North Coast Regional Water Quality Control Board

Inspection Memo

To: Gil Falcone, Senior Environmental Scientist, Southern Non-point Source and 401 Certification Unit

From: Emma Tracy, Environmental Scientist, Southern Non-point Source and 401 Certification Unit

Date: November 27, 2023

Subject: October 6, 2023, inspection of 2975 Calistoga Road alleging fill in unnamed watercourse.

File: Keith White, 2975 Calistoga Road, Santa Rosa, Sonoma County, CA 95404 (APN 028-100-002); ECM PIN: CW-891156, WDID No. 1B23164WNSO

Background

On September 28, 2023, North Coast Regional Water Quality Control Board (Regional Water Board) staff Gil Falcone received a referral and notification from the County of Sonoma for fill placed on the property at 2975 Calistoga Road, Santa Rosa. The referral included descriptions of County of Sonoma (County) violations and five photographs. Within the referral, Deborah Waller of the County, describes the County violations from "importing soils and construction of a pad (over an acre) within the outer edge of County's 200 ft Riparian Corridor setback of Mark West Creek…, and installation of a culvert and filling of wetland swale/drainages, vegetation removal and soil disturbance within 200 ft Riparian Corridor setback, from top of bank to edge of pad." Deborah noted that the landowner has been advised to coordinate with agencies. The inspection property is located adjacent to Mark West Creek and about 2 miles north of the Saint Helena Road and Calistoga Road intersection. The property is owned by Keith White.

On October 3, 2023, I requested a site inspection over the phone with Mr. White's representative's, Mike Robertson and Jamie Svanda of Robertson Engineering. Mr. Svanda confirmed over email the date and time of the site inspection to be October 6, 2023, at 10:00 am. The inspection site is part of a larger property. The focus of the inspection is the area where the fill was placed on the property west of Calistoga Road and east of Mark West Creek. Mark West Creek flows to the Russian River and is

located within the Russian River Hydrologic Unit 114.23. The fill was estimated to be over one acre in the initial email referral. After the inspection, on October 10, 2023, Jamie Svanda of Robertson Engineering estimated the fill area to be approximately 2.07 acres (see the area within the dashed line in Photo 1 below).

Inspection

On October 6, 2023, Regional Water Board staff Gil Falcone, Paul Nelson, and myself arrived at the site at 10:00 am. Mr. Svanda met us at the southern driveway, where we parked the trucks, with a copy of the Draft Erosion Control Plan. Mr. Svanda granted us site access on behalf of the landowner. The four of us began the inspection by walking over the fill area, noting the steep slopes on the western edge of the fill. The Draft Erosion Control Plan included placing straw wattles on grade at the edges of the fill. Regional Water Board staff commented that this Plan may need additional Best Management Practices (BMPs) in addition to placement of wattles. Regional Water Board staff asked if the landowner had enrolled the project under the Construction General Stormwater Permit since it likely met the permit threshold of greater than 1 acre of ground disturbance, it evidentially had not yet been enrolled.

Photo 1: The 2975 Calistoga Road property seen from above via Google Earth aerial imaging. This image displays the location of the five areas of interest (numbered and

labeled). The property was accessed from the driveway on the southernmost side of the fill.

Photo 2: Fill area, looking south with Mark West Creek to the right.

Photo 3: Fill area, looking south.

Location 1, the estimated fill area of 2.07 acres, is shown in Photos 2 & 3 above. Fill material was observed to include dirt, gravel, plastics, wood, and sandbags (see Photo 5 below). As we walked towards Location 2, the northern side of the fill shown in Photos 4 & 5, we noticed the fill materials encroaching and sliding into an unnamed creek channel tributary to wetlands and Mark West Creek. Vegetation on the banks of this channel had been smothered by fill and was still visible at this edge. Soil cracking, an indicator of wetland hydrology, was visible on the fill and in the unnamed creek bed. A portion of the top of the fill area has been recently irrigated by the owner and has grass growing. Other plants were observed growing on the surface of the fill. The edges of the fill area are steep and at risk of eroding.

