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## North Coast Regional Water Quality Control Board

July 14, 2021

Syed Shahzad Karim  
945 Taraval ST.  
San Francisco, CA 94116

Certified Mail 7016 0750 0001 0048 7488

Dear Mr. Karim:

**Subject: Notice of Violation and Transmittal of Inspection Report for June 28, 2021 Inspection of Sonoma County Assessor's Parcel Number (APN) 028-130-009-000**

**File:** Cannabis Program Inspections, Sonoma County, June 2021 Inspections, CIWQS Place ID: 875170

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

1. Water Quality Control Plan for the North Coast Region (Basin Plan) Section 4.2.1 at locations WQ1, WQ2, WQ3, WQ4, WQ5, Road south of WQ7, WQ8 and WQ9.
2. California Water Code (Water Code) sections 13260 and 13264
3. Federal Clean Water Act section 301 (a), 401 and 404 at locations WQ5, WQ8 and WQ9.

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

### **Background**

On June 28, 2021, staff from the Regional Water Board, accompanied by staff of the California Department of Fish and Wildlife (CDFW), and various law enforcement personnel, inspected the subject Property.

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

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

Attached is a copy of the water quality inspection report (Attachment B – June 28, 2021 Inspection Report). Please review the Inspection Report carefully and completely. The Inspection Report contains recommendations for correcting observed violations and advises you of the Regional Water Board permits necessary for instream work and projects/activities that result in discharges of waste to receiving waters.

### **Relevant Requirements**

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

### **Observed Violations**

As documented in the Report of the June 28, 2021 inspection, Regional Water Board staff observed violations of the Basin Plan Section 4.2.1 Prohibitions 1 and 2, Water Code sections 13260 and 13264, and federal Clean Water Act section 301. Staff observed these violations at Property locations identified in the June 28, 2021, Inspection Report as WQ1, WQ2, WQ3, WQ4, WQ5, the road south of WQ7, WQ8 and WQ9.

### **Additional Potential Liabilities**

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

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

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

During the June 28, 2021, inspection, staff observed cannabis cultivation operations of sufficient size and scope to require regulatory coverage under the State Water Resources Control Board (State Water Board) Order No. WQ-2017-0023-DWQ, *General Waste Discharge Requirements and Waiver of Waste Discharge Requirements for Discharges of Waste Associated with Cannabis Cultivation Activities* (Statewide General Order).

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

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

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

(By US Mail):

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

(In person or by courier delivery):

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

OR:

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

Please submit the appropriate documents and payments to:

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

Water Code section 13260 states, in relevant part:

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

(1) Any person discharging waste, or proposing to discharge waste, within any region that could affect the quality of the waters of the state, other than into a community sewer system.

Water Code section 13264 states, in relevant part:

(a) No person shall initiate any new discharge of waste or make any material changes in any discharge...prior to the filing of the report required by Section 13260 and no person shall take any of these actions after filing the report but before whichever of the following occurs first:

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

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

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

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

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

Sincerely,

Diana Henrioulle, P.E.  
Enforcement Unit

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Attachments: Attachment A - Regulatory Citations  
Attachment B – June 28, 2021, Inspection Report

Certified Mail – Return Receipt requested

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

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

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

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

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

Zane Stromberg, [Zane.Stromberg@Waterboards.ca.gov](mailto:Zane.Stromberg@Waterboards.ca.gov)

**Department of Fish and Wildlife**

Timothy Dodson, [Timothy.Dodson@wildlife.ca.gov](mailto:Timothy.Dodson@wildlife.ca.gov)

Matthew Jones, [Matthew.Jones@Wildlife.ca.gov](mailto:Matthew.Jones@Wildlife.ca.gov)

Lt. Douglas Wilson, [Douglas.Willson@wildlife.ca.gov](mailto:Douglas.Willson@wildlife.ca.gov)

Warden Justin Rhoades, [Justin.Rhoades@wildlife.ca.gov](mailto:Justin.Rhoades@wildlife.ca.gov)

**Sonoma County**

Todd Hoffman, [Todd.Hoffman@sonoma-county.org](mailto:Todd.Hoffman@sonoma-county.org)

