CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
NORTH COAST REGION

DRAFT
CLEANUP AND ABATEMENT
AND
WATER CODE SECTION 13267(b) ORDER NO.[XXXXX]
DOUGLAS AND HEIDI COLE, ASSESSOR PARCEL NUMBER 026-290-200
WDID 1A15024NSI

SISKIYOU COUNTY

This Order is issued to Douglas and Heidi Cole (hereinafter referred to as Dischargers) based on provisions of Water Code section 13304, which authorizes the North Coast Regional Water Quality Control Board (Regional Water Board) to issue a Cleanup and Abatement Order ("Order"), and Water Code section 13267, which authorizes the Regional Water Board to require the preparation and submittal of technical and monitoring reports.

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

1. **Purpose of the Order:** This Order requires the Dischargers to eliminate the threat of future discharges and to clean up and abate the effects of discharges of soil, rock and miscellaneous debris into Irving Creek, Stanshaw Creek, and the Klamath River. These watercourses are considered waters of the state, as well as waters of the United States. (References hereinafter to waters of the United States are inclusive of waters of the state.)[1] The Dischargers maintain a diversion ditch from Stanshaw Creek to Irving Creek. The Dischargers operate the ditch to provide water to the Marble Mountain Ranch, for domestic uses, as well as to generate electricity and provide a stock watering pond, with the potential for fire protection, and recreational use. The upper segment of the ditch carries water from Stanshaw Creek to the Marble Mountain Ranch. Tailwater from the pelton wheel used for power generation flows through the property to the pond. Overflows from the pond flow to a discharge point where they enter Irving Creek. Water in the upper segment of the ditch periodically overtops or breaches portions of its outboard containment berm, eroding slopes below the ditch.

   In some cases, water escaping from the ditch flows to and transports earthen material into downslope watercourses, including Stanshaw Creek and, potentially, the Klamath River. Outflows to Irving Creek have created a significant active

[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 waters as "waters of the United States." Waters of the United States have been interpreted broadly by the agencies responsible for implementing the CWA to include all traditionally navigable waters and their tributaries. (40 C.FR. 122.2) The Porter-Cologne Water Quality Control Act (Porter Cologne) provides the Regional Water Board additional authority to regulate discharges of waste into "waters of the state." (Water Code § 13260.) The term "water of the state" is defined as "any surface water or groundwater, including saline waters, within the boundaries of the state." (Water Code § 13050(3).) All waters of the United States that are within the boundaries of California are also waters of the state for purposes of Porter-Cologne.

erosional feature, representing a chronic source of sediment discharges into Irving Creek. Point source discharges of sediment-laden waters associated with ditch containment failures and chronic sediment discharges from the Irving Creek outfall occur without authorization from applicable federal, state, and local agencies, including the Regional Water Board. This Order requires investigation and cleanup in compliance with the Water Code, the Water Quality Control Plan for the North Coast Region (Basin Plan), and other applicable Regional Water Board plans, policies, and regulations.

2. **Responsible Parties:** The Dischargers, as the property owners and operators of the ditch are discharging or creating a threat of discharge, and are responsible parties for purposes of this Order.

   a. Per records from the Siskiyou County Assessor-Recorder's Office, Douglas and Heidi Cole are the owners of record for the property identified as Assessor Parcel 026-290-200.

   b. The Regional Water Board reserves the right to amend this CAO to add additional responsible parties when/if those parties are identified.

3. **Location and Description:** The Marble Mountain Ranch is located approximately 8 miles north of Somes Bar, in Siskiyou County at 92520 Highway 96. The ditch supplying water to the Ranch originates in Stanshaw Creek (tributary to Klamath River at river mile 76.1) and discharges into Irving Creek (tributary to Klamath River at river mile 75). The Point of Diversion (POD) is located on Stanshaw Creek, about 0.68 miles upstream of the Highway 96 crossing.

4. **History:** According to records from the Siskiyou County Assessor-Recorder's Office, Douglas and Heidi Cole purchased the Ranch in March of 2007. There is no record of the Ranch or the diversion ditch having prior regulatory oversight or history with the Regional Water Board. The diversion has reportedly been in place since the 1800s, supplying a variety of uses to landowners over the years with the most recent landowners being the Dischargers.

