
North Coast Regional Water Quality Control Board

June 2, 2021

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD

NORTH COAST REGION

Cleanup and Abatement and 13267 Order No. R1-2021-0031

for

Ted Nash (AKA Todor Neschev), Rudy Chacon, and Szagora LLC

Humboldt County

Assessor's Parcel Number (APN) 208-054-003-000 (the Property)

This Order is issued to Ted Nash (AKA Todor Neschev), Rudy Chacon, and Szagora LLC (hereafter collectively referred to as the Dischargers) based on provisions of Water Code section 13304, which authorizes the North Coast Regional Water Quality Control Board (Regional Water Board) to issue a Cleanup and Abatement Order, and Water Code section 13267, which authorizes the Regional Water Board to require the preparation and submittal of technical and monitoring reports.

Findings

The Executive Officer, acting under authority delegated by the Regional Water Board, finds, with respect to the Dischargers' acts, or failure to act, the following:

1. **Site Conditions:** The Mad River 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

¹ The Regional Water Board administers and enforces the federal 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 Water Quality Control Act provides the Regional Water Board additional authority to regulate discharges of waste into "waters of the state." (Wat. Code §

Tributaries to the Mad River pass through the middle of the Property from the west to east. A road on the Property, passing between unauthorized cannabis cultivation facilities in the north and south of the Property, crosses the tributaries to the Mad River. This Road has steep sections that are hydrologically connected to surface waters and undersized, misaligned and failed stream crossings that threaten to discharge earthen waste to the unnamed tributaries to the Mad River. Regional Water Board staff described and documented these threats to receiving waters in a report of a July 20, 2020 inspection (Inspection Report) as attached to and described in an October 19, 2020, Notice of Violation (Attachment 1).

2. **Purpose of the Order:** This Order requires the Dischargers to clean up and abate the effects of hydrologically-connected roads with inadequate stream crossings. 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 any other applicable State and Regional Water Board plans, policies, and regulations.
3. **Responsible Parties:** The Dischargers, as the Property owners and/or operators and the persons and/or entities responsible for causing the discharge of waste 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, are responsible parties for purposes of this Order. This Order finds that Ted Nash (AKA Todor Neshev), Rudy Chacon, and Szagora LLC are the responsible parties and are jointly and severally liable:
 - a. Information available from the Humboldt County Clerk-Recorder accessed by Regional Water Board staff via Digital Map Products' Land Vision service shows that Szagora LLC acquired title to the Property on December 9, 2019.
 - b. Szagora LLC is a domestic limited liability corporation registered in the State of Nevada. The Nevada Secretary of State website lists Ted Nash as the registered agent of Szagora LLC and Rudy Chacon as a manager for Szagora LLC.
4. **Property Location and Description:** The Property is located three miles east of the town of Dinsmore and borders the Humboldt-Trinity County line.

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 local topography dips to the east. Many spring-fed watercourses coalesce near the middle of the property and flow a quarter mile east to the Mad River.

5. **Property History:** On July 20, 2020, Regional Water Board staff participated with personnel from the California Department of Fish and Wildlife (CDFW), Humboldt County Planning & Building Department Code Enforcement Unit, and personnel from various law enforcement agencies in inspecting the property. 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 waters of the state. Staff transmitted the Inspection Report to the Dischargers along with a Notice of Violation (NOV) on October 19, 2020. The Inspection Report and NOV are included as an Attachment.
6. **Factual Basis of Order:** The Dischargers' activities and/or the conditions observed at the Property, as documented in the Inspection Report, and as detailed above, have caused or permitted to cause and threaten to cause or permit waste to be discharged or deposited where it is, or probably will be, discharged into unnamed tributaries to the Mad River, and created and/or threaten to create a condition of pollution by unreasonably impacting water quality and beneficial uses.
7. **Receiving Waters:** The watercourses on the Property are tributaries to the Mad River in the Butler Valley Hydrologic Area, in the Mad River Hydrologic Area. The watercourses tributary to the Mad River as well as the Mad River itself are waters of the state, as well as waters of the United States. The Mad River is Clean Water Act section 303(d)-listed as impaired due to elevated sedimentation/siltation and turbidity. On December 21, 2007, the U.S. Environmental Protection Agency approved Total Maximum Daily Loads (TMDL) for sediment and turbidity in the Mad River. 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.
8. **Beneficial Uses, Basin Plan Prohibitions, and Water Quality Objectives:** The Basin Plan designates beneficial uses, establishes water quality objectives, contains implementation programs for achieving objectives, and incorporates by reference the plans and policies adopted by the State Water Board.
 - a. **Beneficial Uses:** Existing and potential beneficial uses for the Mad River, specifically the Butler Valley Hydrologic Area, 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 (REC-1); Non-contact Water Recreation (REC-2); Commercial and 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); Aquaculture (AQUA); and Native American Culture (CUL).

