

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD

NORTH COAST REGION

**CLEANUP AND ABATEMENT AND WATER CODE SECTION 13267
INVESTIGATIVE ORDER NO. R1-2022-0036**

FOR

**STACIO KOPIEJ, TZETZO MISHEV, RICHARD ETHERTON, AND DAVID M. VERNO
JR.**

ASSESSOR'S PARCEL NUMBERS 052-070-03 and 052-120-03

MENDOCINO COUNTY

This Order is issued to Stacio Kopiej, Tzetzto Mishev, Richard Etherton, and David M. Verno Jr. (hereafter 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 (collectively, the Order).

FINDINGS

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

1. **Purpose of the Order:** This Order requires the Dischargers to clean up and abate the effects of discharging and allowing developed features to discharge sediment and refuse into and where they can enter unnamed tributaries of Couborn Creek and Indian Creek, tributaries to the South Fork Eel River, and to eliminate the threat of future discharges at the property located at Mendocino County Assessor's Parcel Numbers (APNs) 052-070-03 and 052-120-03 (collectively, the Property). This Order requires investigation and cleanup actions in compliance 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.
2. **Responsible Parties:** This Order finds that the Dischargers are responsible parties, and are all jointly and severally liable based on the following:

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- a. According to information from the Mendocino County Tax Assessor, as of August 9, 2021, both APNs 052-070-03 and 052-120-03 have the following joint ownership percentages: Tzetzto Michev 51.27%, Stacio Kopiej 24.37%, David M. Verno Sr. 12.18% and David M. Verno Jr. 12.18%. However, a consultant representing Richard Etherton informed staff that David M. Verno Sr. passed away several years ago and that his ownership of the Property was transferred to David M. Verno Jr.¹ Additionally, the Tax Assessor indicated that there is a deed that was recorded in July 2021, in which David M. Verno Jr. granted his share to Richard Etherton. Mr. Etherton's consultant confirmed to staff that Mr. Etherton purchased a 24.36 percent share of the Property from Mr. Verno Jr. LandVision records indicate that the sale of APN 052-120-03 and 052-070-03 from David M. Verno Jr. to Richard Etherton occurred on August 5, 2020, although the deed was not recorded until July 6, 2021.
- b. Mendocino County property records provide the following details regarding the purchase of the Property:
 - i. On February 24, 2010, Tzetzto Michev, David M. Verno Sr., David M. Verno Jr., and Michael L. Petty purchased the Property.
 - ii. On March 20, 2019, Michael L. Petty transferred his share of the Property to Stacio Kopiej;
- c. For the purpose of this Order the Regional Water Board is naming Stacio Kopiej, Tzetzto Mishev, David M. Verno Jr., and Richard Etherton as responsible parties on the basis that they owned the Property at the time of the discharge and/or threatened discharge, including the time period when staff inspected the Property; that they had or should have had knowledge of the activities that resulted in the discharge or threatened discharge; and that they had the legal ability to prevent the discharge.
- d. Additionally, for the purpose of this Order, the Regional Water Board is naming Stacio Kopiej, Tzetzto Mishev, and Richard Etherton as responsible parties on the basis that they currently own the Property, that ongoing discharges or threatened discharges are occurring on the Property, that they know or should know of the activities or conditions resulting in the discharge or threatened discharge, and that they have the legal ability to prevent the discharge.
- e. The Regional Water Board reserves the right to amend this Order, or issue a subsequent Order, to add additional responsible parties when/if those parties are identified.

¹ According to the March 2, 2010 Grant Deed, David M. Verno, Jr. and David M. Verno, Sr. each owned a 12.18 percent undivided interest as joint tenants. Upon the death of one joint tenant, title automatically passes to the survivor.

