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## North Coast Regional Water Quality Control Board

January 6, 2023

Aleksandar Aleksandrov  
Otto Farms LLC  
OPENROADAGENCY LLC  
P.O. Box 223  
Fortuna, CA 95540

Certified Mail: 7021 0950 0001 6500 0325

Aleksandar Aleksandrov  
Otto Farms LLC  
2515 43<sup>rd</sup> Street  
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Subject: Notice of Violation of Cleanup and Abatement and 13267 Order No. R1-2021-0053 for Humboldt County Assessor's Parcel Numbers (APNs) 208-111-020 and 208-111-021

File: Cannabis Program, Humboldt County, CIWQS Place IDs 829405 and 829393

Dear Aleksandar Aleksandrov, Otto Farms LLC, and OPENROADAGENCY LLC:

This letter is to notify you that you are in violation of requirements listed below, and cited in Attachment A, at the Property identified as Humboldt County Assessor's Parcel Numbers (APNs) 208-111-020 and 208-111-021 (the Property):

1. North Coast Regional Water Quality Control Board (Regional Water Board) Cleanup and Abatement and 13267 Order R1-2021-0053 (the Order)
2. Water Quality Control Plan for the North Coast Region (Basin Plan) Section 4.2.1
3. California Water Code (Water Code) Sections 13267, 13260, 13264, and 13350

On December 6, 2022, North Coast Regional Water Quality Control Board (Regional Water Board) staff (Staff) inspected the Property for compliance with the requirements

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

of the Order and found that required cleanup and abatement actions had not been implemented.

## **Background**

The Property is comprised of two adjacent 40-acre parcels, associated with Humboldt County APNs 208-111-020 (southern parcel) and 208-111-021 (northern parcel). APN 208-111-020 is accessed from State Highway 36 by a low-slope road that parallels Little Larabee Creek. The access road crosses several watercourses including Little Larabee Creek, then traverses upslope onto APN 208-111-021.

Parcel information available from the Humboldt County Assessor-Recorder's Office, as presented in Digital Map Products LandVision™ online service, indicates that OPENROADAGENCY LLC owns the Property and was last transferred on April 29, 2016 from David Wight. OPENROADAGENCY LLC is registered with the California Secretary of State as of November 26, 2019, as a Delaware Limited Liability Company, with Alek Aleksandrov as the Agent for Service of Process. OPENROADAGENCY LLC status is listed as forfeited with an inactive date of September 1, 2021.

Effective November 2, 2016, Aleksandar Aleksandrov enrolled APN 208-111-020 under the formerly active Order R1-2015-0023, Waiver of Waste Discharge Requirements and General Water Quality Certification for Discharges of Waste Resulting from Cannabis Cultivation and Associated Activities or Operations with Similar Environmental Effects in the North Coast Region (Regional Cannabis Order). Due to conditions associated with an active landslide, on February 9, 2017, you updated your enrollment from Tier 2 to Tier 3, triggering the requirements to develop and implement a cleanup and restoration plan. On July 25, 2018, Natural Resources Management Corporation (NRM) submitted the Tier 3 Cleanup and Restoration Plan to clean up the cultivation-related infrastructure and decommission the access road and associated stream crossings.

NRM enrolled APN 208-111-021 for coverage under Tier 2 of the Regional Cannabis Order, effective November 2, 2016 and on June 10, 2019, Otto Farms LLC requested an transfer from the Regional Cannabis Order to 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 Order WQ 2019-0001-DWQ (the Statewide Cannabis General Order).

On November 4, 2020, CDFW and CalFire personnel inspected both parcels associated with the Property and identified violations. The CDFW Notice of Violation identified, on APN 208-111-020, the ongoing use of the ford through Little Larabee Creek, evidence of instream disturbance with heavy equipment at the ford to facilitate vehicle traffic, and spilled petroleum associated with a water diversion pump located next to Little Larabee Creek. CDFW identified on APN 208-111-021 that large conifer trees had been removed from within the Class III watercourse setback of 50 feet, impacting the riparian area of approximately 300-linear feet of stream and resulting in threatened discharge of sediment associated with equipment work in- and near surface waters.

