**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD**
**NORTH COAST REGION**

**Cleanup and Abatement and 13267 Order No. R1-2021-0056**

**for**
**Justin Baldwin and Mia Baldwin as Trustees of the Baldwin J and M Trust**
**Assessor's Parcel Number 222-071-030-000**

**Humboldt County**

This Order is issued to Justin and Mia Baldwin (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 finds, with respect to the Dischargers' acts, or failure to act, the following:

1. **Site Conditions:** Site conditions on Humboldt County Assessor's Parcel Number (APN) 222-071-030-000 (hereinafter referred to as the Property) constitute threats to water quality and beneficial uses. Sproul Creek, its unnamed tributaries, and their adjoining wetlands flow through and exist on the Property. Sproul Creek, its unnamed tributaries, and the adjoining wetlands are waters of the state, as well as waters of the United States, and all flow to the South Fork Eel River (references hereafter to waters of the United States are also waters of the state).[1] The Dischargers have caused or allowed the discharge and threatened discharge of waste to receiving waters through: (1) improper installation and/or maintenance of the roads and stream crossings; (2) the development and use of multiple cleared and/or graded locations for cannabis cultivation and associated activities on the Property; and (3) the improper or inadequate containment, disposal, and/or storage of cultivation-related materials,

[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 § 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.

wastes, and human waste. The Dischargers' activities, resulting in discharge and threatened discharge, were conducted without authorization from applicable federal, state, and local agencies, including the Regional Water Board.

2. **Purpose of the Order:** This Order requires the Dischargers to eliminate the threat of future discharges and to clean up and abate the effects of discharges of soil and other materials into Sproul Creek and its unnamed tributaries. These discharges include sediment, fertilizer products, spent growth medium, and cannabis cultivation related waste to multiple receiving waters tributary to Sproul Creek. Discharges are currently threatening the water quality of Sproul Creek and its unnamed tributaries. Investigation and cleanup actions required under this Order shall be conducted to comply with the Porter-Cologne Water Quality Control Act (Wat. Code § 13000 et seq.), the *Water Quality Control Plan for the North Coast Region* (Basin Plan), State Water Resources Control Board (State Water Board) Resolution 92-49, *Policies and Procedures for Investigation and Cleanup and Abatement of Discharges under Water Code Section 13304* (Resolution 92-49), and other applicable State and Regional Water Board plans, policies, and regulations.

3. **Responsible 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 Justin and Mia Baldwin are the responsible parties and are jointly and severally liable:

    a. Personnel in the Humboldt County Assessor's office informed Regional Water Board staff (Staff) over the phone that deed document number 2000-5817, which is available for viewing at the County Recorder's office, shows that Justin Baldwin and Mia Baldwin purchased the Property from Margaret Ellen Rapozo on March 1, 2000. Between 2000-2017 the Dischargers placed approximately 108 acres, identified as Humboldt County APN 222-071-030 into the Baldwin J and M Trust. Dischargers own the property as the trustees of the Baldwin J and M Trust.

    b. The Regional Water Board reserves the right to amend this Order and reissue to add additional responsible parties when/if those parties are identified.

4. **Property Location and Description:** The Property is located at 161 Oak Rock Road in the Sproul Creek watershed, south of Garberville, and is identified as Humboldt County APN 222-071-030.

5. **Property History:** The Property had no regulatory oversight or history with the Regional Water Board prior to 2015, although aerial imagery for the Property, included in Attachment 1, shows that development of onsite features associated

with cannabis cultivation and related activities commenced sometime after July 2006.

On February 15, 2016 Justin Baldwin named himself as the discharger while enrolling the Property for coverage under Tier 2 of the California Regional Water Quality Control Board, North Coast Region, Order No. 2015-0023, *Waiver of Waste Discharge Requirements and General Water Quality Certification for Discharges of Waste Resulting from Cannabis Cultivation and Associated Activities or Operations with Similar Environmental Effects in the North Coast Region* (Regional Cannabis Order[2]).

Justin Baldwin transferred enrollment of the Property from the Regional Cannabis Order to the State Water Resource Control Board Order WQ 2019-0001-DWQ (Cannabis General Order) effective June 4, 2019. On March 10, 2020, Justin Baldwin submitted a request to terminate enrollment in the Cannabis General Order.

6. **Factual Basis of Order:** On January 21, 2015, Staff inspected the Property and observed threats to water quality, as reported in the Regional Water Board inspection report transmitted to the Dischargers on June 23, 2015, included as Attachment 2. In response to the inspection, on March 7, 2019, Staff received a Cleanup and Restoration Plan (2019 CRP), prepared by Prairie Moore and Claire Brown of Natural Resources Management Corporation (NRM), for the Property. Staff commented on the 2019 CRP on May 1, 2019, describing additional information needed for the 2019 CRP to be deemed adequate. However, Staff never received a response.

   On May 6, 2019 Staff again inspected the Property and observed that the majority of refuse and cultivation-related wastes observed during the January 21, 2015 inspection had been removed, but cultivation-related wastes remained in a former cultivation area and overall conditions on the Property appeared largely unchanged since the January 21, 2015 inspection, particularly in regard to the roads, stream crossings, unstable features, and other erosional features. Staff also identified several stream crossings which had not been evaluated/discussed in the CRP. See Water Quality Report of May 6, 2019 inspection (Attachment 3)

   With the Dischargers' consent, on November 20, 2020, Staff inspected the property and observed that threats to water quality identified in the January 21, 2015 inspection remained, as described in the Regional Water Board inspection report transmitted to the Dischargers as an attachment to a Notice of Violation (NOV) on February 12, 2021 (Attachment 4).

[2] The Regional Cannabis Order can be found online at: https://www.waterboards.ca.gov/northcoast/board_decisions/adopted_orders/pdf/2015/15_0023_Cannabis_Order.pdf

The Dischargers' activities and/or the conditions observed at the Property, as documented by Staff and as detailed below, have caused or permitted, cause or permit, or threaten to cause or permit waste to be discharged or deposited where it is, or probably will be, discharged into Sproul Creek and its unnamed tributaries, and created or threaten to create a condition of pollution by unreasonably impacting water quality and beneficial uses.

a. **Observations:** Staff inspected the Property on January 21, 2015; May 6, 2019; and November 20, 2020. Attachments 2 through 4, document and discuss the water quality concerns and violations that Staff observed on the Property, including the following:

    i. Access roads with insufficient erosion control measures and sediment control devices to prevent erosion by stormwater;
    ii. Numerous inadequate culverts used at watercourse crossings resulting in channel erosion;
    iii. Discharge of debris and trash associated with cannabis cultivation activities to tributaries of Sproul Creek; and
    iv. Unpermitted outdoor cannabis cultivation within riparian setback zone.

7. **Beneficial Uses, Basin Plan Prohibitions, and Water Quality Objectives:** The Basin Plan designates beneficial uses, establishes water quality objectives, contains implementation programs for achieving objectives, and incorporates by reference the plans and policies adopted by the State Water Board.

    a. **Beneficial Uses:** Existing and potential beneficial uses for the South Fork Eel River and wetlands, specifically the Benbow Hydrologic Sub 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); Warm Freshwater Habitat (WARM); 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); Native American Culture (CUL); Flood Peak Attenuation/Flood Water Storage (FLD); Wetland Habitat (WET); and Water quality Enhancement (WQE).

    b. **Receiving Waters:** Sproul Creek and its unnamed tributaries, which flow through the Property, are tributaries to the South Fork Eel River, and located in the Benbow Hydrologic Subarea of the South Fork Eel River Hydrologic Area. The South Fork Eel River is federal Clean Water Act section 303(d) listed as impaired due to sediment and temperature.

On December 16, 1999, the U.S. Environmental Protection Agency approved Total Maximum Daily Loads (TMDL) for temperature and sediment. The TMDL indicates that the cold-water fishery is the most sensitive of beneficial uses in the watershed. As such, protection of these beneficial uses is presumed to protect any of the other beneficial uses that might also be harmed by sedimentation or increased temperature. The TMDL indicates that the major sources of the sediment impairment in the South Fork Eel watershed are road-related, and the TMDL acknowledges the connection between anthropogenic sediment inputs and increases in stream temperatures.

c. **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."

d. **Basin Plan Water Quality 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. 3.3.13 Suspended Material: "Waters shall not contain suspended material in concentrations that cause nuisance or adversely affect beneficial uses."

    ii. 3.3.12 Settleable Material: "Waters shall not contain substances in concentrations that result in deposition of material that causes nuisance or adversely affect beneficial uses."

iii. 3.3.11Sediment: "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. 3.3.17 Turbidity: "Turbidity shall not be increased more than 20 percent above naturally occurring background levels. Allowable zones of dilution within which higher percentages can be tolerated may be defined for specific discharges upon the issuance of discharge permits or waiver thereof."

8. **Regional Water Board Resolutions:** As part of Regional Water Board's efforts to control sediment waste discharges and restore sediment-impaired water bodies, the Regional Water Board adopted the *Total Maximum Daily Load Implementation Policy Statement for Sediment Impaired Receiving Waters in the North Coast Region*, which is also known as the Sediment TMDL Implementation Policy, on November 29, 2004. This Policy was adopted through Resolution R1-2004-0087. The Sediment TMDL Implementation Policy directs the Executive Officer to use "all available authorities, including existing regulatory standards and permitting and enforcement tools, to more effectively and efficaciously pursue compliance with sediment-related standards by all dischargers of sediment waste." The goals of the policy are to control sediment waste discharges to impaired water bodies so that the TMDLs are met, sediment water quality objectives are attained, and beneficial uses are no longer adversely affected by sediment.

   To address sources of elevated water temperature to reduce impairments to waters of the state and prevent further impairment, the Regional Water Board adopted the Policy for *Implementation of the Water Quality Objective for Temperature in the North Coast Region* (Temperature Implementation Policy) through Resolution R1-2014-0006. To attain and maintain the water quality objectives for temperature, the policy directs the Regional Water Board to implement programs and collaborate with others to prevent, minimize, and mitigate temperature alterations associated with certain activities, including, but not limited to, activities that result in either the removal of riparian vegetation that provides shade to a waterbody, sediment discharges, impoundments and other channel alterations, reduction of instream summer flows, and/or reduction of cold water sources.

9. **State Water Board Resolutions:** State Water Board Resolution 92-49 sets forth the policies and procedures to be used during an investigation and cleanup of a polluted site, and requires that cleanup levels be consistent with State Water Board Resolution 68-16, the Statement of Policy with Respect to Maintaining High Quality Waters in California (Resolution 68-16). Resolution 92-49 requires the waste to be cleaned up in a manner that promotes attainment of either background water quality, or the best water quality that is reasonable if background levels of water quality cannot be restored. Any alternative cleanup

level to background must: (1) be consistent with the maximum benefit to the people of the state; (2) not unreasonably affect present and anticipated beneficial use of such water; and (3) not result in water quality less than that prescribed in the Basin Plan and applicable Water Quality Control Plans and Policies of the State Water Board. Resolution 92-49 directs that investigations and cleanup and abatement proceed in a progressive sequence. To the extent practical, it directs the Regional Water Board to require and review for adequacy written work plans for each element and phase, and the written reports that describe the results of each phase of the investigation and cleanup.

10. **Failure to Obtain Necessary Permits:** Regional Water Board Staff has reviewed available records (Attachments 1-4) and found the soil disturbance/grading, site clearing to develop cultivation areas, placement of fill in a watercourse, construction of access roads, and construction of stream crossings occurred without coverage under the following State and federal government programs, which may be required:

    a. Regional Water Board's waste discharge regulatory program for timber harvesting on private forest lands;

    b. Clean Water Act section 401 Water Quality Certification; and

    c. A CDFW Lake and Streambed Alteration Agreement for impacts to riparian vegetation and placement of fill in streams

11. **Legal Authority to Require Cleanup and Abatement:** Water Code section 13304, subdivision (a) states, in relevant part:

    *A person who has discharged or discharges waste into waters of this state in violation of any waste discharge requirements or other order or prohibition issued by a regional board or the state board, or who has caused or permitted, causes or permits, or threatens to cause or permit any waste to be discharged or deposited where it is, or probably will be, discharged into the waters of the state and causes, or threatens to create, a condition of pollution or nuisance, shall upon order of the regional board clean up the waste or abate the effects of the waste, or, in the case of threatened pollution or nuisance, take other necessary remedial action, including, but not limited to, overseeing cleanup and abatement efforts….Upon failure of any person to comply with the cleanup or abatement order, the Attorney General, at the request of the board, shall petition the superior court for that county for the issuance of an injunction requiring the person to comply with the order. In the suit, the court shall have jurisdiction to grant a prohibitory or mandatory injunction, either preliminary or permanent, as the facts may warrant.*

    a. **Waste:** "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 South Fork Eel River and subsequently to 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 the improper installation and/or maintenance of the roads and stream crossings on the Property, has discharged, and still has the potential to discharge, sediment and other waste into watercourses that are tributary to the South Fork Eel River in violation of Water Code sections 13260 and 13376 and provisions of the Basin Plan, and creates or threatens to create a condition of pollution 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 South Fork Eel River watershed is especially problematic because, as noted above, the South Fork Eel River watershed is listed as an impaired water body under Section 303(d) of the Clean Water Act due to several pollutants, including sedimentation/siltation. Sediment delivery

impacts the migration, spawning, reproduction, and early development of cold-water fish such as spring and fall run Chinook salmon, coho salmon, and steelhead trout (Beneficial Uses impacted: SPWN and MIGR).

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).

v. Discharge of excess nutrients, especially nitrates and phosphorus, can lead to eutrophication and algal blooms. Algal blooms can block light, clog fish gills, and cause an increase for biological oxygen demand as they die, severely lowering dissolved oxygen levels available to sustain aquatic ecosystems. Lowered dissolved oxygen concentrations can also provide favorable conditions for proliferation of pathogenic bacteria. In addition, excess nutrients can contribute to toxic algal blooms which create bioaccumulative toxins that can be deleterious to aquatic ecosystems and wildlife that may consume aquatic fauna (Beneficial Uses impacted: RARE,

MIGR, WILD, COLD, COMM, and SPWN). Eutrophication and algal blooms can also affect the recreational and aesthetic enjoyment of surface waters. Direct exposure to toxic algae can lead to rashes, respiratory problems, and neurological effects in humans, and can raise costs for water treatment plants and contribute to harmful byproducts when treated (Beneficial Uses impacted: REC-1, REC-2, and MUN).

12. **Cleanup and Abatement Action Necessary:** Cleanup and abatement is necessary to ensure that the existing condition of pollution is cleaned up, that the threat of unauthorized discharges to waters of the state from the Property are prevented, background water quality conditions are restored, and that any impacts to beneficial uses are mitigated. The current condition of pollution is a priority violation and the issuance of a cleanup and abatement order pursuant to Water Code section 13304 is appropriate and consistent with the policies of the Regional Water Board and State Water Board.

