



# TRINITY COUNTY

## COMMUNITY DEVELOPMENT SERVICES

BUILDING ♦ PLANNING ♦ ENVIRONMENTAL HEALTH  
P.O. BOX 2819, WEAVERVILLE, CALIFORNIA 96093  
PHONE (530) 623-1351 ♦ FAX (530) 623-1353

**Kim Hunter, Director**

### MEMORANDUM

DATE: March 6, 2021

TO: Planning Commissioners and members of the public

FROM: Kim Hunter, Director of Planning

SUBJECT: Agenda Items 8-11 Appeal of De Facto Decisions – County Counsel Memo

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At the February 11<sup>th</sup> Planning Commission meeting an opinion was requested from County Counsel Margaret Long on whether four de facto appeals (P-20-32, 33, 34 and 35) were legally appropriate. The attached memo from responds to that request.

The February 11<sup>th</sup> staff reports for these appeals are also attached for review.



A LAW FIRM FOUNDED ON THE  
PRINCIPLE OF SERVICE

## MEMORANDUM

TO: Kim Hunter, Planning Director  
FROM: Margaret Long, County Counsel  
Date: February 26, 2021  
Re: De Facto Appeals Pursuant to TCC 17.30E.020

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This memorandum is in response to your request for an opinion on whether it is legally appropriate to move forward on the appeal of the “de facto denial” of several licenses. The argument is that these licenses were “denied” because of failure to comply with Trinity County Code 17.30E.020(C).

As background, Trinity County Code 17.30E.020(C) states: “Within thirty days after the submittal of an application and payment of initial filing fees, the planning director shall determine if additional information is necessary and shall provide, or attempt to provide, written notice to the applicant of the requirement for such additional information or shall inform the applicant that the application is complete. Should the planning director not attempt to provide the applicant with notice of incompleteness or completeness of the application, then the application shall be deemed complete.”

The section mirrors the Permit Streamlining Act, which relates to development projects and is enumerated in Government Code § 65920 et seq. It is clear that the intent of Trinity County Code 17.30E.020 is to only apply to development projects, and that when the Cannabis Regulations got included in Title 17, this should have been changed to make it clear. It is recommended that the Trinity County Code 17.30E.020 be amended to make it clear that it only applies to development projects.

However, this is irrelevant to the cases at hand because even if assumed that this section applies, the applications cannot be deemed de facto approved or denied. This section only states that the applications are deemed complete after 30-days, which is very different than an approval or denial. There is nothing in the Code that requires the County to act on a completed application within a specified time frame. In addition, and as we see with the Permit Streamlining Act, these time limits may not be used to compel an agency to make a CEQA determination. CEQA's time limits are directory, not mandatory. *Eller Media v. Community Redevelopment Agency* (2003) 133 Cal. Rptr. 2d 324, see also *Riverwatch v. San Diego County (Palomar Aggregates)* (1999) 76 Cal. App. 4th 1428. These applications require CEQA to be performed prior to rendering a decision on whether they should be approved or denied. This has not been done yet.

As a result, it is my legal opinion that these requests for appeals should be denied as there have been no appealable issues. The Planning Commission has no authority to hear this matter, and it should be taken off calendar.

Please let me know if you have any questions or concerns.

<b>TRINITY COUNTY PLANNING COMMISSION STAFF REPORT</b>
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**APPLICANT/APPELLANT:** Helene Kuehl

**Agent:** Ana Wright, Authorized Agent (Flowra)

**REQUEST:** Appeal for the De-Facto denial of the 2018 Cannabis Cultivation License #427

**LOCATION:** 441 & 553 Henrietta Rd, Lewiston (APN: 025-350-52, 53)

**APPROX. ACREAGE:** 13.38 acres and 15.59 acres

**ZONING DISTRICT:** Agricultural Forest 20 Acre Min (AF 20)

**ZONING DISTRICT OVERLAYS:** None

**GENERAL PLAN DESIGNATION:** Resource (RE)

**STAFF RECOMMENDATION:** Deny the appeal.

**ADJACENT LAND USE AND ZONING INFORMATION:**

Direction	Land Use	Zoning	General Plan Designation
North	Vacant (Timberland)	TPZ	RE
South	Residential	RR 2.5 / AF 10	RR/RE
East	Residential	AF20 / AF 20	RE
West	Residential	RR 2.5 / AF 20	RR

**SUMMARY:** A de facto appeal of a denial of the 2018 Cannabis cultivation license (CCL) application was filed on August 7, 2020, by the designated authorized agent, Ana Wright (Flowra) for Helene Kuehl. In the appeal, Ms. Wright stresses that no action has been taken on the issuance of the license and submitted an Appeal of the De-Facto denial on August 7, 2020. (Attachment 1)

**Background**

The following establishes a timeline and general information regarding the application for CCL #427:



- June 9, 2017 -- North Coast Regional Water Quality Control Board (Water Board) conducts site visit and documents site conditions and water quality concerns on APNs 025-350-52 and 53
- September 21, 2017 -- Notice of Violation issued by the California Department of Fish & Wildlife (CDFW)
- 
- March 26, 2018 – CCL #427 application submitted to the Planning Department
- October 31, 2018 – A deficiency letter listed several deficiencies without listing any violations of state
- September 4, 2019 – Site cleared by CDFW
- April 16, 2020 -- Site cleared by Water Board
- April 17, 2020 – The Planning Department received multiple site-specific environmental documents including the following: 1) Compensatory Mitigation Plan; 2) Native Species Revegetation Plan; and, 3) Geotechnical Report.

This application was not denied but requires additional review due to past environmental impacts and violations of State laws. Until CDFW and Water Board violations were cleared, the County could not take action on the license as the site was not in compliance with the requirements of the Water Board and CDFW as required by TCC section 17.43.

The applicant has completed extensive work to remediate the site. Staff intends to continue processing this license which includes the completion of the required environmental analysis in accordance with the California Environmental Quality Act (CEQA).

**ATTACHMENTS:**

1. Appeal Application
2. Satellite View
3. CDFW Correspondence dated January 30, 2020 and October 30, 2019
4. NCRWQCB Correspondence dated April 17, 2020; June 21, 2019; June 25, 2019; and August 23, 2018
5. Compensatory Mitigation Plan dated April 2020
6. Email Correspondence

P-20-33



COUNTY OF TRINITY

APPEAL OF PLANNING DIRECTOR'S  
DECISION TO PLANNING COMMISSION



Name: Helene Kuehl/Fat Wallet Farms, LLC Phone: 530-5511785

Email: yne\_molina06@yahoo.com.ph

Physical Address or APN: 553 Henrietta Rd., Lewiston, CA 96052

Mailing Address: PO Box 488, Lewiston, CA 96052

Decision of Planning Director rendered on (date): 7/27/20

Planning Director's Decision was to: ☐ Approve ☒ Deny ☐ Continue

Request for: Appeal for the defacto-denial of the 2018 Cannabis Cultivaton Renewal.

Reason for Appeal:

Please see attached reason

Signature: Helene Kuehl Date: 8/6/20

Clerk's Use Only

Date Filed: \_\_\_\_\_

Fee Collected: \_\_\_\_\_

Hearing Date: \_\_\_\_\_

Receipt No.: \_\_\_\_\_

Notice Published: \_\_\_\_\_

Notice Mailed: \_\_\_\_\_

Clear

July 29, 2020

Chair Fraiser and Planning Commissioners,

We are appealing the defacto-denial of CCL 427's 2019 Renewal Application for licensee Helene Kuehl/Fat Wallet Farms, LLC.

### **FACTS OF THE CASE**

On March 26, 2018, Danny Kuehl and Fat Wallet Farms, LLC submitted and paid for their county renewal at the Trinity County Planning Department (Attachments A & B).

In 2018, this site was in the process of clearing violations from California Department of Fish and Wildlife. Flowra took over this project August of 2018 and continued to assist the licensee in clearing violations through September of 2019.

On October 31, 2018, a deficiency letter listing items needed was issued by Trinity County Planning Department (Attachment C). Of these items, nothing stated the pending violations with state agencies would hold up license issuance.

The California Department of Fish and Wildlife (CDFW) cleared this site from previously issued violations on September 4, 2019 (Attachment D). The State Water Resources Control Board (SWRCB) issued the Notice of Applicability on April 26, 2020 (Attachment E), giving verbal approval late 2019.

In February of 2020, a meeting with Director Hunter and former Assistant Director Leslie Hubbard was held to discuss the approval from CDFW and SWRCB. It was discussed this license would be issued as a provisional license with CEQA (Attachment F).

During an April 15, 2020 meeting with Director Hunter, it was deemed this application could be noticed and issued provisionally.

On May 28, 2020, CDFW issued a Notice of Exemption to CEQA (Attachment G), following a signed final agreement issued February 26, 2020 (Attachment H).

On July 13, a letter of intent announcing our treating of this inaction as a defacto-denial was sent to Director Hunter, giving her one week to respond (Attachment I). The week passed and due to her absence in office, we extended this to July 27.

No action has been taken to issue this license and it has been over two years since the 2018 renewal was submitted. Additionally, no response was received on July 27, prompting us to move forward with this appeal.

## **ARGUMENT**

As noted in the facts of the case, this licensee's renewal was submitted in March of 2018, with a deficiency letter not issued until October of 2018. This timeline exceeds the 30-day requirement that an application must be deemed complete or deficiencies issued (Trinity County Code 17.30E.020).

Though issued late, the deficiency list did not state that violations with the state agencies must be cleared before a license could be issued. However, that is how Trinity County Planning Department acted. The state agencies gave their verbal clearance for the county to issue the license in late 2019, though no license has been issued to this day. All deficiencies on the county's October 2018 list have also been completed.

This licensee has been in the county program since 2017, and is in the process of obtaining a provisional license from the California Department of Food and Agriculture (LCA20-0000268), a Notice of Applicability issued by the State Water Resources Control Board (Attachment E), and a Final Lake and Stream Bed Alteration Agreement (Attachment H).

Additionally, CDFW's issuance of a Categorical Exemption to CEQA sets precedence that this site fits the Exemption categories, thus the county can follow suit in also issuing a Notice of Exemption to this license. The county should not only issue this license immediately, but also issue it as a full county license.

Trinity County Planning Department has long passed the 30-day window of deeming this renewal application complete. Director Hunter has also had plenty of time since the April 15 meeting to move forward as she verbally said she would in issuing this license.

## **CONCLUSION**

This licensee holds valid and current licenses with all applicable agencies other than Trinity County, which is due only to their inactivity and unresponsiveness. The licensee will continue to abide by all local and state laws surrounding commercial cannabis.

Our appeal of this defacto-denial should be granted based on the argument outlined above. We ask for the license to be issued with a Notice of Exemption to CEQA and noticed immediately in the paper to be issued as soon as possible.

We thank the Planning Commission for their time and attention to this matter.

## ATTACHMENT A

Commercial Cannabis Cultivation

Please File  
RECEIVED

## 2017/2018 Cannabis License New Applicant Paper Application

MAR 26 2018

COUNTY OF TRINITY  
PLANNING AND BUILDING DEPARTMENT  
Commercial Marijuana CultivationTRINITY COUNTY  
BUILDING DEPARTMENT

Proposed Job Address	553/441 Henrietta Rd, Lewiston
APN	025-350-52-00/025-350-53-00
Project Type	

Applicant Name	Danny Kuehl
Applicant Phone Number	(530) 778-3151 & 778-4040 3/24/18
Applicant Email	Dam. DK45@Gmail.com
Applicant Mailing Address	PO Box 488-Lewiston, CA, 96052

Please fill out even if the owner is the same as the applicant

Owner Name	Danny Kuehl
Owner Phone Number	(530) 778-3151
Owner Email	Dam. DK45@Gmail.com
Owner Mailing Address	PO Box 488-Lewiston, CA, 96052

Consultant Name	
Consultant Phone Number	
Consultant Email	

Business Name	Fat Wallet Farms
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Zone	AF20 RE
Parcel Size (Acres)	13.38 + 15.59
Floodplain	NO
BOE Sellers Permit	
CA DL NO	05087472
Water Source	Well #2
WDID	153C378658

RECEIVED

DEC 20 2017

TRINITY COUNTY  
PLANNING DEPARTMENT

Disclaimer: You have a responsibility to know if your property is restricted by Ordinance No. 315-823.  
We will not issue a refund if your parcel is in violation of the ordinance.



## ATTACHMENT B

## Trinity County Planning Department

61 Airport Road  
PO Box 476  
Weaverville, CA 96093  
Phone (530) 623-1351 Fax (530) 623-1353

## INVOICE



Bill To:

Danny Kuehl

PO BOX 488, Lewiston, CA, 96052

APN:

025-350-52-00; 025-350-53

License Number:

CCL-2018-427

DESCRIPTION	AMOUNT
Specialty Cottage Outdoor	\$ 750.00
General Plan Update	\$ 250.00
<b>TOTAL</b>	<b>\$ 1,000.00</b>

Make all checks or Money Orders payable to **T.C.P.D. or Trinity County Planning Department**

By signing below, I understand and acknowledge the terms of payment set forth by the Commercial Cannabis Cultivation Regulation Ordinance including but not limited to; no refund is offered after submittal of application, payment does not constitute as approval for the Commercial Cannabis Cultivation Application; it is my (the property owner/authorized agent's) responsibility to submit the paid invoice with my application packet to the Trinity County Planning Department.

Owner/ Authorization Agent Signature

3-26-18  
Date

## OFFICE USE ONLY

RECEIPT NUMBER	219329	
DATE	3/26/18	
PAYMENT METHOD	<input type="checkbox"/> Cash	<input checked="" type="checkbox"/> Check # 1892

3/26/18 ✓ data entered - KF

OFFICIAL  
RECEIPT

COUNTY OF TRINITY

WEAVERVILLE, CALIFORNIA 96093

NO. 219329

RECEIVED FROM DANNY KUEHL DATE 3/26/18

FOR CCL - 2018 - 427

DEPT. CCL

AMOUNT RECEIVED ONE THOUSAND and 00/100 \$ 1000.00

☐ CASH

CURRENCY \_\_\_\_\_ COIN \_\_\_\_\_

☒ CHECK

CHECK NO. 1892

☐ MONEY ORDER

BY Christine M. (watts)

DANNY KUEHL  
PO BOX 488  
LEWISTON CA 96052

3-26-18 Date

Pay to the  
Order of

T.C.B.D

\$ 1000

One Thousand & 00/100

Dollars

☐

SECURITY  
FEATURES  
DETAILS ON  
BACK



UMPQUA  
BANK

1-866-4UMPQUA  
(1-866-486-7782)

# 427

For

Cultivation Permit

Danny Kuehl MP



**TRINITY COUNTY  
PLANNING DEPARTMENT  
CANNABIS DIVISION**

61 Airport Road  
PO Box 2819  
Weaverville, CA 96093  
[Planning.cannabis@trinitycounty.org](mailto:Planning.cannabis@trinitycounty.org)

**ATTACHMENT C**

Danny Kuehl  
PO Box 488  
Lewiston, CA 96052

October 31, 2018

Dear Danny Kuehl,

This is to remind you of the upcoming deadline of December 31, 2018 to address unresolved issues with your cultivation application for CCL-2018-427. If this deadline is not met, your Cannabis Cultivation License will be denied due to an incomplete submission.

The status of your 2018/2019 application is "in progress" because we are still waiting on the items below:

1. Provide an alternative / additional water source to the well documents provided at 2 GPM
2. Provide a copy of your fully executed Board of Equalization Seller's Permit
3. Provide business documentation if applicable

Provide a copy of your Water Resource Protection Plan by 12/31/2018

You must have a dwelling permit issued to you by the Building Department by your renewal date.

Please contact the Trinity County Cannabis Division in order to submit and/or report on these items. We will work with you to the best of our ability to bring you into compliance. Your assistance in this matter is critical as we cannot complete this process of licensing without your participation and information.

If you believe you are receiving this letter in error, please contact us immediately.

Please note that you cannot cultivate Cannabis until you have both a Trinity County Cultivation License and a CalCannabis Cultivation License.

Thank you for your time and attention. If you have any questions, please email administrative staff at [rwood@trinitycounty.org](mailto:rwood@trinitycounty.org).

Trinity County Cannabis Division  
PO Box 2819  
Weaverville, CA 96093





## ATTACHMENT D

Ana Wright <ana@theflowraplatform.com>

### Fwd: Status of Kuehl

3 messages

Lisa Wright <lisa@theflowraplatform.com>  
To: Ana Wright <ana@theflowraplatform.com>

Wed, Sep 4, 2019 at 10:02 AM

FYI on Kuehl ...

Best Regards,

Lisa Wright  
CEO  
Flowra  
[www.theflowraplatform.com](http://www.theflowraplatform.com)  
M: (312) 961-0773  
O: (800) 811-4356



----- Forwarded message -----

From: **Leslie Hubbard** <lhubbard@trinitycounty.org>

Date: Tue, Sep 3, 2019 at 5:09 PM

Subject: RE: Status of Kuehl

To: Freeny, Tobi@Wildlife <Tobi.Freeny@wildlife.ca.gov>

Cc: Little, DeWayne@Wildlife <DeWayne.Little@wildlife.ca.gov>, Cobb, Donna@Wildlife <Donna.Cobb@wildlife.ca.gov>, Valverde, Jeremy@Wildlife <Jeremy.Valverde@wildlife.ca.gov>, Luders, Joshua@Waterboards <Joshua.Luders@waterboards.ca.gov>, Grady, Kason@Waterboards <Kason.Grady@waterboards.ca.gov>, Kippen, Dan@Waterboards <Dan.Kippen@waterboards.ca.gov>, Jess Gregory <laptop017@yahoo.com>, LISA WRIGHT <lisa@theflowraplatform.com>, jsb@gtsblaw.com <jsb@gtsblaw.com>

Thank you, Tobi.

**Leslie J. Hubbard**

Deputy Director of Planning

Trinity County Planning Department

61 Airport Road

PO Box 2819

Weaverville, CA 96093

Office: (530) 623-1351 ext 3

[lhubbard@trinitycounty.org](mailto:lhubbard@trinitycounty.org)

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**From:** Freeny, Tobi@Wildlife <Tobi.Freeny@wildlife.ca.gov>

**Sent:** Tuesday, September 3, 2019 5:01 PM

**To:** Leslie Hubbard <lhubbard@trinitycounty.org>

**Cc:** Little, DeWayne@Wildlife <DeWayne.Little@wildlife.ca.gov>; Cobb, Donna@Wildlife <Donna.Cobb@wildlife.ca.gov>; Valverde, Jeremy@Wildlife <Jeremy.Valverde@wildlife.ca.gov>; Luders, Joshua@Waterboards <Joshua.Luders@Waterboards.ca.gov>; Grady, Kason@Waterboards <Kason.Grady@waterboards.ca.gov>; Kippen, Dan@Waterboards <Dan.Kippen@Waterboards.ca.gov>; Jess Gregory <laptop017@yahoo.com>; LISA WRIGHT <lisa@theflowraplatform.com>; jsb@gtsblaw.com

**Subject:** RE: Status of Kuehl

Hello Leslie

I wanted to give you an update on Mr. Kuehl and his compliance with CDFW. As you know we typically consider an individual in compliance with CDFW once a draft Lake and Streambed Alteration (LSA) Agreement, signed by the applicant, has been returned to CDFW. However, due to the complexity of this case, the extensive remediation required, and the timeframe it will take to obtain the necessary draft LSA Agreement, CDFW has decided to consider Mr. Kuehl "in compliance" with CDFW as long as he continues down the path of remediation, which he is currently in the process of doing. If you have questions or would like to discuss further please let me know. If Mr. Kuehl discontinues his collaboration with CDFW and is no longer considered compliant we will let you know.

Thank you

Tobi

**TOBI FREENY**

WATERSHED ENFORCEMENT TEAM

SENIOR ENVIRONMENTAL SCIENTIST (SPECIALIST)

Office: 530-225-2867

Cell 530 945 9688



---

**From:** Leslie Hubbard <lhubbard@trinitycounty.org>

**Sent:** Tuesday, July 30, 2019 6:58 PM

**To:** Freeny, Tobi@Wildlife <Tobi.Freeny@wildlife.ca.gov>

Cc: Little, DeWayne@Wildlife <DeWayne.Little@wildlife.ca.gov>  
Subject: Status of Kuehl

Hello Tob,

Lisa Wright, Danny Kuehl's consultant, is asking when we will issue a county license to Kuehl. My answer is that we will issue as soon as CDFW and the Water Board confirm that he is in compliance. Will you give me a status update? The last I knew, you had sent him a second letter of incomplete notification at the end of May.

Thank you,

**Leslie J. Hubbard**

Deputy Director of Planning

Trinity County Planning Department

61 Airport Road

PO Box 2819

Weaverville, CA 96093

Office: (530) 623-1351 ext 3

[lhubbard@trinitycounty.org](mailto:lhubbard@trinitycounty.org)

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---

Ana Wright <ana@theflowraplatform.com>  
To: Andrea Kilpatrick <andrea@theflowraplatform.com>

Wed, Sep 4, 2019 at 10:07 AM

**Ana Wright**

Executive Vice President

Flowra

[www.theflowraplatform.com](http://www.theflowraplatform.com)

M: (319) 371-5248

O: (800) 811-4356



North Coast Regional Water Quality Control Board

April 16, 2020

Danny Kuehl  
PO Box 488  
Lewiston, CA 96052  
[dam.dk45@gmail.com](mailto:dam.dk45@gmail.com)

Dear Mr. Danny Kuehl:

Subject: Notice of Applicability (NOA) for Coverage under the State Water Resources Control Board Cannabis Cultivation Policy Cannabis General Water Quality Certification, and Order No. WQ 2019-0001-DWQ General Waste Discharge Requirements and Waiver of Waste Discharge Requirements

File: Danny Kuehl Property Water Quality Certification for Trinity County Assessor's Parcel Numbers (APNs) 025-350-52-00 and 025-350-53-00; WDID No. 1A20012CTRI; Place ID: CW-827450

This letter certifies conditional coverage under the above referenced General Water Quality Certification and Order (Order) and compliance with the referenced Policy for the proposed project (Project) as described in *Application for 401 Water Quality Certification and/or Waste Discharge Requirements (Dredge/Fill) and Coverage Under Order No. WQ-2017-0023-DWQ<sup>1</sup>* and associated amendments (Application) for Danny Kuehl (Applicant) at Trinity County APNs 025-350-52-00 and 025-350-53-00, prepared by Jess Gregory, PE. The Project includes instream work on a Class III watercourse on the Applicant's Property (Onsite Work) with additional mitigation work to be performed off the Applicant's Property (Offsite Work). All onsite and offsite work proposed in the Application is in the Trinity River HUC 8 watershed (18010211) in Trinity County. This NOA approves the Offsite Work as an acceptable form of additional compensatory mitigation, but the Applicant must obtain all necessary additional individual permits and/or authorizations prior to performing all Offsite Work. To comply with this NOA, all onsite and offsite work proposed in the Application and conditions included in this NOA must be completed.

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<sup>1</sup> Order No. WQ-2017-0023-DWQ was updated in 2019 as Order No. WQ-2019-0001-DWQ

### Background

On June 6, 2019, the North Coast Regional Water Quality Control Board (Regional Water Board) received an application for enrollment from Danny Kuehl to comply with the terms of, and obtain coverage under the Order for discharges of waste associated with cannabis cultivation and proposed work outside of waters of the State at Trinity County APNs 025-350-52-00 and 025-350-53-00 (the Property). Based on the enrollment documents, the Project requires water quality certification. On January 31, 2020, the Regional Water Board received the Application with documents containing Project details and requesting coverage under and consistent with the General Water Quality Certification included in Attachment A of the Order and on January 31, 2020, the Regional Water Board received the Application Fee. The Applicant's authorized agent Jess Gregory submitted two amendments to the Application, including a Compensatory Mitigation Proposal on February 26, 2020, and a Native Species Revegetation Plan on March 16, 2020 (the amended documents are attached).

The Application provides information related to the Project location, description, environmental need, design criteria, assessment of Project area flora and fauna, monitoring and reporting plans, and environmental protection measures. The Project activities, environmental protection measures included therein, and Best Practicable Treatment and Control (BPTCs) measures included as Attachment A of the Order, are considered enforceable components of this NOA of enrollment under the Order. Enrollment under this General Water Quality Certification requires an annual fee to be paid until the instream work and associated monitoring have been completed and the Regional Water Board has been notified of completion.

### Project Description and Project Scope

The Project includes one instream work location on the Property, which is within the Trinity River hydrologic unit (HUC 180102110703, Hydrologic Sub-Area 1106.310601) of the Deadwood Creek-Trinity River watershed. Coordinates of the instream work locations are shown in Figure 1. Figure 1 is the site map showing instream work locations on the Property and as depicted in the Application. The total area of ground disturbance associated with the Project is estimated to be approximately 110 cubic yards, 3519 square feet, and 1173 linear feet of temporary impacts and 22 cubic yards, 150 square feet, and 25 linear feet of permanent impacts to streambed and banks (see Table 1 below). Unauthorized fill is to be removed from a Class III watercourse and the channel is to be restored to natural conditions, except where a culvert is to be installed to maintain vehicle access on the Property. The Project must be completed consistent with the Application. The proposed Project scope does not exceed what is allowed for coverage under the Order and is in compliance with one or more of the following categorical exemptions of the California Environmental Quality Act (CEQA): California Code of Regulations, title 14, section 15308 (regulatory actions for environmental protections); section 15301 (ongoing or existing projects); and section 15304 (minor alterations to land).

### Required Mitigation

The Application includes a Compensatory Mitigation Proposal that calculates a mitigation ratio using the U.S. Army Corps of Engineers South Pacific Division Attachment 12501 Mitigation Ratio Setting Checklist to quantify a sediment reduction objective. A mitigation ratio of 3.75:1 was provided in the Application. The Application contains an explanation detailing the need to locate offsite mitigation opportunities, because, in addition to onsite mitigation, the Property does not have the opportunity to meet an onsite mitigation ratio of 3.75:1.

