

## North Coast Regional Water Quality Control Board

### California Regional Water Quality Control Board

#### North Coast Region

#### First Amended

#### Water Code Section 13267 Investigative Order No. R1-2024-0038

#### Directing Emmerson Investments, Inc.

#### To Submit Technical and Monitoring Reports Pertaining to Discharges from the Seldom Seen Ranch, Hole in the Ground Ranch, and Shasta Springs Ranch

#### WDID Nos. 1A24035RSIS, 1A24033RSIS, & 1A24034RSIS

#### Siskiyou County

The California Regional Water Quality Control Board, North Coast Region (Regional Water Board) finds that:

1. Emmerson Investments, Inc. is the owner and operator of the Seldom Seen Ranch,<sup>1</sup> Hole in the Ground Ranch,<sup>2</sup> and Shasta Springs Ranch.<sup>3</sup> These three ranches are hereinafter collectively referred to as the Property within the Order.
2. The entire Property lies within the Shasta Valley Hydrologic Area, and consists of three contiguous ranches in the Shasta Valley, which total 10,325 acres of land: Seldom Seen Ranch, Hole in the Ground Ranch, and Shasta Springs Ranch. The Shasta River flows through Seldom Seen Ranch and Hole in the Ground Ranch. Parks Creek flows through Shasta Springs Ranch and Hole in the Ground Ranch. The Parks Creek overflow channel, a historic alignment of Parks

<sup>1</sup> Siskiyou County APNs 020-040-070, 020-050-320, and 020-050-330

<sup>2</sup> Siskiyou County APNs 020-030-100, 020-030-040, 020-060-020, 020-030-030, 020-030-110, 020-030-080, and 020-040-430

<sup>3</sup> Siskiyou County APNs 020-080-210, 020-080-220, 020-080-270, 020-080-090, 020-030-090, 020-080-030, 020-060-040, 020-060-060, 020-060-050, 020-060-090, 020-030-070, 020-080-300, 020-080-180, 020-060-110, 020-060-080, and 020-060-100

Creek, flows through Hole in the Ground Ranch. All ranches are managed for beef cattle production.

3. Emmerson Investments, Inc. (the Discharger) is the current owner and operator of the Property and are implementing management measures that make them eligible for coverage under the Shasta River Total Maximum Daily Load (TMDL) Conditional Waiver of Waste Discharge Requirements (WDRs), Order No. R1-2018-0019 (TMDL Conditional Waiver).
4. The TMDL Conditional Waiver requires ranch owners and operators within the Shasta River watershed to submit a Ranch Management and Monitoring Plan (Ranch Plan) for their properties following property assessments conducted by Regional Water Board staff. On May 29, May 30, and August 1, 2019, Regional Water Board staff assessed the Property (Ranch Assessment).
5. On November 23, 2020, the Executive Officer of the Regional Water Board issued a letter to the Discharger (November 23, 2020 Letter) requiring submission of technical and monitoring information pursuant to Water Code section 13267 in the form of a Ranch Management and Monitoring Plan (Ranch Plan) and a Baseline Assessment Report. The November 23, 2020 Letter and the Ranch Assessment are included, herein, as Attachment A to this Order. The November 23, 2020 Letter required submission of the Ranch Plan and Baseline Assessment Report by April 1, 2021, and Annual Reports by February 1 of each year. On March 9, 2021, the Discharger requested a 90 day extension for their April 1 due date, which the Regional Water Board granted, extending the due date to July 1, 2021. Regional Water Board staff received the Ranch Plan for the Property 18 days late, on July 19, 2021. The November 23, 2020 Letter included Monitoring Requirements for dissolved oxygen and temperature at eight separate monitoring station locations on the Property, consistent with the monitoring station locations cited within the Ranch Assessment. The Discharger complied with Monitoring Requirements at five (5) of the eight (8) monitoring station locations, however, the Discharger has yet to fully comply with the monitoring and reporting requirements issued by the Regional Water Board. On February 28, 2024, the Discharger submitted some additional data, but that submittal did not fully resolve deficiencies in the required monitoring and reporting.
6. On November 23, 2021, the Regional Water Board issued a Conditional Approval Letter (Attachment B) approving the Ranch Plan for the Property acknowledging the Ranch Plan as sufficient to support compliance with Order No. R1-2018-0019. This Order amends the monitoring requirements set forth in the November 23, 2020 Letter from Annual Reporting requirements to Quarterly Reporting requirements (more information in Required Action B1, below).
7. The Regional Water Board adopted Order No. R1-2023-0005 as a Short-Term Renewal of the Scott and Shasta River TMDL Conditional Waivers, Orders No.

