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## North Coast Regional Water Quality Control Board

June 23, 2021

Mr. Patrick Norgaard  
2447 Jacoby Creek Road  
Bayside, CA 95524

Certified Mail 7016 0750 0001 0048 7396

Dear Mr. Norgaard,

**Subject: Notice of Violation and Transmittal of Inspection Report for May 13, 2021 Inspection of Assessor's Parcel Numbers (APNs) 011-530-03-01, 031-010-24-01, and 031-010-04-01 in Mendocino County, and 022-200-029-000 and 022-200-037-000 in Trinity County**

**File:** Cannabis Program Inspections, Mendocino and Trinity County, May 2021 Inspections, CIWQS Place IDs: 874441 and 874445

This letter is to notify you of observed violations of the requirements listed below for unauthorized discharges to waters of the state from the above-referenced parcel (Property):

1. Water Quality Control Plan for the North Coast Region (Basin Plan) Section 4.2.1 at locations WQ1, WQ2, WQ4, WQ5, WQ6, WQ7, WQ8, WQ9, WQ10, WQ11, WQ12 and WQ13.
2. California Water Code (Water Code) sections 13260 and 13264

Within 30 days of this letter, please contact Regional Water Board staff to discuss your plan to correct the observed violations.

### Background

On May 13, 2021, staff from the Regional Water Board, accompanied by staff of the California Department of Fish and Wildlife (CDFW), State Water Resources Control Board Division of Water Rights, and various law enforcement personnel, inspected the subject Property.

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GREGORY A. GIUSTI , CHAIR | MATTHIAS ST. JOHN, EXECUTIVE OFFICER

The purpose of the inspection was to evaluate onsite development and conditions, and to identify and assess any impacts or threatened impacts to the quality and beneficial uses of waters of the state.

Attached is a copy of the water quality inspection report (Attachment B – May 13, 2021 Inspection Report). Please review the Inspection Report carefully and completely. The Inspection Report contains recommendations for correcting observed violations and advises you of the Regional Water Board permits necessary for instream work and projects/activities that result in discharges of waste to receiving waters.

### **Relevant Requirements**

During the inspection, Regional Water Board staff identified several features and conditions on the Property that represent violations of water quality requirements and regulations. Attachment A – Regulatory Citations, provides references to these, and related, requirements and regulations.

### **Observed Violations**

As documented in the May 13, 2021 Inspection Report, Regional Water Board staff observed violations of the Basin Plan Section 4.2.1 Prohibitions 1 and 2, and Water Code sections 13260 and 13264. Staff observed these violations at Property locations identified in the May 13, 2021, Inspection Report as locations WQ1, WQ2, WQ4, WQ5, WQ6, WQ7, WQ8, WQ9, WQ10, WQ11, WQ12 and WQ13.

### **Additional Potential Liabilities**

The Regional Water Board is in the process of considering whether the violations of the Water Code, and the Basin Plan warrant further enforcement. We encourage you to take steps, to correct the violations as soon as possible, securing any applicable permits from this and other agencies prior to conducting work. Please note that the existing conditions, as observed and documented in the Inspection Report, may represent continuing violations of the Water Code and Basin Plan.

Please note that correcting the conditions of non-compliance at the Property does not preclude enforcement for the violations alleged in this notice. As noted above, the Regional Water Board reserves its right to fully enforce the law against any violation and threatened violation by taking enforcement actions such as a cleanup and abatement order, time schedule order, administrative civil liabilities, and referral to the California Attorney General's office. Administrative civil liabilities may be assessed on a daily basis in the amount up to \$5,000 for each day the violation occurs or up to \$10 per gallon, but not both pursuant to Water Code section 13350.

**Directive to Obtain Regulatory Coverage Prior to Future Activities Involving or Resulting in Discharges of Waste to Waters of the State**

During the May 13, 2021, inspection, staff observed cannabis cultivation operations of sufficient size and scope to require regulatory coverage under the State Water Resources Control Board (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 Activities* (Statewide General Order).

