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North Coast Regional Water Quality Control Board

August 18, 2023

Martin Zeferio Toribio  
P.O. Box 2  
Talmage, CA 95481

Certified Mail No.: 7021-0950-0001-6500-1445

Dear Martin Zeferio Toribio:

**Subject      Notice of Violation, Transmittal of Inspection Report of July 19, 2023  
Inspection of Mendocino County Assessor's Parcel Number 056-050-  
12-00**

File:            Cannabis Inspections, Mendocino County 2023, CIWQS Place ID 889566

**THIS LETTER HAS RECOMMENDATIONS THAT YOU ACT WITHIN 30 DAYS**

This letter is to notify you of observed violations of the requirements listed below, and cited in Attachment A, at the Property identified as Mendocino County Assessor's Parcel Number (APN) 056-050-12-00 (the Property):

1. State Water Resources Control Board (State Water Board) Cannabis Cultivation Policy Principals and Guidelines for Cannabis Cultivation (Cannabis Policy).
2. California Water Code (Water Code) sections 13260 and 13264
3. The Water Quality Control Plan for the North Coast Region (Basin Plan) section 4.2.1
4. Federal Clean Water Act section 301

According to our records, the cannabis cultivation operation located on this Property is not enrolled for coverage under Order No. WQ 2019-0001-DWQ General Waste Discharge Requirements and Waiver of Waste Discharge Requirements for Discharges of Waste Associated with Cannabis Cultivation Activities (Cannabis General Order).

On July 19, 2023, staff of the North Coast Regional Water Quality Control Board (Regional Water Board) inspected the Property and observed cannabis cultivation and associated activities with unauthorized discharges of waste to land and threatened

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HECTOR BEDOLLA, CHAIR | VALERIE QUINTO, EXECUTIVE OFFICER

discharges of waste to waters of the state. This letter directs you to address the violations noticed herein. Within 30 days, please contact staff to discuss your plan to correct the observed violations and implement the recommendations within the staff inspection report.

### **Background**

The Property is located north of Laytonville in the Spy Rock area. LandVision records show that the Property was last purchased on July 13, 2022 by Martin Zeferio Toribio from Dennis McMahan Jr.

On July 19, 2023, during the execution of a criminal search warrant served by the California Department of Fish and Wildlife (CDFW), Regional Water Board staff inspected the Property, accompanied by personnel from CDFW and the Mendocino County Sheriff's Office. The purpose of the inspection was to evaluate site development and conditions on the Property, and to identify and assess any impacts or threatened impacts to the quality and beneficial uses of waters of the state, which include both surface water and groundwater. During the inspection, staff observed cannabis cultivation operations of sufficient size and scope to require regulatory coverage under the Cannabis General Order. According to CDFW personnel, required state and local authorizations for commercial cannabis cultivation are not associated with the Property.

Attached is a copy of the water quality inspection report (Attachment B – July 19, 2023 Water Quality Inspection Report). Please review the inspection report carefully and completely. The inspection report contains recommendations for correcting observed violations.

### **Relevant Requirements**

During the inspection, 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 July 19, 2023 inspection report, staff observed large-scale cannabis cultivation and associated activities conducted in a manner that has resulted in numerous unauthorized discharges of waste to land and threats of waste discharge to groundwater, without first obtaining regulatory coverage for associated waste discharges, in violation of Water Code section 13260. These Property conditions also violate the Cannabis Policy.

During the inspection, staff observed Property conditions of concern, which include:

1. Active cannabis cultivation activities, greenhouse infrastructure, and materials.

2. Improper storage, handling and containment of fertilizers, resulting in threats of discharges to land and threats of discharges to surface waters via stormwater runoff.
3. Improper storage, containment and disposal of cultivation related plastic refuse.
4. Disturbed soil areas throughout the Property without adequate stabilization.
5. Steep, poorly maintained roads causing concentration of stormwater runoff, erosion, transport and delivery of sediment to waters of the state.
6. An onstream pond, with an earthen berm, invasive bullfrogs, an unscreened diversion line and gas-powered pumps located at the water's edge.
7. Pesticides that are not approved for use in the United States.
8. A footbridge structure impedes the free flow of woody material in a blue line stream and threatens to result in impacts to aquatic habitat.