Photo 4: Unnamed Creek on the northern edge of fill

Photo 5: Unnamed Creek on the northern edge of fill

Photo 6: Culvert

As we continued walking around the edge of the fill on the northwestern side, towards Mark West Creek, we observed wetland vegetation in low gradient areas and the unnamed creek continue to a lower elevation and wider section of the landscape where surface water was visible. Wetland plant species, mud, and surface water were present in this reach of the unnamed creek. The unnamed creek flows into a corrugated metal culvert measured to be 24” in diameter and approximately 10’ long. Regional Water Board records indicate a permit was not obtained for this culvert. As shown in Photo 7 below, metal ridges of the culvert are exposed and visible. Upstream and downstream of this culvert there appeared to be three parameter wetlands. The culvert and approaches on either side appear to have filled wetlands and confined the channel to the 24” culvert.

Photo 7: Culvert

We continued to the northern section of the property where a second channel connects to Mark West Creek. Adjacent to this channel, we observed signs of tree cutting and clearing. Wood from this activity had been placed in the channel and is a direct discharge impacting the function of the channel. Additionally, earthen fill was placed in one section of the channel to create a crossing (see Photo 9). Fine sediment in this area is at risk of potentially discharging to Mark West Creek. We have no records of permits for this fill activity within waters of the state.

Photo 8: Tree material placed in second, northern channel

Photo 9: Second unnamed creek with wood and earthen fill

Continuing to the western side of the fill, adjacent to Mark West Creek, we observed woody debris and earthen material pushed into the edge of the riparian area, pushing up against and covering vegetation in some locations. There was evidence of this being done with heavy equipment sliding material to the side of the property adjacent to Mark West Creek. The western side of the property is at a lower topography. Wetland vegetation was observed at the base of the fill on the western edge, continuing to the edge of the riparian area. Species of wetland vegetation, including rushes such as *Juncus patens*, are growing in the southwestern portion of the property, as seen under the shade of the oak tree in Photo 10 below. It was difficult to determine the bounds of the wetland area as there were visible signs of wetlands continuing underneath where the current fill is placed. Further information is needed to determine where the criteria of a 3-parameter wetland is met on site.

Photo 10: Wetland on western side of fill. Wetland vegetation (*Juncus patens*) is visible up to the edge of the fill, indicating more wetland vegetation existed where the fill was placed.

Historical Site Analysis

After the site visit, a historical analysis of the site using aerial Google Earth imagery was conducted. This analysis revealed that an unnamed watercourse existed until at least February 2021. Aerial imagery from April 2023, shows the beginning of fill activity. Between February 2021 and April 2023, fill of the unnamed watercourse began and resulted in an altered hydrology of the site (see Photos 11 & 12 below). The estimated length of fill from these images is approximately 250 linear feet. Water from higher in the watershed that would have flowed through the stream that is now filled in now flows to the wetland area and then through the unpermitted culvert. This causes an increase in the volume of water flowing into the northern unnamed watercourse and wetland, possibly a larger amount flow volume than the unpermitted culvert was designed for. Properly sized and installed culverts are at reduced risk of plugging and potential crossing failure, and fine sediment discharge. As plans for this culvert were not reviewed by Regional Water Board staff, it is unknown what flow the structure currently has capacity for.