13. **Technical Reports Required:** Water Code section 13267, subdivision (a) provides that the Regional Water Board may investigate the quality of any water of the state within its region in connection with any action relating to the Basin Plan. Water Code section 13267, subdivision (b) provides that the Regional Water Board, in conducting an investigation, may require a discharger to furnish, under penalty of perjury, technical or monitoring program reports. The burden, including costs, of preparing these reports must bear a reasonable relationship to the need for the reports and the benefits to be obtained from 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.[3] This analysis is discussed further below within subparagraphs (a) through (c).

    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 access roads and watercourse crossings with insufficient erosion control measures and sediment control devices to prevent erosion and rutting; (2) determine the appropriate restoration and abatement work to correct those impacts; and (3) create a plan along with an

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

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 Dischargers 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 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 South Fork Eel 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), which is estimated to cost between $2,760 and $9,920. The burden, including costs, of preparing and submitting the CRMP therefore bears a reasonable relationship to the need for this planning and assessment report to restore the Property to conditions that will prevent further erosion and sedimentation of sensitive water bodies.

b. A Completion Report is necessary to demonstrate that the Dischargers have 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, which is estimated to cost between $1,080 and $4,760 The burden, including costs, of preparing and submitting a Completion Report bears a reasonable relationship to the need for the report as assurance to demonstrate remedial actions and restoration are accomplished as proposed in the CRMP and the completed-CRMP Property conditions ensure the protection of water quality.

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, which is estimated to cost between $500 and $1,400. The burden, including costs, of preparing and submitting annual monitoring reports therefore bears a reasonable relationship to the need for these reports as documentation to the Regional Water Board or its delegated officer of the long-term effectiveness, maintenance, and success of the CRMP's remedial actions, assuring water quality is protected.

14. **California Environmental Quality Act:** Issuance of this Order is being taken for the protection of the environment and to enforce the laws and regulations administered by the Regional Water Board and, as such, is exempt from provisions of the California Environmental Quality Act (CEQA) (Public Resources Code section 21000 et seq.) in accordance with California Code of Regulations, title 14, sections 15061, subdivision (b)(3), 15306, 15307, 15308, and 15321. This Order generally requires the 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 March 15, 2022, 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, including the South Fork Eel River and its unnamed tributaries, that were adversely impacted by the roads and facilities used for cannabis cultivation on the Property 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 deadlines included in the Commenter's Proposed Restoration Plan Timeline (Attachment 5), which are October 15, 2022 for Project Area #1, October 15, 2023 for Project Area #2, October 15, 2024 for Project Area #3, and October 15, 2025 for Project Area #4, the Dischargers shall fully implement and complete the CRMP for those respective Project Areas.

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 South Fork Eel 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: (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.

Digitally signed by Matthias St John
Date: 2021.11.04 12:53:43 -07'00'

Water Boards

Matthias St. John
Executive Officer

21_0056_Justin and Mia Baldwin_CAO

Attachments:

1. Aerial Imagery Report
2. Water Quality Report of January 21, 2015 Inspection
3. Water Quality Report of May 6, 2019 Inspection.
4. February 12, 2021 NOV and Report of November 20, 2020 Inspection.
5. Commenter's Proposed Restoration Plan Timeline

**Aerial Images of Humboldt County Assessor's parcel number (APN) 222-071-030**


Image dated July 14, 2006, accessed with Google Earth

aerial image 1 – Shows middle-southern portion of property before being developed for cannabis cultivation.


Image dated May 24, 2009, accessed with Google Earth

aerial image 2 – Shows reservoir constructed in middle right of image.


Image dated June 16, 2010, accessed with Digital Map Products' Land Vision service

aerial image 3 – Shows hoop-house construction in the top left of the image and some land disturbance south of the reservoir in the bottom right of the image.

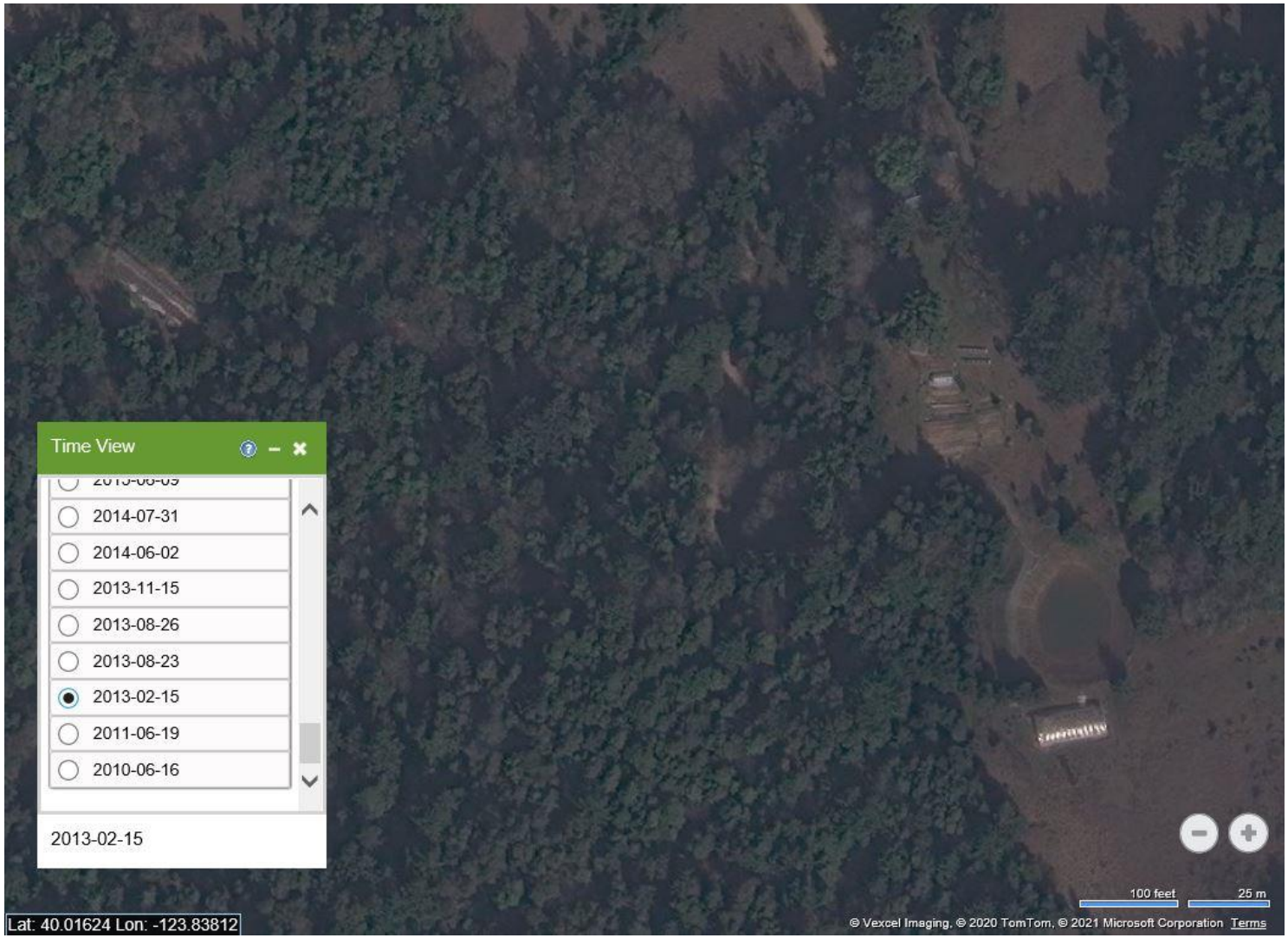



Image dated February 15, 2013, accessed with Digital Map Products' Land Vision service

aerial image 4 – Shows a greenhouse constructed south of the reservoir in the bottom right of the image.

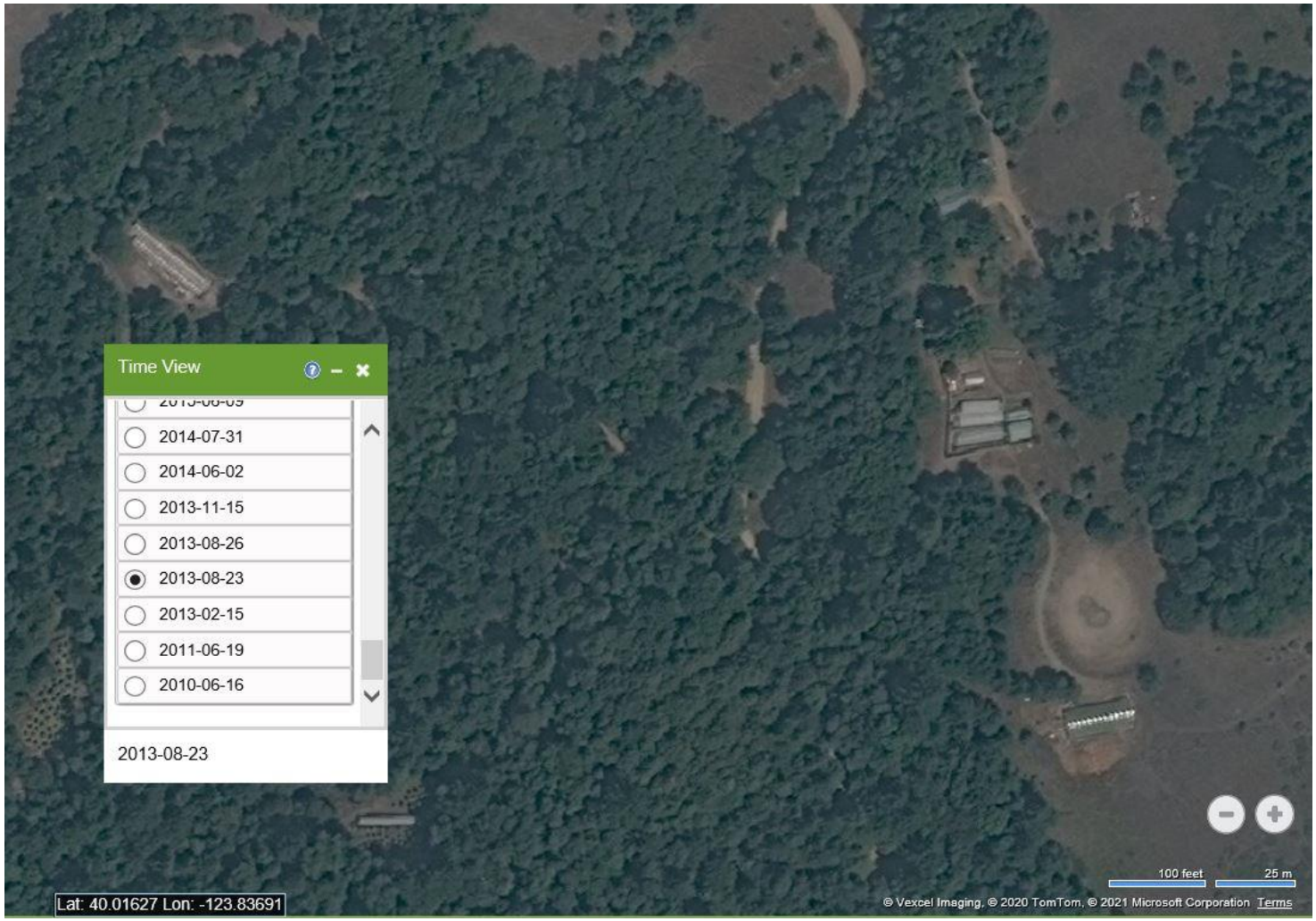



Image dated August 23, 2013, accessed with Digital Map Products' Land Vision service

aerial image 5 – Shows vegetation patterns consistent with outdoor cannabis cultivation in the lower left of the image.

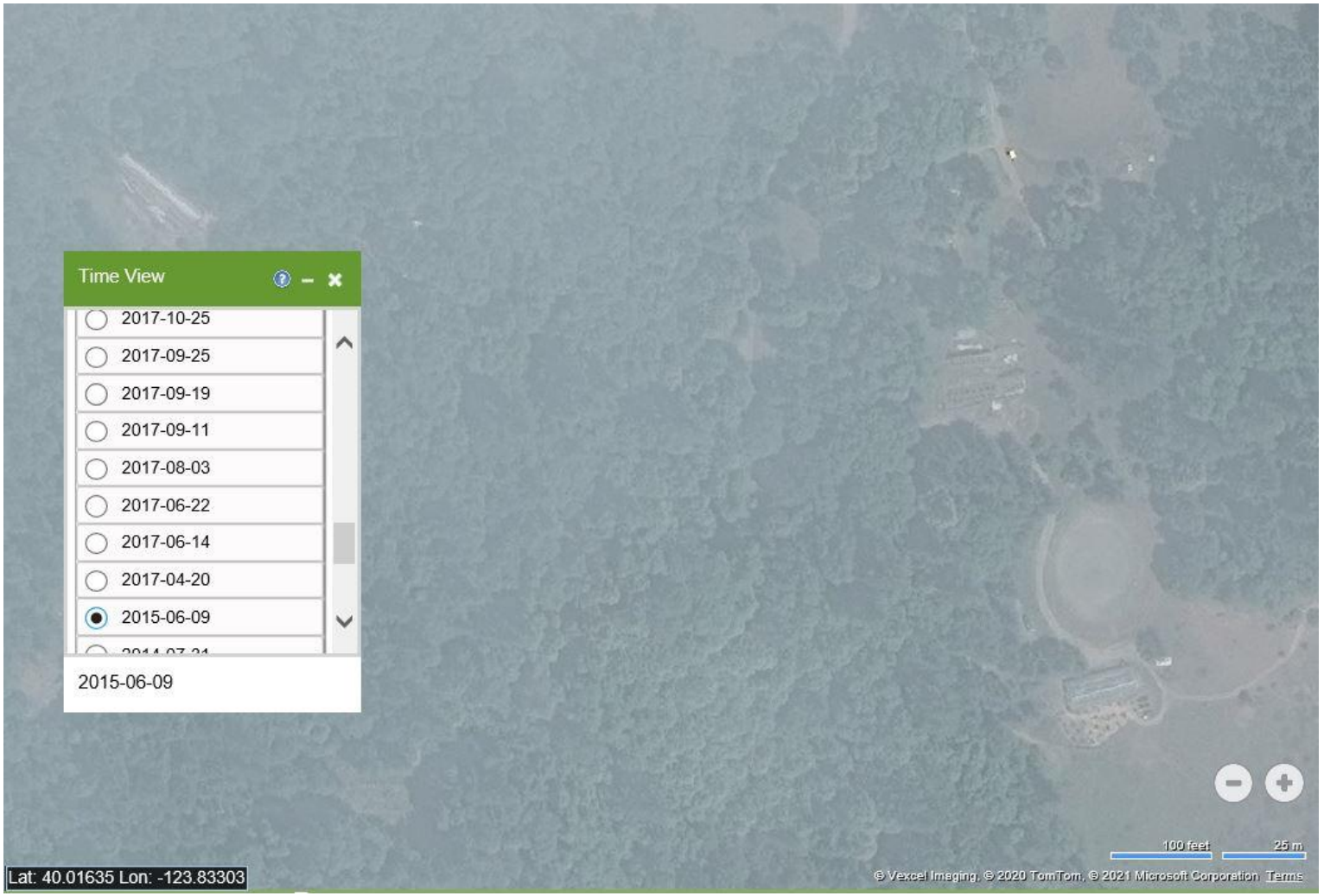



Image dated June 9, 2015, accessed with Digital Map Products' Land Vision service

aerial image 6 – Shows greenhouses, present in earlier imagery, persisting in the top left and lower right of the image.