These Property conditions of concern lacked measures to prevent discharge and the threat of discharge of waste to waters of the state, in violation of Water Code section 13260 and the Basin Plan section 4.2.1 Prohibition 2.

As document in the inspection report, staff observed a pit privy with discharge to land at Point Location 8, threatening the quality of waters of the state in violation of Water Code section 13264. The dredge and fill in the blue line stream at Point Location 10 for unauthorized surface water diversion, the dredge of fill to install the foot bridge, and the sediment delivery to a blue line stream caused by the unauthorized placement of an undersized culvert at Point Location 13 resulted in unauthorized discharge of sediment to the streams, in violation of Water Code 13264, the Basin Plan section 4.2.1 Prohibitions 1 and 2, and Federal Clean Water Act section 301.

### **Legal Requirements**

The State Water Board adopted the Cannabis Policy and the Cannabis General Order on October 17, 2017, and updates on February 5, 2019, which remain in effect today. The purpose of the Cannabis Policy is to ensure that the discharge of waste and diversion of water associated with cannabis cultivation does not have a negative impact on water quality, aquatic habitat, riparian habitat, wetlands, and springs. The Cannabis Policy applies to cannabis cultivation activities throughout California including, Commercial Recreational, Commercial Medical, and Personal Use Medical. The Policy does not apply to recreational cannabis cultivation for personal use, which is limited to six plants under the Adult Use of Marijuana Act (Proposition 64, approved by California voters in November 2016).

The Cannabis General Order is the statewide water quality permit that implements the Cannabis Policy through the overarching general Waste Discharge Requirements (WDRs) in accordance with the California Water Code and is available for eligible cannabis cultivators to enroll under. The Cannabis General Order regulates waste discharges from cultivation areas including sediment, irrigation runoff, fertilizers,

pesticides/herbicides, petroleum, agricultural related chemicals, cultivation related waste, and refuse. Threats of waste discharge may be from irrigation runoff, over fertilization, pond failure, road construction, grading activities, domestic and cultivation related waste, refuse placement, etc. All commercial cannabis cultivators must obtain coverage under the Cannabis General Order, including for both indoor and outdoor cultivation.

Cultivation activities on the Property requires conformance with the Cannabis Policy and enrollment in under the [Cannabis General Order](#). For more information, please visit our website at:

([https://www.waterboards.ca.gov/northcoast/water\\_issues/programs/cannabis/](https://www.waterboards.ca.gov/northcoast/water_issues/programs/cannabis/))

As documented in the inspection report, the Property conditions observed on the Property are do not meet the requirements of the Cannabis Policy. Please provide a written response supporting documentation, including relevant photos, explaining and how the Property will be restored in compliance with the Policy.

As documented in the inspection report, the features at Point Locations 9, 10 and 13 are located instream and must be decommissioned to comply with the Basin Plan, which will require a water quality certification prior to conducting instream work.

The application for the water quality certification for cannabis cultivation-related projects is available here:

[https://www.waterboards.ca.gov/northcoast/water\\_issues/programs/cannabis/pdf/200204/RB1\\_Cannabis\\_WQC\\_401\\_App.pdf](https://www.waterboards.ca.gov/northcoast/water_issues/programs/cannabis/pdf/200204/RB1_Cannabis_WQC_401_App.pdf)

### **Additional Potential Liabilities**

The Regional Water Board is in the process of considering whether the violations of the Policy 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.

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. Administrative civil liabilities may be assessed on a daily basis in the amount up to \$10,000 for each day the violation occurs and \$10/gallon beyond the first 1,000 gallons not cleaned up for actual

discharges to waters of the United States without a permit pursuant to Water Code section 13385.

### **Inspection Report Recommendations**

As mentioned above, the July 19, 2023 inspection report provides recommendations to correct the alleged violations, as well as to address features and conditions that threaten to impact water quality.

**Within 30 days of this letter**, please advise our staff, Adona White, of your intentions, plan, and schedule to implement recommendations in the inspection report. If you have questions about what is required of you to comply with the requirements outlined above, and to advise as to your plan and schedule to correct the alleged violations, please contact our staff Adona White by email at [Adona.White@waterboards.ca.gov](mailto:Adona.White@waterboards.ca.gov) or by phone at 707-576-2672.