Please be aware that, pursuant to Water Code sections 13260 and 13264, if you elect to resume/continue cannabis cultivation on the subject Property, you must either:

- 1) Enroll the property under the Statewide General Order by providing the information required in the online application process. The application can be accessed at: [https://www.waterboards.ca.gov/water\\_issues/programs/cannabis/](https://www.waterboards.ca.gov/water_issues/programs/cannabis/)

Submit the application fee within **30 days** of submitting the on-line application. Failure to submit the application fee within 30 days will result in the application being voided and authorization terminated. Payments shall be identified using the Fee Payment Application Number (found on the Notice of Receipt). All checks or money orders shall be made payable to: "State Water Resources Control Board," and shall be delivered to:

(By US Mail):

Accounting Office  
Attn: Water Quality Fees – Cannabis General Order  
P.O. Box 1888  
Sacramento, CA 95812-1888

(In person or by courier delivery):

Accounting Office  
Attn: Water Quality Fees –Cannabis General Order  
1001 I Street  
Sacramento, CA 95814-2828

OR:

- 2) File a Report of Waste Discharge in order to obtain individual Waste Discharge Requirements (WDRs) specific to your property.

Please submit the appropriate documents and payments to:

North Coast Water Board  
Attn: Diana Henriouille  
Enforcement Unit  
5550 Skylane Boulevard, Suite A  
Santa Rosa, CA 95403

Water Code section 13260 states, in relevant part:

(a) Each of the following persons shall file with the appropriate regional board a report of the discharge, containing the information which may be required by the regional board:

(1) Any 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.

Water Code section 13264 states, in relevant part:

(a) 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 and no person shall take any of these actions after filing the report but before whichever of the following occurs first:

(1) The issuance of waste discharge requirements pursuant to Section 13263.

Failure to comply with Water Code sections 13260 and 13264 may result in an administrative civil liability under Water code sections 13261 and 13265 not to exceed \$1,000 per violation for each day in which each violation occurs.

Future correspondence regarding this matter will be sent to you at this address unless an alternative address is provided to the Regional Water Board. Failure to accept mail from the Regional Water Board is not a valid excuse for non-compliance with any future enforcement orders, and a failure to respond or otherwise appear at a future enforcement proceeding could subject you to a default order and the imposition of administrative civil liability.

If you have questions about what is required of you to comply with the requirements outlined above, please contact Regional Water Board staff Brian Fuller at [Brian.Fuller@waterboards.ca.gov](mailto:Brian.Fuller@waterboards.ca.gov) or by phone at (707) 576-2806 to advise as to your plan and schedule to correct the alleged violations as documented in the inspection report.

You may also contact me at [Diana.Henrioulle@waterboards.ca.gov](mailto:Diana.Henrioulle@waterboards.ca.gov). Additionally, we are available to meet with you if you wish to discuss this letter or our waste discharge regulatory programs in further detail.

Sincerely,

Diana Henrioulle, P.E.  
Enforcement Unit

210623\_BMF\_dp\_Norgaard\_NOV

Attachments: Attachment A - Regulatory Citations  
Attachment B – May 13, 2021, Inspection Report

Certified Mail – Return Receipt requested

**cc: North Coast Regional Water Quality Control Board**

[Northcoast.Cannabis@waterboards.ca.gov](mailto:Northcoast.Cannabis@waterboards.ca.gov)

Claudia Villacorta, [Claudia.Villacorta@waterboards.ca.gov](mailto:Claudia.Villacorta@waterboards.ca.gov)

Kason Grady, [Kason.Grady@waterboards.ca.gov](mailto:Kason.Grady@waterboards.ca.gov)

Brian Fuller, [Brian.Fuller@waterboards.ca.gov](mailto:Brian.Fuller@waterboards.ca.gov)

**Department of Fish and Wildlife**

Ryan Bourque, [Ryan.Bourque@wildlife.ca.gov](mailto:Ryan.Bourque@wildlife.ca.gov)

Scott Bauer, [Scott.Bauer@wildlife.ca.gov](mailto:Scott.Bauer@wildlife.ca.gov)

Warden Eric Agoitia, [Eric.Agoitia@wildlife.ca.gov](mailto:Eric.Agoitia@wildlife.ca.gov)

**Division of Water Rights**

Stormer Feiler, [Stormer.Feiler@waterboards.ca.gov](mailto:Stormer.Feiler@waterboards.ca.gov)

Taro Murano, [Taro.Murano@waterboards.ca.gov](mailto:Taro.Murano@waterboards.ca.gov)