5. **Basis of Order:** Periodic failure of the ditch, and the Dischargers' activities to operate and maintain the ditch, as detailed below, created and/or threaten to create, conditions of pollution in waters of the state by unreasonably impacting water quality and beneficial uses.

   a. During an inspection of the diversion ditch and facility on February 12, 2015, Regional Water Board staff identified 19 locations along the upper ditch where the ditch has failed or has the potential to fail.
   The primary failure mechanisms were identified as 1) cut bank slumps block the ditch and cause flows to overtop the berm; 2) water infiltrates into and seeps through the berm, and causes the berm to fail eroding underlying soils and

hillslopes; and 3) as noted above, cumulative sediment inputs reduce the ditch capacity and increase the risk of overtopping as ditch capacity is diminished, particularly increasing the potential for failure in areas where the berm is low or has been damaged. Due to the operation and maintenance of the ditch, failures and repairs constitute an annual and chronic discharge of sediment to waters of the state, including Stanshaw and Irving Creeks, and potentially directly to the Klamath River.

b. The diversion ditch outfall discharges onto a steep slope with an abrupt drop into a short unnamed tributary to Irving Creek. This discharge causes significant slope erosion and chronic delivery of substantial volumes of sediment into receiving waters.

6. **Beneficial Uses and Water Quality Objectives:** The Basin Plan designates beneficial uses, establishes water quality objectives, contains implementation programs for achieving objectives, and incorporates by reference, plans and policies adopted by the State Water Resources Control Board. Stanshaw and Irving Creeks are tributaries of the Klamath River within the Middle Klamath River hydrologic area, which is federal Clean Water Act section 303(d) listed as impaired for sediment, temperature, microcystin, organic enrichment/low dissolved oxygen, and nutrients. On September 7, 2010, the State Water Resources Control Board adopted a Resolution approving amendments to the Water Quality Control Plan for the North Coast Region to establish: (1) Site Specific Dissolved Oxygen Objectives for the Klamath River; (2) an Action Plan for the Klamath River Total Maximum Daily Loads (TMDLs) Addressing Temperature, Dissolved Oxygen, Nutrient, and Microcystin Impairments in the Klamath River; and (3) an Implementation Plan for the Klamath and Lost River Basins. On December 28, 2010, the US Environmental Protection Agency approved the TMDLs for the Klamath River in California pursuant to CWA Section 303(d)(2). The Action Plan indicates that temperature impairments in the Klamath are attributable in part to excess sediment loads from anthropogenic sources, and encourages parties responsible for existing sediment sources to take steps to inventory and address those sources. Existing and potential beneficial uses for the Ukonom Hydrologic Subarea of the Middle Klamath River Hydrologic Area potentially affected by the activities described herein include the following: Municipal and Domestic Supply (MUN); Agricultural Supply (AGR); Industrial Service Supply (IND); Industrial Process Supply (PRO); Ground Water Recharge (GWR); Freshwater Replenishment Groundwater Recharge (GWR); Freshwater Replenishment (FRSH); Navigation (NAV); Hydropower Generation (POW); Water Contact Recreation (REC-1); Non-contact Water Recreation (REC-2); Commercial and Sport Fishing (COMM); Warm Freshwater Habitat (WARM); Cold Freshwater Habitat (COLD); Wildlife Habitat (WILD); Rare Threatened or Endangered Species (RARE); Migration of Aquatic Organisms (MIGR); Spawning, reproduction, and/or Early Development (SPWN); and Aquaculture (AQUA) and Native American Culture (CUL). Beneficial uses of any specifically identified water body generally apply to all

of its tributaries. These include Stanshaw Creek, Irving Creek, and any tributaries thereto.

Section 3 of the Basin Plan contains water quality objectives that specify limitations on certain water quality parameters not to be exceeded as a result of waste discharges. These include, but are not limited to 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 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 back ground levels. Allowable zones within which higher percentages can be tolerated may be defined for specific discharges upon the issuance of discharge permits or waiver thereof.

7. **Failure to Obtain Necessary Permits:** Regional Water Board staff determined that discharges of waste earthen material associated with ditch operation, maintenance, and failure, including point source discharges of sediment-laden water to waters of the state has occurred without coverage under either a National Pollutant Discharge Elimination System (NPDES) permit, waste discharge requirements, or a waiver thereof.

