

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

**CLEANUP AND ABATEMENT ORDER AND
INVESTIGATIVE ORDER NO. R1-2023-0059**

for

**Humboldt Sawmill Company, LLC
(Scotia Sawmill and Cogeneration Plant)
WDID No. 1 12I027974**

**Assessor's Parcel Numbers 205-351-023-000 & 205-351-030-000
Humboldt County**

This Cleanup and Abatement Order (Order) is issued to Humboldt Sawmill Company, LLC (Discharger) based on provisions of California Water Code (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 authorize the Regional Water Board to require the preparation and submittal of technical and monitoring reports.

FINDINGS

The Assistant Executive Officer finds, with respect to the Discharger's acts, or failure to act, the following:

1. Purpose of the Order: This Order requires the Discharger to clean up and abate the effects of unauthorized discharges of sediment-laden water, fine sediment, woodchips, and other material from the Facility (defined below) to the Eel River. The unauthorized discharge of fine sediment, organic material, and pollutants to the gravel bar and banks of the Eel River creates an imminent threat to the environment and public health. This Order requires immediate investigation and cleanup actions to prevent further harm and discharge into the flowing waters of the Eel River 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: The Discharger is the owner and operator of the Scotia Sawmill and Cogeneration Plant (Facility). As the owner and operator of the Facility, the Discharger has caused or permitted, or threaten to cause or permit, waste to be

discharged or deposited where it is, or probably will be, discharged into waters of the state and United States, which creates, or threatens to create, a condition of pollution or nuisance. The Discharger has the legal ability to control the activities at the Facility that resulted in the discharge and/or threatened discharge of waste to waters of the state.

3. Facility Location and Description: The Facility is located at 152 Main Street, Scotia, Humboldt County. The Facility is approximately 247 acres, located on Humboldt County Assessor's Parcel Numbers (APNs) 205-351-023-000 & 205-351-030-000. At the Facility, the Discharger processes lumber for sale and generates power at its cogeneration plant. The Discharger's tenant, California Timber Operations of Kansas Asphalt Inc. (Kansas Asphalt), operates an asphalt batch plant and conducts associated gravel operations on 5.5 acres of the Facility at its southernmost portion.

The Facility is immediately adjacent to the Eel River, and the Facility's stormwater runoff ultimately reaches the Eel River, which is a water of the state and water of the United States (references hereafter to waters of the United States are also to waters of the state).¹ Discharges from portions of the Facility are conveyed to the Eel River in different ways; either directly, as discharge from the Retention Pond,² or indirectly to unnamed tributaries, to the Tree Plantation area as discharge to land, or via the adjacent Log Pond.³

4. Watershed Setting: The Facility is located within the Scotia Hydrologic Subarea (HSA) of the Eel River Hydrologic Unit (HU) (HU/HSA 111.12). The Water Quality Control Plan for the North Coast Region (Basin Plan) designates beneficial uses of water within each Hydrologic Unit within the North Coast Region. Potential downstream beneficial uses of the Eel River include those associated with listed anadromous salmonids, including Cold Freshwater Habitat (COLD); Wildlife Habitat (WILD); Rare, Threatened or Endangered Species (RARE); Migration of Aquatic

¹ The Regional Water Board administers and enforces the Clean Water Act (CWA). The CWA regulates what it refers to as "navigable waters" and defines those water as "waters of the United States." Waters of the United States has been interpreted broadly by the agencies responsible for implementing the CWA to include all traditionally navigable waters and their tributaries. (40 C.F.R. 122.2) The Porter-Cologne provides the Regional Water Board additional authority to regulate discharges of waste into "waters of the state." (Wat. Code § 13260.) The term "waters of the state" is defined as "any surface water or groundwater, including saline waters, within the boundaries of the state." (Wat. Code § 13050 subd. (e).) All waters of the United States that are within the borders of California are also waters of the state for purposes of the Porter-Cologne."

² Labeled "Retention Pond" in the uploaded site map in SMARTS.

³ The Log Pond and Tree Plantation area are owned and operated by the Scotia Community Services District (CSD) as part of their wastewater treatment system.

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Organisms (MIGR), and Spawning, Reproduction, and/or Early Development (SPWN).

Other existing and potential beneficial uses include Municipal and Domestic Supply (MUN); Agricultural Supply (AGR); Industrial Service Supply (IND); Industrial Process Supply (PRO); Groundwater Recharge (GWR); Hydropower Generation (POW); Freshwater Replenishment (FRSH); Navigation (NAV); Water Contact Recreation (REC-1) & Other Non-Contact Recreation (REC-2); Commercial and Sport Fishing (COMM); and Aquaculture (AQUA). Beneficial uses of any specifically identified water body generally apply to all its tributaries.

The Eel River is listed as impaired on the federal Clean Water Act (Clean Water Act) section 303(d) list for decreased dissolved oxygen, excess aluminum, excess sedimentation/siltation, and elevated temperature.

5. Facility History: Stormwater Multiple Application and Report Tracking System (SMARTS) documents identify Humboldt Redwood Company, LLC (Humboldt Redwood Company) as the previous owner and operator for the sawmill, the cogeneration plant, and the asphalt plant at the Facility, having filed for coverage under the General Permit for Storm Water Discharges Associated with Industrial Activities Order 97-03-DWQ in 2008.

