

TO: Diana Henriouille

FROM: Adona White

DATE: April 9, 2021

**Report for March 11, 2021 Warrant Inspection of Humboldt County Assessor's Parcel Number 022-200-34**

File: Cannabis Program Inspections, Trinity County, 2021 Inspections, CIWQS Place ID 873461, Inspection ID 43653946

**Property Information**

County: Trinity

Physical address: 2611 Raff Creek Road, located along the Trinity County line with Mendocino, on Island Mountain, above the Mainstem Eel River.

APN: 022-220-34

Owner: Silvio Re  
7166 Humboldt Hill Road  
Eureka, CA 95503

Transaction History (per LandVision): 2007 from Siena Klein

Size: 160 acres

Watershed: Eel Hydrologic Unit; Middle Fork Eel River Hydrologic Area; Spy Rock Hydrologic Subarea (HU/HA/HSA 111.42; Table 2-1, Water Quality Control Plan for the North Coast Region).

Aerial Imagery Notes (Google Earth Pro): A simpler road system is visible on older photos, with an increase in roads between 2010-2014. Ponds were constructed between 2012-2014. Greenhouses were constructed between April 2019 and July 2020.

**Regulatory status with the Regional Water Board**

Site Development: No permits for site development are on record with the Regional Water Board

Applicable Programs: Dredge and fill in surface waters is subject to the requirements of Clean Water Act sections 301, 401, and 404, requiring, in part, a Water Quality Certification or waiver thereof from the Regional Water Board.

Onsite Activities/Operations: no permits for onsite activities or operation are on record with the Regional Water Board

Applicable Programs: Cannabis cultivation and associated activities are subject to coverage under the Order WQ 2019-0001-DWQ (statewide cannabis General Order), Tier 2, High Risk

**Inspection information:**

Date/time: March 11, 2021

Type: Warrant

Attendance:

Adona White, North Coast Regional Water Quality Control Board (Regional Water Board)

Ryan Bourque and Kyle Shaw California Department of Fish and Wildlife

Zachary Gomer, Division of Water Rights

Various Law Enforcement officers

Background/Objective:

Inspection objectives for Regional Water Board 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