8. **Clean Water Act Violations:** Section 301(a) of the Clean Water Act provides that subject to certain exceptions, "the discharge of any pollutant by any person shall be unlawful." 33 U.S.C. § 1311(a). One of the exceptions allowed for under the Clean Water Act is the discharge from a point source as authorized by a permit granted pursuant to the National Pollutant Discharge Elimination System (NPDES) under § 402 of the Clean Water Act. 33 U.S.C. § 1342. The Clean Water Act prohibits the discharge of any pollutant from a point source into waters of the United States without an NPDES permit. Evidence observed by staff along the upper ditch indicated that the ditch had overtopped or caused the berm to fail at several locations. While staff did not follow the erosion path below each failure point to confirm that flows reached downstream surface waters, staff did observe a number of points where the flows reached Stanshaw Creek.

In each case, such a flow, carrying sediment and/or other mobilized materials and delivering them into a surface water represents a point source discharge of waste,

requiring an NPDES permit.

9. Water Code Violations:

a. Water Code section 13376 requires any person discharging or proposing to discharge pollutants to waters of the United States to file a report of the discharge. Each case where the ditch has failed and flows have discharged into Stanshaw Creek or the Klamath River, represents a violation of Water Code section 13376 associated with the discharge of sediment-laden water into waters of the United States without first filing a report of discharge. In addition, the chronic discharge of sediment into Irving Creek associated with the erosion feature at the ditch outfall represents an ongoing violation, and a discharge of waste without a report of waste discharge and/or waste discharge requirements.

b. Water Code section 13304(a) states, in relevant part: Any 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.

c. Sediment, when discharged to waters of the state, is a "waste" as defined in Water Code section 13050. The Discharger has discharged waste directly into surface waters of Stanshaw Creek, an unnamed tributary to Irving Creek, and to Irving Creeks, which are tributaries of the Klamath River.

d. The beneficial uses of the Klamath River discussed above in Finding 6 also apply to Stanshaw and Irving Creeks.

e. "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 of the following:

i. The waters for beneficial uses;
ii. Facilities which serve these beneficial uses.

f. "Nuisance" is defined by Water Code section 13050, subdivision (m) as, anything which meets all of the following requirements:

i. Is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property.
ii. Affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.
iii. Occurs during, or as a result of, the treatment or disposal of wastes.

g. The Dischargers' ditch operations and maintenance activities, and chronic ditch failures result in the relatively continuous unauthorized discharge of waste into surface waters and have created, and threaten to create, a condition of pollution by unreasonably affecting the beneficial uses of waters of the state.

10. Basin Plan Violations: The Water Quality Control Plan for the North Coast Region (Basin Plan)contains specific standards and provisions for maintaining high quality waters of the state that provide protection to the beneficial uses listed above. The Basin Plan's Action Plan for Logging, Construction and Associated Activities (Action Plan) includes two prohibitions (Page 4-29.00 of the 2011 Basin Plan):

i. **Prohibition 1** - "The 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 is prohibited."
ii. **Prohibition 2** - "The 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 is prohibited."

Evidence observed by staff during the inspection suggests that flows in the ditch chronically overtop portions of the and, at times, cause the ditch berm to fail, and potentially transport that material into Stanshaw Creek or the Klamath River.

Ditch maintenance/repair includes rebuilding or reinforcing the berm, in effect placing additional material at a location where it can transported into watercourses in the event of a ditch failure.

11. Cleanup and Abatement Action Necessary: Sediment discharges associated with improperly constructed and maintained ditches and chronic erosion and sedimentation at the Irving Creek outfall, operated by the Dischargers have occurred, and have the potential to continue to occur Restoration, cleanup, and mitigation action is required on the part of the Dischargers to ensure that the existing conditions of pollution or nuisance are addressed , that threatened unauthorized discharges from the ditch are prevented, and that any impacts to beneficial uses are mitigated. The current conditions represent priority violations and the issuance of a cleanup and abatement order pursuant to Water Code section 13304 is appropriate and consistent with policies of the Regional Water Board.