Attachment A – Regulatory Citations

Regulatory Section	Citation
Basin Plan Section 4.2.1, Prohibition 1	Prohibits “[t]he discharge of soil, silt, bark, slash, sawdust, or other organic and earthen material from any logging, construction, or associated activity of whatever nature into any stream or watercourse in the basin in quantities deleterious to fish, wildlife, or other beneficial uses.”
Basin Plan Section 4.2.1, Prohibition 2	Prohibits “[t]he placing or disposal of soil, silt, bark, slash, sawdust, or other organic and earthen material from any logging, construction, or associated activity of whatever nature at locations where such material could pass into any stream or watercourse in the basin in quantities which could be deleterious to fish, wildlife, or other beneficial uses.”
California Water Code Section 13260	<p>“(a) Each of the following persons shall file with the appropriate regional board a report of the discharge, containing the information that may be required by the regional board:</p> <p>(1) A person discharging waste, or proposing to discharge waste, within any region that could affect the quality of the waters of the state, other than into a community sewer system.</p> <p>(2) A person who is a citizen, domiciliary, or political agency or entity of this state discharging waste, or proposing to discharge waste, outside the boundaries of the state in a manner that could affect the quality of the waters of the state within any region.”</p>
California Water Code Section 13261(a)	“A person who fails to furnish a report or pay a fee under <u>Section 13260</u> when so requested by a regional board is guilty of a misdemeanor and may be liable civilly in accordance with subdivision (b).”
California Water Code Section 13264 (a)	“No person shall initiate any new discharge of waste or make any material changes in any discharge, or initiate a discharge to, make any material changes in a discharge to, or construct, an injection well, prior to the filing of the report required by Section 13260 and no person shall take any of these actions after filing the report but before whichever of the following occurs first:”
California Water Code Section 13265(a)	“Any person discharging waste in violation of <u>Section 13264</u> , after such violation has been called to his attention in writing by the regional board, is guilty of a misdemeanor and may be liable civilly in accordance with subdivision (b). Each day of such discharge shall constitute a separate offense.”

Regulatory Section	Citation
California Water Code Section 13350	“A person who (1) violates a cease and desist order or cleanup and abatement order hereafter issued, reissued, or amended by a regional board or the state board, or (2) in violation of a waste discharge requirement, waiver condition, certification, or other order or prohibition issued, reissued, or amended by a regional board or the state board, discharges waste, or causes or permits waste to be deposited where it is discharged, into the waters of the state, or (3) causes or permits any oil or any residuary product of petroleum to be deposited in or on any of the waters of the state, except in accordance with waste discharge requirements or other actions or provisions of this division, shall be liable civilly, and remedies may be proposed, in accordance with subdivision (d) or (e).”
Federal Clean Water Act Section 301 (a):	Section 301(a) provides that subject to certain exceptions, “the discharge of any pollutant by any person shall be unlawful.” 33 U.S.C. § 1311(a). One of the exceptions allowed for under the Clean Water Act is the discharge from a dredge and fill activity under the auspices of § 404 and 401 of the Clean Water Act. 33 U.S.C. § 1342. The Clean Water Act prohibits the discharge of any pollutant from a point source into waters of the United States without a section 404 dredge and fill permit and a section 401 state water quality certification.
Federal Clean Water Act Section 401	Section 401 (a)(1) “Any applicant for a Federal license or permit to conduct any activity including, but not limited to, the construction or operation of facilities, which may result in any discharge into the navigable waters, shall provide the licensing or permitting agency a certification from the State in which the discharge originates”
Federal Clean Water Act Section 404	Section 404(a) provides, in relevant part, “The Secretary may issue permits...for the discharge of dredged or fill material into the navigable waters...” The Code of Federal Regulations defines the term “dredged material” as material that is excavated or dredged from waters of the United States. 33 C.F.R. § 323.2(c). The term “discharge or dredged material” mean any addition of dredge material into the waters of the United States. 33 C.F.R. § 323.2(d)(1). The Code of Federal Regulations defines “fill material” as material placed in waters of the United States that has the effect of replacing any potion of a water of the United States with dry land or changing the bottom elevation of any potion of a water of the United States. 33 C.F.R. § 323.2(e)(1). The term “discharge of fill material” means the additional of fill material into waters of the United States. 33 C.F.R. § 323.2(f).