3. Property Location and Description: The Property is located approximately 4.6 miles southeast of the community of Whitethorn in northwestern Mendocino County, within the Eel River Hydrologic Unit (HU), the South Fork Eel River Hydrologic Area (HA), and the Benbow Hydrologic Sub Area (HSA) (HU/HA/HSA 111.32). The Property is located approximately 2500 feet west of the confluence where Couborn Creek enters Indian Creek. Four Class III watercourses cross the Property and drain to an unnamed Class II watercourse, tributary to Couborn Creek. Eight Class III watercourses cross the Property and drain to three unnamed Class II watercourses, tributary to Indian Creek. The watercourses observed on the Property are waters of the state, as well as a water of the United States (references hereafter to waters of the United States are also waters of the state, see Attachment 2 for more detail). Indian Creek is a tributary of the South Fork Eel River. The South Fork Eel River is Clean Water Act section 303(d)-listed as impaired due to elevated sedimentation/siltation and temperature. On December 16, 1999, the U.S. Environmental Protection Agency approved Total Maximum Daily Loads (TMDL) for temperature and sediment for the South Fork Eel River. (See Attachment 1 for additional watershed information and the Regional Water Board's Total Maximum Daily Load Sediment Implementation Policy and Eel River Temperature Action Plan)
4. Property History: The Property has no prior regulatory oversight or history with the Regional Water Board.
5. Failure to Obtain Necessary Permits: The Dischargers' activities resulting in the discharge and threatened discharge of sediment and other wastes were conducted without authorization from applicable federal, state, and local agencies, including coverage under any of the following regulatory permits:
 - 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* (Cannabis General Order), as amended by WQ-2019-0001-DWQ, for cannabis cultivation activities occurring at the Property.
 - A Clean Water Act section 404 permit from the Army Corps of Engineers for dredge and fill activities in waters of the United States.
 - A Clean Water Act section 401 Water Quality Certification, Regional Water Board Water Quality Certification or Waste Discharge Requirements, or a Waiver of Waste Discharge Requirements from the Regional Water Board.
 - A Lake and Streambed Alteration Agreement from the California Department of Fish and Wildlife (CDFW) for substantial change to bed and banks of streams and obstruction of flow (See Attachment 5 – CDFW Notice of Violation).

6. Review of Aerial Imagery: On September 23, 2021, and November 18, 2021, Regional Water Board staff reviewed available aerial imagery from Google Earth and LandVision, as well as LiDAR² available via the United States Geological Survey, and noted that, in imagery dated June 12, 1993, the area had been logged with skid trails and roads visible at high density. Unless corrected, many of topographic and hydrologic impacts associated with legacy timber harvest activities persist on the Property and contribute or threaten to contribute to sediment impairment in nearby streams. Imagery from the past decade show the same ridgetop areas being occupied with greenhouses. As described in the inspection reports of July 21, 2020, and May 27, 2021 (See Attachment 4 – Notice of Violation and Transmittal of Inspection Reports of July 21, 2020 and May 27, 2021 Inspection), and detailed below, a graded area used for cultivation (Cultivation Area 2) showed evidence of expansion with over-steepened fill pushed on top of logs, roots, and other organic materials. This area was cleared as of the May 24, 2009 imagery, with sidecast soil or slash visible and a 1000 sq. foot greenhouse. Between 2010 and 2014, the greenhouses visible in aerial imagery were approximately 2300-2600 sq. feet, with clearing and downed slash visible on the south facing fill slope. Between 2017 and 2019, the greenhouse footprint visible in aerial imagery went from approximately 3000 sq. feet to 5400 sq. feet. The greenhouse footprint was then expanded to approximately 6000 sq. feet in the 2020 aerial imagery. Between the 2020 and 2021 inspections, the oversteepened fill eroded, transported, and delivered sediment to an unnamed Class II tributary to Indian Creek.

7. Beneficial Uses, Basin Plan Prohibitions, and Water Quality Objectives: The Basin Plan designates beneficial uses of water within Hydrologic Subareas, establishes water quality objectives, contains implementation programs for achieving objectives, and incorporates by reference the plans and policies adopted by the Regional Water Boards. (See Attachment 1 for additional watershed information, including the existing and potential beneficial uses for the watershed.) The Basin Plan also contains specific standards and provisions for maintaining high-quality waters of the state that provide protection to the beneficial uses identified. The Basin Plan’s Action Plan for Logging, Construction, and Associated Activities includes the following waste discharge prohibitions (See section 4.2.1 of the Basin Plan):
 - a. 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.”
 - b. 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

² Light Detection and Ranging uses a laser system to collect surface data capable of producing high resolution topographic mapping.

watercourse in the basin in quantities deleterious to fish, wildlife, or other beneficial uses is prohibited.”