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.

You may also contact me at [Jeremiah.Puget@waterboards.ca.gov](mailto:Jeremiah.Puget@waterboards.ca.gov) or by phone at 707-576-2835. 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,

### **Original Signed by**

Jeremiah Puget  
Senior Environmental Scientist  
Enforcement Unit

Attachments: Attachment A – Regulatory Citations  
Attachment B – July 19, 2023 Water Quality Inspection Report

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)  
Jeremiah Puget, [Jeremiah.Puget@waterboards.ca.gov](mailto:Jeremiah.Puget@waterboards.ca.gov)  
Adona White, [Adona.White@waterboards.ca.gov](mailto:Adona.White@waterboards.ca.gov)

**State Water Resources Control Board Office of Enforcement**

Jordan Zakaria, [Jordan.Zakaria@waterboards.ca.gov](mailto:Jordan.Zakaria@waterboards.ca.gov)

Michael Buckman, [Michael.Buckman@waterboards.ca.gov](mailto:Michael.Buckman@waterboards.ca.gov)

**State Water Resources Control Board Division of Water Rights**

Taro Murano, [Taro.Murano@waterboards.ca.gov](mailto:Taro.Murano@waterboards.ca.gov)

Stormer Feiler, [Stormer.Feiler@waterboards.ca.gov](mailto:Stormer.Feiler@waterboards.ca.gov)

Zachary Gomer, [Zachary.Gomer@waterboards.ca.gov](mailto:Zachary.Gomer@waterboards.ca.gov)

Pete Hollingshead, [Pete.Hollingshead@waterboards.ca.gov](mailto:Pete.Hollingshead@waterboards.ca.gov)

**California Department of Fish and Wildlife**

Brendan Lynch, [Brendan.Lynch@wildlife.ca.gov](mailto:Brendan.Lynch@wildlife.ca.gov)

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

Kyle Perdue, [Kyle.Perdue@wildlife.ca.gov](mailto:Kyle.Perdue@wildlife.ca.gov)

Paul Garrison, [Paul.Garrison@wildlife.ca.gov](mailto:Paul.Garrison@wildlife.ca.gov)

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

Kari Gahan, [Kari.Gahan@wildlife.ca.gov](mailto:Kari.Gahan@wildlife.ca.gov)

**Department of Cannabis Control**

Erin Wonder, [Erin.Wonder@cannabis.ca.gov](mailto:Erin.Wonder@cannabis.ca.gov)

Attachment A – Regulatory Citations

Table 1 Regulatory Citations

Regulatory Section	Citation
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)	<p>“A person who fails to furnish a report or pay a fee under Section 13260 when so requested by a regional board is guilty of a misdemeanor and may be liable civilly in accordance with subdivision (b).”</p>
California Water Code Section 13264(a)	<p>“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: (3) The issuance of waste discharge requirements pursuant to Section 13263. (2) The expiration of 140 days after compliance with Section 13260 if the waste to be discharged does not create or threaten to create a condition of pollution or nuisance and any of the following applies:... (3) The issuance of a waiver pursuant to Section 13269.”</p>
California Water Code Section 13265(a)	<p>“Any person discharging waste in violation of Section 13264, 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.”</p>
Cannabis Policy and General Order No. WQ 2019-0001-DWQ	<p>State Water Resources Control Board <a href="#">Cannabis Cultivation Policy</a> and <a href="#">General Waste Discharge Requirements Order No. WQ 2019-0001-DWQ for Discharges of Waste Associated with Cannabis Cultivation Activities</a></p> <p>Available at:  <a href="https://www.waterboards.ca.gov/water_issues/programs/cannabis/docs/policy/final_cannabis_policy_with_attach_a.pdf">https://www.waterboards.ca.gov/water_issues/programs/cannabis/docs/policy/final_cannabis_policy_with_attach_a.pdf</a> and  <a href="https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2019/wqo2019_0001_dwq.pdf">https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2019/wqo2019_0001_dwq.pdf</a></p>