12. Technical Reports Required: Water Code section 13267(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 (b) provides that the Regional Water Board, in conducting an investigation, may require Dischargers to furnish, under penalty of perjury, technical or monitoring program reports. The technical reports required by this Order are necessary to assure compliance with this Order and to protect the waters of the state. The technical reports are further necessary to demonstrate that appropriate methods will be used to cleanup waste discharged to surface waters and surface water drainage courses and to ensure that cleanup complies with Basin Plan requirements. In accordance with Water Code section 13267(b), the findings in this Order provide the Dischargers with a written explanation and evidence with regard to the need to implement cleanup, abatement and restoration actions and submit reports. The Dischargers named in this Order own and/or operate the feature from which waste was discharged, and thus are appropriately responsible for providing the reports.

13. 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 (b) (3), 15306, 15307, 15308, and 15321. This Order generally requires the Dischargers to submit plans for approval prior to implementation of cleanup and restoration activities at the Site. CEQA exempts mere submittal of plans as submittal will not cause a direct or indirect physical change in the environment and/or cannot possibly have a significant effect on the environment. CEQA review at this time is premature and speculative, as there is simply not enough information concerning the Discharger's proposed remedial activities and possible associated environmental impacts.

If the Regional Water Board determines that implementing 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 approval of the applicable plan. The Discharger will bear the costs, including the Regional Water Board's costs, of determining whether implementing any plan required by this Order will have a significant effect on the environment and, if so, in preparing and handling any documents necessary for environmental review. 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 that, pursuant to Water Code sections 13304 and 13267, Douglas and Heidi Cole (Dischargers) shall clean up and abate the impacts to water quality in accordance with the scope and schedule set forth below and provide the following information. The Dischargers shall obtain all necessary permits for the activities required in this Order.

1. Retain an appropriately licensed and experienced California Licensed Professional(s) to evaluate, and provide recommendations on the following:

    a. Evaluate the operation of the Pelton Wheel to determine if there are methods of diversion operation that would increase efficiency and reduce the required volume of the diversion, such as piping the diversion flow for example. Provide a report including recommendations based upon this evaluation. The evaluation should consider the following:

        I. Water balance – in vs. out
        II. Water quality review – in vs. out
        III. Review onsite water needs, hydropower generation
        IV. Review opportunities to optimize water needs for power generation
        V. Review opportunities to reduce water loss or head loss
        VI. Design a delivery system that optimizes water conservation

    In the event that this evaluation concludes that a piped delivery system is appropriate, then develop a plan to decommission the ditch by removing the outboard berm, and restoring all affected watercourses, in addition, provide design standards for slope restoration and out sloping to ensure evenly distributed surface flows, all bares soils shall be stabilized with erosion controls and replanted with native vegetation. **Submit all information and recommendations as described above on or before DATE**

2. Retain an appropriately licensed and experienced California- licensed professional to evaluate, assess, and develop a Restoration and Monitoring Plan (RMP) to restore and stabilize the head cut and slope at the outlet of the

Stanshaw Creek diversion to the unnamed tributary of Irving Creek. Submit the plan by **DATE** to the Executive Officer for review and approval.

I. 1) restore the vegetative and hydrological functions of the damaged streams to ensure the long term recovery of the affected streams; and 2) replant the slopes and streamside areas with native vegetation to prevent erosion and sediment delivery to streams.

II. The RMP must include and apply best management practices for all current and planned work associated with construction activities affecting, or having the potential to impact, the ditch outfall, unnamed tributary and Irving Creek. The RMP shall contain, at a minimum, design and construction standards, specifications, and designs for stream restoration, surface drainage controls, erosion control methods and standards for unanticipated precipitation during restoration, compaction standards, an implementation schedule, a monitoring and reporting plan, and success criteria meeting the requirements specified herein.

III. The RMP must include map(s) and/or project designs at 1:12000 or larger scale (e.g., 1:6000) that delineate existing site conditions including existing channels, the projected restored slopes and stream channels, illustrating all restoration plan work points, spoil disposal sites, re-vegetation planting areas, and any other factor that requires mapping or site construction details to complete the scope of work.

IV. The RMP must include a time schedule for completing the work including receiving any necessary permits from State, County and/or federal agencies that may be required. The time schedule must adhere to any regulatory deadlines prescribed by the State Water Resource Control Board or North Coast Regional Water Quality Control Board.