8. Factual Basis of Order: On July 21, 2020, and May 27, 2021, Regional Water Board staff inspected the Property during the execution of search warrants obtained by CDFW, accompanied by staff from the State Water Board Division of Water Rights and various law enforcement personnel and environmental staff of CDFW. The purpose of the inspections 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. On July 30, 2021, the Regional Water Board transmitted the July 21, 2020, and May 27, 2021, inspection reports and a Notice of Violation to the Dischargers (Attachment 4). The conditions observed at the Property, as documented in the Regional Water Board inspection reports, included the following:
 - a. Site development activities conducted by the Dischargers, their agents, and/or their tenants, including expansion of graded flats for cannabis cultivation and modification of watercourses for road stream crossings, and inadequate maintenance of those features, have resulted in sediment discharge into and adjacent to the unnamed tributaries on the Property. As described in the May 27, 2021 inspection report, Cultivation Area 2 showed evidence of expansion with over-steepened fill pushed on top of logs, roots, and other organic materials. This graded area and associated fill had eroded, resulting in the transport and discharge of sediment into one of the unnamed Class II watercourses, tributary to Couborn Creek. Additionally, as described in the July 21, 2020 inspection report, observed controllable sediment delivery sites³ included unmaintained native surfaced roads with hydrologic connections to watercourses, undersized and misaligned stream crossings, unimproved earthen fords⁴ that had been constructed on the Property and, plastic culverts installed in a Humboldt Crossing⁵.
 - b. Poor housekeeping and onsite activities, including cannabis cultivation and associated water diversion, have resulted in the placement of plastic and petroleum products in and adjacent to the unnamed tributaries to Indian Creek. As

³ Controllable sediment delivery sites are generally areas that are discharging or have the potential to discharge sediment to waters of the state, that are caused or affected by human activity, and may feasibly and reasonably respond to prevention and minimization management measures.

⁴ A ford is a shallow portion of stream used as a crossing by a vehicle. Fords may be unimproved (crossing of the natural streambed) or improved (crossing over material brought in to modify the streambed).

⁵ A Humboldt Crossing is stream crossing constructed with logs set parallel to the stream channel and covered with earthen fill. These features are typically associated with watercourse crossings on old logging roads.

documented in the July 21, 2020 inspection report, and redocumented in the May 27, 2021 inspection report, water pumps, oil containers, and plastic water line, are located in and near the unnamed tributaries.

9. Legal Basis of the Order: Water Code section 13304, subdivision (a) states, in relevant part, “any person who has discharged or discharges waste into the waters of this state in violation of any waste discharge requirement 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 creates, 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.” (See Attachment 2 for additional information regarding the legal authority to issue this Order.)
 - a. Earthen material, including sediment, when discharged to waters of the state, is a “waste” as defined in Water Code section 13050, subdivision (d). The plastic and petroleum products that were observed within and adjacent to the unnamed tributaries are also a “waste” as defined in Water Code section 13050, subdivision (d).
 - b. The sediment discharges and threatened discharges into unnamed tributaries of Coubourn Creek and Indian Creek described in Finding 8 are in violation of Prohibition 1 and Prohibition 2 of the Action Plan for Logging, Construction, and Associated Activities contained in the Basin Plan, issued by the Regional Water Board. The extent of these threatened and actual discharges of waste could be deleterious to fish, wildlife, or other beneficial uses.
10. The Dischargers’ activities on the Property as described in Finding 8 have caused and threaten to cause waste to be discharged into the waters of the state in a manner that has created or threatens to create a condition of pollution by altering the quality of the waters of the state to a degree that unreasonably affects the waters for beneficial uses.
 - a. Plastic products from cultivation and water diversion activities on the Property that were observed within or adjacent to the unnamed tributaries can alter the quality of those waters and unreasonably affect beneficial uses.
 - b. Petroleum products associated with cultivation activities on the Property observed within or adjacent to the unnamed tributaries can alter the quality of those waters and unreasonably affect beneficial uses. Petroleum products used for lubricants and fuels for small engines including oil, diesel, and gasoline can enter waters through spills, leakage from storage containers, and improper storage and disposal and can result in contamination of freshwater sources. Heavier oils sink and can become trapped in gravels, contributing to long-term exposures, while lighter

material can accumulate on the surface of water and spread downstream; materials can collect on stream beds, log jams, and at the water's edge. The actual dynamics depend on the characteristics of the petroleum product and the setting. Exposure can impact human health through exposure or ingestion and can result in impacts to the central nervous system, eyes, and respiratory tract. Amphibian exposure to petroleum products can be particularly detrimental as they breathe through their skin, and coating can be lethal. Oil and fuel exposure to fish can cause impaired functions, physical deformities, and compromised reproduction (Beneficial Uses impacted: REC-1, REC-2, COLD, SPWN, RARE, MIGR, COMM, MUN, and WILD).