Onsite mitigation for the Project will include remediation of unauthorized dredge and fill of material inside a Class III watercourse. The watercourse will be restored to natural contours and a smaller crossing with a culvert will be installed to maintain property access. The impacted watercourse will be regraded and contoured with natural energy dissipaters and areas will be revegetated with a variety of native plant species. Revegetation of eroded and denuded streambanks and all other areas disturbed by the Project shall be done immediately following the completion of work. The reduction of sediment discharges and threatened discharges resulting from appropriate design and construction of the stream crossings accounts for a portion of the mitigation needed to offset the temporary impacts associated with completing the Project. These onsite Project elements do not have permanent impacts beyond the existing impacts already associated with the degraded and improperly developed stream crossing and completion of this Project will result in improved water quality protection relative to the degraded conditions resulting from previously unauthorized work. Specific mitigation and impact dimensions for onsite work are summarized in Table 1 and shall be completed as described in the Application and this NOA.

Offsite mitigation for the temporal impacts related to unauthorized earthwork activities are described in the Compensatory Mitigation Proposal amendment to the Application. All offsite mitigation work is to be completed in the same Trinity River HUC 8 watershed (18010211) as all onsite work. The Applicant coordinated with the Trinity County Resource Conservation District (TCRCD) in development of the Compensatory Mitigation Proposal to identify a list of sediment reduction opportunities through road rehabilitation projects on a nearby property managed by the Bureau of Land Management (BLM). In addition to onsite restoration efforts, the Applicant has agreed to fully fund the proposed offsite Compensatory Mitigation Proposal, but the Applicant will continue to use TCRCD as an independent outside partner to coordinate project development and completion for the offsite compensatory mitigation described in the Application. Table 1 does not describe the Applicant's proposed offsite Compensatory Mitigation Proposal. All offsite mitigation shall be completed as described in the Application and this NOA. As discussed above, the Applicant is responsible for obtaining all necessary permits and/or authorizations prior to commencing Offsite mitigation work.

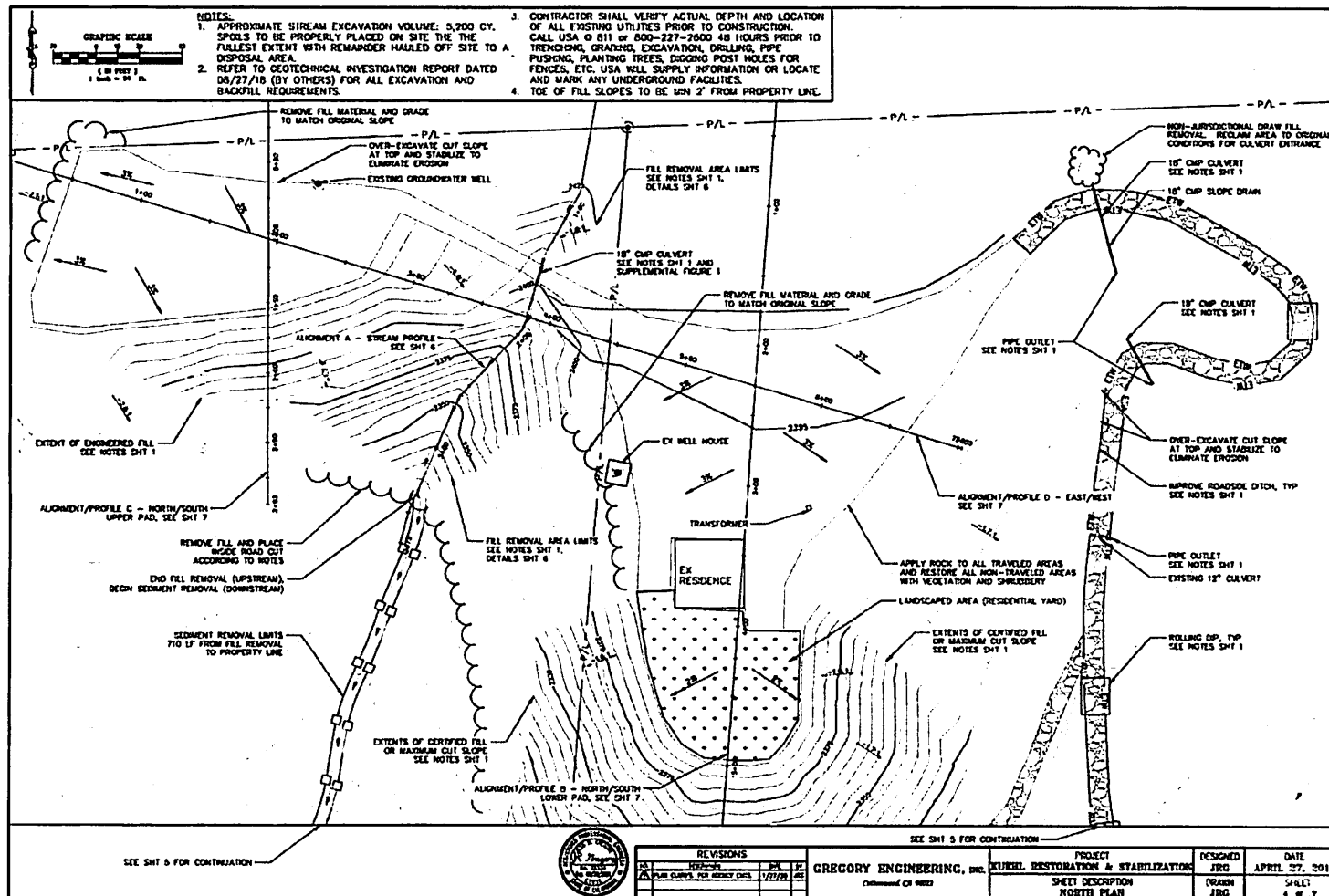


Figure 1 (from the Application) shows the parcel boundaries and location of the one instream work location.

Table 1 shows the onsite mitigation associated with the one instream work location (modified from *the Application*)

Instream Work Location	Existing Dimensions	Proposed Dimensions	Temporary Impact	Permanent Impact	Impact Mitigation
40.709744°, - 122.792063° to 40.709574°, - 122.792147°	1173 linear feet, 3519 square feet	25 linear feet, 150 square feet	110 cubic yards, 1173 linear feet, 3519 square feet	22 cubic yards, 25 linear feet, 150 square feet	1:1



### Monitoring Plan

Monitoring of physical stream parameters (e.g. vegetation, signs of erosion or sedimentation, stream stability, and stream flow capacity) will be conducted both before and after Project implementation. Pre-Project monitoring was conducted by the Applicant's authorized agent Jess Gregory, P.E. Post-Project monitoring shall occur annually and shall be submitted annually to the Regional Water Board by January 31 each year. Monitoring will be conducted and recorded by the landowner and shall include photo documentation of each instream work location with associated notes on plant survival and vigor, stream stability, and signs of bed and bank erosion. At least five years of post-Project monitoring shall be provided until a minimum of 85 percent survival rate is achieved. Compensatory Mitigation shall be completed by October 15, 2020, and shall include the stream restoration, revegetation plan, and sediment reduction projects, as described in the Application, as amended by the Compensatory Mitigation Proposal and Native Species Revegetation Plan, and as prescribed in the Required Mitigation section of this NOA, above.

Following the completion of each seasonal work period, an annual report shall be submitted to all appropriate agencies (Trinity County, Army Corps of Engineers, Regional Water Board, and California Department of Fish and Wildlife). This annual report shall include findings that result from pre- and post-Project monitoring. These findings shall indicate the achievement of performance standards and include the following information:

- Summary of findings
- Identification and discussion of problems with achieving performance standards
- Proposed corrective measures as needed (requires Regional Water Board approval prior to implementation)

All other monitoring requirements, pursuant to Order WQ 2019-0001-DWQ and proposed in the Project application shall be followed in addition to the requirements listed above.

### Notice of Applicability & Project Determination

Regional Water Board staff has determined that the proposed activities as described in the Application may proceed under the General Water Quality Certification of the Order so long as the Applicant complies with the conditions prescribed in this NOA, the Order, the Policy, and the Site Management Plan associated with this property.

### Project Reporting

Monitoring reports shall be submitted at a minimum annually by January 31 each year, documenting the achievement of performance standards and project goals.

In addition, a Notice of Completion (NOC) shall be submitted by the Applicant no later than 30 days after the Project has been completed. A complete NOC must include, at a minimum: photographs with a descriptive title, the date each photograph was taken, the

name of the photographic site, the WDID number indicated above, and success criteria for the project. The NOC shall demonstrate that the Project has been carried out in accordance with the Project description as provided in the Applicant's Project Application and this NOA. Please note that the Applicant will continue to get billed an annual fee until the monitoring and reporting period has finished, the success criteria have been achieved, and the Regional Board has terminated enrollment of this NOA.

Please include the Project name and WDID number with all future inquiries and document submittals. Document submittals shall be made electronically to: [NorthCoast.Cannabis@waterboards.ca.gov](mailto:NorthCoast.Cannabis@waterboards.ca.gov) and include "Danny Kuehl Water Quality Cert WDID WQC 1A20012CTRI" as part of the subject line.

Please contact Joshua Luders at [Joshua.Luders@waterboards.ca.gov](mailto:Joshua.Luders@waterboards.ca.gov) if you have any questions.

Sincerely,

---

Matthias St. John  
Executive Officer

200416\_JAL\_dp\_Kuehl\_NOA

Attachments:

- Compensatory Mitigation Proposal
- Native Species Revegetation Plan

cc: Tobi Freeny, California Department of Fish and Wildlife,  
[Tobi.Freeny@wildlife.ca.gov](mailto:Tobi.Freeny@wildlife.ca.gov)

David Colbeck, Trinity County Planning Department, [DColbeck@trinitycounty.org](mailto:DColbeck@trinitycounty.org)

Jess Gregory P.E., Jess Gregory Engineering Inc., [laptop017@yahoo.com](mailto:laptop017@yahoo.com)

Sahrye Cohen, United States Army Corps of Engineers,  
[Sahrye.E.Cohen@usace.army.mil](mailto:Sahrye.E.Cohen@usace.army.mil)

Jennifer Siu, United States Environmental Protection Agency,  
[Sui.Jennifer@epa.gov](mailto:Sui.Jennifer@epa.gov)

State Water Resources Control Board  
[DWQ.Cannabis@waterboards.ca.gov](mailto:DWQ.Cannabis@waterboards.ca.gov)



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**Kuehl 2019 application and application fee**

3 messages

**Leslie Hubbard** <lhubbard@trinitycounty.org>

Fri, Oct 11, 2019 at 4:25 PM

To: Lisa Wright &lt;lisa@theflowraplatform.com&gt;, Ana Wright &lt;ana@theflowraplatform.com&gt;

Cc: David Colbeck &lt;dcolbeck@trinitycounty.org&gt;

Hello Lisa and Ana,

We would like to move forward with a CEQA determination on Kuehl's site, but I don't find a 2019 application or application fee in the project file or record of either in our software system. Do you know if your client would like to submit them this year?

**Leslie J. Hubbard**

Deputy Director of Planning

Trinity County Planning Department

61 Airport Road

PO Box 2819

Weaverville, CA 96093

Office: (530) 623-1351 ext 3

[lhubbard@trinitycounty.org](mailto:lhubbard@trinitycounty.org)

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**Lisa Wright** <lisa@theflowraplatform.com>

Fri, Oct 11, 2019 at 5:10 PM

To: Leslie Hubbard &lt;lhubbard@trinitycounty.org&gt;

Cc: Ana Wright &lt;ana@theflowraplatform.com&gt;, David Colbeck &lt;dcolbeck@trinitycounty.org&gt;

Hi Leslie,

I believe Mr. Kuehl submitted a 2018 renewal which was never finalized (Flowra did not prepare that document). We did receive a letter of authorization from the county to allow application to the CDFA at the end of 2018. So my understanding is that his county renewal from 2018 has stayed in a pending state during the compliance check with CDFW and Water Board.

Best Regards,

# ATTACHMENT G

## Notice of Exemption

- 1 -

**To:**  
Office of Planning and Research  
*For U.S. Mail:*  
P.O. Box 3044  
Sacramento, CA 95812-3044

**From:**  
Department of Fish and Wildlife  
Northern Region  
601 Locust Street  
Redding, CA 96001



*Street Address:*  
1400 Tenth Street  
Sacramento, CA 95814

**Project Title:** Kuehl Remediation (Lake or Streambed Alteration Agreement No. 1600-2018-0663-R1)

**Project Location (include county):** 441 Henrietta Road, Lewiston, CA 96052 in Trinity County, Assessor Parcel Numbers: 025-350-52-00 and 025-350-53-00.

**Project Description:** The California Department of Fish and Wildlife has executed Lake and Streambed Alteration Agreement number 1600-2018-0663-R1, pursuant to Section 1602 of the Fish and Game Code to Danny Kuehl

The project is limited to the remediation of approximately 280 lineal feet of stream channel. Specific work includes the removal of unpermitted fill material with the restoration of the stream channel and the Installation of a stream crossing.

**Public Agency Approving Project:** CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

**Person or Public Agency Carrying Out Project:** Danny Kuehl

**Exempt Status:**

☐ Statutory Exemption.

☒ Categorical Exemption.

**Type – Class (08); California Code of Regulations, title 14, section (15308)** Actions taken by regulatory agencies to assure the maintenance, restoration, enhancement, or protection of the environment.

**Type – Class (33); California Code of Regulations, title 14, section (15333)** Projects not to exceed five acres in size to assure the maintenance, restoration, enhancement, or protection of habitat for fish, plants, or wildlife.

**Reasons why project is exempt:** Less than 5-acre stream restoration project required to remediate documented Fish & Game Code violations. Project will not result in adverse environmental impacts and will restore native fish and wildlife habitat.

**CDFW Contact Person:** Tobi Freeny, Senior Environmental Scientist, Specialist (530) 225-2867

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Donna Cobb  
Senior Environmental Scientist Supervisor – CEP 1

Date received for filing at OPR: \_\_\_\_\_





State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
Region 1- Northern  
601 Locust Street, Redding, CA 96001  
(530) 225-2300  
[www.wildlife.ca.gov](http://www.wildlife.ca.gov)

GAVIN NEWSOM, Governor  
CHARLTON H. BONHAM, Director



## ATTACHMENT H

May 28, 2020

Danny Kuehl  
PO Box 48  
Lewiston, CA 96052

Dear Mr. Kuehl:

### **Final Lake or Streambed Alteration Agreement, Notification No. 1600-2018-0663-R1 Kuehl Remediation**

Enclosed is the final Lake or Streambed Alteration Agreement (Agreement) for the Kuehl Remediation (Project). Before the California Department of Fish and Wildlife (CDFW) may issue an Agreement, it must comply with the California Environmental Quality Act (CEQA). In this case, CDFW determined your Project is exempt from CEQA and filed a Notice of Exemption (NOE) on the same date it signed the Agreement.

Under CEQA, the filing of a NOE triggers a 35-day statute of limitations period during which an interested party may challenge the filing agency's approval of the Project. You may begin the Project before the statute of limitations expires if you have obtained all necessary local, state, and federal permits or other authorizations. However, if you elect to do so, it will be at your own risk.

The Lake or Streambed Alteration Notification (Notification) was submitted with two separate projects: stream remediation and commercial cannabis cultivation. The commercial cannabis cultivation project that was submitted as part of the Notification packet is not covered by this Agreement. The commercial cannabis, as detailed in Attachment E, included, but is not limited to, the following information: a medium outdoor cultivation operation (an outdoor cultivation site of between 10,001 square feet and 1 acre of total canopy) utilizing a groundwater well for cannabis irrigation and domestic use. Your Notification and site map indicate there are no activities relating to the commercial cannabis cultivation project subject to the notification requirements of Fish and Game Code section 1602 on the parcel.

Please note that if you change your commercial cannabis cultivation project you will need to submit a new Notification and corresponding fee to CDFW if your modified project will do any of the following:

- Divert or obstruct the natural flow of any river, stream, or lake
- Change the bed, channel, or bank of any river, stream, or lake
- Use material from any river, stream, or lake
- Deposit or dispose of material into any river, stream, or lake

Danny Kuehl  
May 28, 2020  
Page 2 of 2

If you have any questions regarding this letter, please contact Tobey Freeny, Senior Environmental Scientist Specialist at (530) 225-2867 or by email at [tobi.freeny@wildlife.ca.gov](mailto:tobi.freeny@wildlife.ca.gov).

Sincerely,

Donna Cobb  
Senior Environmental Scientist, Supervisory – CEP 1

cc: Danny Kuehl - [dam.dk45@gmail.com](mailto:dam.dk45@gmail.com)

Jess Gregory, Gregory Engineering - [laptop017@yahoo.com](mailto:laptop017@yahoo.com)

Lisa Wright, The Flowra Platform - [lisa@theflowraplatform.com](mailto:lisa@theflowraplatform.com)

Jeremy Valverde and Stephanie Mello  
Department of Fish and Wildlife  
[jeremy.valverde@wildlife.ca.gov](mailto:jeremy.valverde@wildlife.ca.gov), [stephanie.mello@wildlife.ca.gov](mailto:stephanie.mello@wildlife.ca.gov)

Josh Luders  
North Coast Regional Water Quality Control Board  
[josh.luders@waterboards.ca.gov](mailto:josh.luders@waterboards.ca.gov), [northcoast.cannabis@waterboards.ca.gov](mailto:northcoast.cannabis@waterboards.ca.gov)

Kim Hunter and Kristalynne Anderson  
Trinity County Planning and Environmental Health  
[khunter@trinitycounty.org](mailto:khunter@trinitycounty.org), [kanderson@trinitycounty.org](mailto:kanderson@trinitycounty.org)

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE  
NORTHERN REGION  
601 LOCUST STREET  
REDDING, CA 96001



**STREAMBED ALTERATION AGREEMENT**  
NOTIFICATION No. 1600-2018-0663-R1  
Unnamed tributary to Hoadley Gulch

MR. DANNY KUEHL  
KUEHL STREAM REMEDIATION  
TRINITY COUNTY APN: 025-350-52-00 & 025-350-53-00

This Streambed Alteration Agreement (Agreement) is entered into between the California Department of Fish and Wildlife (CDFW) and Danny Kuehl (Permittee).

#### **RECITALS**

WHEREAS, pursuant to Fish and Game Code section 1602 and in response to a Notice of Violation (NOV) issued by CDFW on September 21, 2017 (Exhibit A), Permittee notified CDFW on October 23, 2018 that Permittee intends to complete the project described herein.

WHEREAS, pursuant to Fish and Game Code section 1603, CDFW has determined that the project could substantially adversely affect existing fish or wildlife resources and has included measures in the Agreement necessary to protect those resources.

WHEREAS, Permittee has reviewed the Agreement and accepts its terms and conditions, including the measures to protect fish and wildlife resources.

NOW THEREFORE, Permittee agrees to complete the project in accordance with the Agreement.

#### **PROJECT LOCATION**

The project is located at an unnamed tributary to Hoadley Gulch, tributary to the Trinity River, in the County of Trinity, State of California; Section 20, Township 33N, Range 8E, Mt. Diablo Meridian, Latitude 40.70909, Longitude -122.79167 degrees, Assessor Parcel Numbers: 025-350-52-00 and 025-350-53-00.

#### **PROJECT DESCRIPTION**

The project is limited to the remediation of approximately 280 lineal feet of stream channel as shown in Exhibit B: Project Design. Specific work includes the removal of unpermitted fill material with the restoration of the stream channel and the installation of a stream crossing.



## **Stream Channel Restoration**

All earthen fill within the stream channel shall be removed including the fill associated with the road at the bottom toe of the fill slope. Removal of the fill material will be to the pre-existing ground and contours; if the original ground is not identifiable the stream channel bottom width will vary from three (3) to six (6) feet and the stream banks will have a maximum slope of 1.7:1. Re-contoured slopes shall have appropriate slope protection installed such as jute netting with seed and mulch. A revegetation plan will be completed to restore the native vegetation.

## **Stream Crossing**

Once the earthen fill has been removed an 18-inch diameter corrugated metal pipe will be installed for a single lane road as shown in Exhibit C: Culvert Plan.

## **PROJECT IMPACTS**

Existing fish or wildlife resources the project could substantially adversely affect include: Chinook salmon (*Oncorhynchus tshawytscha*), coho salmon (*O. kisutch*), steelhead trout (*O. mykiss*), other non-game or resident fish, amphibians, reptiles, aquatic invertebrates, mammals, migratory birds, and other aquatic and riparian species.

The adverse effects the project could have on the fish or wildlife resources identified above include:

### **Impacts to Water Quality:**

- Increased turbidity
- Increased sedimentation
- Short-term release of contaminants (e.g. incidental from construction)
- Change in flow depth, width, or velocity

### **Impacts to Bed, Bank and channel**

- Loss of natural bed or bank
- Relocation of stream channel
- Change in contour of bed, channel or bank
- Change in gradient of bed, channel or bank
- Accelerated channel scour

### **Direct and Indirect Effects to Wildlife and their Habitat**

- Above-ambient visual and auditory disturbance incidental to construction
- Disruption to nesting birds and other wildlife
- Colonization by exotic plant or animal species



## **MEASURES TO PROTECT FISH AND WILDLIFE RESOURCES**

### **1. Administrative Measures**

Permittee shall meet each administrative requirement described below.

- 1.1 Notification Materials.** Permittee's Lake or Streambed Alteration Notification (Notification) together with all maps, plans, designs, investigations, studies, drawings, photographs, and all other supporting documents submitted with the Notification to describe the activity is hereby incorporated by reference into this Agreement. Permittee shall conduct project activities within the work areas and using the mitigative features described in the Notification and supporting documents, unless such project activities, work areas, or mitigative features are modified by the provisions of this Agreement, in which case the activities shall be conducted as described in this Agreement.
- 1.2 Documentation at Project Site.** Permittee shall make the Agreement, exhibits, any extensions and amendments to the Agreement, and all related Notification materials and California Environmental Quality Act (CEQA) documents, readily available at the project site at all times and shall be presented to CDFW personnel, or personnel from another state, federal, or local agency upon request.
- 1.3 Providing Agreement to Persons at Project Site.** Permittee shall provide copies of the Agreement and any extensions and amendments to the Agreement to all persons who will be working on the project at the project site on behalf of Permittee, including but not limited to contractors, subcontractors, inspectors, and monitors.
- 1.4 Notification of Conflicting Provisions.** Permittee shall notify CDFW if Permittee determines or learns that a provision in the Agreement might conflict with a provision imposed on the project by another local, state, or federal agency. In that event, CDFW shall contact Permittee to resolve any conflict.
- 1.5 Project Site Entry.** Permittee agrees that CDFW personnel may enter the project site at any time to verify compliance with the Agreement.
- 1.6 No Trespass.** To the extent that any provisions of this Agreement provide for activities that require the Permittee to traverse another owner's property, such provisions are agreed to with the understanding that the Permittee possesses the legal right to so traverse. In the absence of such right, any such provision is void.
- 1.7 Change of Conditions and Need to Cease Operations.** If conditions arise, or change, in such a manner as to be considered deleterious to the stream or wildlife, operations shall cease until corrective measures, approved in writing by CDFW, are taken.

**1.8 Other Agency Permitting Requirements.** The proposed project may be subject to additional federal, state and local laws, regulations, and permitting requirements. It is the responsibility of the Permittee to obtain and comply with any additional permits necessary to cover the scope of work as described by the project. Examples include but are not limited to the following:

- The Federal Clean Water Act (CWA) as implemented through permits, enforcement orders, and self-implementing requirements. When needed per the requirements of the CWA, the project proponent shall obtain a CWA Section 404 (33 U.S.C. Section 1344) Permit from the United States Army Corps of Engineers (Army Corps) and a CWA Section 401 (33 U.S.C. Section 1341) Water Quality Certification from the State Water Resources Control Board or appropriate Regional Water Quality Control Board.
- All Applicable state, city, county, or local regulations, ordinances, or license requirements including, but not limited to those for grading, construction, and building.
- CEQA and the National Environmental Policy Act.

## **2. Avoidance and Minimization Measures**

To avoid or minimize adverse impacts to fish and wildlife resources identified above, Permittee shall implement each measure listed below.

### **Work Period**

- 2.1 Work Period.** All ground disturbance work shall be confined to the period commencing July 1 and ending October 15, provided the stream is dry or at its lowest flow. To avoid impacts to nesting birds this work shall be confined to the period commencing September 1 and ending October 15, of any year in which this Agreement is valid. If work must be completed before September 1 nest surveys shall be conducted by a qualified biologist as detailed in Measure 2.8.
- 2.2 Work in Dry Weather Only.** Permittee shall cease the project activities when the National Weather Service (NWS) 72-hour weather forecast indicates a 30 percent chance or higher of precipitation. Permittee shall implement all necessary erosion control measures prior to the onset of precipitation and remove construction equipment and materials if precipitation is likely. Work activity halted due to precipitation may resume when the NWS 72-hour weather forecast indicates less than a 30 percent chance of precipitation. No authorized activity shall occur during a dry-out period of 24 hours after wet weather.
- 2.3 Work Window Variance.** A variance to the above listed work period can be requested for review by CDFW using the contact information on page 13. The work period variance request shall: 1) describe the extent of work already completed; 2) detail the activities that remain to be completed; 3) detail the time required to complete each of the remaining activities; and 4) provide photographs of both the current work completed and the proposed site for continued work.

Written approval from CDFW shall be obtained for all work performed using a work window variance.

- 2.4 **Vegetation Removal Timing.** Notwithstanding Measure 2.1 above, removal of the above-ground portions of existing trees and shrubs shall be confined to the period commencing September 1 and ending January 31 to avoid impacts to nesting birds provided the work area is outside of the actively flowing stream. Work may continue during precipitation events provided stream flows have not risen into work areas and sediment delivery will not result. If vegetation must be removed during the nesting season for migratory birds and raptors (February 1 to August 31), nest surveys shall be conducted by a qualified biologist prior to vegetation clearing, as detailed in Measure 2.8.