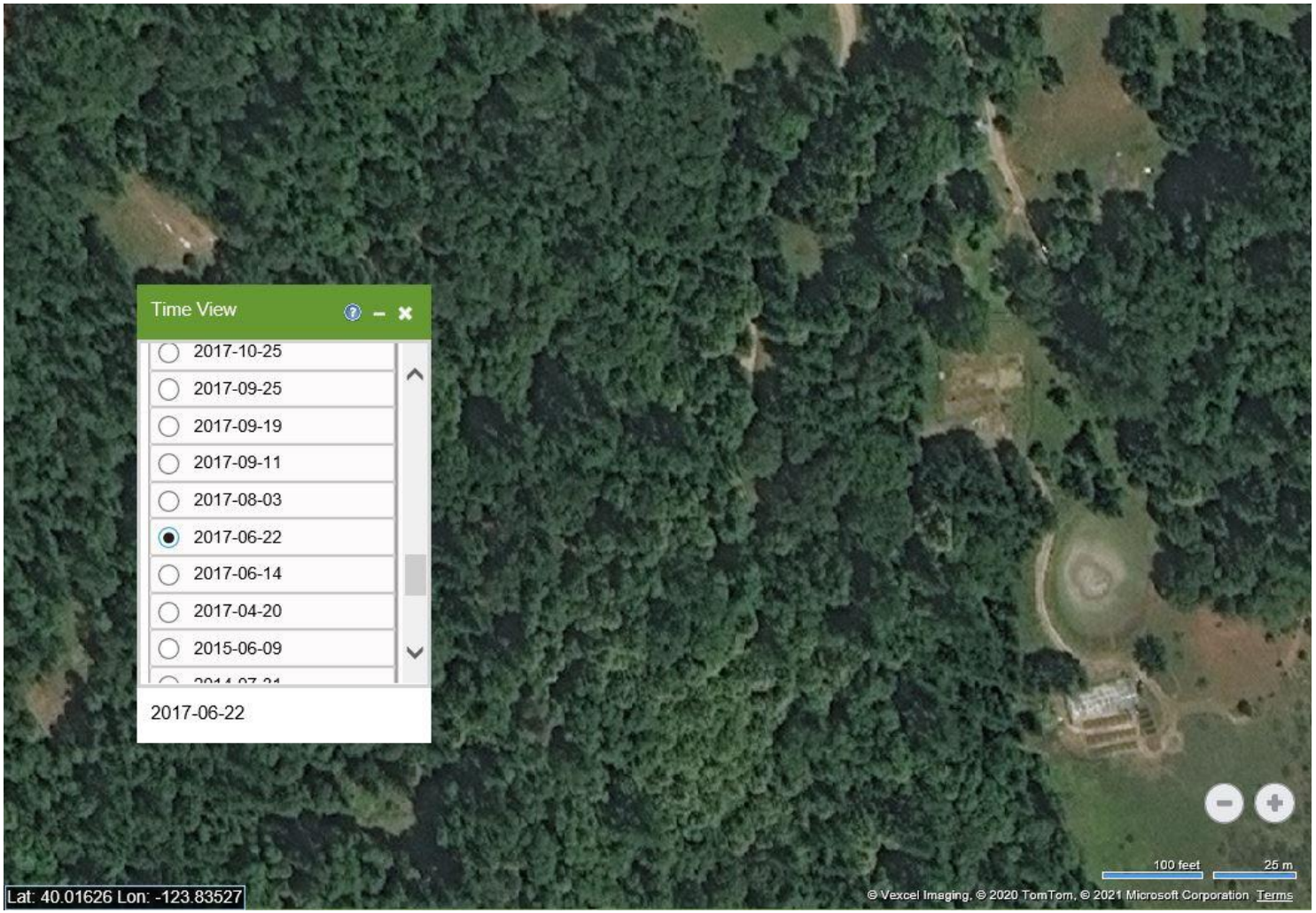



Image dated June 22, 2017, accessed with Digital Map Products' Land Vision service

aerial image 7 – Greenhouses and outdoor cannabis cultivation, present in earlier imagery, is no longer apparent in the left of this image however the greenhouse in the lower right persists in this image.


Image dated July 16, 2020, accessed with Digital Map Products' Land Vision service

aerial image 8 – Greenhouses and outdoor cannabis cultivation, present in earlier imagery, is no longer apparent in the left of this image however the greenhouse in the lower right persists in this image.

**Water Quality Inspection Report, Baldwin**

**Name and Location of Facility Inspected:** Sproul Creek Watershed "Site 1," Justin and Mia Baldwin Property Humboldt County APN 222-071-030

**Facility Permit:** N/A, **Inspection Date:** January 21, 2015, **Inspection Time:** ~1000

| Names & Titles of On-Site Representatives and Consenting Parties | Consent Provided? | Contact Information | Notified of Inspection? |
|---|---|---|---|
| Tenants in Residence, feature D | Yes | Phone:<br>Email:<br>peachesvermont@gmail.com | NO |
| Christian Harti, may be a site resident or tenant | N/A | Phone:<br>Email: hartilife@gmail.com | N/A |

**Property Owner(s):** Justin and Mia Baldwin,
**Owners' Address:** 27 Eucalyptus Path, Berkeley, CA 94705

**WQ Inspector Names and Titles:**
Diana Henrioulle, Senior Water Resource Control Engineer
Connor McIntee, Environmental Scientist, RWB

**Attending Agency Representatives:**
Scott Bauer, ES, Ca. Department of Fish and Wildlife (DFW)
Tobi Freeny, ES, DFW
Taro Murano, ES, State Water Resources Control Board Division of Water Rights (DIV)
Chuck Arnold, ES, DIV
Mark Smelser, EG, Ca. Geologic Survey
Yvonne West, Attorney IV, SWRCB OE
Law enforcement personnel, DFW (Little, Boyd, Imsdahl) and Humboldt County Sheriff's Office

**California Integrated Water Quality System (CIWQS) Inspection**

**Weather Conditions at the Time of the Inspection:** Clear and sunny
**Facility Receiving Water Names:** Sproul Creek and unnamed tributaries thereto

**Prepared By:** Diana Henrioulle on January 29, 2015
**Reviewed By:** Yvonne West on June 19, 2015

**Foot Notes:**

1. Inspection warrant issued January 20, 2015 for 14 parcels in Sproul Creek watershed included this parcel.
2. Occupants were informed that an inspection warrant had been obtained for this parcel; occupants provided general consent for team to access the property, take photographs and ask questions. At no time during the inspection was consent restricted or revoked.
3. All photographs taken by Diana Henrioulle, except where labeled otherwise

## I. Background

Parcel 222-071-030 is located in the Sproul Creek watershed. Sproul Creek is tributary to the South Fork Eel River and located in the Benbow Hydrologic Subarea of the South Fork Eel River Hydrologic Area. The South Fork Eel River is listed as impaired due to sediment and temperature pursuant to Clean Water Act section 303(d). On December 16, 1999, the United States Environmental Protection Agency approved Total Maximum Daily Loads (TMDL) for temperature and sediment that indicate "Cold Water Fishery" as the most sensitive of beneficial uses in the watershed. Protection of this beneficial use is presumed to protect all beneficial uses that might be harmed by sedimentation or increased temperature. The TMDL also indicates that major sources of sediment impairment in the South Fork Eel watershed are road-related and acknowledges the connection between anthropogenic sediment inputs and increases in stream temperatures.

As part of the statewide pilot cannabis regulation and enforcement initiative, the Water Boards and the California Department of Fish and Wildlife (DFW) are identifying sub-watersheds with critical resources that are being cumulatively adversely impacted as a result of cannabis cultivation. The Water Boards and DFW will inspect private parcels with cannabis cultivation throughout target watersheds and evaluate site conditions, water use and storage features, and potential threats to water quality. The Water Boards and DFW identified Sproul Creek watershed as a high priority for watershed-wide inspections because it supports relatively stable populations of three federally endangered salmonid species, Chinook and coho salmon (which is also a state threatened species under the California Endangered Species Act), and steelhead trout. Sproul Creek went dry for the first time in recent record, likely due to the cumulative impacts of water diversions for marijuana cultivation and ongoing drought conditions. DFW and Water Board staff reviewed satellite and aerial photographic imagery for parcels throughout the watershed and identified features of concern: greenhouses, outdoor cultivation areas, water diversions, and water storage features.

On January 20, 2015, Water Board staff obtained an inspection warrant from the Humboldt County Superior Court to inspect 14 specific properties in the Sproul Creek watershed wherein staff believed there may be conditions of, and/or threatened conditions of, pollution or nuisance resulting from discharges of waste to waters of the State and of the United States resulting from the cultivation of marijuana and associated activities. On January 21-23, 2015, staff from the North Coast Regional Water Board, State Water Resource Control Board's Office of Enforcement and Division of Water Rights, DFW, and the Humboldt County Sheriff's Office, visited and inspected parcels within the watershed, including the 14 parcels identified in the inspection warrant.

Inspection objectives for the water quality team members (Regional Water Board and Office of Enforcement staff) was to identify and inspect receiving waters, to review site characteristics, developed site features, cannabis cultivation sites and associated facilities, materials, equipment, structures, drainage features, and management practices in order to assess impacts or potential impacts to water quality and beneficial uses. In addition, water quality team members considered the relative potential for sites

to be regulated through a general conditional waiver of waste discharge requirement order (Conditional Waiver). As the Conditional Waiver is in development at this time and subject to further change prior to Board consideration, this latter screening effort was conducted at a fairly coarse level.

## II. Site information

The subject parcel is located on Pepperwood Springs and Oak Rock Roads (address: 161Oak Rock Road) in the southwest portion of Sproul Creek Watershed (see Figure 1, below). The parcel is 116.8 acres, irregularly shaped but roughly square. Pepperwood Springs Road, a public road, runs along a portion of the north property boundary. Aerial imagery shows that the site is mostly forested with some open grassy areas mainly toward the north and east portions. Sproul Creek appears to originate on this parcel, flowing to the southwest, and is identified as a blue line on Figure 2, below. Site terrain east of Sproul Creek slopes from east to west toward the creek; west of the Creek, terrain slopes roughly from north to south toward the creek. Site elevations range from 1680 feet to about 960 feet above sea level.

Pre-inspection reconnaissance through aerial imagery review and an overflight in December 2014 identified 8 cultivation areas or potential cultivation areas, 2 ponds, and a possible water diversion.

## III. Orientation

Initial property access was made to the residence identified as Map Point D, on Image 2, below occupied by tenants using that residence and the eastern portion of the property, including features identified as Map Points G8, OG 2, OG 4, and R1. A fence to the west of these features, running roughly north to south, effectively separates this portion of the property from the remainder, and for the purposes of this report, this portion is identified as Area I. Oak Rock Road, running north-south, crosses through the property just to the west of Area I. A driveway off of Oak Rock Road leads to a trailer identified as ST3 and outdoor grow area; for the purposes of this report, the area immediately around these features is identified as Area II. The remainder of the property is identified as Area III.

## IV. Residents/Occupants

As noted above, the inspection team encountered the couple who are tenants at the residence located at Area I. Both tenants were cooperative in providing access and answering questions about activities and features in Area I, but stated that they were not aware of or familiar with residents or activities on other portions of the property. When the team arrived at and inspected the features in Areas II and III, the team did not encounter any occupants or onsite personnel. Towards the end of the inspection, as the team returned to vehicles to depart the site, the team met an individual who identified himself as Christian Harti. Mr. Harti represented himself as having some involvement/responsibility with operations on the property, inquired as to team findings, and noted that he has made improvements to site conditions since he has been involved at the site. The team obtained Mr. Harti’s email address and indicated that he would be provided with copies of inspection reports for the site.