Chris Baimas, [Chris.Baimas@Waterboards.ca.gov](mailto:Chris.Baimas@Waterboards.ca.gov)

Ryan Babb, [Ryan.Babb@waterboards.ca.gov](mailto:Ryan.Babb@waterboards.ca.gov)

## Attachment A – Regulatory Citations

Regulatory Section	Citation
Basin Plan Section 4.2.1, Prohibition 1	Prohibits “[t]he 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.”
Basin Plan Section 4.2.1, Prohibition 2	Prohibits “[t]he 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.”
California Water Code Section 13260	<p>“(a) Each of the following persons shall file with the appropriate regional board a report of the discharge, containing the information that may be required by the regional board:</p> <p>(1) 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.</p> <p>(2) A person who is a citizen, domiciliary, or political agency or entity of this state discharging waste, or proposing to discharge waste, outside the boundaries of the state in a manner that could affect the quality of the waters of the state within any region.”</p>
California Water Code Section 13261(a)	“A person who fails to furnish a report or pay a fee under <u>Section 13260</u> when so requested by a regional board is guilty of a misdemeanor and may be liable civilly in accordance with subdivision (b).”
California Water Code Section 13264 (a)	“No person shall initiate any new discharge of waste or make any material changes in any discharge, or initiate a discharge to, make any material changes in a discharge to, or construct, an injection well, prior to the filing of the report required by Section 13260 and no person shall take any of these actions after filing the report but before whichever of the following occurs first:”
California Water Code Section 13265(a)	“Any person discharging waste in violation of <u>Section 13264</u> , after such violation has been called to his attention in writing by the regional board, is guilty of a misdemeanor and may be

Regulatory Section	Citation
	liable civilly in accordance with subdivision (b). Each day of such discharge shall constitute a separate offense.”
California Water Code Section 13350	“A person who (1) violates a cease and desist order or cleanup and abatement order hereafter issued, reissued, or amended by a regional board or the state board, or (2) in violation of a waste discharge requirement, waiver condition, certification, or other order or prohibition issued, reissued, or amended by a regional board or the state board, discharges waste, or causes or permits waste to be deposited where it is discharged, into the waters of the state, or (3) causes or permits any oil or any residuary product of petroleum to be deposited in or on any of the waters of the state, except in accordance with waste discharge requirements or other actions or provisions of this division, shall be liable civilly, and remedies may be proposed, in accordance with subdivision (d) or (e).”
Federal Clean Water Act Section 401	Section 401 (a)(1) “Any applicant for a Federal license or permit to conduct any activity including, but not limited to, the construction or operation of facilities, which may result in any discharge into the navigable waters, shall provide the licensing or permitting agency a certification from the State in which the discharge originates”
Federal Clean Water Act Section 404	Section 404(a) provides, in relevant part, “The Secretary may issue permits...for the discharge of dredged or fill material into the navigable waters...” The Code of Federal Regulations defines the term “dredged material” as material that is excavated or dredged from waters of the United States. 33 C.F.R. § 323.2(c). The term “discharge or dredged material” mean any addition of dredge material into the waters of the United States. 33 C.F.R. § 323.2(d)(1). The Code of Federal Regulations defines “fill material” as material placed in waters of the United States that has the effect of replacing any portion of a water of the United States with dry land or changing the bottom elevation of any portion of a water of the United States. 33 C.F.R. § 323.2(e)(1). The term “discharge of fill material” means the additional of fill material into waters of the United States. 33 C.F.R. § 323.2(f).

**FACILITIES INSPECTION REPORT**

Region/Office: 1	Status: Performed	Reg. Measure ID: 443727
Program Type: IRRICANNABIS	WDID:	Order Number:
Scheduled Insp. Date:	Actual Insp. Date: 05/13/2021	

**Discharger Information**

Party ID: 624899	Discharger Organization Name: Norgaard, Patrick	
Address: 2447 Jacoby Creek Road	City, State, Zip: Bayside, CA 95524	
Discharger Contact Person:	Discharger Contact Phone:	
Discharger Contact Email Address:		

**Facility Information**

Place ID 874441	Facility Name: Patrick Norgaard (Site #1)		
Address:	City, State, Zip: Piercy, CA 95587		
County: Mendocino	Latitude: 39.97398	Longitude: -123.45893	Method: Map Interpolation (digital)