- c. Sediment from construction of the stream crossings and land clearing and grading activities that occurred within or adjacent to the unnamed tributaries can alter the quality of those waters and unreasonably affect beneficial uses.
 - i. Discharges of sediment and other inert material can alter the hydrologic and sediment transport regimes of surface waters by affecting the flow of water and establishment of vegetation. 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). The unnamed tributaries provide habitat for amphibians and are tributary to streams that provide habitat for salmonids. Increased sedimentation and turbidity can also 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 can also discharge to surface water and result in increased turbidity that may affect the recreational and aesthetic enjoyment of the surface waters (Beneficial Uses impacted: REC-1 and REC-2).
 - ii. The discharge of sediment is especially problematic in this watershed since the South Fork Eel River is listed as an impaired water body under Section 303(d) of the Clean Water Act due to several pollutants, including temperature and sedimentation/siltation. Sediment delivery to streams 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. Sediment delivery to headwater streams is especially problematic for amphibian species.
 - iii. Sediment Deposition (i.e. bottom deposits) in headwater streams can result in the direct impact to native amphibians that rely on clean substrate to burrow in and access cold, clean water, including Southern Torrent Salamanders, Coastal Giant Salamanders, and Tailed Frogs. Southern Torrent Salamanders are primarily aquatic, extremely moisture dependent, burrow into streambed substrates during both low and high stream flows,

and feed largely on aquatic macroinvertebrates. Southern Torrents lay single eggs that take approximately eight months to hatch, and their larvae take up to two and a half years to metamorphose.

- 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.

Suspended 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.

- v. Impacts to beneficial uses 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) and nutrients, which bind to sediment particles. (Beneficial Uses impacted: REC-1, REC-2, COLD, SPWN, RARE, MIGR, COMM, MUN, and WILD).

11. Cleanup and Abatement Action Necessary: Cleanup and abatement is necessary to ensure that any existing condition of pollution is cleaned up, that the threat of unauthorized discharges to waters of the state from the Property that may create a condition of pollution are prevented, that the background water quality or the best water quality that is feasible is restored, and that any impacts to beneficial uses are mitigated. 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. (See Attachment 2 for applicable Regional Water Board and State Water Board Resolutions.)

12. 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. In accordance with Water Code section 13267(b), the findings in this Order provide the Dischargers with a written explanation with regard to the need for investigation and reports and identifies the evidence that supports the requirement to implement clean up and abatement activities and submit the reports. This Order requires four types of technical and

monitoring reports necessary to assure compliance with this Order and to protect the waters of the state. Staff estimate the total cost of technical reports required by this Order to be approximately \$16,980 to \$56,160.⁶ The costs of the technical or monitoring reports required by this Order bear a reasonable relationship to the need for these reports and the benefit to be gained by these reports, as discussed below:

- a. The Interim Stabilization Plan is a technical report that is necessary to gain Executive Officer authorization to conduct work to stabilize the site and prevent further discharges and threatened discharges of waste to waters of the state, prior to the onset of the rainy season ahead of full implementation of the Cleanup Restoration and Monitoring Plan described below in item b. The Interim Stabilization Plan requirements (i.e., field inspection and report preparation) are comparable to that of preparing a 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 \$1,200 to \$2,400.
- b. The Cleanup, Restoration and Monitoring Plan (CRMP) is a technical report that is necessary to: (1) assess impacts to waters of the state resulting from the cannabis cultivation, alteration of the bed and bank of the unnamed tributaries at road stream crossings, and the discharge and threatened discharge of sediment and refuse; (2) determine the appropriate restoration and abatement work to correct those impacts; and (3) create a plan along with an implementation schedule that will guide the scope of work to clean up and abate the discharges and threat of discharges of waste on the Property. 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 that the proposed work will adequately remediate site conditions and prevent the discharges of sediment and other wastes 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

⁶ 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) (https://www.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 1, subparagraphs a-d.

preparation) are comparable to that of preparing a combined Site Management Plan, Site Erosion and Sediment Control Plan, and Disturbed Area Stabilization Plan as presented in the 2017 Direct Cost Analysis, which is estimated to cost between \$4,860 and \$14,120.