Figure 1 - master map, identifying the subject parcel

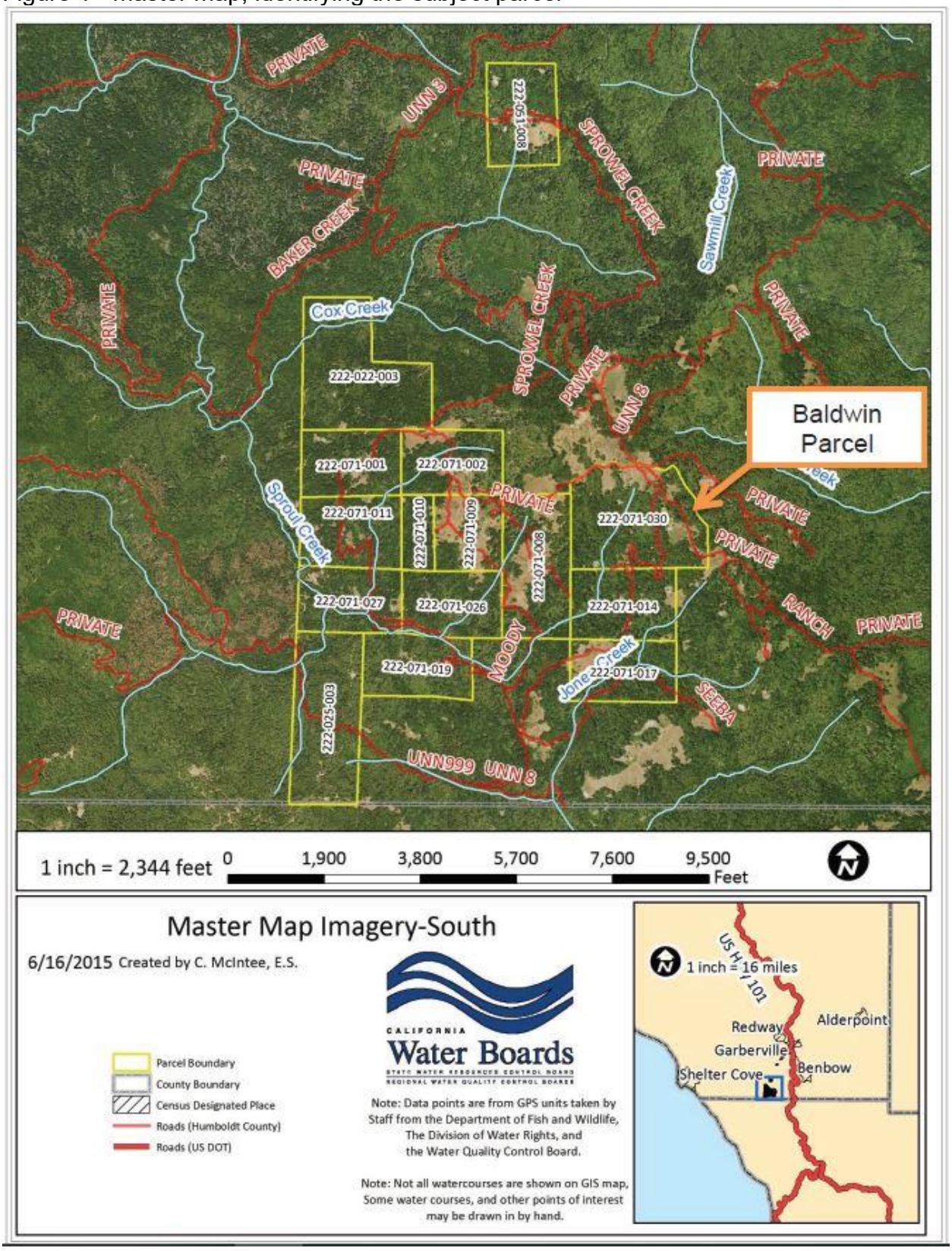
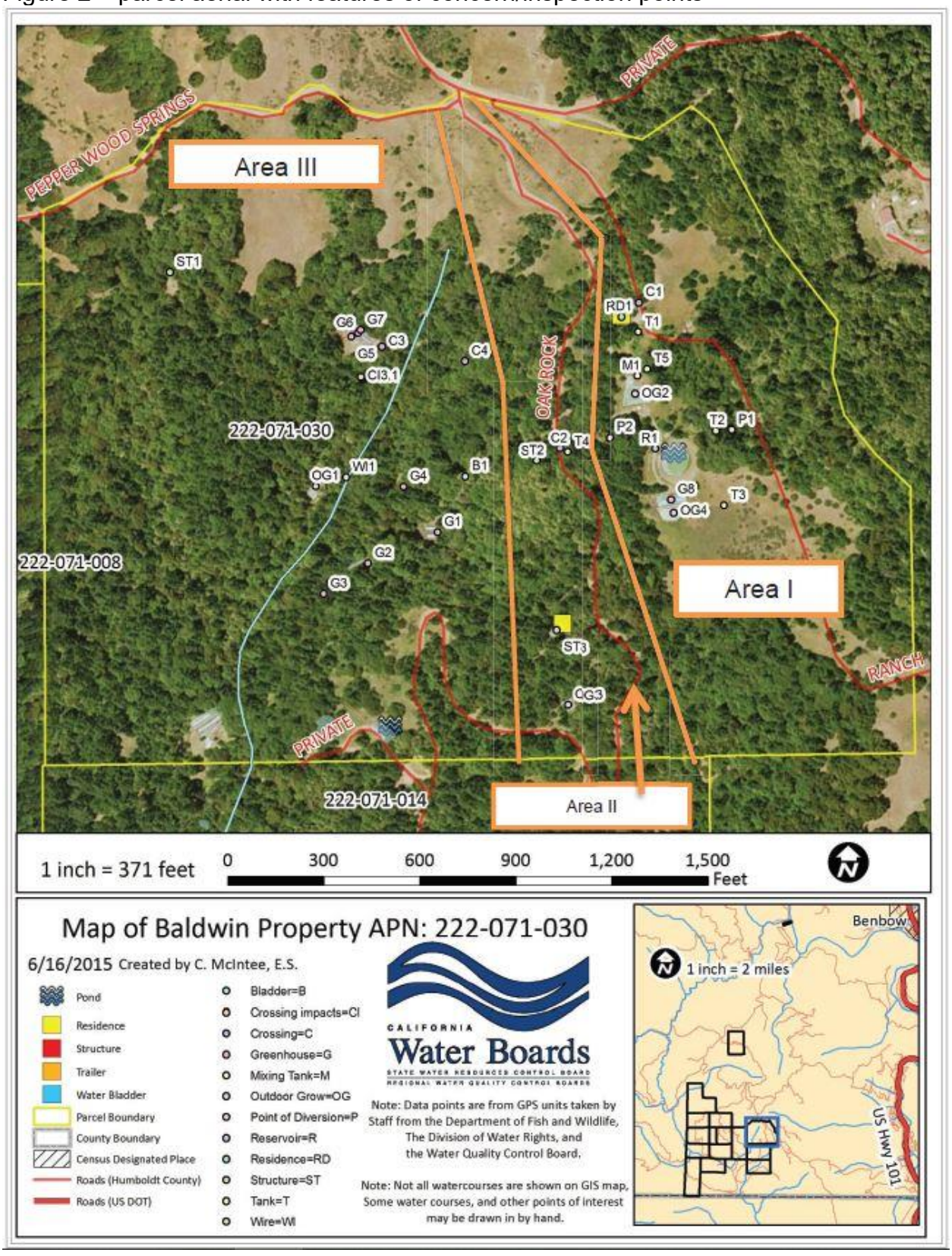


Figure 2 – parcel aerial with features of concern/inspection points



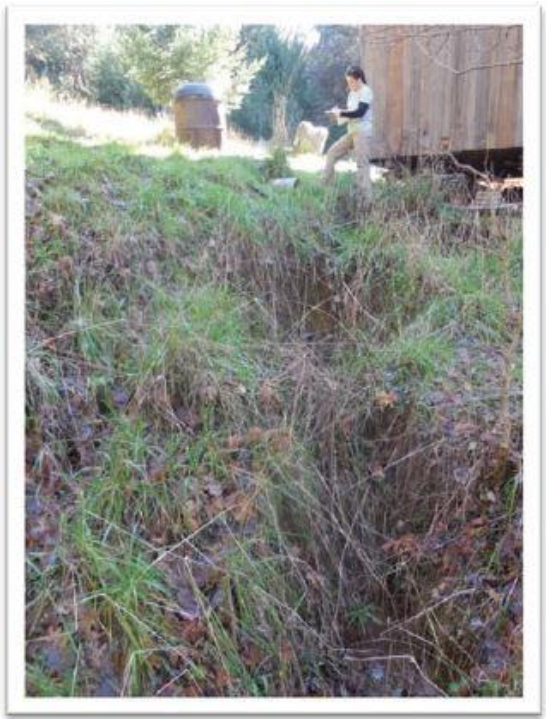
## V. Inspection observations

Inspection observations and photos are referenced to Points shown in Figure 2, above. Figure 2 includes features of concern and reference points collected by DIV and DFW staff during the inspection. The team periodically split up to look at different features throughout the parcel, and I did not visit all points shown on the map. I report on those features that I visited, and where I observed conditions that represent an impact or threatened impact to water quality; reports prepared by the DIV and/or by the DFW may report on additional features and areas of concern observed on the parcel. Note that various visible but unlabeled features toward the south property boundary are reportedly used by the residents on the parcel to the immediate south, and are referenced and discussed in the inspection report for that parcel (222-071-014; Kempe).

Area I

As noted above, this Area comprises Map Points RD1 (residence), OG2 and OG4 (greenhouses and outdoor growing areas), G8 (greenhouse), and Reservoir R1. In general,
conditions within this area were fairly good with respect to water quality, with the following exceptions.

- Residence D: Access roads from the north and west show signs of erosion and inadequate drainage. The culvert just to the north of the residence (C1) is shotgunned, with erosion at the inlet and outlet, and downstream of the outlet. These features generally drain downslope toward the road and watercourse to the southwest.



Culvert C1 – outlet and eroding channel below

- Reservoir R1: This pond captures flow from one or more springs. There is a stream channel located downslope of the pond outlet culvert, beyond the fence to the west of Area I. Intervening terrain appeared flat and did not show signs of recent erosion. There are pole/tarped structures and various random materials, equipment, and supplies, stored to the west of the pond, and brush piled near the outlet of the pond culvert. We observed some vermiculite on the ground in the storage area.


Reservoir R1 and overflow culvert outlet in brush/slash pile

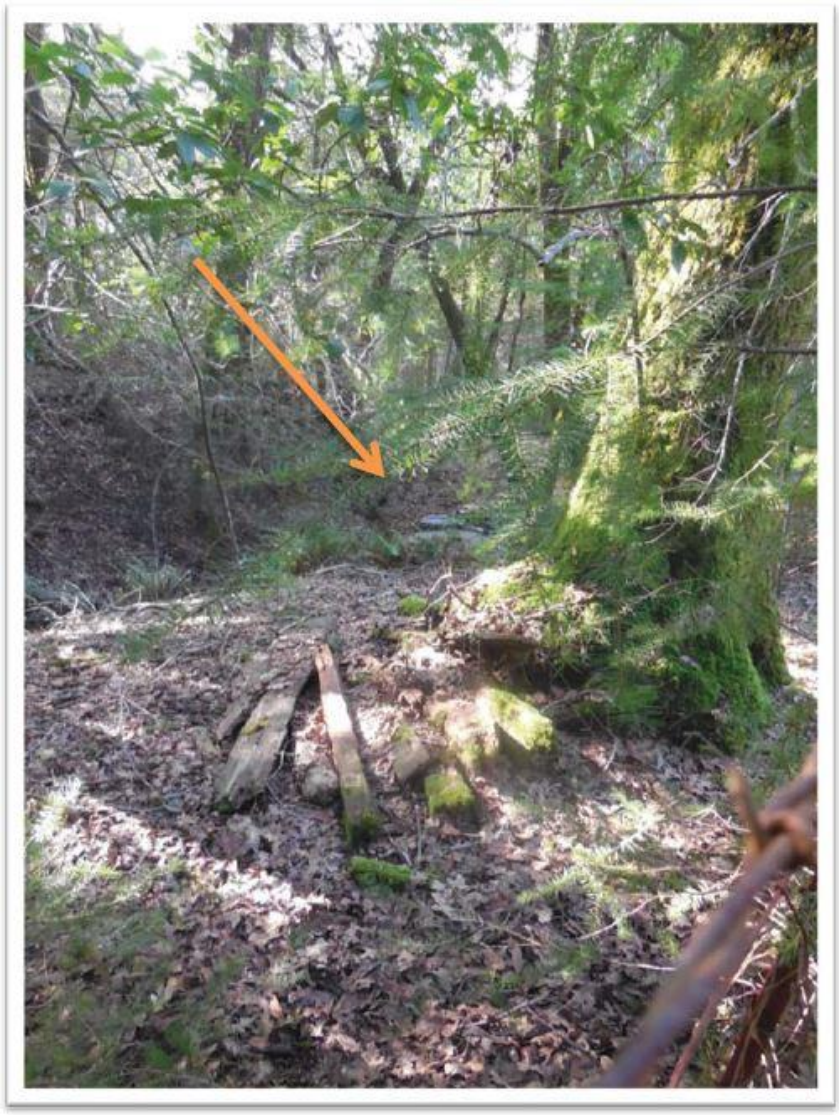
Miscellaneous storage west of pond R1

- Greenhouse G8: The greenhouse is sited on a flat area with a fenced grassy area just to the south. There were several small piles of potting soil to the west of greenhouse. The roadway between the greenhouse and the pond was very soft and muddy, and with many tire tracks. Housekeeping and drainage improvements may be warranted in this area.

Greenhouse G8, stockpiled potting soil to the south, muddy road to the west

- Stream channel between Area I and Oak Rock Road.

We observed water tanks in this stream channel, and conditions in the channel appeared poor, and susceptible to eroding and delivering sediment. We observed erosion and deposited sediment in the channel upstream of the road. The stream crossing culvert at this location (Crossing C2) appeared to be undersized, and we observed erosion along the road and around the culvert outlet.



Looking towards the west over fence along access road; the orange arrow points to the tanks in the stream channel.

Culvert C2, inlet and outlet (outlet photo taken by DFW staff)

Area II

The feature identified as ST3 is a travel trailer located on an access road/driveway that widens out around the trailer and continues south to the outdoor grow area shown as Map Point OG3. Terrain slopes roughly north to south in this area, and we saw evidence of sediment movement, rilling, and gullying as we travelled from feature ST3 to feature OG3 and on downslope toward the property line.

Signs of erosion on the driveway between features ST3 and OG3

At map point ST3, we observed a travel trailer that appears to be inhabited, another trailer, an ATV, and miscellaneous items including buckets, propane tanks, pipes, materials and equipment, toys, fuel containers, refuse, etc. The team observed a ~4-inch plastic corrugated hose running from the trailer downhill toward feature OG3, connecting to black plastic sewer pipe with a cleanout stub, and just downslope of this, we observed what appears to be the lid of a buried holding tank. This domestic wastewater disposal system may not meet County standards.

Hose leading from the trailer southward to the buried container; lower picture shows the round green container lid.

Near feature OG3 we observed a tarp and pole structure, with a zipping flap zipped mostly closed. Through the opening in the flap, we observed that the structure is sited on bare ground, and we observed white particles or pellets on the ground just inside the flap. It appears possible that runoff passing through or originating in this area could pick up and transport sediment and uncontained chemicals from the floor of the structure.


Tarped structure, white chunks/particles visible inside the flap

We did not observe apparent threats to water quality at the fenced outdoor growing area, OG3, but we observed some bags and containers of soil amendment/ growing products nearby; housekeeping practices could be improved in and around this area.

Bagged cultivation products near OG3

We also observed an erosion gully to the east of OG3 that we followed down to the property line and roadway.

Gully, looking south

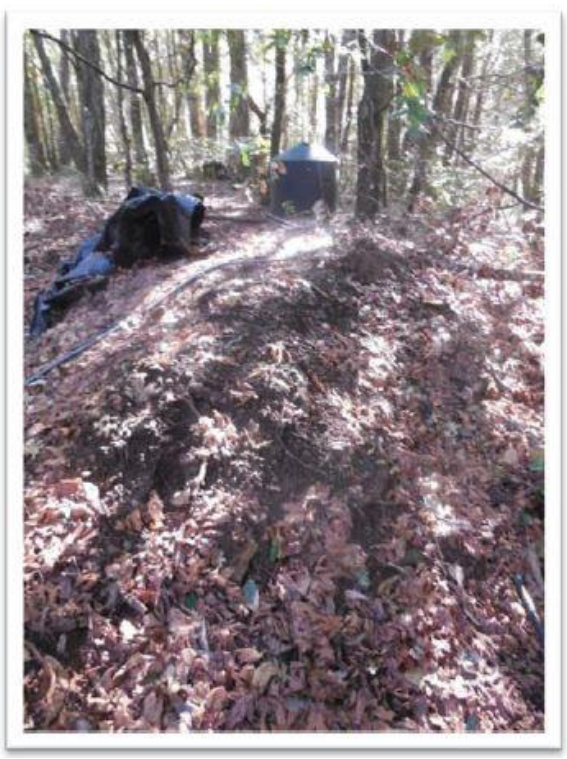
The culvert crossing the road at this location was shotgunned and showed signs of significant erosion and downcutting.