V. To ensure a successful re-vegetation/earthen stabilization effort, site restoration and mitigation, the Discharger shall monitor and report for five years. All tree and shrub plantings must have a minimum of 85% success of thriving growth at the end of five years with a minimum of two consecutive years (two growing seasons) of monitoring after the removal of irrigation. Planting shall be adequately spaced to ensure adequate vegetative cover to control surface erosion and increase soil stability. In the event the re-planting fails, re-planting is required and the monitoring shall be extended for another five years until the 85% success rate of vegetation re-establishment is accomplished. The Dischargers are responsible for replacement planting, additional watering, weeding, invasive/exotic eradication, or any other practice to achieve the success criteria.

VI. The RMP must include a time schedule for completing the work including receiving any necessary permits from State, County and/or federal agencies that may be required. The time schedule must adhere to any regulatory deadlines prescribed by the State Water Resource Control Board or North Coast Regional Water Quality Control Board.

VII. A monitoring plan is required for all site restoration and replanting to determine the success of stream restoration efforts and revegetation. The monitoring plan must include regularly scheduled inspections, and established monitoring photo points of sufficient number to document the site recovery for five years or until the Site is restored, mitigation is complete, vegetation is reestablished, erosion is no longer ongoing and monitoring is no longer necessary. These photo-documentation points shall be selected to document the stability of the tributaries. The Dischargers shall prepare a site map with the photo-documentation points clearly marked. Prior to and immediately after implementing the restoration and/or mitigation, the Dischargers shall photographically document the pre- and post-conditions of the tributaries at the pre-selected photo-documentation points. The Dischargers shall submit the pre-restoration photographs, the post-restoration photographs, and the map with the locations of the photo-documentation points to the Water Board as part of the as-built report as defined below.;

VIII. The monitoring plan must include regularly scheduled inspection dates. We recommend October 15, January 5, and March 1 of each year, and a monitoring report is required within 30 days of each inspection. Monitoring Reports shall summarize monitoring results; describe any corrective actions made or proposed to address any failures of the Site and restoration measures (features to be assessed for performance and potential failure include, but are not limited to, erosion controls, stream bed and bank erosion, sediment discharges, work, and re-vegetation); and include narrative and photo documentation of any necessary mitigation and evidence of successful restoration and Site recovery for five years, or until Site recovery is considered complete. At the conclusion of restoration work, when the site is stable and the monitoring program has been fulfilled, submit a Summary report by **DATE, or by January 1, of the year that site remediation and replanting is determined to be stable**. The Assistant Executive Officer or designee will review the report and determine if the site meets expectations and the Order can be terminated

3. In the event that the delivery system will require continued operation of all or a portion of the diversion ditch, retain an appropriately qualified and experienced California-licensed professional to evaluate and submit a report by **DATE** that includes the following:

a. Evaluation of the entire ditch system, identifying all features and locations susceptible to failure by any of the physical processes and mechanisms described herein, (including but not limited to ditch seepage, berm fill saturation, upslope cutbank stability), and identifying where there is potential for sediment delivery to receiving waters in the event of a failure. Specify appropriate corrective action measures or steps to taken, including design and construction standards and an implementation schedule as necessary to

complete the defined scope of work. In addition, assess all areas of past failures to determine if the features reach Stanshaw Creek and deliver sediment and represent future delivery routes that require mitigation, propose mitigation as necessary to control sediment delivery and surface flows in the event of future failures or annual rainfall.

b. A ditch operation and maintenance plan that includes an inspection and maintenance schedule and identifies the permits, if any, required for the scope of work anticipated. The plan should include proposed measures to ensure that the slopes above the ditch do not collapse into and block the ditch, that water seepage from the ditch does not saturate underlying materials and result in failure, that the ditch does not overtop the berm, that the berm does not fail, and that sediment does not deliver from the ditch to waters of the state. The plan must also include specifications for measures to be constructed and/or incorporated to prevent further erosion and sediment delivery from the discharge point to Irving Creek, and to restore and stabilize the channel between the discharge point and Irving Creek.