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.”
Federal Clean Water Act Section 301 (a):	Section 301(a) provides that subject to certain exceptions, “the discharge of any pollutant by any person shall be unlawful.” 33 U.S.C. § 1311(a). One of the exceptions allowed for under the Clean Water Act is the discharge from a dredge and fill activity under the auspices of § 404 and 401 of the Clean Water Act. 33 U.S.C. § 1342. The Clean Water Act prohibits the discharge of any pollutant from a point source into waters of the United States without a section 404 dredge and fill permit and a section 401 state water quality certification.
Federal Clean Water Act Section 401	Section 401 (a)(1) “Any applicant for a Federal license or permit to conduct any activity including, but not limited to, the construction or operation of facilities, which may result in any discharge into the navigable waters, shall provide the licensing or permitting agency a certification from the State in which the discharge originates”
Federal Clean Water Act Section 404	Section 404(a) provides, in relevant part, “The Secretary may issue permits...for the discharge of dredged or fill material into the navigable waters...” The Code of Federal Regulations defines the term “dredged material” as material that is excavated or dredged from waters of the United States. 33 C.F.R. § 323.2(c). The term “discharge or dredged material” mean any addition of dredge material into the waters of the United States. 33 C.F.R. § 323.2(d)(1). The Code of Federal Regulations defines “fill material” as material placed in waters of the United States that has the effect of replacing any portion of a water of the United States with dry land or changing the bottom elevation of any portion of a water of the United States. 33 C.F.R. § 323.2(e)(1). The term “discharge of fill material” means the additional of fill material into waters of the United States. 33 C.F.R. § 323.2(f).

**North Coast Regional Water Quality Control Board  
Attachment B**

**Cannabis Water Quality Inspection Report  
Martin Taribio Property, Mendocino County APN 056-050-12-00, WDID No.  
1\_23MJ000383**

	Inspection Details
Inspection Date & Time	July 19, 2023; 16:50
Address/Location	58150 Registered Guest Road, Laytonville, CA 95454
County	Mendocino
Assessor's Parcel Number (APN)	056-050-12-00
Watershed	Blue Rock Creek, Middle Mainstem Eel Hydrologic Area, Eel River Hydrologic Unit
Property Owner's Legal Name and Company	Martin Toribio
Mailing Address	P.O. Box 2, Talmage, CA 95481
Agency Responsible for Warrant	California Department of Fish and Wildlife (CDFW)
Person Responsible for Warrant	Warden Kyle Perdue
Warrant Date	July 19, 2023
Warrant Type	Criminal Search
Lead Inspector Name	Adona White, PE, Water Resources Control Engineer
Office/Regional Board	North Coast Regional Water Quality Control Board
Other Personnel Onsite	Representatives from CDFW and State Water Resources Control Board Division of Water Rights
Author of Report	Adona White
CIWQS WDID and Place ID	WDID No. 1_23MJ000383, CIWQS Place ID 889566
Permit Status/Waiver	unpermitted

## Inspection Observations

The inspection map is shown in Figure 2 and includes the locations referenced at the following features of concern to water quality.

Polygon Location 1: Pond with surface water channel entering. An unscreened two-inch intake and gas pump transfer water to cultivation areas. Bullfrogs are present in the pond.

Point Location 2: Fertilizers on the ground.

Point Location 3: Steep access driveway with extensively rilled surface indicating concentrated stormwater, erosion and sediment transport downslope.

Polygon Location 4: Active cultivation in one greenhouse.

Point Location 5: Bottle of carbofuran at cultivation area.

Point Location 6: Pile of cultivation-related refuse.

Line Feature 7: A flexipipe was installed to capture and carry the driveway runoff down slope. The pipe is separated.

Point Location 8: Pit privy.

Point Location 9: Foot bridge over large watercourse constructed with piles driven into channel bed; obstructs flow and woody material transport.

Point Location 10: Unauthorized dredge and fill in a blue line watercourse. The channel bed was excavated with a shovel and the material was used to construct and berm across the channel to capture and divert surface water without authorization. The feature is five feet long, eight feet wide, and one foot deep. I observed surface flow upstream and a dry channel downstream. Lots of black poly water line is in the channel.

Polygon Location 11: Two greenhouses with active cultivation. The graded flat cutbank has been used as a road, causing concentrated runoff to deliver into the cultivation area at the feed tanks and carry nutrient laden water downslope.