### **Habitat and Species Protection**

- 2.5 **Work Area.** All work areas described in this Agreement shall be flagged or fenced with appropriate marking materials to prohibit unauthorized and unnecessary disturbance of vegetation. The work area shall be identified to all workers, as represented in the plans. All marking materials shall be maintained throughout the life of the project and shall be removed at completion of the project activities.
- 2.6 **Minimum Vegetation Removal.** Disturbance or removal of vegetation shall not exceed the minimum necessary to complete operations. The disturbed portions of any stream shall be restored to as near their original condition as possible.
- 2.7 **Leave Wildlife Unharmd.** If any wildlife is encountered during the Authorized Activity, Permittee shall not disturb the wildlife and shall allow wildlife to leave the work site unharmed.
- 2.8 **Nesting Bird Surveys.** If construction, grading, vegetation removal, or other ground disturbance activities are scheduled during the nesting season of protected raptors and migratory birds (February 1 through August 31) a focused survey for nests of such birds shall be conducted by a qualified biologist within seven days prior to the beginning of project activities. If a nest is found, Permittee shall consult with CDFW regarding appropriate action to comply with the Migratory Bird Treaty Act of 1918 and Fish and Game Code. If a lapse in project-related work of seven days or longer occurs, another focused survey shall be required before project work can be reinitiated. All surveys shall be submitted to CDFW for written approval before the implementation of project activities.
- 2.9 **Listed Species.** This Agreement does not authorize take or incidental take, defined under Fish and Game Code section 86, of a listed, fully protected, or candidate species of fish, wildlife, or plant, as explained under the California Endangered Species Act (Fish and Game Code section 2050 et seq.). If the project could result in the "take" of a state listed species, the Permittee has the

responsibility to obtain from CDFW, a California Endangered Species Act Permit (Fish and Game Code section 2081).

- 2.10 Herbicide and Pesticide. Permittee shall not use chemical herbicides or pesticides, including chemical rodenticides, that are deleterious to fish, plant life, mammals, or bird life, where they may pass into the waters of the state.
- 2.11 Invasive Exotic Plant Control. The Permittee shall ensure that the spread or introduction of invasive exotic plants shall be avoided to the maximum extent possible by washing and decontaminating all equipment. Vegetation restoration should include the weed-free native seed and straw to reduce the potential for introduction of non-native invasive weed species to the site.

#### **Erosion and Sediment Control**

- 2.12 Erosion Control. Permittee shall use erosion control measures throughout all work phases where sediment runoff threatens to enter a stream, lake, or other waters of the state.
- 2.13 Runoff from Steep Areas. Permittee shall ensure runoff from steep, erodible surfaces is either diverted to stable areas with little erosion potential or contained behind sediment control structures. Sediment control structures such as straw bales, fiber rolls, and/or siltation control fencing shall be placed and maintained until the threat of erosion ceases.
- 2.14 Prohibition on Use of Monofilament Netting. To minimize the risk of ensnaring and strangling wildlife, Permittee shall not use any erosion control materials that contain synthetic (e.g., plastic or nylon) monofilament netting, including photo- or bio-degradable plastic netting. Geotextiles, fiber rolls, and other erosion control measures shall be made of loose-weave mesh, such as jute, hemp, coconut (coir) fiber, or other products without welded weaves.
- 2.15 Erosion and Sediment Barriers. Permittee shall monitor and maintain all erosion and sediment barriers in good operating condition throughout the work period and the following rainy season. Maintenance includes, but is not limited to, removal of accumulated sediment and/or replacement of damaged sediment fencing, coir logs, coir rolls, and/or straw bale dikes. If the sediment barrier fails to retain sediment, Permittee shall employ corrective measures, and notify CDFW immediately.
- 2.16 Removal, Storage and Disposal of Excavated Fill, Spoils, and Debris. Permittee shall remove all excavated fill, spoils, and debris from any stream, lake, or other waters of the state and place it in stable upland locations where it cannot discharge into such waters or disposed of it according to state and local laws and ordinances.

- 2.17 **Cover Spoil Piles.** Permittee shall have readily available erosion control materials such as wattles, natural fiber mats, or plastic sheeting, to cover and contain exposed spoil piles and exposed areas in order to prevent sediment from moving into a stream or lake. Permittee shall apply and secure these materials prior to rain events to prevent loose soils from entering a stream, lake, or other waters of the state.
- 2.18 **Seed and Mulch.** Upon completion of construction operations and/or the onset of wet weather, Permittee shall stabilize exposed soil areas within the project site by applying mulch and seed. All exposed/disturbed areas and access points within the stream and riparian zone shall be restored by applying local native and weed free erosion control grass seeds. Locally native wildflower and/or shrub seeds may also be included in the seed mix. Restored areas must be mulched, using at least 2- to 4-inches of weed-free, clean straw or similar biodegradable mulch over the seeded area. Alternately, seeding may be covered with jute netting, coconut fiber blanket or similar erosion control blanket.

#### **Equipment, Debris, Material Storage and Waste**

- 2.19 **Stockpiled Materials.** Permittee shall not stockpile or store any building materials and/or construction materials where they may be washed or percolate into a stream, lake, or other waters of the state, or where they may adversely affect stream habitat or aquatic or riparian vegetation.
- 2.20 **No Dumping.** Permittee shall not deposit, permit to pass into, or place where it can pass into a stream, lake, or other waters of the state any material deleterious to fish and wildlife, pursuant to Fish and Game Code section 5650(a)(6) or abandon, dispose of, or throw away within 150 feet of a stream, lake, or other waters of the state, any cans, bottles, garbage, motor vehicle or parts thereof, rubbish, litter, refuse, waste, debris, or the viscera or carcass of any dead mammal, or the carcass of any dead bird, pursuant to Fish and Game Code section 5652.
- 2.21 **Debris Removal.** Permittee shall pick up all debris and waste daily and shall dispose of it according to state and local laws and ordinances.
- 2.22 **No Equipment in Sensitive Habitat.** Vehicles shall not be driven, nor equipment operated within any flowing stream, nor where wetland vegetation, riparian vegetation, or aquatic organisms may be impacted.
- 2.23 **Staging and Storage.** Permittee shall not stage or store any equipment, materials, fuels, lubricants, solvents, and hazardous or toxic materials where they may enter a stream or lake, or where they have potential to enter a stream, lake, or other waters of the state (e.g., through storm water runoff or percolation). Equipment shall be positioned over drip pans. Stationary heavy equipment shall have suitable containment to handle a catastrophic spill/leak.

**2.24 Equipment Maintenance and Fueling.** Permittee shall not conduct any maintenance activity or refuel equipment in any location where the petroleum products or other pollutants may enter any river, stream, or waters of the state, pursuant to Fish and Game Code section 5650(a)(1). Furthermore, any equipment operated within or adjacent to the stream channel shall be checked and maintained daily to prevent leaks of materials that, if introduced to water, could be deleterious to aquatic life, wildlife, or riparian habitat.

### **Toxic and Hazardous Materials**

**2.25 Toxic Materials.** Any hazardous or toxic materials that could be deleterious to aquatic life shall be stored in accordance with any federal, state, and local laws and ordinances.

**2.26 Hazardous Substances.** Permittee shall prevent raw cement/concrete or washings thereof, asphalt, paint or other coating material, oil or other petroleum products, or any other substances that could be hazardous to aquatic life, from contaminating the soil and/or entering a river, stream, or lake. Permittee shall immediately remove any of these materials placed within, or where they may enter, a river, stream or waters of the state.

### **Spills and Emergencies**

**2.27 Cleanup and Containment.** In the case of a spill, Permittee shall immediately notify the California Office of Emergency Services (OES) State Warning Center at 1-800-852-7550 and immediately initiate clean-up activities. The CDFW Redding office shall be notified of clean-up procedures.

### **Stream Crossing**

**2.28 Culverted Stream Crossing.** Project activity shall be installed per the engineered plans (Exhibit C) and comply with the following measures.

- **Crossing Sizing.** The culvert shall be designed to accommodate the estimated 100-year flood flow (i.e.  $\geq 1.0$  times the width of the bankfull channel width or the 100-year flood size, whichever is greater), including debris, culvert embedding, and sediment loads.
- **Culvert Placement.** The culvert shall be installed to grade (not perched or suspended), properly aligned within the stream, and extend beyond the toe of the fill, including armoring material
- **Crossing Bedding and Fill.** Culvert bed shall be composed of either compacted rock-free soil or crushed gravel. Bedding beneath the culvert shall provide for even distribution of the load over the length of the pipe and allow for natural settling and compaction to help the pipe settle into a

straight profile. The crossing backfill materials shall be free of rocks, limbs, or other debris that could allow water to seep around the pipe and shall be layer-placed and machine compacted in a maximum of one-foot lifts.

- **Culvert Material.** Corrugated metal pipe shall be used as the culvert material. Plastic (polyethylene) corrugated drainpipe is not allowed in rural, wilderness or forested settings. This is due to wildfires and the propensity of the pipes to melt during such an event causing the failure of the crossing.
- **Critical Dip.** Where diversion potential exists, a critical dip shall be installed to direct flood flow over the crossing fill and back into the channel. Critical dips shall be constructed to accommodate the entire estimated 100-year flood flow and may be installed by lowering the existing fill over the crossing or by constructing a deep, broad rolling dip over the crossing surface to prevent flood flow from diverting down the road.
- **Armoring.** Culvert inlets and outlets shall be protected from erosion as appropriate through armoring constructed of large angular rock or rip-rap. Rock armoring or rip-rap shall be of sufficient size and depth to remain in place during 100-year peak flows (generally 12 inch or greater diameter or equal to the largest size that naturally exists in the channel), extend at least as high as the top of the pipe on inlets, and shall extend sufficient distance upstream as wing walls to prevent bank erosion. The channel at the culvert outlet shall be rip-rapped in a U-shaped channel and rip-rap set below grade so as to allow the natural accumulation of bed load at stream grade.

**2.29 Road Surface Grading.** If grading of the road surface is required, all material shall be graded away from the stream.

**2.30 Road Approaches.** Permittee shall maintain stream crossings to minimize erosion and sediment delivery to waters of the state. Permittee shall ensure road approaches to the crossing are armored and hydrologically disconnected from the stream to the maximum extent feasible, in order to prevent sediment from entering the crossing.

**2.31 Routine Maintenance Activities.** The Permittee may conduct maintenance activities as necessary to the stream crossing authorized by this Agreement, provided the Permittee notifies CDFW for written approval prior to commencing any activities. Such work shall employ the same type of materials used in the original construction and shall occur only in the locations of existing features unless otherwise specified in the written approval.

## **Stream Remediation, Restoration, and Revegetation**

**2.32 Remediation Completion Date.** All authorized work necessary to remedy existing violations of Fish and Game Code documented in the NOV (Exhibit A) shall be completed by **October 15, 2020**. If Permittee cannot remedy existing violations by this date Permittee shall notify CDFW in writing prior to October 15, 2020 to request a project completion extension.

The project completion extension request shall: 1) detail the reason for delayed completion; 2) include the status of any other permits the Permittee has applied for, that are hindering the project completion; 3) describe the extent of work already completed, if any; 4) detail the activities that remain to be completed; 5) detail the time required to complete each of the remaining activities; and 6) provide photographs of both the current work completed and the proposed site for continued work. The extension request should consider the effects of increased stream flows, rain delays, increased erosion control measures, limited access due to saturated soil conditions, limited growth of erosion control grasses due to cool weather and the potential to prolong the existing or incur additional Fish and Game Code violations. Project completion extension variances are issued at the sole discretion of CDFW. CDFW will review the written request to extend the remediation work completion date within 10 working days of receiving the written request. CDFW reserves the right to require additional measures to protect fish and wildlife resources as a condition for granting the extension or require an amendment request be submitted in order to approve the extension. If CDFW requires the Agreement be amended in order to finalize the project completion extension, Permittee shall submit the appropriate form and fee for the amendment. Written approval from CDFW shall be obtained for all work performed using a project completion extension.

In the event that failure to complete the required remediation within the timelines specified within this Agreement causes, or continues to cause, violations of Fish and Game Code, Permittee may be required to submit additional remediation plans, remediation fees, and/or a new notification pursuant to Fish and Game Code section 1602.

**2.33 Revegetation Plan.** At least sixty (60) days before the Permittee intends to begin revegetation activities, a revegetation plan shall be submitted to CDFW for review and written approval. The plan shall be prepared by persons with expertise in northern California ecosystems and native plant re-vegetation techniques. The plan should include at minimum the following information:

**2.33.1.** The identification of the area and vegetation types that will be restored.

**2.33.2.** A planting design and palette appropriate to the vegetation type, cover, stratum, and level of biodiversity (i.e., species richness and composition). Use of a reference site is recommended.



- 2.33.3. The time of year the plantings will be made. Planting conducted after the first seasonal rains have saturated soils beyond the first several inches (November/December) and before April is recommended.
  - 2.33.4. A description of the irrigation methodology or techniques that will be used to maintain the plantings, if applicable.
  - 2.33.5. Measurable success criteria based on plant survival, density, or cover.
  - 2.33.6. Monitoring conducted for a minimum of five years to determine whether the revegetation goals and objectives have been met, including photo point monitoring. Remedial measures if revegetation goals and objectives are not met.
  - 2.33.7. Measures to control exotic vegetation on restoration site(s).
  - 2.33.8. No application of fertilizer on plants or chemical controls on weeds.
- 2.34 **Stream Restoration.** Stream channel shall be restored to as near its original condition to the maximum extent feasible including, stream gradient, bank slopes, and appropriately sized rock or cobble embedded into the channel. Remediation shall include revegetation of areas stripped or exposed by project activities.
- 2.35 **Exotic Vegetation Removal.** To increase the success of native revegetation efforts, the Permittee may remove exotic/non-native species from the restoration area. Vegetation removal shall be completed by hand or by using hand operated tools only. Use of herbicides for non-native plant control within the riparian area is prohibited.
- 2.36 **Disposal of Exotic or Invasive Species.** The Permittee shall remove all cut or displaced non-native vegetation from the treatment area and shall dispose of it in a legal manner; in all cases it shall be placed in a manner which prevents its reestablishment in the stream, and in such a manner so that it does not negatively impact other sensitive native plant communities.
- 2.37 **Maintenance Activities.** The Permittee may conduct maintenance activities within the remediation area authorized by this Agreement, provided the Permittee notifies CDFW for written approval prior to commencing any activities. Such work shall employ the same type of materials used in the original project and shall occur only in the locations of existing features unless otherwise specified in the written approval.
- 2.38 **Qualified Professionals.** The project activities shall be managed and inspected by Gregory Engineering, a licensed engineer, or qualified professional, as deemed appropriate per project activity, to ensure that the activities are implemented as designed.

### 3. Monitoring and Reporting Measures

Permittee shall meet each monitoring and reporting requirement described below. Follow directions as described in the Contact Information section.

- 3.1 California Natural Diversity Database Observations. Permittee shall submit to CDFW all observations of Species of Greatest Conservation Need to the California Natural Diversity Database (<https://www.wildlife.ca.gov/Data/CNDDB/Submitting-Data>).
- 3.2 CDFW Notification Prior to Start Work Initiation. The Permittee shall notify CDFW at least **five (5) days** prior to commencement of remediation activities as covered by this Agreement. Verbal or written notification is acceptable.
- 3.3 CDFW Notification of Work Completion. At the completion of project activities, or each annual work season, Permittee shall notify CDFW within **seven (7) days** of project completion. Verbal or written notification is acceptable.
- 3.4 Project Inspection and Completion Report. The project shall be inspected by a qualified licensed professional to ensure that the project was constructed as described in the Notification and supplemental materials. A Completion Report shall be prepared following inspection, signed off by the qualified licensed professional, and submitted to CDFW via email **within 60 days** of completing project activities. The Completion Report shall include the following information:
  - Construction beginning and end dates.
  - An evaluation summary confirming construction consistency with the project description and/or construction plans and specifications, including the types, quantities, dimensions, and locations of all structures, materials, areas of streambed and other ground disturbance, and/or vegetation removal.
  - Areas of concern which may require continued monitoring.
  - Site photographs including culvert inlets and outlets, upstream, downstream, panoramic photos of the entire project site, and areas of vegetation removal and/or ground disturbance as applicable.
- 3.5 Annual Reports. All project activities as described by this Agreement shall be monitored for long term stability for 3 years after work is complete, or until the Permittee receives notice from CDFW in writing that no further reports are necessary. The Permittee shall submit to CDFW, no later than **November 15 of each year**, a written report which shall contain photos, a description of site conditions, and any proposed maintenance activities to the contact person listed below.

## CONTACT INFORMATION

Any communication that Permittee or CDFW submits to the other shall be in writing and any communication or documentation shall be delivered to the address below by U.S. mail or email, or to such other address as Permittee or CDFW specifies by written notice to the other.

### To Permittee:

Danny Kuehl  
Fat Wallet Farms, LLC  
PO Box 488  
Lewiston, CA 96052  
[dam.dk45@gmail.com](mailto:dam.dk45@gmail.com)

### To CDFW:

Department of Fish and Wildlife  
Northern Region  
601 Locust Street  
Attn: Tobi Freeny  
Notification #1600-2018-0663-R1  
[tobi.freeny@wildlife.ca.gov](mailto:tobi.freeny@wildlife.ca.gov)  
Phone: 530-225-2867

## LIABILITY

Permittee shall be solely liable for any violations of the Agreement, whether committed by Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents or contractors and subcontractors, to complete the project or any activity related to it that the Agreement authorizes.

This Agreement does not constitute CDFW's endorsement of, or require Permittee to proceed with the project. The decision to proceed with the project is Permittee's alone.

## SUSPENSION AND REVOCATION

CDFW may suspend or revoke in its entirety the Agreement if it determines that Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, is not in compliance with the Agreement.

Before CDFW suspends or revokes the Agreement, it shall provide Permittee written notice by certified or registered mail that it intends to suspend or revoke. The notice shall state the reason(s) for the proposed suspension or revocation, provide Permittee an opportunity to correct any deficiency before CDFW suspends or revokes the Agreement, and include instructions to Permittee, if necessary, including but not limited to a directive to immediately cease the specific activity or activities that caused CDFW to issue the notice.



## **ENFORCEMENT**

Nothing in the Agreement precludes CDFW from pursuing an enforcement action against Permittee instead of, or in addition to, suspending or revoking the Agreement.

Nothing in the Agreement limits or otherwise affects CDFW's enforcement authority or that of its enforcement personnel.

## **OTHER LEGAL OBLIGATIONS**

This Agreement does not relieve Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, from complying with, or obtaining any other permits or authorizations that might be required under, other federal, state, or local laws or regulations before beginning the project or an activity related to it. For example, if the project causes take of a species listed as threatened or endangered under the Endangered Species Act (ESA), such take will be unlawful under the ESA absent a permit or other form of authorization from the U.S. Fish and Wildlife Service or National Marine Fisheries Service.

This Agreement does not relieve Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, from complying with other applicable statutes in the Fish and Game Code including, but not limited to, Fish and Game Code sections 2050 *et seq.* (threatened and endangered species), section 3503 (bird nests and eggs), section 3503.5 (birds of prey), section 5650 (water pollution), section 5652 (refuse disposal into water), section 5901 (fish passage), section 5937 (sufficient water for fish), and section 5948 (obstruction of stream).

Nothing in the Agreement authorizes Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, to trespass.

## **AMENDMENT**

CDFW may amend the Agreement at any time during its term if CDFW determines the amendment is necessary to protect an existing fish or wildlife resource.

Permittee may amend the Agreement at any time during its term, provided the amendment is mutually agreed to in writing by CDFW and Permittee. To request an amendment, Permittee shall submit to CDFW a completed CDFW "Request to Amend Lake or Streambed Alteration" form and include with the completed form payment of the corresponding amendment fee identified in CDFW's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5). Submit the form and fee to the CDFW regional or field office that serves the area where the project is located.

## TRANSFER AND ASSIGNMENT

This Agreement may not be transferred or assigned to another entity, and any purported transfer or assignment of the Agreement to another entity shall not be valid or effective, unless the transfer or assignment is requested by Permittee in writing, as specified below, and thereafter CDFW approves the transfer or assignment in writing.

The transfer or assignment of the Agreement to another entity shall constitute a minor amendment, and therefore to request a transfer or assignment, Permittee shall submit to CDFW a completed CDFW "Request to Amend Lake or Streambed Alteration" form and include with the completed form payment of the minor amendment fee identified in CDFW's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5). Submit the form and fee to the CDFW regional or field office that serves the area where the project is located.

## EXTENSIONS

In accordance with Fish and Game Code section 1605, subdivision (b), Permittee may request one extension of the Agreement, provided the request is made prior to the expiration of the Agreement's term. To request an extension, Permittee shall submit to CDFW a completed CDFW "Request to Extend Lake or Streambed Alteration" form and include payment of the extension fee identified in CDFW's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5). CDFW shall process the extension request in accordance with Fish and Game Code section 1605, subdivisions (b) through (e).

If Permittee fails to submit a request to extend the Agreement prior to its expiration, Permittee must submit a new notification and notification fee before beginning or continuing the project the Agreement covers (Fish & G. Code § 1605, subd. (f)). Submit the form and fee to the CDFW regional or field office that serves the area where the project is located.

## EFFECTIVE DATE

The Agreement becomes effective on the date of CDFW's signature, which shall be: 1) after Permittee's signature; 2) after CDFW complies with all applicable requirements under the CEQA; and 3) after payment of the applicable Fish and Game Code section 711.4 filing fee listed at <https://www.wildlife.ca.gov/Conservation/CEQA/Fees>.

## TERM

This Agreement shall **expire five years** from date of execution, unless it is terminated or extended before then. All provisions in the Agreement shall remain in force throughout its term. Permittee shall remain responsible for implementing any provisions specified herein to protect fish and wildlife resources after the Agreement expires or is terminated, as Fish and Game Code section 1605, subdivision (a)(2) requires.



## EXHIBITS

The documents listed below are included as exhibits to the Agreement and incorporated herein by reference.

Exhibit A: NOV  
Exhibit B: Project Design  
Exhibit C: Culvert Plan

## AUTHORITY

If the person signing the Agreement (signatory) is doing so as a representative of Permittee, the signatory hereby acknowledges that he or she is doing so on Permittee's behalf and represents and warrants that he or she has the authority to legally bind Permittee to the provisions herein.

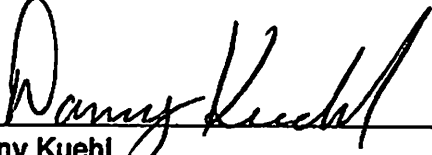
## AUTHORIZATION

This Agreement authorizes only the project described herein. If Permittee begins or completes a project different from the project the Agreement authorizes, Permittee may be subject to civil or criminal prosecution for failing to notify CDFW in accordance with Fish and Game Code section 1602.

## CONCURRENCE

The undersigned accepts and agrees to comply with all provisions contained herein.

FOR DANNY KUEHL

  
\_\_\_\_\_  
Danny Kuehl  
Property Owner

2-26-2020  
Date

FOR DEPARTMENT OF FISH AND WILDLIFE

\_\_\_\_\_  
Donna L. Cobb  
Senior Environmental Scientist Supervisor

\_\_\_\_\_  
Date

Prepared by: Tobi Freeny  
Environmental Scientist

Exhibit A: NOV



State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
Region 1 - Northern  
601 Locust Street  
Redding, CA 96001  
(530) 225-2300  
[www.wildlife.ca.gov](http://www.wildlife.ca.gov)

EDMUND G. BROWN, Jr., Governor  
CHARLTON H. BONHAM, Director



September 21, 2017

**CERTIFIED MAIL:**  
7008 1140 0000 8010 1920

Danny Kuehl  
Post Office Box 488  
Lewiston, California 96052

Subject: Notice of Violation of Fish and Game Code Sections 1602, 5650, and 5652 in  
Conjunction with Marijuana Cultivation

Dear Mr. Kuehl:

On June 9, 2017, California Department of Fish and Wildlife (Department) staff visited your properties Assessor Parcel Number 025-350-52, 025-350-53 and 052-350-22 located on unnamed tributaries to Hoadley Gulch within the Trinity River watershed in Trinity County. During the visit, staff observed the activities described below, which are in violation of Fish and Game Code (Fish & G. Code) sections 1602, 5650 and 5652. Staff also observed active marijuana cultivation in conjunction with these activities.

- Substantial alteration of the bed, channel and banks and obstruction of the natural flow of an unnamed tributary to Hoadley Gulch by grading activities and the placement of fill directly in approximately 280 linear feet of the channel. The alteration to the stream channel includes changing and using material from the bed, channel and banks of the stream and depositing debris directly into or where it may pass into the stream.
- The discharge of fine sediment into the unnamed tributary to Hoadley Gulch, detectable for approximately 700 feet downstream of the initial discharge point. Fine sediment has been documented to be a deleterious substance to many aquatic species. Erosion and/or failure of the placed fill and constructed landings was the source of the discharge. This erosion was caused by the placement of fill within the stream channel and the lack of effective erosion control measures throughout the project area.
- The discharge of fine sediment into an unnamed tributary to Hoadley Gulch by the erosion of an inboard ditch of the access road.
- The placement of petroleum products (hydraulic fluid and propane containers) directly into the stream.
- The placement of refuse where it can pass into waters of the state.

*Conserving California's Wildlife Since 1870*

Danny Kuehl  
September 5, 2017  
Page 2 of 3

The number of Fish & G. Code section violations documented on the property is seven and includes two 1602, four 5650 and one 5652.

Fish & G. Code section 1602 requires a person to submit a written notification to the Department before: 1) substantially diverting or obstructing the natural flow of a river, stream, or lake; 2) substantially changing the bed, channel, or bank of a river, stream, or lake; 3) using any material from the bed, channel, or bank of a river, stream, or lake; and/or 4) depositing or disposing of debris, waste, material containing crumbled, flaked, or ground pavement where it may pass into a river, stream, or lake. Hence, any person who engages in an activity subject to Fish & G. Code section 1602 without first notifying the Department violates section 1602.

Fish & G. Code sections 5650 and 5652 make it unlawful to pollute waters of the state. Fish & G. Code section 5650 makes it unlawful to deposit in, permit to pass into, or place where it can pass into waters of the state any substance or material deleterious to fish, plant life, mammals, or bird life, including, but not limited to gasoline and oil, as well as sediment. Fish & G. Code section 5652 makes it unlawful to deposit in, permit to pass into, or place where it can pass into waters of the state, or to abandon, dispose of, or throw away, within 150 feet of the high water mark of the waters of the state, any garbage, refuse, or waste, among other materials.

