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## North Coast Regional Water Quality Control Board

June 11, 2020

Certified Mail 7016 2070 0000 6486 1824

Daniel Maldonado Suarez  
3554 Princeton Drive  
Santa Rosa, CA 95405

Dear Mr. Suarez,

**Subject: Notice of Violation and Transmittal of Inspection Report for  
May 13, 2021 Inspection of Mendocino County Assessor's  
Parcel Number (APN) 011-530-09-01**

**File: Cannabis Program Inspections, Mendocino County, May 2021 Inspections,  
CIWQS Place ID: 874450**

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, WQ3, WQ4 and WQ9.
2. California Water Code (Water Code) sections 13260 and 13264
3. Federal Clean Water Act section 301 (a), 401 and 404 at locations WQ1, WQ3, WQ4 and WQ5.

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.

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, Water Code sections 13260 and 13264, and federal Clean Water Act section 301. Staff observed these violations at Property locations identified in the May 13, 2021, Inspection Report as WQ1, WQ2, WQ3, WQ4, WQ5, WQ8 and WQ9.

### **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.Henriouille@waterboards.ca.gov](mailto:Diana.Henriouille@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 Henriouille, P.E.  
Enforcement Unit

210611\_BMF\_er\_Suarez\_NOVInsRpt

Daniel Suarez  
CIWQS Place ID: 874450

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June 11, 2021

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 Kyle Shaw, [Kyle.Shaw@wildlife.ca.gov](mailto:Kyle.Shaw@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 liable civilly in accordance with subdivision (b). Each day of such discharge shall constitute a separate offense.”

Regulatory Section	Citation
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 301 (a):	Section 301(a) provides that subject to certain exceptions, "the discharge of any pollutant by any person shall be unlawful." 33 U.S.C. § 1311(a). One of the exceptions allowed for under the Clean Water Act is the discharge from a dredge and fill activity under the auspices of § 404 and 401 of the Clean Water Act. 33 U.S.C. § 1342. The Clean Water Act prohibits the discharge of any pollutant from a point source into waters of the United States without a section 404 dredge and fill permit and a section 401 state water quality certification.
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: 443583
Program Type: IRRICANNABIS	WDID:	Order Number:
Scheduled Insp. Date:	Actual Insp. Date: 05/13/2021	

**Discharger Information**

Party ID: 624904	Discharger Organization Name: Suarez, Daniel	
Address: 3554 Princeton Drive	City, State, Zip: Santa Rosa, CA 95405	
Discharger Contact Person:	Discharger Contact Phone:	
Discharger Contact Email Address:		

**Facility Information**

Place ID 874450	Facility Name: Daniel Suarez		
Address:	City, State, Zip: Laytonville, CA 95454		
County: Mendocino	Latitude: 39.97531	Longitude: -123.47609	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
1090913	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 and WQ9
1090914	Unauthorized Discharge	05/13/2021	B	Federal Clean Water Act Section 301 at locations WQ1, WQ4 and WQ5
1090915	Unauthorized Discharge	05/13/2021	B	California Water Code section 13260 and 13264 for unauthorized discharge of waste at locations WQ2, WQ5 and WQ8

### 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 remove the enlarged reservoir and restore the aquatic resources in the area.
3. Submit an application for and obtain 401 WQC from Water Board before performing any instream work.

### 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 reservoir. Aerial imagery suggests the reservoir was quadrupled in size during the second half of 2020. I observed tension cracks signifying inadequate soil compaction and an outlet pipe threatening to destabilize the reservoir’s impounding buttress. I walked south of WQ1 and observed chemicals threatening to discharge to the reservoir. North of WQ1, I observed a chemical drum in a suspected wetland. Farther north at WQ2, I observed cultivation waste within 100 feet of a watercourse to the north.

I walked counterclockwise around the reservoir and observed a watercourse with defined bed and bank entering the reservoir at WQ3 and a suspected seasonal channel entering the reservoir at WQ4. I observed the reservoir leaking through a cavity in the southwestern buttress. I observed water from the leak flowing south through a cultivation pad constructed in a suspected wetland at WQ5. I observed a large dry watercourse at WQ7 and a cultivation pad at WQ8. I observed an undersized, perched and failed culvert at WQ 9.