On October 13, 2021, the Regional Water Board issued Cleanup and Abatement Order R1-2021-0053 (the Order) covering the Property. The Order directs you to decommission road and stream crossings, stabilize riparian areas, remediate spills, and clean up and abate the discharge of earthen materials and untreated storm water into Little Larabee Creek, and its unnamed tributaries per the following approved workplans: the Tier 3 Cleanup and Restoration Plan (July 25, 2018) and Addendum (September 17, 2019), the Hazardous Material Remediation Plan (August 26, 2021), and the Disturbed Area Stabilization Plan (May 20, 2021). Additionally, the Order requires that you provide monitoring and technical reports to ensure, and demonstrate, that you are implementing adequate cleanup, restoration, and remediation measures, and document and report on the progress of site recovery.

Following issuance of the Order, there was insufficient time prior to steady seasonal rain to accomplish the heavy equipment work, and thus it was postponed until the 2022 construction season. However, the fuel spill remediation work proceeded.

In 2022, Staff communicated with NRM regarding progress on completion of the cleanup work required by the Order. Work did not begin until the fall of 2022.

On December 6, 2022, Staff's inspection of the Property with CDFW personnel and NRM representatives evaluated status of the work. Following the inspection, on December 9, 2022, NRM submitted a completion report describing that work had been completed, including stabilization of the disturbed riparian area on APN 208-111-021 and excavation and disposal of petroleum-contaminated soil on the gravel bar of Little Larabee Creek. The NRM completion report also that road decommissioning work on APN 208-111-020 had not been completed as planned but that water bars had been installed along the approaches to the ford crossing of Little Larabee Creek.

### **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 December 6, 2022 inspection report, Staff observed violations of the Basin Plan Section 4.2.1 Prohibition 1 at location WQ2 for road-related discharges to Little Larabee Creek and Prohibition 2 at locations WQ1, WQ2, WQ3, WQ4, WQ6, and WQ8. As described in the Order, these ongoing road-related violations were also inspected on October 24, 2017 and July 19, 2018 and were identified as Basin Plan violations. The plastic booms left in Little Larabee Creek at location WQ5 and the sediment discharge at WQ1 are in violation of the California Water Code section 13264. The failure to implement the required work at locations WQ1, WQ3, WQ4, WQ5, WQ6,

and WQ10 is in violation of the Order, required action 1. Failure to notify the Regional Water Board of modifications to the CRMP is in violation of required action 2.

You have failed to complete implementation of an approved CRMP by November 15, 2022. These violations are ongoing and will accrue additional days of violation until the required actions are satisfied. Table 1 provides a summary of the violations of requirements of the Order, as of the date of this letter.

Violations imposed pursuant to Water Code section 13267 may result in administrative civil liability of up to \$1,000 per day pursuant to Water Code section 13268. Violations of requirements imposed pursuant to Water Code section 13304 may result in administrative civil liability of up to \$5,000 per day pursuant to Water Code section 13350.

*Table 1. Summary of violations of Order R1-2021-0053.*

Required Actions No.	Description	Authority, Water Code Section	Due date	No. days of Violation to date
1 and 3	Fully implement the Cleanup Restoration and Monitoring Plan (CRMP)	13350	November 15, 2021 extended to November 15, 2022.	52
2	Notify and receive approval prior to modification of the CRMP	13267	60 days prior to modifications	112

Please contact Adona White of my staff at 707-576-2672 or [Adona.White@waterboards.ca.gov](mailto:Adona.White@waterboards.ca.gov) or myself at 707-576-2835 or [Jeremiah.Puget@waterboards.ca.gov](mailto:Jeremiah.Puget@waterboards.ca.gov). if you have any questions about this letter or the actions required under the Order.