On November 30, 2018, the current Discharger (Humboldt Sawmill Company, LLC) filed a Notice of Intent as a new operator/Legally Responsible Person (LRP) to enroll the Facility in and obtain coverage under the General Permit for Storm Water Discharges Associated with Industrial Activities Order 2014-0057-DWQ as amended (Industrial General Permit). The Discharger is required to comply with all the conditions of the Industrial General Permit. Any permit noncompliance constitutes a violation of the Clean Water Act and may subject the Discharger to administrative civil liability pursuant to Water Code section 13385, subdivision (c).

After the Discharger obtained coverage under the Industrial General Permit, the Discharger began operating the sawmill and cogeneration plant portions of the Facility, while Humboldt Redwood Company continued operating the asphalt plant. Subsequently, Kansas Asphalt began operating the asphalt plant in July 2021. On June 17, 2022, Kansas Asphalt filed for separate Industrial General Permit coverage for the asphalt plant as the Discharger's tenant.

The Discharger updated site map dated October 4, 2023, (Attachment A), identifies Drainage Areas 1 and 7 to include lumber storage, kilns, an office building, employee parking lot, boiler, sawmill, log planer, paved log deck, retention pond and a portion of the Tree Plantation area. Drainage Area 7 also includes the air-dry and bone yards on the east side of Highway 101. The runoff within the air-dry and bone

yards drains into a small stormwater pond located on the east side of highway 101, which is also located within Drainage Area 7.

As identified in the Discharger's Facility Site Maps, Drainage Area 2 consists of the cogeneration area and bottom ash storage area on the north side of the Facility adjacent to the Log Pond owned by the Scotia Community Services District (CSD). Drainage Area 3 includes a vehicle fueling area, the main office, and a forestry operation building. Drainage Area 4 on the southernmost portion of the Facility is mostly used as a lumber storage area. Drainage Area 10 has minimal industrial activities and is located on the southeastern portion of the upper yard. Drainage Area 11 is considered a non-industrial area and includes the Tree Plantation area.

The Facility's runoff within Drainage Area 1 and Drainage Area 7 is mostly captured in on-site storm drain inlets that discharge into the main Retention Pond located at the south side of the Facility before discharging to the Eel River as shown in Attachment A. Previously, run-on water directed to Drainage Area 2 included stormwater from the Town of Scotia; however, this flow was diverted after completion of Scotia CSD's stormwater conveyance improvement in 2019.

On May 9 and 10, 2022, Regional Water Board, State Water Resources Control Board (State Water Board), and U.S. Environmental Protection Agency (EPA) staff inspected the Facility during heavy rain and observed numerous violations of the Industrial General Permit requirements and documented their findings in an inspection memo.⁴

On May 5, 2023, the Regional Water Board issued a Notice of Violation (NOV) to the Discharger for violations of Clean Water Act section 301 (33 U.S.C. 1311) and requirements of the Industrial General Permit as observed in May 2022. The NOV specifically identified the requirements of the Industrial General Permit that the Discharger violated, including, but not limited to, good housekeeping, spill prevention and response, material handling and waste management, and erosion and sediment control. The Discharger's failure to implement applicable and adequate Best Management Practices (BMPs) resulted in an unauthorized discharge of turbid and foamy water from the Retention Pond to the Eel River creating a threat to water quality.

On November 7, 2023, the Regional Water Board issued an Investigative Order pursuant to Water Code sections 13267 and 13383 requiring 1) notifications and post-incident summary reports including corrective action plans for a spill, unauthorized discharge, or any discharge in excess of any applicable Instantaneous

⁴ See Regional Water Board inspection memo for inspections dated May 9 and 10, 2022, which was provided to the Discharger on October 18, 2022, and it was uploaded to SMARTS on the same day.

Maximum Numeric Action Level (NAL) value; 2) enhanced storm water monitoring and reporting, to include turbidity, pH, Dissolved Oxygen (DO), Total Suspended Solids (TSS), Oil and Grease, Biochemical Oxygen Demand (BOD), Chemical Oxygen Demand (COD), total Aluminum (Al), total Zinc (Zn), total Iron (Fe), total Copper (Cu), and total Chromium (Cr) seven days a week from all points where discharges leave the as well as visual observations; and 3) stormwater infrastructure mapping, assessment, and analysis including field verification locating all stormwater pipes, inlets, and structures and all sewer lines and structures. Additional infrastructure features including vaults, valves, oil and water separators, clarifiers, pumps, sump, junction boxes, and all outfalls and discharge control features must also be located and properly identified.