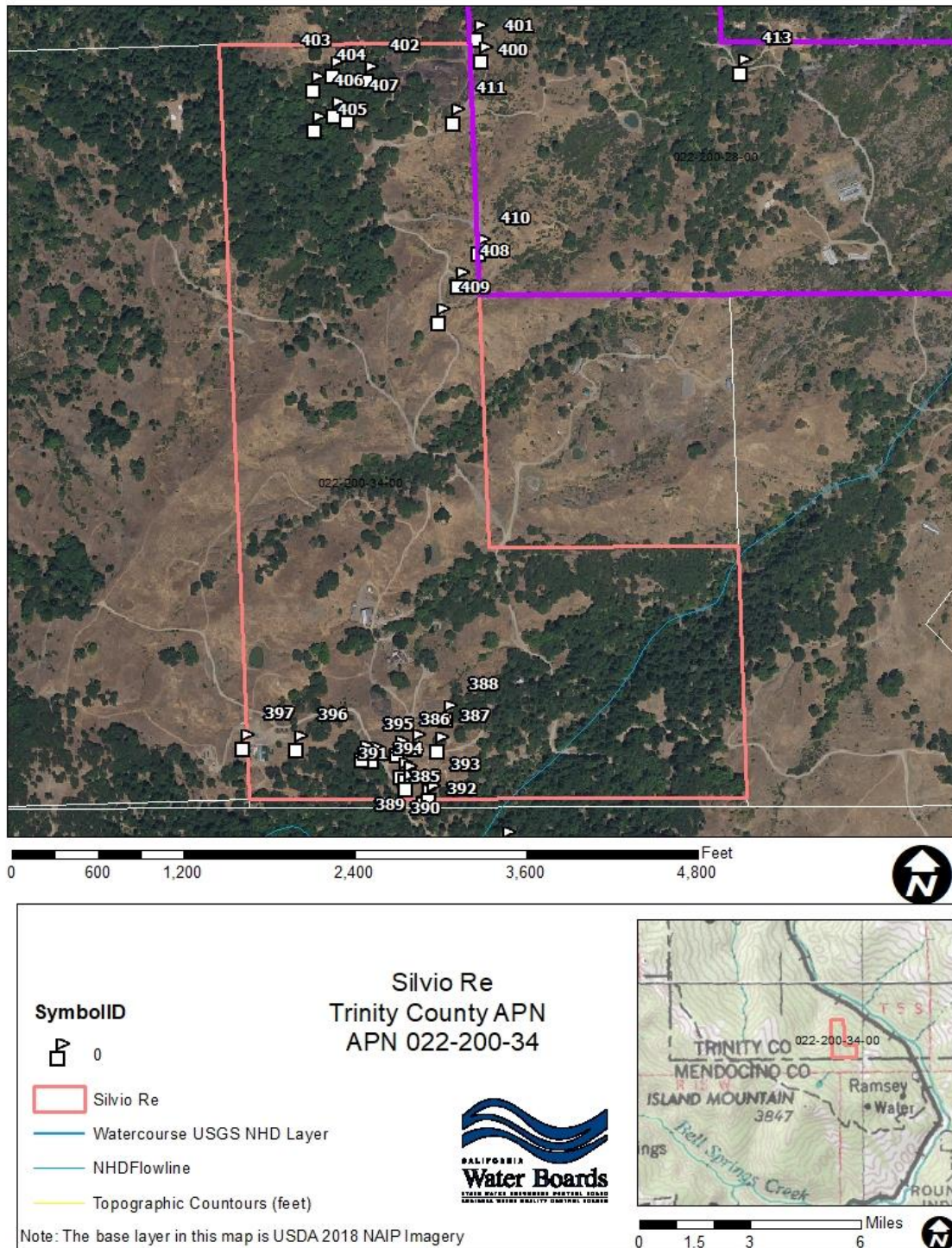


Figure 1. Parcel map with 2018 aerial imagery and GPS locations collected during the inspection.



Figure 2. Inspection map of southern portion of Property, with GPS locations (numbers) and features of concern to water quality (WQ), with aerial imagery from 2020.



*Figure 3. Inspection map of northern portion of Property, with GPS locations (numbers) and features of concern to water quality (WQ) with aerial imagery from 2020.*

### Inspection Observations

WQ1: An area of developed features including stream crossings (394, 385), terraces, excavation and fill that has impacted approximately 330 feet of one watercourse (386 to 388) and 100 feet of another. Fuel tanks are located near stream (387).

WQ2: There are two onstream, unlined ponds; I refer to the upper of the two ponds as Pond 1 and the lower of the two as Pond 2. Pond 1 is constructed in apparent wetlands, in a location that captures spring flow into the pond (390), with an outlet (391) to a lower terrace and Pond 1 via a 12-inch plastic pipe. There is a point of diversion (POD) associated with the spring (389).

WQ3: This area is a series of stacked developed features that drain to the same watercourse identified in WQ1. At the top, a cut and fill flat is constructed, with a ditch along the cut bank with wetland vegetation and standing water. Fuel tanks, generators, garbage, including burned items, are located in areas that are in, or could enter into the watercourse. The flat is also occupied by a hoop house, and the outboard fill slope is on a steep slope above another pond, Pond 3. Pond 3 is located at the top of and outlets to the watercourse channel described in WQ1.

WQ4: Eroded watercourse at stream crossing (402), undersized, not to grade, and lacks energy dissipation. A bladder pad is located next to the watercourse.

WQ5: Bladder (403), without containment, is located within 50' of Class III stream.

WQ6: I observed plastic, from an inactive point of diversion, in a watercourse (405).

WQ7: At this location, there is a watercourse crossing (406) with an 18" plastic pipe with a plugged inlet and an eroded fill prism at the outlet, associated with overtopping. The water is diverted over the road and can transport sediment to the watercourse.

WQ8: A watercourse has an 18 inch plastic pipe that is perched above an incised channel (407). The pipe is too short, not at grade, and lacks energy dissipation.