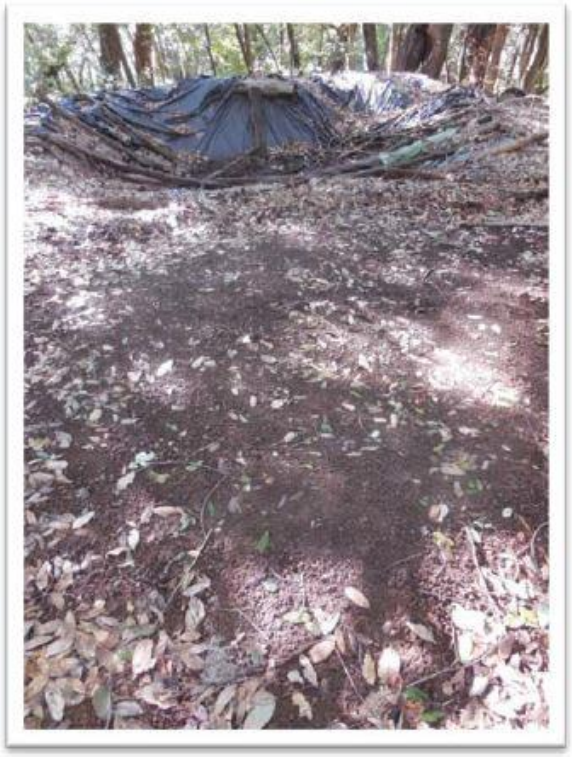
Culvert crossing located on Oak Rock Road, approximately due south of OG3, at or near the property line.

GPS coordinates indicate this roadway is located off the property; it may be appropriate to identify and contact the property owner association to review roads and culverts throughout the watershed.

Area III

The remaining features on the parcel are located along either side of Sproul Creek. We observed tanks, water bladders, and what appeared intended to be a small lined impoundment, all in the vicinity of ST2, a tarped/poled structure.



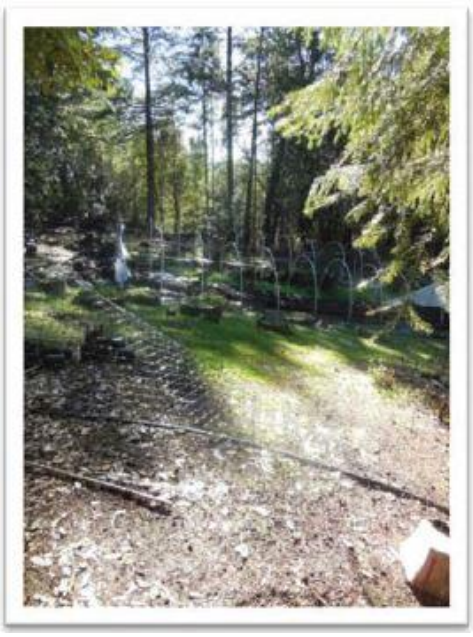


Tank and plastic liner near ST2

Following waterlines down the access road to the feature at Map Point G1, we observed signs of road surface erosion, rilling, gullying, and sediment transport.

On the roadway between ST2 and G1

At Map Point G1, we observed a large fenced area with greenhouse hoops, piled brush, plant containers, potting soil, etc.

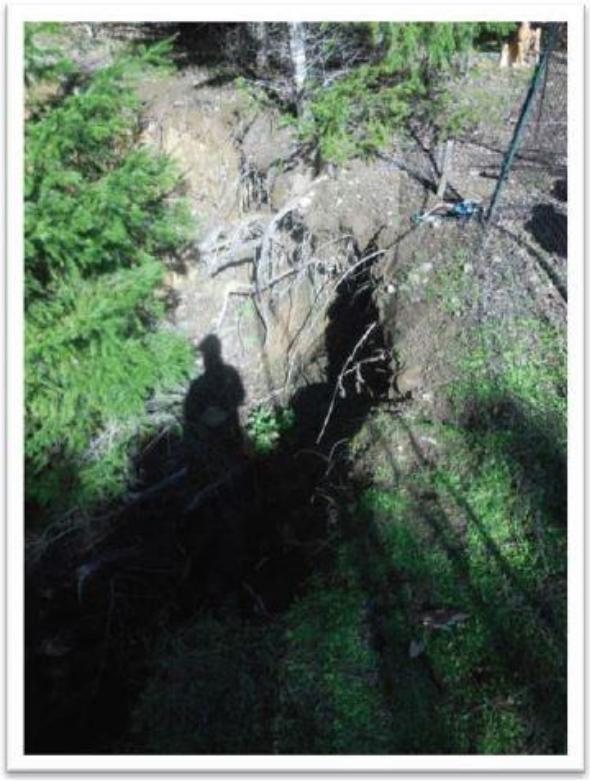


Greenhouse area G1

A short distance to the south and east of this feature, we found additional small outdoor growing areas and piles of empty plant containers, and miscellaneous waste materials associated with plant cultivation. Ground cover and vegetation was in fairly good condition in this area, so the potential for sediment delivery to receiving waters from the cultivation areas appears fairly low at this time, although piled vegetation, trees, and soil adjacent to the large grow area at G1 suggests that development of this feature involved a significant amount of vegetation removal and soil disturbance.

Piled soil and slash along the edge of the G1 clearing

Feature OG1, a small, fenced outdoor growing area, is located immediately to the west and adjacent to a watercourse (apparently Sproul Creek), and the edge closest to the creek is failing, with a steep dropoff down to the channel, perhaps 8-10 feet. (note the map incorrectly shows the watercourse passing to the east of OG1.



Fence along the edge of OG1 is in the upper right-hand corner of this photo, and steep failing streambank is located just to the left, adjacent to the fence.

Stream channel alongside OG1

Just to the north of this area, we observed a pallet with containers and bags of various chemicals, and fuel containers, as well as some equipment/supplies and garbage.

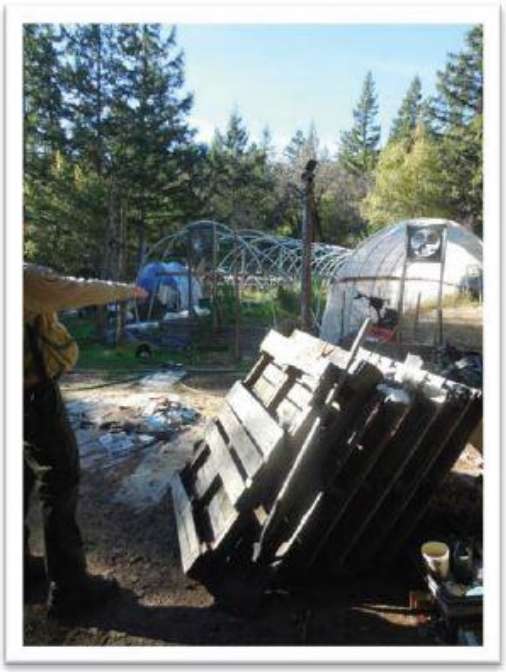
Pallet with miscellaneous cultivation chemicals, tools, and supplies

Walking north from Feature OG1 to Feature G5, we observed that the instream channel conditions were extremely poor, with extensive erosion and sediment deposition. [ At this point, part of the inspection team split off to inspect the remaining features towards the south edge of the property line (Features identified as I and K, and Ponds 2 and 3 on Figure 2), while the remainder of the team, including Water Quality staff, continued to investigate instream conditions and to head toward Feature G5.]

It appears the stream channel may have been moved or may have diverted in the vicinity of development at and around Feature G5.

Stream channel just south of G5

The development at G5 and just to the north includes a large cleared pad with several greenhouses or greenhouse hoop sets sitting on or over raised beds, access road, and encampment area with trailers, tents, pole and tarp structures, a screened open-air pit toilet, vehicles, and miscellaneous evidence of habitation and activity, although we did not encounter any occupants or onsite personnel. The greenhouse/cultivation footprint is well-mulched, and shows evidence of a fair amount of effort and care directly associated with cultivation in that area. However, this footprint is surrounded by materials, supplies, and waste materials associated with site development and operation, including piled vegetation and brush, loose soil, spent potting soil and plants, containers, bags, piping, tarps, pallets, garbage, etc.



Looking west at G5 greenhouses

The watercourse passes along a corner of this area, through (and likely over) a silted-in and apparently undersized culvert, C3 (shows as C13.1 on map).

Culvert C3.1

Just to the north of the greenhouse area, the encampment is sited on mostly bare soil that slopes towards the watercourse, and shows signs of extensive sediment

movement, deposition, and discharge into the watercourse. A culvert crossing in this area (C4) also appears to be undersized and silting-in, and shows signs of erosion around the outlet.

Culvert C4 inlet and channel below outlet (photos taken by DFW)

## VI. Discussion reviewing site conditions and threats to water quality by category

1. General Site Characteristics

Slopes varied and there were watercourses throughout the site. With respect to the risk presented to water quality, there are likely to be sites on this parcel that are better suited for cultivation as well as sites that are less suitable or completely unsuitable. Several existing features on the site warrant cleanup and abatement. Given the size and complexity of the site, cultivation areas should be sited and designed, and operation plans developed, by a qualified, licensed professional with experience in slope stability, erosion control, and water resource protection.

2. Specific Features
    a. Roads
       Many road segments throughout the site showed evidence of erosion and sediment transport, and were evidently delivering sediment to receiving waters.
    b. Developed areas
       Developed areas around features A, B, and H in particular showed signs of erosion, sediment transport, and direct delivery of sediment to surface waters.

    c. Crossings
       All stream crossings reviewed appeared to be undersized, poorly installed, and showed signs of erosion and/or instream degradation.

    d. Riparian/Wetland Protection and management
       Developed areas encroached on watercourses in several places and instream conditions showed signs of significant degradation.

    e. Spoils
       Waste potting soil and spoils associated with cleared area construction appear to be placed in locations where they may be transported to surface waters.

    f. Water Storage/Use
       The team observed numerous points of diversion, and storage features.

    g. Irrigation Runoff
       The team did not observe evidence of runoff from irrigated areas. Taken in isolation, the surface area of most of the cultivation areas appeared relatively stable, well vegetated and/or mulched. However, several were poorly sited, and housekeeping practices were poor at all sites.

    h. Fertilizers/Pesticides/Petroleum/Other Chemicals
       Apart from the portion of the site associated with residence D, the team observed chemical containers, bags, gas cans, and other chemicals in and out of containers at several locations through the site.

    i. Refuse/Garbage
       Apart from the portion of the site associated with residence D, the team observed refuse and garbage on the ground at several locations through the site.

    j. Human Waste
       The team observed features of concern near residence G (buried holding tank) and feature A (outdoor pit toilet).

## VII. Summary of violations & recommendations.

A. Violations

1. Water Code (uncontrolled discharge of sediment to surface waters from numerous locations from bare soil areas, poorly drained roads, improperly sized and installed culverts, and eroding stream channels and banks)

2. Clean Water Act (tanks placed in stream channels, possible diversion of stream channel in vicinity of feature A)

3. Threatened discharge of waste associated with steep fill prisms, improper domestic waste storage/disposal, uncontrolled storage of chemicals and refuse, and inadequately stabilized spoils.

B. Recommendations

Based on the observations reported above, including water quality violations and water quality concerns (i.e., threatened discharges of waste to receiving waters), staff make the following recommendations. Any work in surface waters (streams or wetlands) requires a Water Quality Certification from the Regional Water Board, through a formal application process. Permits may also be required from other agencies for work associated with carrying out the recommendations below.

Recommendation 1: identify and stabilize actively eroding features on the site as soon as possible. The goal of this recommendation is to reduce the amount of sediment delivered into surface waters (streams) in the short term, before the work identified under Recommendations 2, 3, and 4 is accomplished. The landowner may be able to perform some of the erosion control work, but staff recommends that the landowner engage a licensed professional engineer, geologist, or forester to identify the eroding features and develop the erosion control plan.

Recommendation 2: inventory/assess streams and develop a restoration plan. Where necessary, identify constructed features or placed material (such as earthen dams, fill material piled on the stream bank, or cultivation areas constructed adjacent to watercourses) that must be removed and develop an appropriate plan to remove those features. Include a plan describing where dirt removed from stream channels or banks will be placed, spread, planted or otherwise disposed of on the site so that this dirt cannot enter surface waters. Identify disposal or storage location for any refuse, waste, equipment, structures, or other features that are to be moved/removed as part of the restoration plan. The assessment and plan must be performed by an appropriately qualified California licensed professional engineer or geologist.

Recommendation 3: inventory/assess roads and stream crossings, develop a workplan and schedule to reshape the roads or to add drainage features to

minimize erosion of road surfaces and ditches and to minimize the amount of road-related runoff that discharges into surface waters and workplan, including designs and a schedule to replace improperly constructed or undersized culverts with properly designed, properly installed culverts or stream crossings that can pass flows from 100-year storm. The assessment and plan must be prepared by an appropriately qualified California licensed professional engineer or geologist.

Recommendation 4: Inventory/assess reservoirs and other water storage features for threats to water quality. Reservoir assessments must be performed by an appropriately qualified California licensed engineer or geologist and must include analysis of potential for catastrophic failure; overflow structures must be analyzed for potential to erode and transport water to surface waters; reservoir siting must be analyzed for hydrologic connectivity to surface waters, whether it is considered an onstream impoundment, and to assess geologic hazards. Based on the results of this assessment, develop a workplan, including designs and a schedule to address features which represent an active or potential source of sediment discharges to receiving waters.

Anticipating continued cannabis cultivation on the site that will be subject to the pending regulatory program (http://www.waterboards.ca.gov/northcoast/board_info/board_meetings/05_2015/pdf/cannabis/15_0023_Cannabis_Draft_Order.pdf ), staff recommends that the landowner consider developing a water resource protection plan that incorporates the plans developed under Recommendations 3, 4, and 5, above, and that identifies indoor and outdoor cultivation areas, and management practices and measures to be implemented to ensure that cultivation areas and all associated activities and features will be operated and maintained in a manner that will control/prevent discharge of waste to receiving waters.

## 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 rights to take any enforcement action authorized by law.

Inspection ID:36600385

## FACILITIES INSPECTION REPORT

Region/Office: 1, Status: Performed, Reg. Measure ID: 428869
Program Type: IRRICANNABIS WDID: 1_12CC407540
Order Number: 2019-0001-DWQ
Scheduled Insp. Date: Actual Insp. Date: 05/06/2019

### Discharger Information

Party ID: Multiple Discharger Organization Name: Multiple Dischargers
Address: Multiple Addresses City, State, Zip: Multiple Addresses
Discharger Contact
Person: Justin Baldwin Discharger Contact Phone: 510-847-5445
Discharger Contact Email Address: jfbaldwin@gmail.com

### Facility Information

Place ID 815583 Facility Name: Nielson Ranch Farms
Address: 161 Oak Rock Road City, State, Zip: Garberville, CA 95542
County: Humboldt Latitude: 40.01762 Longitude: -123.836024 Method: Map Interpolation (digital)

### Lead Inspector Information

Lead Inspector Party ID: 549585 Lead Inspector Name: Connor McIntee
Inspector Type: State

## INSPECTION TYPE

Inspection Type: B Type compliance inspection

## VIOLATIONS

Were Violations noted during this inspection? No.