6. Factual Basis of Order: The Discharger's activities and the conditions observed at the Facility, as documented in the California Department of Fish and Wildlife (CDFW) inspection documentation and findings from December 3 and 4, 2023 (Attachment B), and as detailed below, 1) caused discharges of waste into waters of the United States in violation of discharge prohibitions set for in Industrial General Permit section III.A-C and 2) threatens to cause or permit waste to be discharged where it is, or probably will be, discharged to the flowing channel, and creates and/or threatens to create a condition of pollution or nuisance.
 - a. The Facility drains to the Eel River. The Discharger allowed the release and discharge of impounded sediment-laden stormwater, organic material, and pollutants that had accumulated on the Facility's paved log deck to the riparian area and Eel River, including the gravel bar and high flow channel resulting in the deposition of these pollutants over approximately 0.2 acres in surface area with a depth of approximately six to seven-inches within waters of the United States. Additional fine sediment, organic material, and pollutants were observed deposited onto the banks and along the gravel bar adjacent to the low flow stream channel to locations where the deposited waste could be mobilized and transported by the flowing stream, especially upon stormwater runoff events and during times of high stream flows. Unauthorized discharges of waste from the Facility have the potential to impact habitat for native fish and non-fish aquatic habitat, including cold-water fish and a variety of amphibian and macroinvertebrate communities and may pose a threat to public health. The Town of Scotia's municipal water supply is the Eel River, and the water intake is located in an infiltration gallery in the bed of the river. According to the Division of Water Rights Electronic Water Rights Information Management System (eWRIMS) the point of diversion is adjacent to the Facility and downstream/cross-gradient to the discharge. Additionally, one of the City of Rio Dell's points of diversion for their municipal water supply is also located in the Eel River approximately 1.5-miles downstream of the discharge. Fine sediment and additional constituents of concern that may be present in the discharged material,

pose a threat to these water intakes and the treatment system's infrastructure, as well as the communities served by these drinking water systems.

- b. According to CDFW Warden Shane Embry (Warden Embry), he first encountered the discharge of waste to the Eel River on December 3, 2023, during a routine walk along the river. He observed the sediment and pollutant deposition along the gravel bar, and recent grading, vegetation removal, constructed wood stairs, and rock placement within the riparian zone leading from the river up to the Facility. Warden Embry followed a path up to the Facility's log deck where he encountered a representative of the Facility who stated that she was at the Facility to collect water quality samples. She provided the Warden Embry with contact information for the facilities manager, Dean Kerstetter, to answer the Warden Embry's questions about what he observed. Warden Embry called Mr. Kerstetter who reported that there was an "erosion event" that occurred the week of November 20, 2023, and in response, the Discharger performed work in the riparian zone that Warden Embry observed including grading in the riparian area for access to the outfall, the placement of an inflatable plug within outfall (001-OUT), and riprap downstream of the outfall.
- c. Warden Embry alerted CDFW personnel, Environmental Scientist Jonathon Hollis (E.S. Hollis), and on December 4, 2023, the two of them inspected the Facility and the discharges of waste to the banks and gravel bar of the Eel River. Warden Embry and E.S. Hollis identified recent unauthorized grading in riparian areas which extended from the bank of the Eel River at Discharge Point 001-OUT⁵ to the Facility's log deck. 001-OUT is connected to Diversion Valve 001A⁶ in the paved log deck area. CDFW personnel documented the recent placement of an inflatable plug in the 001-OUT pipe outfall, riprap along the banks, and a short staircase constructed adjacent to 001-OUT outfall. Additionally, CDFW personnel documented the extent of the fine sediment, organic material, and pollutants deposited along the riverbank and on the gravel bar using GPS and bore pits, to cover approximately 0.20 acres of deposition ranging from six to seven-inches thick. The bottom three to four inches of material is composed of woodchips and fine sediment, while the upper layer is mostly fine sediment. The material observed matches the coloring and composition of the material observed on the Facility paved log deck surrounding Diversion Valve 001A that is connected to 001-OUT.

They then proceeded up the bank following the path of riparian modification to the Facility log deck. At the log deck they observed substantial amounts of woody

⁵ Discharge Point 001-OUT is the label in the Facility SWPPP and is noted as MP-2 in CDFW's documentation.

⁶ Diversion Valve 001A is the label in the Facility SWPPP and is noted as MP-1 in CDFW's documentation.

debris and fine sediment covering the paved surface. This material was consistent with the material that was observed within the Eel River. The diversion valve 001A, which is located within a caged debris rack, was full of a thick black slurry with floating material and foam. There was debris on the top of the metal debris rack cage.

7. **Beneficial Uses and Water Quality Objectives:** The Basin Plan designates beneficial uses (Chapter 2), establishes water quality objectives (Chapter 3), contains implementation programs for achieving objectives (Chapter 4), and incorporates by reference the plans and policies adopted by the Regional Water Board and State Water Board (Chapter 5). Beneficial uses of any specifically identified water body generally apply to all of its tributaries.
- a. Existing and potential beneficial uses for the Eel River (Scotia Hydrologic Subarea) include, but are not limited to the following: Domestic and Municipal Drinking Water Supply (MUN), Water Contact Recreation (REC-1) & Other Non-Contact Recreation (REC-2); Commercial and Sport Fishing (COMM); Warm Freshwater Habitat (WARM); Cold Freshwater Habitat (COLD); Wildlife (Wild); Rare, Threatened, or Endangered Species (RARE); Migration of Aquatic Organisms (MIGR); Spawning, Reproduction, and/or Early Development (SPWN).
 - b. Chapter 3 of the Basin Plan contains water quality objectives not to be exceeded as a result of waste discharges. The water quality objectives that are considered of particular importance in protecting the beneficial uses from unreasonable effects due to waste discharges from land development on rural landscapes include the following:
 - i. Suspended Material: “Waters shall not contain suspended material in concentrations that cause nuisance or adversely affect beneficial uses.”
 - ii. Settleable Material: “Waters shall not contain substances in concentrations that result in deposition of material that causes nuisance or adversely affect beneficial uses.”
 - iii. Sediment: “The suspended sediment load and suspended sediment discharge rate of surface waters shall not be altered in such a manner as to cause nuisance or adversely affect beneficial uses.”
 - iv. Turbidity: “Turbidity shall not be increased more than 20 percent above naturally occurring background levels. Allowable zones of dilution within which higher percentages can be tolerated may be

defined for specific discharges upon the issuance of discharge permits or waiver thereof.”