R1-2018-0018<sup>4</sup> and R1-2018-0019,<sup>5</sup> respectively, on April 21, 2023. The intent of this short-term renewal of Orders Nos. R1-2018-0018 and R1-2018-0019 is to allow continued use of these Orders while Regional Water Board staff develop new orders for certain nonpoint source discharges in the Scott and Shasta River watersheds to implement the respective Total Maximum Daily Load Action Plans (Scott River TMDL<sup>6</sup> and Shasta River TMDL).<sup>7</sup> Order No. R1-2023-0005 covers discharges associated with activities not explicitly covered by other Regional Water Board permits, including ranching operations adjacent to waterways and rural roads not associated with active timber harvest plans.

8. Discharges associated with beef cattle production include increased temperature in stream reaches where current effective shade is less than the adjusted site-specific potential effective shade indicated in the Shasta River TMDL, increase of temperature due to impoundment of surface waters, discharges of fine sediments and other oxygen consuming materials including animal waste, and discharges of warm and nutrient-rich irrigation tailwater.
9. The Shasta River TMDL recognizes the following factors associated with beef cattle production as risks to water quality: unpermitted impoundments and/or alterations to streambanks and streambeds, excessive animal grazing in riparian corridors, unrestricted animal access to the Shasta River and its tributaries, storage or application of agricultural materials and substances, and unmitigated tailwater return flows to the mainstem and tributaries of the Shasta River.
10. The discharges of fine sediments and other oxygen consuming materials, warm and nutrient-rich irrigation tailwater, and increased temperature in receiving waters have the potential to degrade beneficial uses, as designated in the Water Quality Control Plan for the North Coast Region (Basin Plan) for the Shasta River and its tributaries.<sup>8</sup> The Beneficial Uses designated include: Municipal and Domestic Supply (MUN), Agricultural Supply (AGR), Industrial Service Supply (IND), Groundwater Recharge (GWR), Freshwater Replenishment (FRSH), Navigation (NAV), Water Contact Recreation (REC-1), Non-Contact Water Recreation (REC-2), Commercial and Sport Fishing (COMM), Warm Freshwater

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<sup>4</sup> Scott River TMDL Conditional Waiver of Waste Discharge Requirements

<sup>5</sup> Shasta River TMDL Conditional Waiver of Waste Discharge Requirements

<sup>6</sup> Additional information on the Scott River Total Maximum Daily Load can be found on the Regional Water Board webpage:

[https://www.waterboards.ca.gov/northcoast/water\\_issues/programs/tmdls/scott\\_river/](https://www.waterboards.ca.gov/northcoast/water_issues/programs/tmdls/scott_river/)

<sup>7</sup> Additional information on the Shasta River Total Maximum Daily Load can be found on the Regional Water Board webpage:

[https://www.waterboards.ca.gov/northcoast/water\\_issues/programs/tmdls/shasta\\_river/](https://www.waterboards.ca.gov/northcoast/water_issues/programs/tmdls/shasta_river/)

<sup>8</sup> More information on the Water Quality Control Plan for the North Coast Region (Basin Plan) can be found on the Regional Water Board Basin Plan webpage:

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

Habitat (WARM), Cold Freshwater Habitat (COLD), Wildlife Habitat (WILD), Rare, Threatened, Endangered Species (RARE), Migration of Aquatic Organisms (MIGR), Spawning, Reproduction, and/or Early Development (SPWN), Aquaculture (AQUA), and Native American Culture (CUL).<sup>9</sup>

### **Legal and Regulatory Authority**

11. This Order issued pursuant to California Water Code (Water Code) section 13267 and conforms to and implements policies and requirements of the Porter-Cologne Water Quality Control Act (Division 7, commencing with Water Code section 13000) including section 13267, and the Basin Plan adopted by the Regional Water Board including beneficial uses, water quality objectives, and implementation plans.
12. Water Code section 13267, subdivision (a), provides that the Regional Water Board may investigate the quality of any waters 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 reports required by this Order will assist the Regional Water Board in determining whether the Discharger has taken, or will take, necessary actions to protect water quality and the beneficial uses of surface waters in the Shasta River watershed. The burden of compiling these reports, including the costs associated with collecting the information, bear a reasonable relationship to the benefits that will be obtained from having the necessary information for the Regional Water Board to properly regulate and monitor the Property and to protect water quality in the Shasta Valley Hydrologic Area.
13. Water Code section 13267, subdivision (b) specifies that the burden to provide the required reports, including the costs, must bear a reasonable relationship to the need for the reports and their benefits. This Order requires Surface Water Monitoring Requirements, and Quarterly Monitoring Reports. The burdens, including the costs, of these reports bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports. The information is necessary to understand the impacts of discharges to tributaries of the Shasta River, to ensure that any threat to water quality created by activities on the Property are properly assessed and controlled, and to assess compliance with

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<sup>9</sup>. More information on Beneficial Uses can be found in Chapter 2 of the Basin Plan at: [https://www.waterboards.ca.gov/northcoast/water\\_issues/programs/basin\\_plan/180710/BPChapter2BeneficialUses.pdf](https://www.waterboards.ca.gov/northcoast/water_issues/programs/basin_plan/180710/BPChapter2BeneficialUses.pdf)

the Shasta TMDL. Regional Water Board staff estimates the annual cost of reporting to be between \$10,408 and \$13,200.<sup>10</sup>

- a. **Quarterly Reporting Requirements:** Quarterly Monitoring Reports are necessary to evaluate surface water quality relative to the potential impacts from the Property and determine compliance with the TMDL Conditional Waiver. These reports shall include the results of the data gathered from the Surface Water Monitoring Requirements in Required Action A and consistent with the reporting requirements in Required Action B of this Order. The requirements of a Quarterly Monitoring Report are comparable to that of a Periodic Groundwater Monitoring Report as presented in the 2018 UST Cost Guidelines Update, which is estimated to cost anywhere between \$2,602 and \$3,300 for a single report, or between \$10,408 and \$13,200 annually.

## **REQUIRED ACTIONS**

### **A. Surface Water Monitoring Requirements**

1. This Order requires the Discharger to conduct surface water monitoring requirements for temperature and dissolved oxygen (DO), within 100 feet upstream or downstream of the indicated coordinates to accommodate for site-specific access factors while still capturing the intended site-specific conditions, as set forth in the November 23, 2020 Letter (listed below), with the addition of monitoring station location ix, which is a newly added station. Figure 1 (below) shows the approximate monitoring station locations.
  - i. **Shasta River at Riverside Drive Bridge (DO and Temperature)** (41.548, -122.380) – Provides water quality conditions upstream of the ranches.
  - ii. **Shasta River Downstream of Clear Spring (DO and Temperature)** (downstream of Clear Spring where spring water and Shasta River water have becoming comingled) – Measures the cooling effect of Clear Spring and identifies if point of diversion consolidation is having the desired effect when prior right water is released.
  - iii. **Parks Creek Upstream of Bridge Field Confluence (DO and Temperature)** (41.5232, -122.436) – Measures water quality before Bridge Field and Black Meadow springs water are added.