Sincerely,

Jeremiah Puget  
Senior Environmental Scientist  
Enforcement Unit

**Cc:**

**North Coast Regional Water Quality Control Board**

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

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**State Water Resources Control Board**

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**Department of Fish and Wildlife**

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**Humboldt County**

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**NRM**

Davin Peterson, [dpeterson@nrmcorp.com](mailto:dpeterson@nrmcorp.com)

Prairie Moore, [pmoore@nrmcorp.com](mailto:pmoore@nrmcorp.com)

## Attachment A – Regulatory Citations

Regulatory Section	Citation
Basin Plan Section 4.2.1, Prohibition 1	Prohibits “[t]he discharge of soil, silt, bark, slash, sawdust, or other organic and earthen material from any logging, construction, or associated activity of whatever nature into any stream or watercourse in the basin in quantities deleterious to fish, wildlife, or other beneficial uses.”
Basin Plan Section 4.2.1, Prohibition 2	Prohibits “[t]he placing or disposal of soil, silt, bark, slash, sawdust, or other organic and earthen material from any logging, construction, or associated activity of whatever nature at locations where such material could pass into any stream or watercourse in the basin in quantities which could be deleterious to fish, wildlife, or other beneficial uses.”
California Water Code Section 13260	<p>“(a) Each of the following persons shall file with the appropriate regional board a report of the discharge, containing the information that may be required by the regional board:</p> <p style="padding-left: 40px;">(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 style="padding-left: 40px;">(2) A person who is a citizen, domiciliary, or political agency or entity of this state discharging waste, or proposing to discharge waste, outside the boundaries of the state in a manner that could affect the quality of the waters of the state within any region.”</p>
California Water Code Section 13261(a)	“A person who fails to furnish a report or pay a fee under Section 13260 when so requested by a regional board is guilty of a misdemeanor and may be liable civilly in accordance with subdivision (b).”
California Water Code Section 13264(a)	“No person shall initiate any new discharge of waste or make any material changes in any discharge, or initiate a discharge to, make any material changes in a discharge to, or construct, an injection well, prior to the filing of the report required by Section 13260 and no person shall take any of these actions after filing the report but before whichever of the following occurs first: (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.”

## Attachment A – Regulatory Citations

Regulatory Section	Citation
California Water Code Section 13265(a)	"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."
California Water Code Section 13267(a)	A regional board, in establishing or reviewing any water quality control plan or waste discharge requirements, or in connection with any action relating to any plan or requirement authorized by this division, may investigate the quality of any waters of the state within its region.
California Water Code Section 13267(b)	In conducting an investigation specified in subdivision (a), the regional board may require that any person who has discharged, discharges, or is suspected of having discharged or discharging, or proposes to discharge waste within its region...that could affect the quality of waters within its region shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. 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.
California Water Code Section 13268(a)(1)	Any person failing or refusing to furnish technical or monitoring program reports as required by subdivision (b) of Section 13267, failing or refusing to furnish information as required by subdivision (a) or (b) of Section 13267.5, or failing or refusing to furnish a statement of compliance as required by subdivision (b) of Section 13399.2, or falsifying any information provided therein, is guilty of a misdemeanor, and may be liable civilly in accordance with subdivision (b).
California Water Code Section 13268(b)(1)	Civil liability may be administratively imposed by a regional board in accordance with Article 2.5 (commencing with Section 13323) of Chapter 5 for a violation of subdivision (a) in an amount which shall not exceed one thousand dollars (\$1,000) for each day in which the violation occurs.
California Water Code Section 13304(a)	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