- v. Floating Material: “Waters shall not contain floating material, including solids, liquids, foams, and scum, in concentrations that cause nuisance or adversely affect beneficial uses.”
- vi. Oil and Grease: “Waters shall not contain oils, greases, waxes, or other materials in concentrations that result in a visible film or coating on the surface of the water or on objects in the water that cause nuisance, or that otherwise adversely affect beneficial uses.”

8. Facility Features or Conditions Impacting or Threatening to Impact Water Quality and Beneficial Uses:

Given the current season and climatic conditions, the threat of pollutant transport further downstream is eminent. With increasing amounts of precipitation and additional precipitation in the forecast, increased stormwater runoff may transport pollutants further downstream. Additionally, the increasing flows of the Eel River itself may inundate the discharge area increasing the risk that all the material discharged will be transported further downstream potentially impacting municipal and domestic water supplies.

The Discharger has caused or allowed the discharge and threatened discharge of waste to receiving waters by releasing sediment-laden stormwater, fine sediment, organic material, and pollutants to waters of the state and United States as documented in the above-referenced CDFW inspection documentation and findings from December 4, 2023 (Attachment B) as discussed below.

- a. The unauthorized discharge of sediment-laden waters, fine sediment, organic material, and pollutants into jurisdictional waters.
- b. The unauthorized discharge resulting in the scouring of native gravel bar and riverbank within the riparian zone.
- c. The unpermitted grading, fill, placement of rock, and vegetation removal, and modification of the riverbank within the riparian area.

Earthen and organic material, including sediment, when discharged to waters of the state, is a “waste” as defined in Water Code section 13050, subdivision (d).

9. Findings of Pollution: The discharges and/or threatened discharges described in Finding 6, above, have altered and/or threaten to further alter the quality of waters of the United States to a degree that unreasonably affects waters for beneficial uses.

Therefore, the discharges and threatened discharges of waste create a condition of pollution subject to this Order in accordance with Water Code section 13304, as follows:

- a. Discharges of sediment and other inert materials 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. Sediment-laden storm water discharges to downstream surface waters and the resulting turbidity can affect the recreational and aesthetic enjoyment of those surface waters (REC-1 and REC-2). Additionally, such discharges directly threaten downstream domestic and municipal drinking water supplies (MUN), and wildlife habitat and aquatic species (RARE, MIGR, SPWN, COLD, COMM, and WILD).
- b. 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.
- c. The discharge of organic and earthen material is especially problematic for cold-water fish in water bodies that are listed as impaired under Section 303(d) of the Clean Water Act due to pollutants such as temperature and sedimentation/ siltation. Sediment delivery impacts the migration, spawning, reproduction, and early development of cold-water fish such as spring and fall run Chinook salmon, Coho salmon, and steelhead trout. Impacts include (1) increased turbidity (loss of clarity) and resulting decreased light transmittance, biological productivity, and aesthetic value; and (2) physical suffocation through burial of bottom dwelling (benthic) organisms, salmonid eggs, and alevin (newly spawned salmon or trout still carrying its yolk).
- d. Sediment can also physically damage gills causing fish mortality; increase 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. Also, Sediment can clog fish gills, reducing resistance to disease, lowering growth rates, and affecting fish egg and larvae development
(https://cfpub.epa.gov/npstbx/files/ksmo_sediment.pdf)

- e. Sediment is a pollutant that can have substantial biological, chemical, and physical impacts on receiving waters. It should be noted that these water quality impacts occur during both sediment transport and sediment deposition. In addition to the problems associated with suspended sediment, sediment is also an excellent transport mechanism for toxics (e.g., metals and synthetic organics), which bind to sediment particles.
 - f. Additional constituents of concern from this Facility include, but are not limited to: Turbidity, pH, DO, TSS, Oil and Grease, BOD, COD, Al, Zn, Fe, Cu, and Cr. Low levels of oxygen or no oxygen levels can occur when excess organic materials, such as large algal blooms, are decomposed by microorganisms. During this decomposition process, DO in the water is consumed. As DO levels drop, some sensitive animals may move away, decline in health or even die ([Indicators: Dissolved Oxygen | US EPA](#)). Elevated levels of aluminum can affect some species ability to regulate ions, like salts, and inhibit respiratory functions, like breathing. Aluminum can accumulate on the surface of a fish's gill, leading to respiratory dysfunction, and possibly death ([Aquatic Life Criteria - Aluminum | US EPA](#)). Deposited sediments can have indirect effects by reducing oxygen levels either with restricted flow through streambed substrates or by oxygen consumption by bacterial respiration, especially when sediments contain a high concentration of organic matter ([Sediments | US EPA](#)).
10. Failure to Obtain Necessary Permits: The Discharger's activities during and/or after the discharge event from the week of November 20, 2023, were conducted inconsistent with, and without authorization from, applicable federal, state, and local agencies, including coverage under any of the following regulatory permits:
- a. A Clean Water Act section 401 Water Quality Certification, Waste Discharge Requirements, or a Waiver thereof, from the Regional Water Board.
 - b. A Clean Water Act section 404 permit from the Army Corps of Engineers for dredge and fill activities in waters of the United States.
 - c. A Lake and Streambed Alteration Agreement from CDFW for substantial change to bed and banks of streams and obstruction of flow.
 - d. A Grading Permit and a Special Permit for work in a Streamside Management Area from the Humboldt County Planning and Building Department.
11. Legal and Regulatory Authority: Water Code section 13304, subdivision (a) states, in relevant part:

A person who has discharged or discharges waste into waters of this state in violation of any waste discharge requirements or other order or prohibition issued

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

- a. "Waste" is defined by Water Code section 13050, subdivision (d) to include, sewage and any other waste substances, whether liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing, or processing operation, including waste placed within containers prior to, and for purposes of, disposal.
 - i. Sediment, when discharged to waters of the state, is a "waste" as defined in Water Code section 13050. The Discharger caused or permitted waste to be discharged or deposited where it will be, or has the potential to be, discharged to the Eel River, a water of the state and United States.
- b. "Pollution" is defined by Water Code section 13050, subdivision (l)(1) as, an alteration of the quality of the waters of the state by waste to a degree which unreasonably affects either waters of the state for beneficial use or facilities which serve these beneficial uses. (See Finding 9 above.)

12. Cleanup and Abatement Action Necessary: Cleanup and abatement is necessary to ensure that discharges of waste to waters of the state in violation of Regional Water Board orders and/or Basin Plan prohibitions, and/or discharges or threatened discharges of waste to waters of the state creating a condition of pollution, are appropriately cleaned up, that background water quality conditions are restored, and that any impacts to beneficial uses are mitigated.

The unauthorized discharge of sediment-laden waters, fine sediment, organic material, and pollutants discharged to the Eel River, deposited on the riverbank, the scouring of riparian area and native gravel bar, and any deposition of waste into jurisdictional waters would alter the quality of waters of the state to a degree which would unreasonably affect waters of the state for beneficial uses. The current condition of pollution is a violation of applicable water quality regulations and the issuance of this Order pursuant to Water Code section 13304 is appropriate and consistent with the policies of the Regional Water Board.

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

The technical reports required by this Order pursuant to Water Code section 13267 are necessary to investigate the quality of any water of the state on the Facility, assure compliance with this Order, and to protect the waters of the United States.

The technical reports are further necessary to demonstrate that appropriate methods will be used to clean up waste discharged to waters of the United States, to ensure that cleanup complies with Basin Plan requirements and State Water Board Resolution 92-49, and that the Discharger will implement adequate and effective best management measures and practices to control and minimize future pollutant discharges from the Facility.

In accordance with Water Code section 13267, subdivision (b), the findings in this Order provide the Discharger with a written explanation with regard to the need for remedial action and reports and identify the evidence that supports the requirements to implement cleanup and abatement activities and submit the reports.

This Order requires two types of technical reports, including an Interim Cleanup Stabilization Plan (ICSP) and an ICSP Completion Report. Regional Water Board staff estimate that the total cost of preparing and submitting both reports is between approximately \$4,601 – \$12,838. 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 Cleanup and Stabilization Plan (ICSP)** is a technical report that is necessary to: (1) assess immediate site conditions to identify the nature and magnitude of the unauthorized discharge to the Eel River, (2) determine the appropriate cleanup and abatement work to prevent and/or minimize the mobilization and transport of earth and organic material which has been deposited into the Eel River; and (3) create a plan along with an implementation schedule that will guide the scope of work to stabilize the site, and cleanup and abate the discharges and threat of discharge from the Facility. The anticipated benefits from the ICSP include protection from actual and threatened waste discharges that impact beneficial uses and water quality objectives. In addition, by requiring the Discharger to submit an ICSP,

the Regional Water Board or its delegated officer will have the opportunity to review and approved the scope of the proposed abatement and stabilization actions to confirm that the proposed work will adequately remediate site conditions and prevent further impacts to beneficial uses of sensitive water bodies.

As previously mentioned, the Eel River is listed as impaired on the Clean Water Act section 303(d)-list for decreased dissolved oxygen, elevated aluminum, elevated sedimentation/siltation, and elevated temperature. The impairments of the Eel River thereby heighten the need for this technical report to reduce further impairment to waters of the United States. The ICSP requirements (i.e., field inspection and report preparation) are comparable to that of preparing an Interim Remedial Action Workplan or Remedial Action Plan as identified in the State Water Resources Control Board, August 2018, Underground Storage Tank Cleanup Fund Guidelines (2018 Cost Guidelines Update), which are estimated to cost between \$1,919 and \$5,894, respectively. The burden, including costs, of preparing and submitting the ISCP therefore bears a reasonable relationship to the need for this planning and assessment report to cleanup, abate, and stabilize the facility to mitigate further impacts to sensitive water bodies.