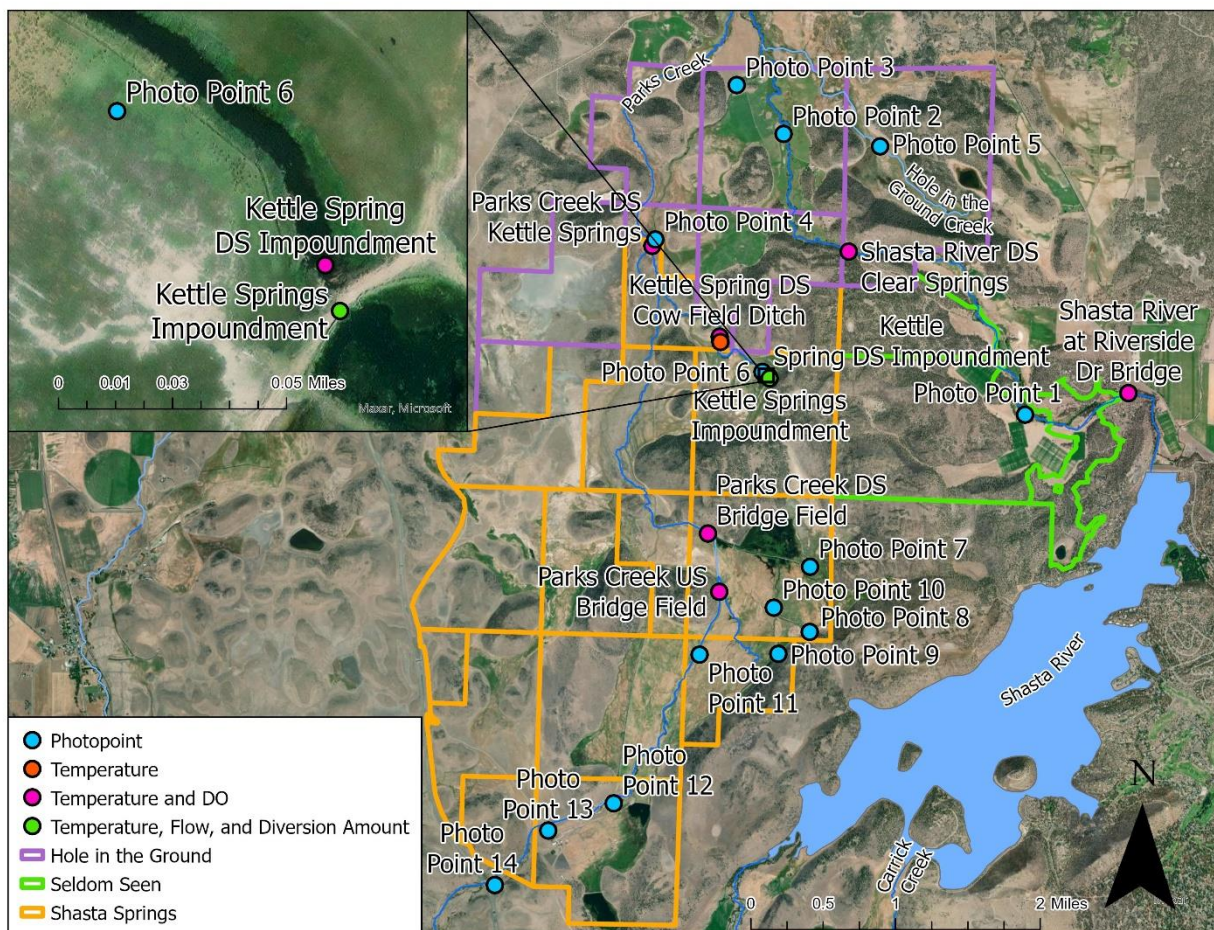
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<sup>10</sup> Cost estimates are based on the Underground Storage Tank Cleanup Fund 2018 Cost Guidelines Update (2018 UST Cost Guidelines Update), dated August 2018, which can be found at the following link:

[https://www.waterboards.ca.gov/water\\_issues/programs/ustcf/docs/cost\\_guidelines/2018\\_cost\\_guidelines\\_update.pdf](https://www.waterboards.ca.gov/water_issues/programs/ustcf/docs/cost_guidelines/2018_cost_guidelines_update.pdf)

- iv. **Parks Creek Downstream of Bridge Field Confluence (DO and Temperature)** (41.5341, -122.438) – Measures the effect of management actions implemented in the Bridge Field/Black Meadow Spring complex are effective at protecting and improving water quality.
- v. **Kettle Spring Downstream of the Impoundment (DO and Temperature)** (41.5494, -122.429) – Measures the effectiveness of the Kettle Spring Impoundment and Irrigation Efficiency Project funded by the Regional Water Board's 319h grant.
- vi. **Kettle Spring Upstream of Cow Field Ditch (Temperature)** (41.5527, -122.435) – Measures water temperature before any contribution of Cow Field Ditch.
- vii. **Kettle Spring Downstream of Cow Field Ditch (DO and Temperature)** (41.5552, -122.436) – Measures the influence of tailwater discharges from Cow Field Ditch has on Kettle Spring Creek and the effectiveness of actions taken to mitigate any impact.
- viii. **Parks Creek Downstream of Kettle Springs Confluence (DO and Temperature)** (41.5624, -122.445) – Measures the cooling effect of Kettle Springs Water and quality of water leaving Shasta Springs Ranch.
- ix. **Kettle Springs Diversion Structure (Temperature, Flow, and Diversion Amount)** - Provide source water temperature conditions for Kettle Springs Creek as well as information regarding the use and management of the publicly-funded diversion structure on Kettle Springs Creek.





**Figure 1:** Monitoring station locations and photo points for the Property. The inset map shows the new monitoring station location (Kettle Springs Diversion Structure Impoundment, monitoring station location ix) included in this Order.

## B. Quarterly Reporting Requirements

1. Quarterly<sup>11</sup> reports shall be submitted to the Regional Water Board in PDF format by the first day of the second month after the respective quarterly reporting period (i.e. May 1 (Quarter 1), August 1 (Quarter 2), November 1 (Quarter 3), and February 1 (Quarter 4)). At a minimum, each quarterly monitoring report shall include:
  - i. A summary of actions conducted in the previous year to support Waiver compliance. This includes fencing and berm maintenance, a log of riparian

<sup>11</sup> Quarters are defined as follows: Quarter 1: January 1 – March 31; Quarter 2: April 1 – June 30; Quarter 3: July 1 – September 30; Quarter 4: October 1 – December 31.

- grazing events conducted, improvements to spring impoundments, and restoration actions implemented.
- ii. A summary of actions planned in the following quarter to support Waiver compliance.
  - iii. Proposed changes to the Ranch Plan to adapt to changing conditions and improve water quality protection. Any proposed changes must be approved by the Regional Water Board prior to implementation, per provision C.5. below.
  - iv. Loggers are deployed according to an approved Quality Assurance Program Plan (QAPP), including protocols regarding calibration and maintenance.
  - v. All raw data downloaded from the dissolved oxygen and temperature loggers the previous quarter, in comma separated value text files (csv) or excel format.
2. Comparison to baseline instream conditions is vital to tracking progress on your Property. The next monitoring report, due on August 1, 2024, will provide an assessment of current conditions, including any temperature or dissolved oxygen data you may have collected for 2024 and/or previous years. Photos contained in your 2024 Annual Report shall include representative riparian conditions at all 14 photo point locations required under the November 23, 2021, Conditional Approval Letter.