In the Department's view, notification under Fish & G. Code section 1602 was required because the activity substantially obstructed the natural flow, substantially changed or used material from the bed, channel, and bank of and/or deposited or disposed of debris or waste where it may pass into an unnamed tributary to Hoadley Gulch. However, the Department was unable to locate a notification for this activity.

A person who violates Fish & G. Code sections 1602, 5650, and 5652 in conjunction with the cultivation or production of marijuana is subject to significant penalties or fines. Specifically, the Department may impose civil penalties administratively against any person found by the Department to have violated these Fish & G. Code sections in connection with the production or cultivation of marijuana following a complaint and, if requested, a hearing.

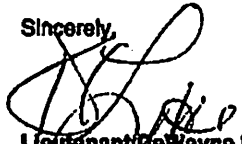
The Department may request a maximum civil penalty of \$8,000 for each violation of Fish & G. Code section 1602, and \$20,000 for each violation of Fish & G. Code sections 5650 or 5652. Each day the violation occurs or continues to occur constitutes a separate violation. (Fish & G. Code, section 12025, subds. (b)(1)(A) - (b)(1)(C), (2); (e).) Also, the District Attorney or the Attorney General may enforce a violation of Fish & G. Code sections 1602 and 5650 civilly. Specifically, under Fish & G. Code sections 1615 and 5650.1, a person who violates Fish & G. Code sections 1602 or 5650 is subject to a maximum civil penalty of \$25,000 for each violation. The District Attorney or the Attorney General may also enforce a violation of Fish & G. Code sections 1602, 5650, and 5652 criminally. Under Fish & G. Code section 12000, each violation is a misdemeanor.

Danny Kuehl  
September 5, 2017  
Page 3 of 3

As a first step to address this matter, the Department requests you contact Senior Environmental Scientist (Specialist) Tobl Freeny at (630) 225-2867 or [tobl.freeny@wildlife.ca.gov](mailto:tobl.freeny@wildlife.ca.gov) within 14 days of the date of this letter. Ms. Freeny may propose certain actions to protect fish and wildlife resources that have been or could be affected by the activities described above, and may ask you to submit a written notification and fee for the activities. While the Department, District Attorney, or Attorney General may still decide to initiate an enforcement action against you if they determine these activities are in violation of Fish & G. Code sections 1602, 5650, or 5652, we encourage you to respond to this notice so that we may better assess the activities and limit any damage to resources.

The Department appreciates your cooperation.

Sincerely,



Lieutenant DeWayne Little  
Watershed Enforcement Team

cc: Jeremy Valverde, Tobl Freeny, Lt. DeWayne Little, Donna Cobb and Curt Babcock  
Department of Fish and Wildlife  
[jeremy.valverde@wildlife.ca.gov](mailto:jeremy.valverde@wildlife.ca.gov), [tobl.freeny@wildlife.ca.gov](mailto:tobl.freeny@wildlife.ca.gov),  
[dewayne.little@wildlife.ca.gov](mailto:dewayne.little@wildlife.ca.gov), [donna.cobb@wildlife.ca.gov](mailto:donna.cobb@wildlife.ca.gov),  
[curt.babcock@wildlife.ca.gov](mailto:curt.babcock@wildlife.ca.gov)

Taro Murano and Yvonne West  
State Water Resources Control Board  
[taro.murano@waterboards.ca.gov](mailto:taro.murano@waterboards.ca.gov), [yvonne.west@waterboards.ca.gov](mailto:yvonne.west@waterboards.ca.gov)

Diana Henriouille and Stormer Feller  
North Coast Regional Water Quality Control Board  
[diana.henriouille@waterboards.ca.gov](mailto:diana.henriouille@waterboards.ca.gov), [stormer.feller@waterboards.ca.gov](mailto:stormer.feller@waterboards.ca.gov)

Leslie Hubbard and Kristalynne Anderson  
Trinity County  
[lhubbard@trinitycounty.org](mailto:lhubbard@trinitycounty.org); [kanderson@trinitycounty.org](mailto:kanderson@trinitycounty.org)



Exhibit B: Project Design

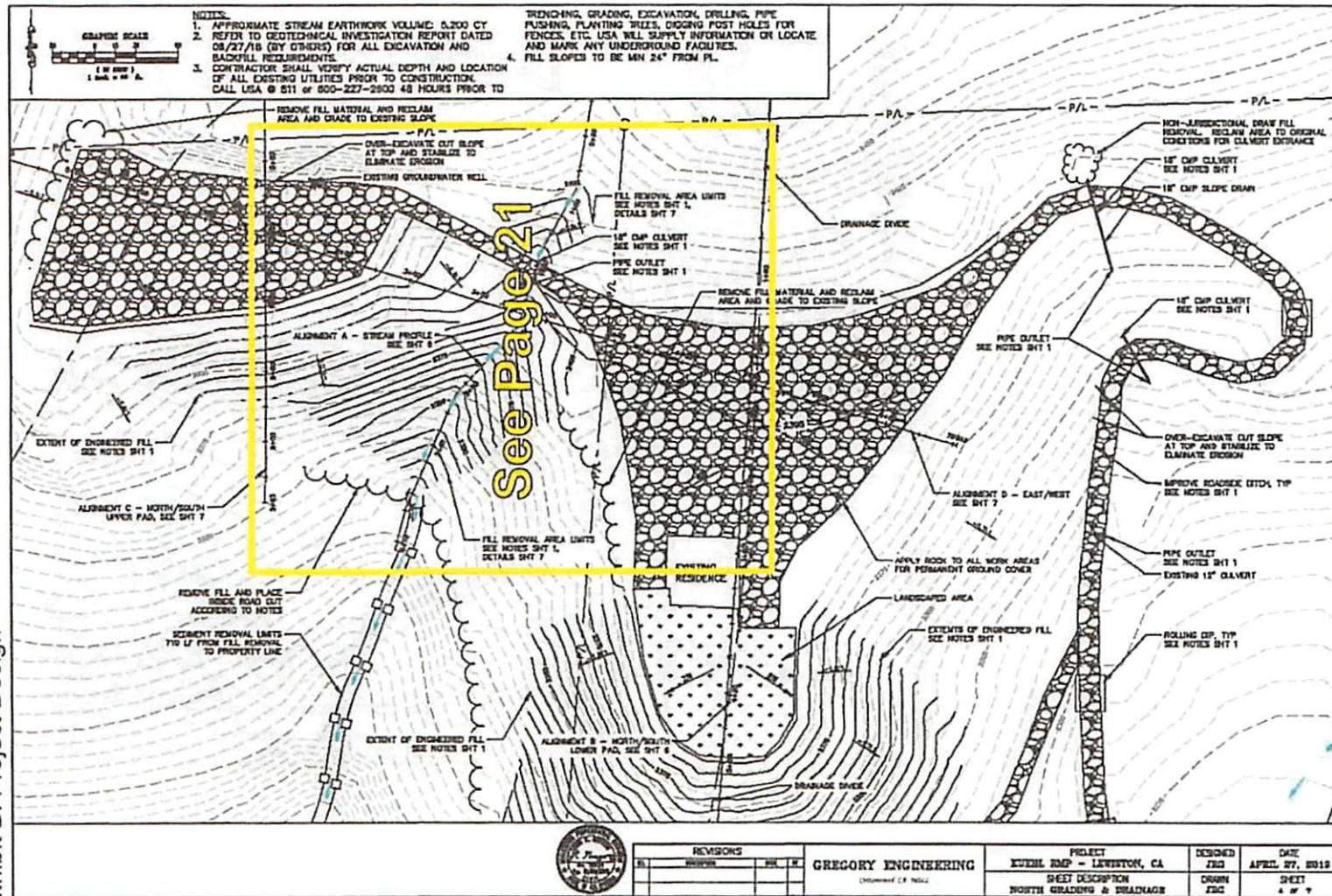




Exhibit B: Project Design, enlarged:

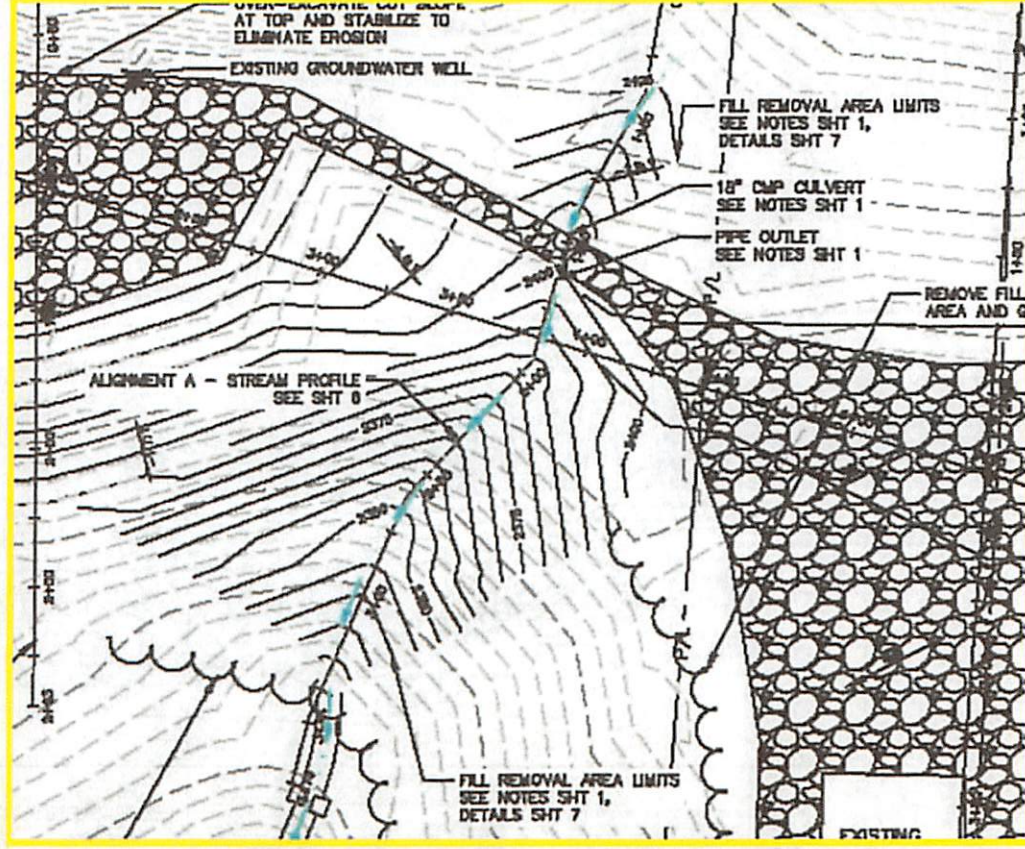
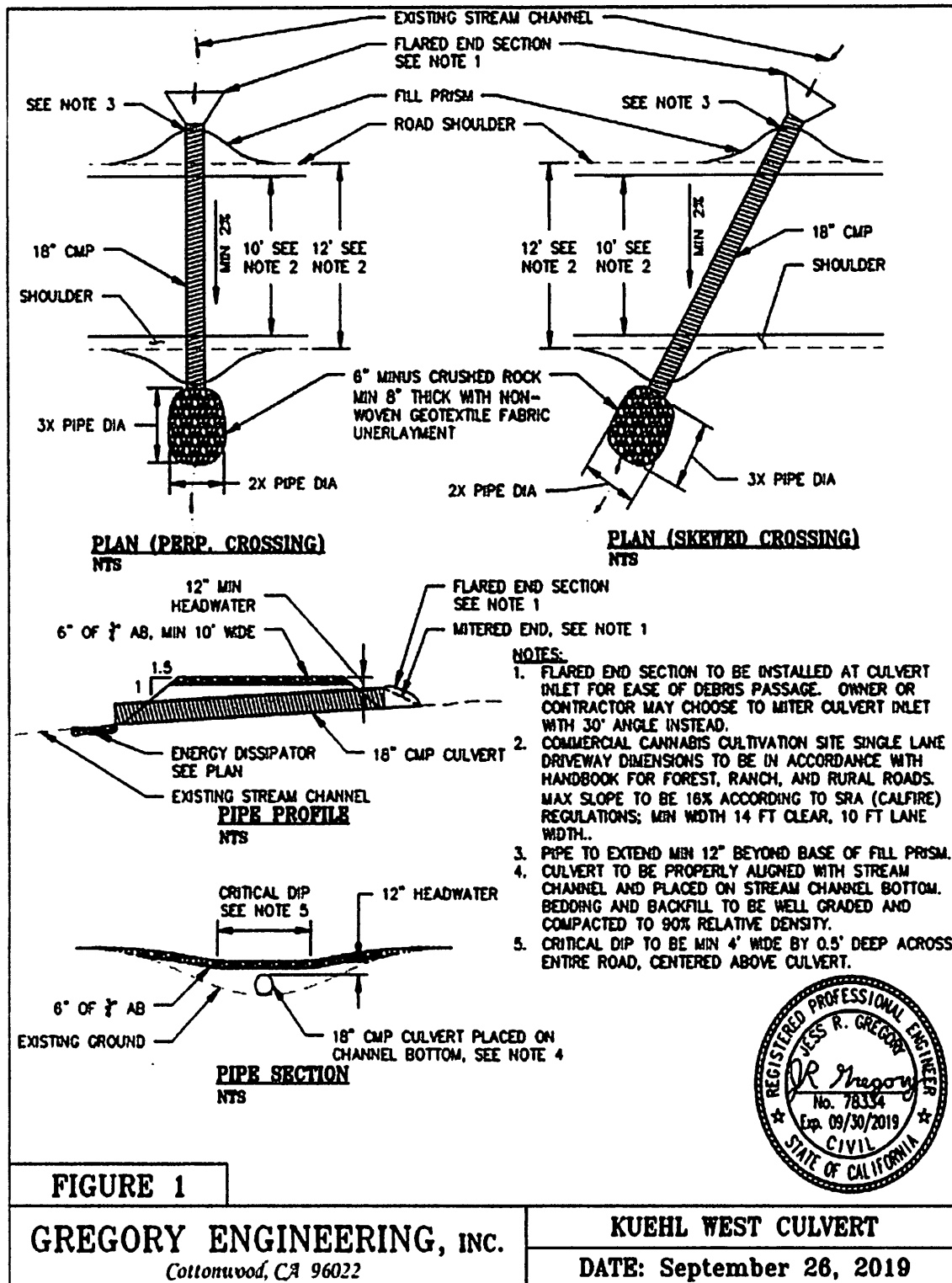


Exhibit C: Culvert Plan



**Follow up from April 15 Meeting - Pending Renewals and New Applications**

10 messages

Ana Wright <ana@theflowraplatform.com>

Fri, Apr 24, 2020 at 10:36 AM

To: Kim Hunter <khunter@trinitycounty.org>

Cc: LISA WRIGHT <lisa@theflowraplatform.com>, Richard Kuhns <rkuhns@trinitycounty.org>

Bcc: Amanda Percy <amanda@theflowraplatform.com>

Good morning Kim,

I hope this email finds you well.

I wanted to follow up from our meeting last week over 2019 outstanding renewals. Please see my notes on individual clients below:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

CCL-427 - Kuehl

This license was decided to be issued as provisional. Please let us know when we can pick up this license.

[REDACTED]

[REDACTED]



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Additionally, we would like to set a meeting to discuss the status of pending new county applications. Specifically, there are several of our clients who are waiting for local authorization from Trinity County to CDFA. Who is handling that communication? Our clients have been waiting 3 plus weeks for authorization they were given upon submission of a complete application. These clients' applications have also been pending with your office more than 30 days. Please see the list of CCL's below that are waiting on local authorization with CDFA:



Please let us know a good time for you in the next couple of weeks to review the licensees mentioned in this email, in addition to all pending new applications of Flowra's.

Any questions in the meantime, feel free to reach out.

Thank you, and have a great weekend.

Best,

Ana Wright  
Executive Vice President  
Flowra  
[www.theflowraplatform.com](http://www.theflowraplatform.com)  
M: (530) 739-9908  
O: (800) 811-4356, ext 502

Schedule an appointment with me through Calendly:  
<https://calendly.com/ana-138>





Trinity County Planning Department  
61 Airport Road PO Box 2819  
Weaverville, CA 96093

Receipt Number: PL2020-00069

**Payer/Payee:** FLOWRA  
790 MAIN ST, BLDG 620 SUITE 172  
WEAVERVILLE CA 96093

**Cashier:** Mary Beth Brinkley

**Date:** 08/07/2020

**P-20-33 PLANNING COMMISSION APPEALS 441 Henrietta Road LEW**

**Fee Description**

Planing Commission Appeal Fee

<b><u>Fee Amount</u></b>	<b><u>Amount Paid</u></b>	<b><u>Fee Balance</u></b>
\$500.00	\$500.00	\$0.00
<b>\$500.00</b>	<b>\$500.00</b>	<b>\$0.00</b>

<b>Payment Method</b>	<b>Reference Number</b>	<b>Payment Amount</b>
CHECK	1683	\$500.00
<b>Total Paid:</b>		<b>\$500.00</b>



# Kuehl - Satellite View



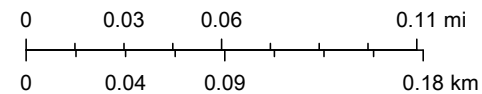
February 6, 2021

Address\_Locations



Parcel Service

1:4,514



USDA FSA, GeoEye, Maxar, Esri, HERE, IPC



State of California -The Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
Region 1- Northern  
601 Locust Street, Redding, CA 96001  
(530) 225-2300  
[www.wildlife.ca.gov](http://www.wildlife.ca.gov)

GAVIN NEWSOM, Governor  
CHARLTON H. BONHAM, Director



October 30, 2019

Danny Kuehl  
PO Box 48  
Lewiston, CA 96052

Subject: Complete Notification of Lake or Streambed Alteration  
Notification No. 1600-2018-0663-R1 (APN 025-350-52-00 & 025-350-53-00)  
Kuehl Remediation

Dear Mr. Kuehl:

On October 23, 2018, the California Department of Fish and Wildlife (Department) received your Notification of Lake or Streambed Alteration (Notification). On October 25, 2019, your Notification was deemed complete.

The Department is required to submit a draft Lake or Streambed Alteration Agreement (Agreement) to you within 60 calendar days from the date the Notification is complete. The Department has until December 23, 2019 to issue you a draft Agreement.

A draft Agreement includes measures the Department determines are needed to protect fish or wildlife resources. Because you submitted the Notification in response to the Notice of Violation dated September 21, 2017, Fish and Game Code section 1614 applies to your project. As a result, a draft Agreement will not be subject to arbitration.

Please be advised that you may not proceed with any work until the Department executes an Agreement or does not provide you with a draft Agreement within 60 days of the date your notification was deemed complete.

If you have any questions regarding this letter, please contact me at (530) 225-2867 or [tobi.freeny@wildlife.ca.gov](mailto:tobi.freeny@wildlife.ca.gov).

Sincerely,

**Tobey Freeny**

Tobi Freeny  
Senior Environmental Scientist Specialist

Digitally signed by Tobey Freeny  
DN: C=US, O=CDFW, CN=Tobey Freeny, E=tobi.freeny@wildlife.ca.gov  
Reason: I am the author of this document.  
Location: your signing location here  
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*Conserving California's Wildlife Since 1870*





State of California -The Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
Region 1- Northern  
601 Locust Street, Redding, CA 96001  
(530) 225-2300  
[www.wildlife.ca.gov](http://www.wildlife.ca.gov)

GAVIN NEWSOM, Governor  
CHARLTON H. BONHAM, Director



January 30, 2020

Danny Kuehl  
PO Box 48  
Lewiston, CA 96052

Dear Mr. Kuehl:

**Draft Streambed Alteration Agreement, Notification No. 1600-2018-0663-R1,  
Kuehl Stream Remediation**

The California Department of Fish and Wildlife (CDFW) has determined that your project requires a Lake or Streambed Alteration Agreement (Agreement) because it could substantially adversely affect an existing fish or wildlife resource. Enclosed is a draft Agreement that includes measures CDFW has determined are necessary to protect existing fish and wildlife resources.

Within 30 days of receipt of this draft Agreement, you must notify CDFW in writing whether the measures to protect fish and wildlife resources are acceptable (Fish and G. Code, § 1603). If you agree with the measures set forth in the draft Agreement, you or your authorized representative must return a copy of the draft Agreement with original signatures to the above address.

If you disagree with any measures in the draft Agreement, please contact the CDFW staff identified below. Because you submitted the Notification in response to the Notice of Violation dated September 21, 2017, Fish and Game Code section 1614 applies to your project. As a result, a draft Agreement will not be subject to arbitration.

Please be advised CDFW may not execute the Agreement until it has complied with the California Environmental Quality Act (CEQA) (Public Res. Code, § 21000 et seq.) as the lead or a responsible agency. Please note that the draft Agreement may be subject to change upon receipt and review of the environmental document for the project.

When acting as a CEQA responsible agency, CDFW must first receive the following: 1) a certified or approved environmental document prepared in accordance with CEQA; 2) Notice of Determination, if one is filed; 3) CEQA Findings; and 4) proof that the environmental filing fee required under Fish and Game Code section 711.4 has been paid. If another public agency determined that the project is exempt under CEQA, please provide a copy of the Notice of Exemption or other information that indicates the basis for the exemption.

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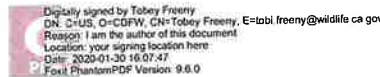
Danny Kuehl  
January 30, 2020  
Page 2 of 2

After you receive a final Agreement executed by CDFW, you may begin the project the Agreement authorizes provided you have obtained all other necessary local, state, and federal permits or other authorizations.

For more information on the process described above, please refer to Part IV in the "Notification Instructions and Process" included with your notification materials, which is also available at <https://www.wildlife.ca.gov/Conservation/LSA/>.

If you have any questions regarding this letter, please contact me at (530) 225-2867 or [tobi.freeny@wildlife.ca.gov](mailto:tobi.freeny@wildlife.ca.gov).

Sincerely,



Tobi Freeny  
Senior Environmental Scientist Specialist

ec: Danny Kuehl - [dam.dk45@gmail.com](mailto:dam.dk45@gmail.com)

Jess Gregory, Gregory Engineering – [laptop017@yahoo.com](mailto:laptop017@yahoo.com)

Jeremy Valverde and Stephanie Mello  
Department of Fish and Wildlife  
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Leslie Hubbard and Kristalynne Anderson  
Trinity County Planning and Environmental Health  
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**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE**  
NORTHERN REGION  
601 LOCUST STREET  
REDDING, CA 96001



**STREAMBED ALTERATION AGREEMENT**  
NOTIFICATION No. 1600-2018-0663-R1  
Unnamed tributary to Hoadley Gulch

MR. DANNY KUEHL  
KUEHL STREAM REMEDIATION  
TRINITY COUNTY APN: 025-350-52-00 & 025-350-53-00

This Streambed Alteration Agreement (Agreement) is entered into between the California Department of Fish and Wildlife (CDFW) and Danny Kuehl (Permittee).

**RECITALS**

WHEREAS, pursuant to Fish and Game Code section 1602 and in response to a Notice of Violation (NOV) issued by CDFW on September 21, 2017 (Exhibit A), Permittee notified CDFW on October 23, 2018 that Permittee intends to complete the project described herein.

WHEREAS, pursuant to Fish and Game Code section 1603, CDFW has determined that the project could substantially adversely affect existing fish or wildlife resources and has included measures in the Agreement necessary to protect those resources.

WHEREAS, Permittee has reviewed the Agreement and accepts its terms and conditions, including the measures to protect fish and wildlife resources.

NOW THEREFORE, Permittee agrees to complete the project in accordance with the Agreement.

**PROJECT LOCATION**

The project is located at an unnamed tributary to Hoadley Gulch, tributary to the Trinity River, in the County of Trinity, State of California; Section 20, Township 33N, Range 8E, Mt. Diablo Meridian, Latitude 40.70909, Longitude -122.79167 degrees, Assessor Parcel Numbers: 025-350-52-00 and 025-350-53-00.

**PROJECT DESCRIPTION**

The project is limited to the remediation of approximately 280 lineal feet of stream channel as shown in Exhibit B: Project Design. Specific work includes the removal of unpermitted fill material with the restoration of the stream channel and the installation of a stream crossing.



### **Stream Channel Restoration**

All earthen fill within the stream channel shall be removed including the fill associated with the road at the bottom toe of the fill slope. Removal of the fill material will be to the pre-existing ground and contours; if the original ground is not identifiable the stream channel bottom width will vary from three (3) to six (6) feet and the stream banks will have a maximum slope of 1.7:1. Re-contoured slopes shall have appropriate slope protection installed such as jute netting with seed and mulch. A revegetation plan will be completed to restore the native vegetation.

### **Stream Crossing**

Once the earthen fill has been removed an 18-inch diameter corrugated metal pipe will be installed for a single lane road as shown in Exhibit C: Culvert Plan.

### **PROJECT IMPACTS**

Existing fish or wildlife resources the project could substantially adversely affect include: Chinook salmon (*Oncorhynchus tshawytscha*), coho salmon (*O. kisutch*), steelhead trout (*O. mykiss*), other non-game or resident fish, amphibians, reptiles, aquatic invertebrates, mammals, migratory birds, and other aquatic and riparian species.

The adverse effects the project could have on the fish or wildlife resources identified above include:

#### **Impacts to Water Quality:**

- Increased turbidity
- Increased sedimentation
- Short-term release of contaminants (e.g. incidental from construction)
- Change in flow depth, width, or velocity

#### **Impacts to Bed, Bank and channel**

- Loss of natural bed or bank
- Relocation of stream channel
- Change in contour of bed, channel or bank
- Change in gradient of bed, channel or bank
- Accelerated channel scour

#### **Direct and Indirect Effects to Wildlife and their Habitat**

- Above-ambient visual and auditory disturbance incidental to construction
- Disruption to nesting birds and other wildlife
- Colonization by exotic plant or animal species

## MEASURES TO PROTECT FISH AND WILDLIFE RESOURCES

### 1. Administrative Measures

Permittee shall meet each administrative requirement described below.