*Table 1. Description of inspection points identified on Figures 2 & 3.*

Inspection Point	Description of Feature	Water Quality Concern	Associated Photos
WQ1	Development in and near watercourse, including terraces, cannabis cultivation, and stream crossings	Discharge of sediment to waters of the state	Figures 4-12
WQ2	Development in and near watercourse including two onstream ponds	Discharge of sediment to waters of the state	Figures 13-17
WQ3	Development in and near watercourse including construction of cut and fill flat, cannabis cultivation, uncontained refuse and potting soil	Discharge of sediment and other waste to waters of the state	Figures 18-32
WQ4	Stream crossing is undersized, not to grade, lacks energy dissipation	Discharge of sediment to waters of the state	Figures 33-34
WQ5	Water bladder lacks containment, located near watercourse	Threatened discharge of sediment to waters of the state	Figure 35
WQ6	Diversion-related refuse in watercourse	Discharge of waste to waters of the state	Figure 36
WQ7	Stream crossing is undersized and plugged and watercourse is overtopping road	Threatened and actual discharge of sediment to waters of the state	Figures 37-38

Inspection Point	Description of Feature	Water Quality Concern	Associated Photos
WQ8	Stream crossing is undersized, not to grade, lacks energy dissipation	Threatened discharge of sediment to waters of the state	Figure 39

**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: The roads and developed surfaces lack hydrologic disconnections and contribute sediment to watercourses.
2. Stream crossing maintenance and improvement: I observed numerous stream crossings that were failing or inadequate and are eroding to watercourses.
3. Riparian and wetland protection and management: I observed cultivation areas, bladders, ponds, and refuse in the riparian setbacks.
4. Spoils management: I observed storage of spoils that were not stabilized.
5. Water storage and use: I observed onstream ponds within the riparian setbacks. I observed water storage bladders lacking secondary containment.
6. Irrigation runoff: I observed flowpaths from greenhouses indicating transport of runoff from irrigation.
7. Fertilizers and soil amendments: I observed inadequate storage of potting soil.
8. Pesticides: I did not observe pesticides.
9. Petroleum products and other chemicals: I observed generators located adjacent to watercourses.
10. Cultivation-related wastes: I observed potting soil discarded near watercourses.
11. Refuse and human waste: Significant refuse is accumulated and not handled adequately.

**Recommendations**

1. 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 that unstable features caused or affected by onsite development and operations are removed or otherwise protected so as to minimize the potential for these features to cause adverse impacts to water quality and beneficial uses. Dispose of all development and restoration-related earthen spoils in a manner to prevent/minimize transport and delivery to receiving waters.

2. Retain a qualified professional to delineate the extent natural channels of watercourses impacted by dredge and fill activities relating to the development of roads, cultivation, and associated activities. Based upon the delineation, retain a qualified professional to develop a workplan and schedule to remove the fill and cannabis cultivation infrastructure associated with the areas and restore channels to their natural state. Dispose of all development and restoration-related earthen spoils in a manner to prevent/minimize transport and delivery to receiving waters.
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 surface water diversion, storage, and use on the site. 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 Recommendation 1, above, include provisions for restoring any instream or riparian disturbance associated with this features or removal thereof.
4. Submit design plans, construction schedule, and other relevant information to the Regional Water Board through the 401 Water Quality Certification process prior to starting work in surface waters. Work may not start until authorization is received from the Regional Water Board. See 401 Water Quality Certification application here:  
[https://www.waterboards.ca.gov/northcoast/water\\_issues/programs/cannabis/pdf/200204/RB1\\_Cannabis\\_WQC\\_401\\_App.pdf](https://www.waterboards.ca.gov/northcoast/water_issues/programs/cannabis/pdf/200204/RB1_Cannabis_WQC_401_App.pdf)
5. Store and contain all potting soil, cultivation-related waste, and chemicals, including pesticides and petroleum products, properly to prevent spillage and potential for migration/transport into receiving waters.
6. Haul away and properly dispose of excess soil and other debris as needed to prevent discharge to waters of the state.
7. Use appropriate erosion control measures to minimize erosion of disturbed areas, potting soil, or bulk soil amendments to prevent discharges of waste
8. If the property owner and/or tenant(s) choose to continue to cultivate cannabis, enroll for coverage under and take steps to comply with the requirements of the