- b. **The Completion Report** is a technical report that is necessary to demonstrate that the Discharger has successfully implemented and completed the ICSP activities in accordance with the implementation schedule set forth in the ICSP and this Order. The benefit derived from a Completion Report is documented evidence that remedial activities (as well as best management practices) were implemented to ensure that cleanup, abatement, and stabilization activities adequately prevent further discharges to the Eel River. The scope of a Completion Report (i.e., field inspection and report preparation) is comparable to that of preparing a Cleanup Progress Report or Site Assessment Report as described in the 2018 Cost Guidelines Update, which are estimated to cost between \$2,682 and \$6,944, respectively. The burden, including costs, of preparing and submitting a Completion Report bears a reasonable relationship to the need for the report as assurance to demonstrate remedial actions are accomplished as proposed in the ICSP and the completed ICSP Facility conditions ensure the protection of water quality.

14. **California Environmental Quality Act:** Issuance of this Order is being taken for the protection of the environment and to enforce the laws and regulations administered by the Regional Water Board and, as such, is exempt from provisions of the California Environmental Quality Act (CEQA) (Public Resources Code section 21000 et seq.) in accordance with California Code of Regulations, title 14, sections 15061, subdivision (b)(3), 15306, 15307, 15308, and 15321. This Order generally

requires the Discharger to submit plans for approval prior to implementation of cleanup, abatement, and restoration activities at the Facility. Mere submittal of plans is exempt from CEQA as submittal will not cause a direct or indirect physical change in the environment and/or is an activity that cannot possibly have a significant effect on the environment. CEQA review at this time would be premature and speculative, as there is simply not enough information concerning the Discharger's proposed cleanup, abatement or restoration activities and possible associated environmental impacts. To the extent that the Order requires earth-disturbing and re-vegetation activities not to exceed five acres in size and to assure restoration of stream habitat and prevent erosion, this Order is exempt from provisions of CEQA pursuant to California Code of Regulations, title 14, section 15333. If the Regional Water Board determines that implementation of any plan required by this Order will have a significant effect on the environment that is not otherwise exempt from CEQA, the Regional Water Board will conduct the necessary and appropriate environmental review prior to implementation of the applicable plan. The Discharger will bear the costs, including the Regional Water Board's costs, of determining whether implementation of any plan required by this Order will have a significant effect on the environment and, if so, in preparing any documents necessary for the Regional Water Board to satisfy its environmental review obligations under CEQA. If necessary, the Discharger and a consultant acceptable to the Regional Water Board shall enter into a memorandum of understanding with the Regional Water Board regarding such costs prior to undertaking any environmental review.

REQUIRED ACTIONS

IT IS HEREBY ORDERED, pursuant to Water Code sections 13304 and 13267, the Discharger 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 technical reports and information as required below.

1. The Discharger must **immediately** cease all discharge from Discharge Point 001-OUT and prevent all unauthorized discharge from Facility, pursuant to Water Code section 13304.
2. **No later than December 20, 2023**, pursuant to Water Code section 13267, the Discharger shall submit an **Interim Cleanup and Stabilization Plan (ICSP)** prepared by an appropriately licensed professional for the completion of short-term cleanup and stabilization measures necessary to clean up wastes and to prevent further unauthorized discharges of sediment-laden stormwater, fine sediment, organic matter, and pollutants to the Eel River. The ICSP shall include, but not be limited, to the following:
 - a. A characterization of all waste(s) that have discharged from the Facility since October 15, 2023, or have the potential to further transport and/or

discharge, into the Eel River. The description should include the timing and events that took place leading up to and after all discharges, source of generated runoff and discharge, locations, perimeter of deposited and eroded native material, an approximate amount (volume) of sediment-laden stormwater that discharged from each outfall from every rain event after October 15, 2023. This must include the material deposited in the riparian area, banks of the Eel River, and an estimate of the volume of stormwater that reached gravel bar and the active flowing channel⁷.

- b. Using the above information, a description of proposed cleanup, stabilization, discharge location(s), and potential discharge site(s) that are necessary to prevent and minimize sediment and organic material transport and discharge from the Facility, the discharge area, and further downstream within the Eel River.
- c. A site map depicting topography, watercourses, graded/disturbed surfaces, areas of accumulated sediment and organic materials, and areas of erosion and scour from the stormwater discharges.
- d. Identification of all locations of controllable sediment delivery sites⁸ or other sites where waste has discharged, or threatens to discharge, to waters of the United States, and identification of all areas of immediate concern.
- e. Proposed cleanup activities to remove all waste deposited within the Eel River, bank, riparian zone, and any other areas with the potential to discharge or impact receiving waters.
- f. Proposed stabilization measures to provide bank stabilization and to prevent any discharges of sediment.
- g. A proposed schedule outline to be implemented at each area of concern.
- h. Remediation and cleanup oversight and documentation by a qualified professional.

⁷ Stormwater volume estimates shall use Natural Resource Conservation Service (NRCS) Technical Report-55 (TR-55) or an equivalent volume estimation model.

⁸ 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.

- i. Proposed schedule to provide progress reports to the Regional Water Board on the completion of identified remediation and cleanup actions to demonstrate that tasks are implemented as planned, evaluate the effectiveness of cleanup and stabilization measures and corrective actions, and identify needed improvements.
3. **Once the Regional Water Board Executive Officer, or their designee, approves the ICSP, and no later than January 5, 2024**, pursuant to Water Code section 13304, the Discharger shall have completed the work specified in the approved ICSP, cleaning up and stabilizing for the remainder of the 2023-2024 winter wet-weather period. The Discharger must notify Regional Water Board staff in writing (e-mail is appropriate) at least 24 hours in advance of commencing activities outlined in the approved ICSP.
4. **No later than January 15, 2024**, pursuant to Water Code section 13267, the Discharger shall provide a report of completion of the ICSP to the Regional Water Board Executive Officer, or their designee, for approval. This report shall include a summary and photographs of the completed cleanup and stabilization measures. Include photographs of all areas where corrective action has taken place, clearly keyed to site map(s).