- 1.1 Notification Materials. Permittee's Lake or Streambed Alteration Notification (Notification) together with all maps, plans, designs, investigations, studies, drawings, photographs, and all other supporting documents submitted with the Notification to describe the activity is hereby incorporated by reference into this Agreement. Permittee shall conduct project activities within the work areas and using the mitigative features described in the Notification and supporting documents, unless such project activities, work areas, or mitigative features are modified by the provisions of this Agreement, in which case the activities shall be conducted as described in this Agreement.
- 1.2 Documentation at Project Site. Permittee shall make the Agreement, exhibits, any extensions and amendments to the Agreement, and all related Notification materials and California Environmental Quality Act (CEQA) documents, readily available at the project site at all times and shall be presented to CDFW personnel, or personnel from another state, federal, or local agency upon request.
- 1.3 Providing Agreement to Persons at Project Site. Permittee shall provide copies of the Agreement and any extensions and amendments to the Agreement to all persons who will be working on the project at the project site on behalf of Permittee, including but not limited to contractors, subcontractors, inspectors, and monitors.
- 1.4 Notification of Conflicting Provisions. Permittee shall notify CDFW if Permittee determines or learns that a provision in the Agreement might conflict with a provision imposed on the project by another local, state, or federal agency. In that event, CDFW shall contact Permittee to resolve any conflict.
- 1.5 Project Site Entry. Permittee agrees that CDFW personnel may enter the project site at any time to verify compliance with the Agreement.
- 1.6 No Trespass. To the extent that any provisions of this Agreement provide for activities that require the Permittee to traverse another owner's property, such provisions are agreed to with the understanding that the Permittee possesses the legal right to so traverse. In the absence of such right, any such provision is void.
- 1.7 Change of Conditions and Need to Cease Operations. If conditions arise, or change, in such a manner as to be considered deleterious to the stream or wildlife, operations shall cease until corrective measures, approved in writing by CDFW, are taken.

- 1.8 Other Agency Permitting Requirements. The proposed project may be subject to additional federal, state and local laws, regulations, and permitting requirements. It is the responsibility of the Permittee to obtain and comply with any additional permits necessary to cover the scope of work as described by the project. Examples include but are not limited to the following:

- The Federal Clean Water Act (CWA) as implemented through permits, enforcement orders, and self-implementing requirements. When needed per the requirements of the CWA, the project proponent shall obtain a CWA Section 404 (33 U.S.C. Section 1344) Permit from the United States Army Corps of Engineers (Army Corps) and a CWA Section 401 (33 U.S.C. Section 1341) Water Quality Certification from the State Water Resources Control Board or appropriate Regional Water Quality Control Board.
- All Applicable state, city, county, or local regulations, ordinances, or license requirements including, but not limited to those for grading, construction, and building.
- CEQA and the National Environmental Policy Act.

## **2. Avoidance and Minimization Measures**

To avoid or minimize adverse impacts to fish and wildlife resources identified above, Permittee shall implement each measure listed below.

### **Work Period**

- 2.1 Work Period. All ground disturbance work shall be confined to the period commencing July 1 and ending October 15, provided the stream is dry or at its lowest flow. To avoid impacts to nesting birds this work shall be confined to the period commencing September 1 and ending October 15, of any year in which this Agreement is valid. If work must be completed before September 1 nest surveys shall be conducted by a qualified biologist as detailed in Measure 2.8.
- 2.2 Work in Dry Weather Only. Permittee shall cease the project activities when the National Weather Service (NWS) 72-hour weather forecast indicates a 30 percent chance or higher of precipitation. Permittee shall implement all necessary erosion control measures prior to the onset of precipitation and remove construction equipment and materials if precipitation is likely. Work activity halted due to precipitation may resume when the NWS 72-hour weather forecast indicates less than a 30 percent chance of precipitation. No authorized activity shall occur during a dry-out period of 24 hours after wet weather.
- 2.3 Work Window Variance. A variance to the above listed work period can be requested for review by CDFW using the contact information on page 13. The work period variance request shall: 1) describe the extent of work already completed; 2) detail the activities that remain to be completed; 3) detail the time required to complete each of the remaining activities; and 4) provide photographs of both the current work completed and the proposed site for continued work.

Written approval from CDFW shall be obtained for all work performed using a work window variance.

- 2.4 Vegetation Removal Timing. Notwithstanding Measure 2.1 above, removal of the above-ground portions of existing trees and shrubs shall be confined to the period commencing September 1 and ending January 31 to avoid impacts to nesting birds provided the work area is outside of the actively flowing stream. Work may continue during precipitation events provided stream flows have not risen into work areas and sediment delivery will not result. If vegetation must be removed during the nesting season for migratory birds and raptors (February 1 to August 31), nest surveys shall be conducted by a qualified biologist prior to vegetation clearing, as detailed in Measure 2.8.

### **Habitat and Species Protection**

- 2.5 Work Area. All work areas described in this Agreement shall be flagged or fenced with appropriate marking materials to prohibit unauthorized and unnecessary disturbance of vegetation. The work area shall be identified to all workers, as represented in the plans. All marking materials shall be maintained throughout the life of the project and shall be removed at completion of the project activities.
- 2.6 Minimum Vegetation Removal. Disturbance or removal of vegetation shall not exceed the minimum necessary to complete operations. The disturbed portions of any stream shall be restored to as near their original condition as possible.
- 2.7 Leave Wildlife Unharmd. If any wildlife is encountered during the Authorized Activity, Permittee shall not disturb the wildlife and shall allow wildlife to leave the work site unharmed.
- 2.8 Nesting Bird Surveys. If construction, grading, vegetation removal, or other ground disturbance activities are scheduled during the nesting season of protected raptors and migratory birds (February 1 through August 31) a focused survey for nests of such birds shall be conducted by a qualified biologist within seven days prior to the beginning of project activities. If a nest is found, Permittee shall consult with CDFW regarding appropriate action to comply with the Migratory Bird Treaty Act of 1918 and Fish and Game Code. If a lapse in project-related work of seven days or longer occurs, another focused survey shall be required before project work can be reinitiated. All surveys shall be submitted to CDFW for written approval before the implementation of project activities.
- 2.9 Listed Species. This Agreement does not authorize take or incidental take, defined under Fish and Game Code section 86, of a listed, fully protected, or candidate species of fish, wildlife, or plant, as explained under the California Endangered Species Act (Fish and Game Code section 2050 et seq.). If the project could result in the "take" of a state listed species, the Permittee has the

responsibility to obtain from CDFW, a California Endangered Species Act Permit (Fish and Game Code section 2081).

- 2.10 Herbicide and Pesticide. Permittee shall not use chemical herbicides or pesticides, including chemical rodenticides, that are deleterious to fish, plant life, mammals, or bird life, where they may pass into the waters of the state.
- 2.11 Invasive Exotic Plant Control. The Permittee shall ensure that the spread or introduction of invasive exotic plants shall be avoided to the maximum extent possible by washing and decontaminating all equipment. Vegetation restoration should include the weed-free native seed and straw to reduce the potential for introduction of non-native invasive weed species to the site.

### **Erosion and Sediment Control**

- 2.12 Erosion Control. Permittee shall use erosion control measures throughout all work phases where sediment runoff threatens to enter a stream, lake, or other waters of the state.
- 2.13 Runoff from Steep Areas. Permittee shall ensure runoff from steep, erodible surfaces is either diverted to stable areas with little erosion potential or contained behind sediment control structures. Sediment control structures such as straw bales, fiber rolls, and/or siltation control fencing shall be placed and maintained until the threat of erosion ceases.
- 2.14 Prohibition on Use of Monofilament Netting. To minimize the risk of ensnaring and strangling wildlife, Permittee shall not use any erosion control materials that contain synthetic (e.g., plastic or nylon) monofilament netting, including photo- or bio-degradable plastic netting. Geotextiles, fiber rolls, and other erosion control measures shall be made of loose-weave mesh, such as jute, hemp, coconut (coir) fiber, or other products without welded weaves.
- 2.15 Erosion and Sediment Barriers. Permittee shall monitor and maintain all erosion and sediment barriers in good operating condition throughout the work period and the following rainy season. Maintenance includes, but is not limited to, removal of accumulated sediment and/or replacement of damaged sediment fencing, coir logs, coir rolls, and/or straw bale dikes. If the sediment barrier fails to retain sediment, Permittee shall employ corrective measures, and notify CDFW immediately.
- 2.16 Removal, Storage and Disposal of Excavated Fill, Spoils, and Debris. Permittee shall remove all excavated fill, spoils, and debris from any stream, lake, or other waters of the state and place it in stable upland locations where it cannot discharge into such waters or disposed of it according to state and local laws and ordinances.



- 2.17 Cover Spoil Piles. Permittee shall have readily available erosion control materials such as wattles, natural fiber mats, or plastic sheeting, to cover and contain exposed spoil piles and exposed areas in order to prevent sediment from moving into a stream or lake. Permittee shall apply and secure these materials prior to rain events to prevent loose soils from entering a stream, lake, or other waters of the state.
- 2.18 Seed and Mulch. Upon completion of construction operations and/or the onset of wet weather, Permittee shall stabilize exposed soil areas within the project site by applying mulch and seed. All exposed/disturbed areas and access points within the stream and riparian zone shall be restored by applying local native and weed free erosion control grass seeds. Locally native wildflower and/or shrub seeds may also be included in the seed mix. Restored areas must be mulched, using at least 2- to 4-inches of weed-free, clean straw or similar biodegradable mulch over the seeded area. Alternately, seeding may be covered with jute netting, coconut fiber blanket or similar erosion control blanket.

#### **Equipment, Debris, Material Storage and Waste**

- 2.19 Stockpiled Materials. Permittee shall not stockpile or store any building materials and/or construction materials where they may be washed or percolate into a stream, lake, or other waters of the state, or where they may adversely affect stream habitat or aquatic or riparian vegetation.
- 2.20 No Dumping. Permittee shall not deposit, permit to pass into, or place where it can pass into a stream, lake, or other waters of the state any material deleterious to fish and wildlife, pursuant to Fish and Game Code section 5650(a)(6) or abandon, dispose of, or throw away within 150 feet of a stream, lake, or other waters of the state, any cans, bottles, garbage, motor vehicle or parts thereof, rubbish, litter, refuse, waste, debris, or the viscera or carcass of any dead mammal, or the carcass of any dead bird, pursuant to Fish and Game Code section 5652.
- 2.21 Debris Removal. Permittee shall pick up all debris and waste daily and shall dispose of it according to state and local laws and ordinances.
- 2.22 No Equipment in Sensitive Habitat. Vehicles shall not be driven, nor equipment operated within any flowing stream, nor where wetland vegetation, riparian vegetation, or aquatic organisms may be impacted.
- 2.23 Staging and Storage. Permittee shall not stage or store any equipment, materials, fuels, lubricants, solvents, and hazardous or toxic materials where they may enter a stream or lake, or where they have potential to enter a stream, lake, or other waters of the state (e.g., through storm water runoff or percolation). Equipment shall be positioned over drip pans. Stationary heavy equipment shall have suitable containment to handle a catastrophic spill/leak.

- 2.24 Equipment Maintenance and Fueling. Permittee shall not conduct any maintenance activity or refuel equipment in any location where the petroleum products or other pollutants may enter any river, stream, or waters of the state, pursuant to Fish and Game Code section 5650(a)(1). Furthermore, any equipment operated within or adjacent to the stream channel shall be checked and maintained daily to prevent leaks of materials that, if introduced to water, could be deleterious to aquatic life, wildlife, or riparian habitat.

### **Toxic and Hazardous Materials**

- 2.25 Toxic Materials. Any hazardous or toxic materials that could be deleterious to aquatic life shall be stored in accordance with any federal, state, and local laws and ordinances.
- 2.26 Hazardous Substances. Permittee shall prevent raw cement/concrete or washings thereof, asphalt, paint or other coating material, oil or other petroleum products, or any other substances that could be hazardous to aquatic life, from contaminating the soil and/or entering a river, stream, or lake. Permittee shall immediately remove any of these materials placed within, or where they may enter, a river, stream or waters of the state.

### **Spills and Emergencies**

- 2.27 Cleanup and Containment. In the case of a spill, Permittee shall immediately notify the California Office of Emergency Services (OES) State Warning Center at 1-800-852-7550 and immediately initiate clean-up activities. The CDFW Redding office shall be notified of clean-up procedures.

### **Stream Crossing**

- 2.28 Culverted Stream Crossing. Project activity shall be installed per the engineered plans (Exhibit C) and comply with the following measures.
- Crossing Sizing. The culvert shall be designed to accommodate the estimated 100-year flood flow (i.e.  $\geq 1.0$  times the width of the bankfull channel width or the 100-year flood size, whichever is greater), including debris, culvert embedding, and sediment loads.
  - Culvert Placement. The culvert shall be installed to grade (not perched or suspended), properly aligned within the stream, and extend beyond the toe of the fill, including armoring material
  - Crossing Bedding and Fill. Culvert bed shall be composed of either compacted rock-free soil or crushed gravel. Bedding beneath the culvert shall provide for even distribution of the load over the length of the pipe and allow for natural settling and compaction to help the pipe settle into a

straight profile. The crossing backfill materials shall be free of rocks, limbs, or other debris that could allow water to seep around the pipe and shall be layer-placed and machine compacted in a maximum of one-foot lifts.

- Culvert Material. Corrugated metal pipe shall be used as the culvert material. Plastic (polyethylene) corrugated drainpipe is not allowed in rural, wilderness or forested settings. This is due to wildfires and the propensity of the pipes to melt during such an event causing the failure of the crossing.
- Critical Dip. Where diversion potential exists, a critical dip shall be installed to direct flood flow over the crossing fill and back into the channel. Critical dips shall be constructed to accommodate the entire estimated 100-year flood flow and may be installed by lowering the existing fill over the crossing or by constructing a deep, broad rolling dip over the crossing surface to prevent flood flow from diverting down the road.
- Armoring. Culvert inlets and outlets shall be protected from erosion as appropriate through armoring constructed of large angular rock or rip-rap. Rock armoring or rip-rap shall be of sufficient size and depth to remain in place during 100-year peak flows (generally 12 inch or greater diameter or equal to the largest size that naturally exists in the channel), extend at least as high as the top of the pipe on inlets, and shall extend sufficient distance upstream as wing walls to prevent bank erosion. The channel at the culvert outlet shall be rip-rapped in a U-shaped channel and rip-rap set below grade so as to allow the natural accumulation of bed load at stream grade.

2.29 Road Surface Grading. If grading of the road surface is required, all material shall be graded away from the stream.

2.30 Road Approaches. Permittee shall maintain stream crossings to minimize erosion and sediment delivery to waters of the state. Permittee shall ensure road approaches to the crossing are armored and hydrologically disconnected from the stream to the maximum extent feasible, in order to prevent sediment from entering the crossing.

2.31 Routine Maintenance Activities. The Permittee may conduct maintenance activities as necessary to the stream crossing authorized by this Agreement, provided the Permittee notifies CDFW for written approval prior to commencing any activities. Such work shall employ the same type of materials used in the original construction and shall occur only in the locations of existing features unless otherwise specified in the written approval.

## **Stream Remediation, Restoration, and Revegetation**

- 2.32 Remediation Completion Date. All authorized work necessary to remedy existing violations of Fish and Game Code documented in the NOV (Exhibit A) shall be completed by **October 15, 2020**. If Permittee cannot remedy existing violations by this date Permittee shall notify CDFW in writing prior to October 15, 2020 to request a project completion extension.

The project completion extension request shall: 1) detail the reason for delayed completion; 2) include the status of any other permits the Permittee has applied for, that are hindering the project completion; 3) describe the extent of work already completed, if any; 4) detail the activities that remain to be completed; 5) detail the time required to complete each of the remaining activities; and 6) provide photographs of both the current work completed and the proposed site for continued work. The extension request should consider the effects of increased stream flows, rain delays, increased erosion control measures, limited access due to saturated soil conditions, limited growth of erosion control grasses due to cool weather and the potential to prolong the existing or incur additional Fish and Game Code violations. Project completion extension variances are issued at the sole discretion of CDFW. CDFW will review the written request to extend the remediation work completion date within 10 working days of receiving the written request. CDFW reserves the right to require additional measures to protect fish and wildlife resources as a condition for granting the extension or require an amendment request be submitted in order to approve the extension. If CDFW requires the Agreement be amended in order to finalize the project completion extension, Permittee shall submit the appropriate form and fee for the amendment. Written approval from CDFW shall be obtained for all work performed using a project completion extension.

In the event that failure to complete the required remediation within the timelines specified within this Agreement causes, or continues to cause, violations of Fish and Game Code, Permittee may be required to submit additional remediation plans, remediation fees, and/or a new notification pursuant to Fish and Game Code section 1602.

- 2.33 Revegetation Plan. At least **sixty (60) days** before the Permittee intends to begin revegetation activities, a revegetation plan shall be submitted to CDFW for review and written approval. The plan shall be prepared by persons with expertise in northern California ecosystems and native plant re-vegetation techniques. The plan should include at minimum the following information:

- 2.33.1. The identification of the area and vegetation types that will be restored.
- 2.33.2. A planting design and palette appropriate to the vegetation type, cover, stratum, and level of biodiversity (i.e., species richness and composition). Use of a reference site is recommended.



- 2.33.3. The time of year the plantings will be made. Planting conducted after the first seasonal rains have saturated soils beyond the first several inches (November/December) and before April is recommended.
- 2.33.4. A description of the irrigation methodology or techniques that will be used to maintain the plantings, if applicable.
- 2.33.5. Measurable success criteria based on plant survival, density, or cover.
- 2.33.6. Monitoring conducted for a minimum of five years to determine whether the revegetation goals and objectives have been met, including photo point monitoring. Remedial measures if revegetation goals and objectives are not met.
- 2.33.7. Measures to control exotic vegetation on restoration site(s).
- 2.33.8. No application of fertilizer on plants or chemical controls on weeds.
- 2.34 Stream Restoration. Stream channel shall be restored to as near its original condition to the maximum extent feasible including, stream gradient, bank slopes, and appropriately sized rock or cobble embedded into the channel. Remediation shall include revegetation of areas stripped or exposed by project activities.
- 2.35 Exotic Vegetation Removal. To increase the success of native revegetation efforts, the Permittee may remove exotic/non-native species from the restoration area. Vegetation removal shall be completed by hand or by using hand operated tools only. Use of herbicides for non-native plant control within the riparian area is prohibited.
- 2.36 Disposal of Exotic or Invasive Species. The Permittee shall remove all cut or displaced non-native vegetation from the treatment area and shall dispose of it in a legal manner; in all cases it shall be placed in a manner which prevents its reestablishment in the stream, and in such a manner so that it does not negatively impact other sensitive native plant communities.
- 2.37 Maintenance Activities. The Permittee may conduct maintenance activities within the remediation area authorized by this Agreement, provided the Permittee notifies CDFW for written approval prior to commencing any activities. Such work shall employ the same type of materials used in the original project and shall occur only in the locations of existing features unless otherwise specified in the written approval.
- 2.38 Qualified Professionals. The project activities shall be managed and inspected by Gregory Engineering, a licensed engineer, or qualified professional, as deemed appropriate per project activity, to ensure that the activities are implemented as designed.

### 3. Monitoring and Reporting Measures

Permittee shall meet each monitoring and reporting requirement described below. Follow directions as described in the Contact Information section.

- 3.1 California Natural Diversity Database Observations. Permittee shall submit to CDFW all observations of Species of Greatest Conservation Need to the California Natural Diversity Database (<https://www.wildlife.ca.gov/Data/CNDDB/Submitting-Data>).
- 3.2 CDFW Notification Prior to Start Work Initiation. The Permittee shall notify CDFW at least **five (5) days** prior to commencement of remediation activities as covered by this Agreement. Verbal or written notification is acceptable.
- 3.3 CDFW Notification of Work Completion. At the completion of project activities, or each annual work season, Permittee shall notify CDFW within **seven (7) days** of project completion. Verbal or written notification is acceptable.
- 3.4 Project Inspection and Completion Report. The project shall be inspected by a qualified licensed professional to ensure that the project was constructed as described in the Notification and supplemental materials. A Completion Report shall be prepared following inspection, signed off by the qualified licensed professional, and submitted to CDFW via email **within 60 days** of completing project activities. The Completion Report shall include the following information:
  - Construction beginning and end dates.
  - An evaluation summary confirming construction consistency with the project description and/or construction plans and specifications, including the types, quantities, dimensions, and locations of all structures, materials, areas of streambed and other ground disturbance, and/or vegetation removal.
  - Areas of concern which may require continued monitoring.
  - Site photographs including culvert inlets and outlets, upstream, downstream, panoramic photos of the entire project site, and areas of vegetation removal and/or ground disturbance as applicable.
- 3.5 Annual Reports. All project activities as described by this Agreement shall be monitored for long term stability for 3 years after work is complete, or until the Permittee receives notice from CDFW in writing that no further reports are necessary. The Permittee shall submit to CDFW, no later than **November 15 of each year**, a written report which shall contain photos, a description of site conditions, and any proposed maintenance activities to the contact person listed below.

## CONTACT INFORMATION

Any communication that Permittee or CDFW submits to the other shall be in writing and any communication or documentation shall be delivered to the address below by U.S. mail or email, or to such other address as Permittee or CDFW specifies by written notice to the other.

To Permittee:

Danny Kuehl  
Fat Wallet Farms, LLC  
PO Box 488  
Lewiston, CA 96052  
[dam.dk45@gmail.com](mailto:dam.dk45@gmail.com)

To CDFW:

Department of Fish and Wildlife  
Northern Region  
601 Locust Street  
Attn: Tobi Freeny  
Notification #1600-2018-0663-R1  
[tobi.freeny@wildlife.ca.gov](mailto:tobi.freeny@wildlife.ca.gov)  
Phone: 530-225-2867

## LIABILITY

Permittee shall be solely liable for any violations of the Agreement, whether committed by Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents or contractors and subcontractors, to complete the project or any activity related to it that the Agreement authorizes.

This Agreement does not constitute CDFW's endorsement of, or require Permittee to proceed with the project. The decision to proceed with the project is Permittee's alone.

## SUSPENSION AND REVOCATION

CDFW may suspend or revoke in its entirety the Agreement if it determines that Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, is not in compliance with the Agreement.

Before CDFW suspends or revokes the Agreement, it shall provide Permittee written notice by certified or registered mail that it intends to suspend or revoke. The notice shall state the reason(s) for the proposed suspension or revocation, provide Permittee an opportunity to correct any deficiency before CDFW suspends or revokes the Agreement, and include instructions to Permittee, if necessary, including but not limited to a directive to immediately cease the specific activity or activities that caused CDFW to issue the notice.

## **ENFORCEMENT**

Nothing in the Agreement precludes CDFW from pursuing an enforcement action against Permittee instead of, or in addition to, suspending or revoking the Agreement.

Nothing in the Agreement limits or otherwise affects CDFW's enforcement authority or that of its enforcement personnel.

## **OTHER LEGAL OBLIGATIONS**

This Agreement does not relieve Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, from complying with, or obtaining any other permits or authorizations that might be required under, other federal, state, or local laws or regulations before beginning the project or an activity related to it. For example, if the project causes take of a species listed as threatened or endangered under the Endangered Species Act (ESA), such take will be unlawful under the ESA absent a permit or other form of authorization from the U.S. Fish and Wildlife Service or National Marine Fisheries Service.

This Agreement does not relieve Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, from complying with other applicable statutes in the Fish and Game Code including, but not limited to, Fish and Game Code sections 2050 *et seq.* (threatened and endangered species), section 3503 (bird nests and eggs), section 3503.5 (birds of prey), section 5650 (water pollution), section 5652 (refuse disposal into water), section 5901 (fish passage), section 5937 (sufficient water for fish), and section 5948 (obstruction of stream).

Nothing in the Agreement authorizes Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, to trespass.

## **AMENDMENT**

CDFW may amend the Agreement at any time during its term if CDFW determines the amendment is necessary to protect an existing fish or wildlife resource.

Permittee may amend the Agreement at any time during its term, provided the amendment is mutually agreed to in writing by CDFW and Permittee. To request an amendment, Permittee shall submit to CDFW a completed CDFW "Request to Amend Lake or Streambed Alteration" form and include with the completed form payment of the corresponding amendment fee identified in CDFW's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5). Submit the form and fee to the CDFW regional or field office that serves the area where the project is located.



## TRANSFER AND ASSIGNMENT

This Agreement may not be transferred or assigned to another entity, and any purported transfer or assignment of the Agreement to another entity shall not be valid or effective, unless the transfer or assignment is requested by Permittee in writing, as specified below, and thereafter CDFW approves the transfer or assignment in writing.

The transfer or assignment of the Agreement to another entity shall constitute a minor amendment, and therefore to request a transfer or assignment, Permittee shall submit to CDFW a completed CDFW "Request to Amend Lake or Streambed Alteration" form and include with the completed form payment of the minor amendment fee identified in CDFW's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5). Submit the form and fee to the CDFW regional or field office that serves the area where the project is located.

## EXTENSIONS

In accordance with Fish and Game Code section 1605, subdivision (b), Permittee may request one extension of the Agreement, provided the request is made prior to the expiration of the Agreement's term. To request an extension, Permittee shall submit to CDFW a completed CDFW "Request to Extend Lake or Streambed Alteration" form and include payment of the extension fee identified in CDFW's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5). CDFW shall process the extension request in accordance with Fish and Game Code section 1605, subdivisions (b) through (e).

If Permittee fails to submit a request to extend the Agreement prior to its expiration, Permittee must submit a new notification and notification fee before beginning or continuing the project the Agreement covers (Fish & G. Code § 1605, subd. (f)). Submit the form and fee to the CDFW regional or field office that serves the area where the project is located.

## EFFECTIVE DATE

The Agreement becomes effective on the date of CDFW's signature, which shall be: 1) after Permittee's signature; 2) after CDFW complies with all applicable requirements under the CEQA; and 3) after payment of the applicable Fish and Game Code section 711.4 filing fee listed at <https://www.wildlife.ca.gov/Conservation/CEQA/Fees>.

## TERM

This Agreement shall **expire five years** from date of execution, unless it is terminated or extended before then. All provisions in the Agreement shall remain in force throughout its term. Permittee shall remain responsible for implementing any provisions specified herein to protect fish and wildlife resources after the Agreement expires or is terminated, as Fish and Game Code section 1605, subdivision (a)(2) requires.