- c. Separate Completion Reports are necessary to demonstrate that the Dischargers have successfully completed implementation of the Interim Stabilization Plan and the CRMP in a timely manner in accordance with this Order. The benefit derived from a Completion Report is the Regional Water Board's, or its delegated officer's, ability to verify that remedial activities and best management practices were adequately implemented to ensure that cleanup and abatement activities remedy all water quality threats and impacts. The cost of a Completion Reports (i.e., field inspection and report preparation) is comparable to the report preparation component of a combined Site Management Plan and Disturbed Area Stabilization Plan as described in the 2017 Direct Cost Analysis described above, which are estimated to cost between \$2,760 and \$7,920 each. Therefore, the estimated cost to prepare two Completion Reports is between \$5,520 and \$15,840.
- d. Annual Monitoring Reports are necessary to allow the Regional Water Board, or its delegated officer, to confirm the long-term stability of restored areas, to identify any areas where restoration is failing or needs improvement, and to demonstrate the effectiveness of erosion control measures in preventing sediment discharges to waters of the state. Given the condition of the Property as a result of the Dischargers' activities, observation and maintenance of the completed project for a period of five years is needed to ensure that the anticipated water quality benefits are achieved in the long-term and that CRMP components continue to function and remain effective. The cost to prepare an Annual Monitoring Report (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 \$1,080-\$4,760. Therefore, the cost to prepare five Annual Monitoring Reports is estimated to be between \$5,400 and \$23,800.

The Dischargers named in this Order currently own the Property and/or owned the Property at the time of Regional Water Board staff's inspections during which the discharges and threatened discharges were observed, and thus are appropriately responsible for providing the reports.

REQUIRED ACTIONS

IT IS HEREBY ORDERED, pursuant to Water Code sections 13267 and 13304, that the Dischargers shall clean up the wastes and abate the impacts to water quality in accordance with the scope and schedule set forth below and provide the following information.

1. **Submit an Interim Stabilization Plan:** Within 30 days of issuance of this Order, the Dischargers shall submit a proposed Interim Stabilization Plan for approval by the Regional Water Board or its delegated officer. The Interim Stabilization Plan shall be prepared by an appropriately licensed professional and shall describe immediate cleanup and stabilization measures necessary to clean up wastes and trash, disperse concentrated stormwater, and prevent further erosion and discharges of sediment and other pollutants. The Interim Stabilization Plan is generally intended for the type and scope of work that would not require additional permitting. The Interim Stabilization Plan shall include, at a minimum:
 - a. A site map depicting topography, watercourses, roads, stream crossings, graded/disturbed surfaces, areas of accumulated refuse, areas of human waste systems, and areas of fertilizer and potting soil accumulation.
 - b. Identification of locations of controllable sediment delivery sites⁷ or other sites where waste has discharged or threatens to discharge to waters of the state; and
 - c. Identification of all areas of immediate concern, using the above information, along with proposed cleanup and stabilization measures to be implemented at each area of concern. Cleanup and stabilization measures shall include, but not be limited to:
 - i. Installation of water breaks designed to reduce road surface erosion by diverting storm water runoff from the road surface and directing it to a safe discharge area;
 - ii. Hydrologic disconnection of road drainage from waters of the state;
 - iii. Stabilization of disturbed areas with appropriate erosion control measures to protect the disturbed areas from the forces of rain drop impact and overland flow;

⁷ Controllable sediment delivery sites are generally areas that are discharging or have the potential to discharge sediment to waters of the state, that are caused or affected by human activity, and may feasibly and reasonably respond to prevention and minimization management measures.