- b. **Basin Plan Prohibitions:** The 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 (Page 4-29.00 of the 2011 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. **Basin Plan Objectives:** Section 3 of the Basin Plan contains water quality objectives not to be exceeded as a result of waste discharges. The water quality objectives that are considered of particular importance in protecting the beneficial uses from unreasonable effects due to waste discharges from land development activities include the following:
- i. Suspended Material: “Waters shall not contain suspended material in concentrations that cause nuisance or adversely affect beneficial uses.”
 - ii. Settleable Material: “Waters shall not contain substances in concentrations that result in deposition of material that causes nuisance or adversely affect beneficial uses.”
 - iii. Sediment: “The suspended sediment load and suspended sediment discharge rate of surface waters shall not be altered in such a manner as to cause nuisance or adversely affect beneficial uses.”
 - iv. Turbidity: “Turbidity shall not be increased more than 20 percent above naturally occurring background levels.

Allowable zones of dilution within which higher percentages can be tolerated may be defined for specific discharges upon the issuance of discharge permits or waiver thereof.”

9. **Regional Water Board Resolutions:** As part of Regional Water Board’s efforts to control sediment waste discharges and restore sediment impaired water bodies, the Regional Water Board adopted the Total Maximum Daily Load Implementation Policy Statement for Sediment Impaired Receiving Waters in the North Coast Region, which is also known as the Sediment TMDL Implementation Policy, on November 29, 2004. This Policy was adopted through Resolution R1-2004-0087. The Sediment TMDL Implementation Policy directs the Executive Officer to use “all available authorities, including existing regulatory standards and permitting and enforcement tools, to more effectively and efficaciously pursue compliance with sediment-related standards by all dischargers of sediment waste.” The goals of the policy are to control sediment waste discharges to impaired water bodies so that the TMDLs are met, sediment water quality objectives are attained, and beneficial uses are no longer adversely affected by sediment. To address sources of elevated water temperature to reduce impairments to waters of the state and prevent further impairment, the Regional Water Board adopted the Policy for Implementation of the Water Quality Objective for Temperature in the North Coast Region (Temperature Implementation Policy) through Resolution R1-2014-0006. To attain and maintain the water quality objectives for temperature, the policy directs the Regional Water Board to implement programs and collaborate with others to prevent, minimize, and mitigate temperature alterations associated with certain activities, including, but not limited to, activities that result in either the removal of riparian vegetation that provides shade to a waterbody, sediment discharges, impoundments and other channel alterations, reduction of instream summer flows, and/or reduction of cold water sources.
10. **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.

11. Failure to Obtain Necessary Permits: Regional Water Board Staff has reviewed available records and determined that grading, clearing, road construction, and dredge and/or fill within waters of the state have occurred at the Property and the Regional Water Board has identified no evidence that a Clean Water Act section 401 Water Quality Certification has been obtained from the Regional Water Board.

12. 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:** "Waste" is defined by Water Code section 13050, subdivision (d) as, sewage and any and all other waste substances, 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 of whatever nature prior to, and for purposes of, disposal.

i. **Sediment:** Both sediment and organic material, when discharged to waters of the state, are "wastes" as defined in Water Code section 13050. The Dischargers caused or permitted waste to be discharged or deposited where it is, will be, or has the potential to be, discharged to tributaries of the Mad River subsequently the Pacific Ocean, which are considered waters of the state, and waters of the United States.

- b. **Pollution:** "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 associated with roads used by the Dischargers to operate unauthorized cannabis cultivation facilities, has the potential to discharge, sediment and other waste into watercourses that are tributary to the Mad River in violation of the provisions of the Basin Plan, and creates or threatens to create a condition of pollution subject to this Order in accordance with Water Code section 13304.
 - ii. Discharges of sediment and other inert material alter the hydrologic and sediment transport regimes of surface waters. 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).
 - iii. The discharge of earthen material in the Mad River watershed is especially problematic because, as noted above, the Mad River watershed is listed as an impaired water body under Section 303(d) of the Clean Water Act due to sediment/turbidity and high water temperatures. Sediment delivery impacts the migration, spawning, reproduction, and early development of cold-water fish.
 - iv. Suspended sediment in surface waters can cause harm to aquatic organisms by abrasion of surface membranes, interference with respiration, and sensory perception in aquatic fauna. Suspended sediment can reduce photosynthesis in and survival of aquatic life by limiting the transmittance of light. The Basin Plan contains a water quality objective for sediment, which requires that the suspended sediment load and suspended sediment discharge rate of surface waters shall not be altered in such a manner as to cause nuisance or adversely affect beneficial uses.