## Attachment A – Regulatory Citations

Regulatory Section	Citation
	<p>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.</p>
<p>California Water Code Section 13350(a)</p>	<p>A person who (1) violates a cease and desist order or cleanup and abatement order hereafter issued, reissued, or amended by a regional board or the state board, or (2) in violation of a waste discharge requirement, waiver condition, certification, or other order or prohibition issued, reissued, or amended by a regional board or the state board, discharges waste, or causes or permits waste to be deposited where it is discharged, into the waters of the state, or (3) causes or permits any oil or any residuary product of petroleum to be deposited in or on any of the waters of the state, except in accordance with waste discharge requirements or other actions or provisions of this division, shall be liable civilly, and remedies may be proposed, in accordance with subdivision (d) or (e).</p>
<p>California Water Code Section 13350(e)</p>	<p>The state board or a regional board may impose civil liability administratively pursuant to Article 2.5 (commencing with Section 13323) of Chapter 5 either on a daily basis or on a per gallon basis, but not on both.</p> <p>(1) The civil liability on a daily basis shall not exceed five thousand dollars (\$5,000) for each day the violation occurs.</p> <p style="padding-left: 40px;">(A) When there is a discharge, and a cleanup and abatement order is issued, except as provided in subdivision (f), the civil liability shall not be less than five hundred dollars (\$500) for each day in which the discharge occurs and for each day the cleanup and abatement order is violated.</p> <p style="padding-left: 40px;">(B) When there is no discharge, but an order issued by the regional board is violated, except as provided in subdivision (f), the civil liability shall not be less than one hundred dollars (\$100) for each day in which the violation occurs.</p> <p>(2) The civil liability on a per gallon basis shall not exceed ten dollars (\$10) for each gallon of waste discharged.</p>

**FACILITIES INSPECTION REPORT**

Region/Office: 1	Status: Performed	Reg. Measure ID: 446969
Program Type: IRRICANNABIS	WDID: 1B161547CHUM	Order Number: R1-2021-0053
Scheduled Insp. Date:	Actual Insp. Date: 12/06/2022	

**Discharger Information**

Party ID: 555417	Discharger Organization Name: Aleksandrov, Aleksandar	
Address: Po Box 223	City, State, Zip: Fortuna, CA 95540	
Discharger Contact Person:	Discharger Contact Phone:	
Discharger Contact Email Address:		

**Facility Information**

Place ID 829393	Facility Name: South Parcel	
Address: Ca State 36 Highway	City, State, Zip: Bridgeville, CA	
County: Humboldt	Latitude: 40.472804	Longitude: -123.770771 Method: Map Interpolation (digital)

**Lead Inspector Information**

Lead Inspector Party ID: 526285	Lead Inspector Name: Adona White	
Inspector Type:	<input checked="" type="checkbox"/> State <input type="checkbox"/> State Contractor <input type="checkbox"/> EPA Contractor <input type="checkbox"/> EPA (Regional) <input type="checkbox"/> EPA and State (EPA Lead) <input type="checkbox"/> EPA and State (State Lead)	

**INSPECTION TYPE**

Inspection Type: Follow-up inspection (enforce)

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

Violation ID	Violation Type	Occurrence Date	Rank	Description
1111690	Order Conditions	12/06/2022	B	Failure to fully implement Cleanup and Abatement Order R1-2021-0053
1111854	Basin Plan Prohibition	12/06/2022	B	Water Quality Control Plan for the North Coast Region (Basin Plan) Section 4.2.1, Prohibitions 1 and 2
1111860	Other Codes	12/06/2022	B	California Water Code (Water Code) Section 13264 for unauthorized discharge of waste

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

Recommendations:

1. Implement CAO required work at WQ1, WQ3-6 & WQ10.
2. Drain the road away from the scarp of vertical slope above Little Larabee Creek at WQ2.
3. Immediately install water bars by hand on roadways to prevent and minimize threat of discharge this winter.
4. Immediately drain bladder pad away from road, by hand, at WQ7.
4. Remove cultivation-related plastic and soil from Property.
5. Provide status of compliance with Humboldt County Code Enforcement from Class II setback at WQ9.