GENERAL REQUIREMENTS AND NOTICES

1. **Duty to Use Qualified Professionals:** The Discharger shall provide documentation that plans and reports required under this Order are prepared under the direction of appropriately qualified professionals. As required by the California Business and Professions Code sections 6735, 7835, and 7835.1, engineering and geologic evaluations and judgments shall be performed by or under the direction of registered professionals competent and proficient in the fields pertinent to the required activities. The Discharger shall include a statement of qualification and registration numbers of the responsible lead professionals in all plans and reports required under this Order. The lead professional shall sign and affix their registration stamp to the report, plan, or document. The required activities must be implemented and overseen by the appropriately qualified/licensed professional as otherwise required by law.
2. **Signatory Requirements:** All technical reports submitted by the Discharger shall include a cover letter signed by the Discharger, or a duly authorized representative, certifying under penalty of law that the signer has examined and is familiar with the report and that to his/her knowledge, the report is true, complete, and accurate. The Discharger shall also state in the cover letter whether he/she will implement the recommendations/proposals provided in the report and the schedule for implementation. Any person signing a document submitted under this Order shall make the following certification:

“I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my knowledge and on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.”

3. **Notice of Change in Ownership or Occupancy:** The Discharger shall file a written report on any changes in the Facility’s ownership or occupancy. This report shall be filed with the Regional Water Board no later than 30 days prior to a planned change and shall reference the number of this Order.
4. **Reasonable Access:** The Discharger shall allow the Regional Water Board, or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to enter at reasonable times to inspect the Facility and any records that must be kept under the conditions of this Order for the purposes of assuring compliance with this Order or as otherwise authorized by the Water Code.
5. **Cost Recovery:** Pursuant to Water Code section 13304, the State or Regional Water Board is entitled to all reasonable costs it actually incurs to investigate and abate the effects of unauthorized discharges of waste and to oversee/supervise the cleanup of such waste, or other restoration action, required by this Order. The Discharger shall enroll in the State Water Board’s Cost Recovery Program managed by the State Water Board for the discharges addressed by this Order and shall reimburse the State of California for all reasonable costs actually incurred by the Regional Board pursuant to the procedures established in that program. Pursuant to Water Code section 13304 subdivision (c)(2), any costs not reimbursed constitutes a lien on the affected property upon the Regional Water Board’s serving notice of the lien on the property owner and recordation of the lien.
7. **Delayed Compliance:** If for any reason, the Discharger 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 Discharger 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.
8. **Potential Liability:** If the Discharger fails 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 \$5,000 per day of violation of Order requirements under Water Code section 13304 and up to \$1,000 per day of violation of Order technical reporting requirements under Water Code section 13267. (Wat. Code, §§ 13350, 13268.) The Regional Water Board reserves the right to take any enforcement actions authorized by law, including, but not limited to, violation of the terms and conditions of this Order.

9. **No Limitation of Water Board Authority:** This Order in no way limits the authority of the Regional Water Board to institute additional enforcement actions or to require additional investigation and cleanup of the Facility consistent with the Water Code. This Order may be revised as additional information becomes available.
10. **Modifications:** Any modification to this Order shall be in writing and approved by the Regional Water Board or its delegated officer including any potential extension requests.
11. **Requesting Review by the State Water Board:** Any person aggrieved by this, or any final action of the Regional 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: [Filing Petition](http://www.waterboards.ca.gov/public_notices/petitions/water_quality) (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.