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

On May 6, 2019, I inspected the subject Property with Amanda Piscitelli, in the presence of land owner, Justin Baldwin, to observe current site conditions and review/discuss proposed remediation work in the March 7, 2019 Cleanup and Restoration Plan (CRP). Regional Water Board staff have previously inspected this Property on January 21, 2015, and had subsequently provided the property owner with an inspection report including recommendation to address observed water quality concerns.

Inspection ID:36600385

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

During the Inspection, I observed that the majority of refuse and cultivation-related wastes observed during the January 21, 2015, inspection had been removed, but cultivation-related wastes were present near the site identified as P14 on the on the CRP map.

Apart from refuse and waste, conditions of the Property appeared largely unchanged since the January 21, 2015 inspection, particularly in regard to the roads, stream crossings, unstable features, and other erosional features. On May 1, 2019 I had provided Mr. Baldwin comments on the March 7, 2019 CRP. Based on site observations and further review of the CRP, I identified several stream crossings which had not been evaluated/discussed in the CRP. In addition, during the inspection, Mr. Baldwin showed me a proposed future cannabis cultivation area; in that area, I observed potential wetland characteristics:

Recommendations: 1) ensure that CRP includes assessment, remediation plans as needed, and implementation schedule for all watercourse crossings on the site. 2) prior to any land disturbance associated with development of the proposed cannabis cultivation area, engage an appropriately qualified professional to conduct a wetland delineation per U.S. Army Corps of Engineers protocol. Any proposed wetland disturbance is subject to Clean Water Act Water Quality Certification and/or waste discharge requirements.

# North Coast Regional Water Quality Control Board

February 12, 2021

Justin and Mia Baldwin
27 Eucalyptus Path
Berkeley, CA 94705
jfbaldwin@gmail.com

Certified Mail 7016 2710 0000 2653 3647

Dear Mr. and Mrs. Baldwin:

Subject: **Notice of Violation**

File: Cannabis Program Inspections, Humboldt County, November 20, 2020, Baldwin Property. CIWQS: Place ID 815583
Cannabis General Order WDID: 1_12CC407540

This letter is to notify you of observed violations of the requirements listed below, and cited in Attachment A, at the property identified as Humboldt County Assessor Parcel Number (APN): 222-071-030-000 (the Property).

1. State Water Resources Control Board Order WQ 2019-0000-DWQ General Waste Discharge Requirements for Discharges of Waste Associated with Cannabis Cultivation Activities (Cannabis General Order) requirement for submitting a Site Management Plan,

2. Water Quality Control Plan for the North Coast Region (Basin Plan) section 4.2.1,

## Background

On January 21, 2015, North Coast Regional Water Quality Control Board (Regional Water Board) staff (staff) participated in a warrant inspection of the Property. On June 23, 2015, Senior Council from the State Water Resources Control Board Office of Enforcement transmitted staff's report of the inspection (2015 Inspection Report) to you which identified many features on your property requiring Cleanup.

On June 1, 2016, the Regional Water Board Assistant Executive Officer invited you to comment on a draft Cleanup and Abatement Order and Request for Technical Reports pursuant to Water Code section 13267 (draft CAO), for the Property.

The draft CAO proposed requirements for developing, submitting and implementing plans to clean up and abate the threats to water quality on the property.

The draft CAO was not finalized, however, on March 7, 2019, staff received a Cleanup and Restoration Plan (CRP) for the Property, prepared on your behalf by Natural Resources Management Corporation (NRM). On May 1, 2019, staff provided comments on the CRP. Staff has not yet received a revised plan following these comments.

On June 4, 2019, you enrolled the Property in the State Water Resource Control Board Order WQ 2019-0001-DWQ (Cannabis General Order).

On November 20, 2020, Regional Water Board staff inspected the property. The report of this inspection (2020 Inspection Report) is included as Attachment B.

**Relevant Requirements**

During the inspection, Staff observed features and conditions on the Property that represent new and/or continued violations of water quality requirements and regulations. Attachment A – Regulatory Citations, provides references to these requirements and regulations.

**Observed Violations**

As documented in the 2020 Inspection Report, staff observed violations of the Basin Plan and the Cannabis General Order as summarized in the below table:

Table 1. Summary of violations documented by staff during November 20, 2020, Inspection.

| **Locations**[1] | **Violation types** |
|---|---|
| WQ 13 and WQ 14 | Basin Plan Prohibition 1 and Cannabis Cultivation Policy, Section 2, Term 119 |
| WQ 9 – WQ 10, WQ 19 – WQ 20, and WQ 21 – WQ 22 | Basin Plan Prohibition 2 and Cannabis Cultivation Policy, Section 2, Term 15, Term 17 and Term 20 |
| WQ 13 – WQ 14, and WQ 21 – WQ 22 | Basin Plan Prohibition 2 and Cannabis Cultivation Policy, Section 2, Term 19 |
| WQ 20 | Basin Plan Prohibition 2 and Cannabis Cultivation Policy, Section 2, Term 26 |

[1] Locations are identified on the map located on page 4 of the 2020 Inspection Report included as Attachment B.

| Locations[1] | Violation types |
|---|---|
| WQ 3 – WQ 8, WQ 10, WQ 13 – WQ 14, and WQ 16 –WQ 18 | Basin Plan Prohibition 2 and Cannabis Cultivation Policy, Section 2, Term 31 |
| WQ 15 | Basin Plan Prohibition 2 and Cannabis Cultivation Policy, Section 2, Term 120 |

**Site Management Plan (SMP)**

Pursuant to the Cannabis General Order, all enrollees must submit a Site Management Plan within 90 days of enrollment. It has been more than 90 days since you enrolled your Property for coverage under the Cannabis General Order; to date, we have not received an SMP.

**Potential Liabilities**

The Regional Water Board reserves the right to take any enforcement action the law allows. Additionally, enrollment in the Cannabis General Order does not relieve you of responsibility to obtain other necessary local, state, or federal permits, nor does the Cannabis General Order prevent imposition of additional standards, requirements, or conditions by any other agency. In the event of duplicate or conflicting requirements, the most stringent requirement applies.

The Regional Water Board is in the process of considering whether the violations of 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 2020 Inspection Report, may represent continuing violations of the 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.

An actual discharge to waters of the state, including waste discharges in violation of a waste discharge requirement, waiver condition, certification, or other order or prohibition issued by a regional board may subject a person to an administrative liability up to $5,000 per day of violation for each violation, or $10 for each gallon of waste discharged pursuant to Water Code section 13350 or up to $10 per gallon for each gallon over 1,000 gallons not cleaned up, and up to $10,000 per day per violation pursuant to Water Code section 13385.

**Inspection Report Recommendations**

The 2020 Inspection Report provides recommendations to correct violations, as well as to address features and conditions that threaten to impact water quality. Any work in waters of the state, including streams or wetlands, requires a water quality certification prior to conducting the work. To obtain such certification requires the applicant to submit a complete application[2] and pay a fee, which are in addition to the fees paid for enrollment in the Cannabis General Order. Failure to obtain such certification may subject the responsible parties to additional civil liabilities. **Within 30 days of the date of this letter**, please advise Brian Fuller of your intentions, plan, and schedule to implement recommendations in the 2020 Inspection Report. Brian Fuller can be reached at (707) 576-2806 or by email at Brian.Fuller@waterboards.ca.gov.

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 any questions regarding this matter, please contact Brian Fuller at the phone number or email above. You may also contact me at Diana.Henrioulle@waterboards.ca.gov or by phone at (707) 576-2350.

Additionally, we are available to meet with you if you wish to discuss this letter, the Inspection Reports, or our waste discharge regulatory programs in further detail.

Sincerely,

**Original signed by Diana Henrioulle**

Diana Henrioulle, P.E.
Enforcement Unit

210212_BMF_dp_Baldwin_NOV

Attachments: Attachment A – Regulatory Citations
Attachment B – Water Quality Report of November 20, 2020 Inspection

[2] Requirements for a complete application can be found in the California Code of Regulations Title 23. Waters Division 3 State Water Resources Control Board Chapter 28. Certifications: https://www.waterboards.ca.gov/water_issues/programs/cwa401/docs/401regs.pdf

**cc:**

**Department of Fish and Wildlife**
Scott Bauer, Scott.Bauer@wildlife.ca.gov
Matthew Jones, Matthew.Jones@Wildlife.ca.gov

**Humboldt County**
Robert Russell, rrussell@co.humboldt.ca.us

**North Coast Regional Water Quality Control Board**
Claudia Villacorta, Claudia.Villacorta@waterboards.ca.gov
Kason Grady, Kason.Grady@waterboards.ca.gov
Mona Dougherty, Mona.Dougherty@waterboards.ca.gov
Diana Henrioulle, Diana.Henrioulle@waterboards.ca.gov
Brian Fuller, Brian.Fuller@waterboards.ca.gov

**Timberland Resource Consultants**
Chris Carroll, carroll@timberlandresource.com

Attachment A – Regulatory Citations

| **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)." |
| 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." |
| Cannabis General Order, Attachment A, Cannabis Cultivation Policy, Section 2, Term 15, | "Access roads shall be constructed consistent with the requirements of California Code of Regulations Title 14, Chapter 4. The Road Handbook describes how to implement the regulations and is available at http://www.pacificwatershed.com/PWA-publications-library. Existing access roads shall be upgraded to comply with the Road Handbook." |

| Regulatory Section | Citation |
|---|---|
| Cannabis General Order, Attachment A, Cannabis Cultivation Policy, Section 2, Term 17, | "Cannabis cultivators shall ensure that all access roads are hydrologically disconnected to receiving waters to the extent possible by installing disconnecting drainage features, increasing the frequency of (inside) ditch drain relief as needed, constructing out-sloped roads, constructing energy dissipating structures, avoiding concentrating flows in unstable areas, and performing inspection and maintenance as needed to optimize the access road performance." |
| Cannabis General Order, Attachment A, Cannabis Cultivation Policy, Section 2, Term 19, | "Cannabis cultivators shall decommission or relocate existing roads away from riparian setbacks whenever possible. Roads that are proposed for decommissioning shall be abandoned and left in a condition that provides for long-term, maintenance-free function of drainage and erosion controls. Abandoned roads shall be blocked to prevent unauthorized vehicle traffic." |
| Cannabis General Order, Attachment A, Cannabis Cultivation Policy, Section 2, Term 20, | "If site conditions prohibit drainage structures (including rolling dips and ditch-relief culverts) at adequate intervals to avoid erosion, the cannabis cultivator shall use bioengineering techniques as the preferred measure to minimize erosion (e.g., live fascines). If bioengineering cannot be used, then engineering fixes such as armoring (e.g., rock of adequate size and depth to remain in place under traffic and flow conditions) and velocity dissipaters (e.g., gravel-filled "pillows" in an inside ditch to trap sediment) may be used for problem sites. The maximum distance between water breaks shall not exceed those defined in the Road Handbook." |
| Cannabis General Order, Attachment A, Cannabis Cultivation Policy, Section 2, Term 26, | "Cannabis cultivators shall ensure that access roads are not allowed to develop or show evidence of significant surface rutting or gullying. Cannabis cultivators shall use water bars and rolling dips as designed by a Qualified Professional to minimize access road surface erosion and dissipate runoff." |

| Regulatory Section | Citation |
|---|---|
| Cannabis General Order, Attachment A, Cannabis Cultivation Policy, Section 2, Term 31, | "Cannabis cultivators shall ensure that all permanent watercourse crossings that are constructed or reconstructed are capable of accommodating the estimated 100-year flood flow, including debris and sediment loads. Watercourse crossings shall be designed and sized by a Qualified Professional." |
| Cannabis General Order, Attachment A, Cannabis Cultivation Policy, Section 2, Term 119, | "Cannabis cultivators shall contain and regularly remove all debris and trash associated with cannabis cultivation activities from the cannabis cultivation site. Cannabis cultivators shall only dispose of debris and trash at an authorized landfill or other disposal site in compliance with state and local laws, ordinances, and regulations. Cannabis cultivators shall not allow litter, plastic, or similar debris to enter the riparian setback or waters of the state. Cannabis plant material may be disposed of onsite in compliance with any applicable CDFA license conditions." |
| Cannabis General Order, Attachment A, Cannabis Cultivation Policy, Section 2, Term 120, | "Cannabis cultivators shall only dispose, or reuse spent growth medium (e.g., soil and other organic media) in a manner that prevents discharge of soil and residual nutrients and chemicals to the riparian setback or waters of the state. Spent growth medium shall be covered with plastic sheeting or stored in watertight dumpsters prior to proper disposal or reuse. Spent growth medium should be disposed of at an authorized landfill or other disposal site in compliance with state and local laws, ordinances, and regulations. Proper reuse of spent growth medium may include incorporation into garden beds or spreading on a stable surface and revegetating the surface with native plants. Cannabis cultivators shall use erosion control techniques, as needed, for any reused or stored spent growth medium to prevent polluted runoff." |

TO: Diana Henrioulle

FROM: Brian Fuller

DATE: December 22, 2020

**Report of November 20, 2020 Consent Inspection**
**Humboldt County Assessor's Parcel Number (APN) 222-071-030-000**
**(the "Property")**

File: Cannabis Inspections, Humboldt County, 2020, Justin and Mia Baldwin CIWQS Place ID No. 815583

## Property Information

County: Humboldt

Physical address: 161Oak Rock Road, Garberville

APN: 222-071-030-000 (the Property)

Owner: Justin and Mia Baldwin (the Dischargers)
PO BOX 5022, Berkeley, CA, 94705-0022

Size: 108 acres

Watershed: Eel River Hydrologic Unit; South Fork Eel River Hydrologic Area; Benbow Hydrologic Subarea (HU/HA/HSA 111.32; Table 2-1, Water Quality Control Plan for the North Coast Region).

## Regulatory status with the North Coast Regional Water Quality Control Board (Regional Water Board)

Onsite activities/operations:

- On January 21, 2015, Regional Water Board staff (staff) participated in a warrant inspection of the property. On June 23, 2015, Senior Counsel from the State Water Resources Control Board Office of Enforcement transmitted staff's report of the inspection (2015 Inspection Report) to the Dischargers.

- On February 15, 2016, Justin Baldwin signed a Notice of Intent (NOI) enrolling the Property as a Tier 2 site under Regional Water Board Order No. 2015-0023 (Regional Cannabis Order) and was assigned WDID 1B15169CNHU.