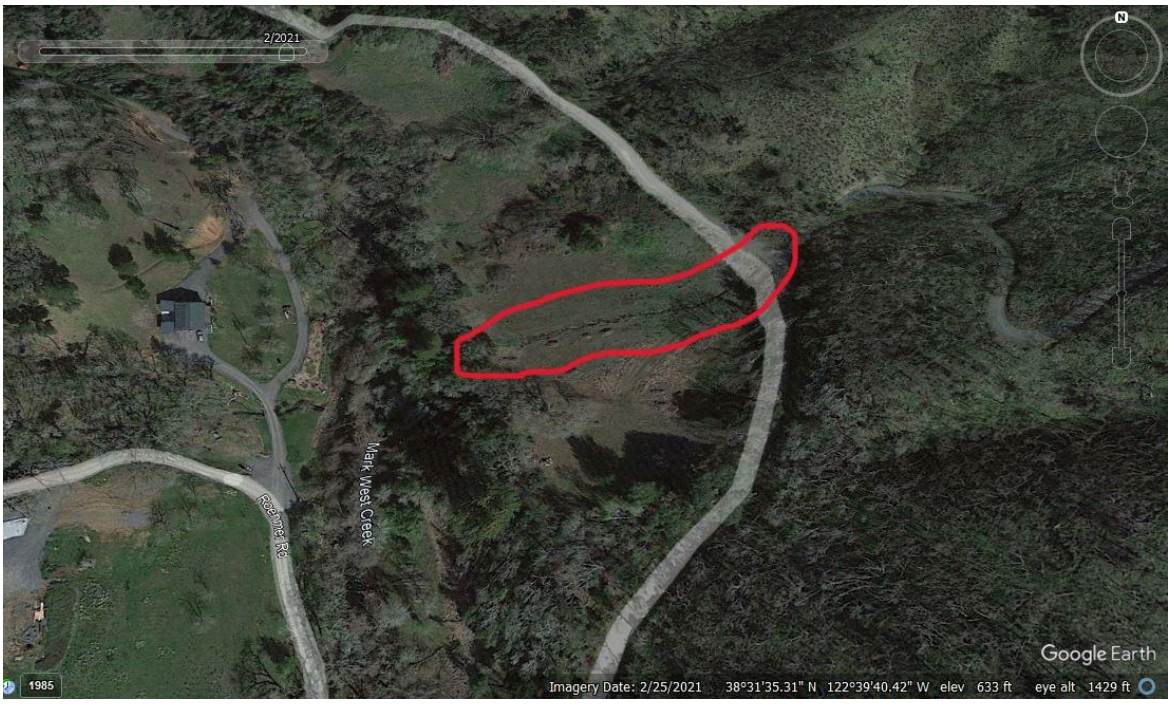

Photo 11: Google Earth aerial imagery dated February 25, 2021, with pre-fill and visible East-to-West tributary to Mark West Creek

Photo 12: Google Earth aerial imagery dated April 20, 2023, with fill material covering the formerly visible East-to-West tributary to Mark West Creek. Altered hydrology of the site is observed and the newly diverted channel is highlighted in red.

Conclusions and Recommendations

During the inspection, Regional Water Board staff observed unpermitted fill of large woody debris, soil and a culvert in unnamed watercourses and wetlands as well as debris placed within riparian areas. Work within creeks, riparian areas, and wetlands, such as installing a culvert and placing fill, need the appropriate permits from the Regional Water Board. The landowner did not go through the appropriate permitting pathways for work within Waters of the State and or Waters of the U.S.

The consultant was advised that ground disturbance at the site is likely larger than one acre and to contact the Regional Water Board's NPDES Unit staff member Walt Dragaloski for further information on the Erosion Control Plan and to obtain a Construction General Permit. Mr. Dragaloski's contact information was provided post site inspection. It is a priority to stabilize the fill material prior to the upcoming rainy season to prevent discharges of sediment to waters of the state. Erosion control BMPs should be placed and secured thoroughly on the north side of the fill material to prevent fill from discharging into the rerouted channel adjacent to the fill.

During the inspection, the consultant was informed that it was likely that we would take enforcement action and that a forensic wetland and waters delineation may be necessary to determine what the total impacts of the fill include. Aerial imagery assists in estimating that around 250 linear feet of the unnamed creek has been filled, however, this tool cannot aid in estimating impacts to wetlands under the fill. There was evidence of fill placed over wetlands on the western side of the fill area and further information on the previously existing wetlands is needed. From this site visit alone, total wetland impacts are unknown.

After the site visit, Regional Water Board staff notified Deborah Waller of the County of Sonoma that our site visit resulted in identified violations of the California Water Code in addition to the County violations.