**Lead Inspector Information**

Lead Inspector Party ID: 568606	Lead Inspector Name: Brian Fuller		
Inspector Type:	<input checked="" type="checkbox"/> State	<input type="checkbox"/> State Contractor	<input type="checkbox"/> EPA Contractor
	<input type="checkbox"/> EPA and State (EPA Lead)	<input type="checkbox"/> EPA and State (State Lead)	<input type="checkbox"/> EPA (Regional)

**INSPECTION TYPE**

Inspection Type: Complaint inspection

**VIOLATIONS**Were Violations noted during this inspection?  Yes  No

Violation ID	Violation Type	Occurrence Date	Rank	Description
1090984	Unauthorized Discharge	05/13/2021	B	California Water Code section 13260 and 13264 for unauthorized discharge of waste at WQ12
1090985	Basin Plan Prohibition	05/13/2021	B	Water Quality Control Plan for the North Coast Region (Basin Plan) Section 4.2.1 at locations WQ1, WQ2, WQ4 WQ5, WQ6, WQ7, WQ8, WQ9, WQ10, WQ11, WQ12 and WQ13

### INSPECTION SUMMARY (REQUIRED) (500 character limit)

**Recommendations:**

1. Enroll in the Cannabis General Order, address the water quality-related impacts from recent development & ensure future development and uses for cannabis are in conformance with current regulations.
2. Engage a qualified professional to develop and submit a work plan to design adequate stream crossings remove unpermitted facilities.
3. Submit application for and obtain 401 WQC from Water Board before performing any instream work including culvert replacements.

### GENERAL NOTES (OPTIONAL) (2000 character limit)

My inspection was associated with a criminal search warrant and I viewed only portions of the Property. Please see the attached Map and Appendices for locations and details about features of concern to water quality.

At WQ1, I observed a culvert had been recently installed that appears too small for the watercourse. At WQ2, I observed slash and earthen fill pushed into a watercourse and a recently installed 60-inch diameter culvert. I observed a pit toilet at WQ3. At WQ 4, I observed a road fording a watercourse. I observed a steep and rutted road, hydrologically connected to receiving waters at WQ5. I observed aged undersized culverts at WQ6 and WQ7; nearby, new culverts of the same size were staged to apparently replace the aged culverts. At WQ8, I observed a backhoe paused in the process of replacing a culvert. At WQ 9and WQ10, I observed a road fording watercourses tributary to the Eel River. At WQ11 I observed imported potting soils stored adjacent to a watercourse. At WQ12 I observed a hoop-type greenhouse with cannabis plants. A trench on the southern edge of the greenhouse threatened to discharge any excess irrigation water to a bordering watercourse. At WQ13, I observed a reservoir that was constructed in March of 2020. The reservoir berm redirects a watercourse from upstream to a neighboring drainage.

**For Internal Use (Optional)**

Reviewed By:	(1)	(2)	(3)
CIWQS Entry Date:		Regional Board File Number:	CIWQS Inspection ID:

### Inspection Maps and Photolog for inspection conducted, May 13, 2021

Map and photo selection completed by Brian Fuller, PG, Engineering Geologist

#### Inspection Map

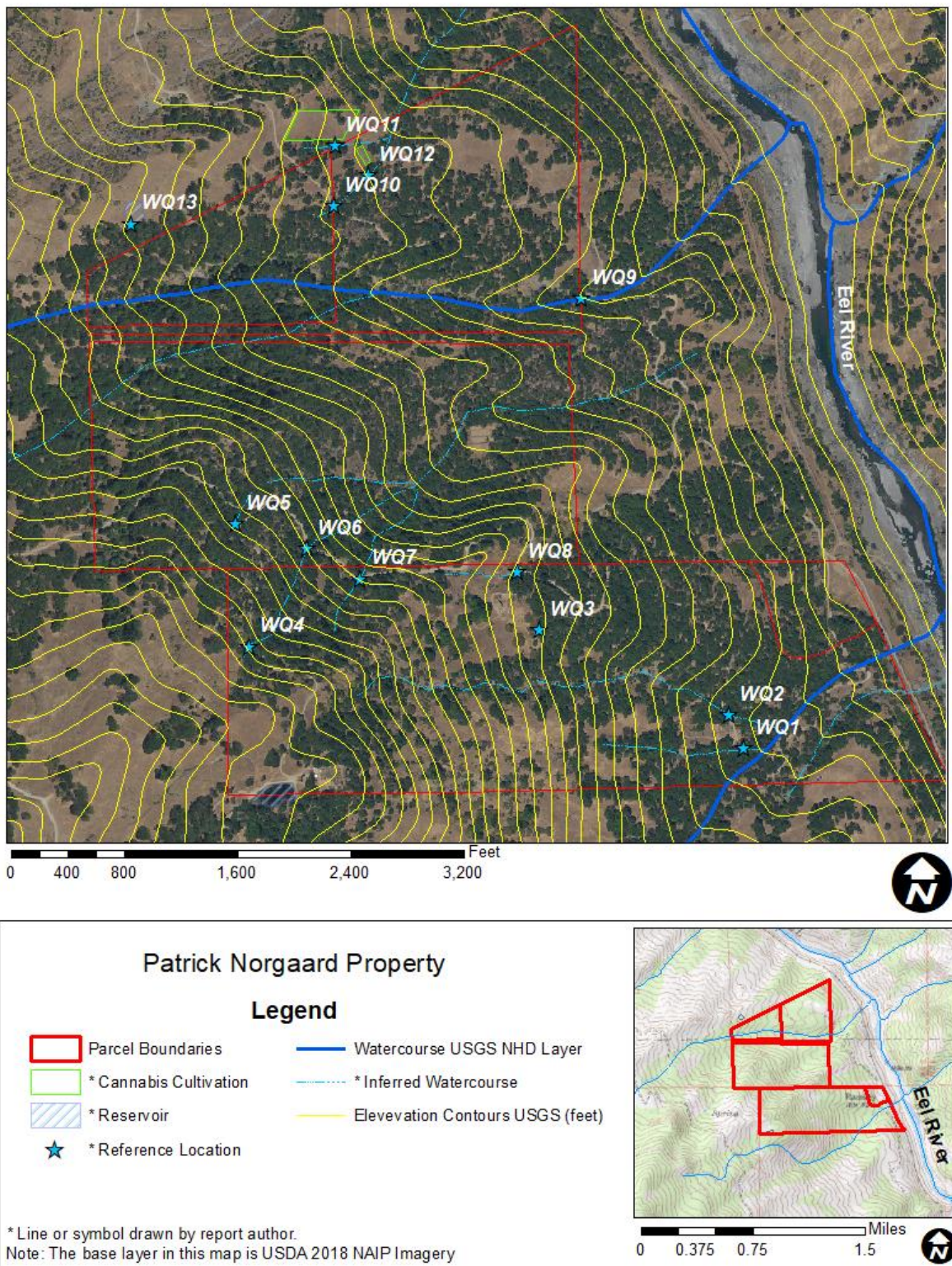


Figure 1: Map of Property, including inspection points of interest.

**Photo Appendix:**



*Photo 1—Looking east and upstream at recently installed watercourse crossing at WQ1. The inlet for the 24-inch diameter culvert is visible in the lower left of the image. The watercourse upstream has an approximate four-foot-wide active channel width.*



*Photo 2—Looking west and downstream at recently installed culvert at WQ1.*



*Photo 3—Earth and woody debris pushed into watercourse at WQ2*



*Photo 4—Watercourse at WQ2. The channel substrate is composed of small boulders and cobbles. A plastic pot is visible in the middle of the channel.*



*Photo 5—Log with chainsaw marks is among the debris pushed into the watercourse at WQ2.*



*Photo 6—Looking downstream at inlet to newly installed 60-inch diameter culvert installed in the vicinity of WQ2, upstream from the channel pictured in Photo 4 and Photo 5 above.*



*Photo 7— Looking upstream at recently installed 60-inch diameter culvert at WQ2.*



*Photo 8—Pit toilet at located at WQ3.*



*Photo 9—Road fording watercourse at WQ4*



*Photo 10— Steep rutted road at WQ5. A roadside trench in the middle of the image is directed to the watercourse in the following image.*