**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

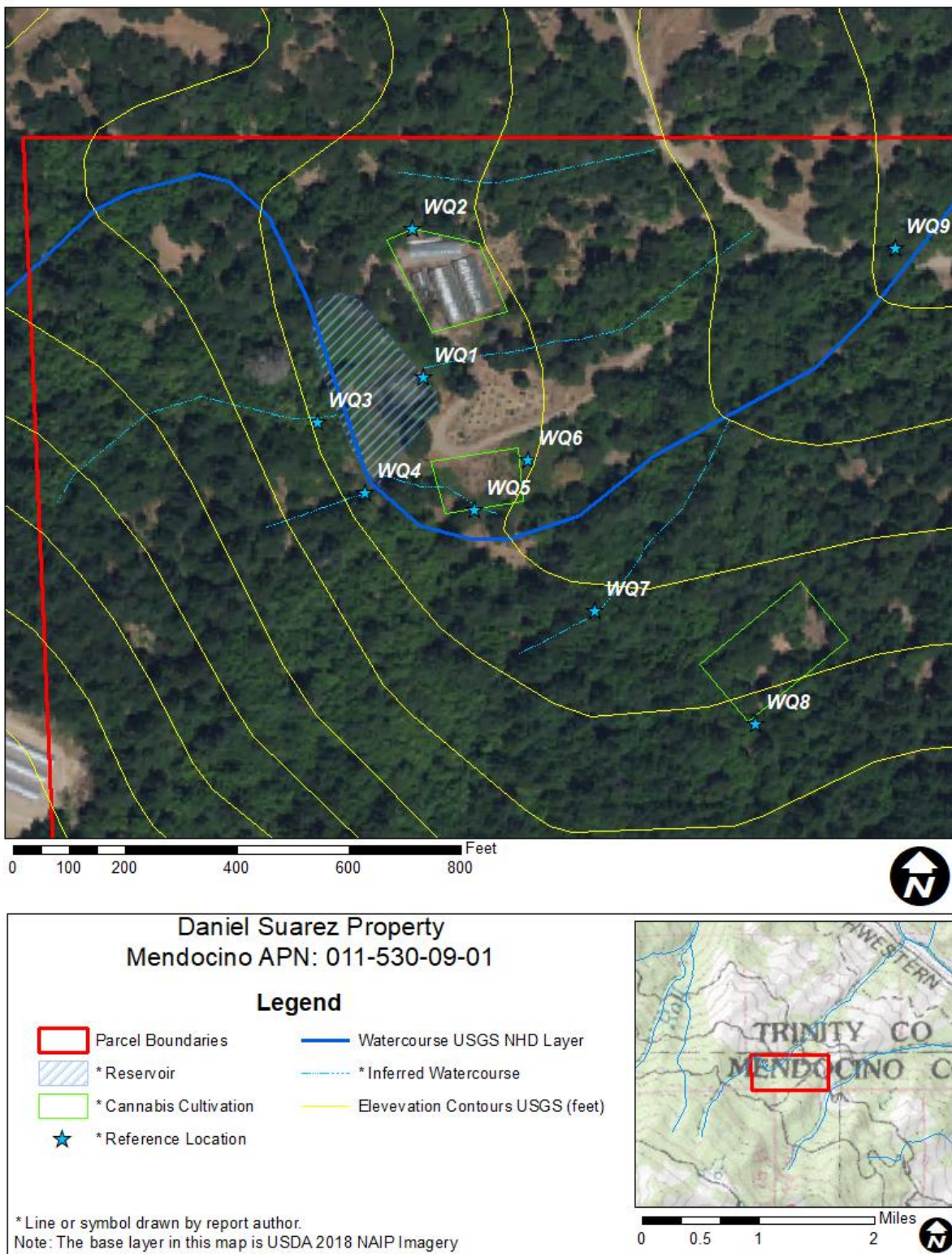
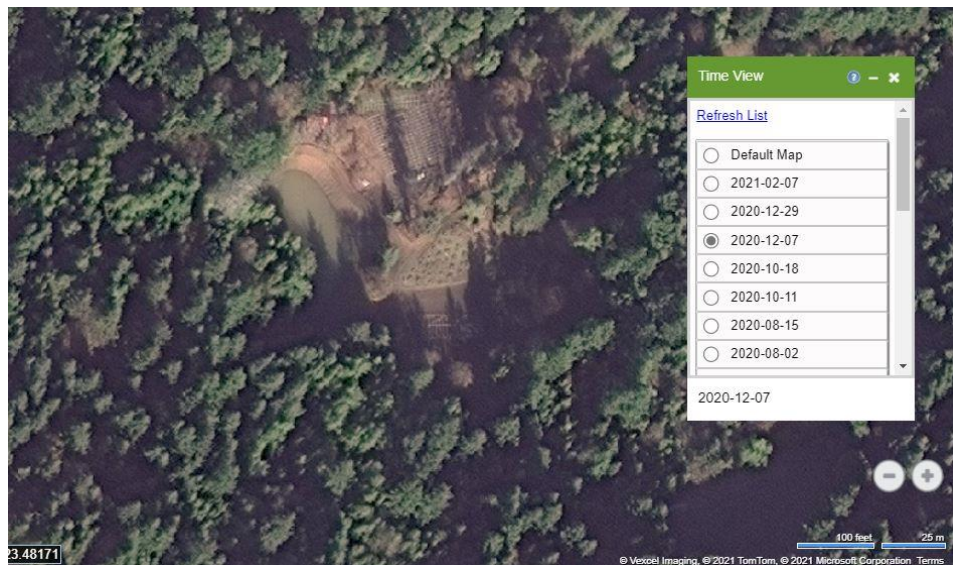