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- iv. Prevention of leaks and releases of petroleum products, including those associated with generator and water pump use, of water storage tanks, and other water storage structures;
 - v. Prevention of discharges of sediment, stagnant water, and other wastes to surface waters; and
 - vi. Ensuring the proper storage and containment of petroleum products, chemicals, pesticides, waste piles, potting soil, and soil amendments and fertilizers to avoid transport into surface waters – this includes proper disposal of waste materials, including empty or partially used containers per manufacturer and waste disposal guidelines.
 - d. A monitoring plan and schedule to regularly inspect the Property to determine if actions are being implemented as planned, evaluate the effectiveness of cleanup and stabilization measures and corrective actions, and identify where additional work and maintenance of site cleanup and stabilization measures may be needed.
2. **Complete Implementation of the Interim Stabilization Plan:** No more than 45 days after approval of the Interim Stabilization Plan by the Regional Water Board, the Dischargers shall have completed the work specified in the approved Interim Stabilization Plan, stabilizing the Property and conducting initial site cleanup.
3. **Submit Completion Report for Interim Stabilization Plan:** No more than 15 days after completion of the work specified in the Interim Stabilization Plan, the Dischargers shall provide a report of completion of the measures outlined in the Interim Stabilization Plan for approval by the Regional Water Board or its delegated officer. This report shall include a written summary and photographs of the completed cleanup and stabilization measures.
4. **Submit a Cleanup, Restoration, and Monitoring Plan:** By October 1, 2022, the Dischargers shall submit a proposed Cleanup, Restoration, and Monitoring Plan (CRMP) for approval by the Regional Water Board or its delegated officer. The CRMP shall, at a minimum, include:
 - a. An assessment of the impacts to Couborn and Indian Creeks and their unnamed tributaries on the Property caused by the unauthorized activities. The assessment shall be performed by an appropriately qualified professional experienced in stream and wetland delineation and restoration and must, at a minimum, address surface water hydrology and its effect on water quality. The assessment shall include aerial photographs and/or satellite images, photographs, topographic maps, or drawings of the Property conditions prior to and after conducting the unauthorized activities, 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 watercourse crossings, structures in the watercourse, and the functional status of these features. The findings of the

assessment before and after the unauthorized activities shall serve as the basis for the CRMP;

- b. A plan for Property restoration, including a description of how long-term impacts from erosion and sedimentation sources will be abated (e.g., stabilization of disturbed area, re-grading and reengineering, graveling or paving road surface, etc.), as well as a proposal to restore any beneficial uses to Couborn and Indian Creeks and their unnamed tributaries that were adversely impacted by the unauthorized activities;
 - c. A proposal to provide mitigation to compensate for any temporal and/or permanent impacts to waters of the state that resulted from unauthorized activities on the Property. Compensatory mitigation shall comply with the state's No Net Loss Policy (identified in Attachment 2). The proposal shall: (1) describe existing site conditions at the proposed mitigation site; (2) describe implementation methods used to provide compensatory mitigation; (3) include monitoring that will be conducted and performance criteria that will be used to evaluate the success of the compensatory mitigation; and (4) include an implementation schedule;
 - d. 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.
5. **Modifications to the approved CRMP:** The Dischargers shall notify and obtain approval from the Regional Water Board or its delegated officer at least 30 days prior to making any modifications to the approved CRMP.
 6. **Complete the Cleanup and Restoration:** By October 15, 2024, the Dischargers shall complete all work to clean up and abate the Property contained in the CRMP as approved by the Regional Water Board or its delegated officer.
 7. **Completion Report for the CRMP:** No more than 60 days after completing implementation of 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 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.
 8. **Annual Monitoring Reports:** Upon completion of the restoration and mitigation under the CRMP, 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 Performance Standards included in Attachment 3.

General Requirements and Notices

9. The Dischargers shall comply with all provisions of Attachment 3 and shall ensure that the subject Property complies with all applicable Performance Standards for Cleanup, Abatement, and Remedial Action.
10. **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 Executive 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.
11. **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 a complaint for administrative civil liability may be issued by the Regional Water Board. 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 sections 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.
12. **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.
13. **Modifications:** Any modification to this Order shall be in writing and approved by the Regional Water Board or its delegated officer including any potential extension requests.
14. **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 Adona White at 707-576-2672 or by email at Adona.White@waterboards.ca.gov.

15. Requesting Review by the State Water Board: Any person aggrieved by this or any final action of the Regional Water 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 no later than 5:00 p.m., 30 days following 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.

Matthias St. John
Executive Officer

R1-2022-0036_CAO

List of Attachments:

- Attachment 1: Watershed Fact Sheet
- Attachment 2: Legal Citations and Authority
- Attachment 3: General Requirements and Notices, and Performance Standards for Cleanup, Abatement and Remedial Action

List of Enclosures:

- Enclosure 1: Notice of Violation and Transmittal of Inspection Reports of July 21, 2020 and May 27, 2021
- Enclosure 2: CDFW Notice of Violation August 11, 2021