watercourses by construction of graded earthen flats and roads.
- vi. Slope instability of a graded earthen flat.
- vii. Discharging and/or proposing to discharge waste without obtaining regulatory coverage.

7. 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 Regional Water Boards.

- a. Existing and potential beneficial uses for the Larabee Creek Hydrologic Subarea within the Eel River Hydrologic Unit include the following: Municipal and Domestic Supply (MUN), Agricultural Supply (AGR), Industrial Service Supply (IND), Industrial Process Supply (PRO) Groundwater Recharge (GWR), Freshwater Replenishment (FRSH), Navigation (NAV), Hydropower Generation (POW), Water Contact Recreation (REC1), Non-Contact Water Recreation (REC2), Commercial or Sport Fishing (COMM), 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), and Aquaculture (AQUA). Beneficial uses of any specifically identified water body generally apply to all 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. Chapter 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 include the following:

- i. 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.”
- 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. Suspended Material: “Waters shall not contain suspended material in concentrations that 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.”

8. **Regional Water Board Resolutions:** As part of the 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.

9. **State Water Board Resolutions:** 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.

10. **Failure to Obtain Applicable Permits:** State Water Board staff, working in coordination with staff from the Regional Water Board, has determined that the soil disturbance/grading, instream disturbance, placement of fill in a watercourse, site clearing to develop cultivation areas and other flats, construction of access roads, and construction of a stream crossing occurred without coverage under the following State and federal government programs, which may be required:
 - a. A CWA section 404 permit from the Army Corps of Engineers for dredge and fill activities in waters of the United States;
 - b. A CWA section 401 Water Quality Certification or other Waste Discharge Requirements from the Regional Water Board;
 - c. A CDFW Lake and Streambed Alteration Agreement for impacts to riparian vegetation and placement of fill in streams;
 - d. Coverage under the Cannabis General Order; and
 - e. Coverage under the National Pollutant Discharge Elimination System (NPDES) *General Permit for Storm Water Discharges associated with Construction and Land Disturbance Activities* (Construction General Permit) Order No. 2009-0009-DWQ, as amended by Order No. 2010-0014-DWQ and

2012-0006-DWQ, which may be applicable for projects that disturb one (1) or more acres of soil.

11. 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 Discharger caused or permitted waste to be discharged or deposited where it will be, or has the potential to be, discharged to Larabee Creek, tributaries thereto, a tributary of the Eel River, all waters 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 construction of a stream crossing and onsite roads, land clearing and grading within or adjacent to watercourses; and the erodible soils from roads and graded areas on the Property has discharged, and still has the potential to discharge into unnamed watercourses tributary to Larabee Creek in violation of Water Code sections 13260 and 13376 and provisions of the Basin Plan, and creates or threatens to create a condition of pollution by unreasonably affecting the beneficial uses of waters of the state.

- ii. Larabee Creek and unnamed tributaries pass through the Property. Areas of land disturbance at the Property are affecting or threatening to affect water quality by encroaching on or discharging to unnamed tributaries of Larabee Creek, a tributary of the Eel River.
- 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, and localized accumulation of deleterious materials. 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 Eel River watershed is especially problematic because, as noted above, the Lower Eel River is listed as an impaired water body under Section 303(d) of the Clean Water Act due to several pollutants, including sedimentation/siltation and high water temperatures. Sediment delivery impacts the migration, spawning, reproduction, and early development of cold-water fish.
- v. Suspended sediment in surface waters can cause harm to aquatic organisms by abrasion of surface membranes and 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, salmonid eggs, and alevin (newly spawned salmon or trout still carrying its yolk). Sediment can also physically damage gills causing fish mortality; increase 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: REC1, REC-2, COLD, SPWN, RARE, MIGR, COMM, MUN, and WILD).

- 12. Cleanup and Abatement Action Necessary:** Cleanup and abatement is necessary to ensure that the existing condition of pollution 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 and State Water Board.
- 13. 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 burden, including costs, of these technical reports shall bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports. Staff estimate the total cost of technical reports required by this Order to be approximately \$12,000 to \$36,000². The costs of the technical or monitoring reports required by this Order bear a reasonable relationship to the need for these reports and the benefit to be gained by these reports, as discussed below:
- a. The Restoration Monitoring and Mitigation Plan (RMMP) is a technical report that is necessary to assess impacts to waters of the state resulting from the unauthorized land disturbance activities and to determine the appropriate restoration and abatement work to correct those impacts. By requiring the Discharger to submit an RMMP, the Regional Water Board or its delegated officer has the opportunity to review and approve the scope of the proposed restoration and corrective actions to confirm the proposed work will adequately remediate site conditions and prevent sediment discharges from further impacting the beneficial uses of sensitive water bodies.