**FACILITIES INSPECTION REPORT**

Region/Office: 1	Status: Performed	Reg. Measure ID: 444146
Program Type: IRRICANNABIS	WDID:	Order Number:
Scheduled Insp. Date:	Actual Insp. Date: 06/28/2021	

**Discharger Information**

Party ID: 626054	Discharger Organization Name: Karim, Syed Shahzad	
Address: 945 Taraval Street	City, State, Zip: San Francisco, CA 94116	
Discharger Contact Person:	Discharger Contact Phone:	
Discharger Contact Email Address:		

**Facility Information**

Place ID 875170	Facility Name: Syed Shahzad Karim		
Address:	City, State, Zip: Santa Rosa, CA 95404-8426		
County: Sonoma	Latitude: 38.53213	Longitude: -122.65503	Method: Map Interpolation (digital)

**Lead Inspector Information**

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

**INSPECTION TYPE**

Inspection Type: Complaint inspection

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

Violation ID	Violation Type	Occurrence Date	Rank	Description
1091910	Unauthorized Discharge	06/28/2021	B	California Water Code section 13260 and 13264 for unauthorized discharge of waste at location WQ4.
1091911	Basin Plan Prohibition	06/28/2021	B	Water Quality Control Plan for the North Coast Region (Basin Plan) Section 4.2.1 at locations WQ1, WQ2, WQ3, WQ4, WQ5, Road south of WQ7, WQ8 and WQ9.
1091912	Unauthorized Discharge	06/28/2021	B	Federal Clean Water Act Section 301 at locations WQ5, WQ8 and WQ9.

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

Recommendations:

1. Enroll in the Cannabis General Order, ensure future development and uses for cannabis are in conformance with current regulations.
2. Engage a qualified professional to develop and submit a work plan to correct the roads and crossings on the Property to conform with the State Water Resources Control Board Cannabis Policy.
3. Submit application for and obtain a 401 Water Quality Certification from the Regional Water Board before performing any instream work.

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

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

At WQ1, I observed a historical cultivation area with piles of imported potting soils uncontained where they may spread offsite. I walked west along a steep road. The road-surface is composed of fine material and shaped such that stormwater will concentrate and erode the road surface.

At WQ2 I observed earthen spoils, perched ~400 feet upslope from a tributary to Humbug Creek. Farther north along the road, at WQ3, I observed a culvert worn through the top in the middle of the road. I was unable to see a watercourse through the dense vegetation on either side of the road at WQ2.

I observed an active cannabis cultivation site at WQ4 with petroleum products and other chemicals improperly stored. I observed earthen spoils on the road east of WQ4 on the downslope side of the road where it threatens to discharge to an onstream reservoir to the north. Farther east, at WQ5, I observed a recently installed culvert with earthen spoils at the outlet. I observed a reservoir downslope from the culvert at WQ5 and a watercourse downslope from the reservoir at WQ6. North of WQ5, I observed a steep road hydrologically connected to the reservoir. Farther north, I observed a bridge had been installed at WQ7 with earthen spoils from the work in the watercourse and perched on where they threatened to discharge to the watercourse.

I observed a culvert installed at WQ9. Ms. Foreman from PG&E was onsite and explained they had installed the culverts and bridge. Ms. Foremen said she did not think permits were required because they were replacing like for like in the burn area. I explained that Permits are required from the Regional Water Board and that the work did not meet requirements for size and alignment. I advised they stop work until they obtained permits.