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

See Appendix for inspection maps and photos. For locations discussed below, please see Figure 2 for the GPS Way Points (WP) and water quality concerns (WQ), and Figures 3 & 4 for instream Project numbers.

WQ1: Project 3 - The bridge over a Class II watercourse has not been removed and access to Little Larabee Creek remains open.

WQ2, WP1019 - Vertical unstable slope below road and above Little Larabee Creek. Water is pooled on road surface. Drainage structures are absent and road runoff can gather and discharge onto face. The face is not a stable angle of repose and lay back should be considered. Should have been addressed by decommissioning the road, which was not completed.

WQ3, Project2, WP1018 - Class III watercourse crossing. No channel was excavated and only straw was placed there. Threatened discharge of sediment.

WQ4, Project4 - The road at Little Larabee Creek is not blocked. Four waterbars had been installed on the right bank road approach to the ford, but no other measures had been completed to eliminate use of the Class I ford.

WQ5, WP1017- Plastic booms from the spill are still in place in the stream.

WQ6-Except for two waterbars, the road up the hill from Little Larabee Creek has not been waterbarred and has concentrated runoff and rilled surface.

WP1014 - Cultivation Area with plastic and soil still present.

WQ7, WP1015-uncapped well

WQ8, WP1012-Bladder pad with berm (as required by CANGO) has no outlet and is holding water like a pond. Lowest point will result in water release down road.

WQ9, WP1011 - Building in riparian setback

WP1010 - Logs removed from riparian clearing.

WQ10, WP1009 - Class III watercourse. Soil pile has been removed and the disturbed are treated with seed and straw. The disturbance has left a low area adjacent to the watercourse that may result in flow going over the channel bank. Area has not been planted per the revegetation plan.

WP1008 - Plastic next to watercourse.

WP1007 - Green House. with plastic and soil present.

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



Aleksandrov, Open Road Agency, Otto Farms  
Map and Photo Appendix, December 6, 2022 Inspection  
CIWQS Inspection ID 50082183