Figure 1: Map of Property, including inspection points of interest.

**Aerial Images:**



*Aerial Image 1—Dated July 14, 2020, accessed with Digital Map Products' Land Vision service. Image shows an oval shaped feature in the middle left of the image marking the location of a legacy reservoir.*

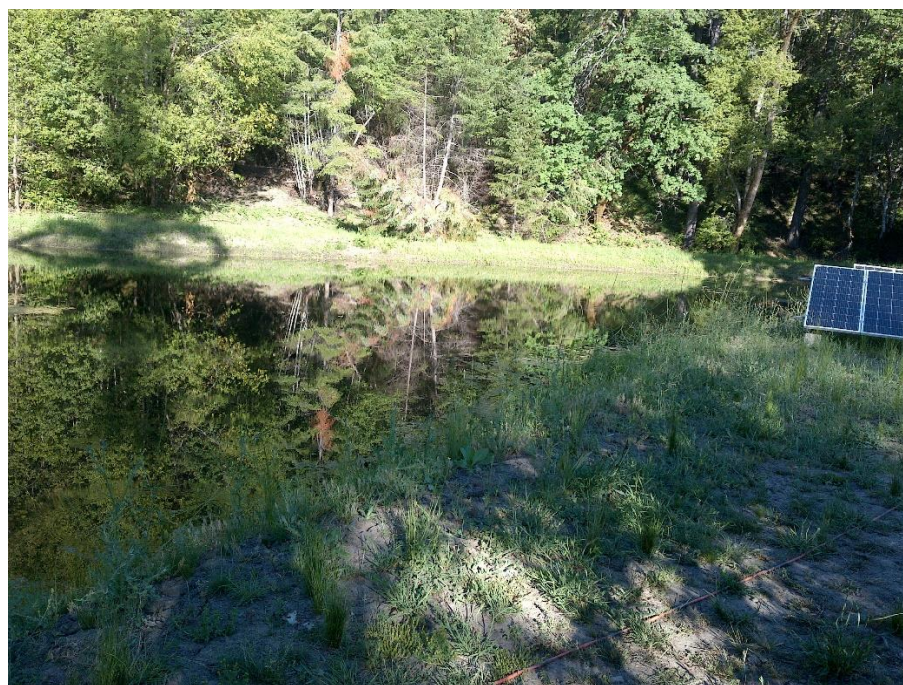


*Aerial Image 2— Dated December 7, 2020, accessed with Digital Map Products' Land Vision service. Image shows the reservoir pictured in the previous image has been enlarged to over four times the previous area.*