## EXHIBITS

The documents listed below are included as exhibits to the Agreement and incorporated herein by reference.

Exhibit A: NOV  
Exhibit B: Project Design  
Exhibit C: Culvert Plan

## AUTHORITY

If the person signing the Agreement (signatory) is doing so as a representative of Permittee, the signatory hereby acknowledges that he or she is doing so on Permittee's behalf and represents and warrants that he or she has the authority to legally bind Permittee to the provisions herein.

## AUTHORIZATION

This Agreement authorizes only the project described herein. If Permittee begins or completes a project different from the project the Agreement authorizes, Permittee may be subject to civil or criminal prosecution for failing to notify CDFW in accordance with Fish and Game Code section 1602.

## CONCURRENCE

The undersigned accepts and agrees to comply with all provisions contained herein.

### FOR DANNY KUEHL

---

Danny Kuehl  
Property Owner

---

Date

### FOR DEPARTMENT OF FISH AND WILDLIFE

---

Donna L. Cobb  
Senior Environmental Scientist Supervisor

---

Date

Prepared by: Tobi Freeny  
Environmental Scientist

Exhibit A: NOV



State of California – Natural Resources Agency  
**DEPARTMENT OF FISH AND WILDLIFE**  
Region 1 - Northern  
601 Locust Street  
Redding, CA 96001  
(530) 225-2300  
[www.wildlife.ca.gov](http://www.wildlife.ca.gov)

**EDMUND G. BROWN, Jr., Governor**  
**CHARLTON H. BONHAM, Director**



September 21, 2017

**CERTIFIED MAIL:**  
7008 1140 0000 8010 1920

Danny Kuehl  
Post Office Box 488  
Lewiston, California 96052

**Subject:** Notice of Violation of Fish and Game Code Sections 1602, 5650, and 5652 in  
Conjunction with Marijuana Cultivation

Dear Mr. Kuehl:

On June 9, 2017, California Department of Fish and Wildlife (Department) staff visited your properties Assessor Parcel Number 025-350-52, 025-350-53 and 052-350-22 located on unnamed tributaries to Hoadley Gulch within the Trinity River watershed in Trinity County. During the visit, staff observed the activities described below, which are in violation of Fish and Game Code (Fish & G. Code) sections 1602, 5650 and 5652. Staff also observed active marijuana cultivation in conjunction with these activities.

- Substantial alteration of the bed, channel and banks and obstruction of the natural flow of an unnamed tributary to Hoadley Gulch by grading activities and the placement of fill directly in approximately 280 linear feet of the channel. The alteration to the stream channel includes changing and using material from the bed, channel and banks of the stream and depositing debris directly into or where it may pass into the stream.
- The discharge of fine sediment into the unnamed tributary to Hoadley Gulch, detectable for approximately 700 feet downstream of the initial discharge point. Fine sediment has been documented to be a deleterious substance to many aquatic species. Erosion and/or failure of the placed fill and constructed landings was the source of the discharge. This erosion was caused by the placement of fill within the stream channel and the lack of effective erosion control measures throughout the project area.
- The discharge of fine sediment into an unnamed tributary to Hoadley Gulch by the erosion of an inboard ditch of the access road.
- The placement of petroleum products (hydraulic fluid and propane containers) directly into the stream.
- The placement of refuse where it can pass into waters of the state.

*Conserving California's Wildlife Since 1870*

Danny Kuehl  
September 5, 2017  
Page 2 of 3

The number of Fish & G. Code section violations documented on the property is seven and includes two 1602, four 5650 and one 5652.

Fish & G. Code section 1602 requires a person to submit a written notification to the Department before: 1) substantially diverting or obstructing the natural flow of a river, stream, or lake; 2) substantially changing the bed, channel, or bank of a river, stream, or lake; 3) using any material from the bed, channel, or bank of a river, stream, or lake; and/or 4) depositing or disposing of debris, waste, material containing crumbled, flaked, or ground pavement where it may pass into a river, stream, or lake. Hence, any person who engages in an activity subject to Fish & G. Code section 1602 without first notifying the Department violates section 1602.

Fish & G. Code sections 5650 and 5652 make it unlawful to pollute waters of the state. Fish & G. Code section 5650 makes it unlawful to deposit in, permit to pass into, or place where it can pass into waters of the state any substance or material deleterious to fish, plant life, mammals, or bird life, including, but not limited to gasoline and oil, as well as sediment. Fish & G. Code section 5652 makes it unlawful to deposit in, permit to pass into, or place where it can pass into waters of the state, or to abandon, dispose of, or throw away, within 150 feet of the high water mark of the waters of the state, any garbage, refuse, or waste, among other materials.

In the Department's view, notification under Fish & G. Code section 1602 was required because the activity substantially obstructed the natural flow, substantially changed or used material from the bed, channel, and bank of and/or deposited or disposed of debris or waste where it may pass into an unnamed tributary to Hoadley Gulch. However, the Department was unable to locate a notification for this activity.

A person who violates Fish & G. Code sections 1602, 5650, and 5652 in conjunction with the cultivation or production of marijuana is subject to significant penalties or fines. Specifically, the Department may impose civil penalties administratively against any person found by the Department to have violated these Fish & G. Code sections in connection with the production or cultivation of marijuana following a complaint and, if requested, a hearing.

The Department may request a maximum civil penalty of \$8,000 for each violation of Fish & G. Code section 1602, and \$20,000 for each violation of Fish & G. Code sections 5650 or 5652. Each day the violation occurs or continues to occur constitutes a separate violation. (Fish & G. Code, section 12025, subds. (b)(1)(A) - (b)(1)(C), (2); (e).) Also, the District Attorney or the Attorney General may enforce a violation of Fish & G. Code sections 1602 and 5650 civilly. Specifically, under Fish & G. Code sections 1615 and 5650.1, a person who violates Fish & G. Code sections 1602 or 5650 is subject to a maximum civil penalty of \$25,000 for each violation. The District Attorney or the Attorney General may also enforce a violation of Fish & G. Code sections 1602, 5650, and 5652 criminally. Under Fish & G. Code section 12000, each violation is a misdemeanor.

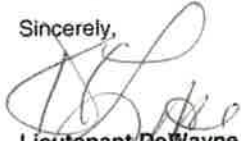


Danny Kuehl  
September 5, 2017  
Page 3 of 3

As a first step to address this matter, the Department requests you contact Senior Environmental Scientist (Specialist) Tobi Freeny at (530) 225-2867 or [tobi.freeny@wildlife.ca.gov](mailto:tobi.freeny@wildlife.ca.gov) within 14 days of the date of this letter. Ms. Freeny may propose certain actions to protect fish and wildlife resources that have been or could be affected by the activities described above, and may ask you to submit a written notification and fee for the activities. While the Department, District Attorney, or Attorney General may still decide to initiate an enforcement action against you if they determine these activities are in violation of Fish & G. Code sections 1602, 5650, or 5652, we encourage you to respond to this notice so that we may better assess the activities and limit any damage to resources.

The Department appreciates your cooperation.

Sincerely,



Lieutenant DeWayne Little  
Watershed Enforcement Team

cc: Jeremy Valverde, Tobi Freeny, Lt. DeWayne Little, Donna Cobb and Curt Babcock  
Department of Fish and Wildlife  
[jeremy.valverde@wildlife.ca.gov](mailto:jeremy.valverde@wildlife.ca.gov), [tobi.freeny@wildlife.ca.gov](mailto:tobi.freeny@wildlife.ca.gov),  
[dewayne.little@wildlife.ca.gov](mailto:dewayne.little@wildlife.ca.gov), [donna.cobb@wildlife.ca.gov](mailto:donna.cobb@wildlife.ca.gov),  
[curt.babcock@wildlife.ca.gov](mailto:curt.babcock@wildlife.ca.gov)

Taro Murano and Yvonne West  
State Water Resources Control Board  
[taro.murano@waterboards.ca.gov](mailto:taro.murano@waterboards.ca.gov), [yvonne.west@waterboards.ca.gov](mailto:yvonne.west@waterboards.ca.gov)

Diana Henriouille and Stormer Feiler  
North Coast Regional Water Quality Control Board  
[diana.henriouille@waterboards.ca.gov](mailto:diana.henriouille@waterboards.ca.gov), [stormer.feiler@waterboards.ca.gov](mailto:stormer.feiler@waterboards.ca.gov)

Leslie Hubbard and Kristalynne Anderson  
Trinity County  
[lhubbard@trinitycounty.org](mailto:lhubbard@trinitycounty.org); [kanderson@trinitycounty.org](mailto:kanderson@trinitycounty.org)

## Exhibit B: Project Design

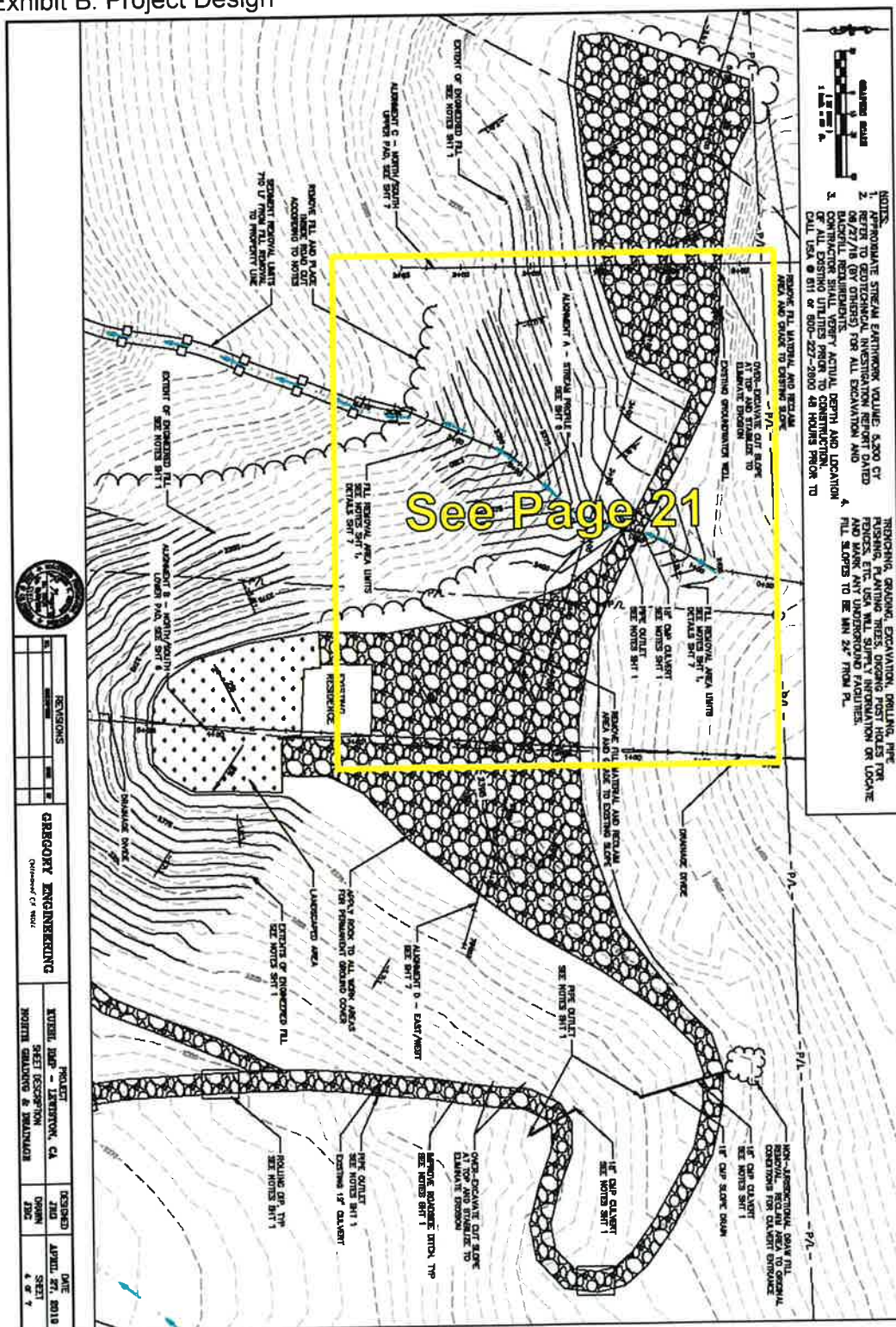




Exhibit B: Project Design, enlarged:

Exhibit C: Culvert Plan

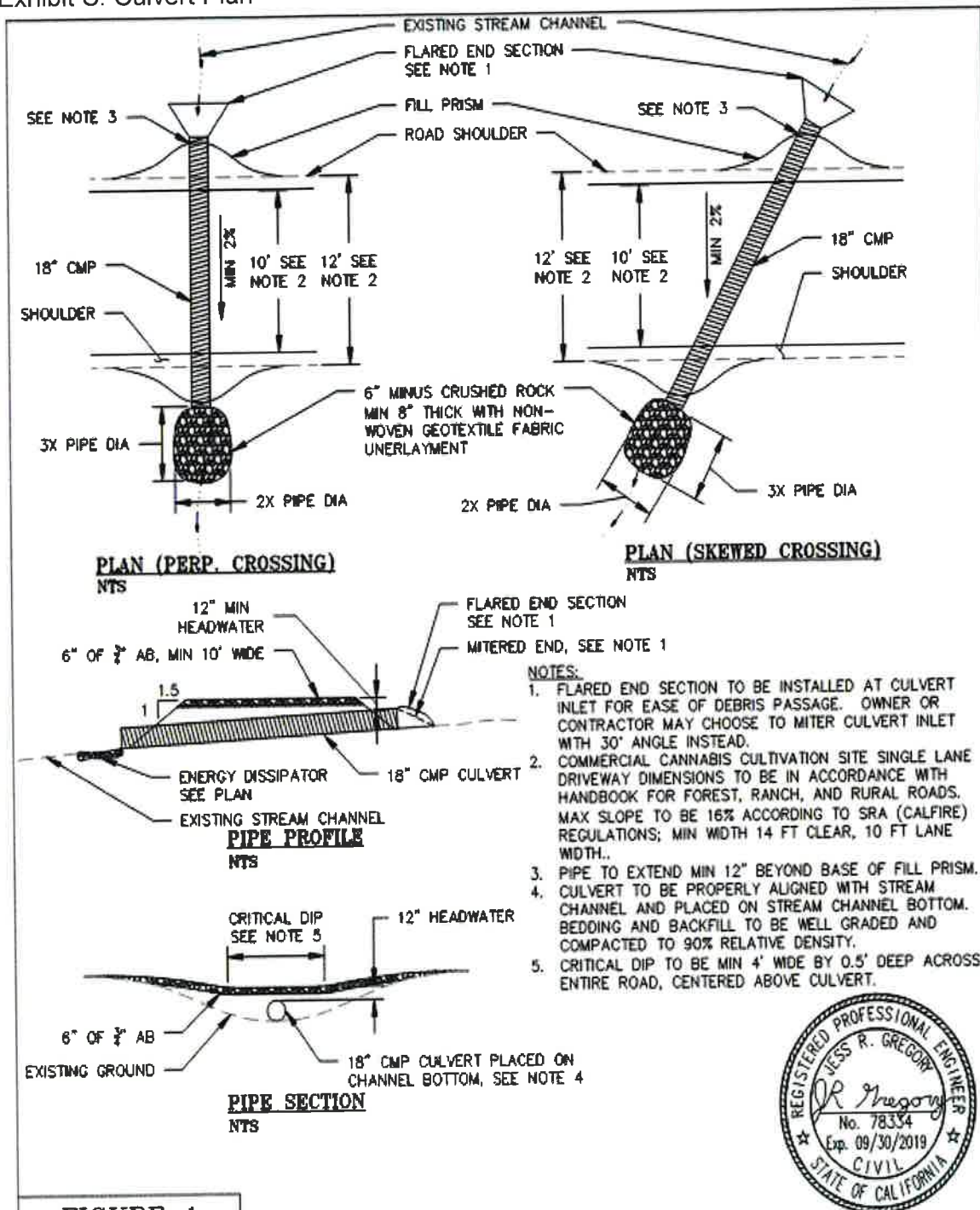


FIGURE 1

GREGORY ENGINEERING, INC.  
Cottonwood, CA 96022

KUEHL WEST CULVERT  
DATE: September 26, 2019



State of California - The Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
Region 1- Northern  
601 Locust Street, Redding, CA 96001  
(530) 225-2300  
[www.wildlife.ca.gov](http://www.wildlife.ca.gov)

CC#427  
JAVIN NEWSOM, Governor  
CHARLTON H. BONHAM, Director



October 30, 2019

Danny Kuehl  
PO Box 48  
Lewiston, CA 96052

Subject: Complete Notification of Lake or Streambed Alteration  
Notification No. 1600-2018-0663-R1 (APN 025-350-52-00 & 025-350-53-00)  
Kuehl Remediation

Dear Mr. Kuehl:

On October 23, 2018, the California Department of Fish and Wildlife (Department) received your Notification of Lake or Streambed Alteration (Notification). On October 25, 2019, your Notification was deemed complete.

The Department is required to submit a draft Lake or Streambed Alteration Agreement (Agreement) to you within 60 calendar days from the date the Notification is complete. The Department has until December 23, 2019 to issue you a draft Agreement.

A draft Agreement includes measures the Department determines are needed to protect fish or wildlife resources. Because you submitted the Notification in response to the Notice of Violation dated September 21, 2017, Fish and Game Code section 1614 applies to your project. As a result, a draft Agreement will not be subject to arbitration.

Please be advised that you may not proceed with any work until the Department executes an Agreement or does not provide you with a draft Agreement within 60 days of the date your notification was deemed complete.

If you have any questions regarding this letter, please contact me at (530) 225-2867 or [tobi.freeny@wildlife.ca.gov](mailto:tobi.freeny@wildlife.ca.gov).

Sincerely,

**Tobey Freeny**

Tobi Freeny  
Senior Environmental Scientist Specialist

Digitally signed by Tobey Freeny  
DN: C=US, O=CDFW, CN=Tobey Freeny, E=tobi.freeny@wildlife.ca.gov  
Reason: I am the author of this document  
Location: your signing location here  
Date: 2019-10-30 07:56:02  
Foxit PhantomPDF Version: 9.5.0

RECEIVED

JAN 16 2020

TRINITY COUNTY  
PLANNING DEPARTMENT

ml

*Conserving California's Wildlife Since 1870*



Danny Kuehl  
October 30, 2019  
Page 2 of 2

ec: Danny Kuehl - [dam.dk45@gmail.com](mailto:dam.dk45@gmail.com)

Jess Gregory, Gregory Engineering – [laptop017@yahoo.com](mailto:laptop017@yahoo.com)

Jeremy Valverde and Stephanie Mello  
Department of Fish and Wildlife  
[jeremy.valverde@wildlife.ca.gov](mailto:jeremy.valverde@wildlife.ca.gov), [stephanie.mello@wildlife.ca.gov](mailto:stephanie.mello@wildlife.ca.gov)

Diana Henriouille, Kason Grady and Josh Luders  
North Coast Regional Water Quality Control Board  
[diana.henriouille@waterboards.ca.gov](mailto:diana.henriouille@waterboards.ca.gov), [kason.grady@waterboards.ca.gov](mailto:kason.grady@waterboards.ca.gov),  
[josh.luders@waterboards.ca.gov](mailto:josh.luders@waterboards.ca.gov)

Leslie Hubbard and Kristalynne Anderson  
Trinity County Planning and Environmental Health  
[lhubbard@trinitycounty.org](mailto:lhubbard@trinitycounty.org), [kanderson@trinitycounty.org](mailto:kanderson@trinitycounty.org)



North Coast Regional Water Quality Control Board

April 16, 2020

Danny Kuehl  
PO Box 488  
Lewiston, CA 96052  
[dam.dk45@gmail.com](mailto:dam.dk45@gmail.com)

RECEIVED

APR 17 2020

*ml*

TRINITY COUNTY  
PLANNING DEPARTMENT

Dear Mr. Danny Kuehl:

Subject: Notice of Applicability (NOA) for Coverage under the State Water Resources Control Board Cannabis Cultivation Policy Cannabis General Water Quality Certification, and Order No. WQ 2019-0001-DWQ General Waste Discharge Requirements and Waiver of Waste Discharge Requirements

File: Danny Kuehl Property Water Quality Certification for Trinity County Assessor's Parcel Numbers (APNs) 025-350-52-00 and 025-350-53-00; WDID No. 1A20012CTRI; Place ID: CW-827450

This letter certifies conditional coverage under the above referenced General Water Quality Certification and Order (Order) and compliance with the referenced Policy for the proposed project (Project) as described in *Application for 401 Water Quality Certification and/or Waste Discharge Requirements (Dredge/Fill) and Coverage Under Order No. WQ-2017-0023-DWQ<sup>1</sup>* and associated amendments (Application) for Danny Kuehl (Applicant) at Trinity County APNs 025-350-52-00 and 025-350-53-00, prepared by Jess Gregory, PE. The Project includes instream work on a Class III watercourse on the Applicant's Property (Onsite Work) with additional mitigation work to be performed off the Applicant's Property (Offsite Work). All onsite and offsite work proposed in the Application is in the Trinity River HUC 8 watershed (18010211) in Trinity County. This NOA approves the Offsite Work as an acceptable form of additional compensatory mitigation, but the Applicant must obtain all necessary additional individual permits and/or authorizations prior to performing all Offsite Work. To comply with this NOA, all onsite and offsite work proposed in the Application and conditions included in this NOA must be completed.

<sup>1</sup> Order No. WQ-2017-0023-DWQ was updated in 2019 as Order No. WQ-2019-0001-DWQ

### Background

On June 6, 2019, the North Coast Regional Water Quality Control Board (Regional Water Board) received an application for enrollment from Danny Kuehl to comply with the terms of, and obtain coverage under the Order for discharges of waste associated with cannabis cultivation and proposed work outside of waters of the State at Trinity County APNs 025-350-52-00 and 025-350-53-00 (the Property). Based on the enrollment documents, the Project requires water quality certification. On January 31, 2020, the Regional Water Board received the Application with documents containing Project details and requesting coverage under and consistent with the General Water Quality Certification included in Attachment A of the Order and on January 31, 2020, the Regional Water Board received the Application Fee. The Applicant's authorized agent Jess Gregory submitted two amendments to the Application, including a Compensatory Mitigation Proposal on February 26, 2020, and a Native Species Revegetation Plan on March 16, 2020 (the amended documents are attached).

The Application provides information related to the Project location, description, environmental need, design criteria, assessment of Project area flora and fauna, monitoring and reporting plans, and environmental protection measures. The Project activities, environmental protection measures included therein, and Best Practicable Treatment and Control (BPTCs) measures included as Attachment A of the Order, are considered enforceable components of this NOA of enrollment under the Order. Enrollment under this General Water Quality Certification requires an annual fee to be paid until the instream work and associated monitoring have been completed and the Regional Water Board has been notified of completion.

### Project Description and Project Scope

The Project includes one instream work location on the Property, which is within the Trinity River hydrologic unit (HUC 180102110703, Hydrologic Sub-Area 1106.310601) of the Deadwood Creek-Trinity River watershed. Coordinates of the instream work locations are shown in Figure 1. Figure 1 is the site map showing instream work locations on the Property and as depicted in the Application. The total area of ground disturbance associated with the Project is estimated to be approximately 110 cubic yards, 3519 square feet, and 1173 linear feet of temporary impacts and 22 cubic yards, 150 square feet, and 25 linear feet of permanent impacts to streambed and banks (see Table 1 below). Unauthorized fill is to be removed from a Class III watercourse and the channel is to be restored to natural conditions, except where a culvert is to be installed to maintain vehicle access on the Property. The Project must be completed consistent with the Application. The proposed Project scope does not exceed what is allowed for coverage under the Order and is in compliance with one or more of the following categorical exemptions of the California Environmental Quality Act (CEQA): California Code of Regulations, title 14, section 15308 (regulatory actions for environmental protections); section 15301 (ongoing or existing projects); and section 15304 (minor alterations to land).

### Required Mitigation

The Application includes a Compensatory Mitigation Proposal that calculates a mitigation ratio using the U.S. Army Corps of Engineers South Pacific Division Attachment 12501 Mitigation Ratio Setting Checklist to quantify a sediment reduction objective. A mitigation ratio of 3.75:1 was provided in the Application. The Application contains an explanation detailing the need to locate offsite mitigation opportunities, because, in addition to onsite mitigation, the Property does not have the opportunity to meet an onsite mitigation ratio of 3.75:1.

Onsite mitigation for the Project will include remediation of unauthorized dredge and fill of material inside a Class III watercourse. The watercourse will be restored to natural contours and a smaller crossing with a culvert will be installed to maintain property access. The impacted watercourse will be regraded and contoured with natural energy dissipaters and areas will be revegetated with a variety of native plant species. Revegetation of eroded and denuded streambanks and all other areas disturbed by the Project shall be done immediately following the completion of work. The reduction of sediment discharges and threatened discharges resulting from appropriate design and construction of the stream crossings accounts for a portion of the mitigation needed to offset the temporary impacts associated with completing the Project. These onsite Project elements do not have permanent impacts beyond the existing impacts already associated with the degraded and improperly developed stream crossing and completion of this Project will result in improved water quality protection relative to the degraded conditions resulting from previously unauthorized work. Specific mitigation and impact dimensions for onsite work are summarized in Table 1 and shall be completed as described in the Application and this NOA.

Offsite mitigation for the temporal impacts related to unauthorized earthwork activities are described in the Compensatory Mitigation Proposal amendment to the Application. All offsite mitigation work is to be completed in the same Trinity River HUC 8 watershed (18010211) as all onsite work. The Applicant coordinated with the Trinity County Resource Conservation District (TCRCD) in development of the Compensatory Mitigation Proposal to identify a list of sediment reduction opportunities through road rehabilitation projects on a nearby property managed by the Bureau of Land Management (BLM). In addition to onsite restoration efforts, the Applicant has agreed to fully fund the proposed offsite Compensatory Mitigation Proposal, but the Applicant will continue to use TCRCD as an independent outside partner to coordinate project development and completion for the offsite compensatory mitigation described in the Application. Table 1 does not describe the Applicant's proposed offsite Compensatory Mitigation Proposal. All offsite mitigation shall be completed as described in the Application and this NOA. As discussed above, the Applicant is responsible for obtaining all necessary permits and/or authorizations prior to commencing Offsite mitigation work.