Line Location 12: Concentrated runoff from the cultivation area at Poly Location 11 has scoured a path downslope for a distance of three hundred feet and delivers to a stream at Point Location 13, threatening surface water quality with the discharge of sediment and nutrient laden water to a blue line stream.

Point Location 13: An eroded watercourse crossing on a blue line stream consisting of twelve-inch diameter and ten-foot-long single walled corrugated metal pipe. The crossing fill has been eroded from around the pipe resulting in an erosional void that is five feet wide, five feet deep, and ten feet long and an eroded the left bank (facing

downstream) with an estimated five cubic yard void. The erosion resulted in one hundred percent delivery to the stream.

These features pose threats to the quality of waters of the state with the threatened and actual discharges to surface waters. Waste discharges to land pose threats of contamination to surface and groundwater quality and can become mobilized during precipitation events and at times of increased surface water flow and runoff.

### **Inspection Recommendations**

1. Cease unauthorized cannabis cultivation.
2. Cleanup fertilizer containers and feed tanks and prevent further discharge of feed water to land in a manner that threatens water quality.
3. Properly dispose of all pesticides and fertilizers at a legal disposal facility.
4. Remove cultivation infrastructure and properly dispose of waste including but not limited to trash, fertilizer, pesticide and petroleum containers, plastic tarps and sheeting at a legal facility.
5. Cleanup potting soil and properly locate and stabilize or remove and dispose of at a legal disposal facility.
6. Hire a qualified professional to assess the Property, including but not limited to the features described in this report, to develop a treatment plan to guide that the cleanup and remediation of the assessed features that ensures that will no longer pose a threat of discharge or impacts to the quality of waters of the state. Submit the plan for approval and implement cleanup and restoration work.
7. Contact me at [Adona.White@waterboards.ca.gov](mailto:Adona.White@waterboards.ca.gov) or 707-576-2672 to discuss your plans to cleanup and remediate the site conditions that threaten water quality.