As stated above, sediment is a pollutant that can have substantial biological, chemical, and physical effects on receiving waters.

These include (1) increased turbidity (loss of clarity) and resulting decreased light transmittance, biological productivity, and aesthetic value; and (2) physical suffocation through burial of bottom dwelling (benthic) organisms, and salmonid eggs, and alevin (newly spawned salmon or trout still carrying its yolk). Sediment can also physically damage gills causing fish mortality; increased physiological stress; reduce reproduction; impair normal feeding and predator avoidance behaviors, resulting in impacts to commercial and recreational fishing resources; increase water temperature; and fill in lagoons and wetlands converting them from aquatic to terrestrial habitat.

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

13. **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.
14. **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 preparing these reports must bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports. The technical reports required by this Order are necessary to assure compliance with the cleanup and abatement directives contained in this Order and to protect the waters of the state from the conditions of discharge described above. The technical reports are further necessary to demonstrate that appropriate methods will be used to cleanup waste discharged to waters of the state and to ensure that cleanup complies with Basin Plan requirements and State Water Board Resolution 92-49.

In accordance with Water Code section 13267, subdivision (b) the findings in this Order provide the Dischargers with a written explanation with regard to the need for remedial action and reports and identify the evidence that supports the requirement to implement cleanup and abatement activities and submit the reports.

This Order requires three types of technical and monitoring reports. Staff estimate the cost of the reports to be approximately \$4,340 to \$16,080:

- a. The Cleanup, Restoration, and Monitoring Plan (CRMP) is a technical report that is necessary to: (1) assess impacts to waters of the state resulting from the roads and facilities used for cannabis cultivation on the Property; (2) determine the appropriate restoration and abatement work to correct those impacts; and (3) create a plan along with an implementation schedule that will guide the scope of work to clean up and abate the discharges and threat of discharge on the Property. The anticipated benefits from the CRMP include restoration of altered natural drainage and protection from actual and threatened waste discharges that impact beneficial uses and water quality objectives. In addition, by requiring the Discharger to submit a CRMP, the Regional Water Board or its delegated officer will have the opportunity to review and approve the scope of the proposed restoration and corrective actions to confirm that the proposed work will adequately remediate site conditions and prevent sediment discharges from further impacting the beneficial uses of sensitive water bodies. As previously mentioned, the Mad River is a Clean Water Act section 303(d)-listed impaired water body 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 CRMP requirements (i.e., field inspection and report preparation) are comparable to that of preparing a combined Site Management Plan and Site Erosion and Sediment Control Plan as presented in the State Water Resources Control Board, October 2017, Direct Cost Analysis For the Proposed Cannabis Cultivation Policy (2017 Direct Cost Analysis)², which is estimated to cost between \$2,760 and \$9,920. Work in surface waters that is subject to regulation under a section 401 water quality certification, waste discharge requirements or waiver thereof, may have comparable completion report requirements that may serve to fulfill part of the requirements for the CRMP without additional cost. The burden, including costs, of preparing and submitting the CRMP therefore bears a reasonable relationship to the need for the report and the benefits to be obtained from the report.

² The 2017 Direct Cost Analysis can be found at:
https://www.waterboards.ca.gov/water_issues/programs/cannabis/docs/policy/20171017_cannabis_cultivation_policy_cost_analysis.pdf