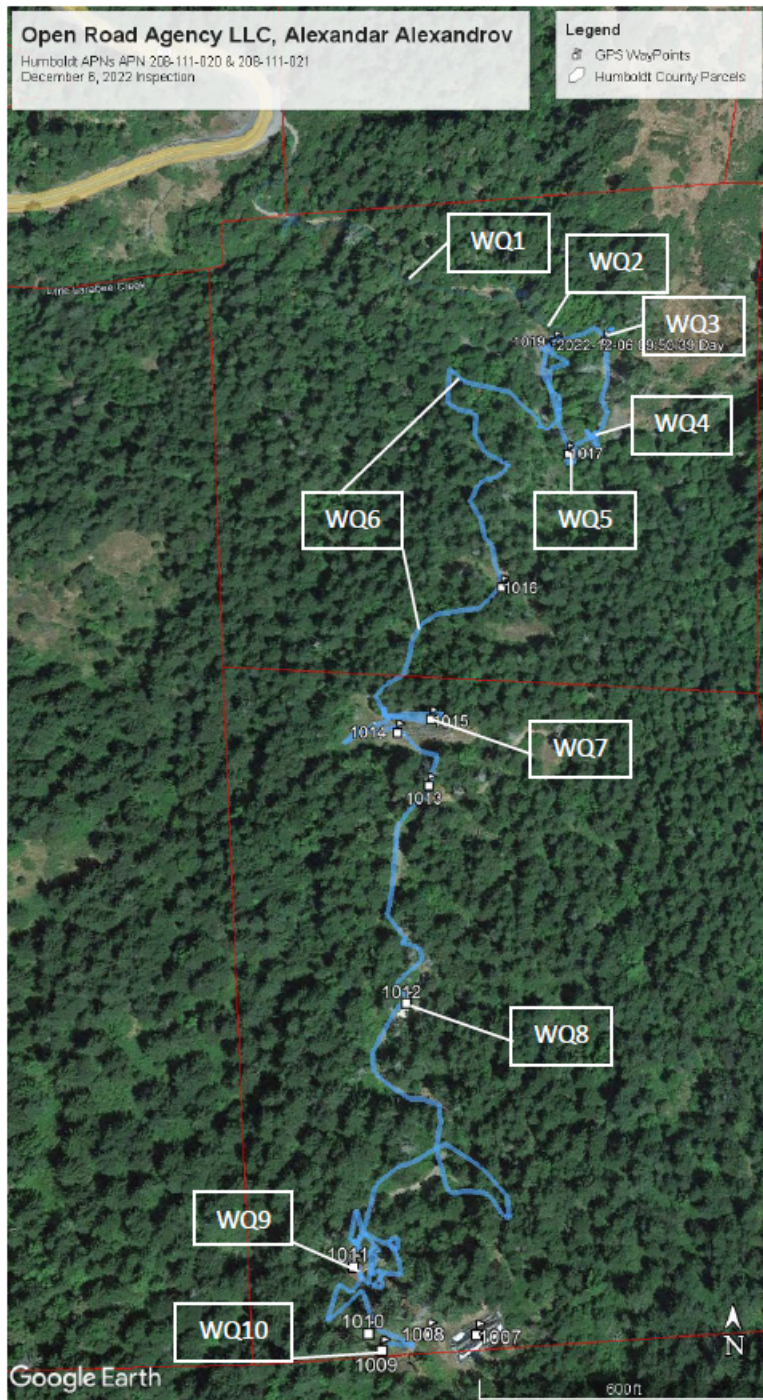


Figure 2. December 6, 2022 inspection map identifying GPS Way Point (WP) locations and features of water quality concern (WQ). Blue line shows walking track.