Table 1 shows the onsite mitigation associated with the one instream work location (modified from the *Application*)

Instream Work Location	Existing Dimensions	Proposed Dimensions	Temporary Impact	Permanent Impact	Impact Mitigation
40.709744° , - 122.792063° to 40.709574° , - 122.792147°	1173 linear feet, 3519 square feet	25 linear feet, 150 square feet	110 cubic yards, 1173 linear feet, 3519 square feet	22 cubic yards, 25 linear feet, 150 square feet	1:1

### Monitoring Plan

Monitoring of physical stream parameters (e.g. vegetation, signs of erosion or sedimentation, stream stability, and stream flow capacity) will be conducted both before and after Project implementation. Pre-Project monitoring was conducted by the Applicant's authorized agent Jess Gregory, P.E. Post-Project monitoring shall occur annually and shall be submitted annually to the Regional Water Board by January 31 each year. Monitoring will be conducted and recorded by the landowner and shall include photo documentation of each instream work location with associated notes on plant survival and vigor, stream stability, and signs of bed and bank erosion. At least five years of post-Project monitoring shall be provided until a minimum of 85 percent survival rate is achieved. Compensatory Mitigation shall be completed by October 15, 2020, and shall include the stream restoration, revegetation plan, and sediment reduction projects, as described in the Application, as amended by the Compensatory Mitigation Proposal and Native Species Revegetation Plan, and as prescribed in the Required Mitigation section of this NOA, above.

Following the completion of each seasonal work period, an annual report shall be submitted to all appropriate agencies (Trinity County, Army Corps of Engineers, Regional Water Board, and California Department of Fish and Wildlife). This annual report shall include findings that result from pre- and post-Project monitoring. These findings shall indicate the achievement of performance standards and include the following information:

- Summary of findings
- Identification and discussion of problems with achieving performance standards
- Proposed corrective measures as needed (requires Regional Water Board approval prior to implementation)

All other monitoring requirements, pursuant to Order WQ 2019-0001-DWQ and proposed in the Project application shall be followed in addition to the requirements listed above.

### Notice of Applicability & Project Determination

Regional Water Board staff has determined that the proposed activities as described in the Application may proceed under the General Water Quality Certification of the Order so long as the Applicant complies with the conditions prescribed in this NOA, the Order, the Policy, and the Site Management Plan associated with this property.

### Project Reporting

Monitoring reports shall be submitted at a minimum annually by January 31 each year, documenting the achievement of performance standards and project goals.

In addition, a Notice of Completion (NOC) shall be submitted by the Applicant no later than 30 days after the Project has been completed. A complete NOC must include, at a minimum: photographs with a descriptive title, the date each photograph was taken, the

name of the photographic site, the WDID number indicated above, and success criteria for the project. The NOC shall demonstrate that the Project has been carried out in accordance with the Project description as provided in the Applicant's Project Application and this NOA. Please note that the Applicant will continue to get billed an annual fee until the monitoring and reporting period has finished, the success criteria have been achieved, and the Regional Board has terminated enrollment of this NOA.

Please include the Project name and WDID number with all future inquiries and document submittals. Document submittals shall be made electronically to: [NorthCoast.Cannabis@waterboards.ca.gov](mailto:NorthCoast.Cannabis@waterboards.ca.gov) and include "Danny Kuehl Water Quality Cert WDID WQC 1A20012CTRI" as part of the subject line.

Please contact Joshua Luders at [Joshua.Luders@waterboards.ca.gov](mailto:Joshua.Luders@waterboards.ca.gov) if you have any questions.

Sincerely,

  
On Behalf Of

Digitally signed by  
Kason Grady  
Date: 2020.04.16  
13:19:43 -07'00'

Matthias St. John  
Executive Officer

200416\_JAL\_dp\_Kuehl\_NOA

Attachments:

- Compensatory Mitigation Proposal
- Native Species Revegetation Plan

cc: Tobi Freeny, California Department of Fish and Wildlife,  
[Tobi.Freeny@wildlife.ca.gov](mailto:Tobi.Freeny@wildlife.ca.gov)

David Colbeck, Trinity County Planning Department, [DColbeck@trinitycounty.org](mailto:DColbeck@trinitycounty.org)

Jess Gregory P.E., Jess Gregory Engineering Inc., [laptop017@yahoo.com](mailto:laptop017@yahoo.com)

Sahrye Cohen, United States Army Corps of Engineers,  
[Sahrye.E.Cohen@usace.army.mil](mailto:Sahrye.E.Cohen@usace.army.mil)

Jennifer Siu, United States Environmental Protection Agency,  
[Sui.Jennifer@epa.gov](mailto:Sui.Jennifer@epa.gov)

State Water Resources Control Board  
[DWQ.Cannabis@waterboards.ca.gov](mailto:DWQ.Cannabis@waterboards.ca.gov)



## State Water Resources Control Board

JUN 21 2019

**[via U.S. Mail and email]**

Jon S. Brick, Esq.  
Tommy U. Schroeder, Esq.  
Greco Traficante Schulz & Brick  
600 W. Broadway, Suite 960  
San Diego, CA 92101  
[jsb@gtsblaw.com](mailto:jsb@gtsblaw.com)  
[ts@gtsblaw.com](mailto:ts@gtsblaw.com)

Dear Messrs. Brick and Schroeder:

PETITION OF DANNY KUEHL FOR REVIEW OF 13267 ORDER REQUIRING THE SUBMISSION OF A RESTORATION AND MONITORING PLAN, FOR KUEHL PROPERTY, 380, 441, & 553 HENRIETTA ROAD, LEWISTON, TRINITY COUNTY, ISSUED BY NORTH COAST REGIONAL WATER QUALITY CONTROL BOARD: ACKNOWLEDGMENT OF RECEIPT OF PETITION AND APPROVAL OF REQUEST TO BE HELD IN ABEYANCE  
**SWRCB/OCC FILE A-2638**

This will acknowledge receipt of the above petition on April 25, 2019. You have asked that the State Water Resources Control Board (State Water Board) hold the matter in abeyance. We are happy to do so in hopes that the matter may be worked out between you and the regional water quality control board. We will hold this petition in abeyance until April 25, 2021. Please pay careful attention to this date, because the State Water Board is not responsible for reminding petitioners that their abeyance periods are about to expire.

If the State Water Board does not receive prior to 5:00 p.m. on the last business day before April 25, 2021 either (1) a written request to further extend the abeyance period, or (2) a written request to remove the petition from abeyance and activate the petition, then this petition will be deemed withdrawn as of April 25, 2021. If the petition is deemed withdrawn, you will not be able to seek judicial review of the regional water quality control board's action or inaction. Requests to extend abeyance periods or to remove petitions from abeyance should be sent to [waterqualitypetitions@waterboards.ca.gov](mailto:waterqualitypetitions@waterboards.ca.gov) or to the mailing address below. A copy of the request must be sent to the other parties to the petition, including the regional water quality control board.

If you decide that you would like to remove this petition from abeyance and activate it at some time in the future, it is important that you carefully consult the State Water Board's regulations. (See Cal. Code Regs., tit. 23, § 2050.5.) If you request that this petition be removed from abeyance and activated, the petition will be dismissed on the 91st day following the State Water Board's receipt of your written request to remove the petition from abeyance unless:

E. JOAQUIN ESQUIVEL, CHAIR | EILEEN SOBECK, EXECUTIVE DIRECTOR

1001 I Street, Sacramento, CA 95814 | Mailing Address: P.O. Box 100, Sacramento, CA 95812-0100 | [www.waterboards.ca.gov](http://www.waterboards.ca.gov)

Jon S. Brick, Esq.  
Tommy U. Schroeder, Esq.

- 2 -

JUN 21 2019

- (1) the State Water Board has notified you, the regional water quality control board and interested persons that the regional water quality control board and interested persons have 30 days to respond to the petition;
- (2) the State Water Board has received a written request from you to place this petition back in abeyance; or
- (3) the State Water Board has notified you prior to the 91st day that the petition is dismissed.

If none of these events occurs prior to 5:00 p.m. on the last business day before the 91st day after the State Water Board receives your written request to remove the petition from abeyance, this petition will be automatically dismissed without further action by the State Water Board. Dismissal of a petition, whether done by operation of law or by a letter issued by the State Water Board, is a final agency action for purposes of seeking judicial review of the regional water quality control board's action or inaction.

If you have any questions regarding this letter, please contact me at (916) 341-5178.

**IN ALL FUTURE CORRESPONDENCE, PLEASE REFER TO  
SWRCB/OCC FILE A-2638**

Sincerely,



Philip G. Wyels  
Assistant Chief Counsel

cc: See next page



Jon S. Brick, Esq.  
Tommy U. Schroeder, Esq.

- 3 -

JUN 21 2019

cc: **[via U.S. Mail only]**

Danny Kuehl  
PO Box 488  
Lewiston, CA 96052

**[via email only]**

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Lt. DeWayne Little  
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Leslie Hubbard  
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Holly Costa  
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[Philip.Wyels@waterboards.ca.gov](mailto:Philip.Wyels@waterboards.ca.gov)

(continued)

JUN 21 2019

Jon S. Brick, Esq.  
Tommy U. Schroeder, Esq.

- 4 -

cc: Joshua Luders **[via email only]**  
Water Resource Control Engineer  
North Coast Regional Water  
Quality Control Board  
5550 Skylane Boulevard, Suite A  
Santa Rosa, CA 95403  
[Joshua.Luders@waterboards.ca.gov](mailto:Joshua.Luders@waterboards.ca.gov)

David W. Smith, Chief **[via email only]**  
Permits Office  
U.S. EPA, Region 9  
75 Hawthorne Street  
San Francisco, CA 94105  
[smith.davidw@epa.gov](mailto:smith.davidw@epa.gov)

Ken Greenberg, Chief **[via email only]**  
Clean Water Act Compliance (NPDES)  
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Stormer Feiler **[via email only]**  
Senior Environmental Research Scientist  
State Water Resources Control Board  
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Sacramento, CA 95814  
[Stormer.Feiler@waterboards.ca.gov](mailto:Stormer.Feiler@waterboards.ca.gov)

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CCL# 427  
H. Kuehl



GAVIN NEWSOM  
GOVERNOR



JAILD BLUMENI LLD  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION

## North Coast Regional Water Quality Control Board

June 25, 2019

WDID:1\_53CC415119

FAT WALLET FARM'S, LLC  
ATTN: HELEN KUEHL  
P.O. BOX 488  
LEWISTON, CA 96052

Subject: Notice of Applicability - Waste Discharge Requirements Water Quality  
Order WQ 2019-0001-DWQ

The attached Notice of Applicability provides notice that the requirements of the State Water Board *Cannabis Cultivation Policy- Principles and Guidelines for Cannabis Cultivation* (Policy), and the *General Waste Discharge Requirements and Waiver of Waste Discharge Requirements for Discharges of Waste Associated with Cannabis Cultivation Activities*, Order WQ 2019-0001-DWQ (General Order – previously WQ 2017-0023-DWQ, with updates and revisions effective April 16, 2019) are applicable to the site as described below. Based on the information provided, the Discharger self-certifies the cannabis cultivation activities are consistent with the requirements of the State Water Board Policy and General Order.

Please direct all submittals, discharge notifications, and questions regarding compliance and enforcement to the North Coast Regional Water Quality Control Board Cannabis Program at (707) 576-2676 or [northcoast.cannabis@waterboards.ca.gov](mailto:northcoast.cannabis@waterboards.ca.gov).

Sincerely,

  
On Behalf Of  
  
Water Boards

2019.06.27 12:28:48 PDT

Matthias St. John  
Executive Officer  
North Coast Regional Water Quality Control Board

RECEIVED

JAN 16 2020

TRINITY COUNTY  
PLANNING DEPARTMENT

190625\_2H\_1\_53CC415119\_1A161078CTRI\_Helen Kuehl\_NOA\_TW

VALERIE L. QUINTO, CHAIR | MATTHIAS ST. JOHN, EXECUTIVE OFFICER

5550 Skylane Blvd., Suite A, Santa Rosa, CA 95403 | [www.waterboards.ca.gov/northcoast](http://www.waterboards.ca.gov/northcoast)

**NOTICE OF APPLICABILITY – WASTE DISCHARGE REQUIREMENTS, WATER QUALITY ORDER WQ 2019-0001-DWQ, FAT WALLET FARM'S, LLC, TRINITY COUNTY APN(s) 025-350-52-00 025-350-53-00**

Fat Wallet Farm's, LLC (hereafter "Discharger") submitted information through the State Water Resources Control Board's (State Water Board's) online portal on April 26, 2019, for discharges of waste associated with cannabis cultivation related activities. Based on the information provided, the Discharger self-certifies the cannabis cultivation activities are consistent with the requirements of the Policy and General Order. This letter provides notice that the Policy and General Order are applicable to the site as described below. You are hereby assigned waste discharge identification (WDID) number **1\_53CC415119**. The original WDID assigned by the North Coast Regional Water Quality Control Board was 1A161078CTRL.

The Discharger is responsible for all the applicable requirements in the Policy, General Order, and this Notice of Applicability (NOA). This includes making any necessary changes to the enrollment, and the Discharger is the sole person with legal authority to make those changes. The Discharger will be held liable for any noncompliance with the Policy, General Order, and the NOA.

**1. FACILITY AND DISCHARGE DESCRIPTION**

All dischargers enrolled under the North Coast Regional Water Board's Order (R1-2015-0023) or the Central Valley Regional Water Board's Order (R5-2015-0113) as of October 17, 2017, (the adoption date of the General Order) may retain the reduced setbacks applicable under the appropriate Regional Water Board order unless the Executive Officer for the appropriate Regional Board determines that the reduced setbacks applicable under their regional order are not protective of water quality. However, sites that expand their cannabis cultivation area or other cannabis related activities must comply with the riparian setbacks in the General Order.

The information submitted by the Discharger states the disturbed area is equal to or greater than 1 acre (43,560 square feet) some portion of the disturbed area is located within the setback requirements, some portion of the disturbed area is located on a slope greater than 30 percent, and the cannabis cultivation area is less than or equal to 1 acre.

Based on the information submitted by the Discharger, the cannabis cultivation activities are classified as Tier 2 High Risk.

**2. SITE-SPECIFIC REQUIREMENTS**

The Policy and General Order are available on the Internet at:

[https://www.waterboards.ca.gov/water\\_issues/programs/cannabis/cannabis\\_water\\_quality.html](https://www.waterboards.ca.gov/water_issues/programs/cannabis/cannabis_water_quality.html)

The Discharger shall ensure that all site operating personnel know, understand, and comply with the requirements contained in the Policy, General Order, this NOA, and the Monitoring and Reporting Program (MRP, Attachment B of the General Order). Note that the General Order contains standard provisions, general requirements, and prohibitions that apply to all cannabis cultivation activities.

The application requires the Discharger to self-certify that all applicable Best Practicable Treatment or Control (BPTC) measures are being implemented, or will be implemented by the onset of the winter period (November 15 - April 1), following the enrollment date. Landowners of the cultivation site in the North Coast Region are required to submit and implement Site Management Plans that describes how BPTC measures are implemented property-wide, including BPTC measures implemented to address discharges from legacy activities (e.g. former timber harvest, road building, mining, etc.) at the site per Provision C.1.a. of the General Order. Dischargers that cannot implement all applicable BPTC measures by the onset of the winter period, following their enrollment date, shall submit to the appropriate Regional Water Board a *Site Management Plan* that includes a time schedule and scope of work for use by the Regional Water Board in developing a compliance schedule as described in Attachment A of the General Order.

During reasonable hours, the Discharger shall allow the State Water Board or Regional Water Board (collectively Water Boards), California Department of Fish and Wildlife, CAL FIRE, and any other authorized representatives of the Water Boards upon presentation of a badge, employee identification card, or similar credentials, to:

- i. enter premises and facilities where cannabis is cultivated; where water is diverted, stored, or used; where wastes are treated, stored, or disposed; or in which any records are kept;
- i. access and copy, any records required to be kept under the terms and conditions of the Policy and General Order;
- ii. inspect, photograph, and record audio and video, any cannabis cultivation sites, and associated premises, facilities, monitoring equipment or device, practices, or operations regulated or required by the Policy and General Order; and
- iii. sample, monitor, photograph, and record audio and video of site conditions, any discharge, waste material substances, or water quality parameters at any location for the purpose of assuring compliance with the Policy and General Order.

### **3. TECHNICAL REPORT REQUIREMENTS**

The following technical report(s) shall be submitted by the Discharger as described below:

A Site Management Plan, by July 24, 2019, consistent with the requirements of General Order Provision C.1.a., and Attachment A, Section 5. Attachment D of the General Order provides guidance on the contents of the Site Management Plan.



A Site Erosion and Sediment Control Plan consistent with the requirements of General Order Provision C.1.b., and Attachment A, Section 5. The Site Erosion and Sediment Control Plan shall be approved by the Regional Water Board Executive Officer prior to implementation. Attachment D of the General Order provides guidance on the contents of the Site Erosion and Sediment Control Plan.

A Disturbed Area Stabilization Plan consistent with the requirements of General Order Provision C.1.c., and Attachment A, Section 5. The Disturbed Area Stabilization Plan shall be approved by the Regional Water Board Executive Officer prior to implementation. If the Discharger cannot achieve compliance by the next onset of the winter period (i.e., stabilization work will continue into the winter period or will continue the following year), the Discharger must include a time schedule and scope of work for approval by the Regional Water Board Executive Officer and use in preparing an enforcement order. Attachment D of the General Order provides guidance on the contents of the Disturbed Area Stabilization Plan.

A *Site Closure Report* must be submitted 90 days prior to permanently ending cannabis cultivation activities and seeking to rescind coverage under the General Order. The *Site Closure Report* must be consistent with the requirements of General Order Provision C.1.e., and Attachment A, Section 5. Attachment D of the General Order provides guidance on the contents of the *Site Closure Report*.

#### **4. MONITORING AND REPORTING PROGRAM**

The Discharger shall comply with all provisions of the Monitoring and Reporting Program (MRP), which appears as Attachment B to the General Order. The Discharger shall also comply with all provisions of the *North Coast Regional Supplement to Annual Monitoring and Reporting Requirements for Statewide Cannabis General Order WQ 2017-0023-DWQ* (Regional Supplement), which independently appears as Investigative Order No. R1-2019-0023, issued by the Regional Water Board Executive Officer on March 22, 2019. Annual reports for both sets of requirements shall be submitted to the Regional Water Board in a combined report by March 1 following the year being monitored. The Discharger shall not implement any changes to the MRP or to the Regional Supplement unless and until a revised MRP or Regional Supplement is issued by the Regional Water Board Executive Officer or the State Water Board Division of Water Quality Deputy Director, or the State Water Board Chief Deputy Director.

A copy of Attachment B to the General Order can be obtained online at the following location, or by contacting staff at the phone number and email address listed below.  
[https://www.waterboards.ca.gov/board\\_decisions/adopted\\_orders/water\\_quality/2019/wq2019\\_0001\\_dwq.pdf#page=32](https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2019/wq2019_0001_dwq.pdf#page=32)

A copy of the Regional Supplement can be obtained online at the following location, or by contacting staff at the phone number and email address listed below.  
[https://www.waterboards.ca.gov/northcoast/board\\_decisions/adopted\\_orders/pdf/2019/19\\_0023\\_Regional%20Supplement%2013267%20Order.pdf](https://www.waterboards.ca.gov/northcoast/board_decisions/adopted_orders/pdf/2019/19_0023_Regional%20Supplement%2013267%20Order.pdf)

#### **5. ANNUAL FEE**

According to the information submitted, the discharge is classified as Tier 2 High Risk with the current annual fee assessed at \$8,000. The fee is due and payable on an annual basis until coverage under this General Order is formally rescinded. To rescind coverage, the Discharger must submit a Notice of Termination, including a Site Closure Report at least 90 days prior to termination of activities and include a final MRP report.

**6. TERMINATION OF COVERAGE UNDER THE GENERAL ORDER &  
REGIONAL WATER BOARD CONTACT INFORMATION**

Cannabis cultivators that propose to terminate coverage under the Conditional Waiver or General Order must submit a Notice of Termination (NOT). The NOT must include a *Site Closure Report* (see Technical Report Requirements above), and Dischargers enrolled under the General Order must also submit a final monitoring report. The Regional Water Board reserves the right to inspect the site before approving a NOT. Attachment C of the General Order includes the NOT form and Attachment D of the General Order provides guidance on the contents of the *Site Closure Report*.

If the Discharger cannot comply with the General Order, or will be unable to implement an applicable BPTC measure contained in Attachment A by the onset of the winter period each year, the Discharger shall notify the North Coast Regional Cannabis Unit staff at (707) 576-2676 or [northcoast.cannabis@waterboards.ca.gov](mailto:northcoast.cannabis@waterboards.ca.gov) so that a site-specific compliance schedule can be developed.

Cc: Kevin Porzio, State Water Resources Control Board,  
dwq.cannabis@waterboards.ca.gov  
Adam McKannay, California Department of Fish and Wildlife,  
adam.mckannay@wildlife.ca.gov  
Cheri Sanville, California Department of Fish and Wildlife,  
cheri.sanville@wildlife.ca.gov  
Leslie Hubbard, Trinity County Planning Department,  
lhubbard@trinitycounty.org  
Kristy Anderson, Trinity County Environmental Health,  
kanderson@trinitycounty.org  
Danny Kuehl PO Box 488 Lewiston, CA 96052



EDMUND G. BROWN JR.  
GOVERNOR

MATTHEW RODRIGUEZ  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION

## North Coast Regional Water Quality Control Board

August 23, 2018

Danny Kuehl  
PO Box 488  
Lewiston, CA 96052

Dear Mr. Kuehl:

Subject: Cannabis Waste Discharge Regulatory Program Compliance Inspection,  
Inspection of Mendocino County APN(s) 025-350-53-00, 025-350-52-  
00, and 025-350-22-00

File: Kuehl Property, Cannabis Waste Discharge Regulatory Program,  
CIWQS Place ID No 827450

On June 9, 2017, staff from the North Coast Regional Water Quality Control Board (Regional Water Board) inspected the above-referenced property(s) (Property) in the company of staff from the California Department of Fish and Wildlife (CDFW) and the Division of Water Rights. The purpose of the warrant-based inspection was to evaluate site conditions and to identify and assess impacts and/or threatened impacts to the quality and beneficial uses of waters of the state associated with site development and use for cannabis cultivation and associated activities.

Please find the attached inspection report documenting site conditions and water quality concerns observed during the June 9, 2017, inspection. As documented in the report, staff observed features or conditions on the site that are impacting or threatening to impact water quality. Our recommendations to address these concerns are contained in the report.

By September 30, 2018, please advise Joshua Luders, of your intentions, plan, and schedule to address these concerns. He can be reached at (707)576-2551 or [Joshua.Luders@waterboards.ca.gov](mailto:Joshua.Luders@waterboards.ca.gov). Feel free to contact him with questions or concerns about the enclosed inspection report.

DAVID M. NICHOLS, CHAIR MATTHIAS ST. JOHN, EXECUTIVE OFFICER

5550 Skyline Blvd., Suite A, Santa Rosa, CA 95403 | [www.waterboards.ca.gov/northcoast](http://www.waterboards.ca.gov/northcoast)

You may also contact me at [Diana.Henrioulle@waterboards.ca.gov](mailto:Diana.Henrioulle@waterboards.ca.gov) or (707)576-2350. Additionally, we are available to meet with you if you wish to discuss this letter or our waste discharge regulatory programs in further detail.

Sincerely,

 Digitally signed by  
Diana Henrioulle  
Date: 2018.08.23  
14:25:16 -07'00'  
Water Boards

Diana Henrioulle, P.E.

Senior Water Resource Control Engineer

cc: Danny Kuehl, Project Manager

Enclosure: Water Quality Inspection Report

**cc: Department of Fish and Wildlife**  
Ms. Ashley Worth, [Ashely.worth@wildlife.ca.gov](mailto:Ashely.worth@wildlife.ca.gov)

**North Coast Regional Water Quality Control Board**  
Mr. Kason Grady, [Kason.Grady@waterboards.ca.gov](mailto:Kason.Grady@waterboards.ca.gov)

**Trinity County**  
Ms. Leslie Hubbard,  
[Lhubbard@trinitycounty.org](mailto:Lhubbard@trinitycounty.org)

**ENPLAN**

**RECEIVED**

**APR 17 2020**

*mu*

**TRINITY COUNTY  
PLANNING DEPARTMENT**

638-01  
February 20, 2020

TO: Jess Gregory, P.E.

FROM: Donald Burk, Environmental Services Manager

SUBJECT: Compensatory Mitigation Proposal; Kuehl Parcels, Lewiston, CA

In response to your request, we have developed this compensatory mitigation proposal to offset certain impacts of unauthorized grading on the Kuehl parcels near Lewiston, Trinity County, California. The subject parcels are identified as Trinity County Assessor's Parcels 025-350-52-000 and 025-350-53-00. According to the Notice of Violation issued by the North Coast Regional Water Quality Control Board, extensive cut and fill was conducted on the site, resulting in the direct fill of approximately 250 linear feet of Class III stream and creation of new roads, earthen fill pads, and very steep fill slopes with a potential for fill failure and sedimentation of downstream channels; evidence of erosion was observed during the agency's site inspection.

We understand that the landowner is required to restore the stream channel(s) that were directly filled and to remove sediments from downstream channel reaches that were indirectly affected. Onsite slopes will be reworked, stabilized, and replanted. Onsite roads will be stabilized, which will involve installation of four new culverts, only one of which would be placed in a stream that would have been subject to Corps jurisdiction prior to the unauthorized fill.

A Restoration and Monitoring Plan addressing onsite remediation of impacts is being prepared by others. However, onsite remediation will not address indirect impacts (e.g., impacts resulting from transport of sediments into the Trinity River), nor will it mitigate the temporal loss of stream functions and values due to the direct fill and sedimentation of stream channels. The objective of this compensatory mitigation program is to identify and provide for the implementation of offsite mitigation to offset the indirect and temporal impacts of the unauthorized activity.