4. Regardless of the ultimate water delivery system, the following additional measures shall be taken by DATE to protect water quality:

- Assess slopes between the upper ditch and Stanshaw creek and the streambed of Stanshaw Creek and Irving Creek and the unnamed tributary to Irving Creek for stored sediment deposits, and erosional sources associated with the past and current failures of the ditch. Identify all erosional issues and those that should be corrected, propose corrective designs and provide a schedule for implementing corrective measures.
- Ensure that water used onsite and carried in the ditch is treated/protected as necessary to minimize inputs of pollutants in the flow through process. Develop a sampling plan to assess the quality of water in the ditch as it passes through the ranch property for potential sources of fecal coliform, total coliform, total petroleum hydrocarbons, temperature, and nutrients. The sampling plan should assess water quality above the diversion and ranch complex, and below the ranch complex to evaluate if there are any potential contaminants entering the surface waters of the ditch or pond. Submit the Sampling Plan for approval by the Executive Officer by DATE. Upon approval implement the sampling plan and provide results of the sampling by DATE. In the event that sampling identifies inputs of constituents of concern, then develop a plan to remedy the discharges and submit the plan by DATE to the Executive Officer for review and approval.

5. Progress reports are due the first of each month starting on DATE. Progress reports should include an update on project development and permitting, a description of steps taken to develop and implement the required plans, and any unforeseen circumstances that may affect progress on meeting the deadlines and requirements of this Order. Progress reports will continue until the RMP is fully implemented.

6. **By DATE,** complete all approved restoration and mitigation measures**.**

7. **By DATE**, submit a Completion Report for the Restoration, and Monitoring Plan including an as built report. The Completion Report shall accurately depict all restoration and/or mitigation measures and document that the above plan(s) to restore, compensate for, avoid and minimize any further impacts to waters of the state and United States have been fully implemented.

GENERAL REQUIREMENTS AND NOTICES

8. **Duty to Use Qualified Professionals:** The Dischargers 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 Dischargers shall include a statement of qualification and registration numbers, if applicable, of the responsible lead professionals in all plans and reports required under this Order. The lead professional shall sign and affix their registration stamp, as applicable, to the report, plan, or document.

9. **Signatory Requirements:** All technical reports submitted by the Dischargers 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 or her knowledge, the report is true, complete, and accurate. The Dischargers shall also state if they agree with any recommendations/ proposals and whether they approve implementation of said proposals. 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.

10. **Notice of Change in Ownership or Occupancy:** The Dischargers shall file a written report on any changes in the Site's ownership or occupancy and/or any changes in responsible party(ies) operating the ditch. 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.

11. **Submissions:** All monitoring reports, technical reports or notices required under this Order shall be submitted to: the Assistant Executive Officer and Stormer Feiler:

    Assistant Executive Officer - Shin-Roei Lee
    Shin-Roei.Lee@waterboards.ca.gov
    Stormer.Feiler@waterboards.ca.gov

    By mail to: North Coast Regional Water Quality Control Board, 5550 Skylane Blvd. Suite A, Santa Rosa, CA 95403

12. **Other Regulatory Requirements:** The Dischargers shall obtain all applicable local, state, and federal permits necessary to fulfill the requirements of this Order prior to beginning the work.

13. **Cost Recovery:** Pursuant to Water Code section 13304, the Regional Water Board is entitled to, and may seek reimbursement for, all reasonable costs it actually incurs to investigate unauthorized discharges of waste and to oversee cleanup of such waste, abatement of the effects thereof, or other remedial action, required by this Order.

14. **Delayed Compliance:** If for any reason, the Dischargers 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 Assistant Executive Officer, the Dischargers 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 revision of this Order or by a letter from the Assistant Executive Officer.

15. **Potential Liability:** If the Dischargers fail to comply with the requirements of this Order, this matter may be referred to the Attorney General for judicial enforcement or may issue a complaint for administrative civil liability. Failure to comply with this Order may result in the assessment of an administrative civil liability up to $10,000 per violation per day, pursuant to California Water Code sections 13268, 13350, and/or 13385. The Regional Water Board reserves its right to take any enforcement actions authorized by law, including but not limited to, violation of the terms and condition of this Order.

16. **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 Site consistent with the Water Code. This Order may be revised as additional information becomes available.

17. **Modifications.** Any modification to this Order shall be in writing and approved by the Executive Officer of the Regional Water Board, including any potential extension requests.

18. **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 Title 23, California Code of Regulations, section 2050 et al. The State Water Board must receive the petition by 5:00 p.m., 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, the State Water Board must receive the petition on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at:

    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.

Shin Roei- Li
Assistant Executive Officer

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