² The State Water Board considered the estimated costs associated with various technical reports regarding site characterization, stabilization, and restoration during the adoption and amendment of the Cannabis Cultivation Policy and General Order. Estimated costs for technical reports were presented in the State Water Board's 2017 Direct Cost Analysis For the Proposed Cannabis Cultivation Policy (2017 Direct Cost Analysis) (waterboards.ca.gov/water_issues/programs/cannabis/docs/policy/20171017_cannabis_cultivation_policy_cost_analysis.pdf). The costs to develop the technical reports required in this Order are anticipated to be comparable to the preparation of reports presented in the 2017 Direct Cost Analysis, as detailed in Paragraph 13, subparagraphs a-d.

- As previously mentioned, the lower Eel River is Clean Water Act section 303(d)-listed as impaired due to sediment/siltation and high-water temperature, thereby heightening the need for this technical report in order to reduce further impairment to waters of the state. The plan requirements and associated costs to prepare an RMMP (i.e., field inspection and report preparation) are comparable to that of preparing a combined Site Management Plan and Disturbed Area Stabilization Plan as presented in the 2017 Direct Cost Analysis, which is estimated to cost between \$3,660 and \$11,720. After consideration of these factors, staff has determined that the burden, including costs, of submitting the RMMP bears a reasonable relationship to the need for the report and the benefits to be obtained from the report.
- b. The Monthly Progress Reports are periodic reports that the Discharger prepares to demonstrate and communicate progress on implementation of the RMMP. Monthly Progress Reports are necessary to ensure that the restoration and corrective actions are being performed consistent with the approved RMMP and that implementation of the RMMP will be completed by the deadline contained in this Order. Timely implementation is crucial to ensure the site is restored and erosion control measures are in place prior to the next winter season to prevent discharges of sediment into waters of the state. The cost of preparing a Monthly Progress Report is based on the cost estimated in the 2017 Direct Cost Analysis for report production of a Site Closure Report which is estimated to cost \$120 an hour. Staff has estimated that it will take 4-8 hours to prepare a Monthly Progress Report, resulting in a cost between \$480 and \$960 per report, for a total cost between \$3,360 and \$6,720 to prepare seven monthly reports during the period of April through October when on-site restoration activities are authorized. After consideration of these factors, staff has determined that the burden, including costs, of submitting the Monthly Monitoring Reports bears a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.
- c. The RMMP Completion Report is a report that demonstrates to the Regional Water Board or its delegated office that the restoration and corrective actions contained in the approved RMMP have been fully implemented. By requiring the Discharger to submit documentation of the corrective actions, including pre- and post-construction photographs, staff can confirm the RMMP has been fully implemented and that the erosion control measures are adequate to prevent future discharges of sediment into waters of the state. The cost to prepare an RMMP Completion Report is comparable to the report preparation component of a combined Site Management Plan and Disturbed Area Stabilization Plan as presented in the 2017 Direct Cost Analysis, which is estimated to cost between \$2,760 and \$7,920. After consideration of these factors, staff has determined that the burden, including costs, of submitting the RMMP Completion Report bears a reasonable relationship to the need for the report and the benefits to be obtained from the report.

- d. Annual Monitoring Reports are necessary to document the long-term stability of restored areas, to identify any areas where restoration is failing or needs improvement, and to demonstrate the effectiveness of erosion control measures in preventing sediment discharges to waters of the state. Given the condition of the Property as a result of the unauthorized land disturbance activities, including extensive grading and placement of fill, subsequent failure of an access road, and sediment discharge to waters of the state, a yearly report for a minimum of two years will enable staff to confirm that the completed restoration and corrective actions documented in the RMMP Completion Report continue to be effective. The cost to prepare an Annual Monitoring Report is comparable to producing a Site Closure Report as presented in the 2017 Direct Cost Analysis, which is estimated to cost between \$1,080 and \$4,760 per report, for a total of \$2,160 to \$9,520 for two annual reports. After consideration of these factors, staff has determined that the burden, including costs, of submitting the Annual Monitoring Reports bears a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.

The Discharger named in this Order owns the Property from which waste was discharged, and thus is appropriately responsible for providing the reports.

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 Discharger 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 Discharger's 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 Discharger 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 Discharger 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.

REQUIRED ACTIONS

IT IS HEREBY ORDERED that, pursuant to Water Code sections 13267 and 13304, that the Discharger 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.