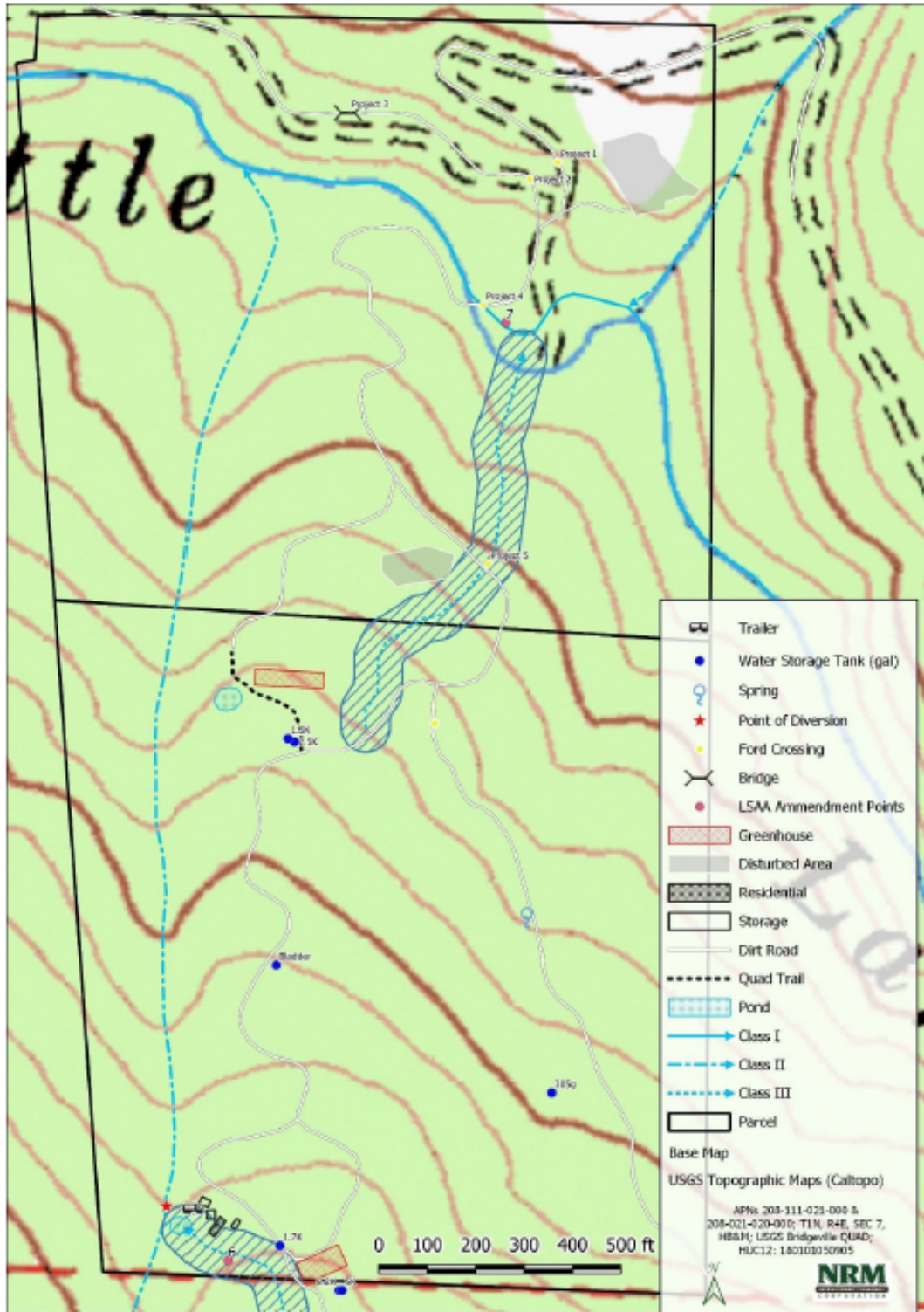


Figure 3. Map provided by NRM in completion report provided on December 9, 2022.