- b. A Completion Report is necessary to demonstrate that the Discharger has successfully implemented and completed the CRMP activities in a timely manner in accordance with the implementation schedule set forth in the CRMP and this Order. The benefit derived from a Completion Report is documented evidence that remedial activities and best management practices were implemented to ensure that cleanup and abatement activities remedy all water quality threats and impacts. The scope of a Completion Report (i.e., field inspection and report preparation) is comparable to that of preparing a Site Closure Report as described in the 2017 Direct Cost Analysis described above, which is estimated to cost between \$1,080 and \$4,760. Furthermore, work in surface waters that is subject to regulation under a section 401 water quality certification, waste discharge requirements or waiver thereof, may have comparable completion report requirements that may serve to fulfill part of the requirements for the Completion Report required here without additional cost. The burden, including costs, of preparing and submitting a Completion Report therefore bears a reasonable relationship to the need for the report and the benefits to be obtained from the report.
- c. Annual monitoring reports are necessary to ensure that the implementation of the CRMP appropriately restored impacted beneficial uses and abated the threat of future impacts to waters of the state from the roads and facilities used for cannabis cultivation on the Property. Observation and maintenance of the completed project is required to ensure that the anticipated water quality benefits are achieved in the long-term and that CRMP components remain effective and maintained. Moreover, these reports provide further benefit by certifying that all applicable best practical treatment or control measures are implemented and properly maintained after the cleanup process. By requiring the Dischargers to submit annual monitoring reports, the Regional Water Board or its delegated officer can confirm the implemented work adequately remediated site conditions in order to prevent sediment discharges from further impacting the beneficial uses of sensitive water bodies. The annual monitoring plan requirements (i.e., field inspection and report preparation) are comparable to that of a Site Closure Report as presented in the 2017 Direct Cost Analysis described above, which is estimated to cost between \$500 and \$1,400. Furthermore, work in surface waters that is subject to regulation under a section 401 water quality certification, waste discharge requirements or waiver thereof, may have comparable monitoring requirements that may serve to fulfill the effectiveness monitoring required here without additional cost. The burden, including costs, of preparing and submitting a Completion Report therefore bears a reasonable relationship to the need for the report and the benefits to be obtained from the report.

15. California Environmental Quality Act: Issuance of this Order is being taken for the protection of the environment and to enforce the laws and regulations administered by the Regional Water Board and, as such, is exempt from provisions of the California Environmental Quality Act (CEQA) (Public Resources Code section 21000 et seq.) in accordance with California Code of Regulations, title 14, sections 15061, subdivision (b)(3), 15306, 15307, 15308, and 15321. This Order generally requires the Dischargers to submit plans for approval prior to implementation of cleanup, abatement, and restoration activities at the Property. Mere submittal of plans is exempt from CEQA as submittal will not cause a direct or indirect physical change in the environment and/or is an activity that cannot possibly have a significant effect on the environment. CEQA review at this time would be premature and speculative, as there is simply not enough information concerning the Dischargers' proposed remedial 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 to assure restoration of stream habitat and prevent erosion, this Order is exempt from provisions of CEQA pursuant to California Code of Regulations, title 14, section 15333. If the Regional Water Board determines that implementation of any plan required by this Order will have a significant effect on the environment that is not otherwise exempt from CEQA, the Regional Water Board will conduct the necessary and appropriate environmental review prior to implementation of the applicable plan. The Dischargers will bear the costs, including the Regional Water Board's costs, of determining whether implementation of any plan required by this Order will have a significant effect on the environment and, if so, in preparing and handing any documents necessary for environmental review. If necessary, the Dischargers and a consultant acceptable to the Regional Water Board shall enter into a memorandum of understanding with the Regional Water Board regarding such costs prior to undertaking any environmental review.

REQUIRED ACTIONS

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

1. **Submit a Cleanup, Restoration, and Monitoring Plan:** By July 1, 2021, the Dischargers shall submit to the Regional Water Board a proposed Cleanup, Restoration, and Monitoring Plan (CRMP) acceptable to the Regional Water Board or its delegated officer. The CRMP 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 roads and facilities used for cannabis cultivation on the Property; and identify controllable sediment sources requiring restoration.

The assessment shall be completed by an appropriately qualified professional, and must at a minimum address surface water hydrology, bed and bank stability, riparian and aquatic habitat and loss thereof, channel slope stability, encroaching reservoirs, 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 existing Property conditions, and include a detailed map of features accurately depicting the Property's topography, all graded surfaces, all waters of the state and waters of the United States, drainages, and stream crossings, instream structures, and the functional status of these features. Assessment findings shall serve as the basis for the CRMP;