### **C. Provisions**

1. **Use of Registered Professionals:** The Discharger shall provide documentation that each technical report required by this Order was prepared under the direction of appropriately qualified professionals. In preparing each technical report required by this Order, any engineering or geologic evaluations and judgments must be performed by or under the direction of registered professionals pursuant to California Business and Professions Code sections 6735, 7835, and 7835.1. A statement of qualifications and registration numbers of the responsible lead professional shall be included in the report submitted by the Discharger. The lead professional shall sign and affix his or her registration stamp to the report. The Discharger's reliance on qualified professionals promotes proper planning, implementation, and long-term cost-effectiveness of investigation, and cleanup and abatement activities. Professionals shall be qualified, licensed where applicable, and competent and proficient in the fields pertinent to the required activities.
2. **Signatory Requirements:** The technical reports shall be signed and certified by either a principal executive officer or the person with overall responsibility for environmental matters for the Discharger. Additional reports submitted in support of the technical report shall be signed by the principal author.



3. **Certification Statement:** Any report submitted in response to this Order shall be signed and include the following perjury statement:

*I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.*

4. **Report Submittal:** The technical reports shall be submitted electronically to: Eli Scott, [Elias.Scott@waterboards.ca.gov](mailto:Elias.Scott@waterboards.ca.gov)

- i. When reporting data, the Discharger shall arrange the information in tabular form so that the date, the constituents, and the concentrations of all sampling and monitoring results are readily discernible and shall summarize the data in such a manner as to clearly illustrate compliance with this Order.
- ii. All reports shall be prepared by a registered professional or their subordinate and shall be signed by the registered professional.
- iii. The Discharger shall implement the above monitoring and reporting directives as of the effective date of the Order.

5. **Duration and Modification of Order:** This Order shall remain in full force and effect until it is rescinded in writing by the Regional Board Assistant Executive Officer. Any modifications must be requested in writing as soon as the need is recognized and prior to the compliance date. Any modification, including a compliance date extension, may only be granted by written modification of this Order or by a letter from the Assistant Executive Officer.

#### **D. Notifications**

1. **Enforcement Discretion:** The Regional Water Board reserves its rights to take any enforcement action authorized by law for violations of the terms and conditions of this Order. Furthermore, compliance with this Order is wholly distinct from any possible enforcement that may follow from the discharges themselves, pursuant to violations of the Water Code or other orders issued by the Regional Water Board.
2. **Enforcement Notification:** Pursuant to Water Code section 13268, failure to submit the required technical reports as required by Water Code section

13267(b), or falsifying any information provided therein, may result in the imposition of administrative civil liability of up to \$1,000 per violation per day.

3. **Delayed Compliance:** If for any reason, the Discharger is 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, 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 be granted by letter from the Assistant Executive Officer.
4. **California Environmental Quality Act Compliance:** The issuance of this Order is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Title 14 of the California Code of Regulations, section 15306. The submission of technical information does not constitute a project with environmental impacts.
5. **Appeal Notification:** Any person aggrieved by this action of the Regional Water Board may petition the State Water Resources Control Board to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, sections 2050 and following. The State Water Board must receive the petition by 5:00pm, 30 days after 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 (including mandatory furlough days), the petition must be received by the State Water Board by 5:00pm on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at: [https://www.waterboards.ca.gov/public\\_notices/petitions/water\\_quality/](https://www.waterboards.ca.gov/public_notices/petitions/water_quality/) or will be provided upon request.

It is hereby ordered,

Valerie Quinto  
Executive Officer

First Amended Water Code Section 13267 Investigative Order No. R1-2024-0021 for  
Emmerson Investments, Inc.

First Amended Water Code section 13267  
Investigative Order No. R1-2024-0038  
Emmerson Investments, Inc.

Attachments:

- A. November 23, 2020 Letter with Ranch Assessment
- B. November 23, 2021 Conditional Approval Letter