**Photo Appendix:**



*Photo 1—Looking south along reservoir buttress from WQ1. Equipment tracks are evident on the buttress surface and living trees are inundated inside of the expanded reservoir.*



*Photo 2— Looking north along reservoir buttress from WQ1.*



*Photo 3— Tension cracks visible on the reservoir buttress at WQ1.*



*Photo 4—Reservoir outlet pipe, at WQ1, directed onto a corrugated metal trough on the impounding buttresses' outboard face. Plant genus Equisetum is growing in a dense patch at the bottom of the trough.*



*Photo 5—High concentration nutrients uncovered on bare ground on the reservoir buttress south of WQ1.*



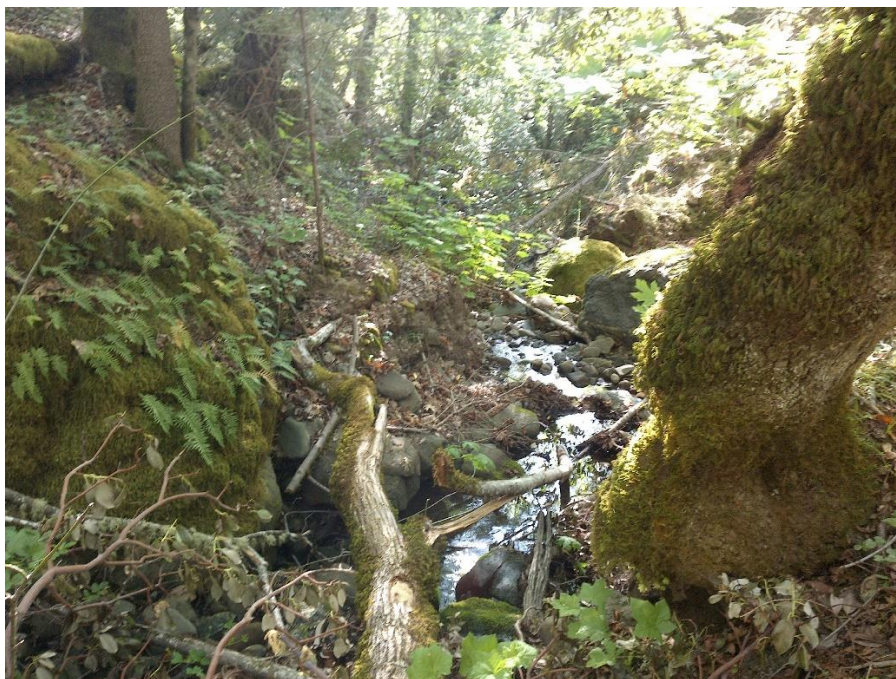
*Photo 6— High concentration nutrients uncovered on bare ground on the reservoir buttress south of WQ1.*



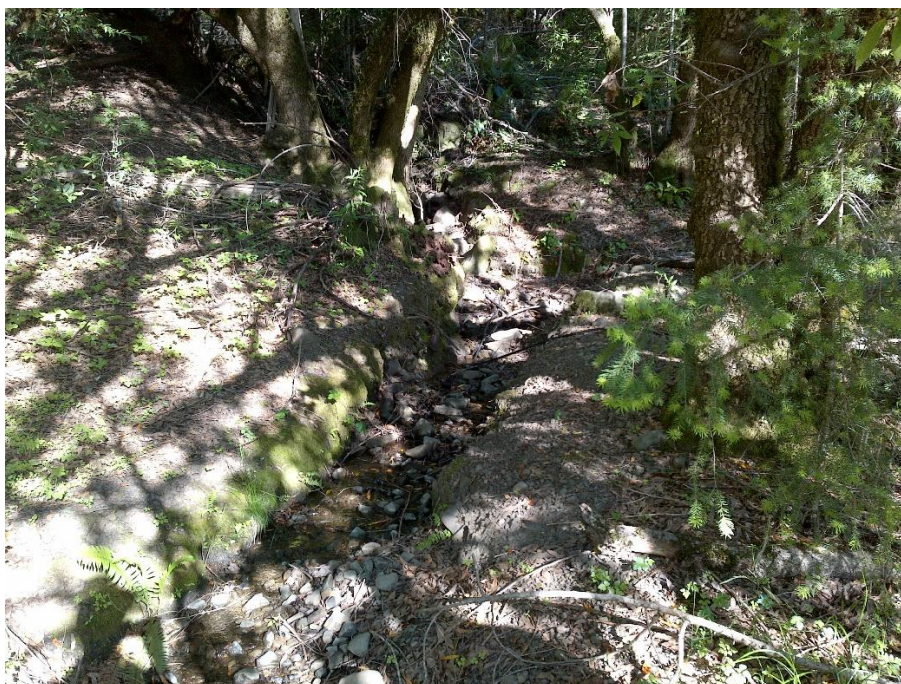
*Photo 7—Fuel storage in saturated area north of WQ1. Plant genus Equisetum is visible growing around a 55-gallon chemical drum and propane tanks.*