1. **By June 22, 2021**, the Discharger shall submit a proposed RMMP acceptable to the Regional Water Board or its delegated officer. The RMMP shall include, but 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, rivers, streams, seeps, springs, bogs, and wetlands, caused by the unauthorized activities, including all areas that have been developed or disturbed; and identification of controllable sediment sources requiring restoration. The assessment shall include all disturbed areas located within the riparian setbacks from watercourses and springs. The assessment shall be completed by an appropriately qualified professional, at a minimum, address surface water hydrology, bed and bank stability, riparian and aquatic habitat and loss thereof, channel slope stability, reservoirs and their effects on water quality, active or potential erosion and sedimentation sites, stability of graded and disturbed features, 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, 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, delineation of riparian setbacks from surface water features, delineation of 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 RMMP;
 - b. A plan for Property restoration, including a description of how short-term and long-term impacts from erosion and sedimentation sources will be abated (e.g. immediate implementation of erosion and sediment controls and re-grading and reengineering, graveling or paving road surface, etc.), 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 unnamed tributaries of Larabee Creek, and any springs, seeps, bogs, or wetlands;
 - c. Best management practices to be applied to all current and planned work associated with construction activities on the Property impacting,

- or having the potential to impact, Larabee Creek and its unnamed tributaries. The RMMP shall contain, at a minimum, design specifications for roads, any stream crossing, in-stream structure and for riparian and aquatic habitat restoration, surface drainage controls, and erosion and sedimentation controls; an implementation schedule; a monitoring and reporting plan; and success criteria for restoration and compensatory mitigation; and
- d. 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.
2. **No more than 60 days after approval of the RMMP** by the Regional Water Board or its delegated officer, the Discharger shall begin implementation of the RMMP in accordance with the implementation schedule.
 3. The Discharger shall submit monthly progress reports beginning **the first day of the month following the implementation start of the RMMP**, through completion of cleanup, stabilization, restoration, and mitigation work. Include photographs at each photo monitoring point, as depicted on site maps/figures.
 4. **By October 31, 2021**, the Discharger shall complete implementation of the RMMP.
 5. **No more than 60 days after fully completing implementation of the RMMP**, the Discharger shall submit a **Completion Report** of the RMMP for approval by the Regional Water Board or its delegated officer. The Completion Report shall include accurate depictions, documentation, and as-built designs of all completed restoration construction and/or abatement measures included in the approved RMMP to demonstrate the RMMP 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.
 6. Upon completion of the restoration and mitigation measures contained in the RMMP, the Discharger shall submit annual monitoring reports by **January 31** of each year for at least two 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 RMMP are met with supporting documentation. Each annual monitoring report shall include, at a minimum, a completed inspection checklist, photographs of areas restored, a description of any locations where restoration is failing and/or needs to be corrected to achieve the success criteria.

GENERAL REQUIREMENTS AND NOTICES

1. **Duty to Use Qualified Professionals:** The Discharger shall provide documentation that identifies 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 Discharger 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 Discharger shall include a cover letter signed by the Discharger, 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 Discharger 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 Discharger, or a duly authorized agent, shall notify State 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 Discharger shall contact Gary Dickenson at (916) 341-5424 or by email Gary.Dickenson@waterboards.ca.gov.
4. **Notice of Change in Ownership or Occupancy:** The Discharger 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 or its delegated officer no later than 30 days prior to a planned change and shall reference the number of this Order.
5. **Reasonable Access:** The Discharger shall allow the State Water Board and 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:** The RMMP and all monitoring reports, technical reports, or notices required under this Order shall be submitted to State Water Board staff at the addresses provided below. State Water Board staff will coordinate with the Regional Water Board or its delegated officer to obtain approval of the required submittals.

By email (preferred) to:

Gary Dickenson, Engineering Geologist
Gary.Dickenson@waterboards.ca.gov

Or by mail to:

State Water Resources Control Board – Office of Enforcement
Attn: Gary Dickenson
801 K St., Suite 2300
Sacramento, CA 95814

And emailed to:

NorthCoast.cannabis@waterboards.ca.gov

7. **Other Regulatory Requirements:** The Discharger shall obtain all applicable local, state, and federal permits necessary to fulfill the requirements of this Order prior to beginning the work.
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. The Discharger shall enroll in the State Water Board's Cost Recovery Program managed by the State Water Board for the discharges addressed by this Order and shall reimburse the State of California for all reasonable costs actually incurred by the State Water Board and Regional Water Board pursuant to the procedures established in that program.
9. **Delayed Compliance:** If for any reason, the Discharger is 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 Regional Water Board or its delegated officer, the Discharger 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 prior to the compliance date. An extension may only be granted by modification of this Order or by a letter from the Executive Officer. The Regional Water Board acknowledges that local, state, and federal permits may cause a delay beyond the control of the Discharger 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 Discharger 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 conditions 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 may be found on the Internet at: https://www.waterboards.ca.gov/public_notices/petitions/water_quality/ or will be provided upon request.

This Order is effective upon the date of signature.

Matthias St. John
Executive Officer

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Attachment: August 4, 2020 Notice of Violation and Water Quality Inspection Report