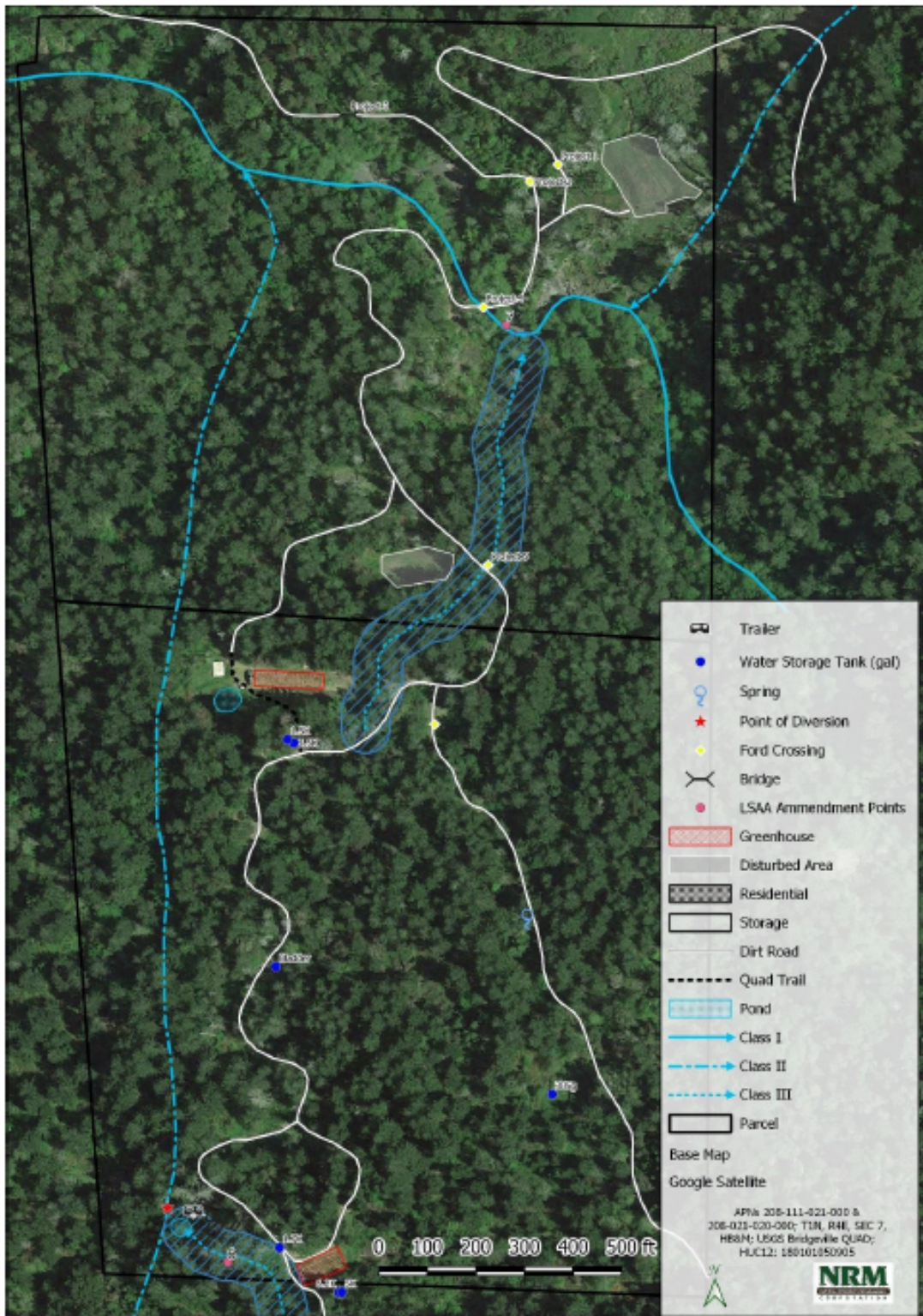


Figure 4. Map provided by NRM in completion report provided on December 9, 2022.

### Inspection Photographs

All photos taken by Adona White on  
December 6, 2022.



*Figure 5. WQ1, Class II bridge was to be removed but is still in-place.*



*Figure 6. WQ1, Class II bridge keeps access road open.*



*Figure 7. WQ2. North approach of access road with vertical unstable area on outboard edge of road.*



*Figure 8. WQ2, puddled water on south approach of road above vertical unstable outboard slope.*



*Figure 9. WQ2, slip-out and discharge into side-channel of Little Larabee Creek.*



*Figure 10. WQ2, slip-out and discharge into side-channel of Little Larabee Creek.*



*Figure 11. WQ2, vertical face has eroded road prism.*



*Figure 12. Water bar installed in 2022.*



*Figure 13. Waterbar on right bank above WQ4.*



Figure 14. WQ4 ford crossing over little Larabee Creek.



Figure 17. WQ6 - Left bank road approach to second and upper waterbar above WQ4.



Figure 15. WQ5.



Figure 18. WQ7.



Figure 16. WQ6 - Waterbar on left bank approach to WQ4.



Figure 19. Cultivation area next to well at WQ7.



Figure 20. WQ8, bladder pad located next to roadway has berm around it and is holding water.



Figure 21. WQ8, bladder pad holding water. Overflow would go down road. Berm should be breached away from road.



Figure 22. WQ9. Building in Class II setback.



Figure 23. WQ10. Looking upstream with Class III watercourse on right, cabin on left, and greenhouse in distance.



Figure 24. WQ10. Looking downstream class III watercourse, with plastic and cabin on right.



Figure 25. WQ10, Class III wide spot may not contain flow.



*Figure 26. WQ10, Class III with stumps from harvested trees. Riparian area still needs to be revegetated.*



*Figure 28. Way Point (WP) 1001, greenhouse cultivation area with plastic and soil still remaining.*



*Figure 27. Logs at WP1010. Harvest from riparian area.*