### **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 right to take any enforcement action authorized by law.

### Inspection Maps

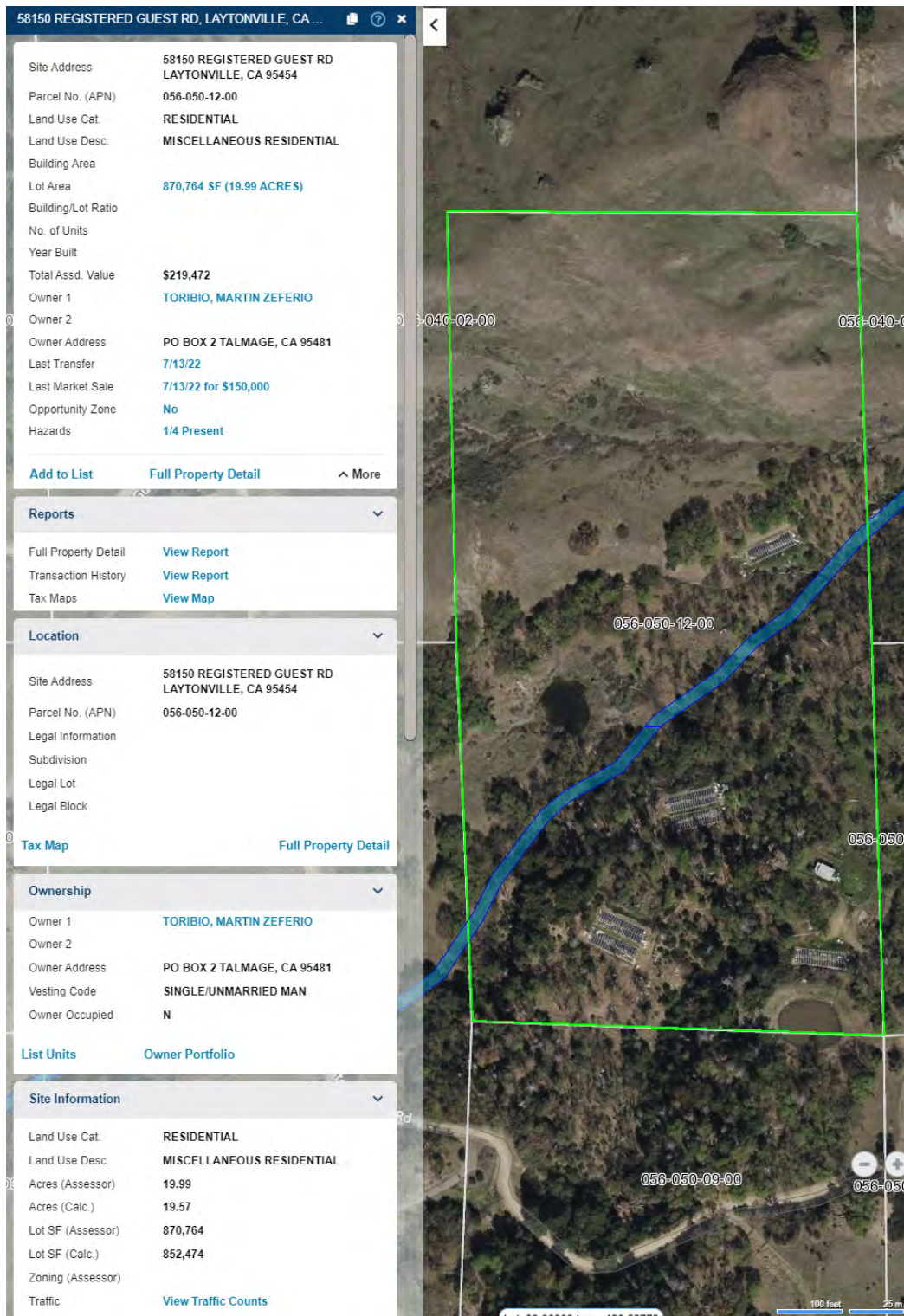


Figure 1. Property map and ownership information.



Figure 2. Inspection map with aerial imagery showing the point, line, and polygon feature locations of interest are described in the text.