- b. A proposal to restore beneficial uses of any waters of the state on the Property that were adversely impacted by the roads and facilities used for cannabis cultivation on the Property, including the Mad River, and its unnamed tributaries, and any springs, seeps, bogs, or wetlands;
 - c. 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 and a deadline for having fully implemented and completed the CRMP.
2. **Implement the CRMP:** No more than 30 days after approval of the CRMP by the Regional Water Board or its delegated officer, the Dischargers shall begin implementation of the CRMP.
3. **Modifications to the approved CRMP:** The Dischargers shall notify and provide rationale to the Regional Water Board staff and obtain approval at least 60 days prior to making any modifications to the approved CRMP.
4. **Complete the CRMP:** By the deadline in the approved CRMP or October 15, 2021, whichever day is sooner, the Dischargers shall fully implement and complete the CRMP.
5. **Completion Report for the CRMP:** No more than **60 days** after fully completing the CRMP, the Dischargers shall submit a Completion Report for the CRMP 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 CRMP to restore unnamed tributaries to the Mad River to demonstrate the CRMP has been fully implemented. This report shall also include pre- and post-construction photographs taken at each photo point, as depicted on site maps/figures.

- 6. Annual Monitoring Reports:** Upon completion of the restoration and mitigation of waters of the state, submit annual monitoring reports by January 31 of each year for at least five years or until the Regional Water Board or its delegated officer approves a request to discontinue monitoring. Such a request may be submitted when the approved success criteria in the CRMP are met with supporting documentation. Each annual monitoring report shall include, at a minimum, a completed inspection checklist, photos of areas restored, a description of any locations where restoration is failing and/or needs to be corrected to achieve the success criteria.

GENERAL REQUIREMENTS AND NOTICES

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

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my knowledge and on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

- 3. Notice of Onsite Work:** The Dischargers, or a duly authorized agent, shall notify Regional Water Board staff at least 48 hours prior to any onsite work, testing, or sampling that pertains to environmental remediation and investigation and is not routine monitoring, maintenance, or inspection.

The Dischargers may contact the Regional Water Board using the general phone line at (707) 576-2220 or contact Brian Fuller at (707) 576-2806.

4. **Notice of Change in Ownership or Occupancy:** The Dischargers shall file a written report on any changes in the Property's ownership or occupancy. This report shall be filed with the Regional Water Board no later than 30 days prior to a planned change and shall reference the number of this Order.
5. **Submissions:** All monitoring reports, technical reports or notices required under this Order shall be submitted:

By email (preferred) to:

Brian Fuller, Engineering Geologist, Brian.Fuller@waterboards.ca.gov

And to:

NorthCoast@waterboards.ca.gov

Or by mail to:

NCRWQCB

Attn: Brian Fuller

5550 Skylane Blvd, Suite A

Santa Rosa, CA 95403

6. **Other Regulatory Requirements:** The Dischargers shall obtain all applicable local, state, and federal permits necessary to fulfill the requirements of this Order prior to beginning the work. For example, Fish and Game Code (FGC) section 1602 requires a person or entity to notify CDFW before: (1) substantially diverting or obstructing the natural flow of a river, stream, or lake; (2) substantially changing the bed, channel, or bank of a river, stream, or lake; (3) using any material from the bed, channel, or bank of a river, stream, or lake; or (4) depositing or disposing of debris, waste, material containing crumbled, flaked, or ground pavement where it may pass into a river, stream, or lake. The failure to notify CDFW constitutes a violation of FGC section 1602.
7. **Delayed Compliance:** If for any reason, the Dischargers are unable to perform any activity or submit any document in compliance with the schedule set forth herein, or in compliance with any work schedule submitted pursuant to this Order and approved by the Regional Water Board or its delegated officer, the Dischargers may request, in writing, an extension of the time specified. The extension request shall include justification for the delay. Any extension request shall be submitted as soon as a delay is recognized and 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 Dischargers and will take all the available relevant facts into consideration when considering whether or not to exercise its enforcement authority.

8. **Potential Liability:** If the Dischargers fail to comply with the requirements of this Order, this matter may be referred to the Attorney General for judicial enforcement or may issue a complaint for administrative civil liability. 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 section 13268, 13350, and/or 13385. The Regional Water Board reserves its right to take any enforcement actions authorized by law, including, but not limited to, violation of the terms and condition of this Order.
9. **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.
10. **Modifications:** Any modification to this Order shall be in writing and approved by the Regional Water Board, including any potential extension requests.
11. **Requesting Review by the State Water Board:** Any person aggrieved by this or any final action of the Regional 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 by 5:00 p.m., 30 days after 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: [Link to Water Quality Petitions web page \(http://www.waterboards.ca.gov/public_notices/petitions/water_quality\)](http://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: Regional Water Board Notice of Violation and report of
July 20, 2020 inspection.