CANGO (Order WQ 2019-0001-DWQ, General Waste Discharge Requirements and Waiver of Waste Discharge Requirements for Discharges of Waste Associated with Cannabis Cultivation Activities). More information about the CANGO can be found at this link:

[https://www.waterboards.ca.gov/board\\_decisions/adopted\\_orders/water\\_quality/2019/wqo2019\\_0001\\_dwq.pdf](https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2019/wqo2019_0001_dwq.pdf)

9. 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 link:

[https://www.waterboards.ca.gov/northcoast/water\\_issues/programs/permit](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 right to take any enforcement action authorized by law.

### Photo Appendix



*Figure 4. Looking upstream at watercourse at WQ1, natural channel emerges from bay trees onto meadowed slope to stream crossing.*



*Figure 5. Palm trees are planted in and near the natural channel.*



*Figure 6. Looking downstream at watercourse at WQ1, channel is impacted by development. Natural watercourse goes downslope toward people in photo. Note the big oak tree for reference in Figure 8.*



*Figure 7. Downstream of the crossings the watercourse is impacted by the construction of a cultivation flat.*



*Figure 8. Fuel tanks are located under the big oak tree, as see in Figure 4, approximately 18 feet from the centerline of the watercourse.*



*Figure 11. The daylighted watercourse is routed around the flat to join the aforementioned watercourse.*



*Figure 9. Fill is pushed in the watercourse at the cultivation flat.*



*Figure 12. A steep unsurfaced road deliver sediment via rills and stormwater, to the watercourse in Figures 10 & 11.*



*Figure 10. A second watercourse originates from the cut bank of the cultivation flat.*

WQ2:



*Figure 13. View of two Ponds, Pond 1 and Pond 2, located south of WQ1.*



*Figure 14. Pond 1 is the upper of the two ponds.*



*Figure 15. Outlet of Pond 1 to Pond 2.*



*Figure 16. Pond 2 via upstream from berm.*



*Figure 17. View of Pond 2 outlet pipe discharging to watercourse.*

WQ3:



*Figure 18. View upslope of Pond 3 and hoophouse located on constructed flat.*



*Figure 19. View to the north from above Pond 3, with cultivation area on the left.*



*Figure 20. Watercourse channel above Pond 3, with adjacent cultivation.*



*Figure 21. Potting soil and grow bags discarded in a location that waste could be transported to the watercourse shown in previous Figure.*



*Figure 22. Generator located where runoff could be transported to same watercourse.*



*Figure 23. View of constructed flat with accumulation of cultivation related materials. The generator from previous figure is located in the middle of the photo in the distance.*



*Figure 24. View of flat from northern edge.*



*Figure 27. Standing water and flexi pipe in ditch northern cutbank of the flat.*



*Figure 25. Standing water at the northern edge of the flat.*



*Figure 28. Burned garbage adjacent to cutbank ditch.*



*Figure 26. Generator stored next to standing water shown in previous figure.*



*Figure 29. More burned garbage.*



*Figure 30. Cultivation-related waste accumulation. Note cut oak in distance, located above Pond 3.*



*Figure 31. View of Pond 3. with oak cut above it.*



*Figure 32. South of the cultivation flat has recent grading; I did not observe significant cut or fill slopes.*

WQ4:



*Figure 33. Eroded watercourse crossing, looking upstream.*



*Figure 34. Eroded watercourse crossing, from left bank, looking downstream.*

WQ5:



*Figure 35. Water bladder located adjacent to stream crossing lacks containment.*

WQ6:



*Figure 36. Plastic in watercourse from inactive diversion.*

WQ8:



*Figure 39. Eroded outlet of culvert.*

WQ7:



*Figure 37. Plugged culvert inlet*



*Figure 38. Diverted watercourse due to plugged culvert.*