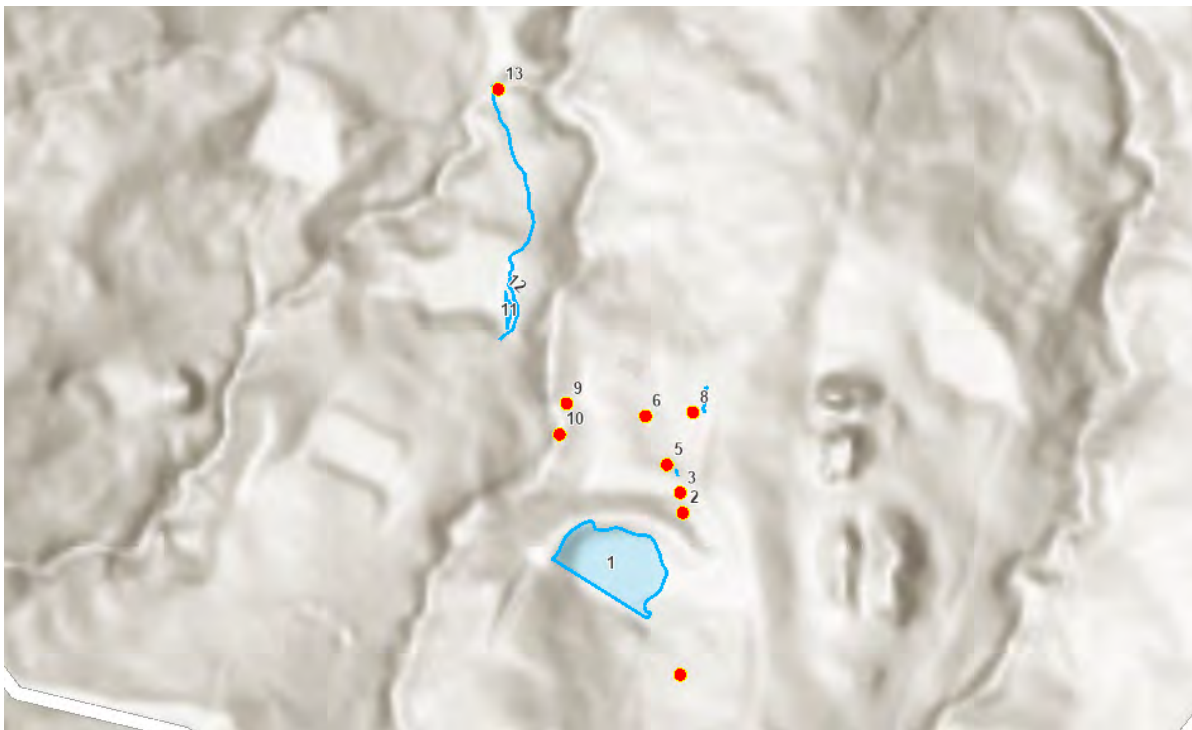


Figure 3 Inspection map with terrain showing features of interest described in the text.

## Inspection Photographs

All photographs taken by Adona White on July 19, 2023



*Figure 4. Pond at Polygon Location 1 has a channel entering from the upslope area.*



*Figure 5. Gas pump located on the berm of the pond at Polygon Location 1; I did not observe measures to ensure petroleum is prevented from discharge to land and to the pond.*



*Figure 6. Earthen berm and water tank on the pond at Polygon Location 1.*



*Figure 7. Fertilizer and trash on the ground at Point Location 2.*



*Figure 8. Road rills down the steep access driveway, aligned with Point Location 3, indicated concentrated stormwater runoff, erosion, and sediment transport downslope. The road lacked adequate drainage or surfacing.*



*Figure 9. Active cultivation in two greenhouses as Polygon Location 4.*



*Figure 10. Bottle of suspected carbofuran on ground at greenhouse cultivation area at Point Location 5.*



*Figure 11. Pile of refuse, including petroleum containers and plastic cultivation-related refuse, at Point Location 6.*



*Figure 12. The road rills described at Point Location 3 connect to a drainage feature with a defunct flexipipe installed from the road edge downslope along Line Location 7. Photo is view looking upslope along feature to access driveway.*



*Figure 13. Looking downslope from Line Feature 7 along the flowpath that can carry concentrated stormwater, sediment and other contaminants downslope.*



*Figure 14. Pit privy with domestic waste discharge to ground is at Point Location 8.*



*Figure 15. Watercourse crossing at Point Location 9 is a footbridge constructed with poles driven into the bed of a blue line stream. The piles impede free flow and woody material transport downstream.*



*Figure 16. Bridge at Point Location 9, looking downstream from the stream bed at the piles.*



*Figure 17. Just upstream of the bridge, is an in-stream excavation and berm construction at Point Location 10. Multiple lines of black plastic poly pipe are in the watercourse.*



*Figure 18. The berm at Point Location 10 is constructed across a narrow portion of the channel to impede one hundred percent of the surface stream flow and is comprised of gravel substrate that appears to be dug from the channel with a shovel. Surface flow is disconnected downstream of the berm.*



*Figure 19. The berm at Point Location 10 is approximately eight feet wide, five feet long, and one foot deep.*



*Figure 20. An active greenhouse cultivation area at Polygon Location 11 is constructed on a cut and fill graded flat. The cut bank is used as a quad trail to access the cultivation area. Runoff from upslope concentrates down the cut bank and enters the cultivation area.*



*Figure 21. Open feed tanks are located in the flow path from the cutbank at Polygon Location 11. Uncontained fertilizer containers are on the ground.*



*Figure 22. The flow path down the cut bank, through the cultivation area, past the feed tanks and down the access road.*



*Figure 23. Concentrated runoff from the cultivation area at Polygon Location 11 continues down the access road, along Line Location 12, where it is hydrologically connected and delivers to a watercourse at Point Location 13.*



*Figure 24. Stream crossing at Point Location 13 is an eroded, twelve-inch diameter, ten-foot-long corrugated metal pipe. The channel is comprised of cobble. The stream crossing was not of sufficient size to pass the 100-year flow plus debris.*



*Figure 25 . The erosional void of the stream crossing fill prism at Point Location 13 is approximately five-feet deep, five-feet wide, and ten-feet long (approximately nine cubic yards of sediment delivery to a blue line stream. Immediately downstream of the crossing on the left bank is an erosion void of approximately five cubic yards of sediment delivery to a blue line stream.*