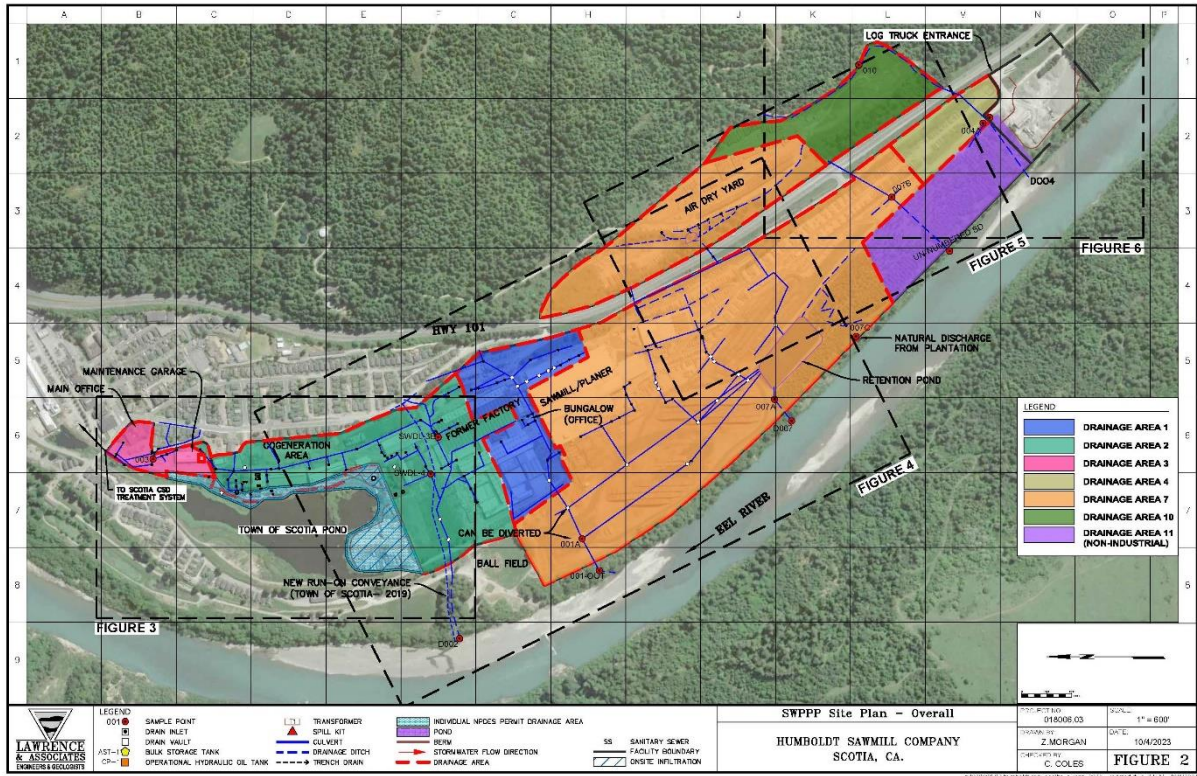
Valerie Quinto
Executive Officer

231208_Scotia_Sawmill_ECAO

Attachment A: Facility Site Maps

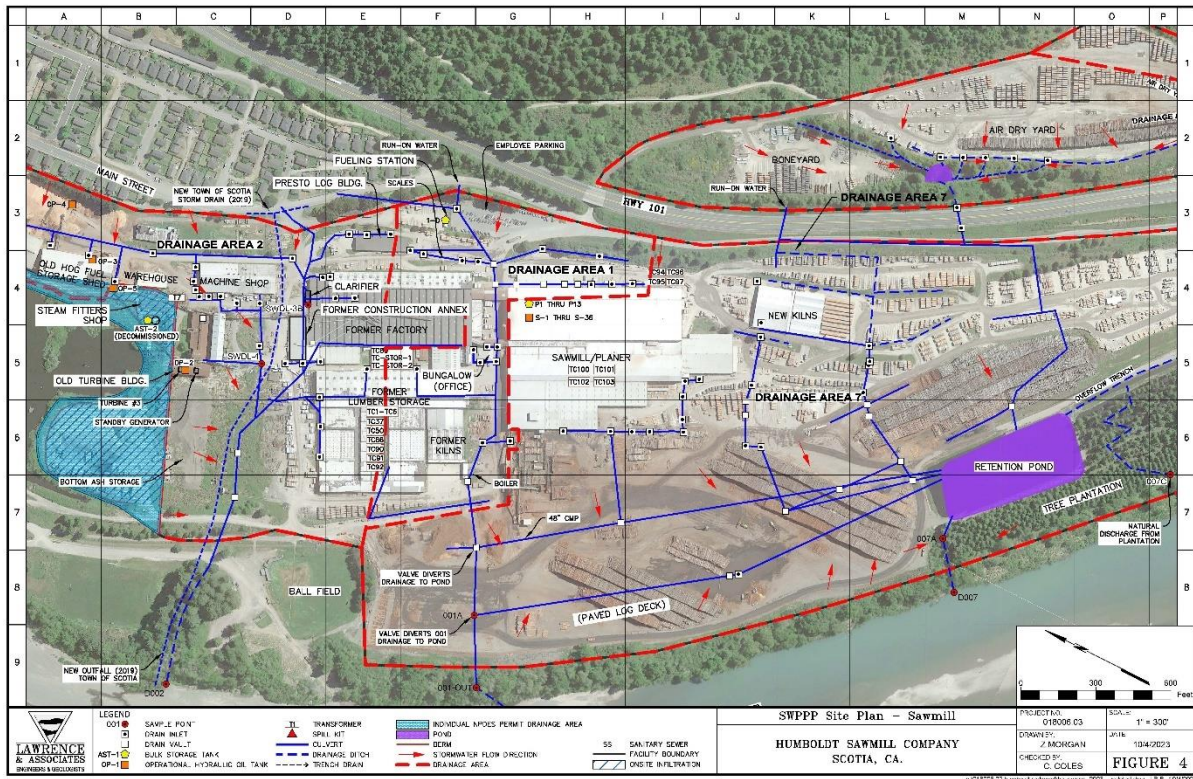
Attachment B: CDFW Inspection documentation and findings from December 3 and 4, 2023 of the Scotia Sawmill and Cogeneration Plant

Attachment A: Site Maps



Site Map 1: The most updated site map that was prepared by the Discharger’s consultant indicating all drainage areas.

Humboldt Sawmill Company, LLC
 Scotia Sawmill and Cogeneration Plant
 Cleanup and Abatement Order R1-2023-0059
 SMARTS WDID: 1 12I027974



Site Map 2: The most updated site map that was prepared by the Discharger's consultant indicating drainage areas and the location of the Retention Pond.