- On June 1, 2016, the Regional Water Board Assistant Executive Officer invited the Dischargers to comment on a draft Cleanup and Abatement Order and Request for Technical Reports pursuant to Water Code section 13267, for the Property.

- On March 7, 2019, staff received a Cleanup and Restoration Plan (CRP) for the Property, prepared on the Dischargers' behalf by Natural Resources Management Corporation (NRM).

- On May 1, 2019, staff provided comments on the CRP to the Dischargers.

- Justin Baldwin transferred enrollment of the Property from the Regional Cannabis Order to the State Water Resource Control Board Order WQ 2019-0001-DWQ (Cannabis General Order) effective June 4, 2019 and was assigned WDID 1_12CC407540.

- The Regional Water Board has no record of a Site Management Plan (SMP) being submitted for the property.

- On March 10, 2020, Justin Baldwin submitted a request to terminate the property's enrollment in the Cannabis General Order. The request stated cultivation ceased on December 31, 2016 but did not include a Site Closure Report.

**Inspection information:**

Date/time: November 20, 2020, /morning

Type: Consent Inspection

Attendance:

Brian Fuller, Engineering Geologist (EG), Regional Water Board
Jordan Filak, Environmental Scientist (ES) Regional Water Board
Jesse Cahill, Timberland Resource Consultants (TRC)

Background/Objective:

TRC reported they represent the DuPonts, who are tenants on the property and have a lease-to-own agreement with the owners (the Baldwins), and invited staff to inspect the property to discuss the scope of required cleanup. Charles DuPont is also the listed cultivator for Humboldt County APN 222-071-028, which borders the property to the

north and is enrolled in the Cannabis General Order with WDID 1_12CC417597. Objectives for staff included observing current site conditions 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**

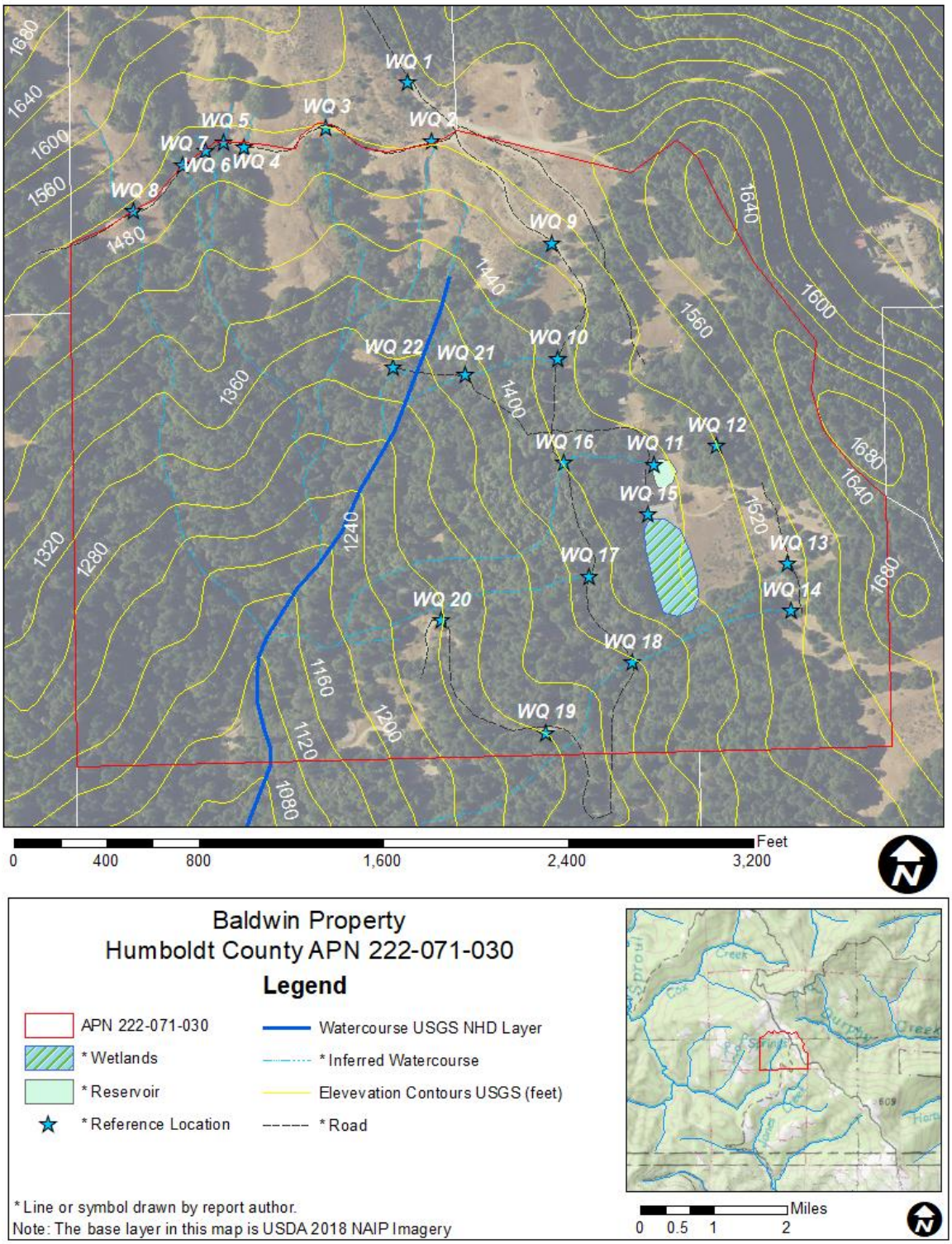



Figure 1: Map of Property, including inspection points of interest

**Inspection Observations**

The above site map shows inspection points identified and discussed in this report. Inspection participants accessed the property from the north and stopped first in the vicinity of WQ 1, where I observed an approximate 200-foot length of road sloped into an inboard ditch that discharges to a deeply incising channel at WQ 2 (Photo 1 and Photo 2). We then walked west along Pepperwood Springs Road where I observed six watercourse crossings that appeared too narrow relative to the channel size, installed at too shallow of a grade and/or failing at WQ 3 thru WQ 8 (Photo 3 thru Photo 10).

We returned to WQ 2, then headed south down Oak Rock Road. I observed a hydrologically connected road concentrating stormwater into a corrugated plastic pipe at WQ 9 (Photo 11), which discharged into an incised watercourse (Photo 12). Along the road, I observed a hole in the road-surface connecting to a ditch relief culvert below the road (Photo 13). On the western, downslope side, of the road at WQ 10, I observed a culvert directed above a scoured watercourse (Photo 14 and Photo 15).

From WQ 10, we continued following Oak Rock Road south, and then followed a smaller and less-used road to the east where I observed a reservoir at WQ 11 (Photo 16). The reservoir outflow discharges onto some cut tree logs (Photo 17) within a watercourse (Photo 18). We walked east and upslope from the reservoir to a tank collecting spring water at WQ 12 (Photo 19). From the spring we walked a short distance east and uphill and arrived at a legacy road trending south. The road surface was covered with duff and had been reclaimed by saplings. We walked south and observed two small watercourses that had been culverted below the old road at WQ 13 and WQ 14, and had also been used as waste disposal locations (Photo 20-Photo 23).

From WQ 14, we walked to the greenhouse located at WQ 15 (Photo 24) and I observed the large pile of potting soils, that is identified in the 2015 Inspection Report, remained behind the greenhouse (Photo 25). We then walked north to the reservoir outlet at WQ 11 and followed the receiving waters west where I observed a perched and undersized culvert conveying the watercourse across Oak Rock Road at WQ 16 (Photo 26 and Photo 27). This culvert, which was identified as C2 in the 2015 Inspection Report, is too small relative to the size of the receiving watercourse and installed shallow in the road fill resulting in a steep drop at the outlet that was scouring the downstream watercourse.

We continued south and I observed two more culverts that appeared undersized at WQ 17 and WQ 18 (Photo 28 thru Photo 31). Further south, Oak Rock Road passes the property boundary and loops back north onto the property. I observed a long section of road from WQ 19, to the north, without drainage before an inboard ditch directs surface water over the road and towards a tributary to Sproul Creek in the vicinity of WQ 20 (Photo 32 and Photo 33).

We walked back along Oak Rock Road to a point north of WQ 10 and headed west down a smaller and less used road. I observed a relatively new stream crossing at WQ 21 that appeared to be installed at channel grade (Photo 34 and Photo 35). Farther west, in the vicinity of WQ 22, I observed a watercourse approaching the road from the northeast, which is then directed along the northern boundary of the road before turning at a right angle and crossing the road through a culvert perpendicular to the road axis. The road approaching from the east is steep and likely contributes significant stormwater to the area. The hillslope to the south of the road segment that interrupts and parallels the watercourse is marked by a broad braided stream network. I observed an incised drainage immediately west from where the watercourse is culverted below the road (Photo 36).

From this point we returned to our vehicles parked on Oak Rock Road and had a tailgate discussion. I explained that a water quality certification (WQC) was required for all instream work and the Dischargers should submit applications for WQC at least 60 days before the planned start work date. I also explained that staff had provided comments on the submitted CRP to the Dischargers and the Regional Water Board had not yet received a revised plan following these comments. I informed Mr. Cahill that, although the Regional Water Board Executive Officer had not yet issued a final CAO, the Dischargers had delayed too long to implement cleanup and I anticipated I would recommend the Regional Water Board Executive Officer finalize the order if it appeared the Dischargers were not on track to perform cleanup work during next summer.

| *Map point(s)* | *Feature* | *Brief Description* | *Water Quality Concern* | *Associated Photo(s)* |
|---|---|---|---|---|
| WQ 1-WQ 2, WQ 9, and WQ 19-WQ 20 | roads concentrating storm water | Roads lack out sloping, rolling dips, or ditch relief culverts at sufficient intervals to prevent erosion by stormwater. | threatened discharge of waste to receiving waters | Photo 1-Photo 2, Photo 11-Photo 15, and Photo 32-Photo 33 |

| *Map point(s)* | *Feature* | *Brief Description* | *Water Quality Concern* | *Associated Photo(s)* |
|---|---|---|---|---|
| WQ 3–WQ 8, WQ 10, WQ 13–WQ 14, and WQ 16–WQ 18 | inadequate stream crossings. | Culverts have failed, are too small, or are poorly aligned resulting in channel erosion. | threatened discharge of waste to receiving waters | Photo 3–Photo 10, Photo 14–Photo 15, Photo 20–Photo 23, Photo 26–and Photo 31, |
| WQ 11 | reservoir outlet armored with woody debris | Logs armoring channel outlet may be transported by stormflows. | threatened discharge of waste to receiving waters | Photo 17 and Photo 18 |
| WQ 13 and WQ 14 | waste in watercourse | scrap wood and metal placed in watercourses | discharge of waste to a suspected water of the state of California | Photo 20–Photo 23 |
| WQ 15 | waste potting soils | waste potting soils uncovered and adjacent to wetlands | threatened discharge of waste to receiving waters | Photo 25 |
| WQ 15 | greenhouse bordering wetlands. | Greenhouse is close to wetlands. | threatened discharge of waste to receiving waters | Photo 24 |
| WQ 22 | road redirecting watercourse | Road leading to historical cultivation area redirects drainage and concentrates stormwater. | threatened discharge of waste to receiving waters | Photo 36 |

**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:
Road at WQ 1 collects stormwater in an inboard ditch and delivers it to the neighboring drainage to the south at WQ 2 instead of directing the flow to the northeast. The culvert at WQ 9 receives road runoff from a long section of road to the north and the watercourse receiving the culvert flow is incising. The road between WQ 9 and WQ 10 lacks drainage features and is hydrologically connected to a tributary to the west of WQ 20. The road leading to a historical cultivation area at WQ 22 interrupts a watercourse

2. Stream crossing maintenance and improvement:
Stream crossings at WQ 3 through WQ 8, WQ 10, WQ 13, WQ 14, WQ 16, WQ 17, WQ 18 and WQ 22 are either undersized, poorly aligned or have failed.

3. Riparian and wetland protection and management:
The greenhouse and associated waste potting soil pile at WQ 15 is adjacent to a wetland.

4. Spoils management: Other than the potting soils at WQ 15 discussed below, I did not observe any spoils piles.

5. Water storage and use:
The spring diversion at WQ 12 appears to be diverting 100 percent of natural flow.

6. Irrigation runoff:
I did not observe significant threats to water quality associated with irrigation runoff.

7. Fertilizers and soil amendments:
I observed a large pile of waste potting soils uncontained and adjacent to a wetland at WQ 15. The potting soils were hosting invasive thistles.

8. Pesticides:
I did not observe anything that I identified as pesticides on the property.

9. Petroleum products and other chemicals:
I did not observe petroleum products and other chemicals being stored or used on the property.

10. Cultivation-related wastes:
Landfill at WQ 13 includes waste cannabis plant stalks.

11. Refuse and human waste:
Landfills at WQ 13 and WQ 14 appear to be within watercourses.

## Recommendations

1. I recommend the property owner(s) and/or tenant(s) immediately remove waste materials from watercourses at WQ 13 and 14, remove waste potting soils from areas adjacent to wetlands at WQ 15, and dispose of these wastes in accordance with applicable Humboldt County requirements.

2. I recommend the property owner(s) and/or tenant(s) retain a licensed professional to develop and submit a revised CRP that includes:
    a. revisions recommended in Staff's May 1, 2019 comments,
    b. plans to address controllable sediment sources identified in this inspection report that are not covered in the CRP submitted on March 7, 2019, such as:
        i. replacing culverts that cross Pepperwood Springs Road along the northern boundary of the property,
        ii. decommission stream crossings and hydrologically connected segments of historical roads that are not currently used such as the roads leading past WQ 13 and WQ 14, and WQ 21 and WQ 22,
        iii. and hydrologically disconnect all roads from receiving waters that are planned to be kept in commission.

3. I recommend the property owner(s) and/or tenant(s) submit to the Regional Water Board an application for WQC for any proposed instream work, at least 60 days before the proposed start work date.

    Application for Water Quality Certification under the Statewide Cannabis Order WQ 2019-0001-DWQ:
    https://www.waterboards.ca.gov/northcoast/water_issues/programs/cannabis/pdf/200204/RB1_Cannabis_WQC_401_App.pdf

4. I recommend the property owner(s) and/or tenant(s) comply with requirements/directives from CDFW and the Division of Water Rights with respect to appropriate permitting/licensing for water source(s), diversion(s), storage, and use, and ensure that water storage features are modified/maintained so as to minimize the potential for adverse impacts to water quality and beneficial uses.