*Photo 11—Watercourse bordering road in the vicinity of WQ5.*



*Photo12—A 24-inch diameter culvert at WQ6. The culvert outlet is perched approximately three feet above the receiving watercourse's bed. Staff estimated that the active channel upstream from the culvert is three feet wide. Two new 24-inch diameter pipes were staged nearby for suspected replacement.*



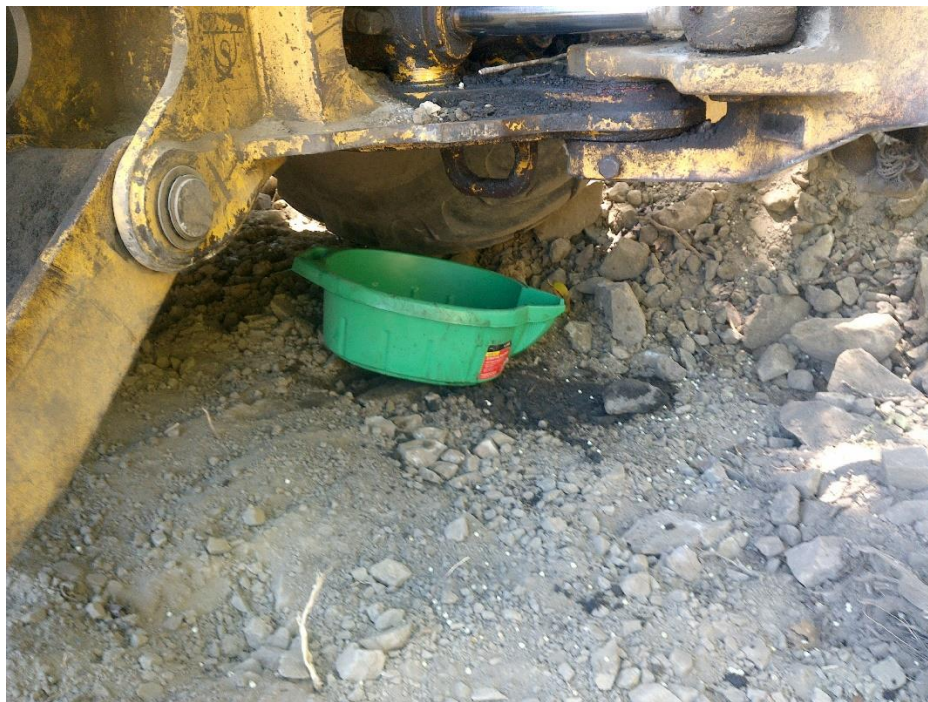
*Photo 13— An approximate 24-inch diameter culvert at WQ7 is perched above the receiving watercourse's bed. Staff estimated that the active channel upstream from the culvert is between three and four feet wide.*



*Photo 14— Two new 28-inch diameter pipes staged near WQ7.*



*Photo 15—Backhoe at excavation site on road at WQ8. A watercourse can be seen approaching the work area in the background of the image.*



*Photo 16—Drip pan below backhoe at WQ8. The drip pan covers a patch of darkened earth.*



*Photo 17—Pooled water in a flowing watercourse upstream from where the road fords the watercourse at WQ9.*



*Photo 18—Looking east and downstream where the road fords the watercourse at WQ9. Staff estimated the active channel was 10 feet wide downstream.*



*Photo 19 Looking downstream where a road fords a four-foot wide dry watercourse at WQ10.*



*Photo 20—Looking upstream at a four-foot wide dry channel located at WQ10.*



*Photo 21—Bags of imported potting soils stored next to a dry watercourse visible in the middle of the image at WQ11.*



*Photo 22—Dry watercourse at WQ11.*



*Photo 23—Looking south along greenhouse north of WQ 12.*



*Photo 24—Southern edge of greenhouse pictured in previous image. A trench can be seen leading towards a watercourse obscured by shadows in the background of the image.*



*Photo 25—Watercourse downslope from greenhouse at WQ12.*



*Photo 26—Looking west and upstream at watercourse intersecting a reservoir berm at WQ13. The reservoir berm directs the drainage to the south.*



*Photo 27—Looking east across reservoir located at WQ13. Staff did not observe an outlet pipe.*



*Photo 28—Tension crack along the reservoir's berm at WQ13.*



*Photo 29—Looking southeast from reservoir berm at WQ13, toward suspected continuation of the watercourse pictured in Photo 26.*