*Photo 8—Waste plant stocks on the edge of the cultivation area located at WQ2.*



*Photo 9—Watercourse north of WQ2. Staff measured an approximate ten-foot bank-full width with a tape measure and observed a step-pool morphology channel with small boulder steps with an approximate six-foot interval spacing.*



*Photo 10— Looking upstream along watercourse discharging into reservoir at WQ3. Staff measured an approximate four-foot bank-full width with a tape measure and observed a small boulder and large cobble bed substrate, flowing water, and riparian vegetation including bay trees and ferns.*



*Photo 11— Looking downstream where watercourse from previous image discharges into reservoir at WQ3.*



*Photo 12— Looking upstream along a dry channel directed into the reservoir at WQ4. Staff measured an approximate four-foot bank full width with a tape measure and observed the channel surface was covered with duff and leaf litter in the upstream reaches.*



*Photo 13— Looking downstream where drainage from previous image intersects the southwestern berm of the reservoir.*



*Photo 14— Closer view of southwestern berm visible in the center of the previous image. An incised channel is visible in the center of the image indicating surface water from the upstream drainage had concentrated and scoured the earthen surface of the recently constructed berm.*



*Photo 15— Looking north at tracked surface visible in the top center of Photo 13*



*Photo 16—Looking north at outboard face of southwestern reservoir buttress. Water is flowing from a cavity in the earthen buttress.*



*Photo 17— Looking south from the same location as the previous image. Water leaking from the reservoir has saturated the ground and flows into greenhouses in the background of the image. Plant genera *Juncus* and *Equisetum* are growing in the saturated ground.*



*Photo 18—Water from the previous image flowing through the greenhouse.*



*Photo 19— Water from the previous image exiting the greenhouse.*



*Photo 20— Water from the previous image dispersing in vegetation in the vicinity of WQ5.*



*Photo 21— Looking west at saturated ground at eastern edge of greenhouse located at WQ6. The plant genus Juncus is visible in the center of the image.*



*Photo 22—Looking east and downslope from WQ6.*



*Photo 23—Pooled water east of WQ6. Staff did not observe a channel with well defined bed and bank at this location.*



*Photo 24—Dry watercourse at WQ7. Staff observed a small boulder substrate in the channel.*



*Photo 25—Looking north at recently constructed cultivation pad at WQ8.*



*Photo 26—Pooled water in an excavated hole on the western edge of the cultivation pad at WQ8.*



*Photo 27— Slash and earth on eastern edge of the cultivation pad at WQ8.*



*Photo 28—Looking downstream at the inlet of a 32-inch culvert at WQ 9. Staff observed the watercourse upstream was significantly wider than the culvert. A small boulder is visible inside the culvert near the outlet.*



*Photo 29— Looking obliquely at the outlet of the 32-inch culvert at WQ 9. The culvert is perched several feet above the channel bed, and the bottom has rusted through.*



*Photo 30— Looking downstream from WQ 9. The culvert outlet is visible in the foreground of the image. The watercourse has a steep right bank, duff covered flood plain along the left bank and a small boulder and large cobble substrate in the wetted portion of the channel.*