## 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 rights to take any enforcement action authorized by law.

**Selected Photos**

*Photo 1—Looking south from WQ 1 toward WQ 2. Road collects stormwater and discharges to inboard ditch, shown in the right of the image before discharging into incising channel at WQ 2 pictured in the below photo.*

*Photo 2—Looking south and downstream at incised upstream stretch of watercourse at WQ 2.*

*Photo 3—Looking west at culvert outlet located at WQ 3. The culvert is perched, and the channel has incised below the outlet.*

*Photo 4—Looking south and downhill at culvert outlet located at WQ 3.*

*Photo 5—Stream channel in the vicinity of WQ 4.*

*Photo 6—Looking north at watercourse upstream from road at WQ 5.*

*Photo 7—Looking south at culvert outlet at WQ 5. The top of the culvert is visible to the center-right of the image.*

*Photo 8—Looking west at culvert outlet at WQ 6.*

*Photo 9—Looking west in the vicinity of the expected culvert outlet located at WQ 7.*

*Photo 10—Looking south at culvert outlet at WQ 8. The road prism has failed above the culvert outlet.*

*Photo 11—A 24-inch diameter corrugated plastic pipe extending from the road fill at WQ 9.*

*Photo 12 Looking west towards incising watercourse downstream from pipe at WQ 9.*

*Photo 13—A hole in the road surface connecting to ditch relief culvert below the road located north of WQ 10.*

*Photo 14—A 12inch diameter culvert perched above a scoured watercourse at WQ10.*

*Photo 15—The watercourse downstream from culvert pictured in previous image at WQ 10.*

*Photo 16—Looking east at the reservoir located at WQ 11.*

*Photo 17—Reservoir outfall at WQ 11. Note the cut logs armoring the channel where the reservoir outfall delivers to the receiving watercourse.*

*Photo 18—Looking upstream towards the reservoir outfall at WQ 11*

*Photo 19—Tank collecting spring water at WQ 12.*

*Photo 20—Waste lumber and plant stalks in a watercourse at WQ 13.*

*Photo 21—A buried culvert where a legacy road crosses the watercourse at WQ 13.*

*Photo 22— Scrap metal in a watercourse at WQ 14.*

*Photo 23— Looking west and downstream at scrap metal in a watercourse at WQ 14.*

*Photo 24—Looking west towards greenhouse located at WQ 15 from legacy road north of WQ 13.*

*Photo 25—Uncontained potting soils southwest of greenhouse located at WQ 15.*

*Photo 26—Looking downstream at two culverts, 12 inch and 18 inches in diameter, directed to an approximately five-foot-wide watercourse at WQ 16.*

*Photo 27—Looking upstream at the two culverts pictured in the previous image perched five feet above the receiving watercourse at WQ 16.*

*Photo 28—Looking west and downstream at inlet of a 15-inch diameter metal pipe located at WQ 17.*

*Photo 29—Looking east and upstream at WQ 17 where culvert discharges into the receiving water. The culver, visible in the top center of the image is perched several feet above the channel.*

*Photo 30—Looking west and downstream at inlet of an 18-inch diameter culvert located at WQ 18.*

*Photo 31—Looking west at receiving waters from culvert at WQ 18*

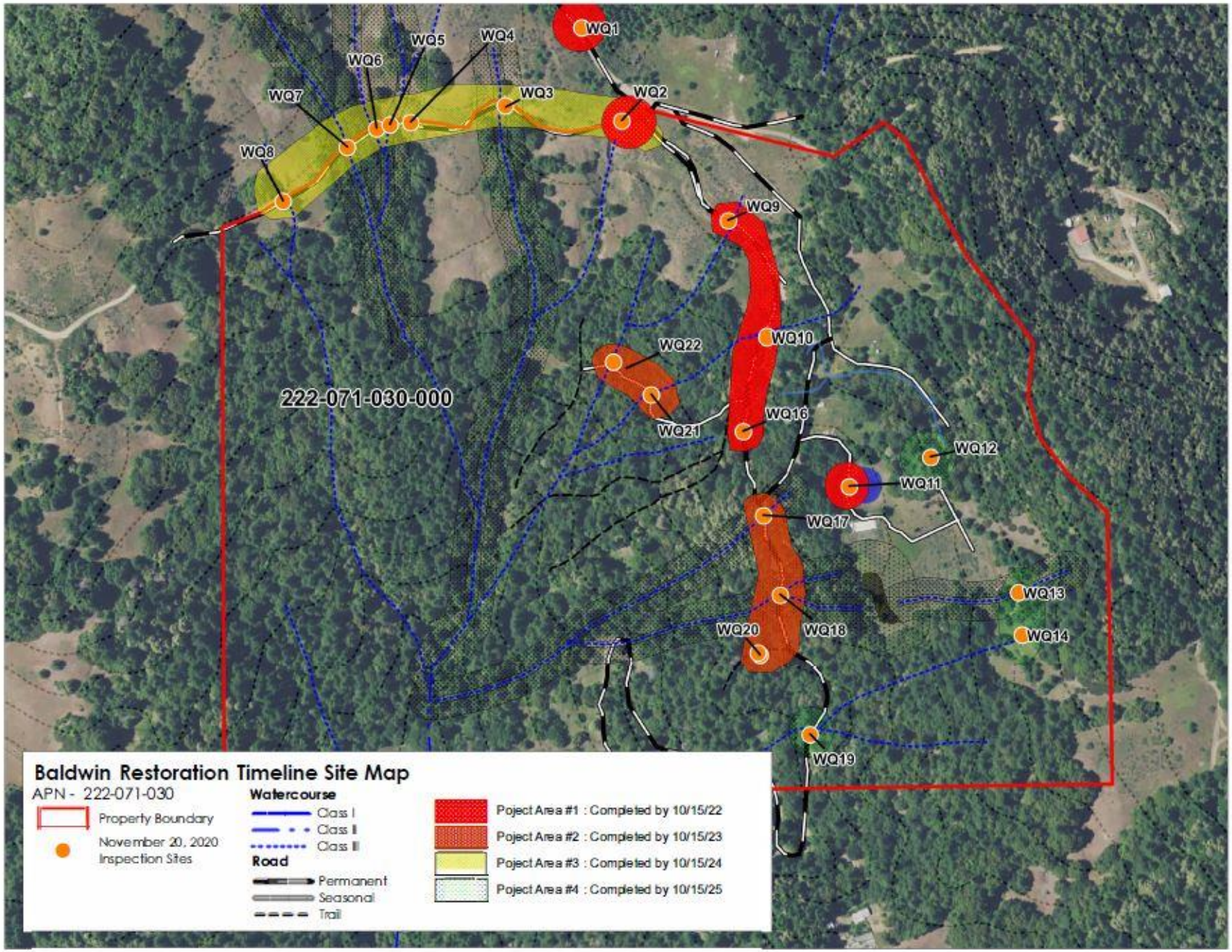
*Photo 32—Looking east at road surface in the vicinity of WQ 19. From this location, stormwater is collected by the road and transported in an inboard ditch before leaving the road at WQ 20 pictured below.*

*Photo 33—Road in the vicinity of WQ 20. Shows a channel eroded in the road-surface from stormwater originating at WQ 19. Sediment laden stormwater threatens to deliver to a tributary to Sproul creek to the right and out of view of the image.*

*Photo 34—Inlet of an 18-inch diameter culvert at WQ 21.*

*Photo 35—Looking north at culvert outlet in the vicinity of WQ 21. The culvert is aligned with the stream bottom.*

*Photo 36—Looking at incised watercourse west of receiving drainage of watercourse that has been redirected by road in the vicinity of WQ 22.*


WQ1
WQ2
WQ3
WQ4
WQ5
WQ6
WQ7
WQ8
WQ9
WQ10
WQ11
WQ12
WQ13
WQ14
WQ16
WQ17
WQ18
WQ19
WQ20
WQ21
WQ22
222-071-030-000
Baldwin Restoration Timeline Site Map
APN - 222-071-030
Property Boundary
November 20, 2020 Inspection Sites
Watercourse
Class I
Class II
Class III
Road
Permanent
Seasonal
Trail
Poject Area #1 : Completed by 10/15/22
Poject Area #2 : Completed by 10/15/23
Poject Area #3 : Completed by 10/15/24
Poject Area #4 : Completed by 10/15/25

**Baldwin Restoration Timeline**
09/27/2021

This document has been prepared for APN 222-071-030 located in the Sproul Creek watershed. This document is to serve as a Restoration timeline for the subject parcel in effort to create a feasible plan for completion of the projects sites documented by Waterboard inspection from the November 20th,2020 inspection report. This document will address feasibility and prioritization of the project sites defined by the Waterboard as sites WQ 1 -22. This document is to be utilized as additional documentation for the projected timeline in association with the Cleanup and Restoration Plan submitted by NRM and the Cleanup and Restoration Addendum submitted by ETA Humboldt. This projected timeline is contingent on the required permits being completed and submitted by December 28th 2021. Required permits consist of a Lake and Streambed Alteration Agreement submitted to CDFW and a Water Quality Certification 401 permit and Site Management Plan to be submitted to the California State Water Resources Control Board. Submission of these documents prior to December 28th 2021 will allow for approximately four months of processing time for the agencies to complete their review and approval.

Timberland Resource Consultants have been contracted to complete a Lake and Streambed Alteration Agreement and Site Management Plan for the subject parcel of which further details and specifications will be defined. The pending Lake and Streambed Alteration Agreement will address all watercourse crossing related work with specifications. Lake and Streambed Alteration Agreements provide a five-year plan to complete the proposed work. The pending Site Management Plan will address all erosion control and road drainage features that will improve functionality to the roads system and reduce/minimize sediment output of the subject property. Timberland Resource Consultants has also been contracted to complete the 401 Water Quality Certification for the subject property. This document will provide a proposed timeline for the Project Sites defined by the Waterboard as WQ 1-22. These project Sites have been grouped into four areas referenced as Project Area 1-4. These areas have been assessed for the feasible completion dates and prioritization of the areas that will provide the most benefit for the affected waters of the state.

**Logistical Limitations**
Logistical limitations will be presented in accordance with each Project Area to provide reasoning to the proposed completion date. In general, the feasible completion dates are in effort to present a timeline that is logistically possible as many of the project sites are costly, complicated, and located on community maintained road ways where coordination with approximately 60 surrounding land owners. Feasibility is additionally contingent on the financial burden that will be placed on acting party that is in the process of purchasing the property. Total cost of each project site is difficult to determine as fluctuations in culvert pricing, no project bids, and unforeseen cost cannot be estimated. The work season consists of the dry months of April 15th through October

15th and are during seasons when road use by the adjacent land owners experience increased use. Coordination with the road association and adjacent landowners may cause unforeseen delays to the timeline. Work on the community used and maintained sections of road will occur as part of Project Areas #1, 2, and 3. Coordination with the adjacent landowners and road association will begin in January 2022. To obtain a general idea of cost an average of $10,000 per project site will be assumed which should account for permitting cost, materials (varying culvert lengths and sizes), labor, and potential unforeseen cost. Further details for specific project recommendation will be presented in the pending Lake and Streambed Alteration agreement and the pending Site Management Plan.

**Project Area Overview**

Project Area #1 - Consists of the Project Sites that directly access the subject parcel and the ditch relief culvert replacement/ installation sites. Sites addressed in Project Area #1 will be completed prior to 10/15/22 at the end of the work period for earthwork/ground disturbance. Project Area #1 is comprised of WQ Sites 1,2, 9,10,16, and 11. These sites address erosion control issues that are directly related with the subject parcel and are in effort to minimize sediment delivery to waters of the state in correlation with accessing the proposed cannabis project. These sites consist of four ditch relief culvert installations and five watercourse crossing upgrades for a total projected cost of $90,000. All nine culvert installations are located on a community maintained and utilized road system.

Project Area #2 - Consists of the Project Sites that are located within the central area of the subject parcel and are a result of legacy road installation issues and address the areas of the property where cultivation historically occurred. These project sites will be completed prior to 10/15/23 at the end of the work period for earthwork/ground disturbance. Project Area #2 is comprised of WQ Sites 17, 18. 20. 21. and 22. These sites address erosion control issues that are directly related with legacy cultivation and historic logging practices on the subject parcel and are in effort to minimize sediment delivery to waters of the state. These sites consist of four watercourse crossing upgrades and one septic system removal for a total projected cost of $50,000. Two watercourse crossings WQ17 and WQ 18 are located on a community used and maintained permanent road. WQ 22 is one of the priority sediment delivery sites as this consists of misaligned watercourse crossing that is resulting in increased erosion.

Project Area #3- Consists of six watercourse crossings located on a section of community utilized road that transects two properties. These watercourse crossing are not functioning adequately and will provide a significant benefit to the Sprowl creek watershed. Sites addressed in Project Area #3 will be completed prior to 10/15/24 at the end of the work period for earthwork/ground disturbance. Project Area #3 is comprised of WQ Sites 3,4,5,6,7, and 8. These sites address poorly installed watercourse crossings that provide access to approximately 30 other landowners in the Sprowl Creek area. This is the only access route for these landowners and logistically these

culverts will be more difficult to install and will prolong the proposed work due to providing adequate notice and coordination with affected parties. Working period within the April to October work window will be better understood when coordination with the road association is conducted. These sites consist of six watercourse crossing upgrades for a total projected cost of $60,000.

Project Area #4 -Consists of the Project Sites that are a result of the historic domestic land uses as a homestead from the early 1900's (The Nielson Ranch), additionally one watercourse crossing upgrade will occur located on the community use/maintained road. Sites addressed in Project Area #4 will be completed prior to 10/15/25 at the end of the work period for earthwork/ground disturbance. Project Area #4 is comprised of WQ Sites 13, 14, and 19. These sites address erosion control issues that are directly related with the subject parcel and are in effort to minimize sediment delivery to waters of the state. This work is comprised of two culvert upgrades, and removal and disposal of legacy domestic waste from two watercourse channels. It is estimated that the completion of these projects will cost approximately $40,000.

**Conclusion**

This timeline addresses the remediation of Water Quality Site 1 -22 by grouping and prioritizing four areas defined as Project Areas. Estimations for completion of the proposed projects is based on practical and logistical limitations due to the complexity, coordination, and cost aspects of the projects. Many of the project sites are legacy issues that are a result of legacy logging activities and historical domestic land uses and development dating back to the early 1900's. It is estimated that Water Quality Site 1 – 22 will cost approximately $240,000 and take four years with work beginning in April of 2022. The work initiation date is contingent on the completion and submission of the required permits by December 28th, 2021. The work initiation date is contingent on the pertinent agencies reviewing and approving the applications within four months. Logistical limitations are presented in this document and address potential issues to the implementation of the property restoration and improvement. It should be noted that this document represents a potential logistical timeline for the proposed projects however unforeseen delays and or extenuating circumstances may arise and such this projected timeline may be subject to change. It should be noted that the implementation of these projects will affect over 60 adjacent landowners and potentially 100's of residences. The completion of the project will improve two sections of community utilized road with no financial input from the associated road association and 100% of the financial burden being assumed by the landowner. The completion of these proposed projects will provide a significant benefit to the waters of the state and result in a substantial reduction of sediment inputs as a result of human interaction with this landscape.