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

### Inspection Maps and Photolog for inspection conducted, June 28, 2021

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

#### Inspection Map

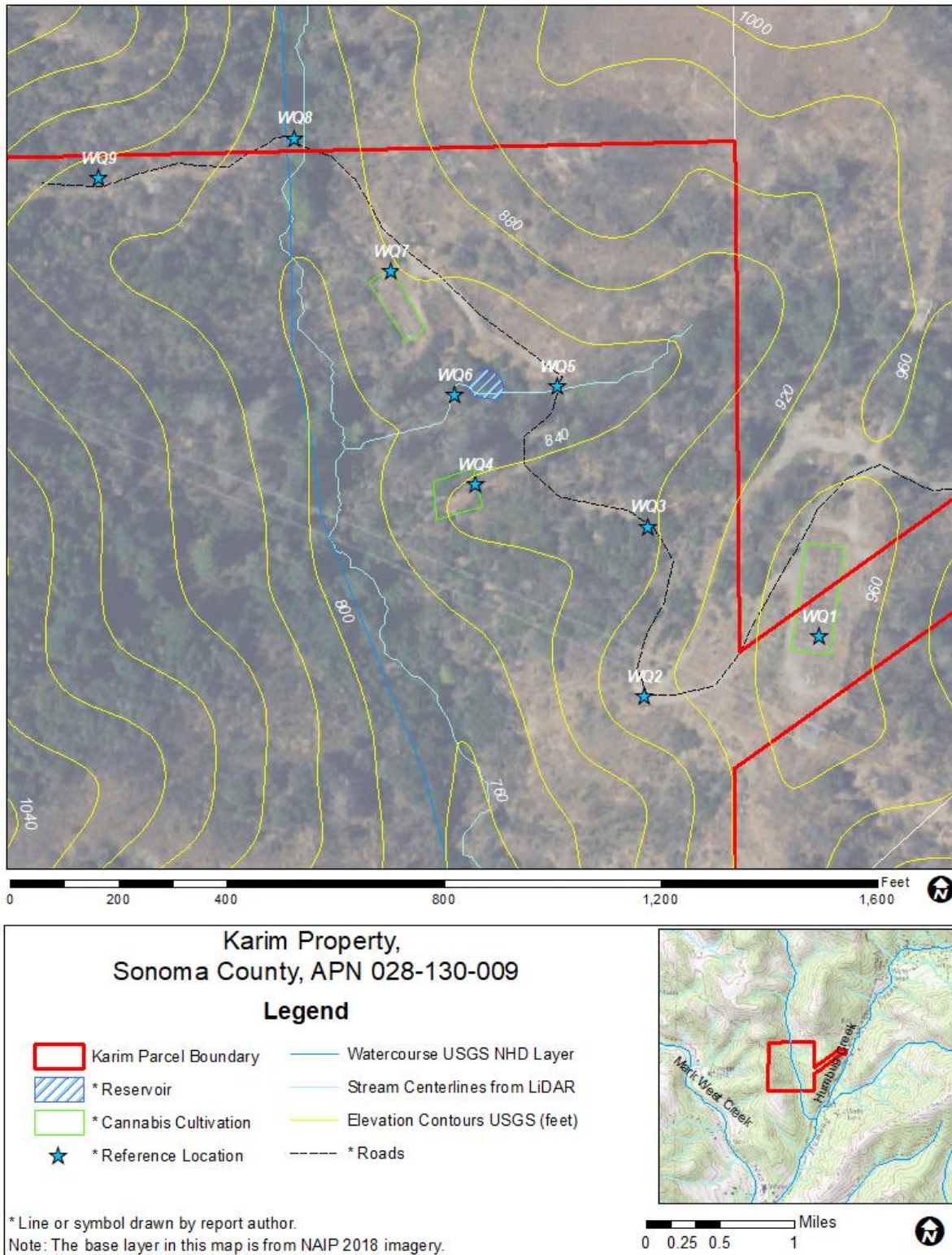


Figure 1: Map of Property, including inspection points of interest.

**Photo Appendix:**



*Photo 1—Historical cultivation area at WQ1. Imported potting soils are uncontained.*



*Photo 2—Well located at WQ1.*



*Photo 3—Looking south on road west of WQ1. The road is steep with a surface of fine material.*



*Photo 4—Earthen spoils at the edge of the road at WQ2.*



*Photo 5—Active outdoor cultivation area at WQ4.*



*Photo 6—Fuel and fertilizer located at WQ4.*



*Photo 7—Looking north at earthen spoils east of WQ4. The reservoir pictured in later photos is out of view in the background of the image.*



*Photo 8—Looking east and upstream at culvert inlet located at WQ5. The watercourse upstream is not visible behind dense vegetation.*



*Photo 9—Looking west and downstream at culvert outlet located at WQ5. Earthen spoils cover the ground from the culvert outlet to the line of dense vegetation.*



*Photo 10—Looking east and upslope at culvert outlet located at WQ5.*



*Photo 11—Looking west and downstream where water from the culvert at WQ5 would flow into the reservoir in the background of the image.*



*Photo 12—Reservoir that is also pictured in the previous image.*



*Photo 13—Looking west at cobble bedded channel with defined banks at WQ6. The channel is immediately downslope from the reservoir's impounding berm.*



*Photo 14—Historical cultivation area at WQ7.*



*Photo 15—Looking east at the left embankment of a recently installed bridge at WQ8.*



*Photo 16—Looking downstream below recently installed bridge at WQ8. Finer earthen material from the left bank is overlying the cobble bedded substrate of the channel.*



*Photo 17—Earthen spoils on the road approaching the recently installed bridge from the west.*



*Photo 18—Channelized watercourse, approximately two feet wide upstream from recently installed culvert at WQ9.*



*Photo 19—Looking west at upstream end of recently installed culvert at WQ9. The culvert is eighteen inches in diameter.*



*Photo 20—Looking south and downstream at recently installed culvert at WQ9. The culvert outlet is perched five feet above the watercourse downstream.*