The first section of this compensatory mitigation proposal identifies and characterizes the direct, indirect, and temporal effects of the unauthorized activity. The resulting characterization provides a benchmark for determining the adequacy of the mitigation actions in terms of cubic yards of sediment retention needed to offset impacts. The second section of this program identifies offsite mitigation approaches, presents a detailed mitigation proposal, and documents the benefits of the proposed restoration activities (cubic yards of sediment retention provided). The final section of this program identifies the planning and implementation work sequence and provides a proposed schedule for key work tasks.



## Impact Characterization

As depicted in Figure 1, based on our field observations, three on-site drainages were adversely affected as a result of the unauthorized earthwork:

- Drainage between the constructed house pad and large fill slope to the west (Drainage 1)
- Small drainage along the eastern site boundary (Drainage 2)
- Erosional rills at the base of the constructed slope (Drainage 3)

## Drainage Features

### Drainage 1

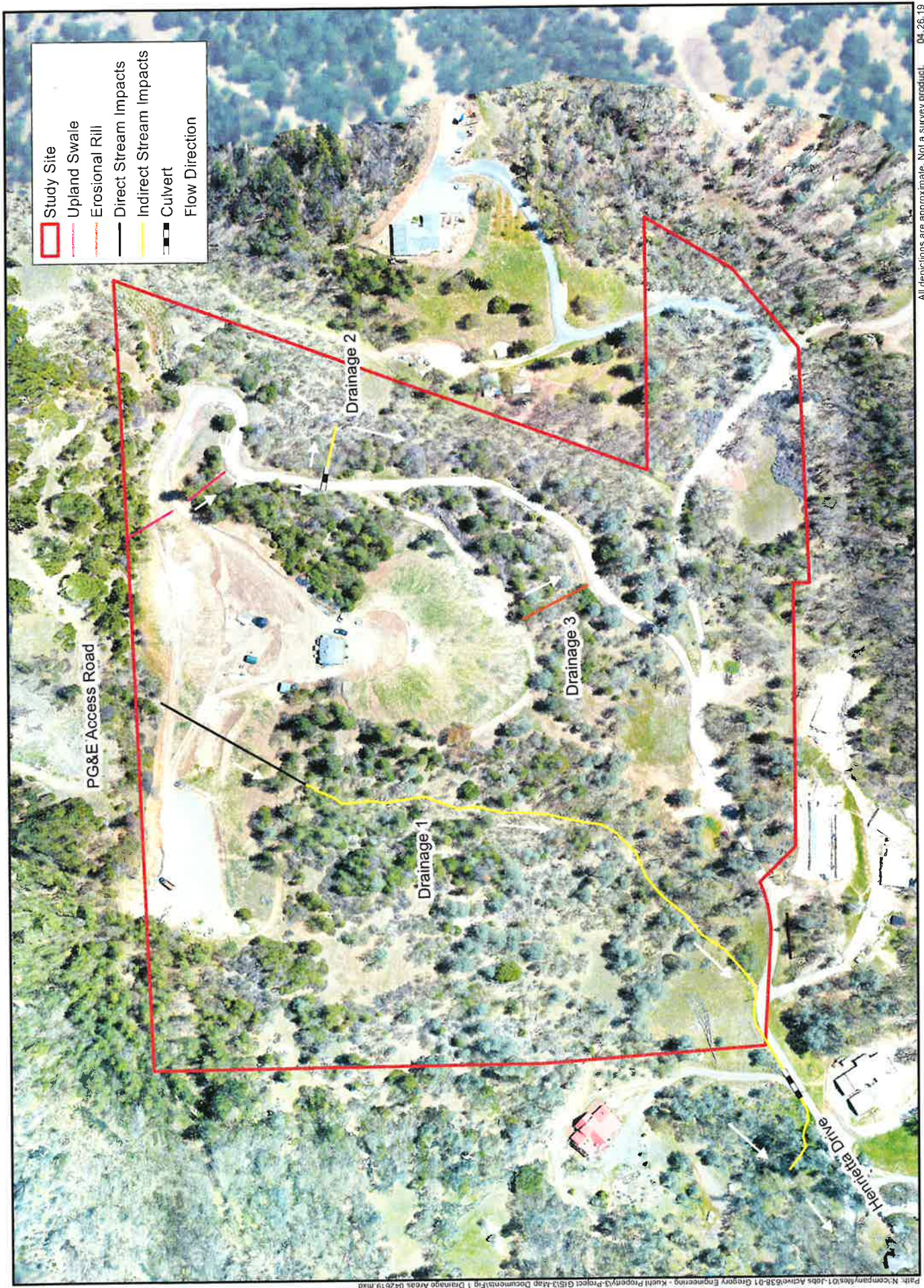
Construction of the house pad and access roads resulted in direct impacts to Drainage 1. Drainage 1 originates approximately 100 feet upslope of the impact area, immediately downslope of an existing PG&E dirt road. Based on our field observations/calculations, approximately 273 linear feet of drainage with an average width of 3 feet was filled ( $\pm 0.019$  acres). Downslope of the direct impact area, we observed indirect impacts (i.e., sediment discharge into the channel) that extended downstream to a second drainage, located off-site near Henrietta Drive. We estimate 1,173 linear feet of onsite drainage was indirectly impacted, estimated at 4.5 feet wide ( $\pm 0.121$  acres). Offsite channels leading downstream to the Trinity River were not inspected due to the presence of inaccessible private property.

### Drainage 2

It appears that minor alterations to the access road near the northeastern corner of the Kuehl property have caused sediment to discharge to Drainage 2. This drainage receives flow from the existing dirt road, as well as an adjacent upland swale. During construction activities, the fill slope on the south side of the access road was steepened, resulting in the partial fill of the upland swale segment located south of the road. Roadside runoff, as well as flow from the upland swale ultimately enter a culvert and discharge on the east side of the road to Drainage 2.

The swale does not appear to be subject to Corps jurisdiction, given minimal evidence of hydrology and hydrophytic vegetation, as well as the lack of stream characteristics (i.e., bed and bank, evidence of scour, etc.). The roadside ditch is constructed wholly in uplands, does not receive flow from jurisdictional waters, and is not a "relatively permanent water;" therefore, the roadside ditch located above the culvert is not subject to Corps jurisdiction. However, once a ditch exits the road corridor and exhibits stream-like characteristics, the Corps typically claims jurisdiction. Therefore, Corps jurisdiction over Drainage 2 would be limited to the area downslope of the culvert, depicted as a yellow line on Figure 1.





All depictions are approximate. Not a survey product.

ENPLAN

Figure 1  
**Drainage Areas**



### Drainage 3

Drainage 3 consists of erosional rills. Material from the constructed fill slope appears to have discharged to the undisturbed slope below through sheetflow. Subsequent storm events then resulted in concentrated flow causing rilling through the sediment deposit. This concentrated flow is then conveyed downslope to the constructed roadside ditch. By definition, erosional rills are not subject to Corps jurisdiction; further, we observed no evidence suggesting that a jurisdictional water was present in this vicinity prior to the unauthorized earthwork.

### **Impact Site Values**

Based on our field observations, the entirety of Drainage 1 and that portion of Drainage 2 downslope of the culvert are best characterized as ephemeral streams; Drainage 3 consists only of multiple erosional rills. Ephemeral streams are drainage channels that have flowing water only during, and for a short duration after, precipitation events in a typical year. Ephemeral streams are located above the water table year-round. Runoff from rainfall is the primary source of water for stream flow. Erosional rills are formed when surface water concentrates in depressions or low spots on steep slopes and erodes the soil (in this case, discharged material).

On-site drainages are relatively steep, originate on-site or immediately off-site, and flow for short duration. No woody riparian habitat was observed along the drainages. Given that these features are headwater drainages, exhibit steep terrain, have minimal water availability, and do not provide suitable conditions for insect life, these features have minimal habitat value. Likewise, the drainages have minimal potential for flood storage, given the steep terrain, ephemeral conditions, and proximity to headwaters. Prior to the discharge, these features may have supported herbaceous vegetation that would help improve water quality through filtration. However, this benefit was likely minimal given the ephemeral nature of these features. Given the current condition of the impact site, the most notable feature of the drainages is that they have a very high potential to provide for the transport of eroded materials to downstream waters with high habitat values.

### **Impact Duration**

Because the onsite drainages will be restored, this compensatory mitigation program focuses on temporal impacts, which are loss of the drainage system values since earthwork occurred. According to the Water Board's Order to Submit, the unauthorized earthwork was completed prior to May 28, 2016. Restoration of the onsite drainages will be completed no later than October 15, 2020; therefore, the temporal loss of the drainage system values due to unauthorized earthwork will extend over a 53-month period.

## **Offsite Sediment Delivery**

The volume of sediment that was released to Hoadley Gulch and the downstream Trinity River as a result of the unauthorized grading is difficult to determine. The created fill slopes have a footprint of approximately 2.5 acres. If we assume that, on average, two inches of fill has eroded off the slopes, sediment loss from the slopes would be approximately 675 cubic yards. A large amount of the eroded material is currently retained in upland portions of the site, below the toe of fill, where it is expected to stabilize in place; we made no attempt to estimate the volume of this retained material. However, based on our field observations, we estimate that at least 75 cubic yards of sediment has been retained in the onsite channels, and expect that at least an equivalent amount was transported offsite and entered downstream waters.

The project engineer independently estimated that 100 cubic yards of material may have exited the site into downstream waters prior to the 2018-2019 wet season. The engineer noted that a Storm Water Pollution Prevention Plan was implemented at the outset of the 2018-2019 wet season; negligible off-site sediment transport has occurred since that time as a result of the erosion control measures that were put in place. Recently completed site stabilization activities combined with onsite measures to be completed by October 2020 will essentially eliminate excess offsite sediment transport in future years. Therefore, we have assumed a total of 100 cubic yards of offsite sediment delivery as a result of the unauthorized grading; this volume, adjusted by the mitigation ratio described below, serves as a benchmark for determining the offsite sediment reduction objective.

## **Offsite Sediment-Reduction Objectives and Opportunities**

### **Overview**

Key objectives in developing the offsite sediment-reduction program were that: 1) work must be conducted in the Trinity River watershed and should be conducted as close to the Kuehl property as possible, preferably in or adjacent to the Hoadley Gulch watershed, 2) the selected project(s) must provide for sediment reduction that would not happen (at least in the near- to mid-term) without funding provided by the Kuehls, 3) permanent improvements such as culvert removal are preferred over temporary improvements such as removal of sediment from a stream without providing for control at the source, 4) tested/proven sediment reduction activities are strongly preferred over experimental approaches that have a higher potential for failure, and 5) project implementation would be funded by the Kuehls, but should be handled by an independent outside partner with an established track record in successfully completing similar work. Finally, as required by the Water Board, the mitigation program must be compliant with the U.S. Army Corps of Engineers (USACE) South Pacific Division (SPD) Attachment 12501 (Mitigation Ratio Setting Checklist) found in Appendix B.

To meet the above objectives, an offsite mitigation program was developed, which will consist of sediment-reduction actions to be implemented by the Trinity County Resource Conservation District (TCRCD). Based on discussions with TCRCD staff, the best

locally available opportunity for in-kind mitigation is road rehabilitation. Culvert removal also provides for measurable sediment reduction, but opportunities are more limited.

Culvert removals provide for direct, long-term improvements to headwater stream channels as well as sediment control. However, culvert removals typically require road decommissioning; TCRCD staff indicated that opportunities are currently very limited for road decommissioning and culvert removal on public lands in the Lewiston area. Road rehabilitation projects may include road drainage improvements such as installation of rocked crossings, addition of rolling dips or water bars, installation of energy dissipators at existing discharge points, and similar improvements. Both culvert removals and road rehabilitation projects result in quantifiable reductions of sediments entering the local stream systems.

### **Mitigation Proposal**

TCRCD staff completed a detailed field evaluation to identify sediment reduction opportunities in the Hoadley Gulch vicinity, focusing on public lands managed by the Bureau of Land Management (BLM). Field review by TCRCD staff identified an excellent opportunity for sediment reduction through road rehabilitation in Upper Phillips Gulch. The Phillips Gulch watershed abuts the southern boundary of the Hoadley Gulch watershed. Phillips Gulch is tributary to Grass Valley Creek near Fawn Lodge; Grass Valley Creek is tributary to the Trinity River about 5.5 miles downstream of the confluence of Hoadley Gulch with the Trinity River.

Lands in the Upper Phillips Gulch watershed are owned by Sierra Pacific Industries (SPI) and the US government (managed by BLM). Although we originally considered road rehabilitation on both the public and privately owned lands, we concluded that work on private lands was problematic for various reasons. As currently proposed, the mitigation project consists of rehabilitation of approximately 2.04 miles of road system on public lands in Upper Phillips Gulch. Approximately 1.5 miles of the roads are immediately adjacent to streams; thus, sediment reduction on the road system would directly benefit headwaters streams as well as downstream waters.

A detailed work plan for road rehabilitation prepared by TCRCD staff is provided in Attachment A and includes photographs of representative work sites. As documented in the attachment, the proposed work would include removal of a non-functioning 12-inch diameter culvert along Upper Phillips Gulch Road, removal of a 24-inch diameter culvert on a decommissioned road spur (Spur C), installation of a road barrier on Spur C (or construct three rocked rolling dips on the spur road), and construction or reconstruction of approximately 22 other rolling dips and/or rocked fords. Together, these improvements would provide over 2,400 cubic yards of sediment retention over a 10-year period<sup>1</sup>.

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<sup>1</sup> Sediment retention assigned to drainage excavations was visually estimated by TCRCD specialists. Sediment retention from road surface improvements was estimated using methods prescribed in the *California Salmonid Stream Habitat Restoration Manual, Chapter X* (CDFW, <https://www.wildlife.ca.gov/Grants/FRGP/Guidance>), using an erosivity factor of 0.07 to account for the highly erosive decomposed granite soils.



The type of sediment-reduction treatments proposed herein have previously been authorized by BLM and implemented by TCRCD in similarly situated watersheds. With TCRCD responsible for project implementation, the funding provided by the Kuehls will focus on on-the-ground improvements; although post-construction documentation will be provided, long-term monitoring and reporting is not warranted.

### **Adequacy of Proposed Mitigation**

**Mitigation Ratio Determination.** An appropriate mitigation ratio to offset the impacts of the unauthorized earthwork on the Kuehl parcels was determined through use of the USACE SPD Attachment 12501. Under Attachment 12501, a starting mitigation ratio of 1:1 is assumed. This ratio is then adjusted to reflect various factors such as the functional value of the impact site vs. the functional value of the mitigation site, whether or not preservation of an existing resource is proposed as mitigation, the proximity of the mitigation site to the impact site, the net gain/loss of aquatic resources surface area, in-kind vs. out-of-kind mitigation, risk and uncertainty in the mitigation proposal, and temporal loss of aquatic functions. The completed Attachment 12501 checklist is presented in Appendix B. A brief discussion of each of the adjustment factors is provided below to document the rationale for identification of the final mitigation ratio used in this compensatory mitigation program.

**Qualitative Comparison of Functions.** We find that the functional values of the impact site and mitigation site are very similar. Both are in the headwaters of small watersheds that are ultimately tributary to the Trinity River. The two sites have similar hydrologic characteristics in terms of surface water storage, subsurface storage, energy dissipation, nutrient cycling, and groundwater connectivity. Both the impact and mitigation drainages are primarily ephemeral, with low habitat values, but a high potential to deliver sediments to downstream waters; both the impact and mitigation sites are underlain by highly erosive decomposed granite soils. The two sites share a similar landscape connectivity to drainageways. No mitigation ratio adjustment is needed with respect to functional values.

**Preservation.** Preservation of existing habitats is not proposed as mitigation, nor is it applicable to the type of restoration work being undertaken. Therefore, a preservation adjustment is not needed.

**Mitigation Site Location.** The impact site and mitigation site are located in the same HUC 8 watershed (18010211). Therefore, no adjustment is needed with respect to mitigation site location.

**Net Loss of Aquatic Resource Surface Area.** As noted above, the unauthorized fill resulted in overcovering approximately 273 linear feet of headwaters stream. We understand that the fill will be left in place and a 12-inch diameter slope drain will convey runoff down the face of the fill slope. Other work on the Kuehl property resulting in loss of aquatic resource surface area consists of installation of one culvert in a stream that would have been subject to Corps jurisdiction prior

to the unauthorized earthwork. The total length of filled stream is less than 300 lineal feet.

Implementation of the proposed offsite mitigation plan would result in removal of a 24" diameter culvert from an intermittent stream and a non-functioning 12" diameter culvert. Additionally, 25 drainage crossings would be improved. Assuming a 16- foot improvement length at each crossing, this work would enhance over 400 feet of channel. Although the proposed mitigation work would provide a minor net increase in aquatic resource surface area, the increase is not sufficient to warrant a reduction of the baseline mitigation ratio.

Type Conversion. No type conversion is proposed, and mitigation is in-kind in that the impact resulted in discharge of sediments to headwaters streams and the mitigation will reduce future sediment input into similar headwater streams. No adjustment is needed with respect to type conversion.

Risk and Uncertainty. The type of mitigation work to be completed involves minimal risk and uncertainty. Road rehabilitation projects have a long history of successful implementation, both nationally and in the local watershed with its unique, extremely erosive decomposed granite soils. Tested and proven design standards and Best Management Practices are widely available, and the TCRCD has extensive experience in conducting road rehabilitation work. Nonetheless, every road project is unique and some degree of risk is inherent. We thus assign a +0.1 factor to account for the unavoidable risk and uncertainty associated with the mitigation project.

Temporal Loss. With respect to temporal loss, fill in drainages on the impact site will be in place for approximately 53 months before removal. Attachment 12501 assigns a factor of 0.05/month to account for the temporal impacts occurring between onset and remediation. A 53-month delay would warrant a mitigation ratio adjustment of +2.65.

Final Mitigation Ratio: In light of the above assessment, the appropriate mitigation ratio is 3.75:1.

Mitigation Adequacy. As discussed above, we are estimating the offsite delivery of sediments due to unauthorized grading at 100 cubic yards. Given the 3.75:1 mitigation ratio, the required volume of off-site sediment retention is 375 cubic yards. As documented in Attachment A, the proposed road rehabilitation project would result in retention of 2,400 cubic yards of sediment over a 10-year period. This is over six times the required volume of offsite sediment retention; the proposed mitigation program more than offsets project-related impacts in terms of sediment retention vs. sediment delivery.

## Project Implementation

Specific steps needed to provide on-the-ground mitigation include the following:

- Although TCRCD staff has obtained tentative authorization from the Bureau of Land Management to proceed with the proposed road rehabilitation work, written authorization allowing the proposed road rehabilitation projects should be obtained.
- North Coast Regional Water Quality Control Board staff must review the final compensatory mitigation program and accept the proposal as adequate to offset the impacts of the unauthorized fill.
- Upon acceptance by the Water Board and BLM, necessary permits and approvals will be obtained. Needed permits are expected to include a Streambed Alteration Agreement, Department of the Army Nationwide Permit, and Water Quality Certification. California Environmental Quality Act and National Environmental Policy Act compliance will also be needed, which would presumably be covered through issuance of Categorical Exclusions and Categorical Exemptions. BLM staff anticipates that the proposed work will qualify for Categorical Exclusion DOI-BLM-CA-N060-2018-0010-CX (see Appendix C).
- Upon receipt of environmental and regulatory approvals, TCRCD will undertake the approved compensatory mitigation project.
- Pre- and post-construction photo-point monitoring will be submitted to the Water Board to document successful project implementation.

We anticipate that the offsite compensatory mitigation work will be completed in the summer/fall of 2020. We offer the following target dates for completion of key work tasks, with all compensatory mitigation activities being completed by October 15, 2020.

February 28, 2020	Water Board approval of the Compensatory Mitigation Proposal, with accompanying 12501 documentation.
March 15, 2020	Obtain written authorization from BLM allowing implementation of the proposed road rehabilitation project.
April 15, 2020	Submit CEQA/NEPA environmental documentation and permit applications to appropriate agencies.
May 31, 2020	Receive environmental approvals and permits needed for project implementation. Approvals will likely be conditioned to delay start of work until streams are dry and any needed pre-construction biological and/or cultural field inspections have been completed.
July 15, 2020	Initiate project construction.
October 15, 2020	Complete project construction; provide pre-and post-construction photographs to Water Board.

## **Appendix A**

### **Upper Phillips Gulch Work Plan**

## **Appendix B**

### **Compensatory Mitigation Ratio Checklist (USACE SPD Attachment 12501)**



## **Appendix C**

### **Categorical Exclusion for Redding Field Office Road, Trail, and Facilities Maintenance (NEPA Doc# DOI-BLM-CA-N060-2018-0010-CX)**

## **Appendix A**

### **Upper Phillips Gulch Work Plan**



Trinity County Resource Conservation District  
P.O. Box 1450  
Weaverville, CA 96093  
(530) 623-6004

Enplan  
3179 Bechelli Lane #100  
Redding, Ca 96002

Attn: Don Burk

DATE: 01/31/2020

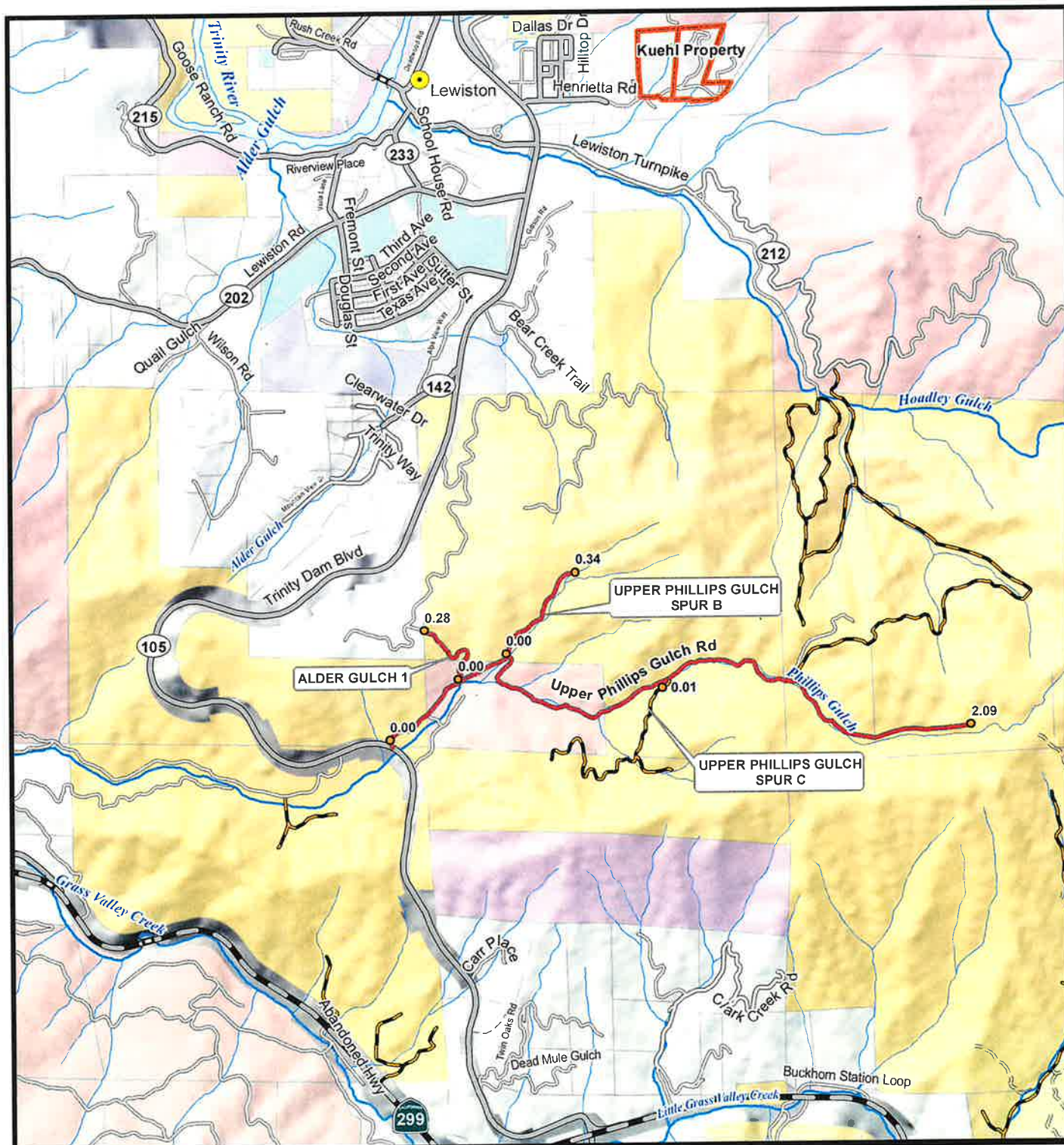
**Phillips Gulch Road Implementation -ESTIMATE**  
**BLM Property Only**

TCRCD Personnel	# Hours	Cost/Unit	TOTAL
Project Coordinator II	100	\$69.00	\$6,900.00
Project Coordinator I	90	\$52.00	\$4,680.00
Conservation Tech 3	20	\$41.00	\$820.00
		<b>Sub Total</b>	<b>\$12,400.00</b>
Equipment/Rental	Quantity	Cost/Unit	
Mini Excavator Rental	1	\$4,000.00	\$4,000.00
D5 Dozer with Operator	8	\$1,550.00	\$12,400.00
Mobilization for 2 pieces of equipment	2	\$900.00	\$1,800.00
		<b>Sub Total</b>	<b>\$18,200.00</b>
Supplies and Materials	Quantity	Cost/Unit	
Road base/Rip Rap and Delivery (Approx 120 cu yds)	15	\$400.00	\$6,000.00
Weed free straw mulch for erosion control	20	\$10.00	\$200.00
		<b>Sub Total</b>	<b>\$6,200.00</b>
Travel	Miles	Rate/Mile	
Mileage to/from work site (12 days, 40 mi RT)	480	\$0.575	\$276.00
		<b>Sub Total</b>	<b>\$276.00</b>
<b>Total DIRECT EXPENSES</b>			<b>\$37,076.00</b>
<b>Administrative Overhead (25%)</b>			<b>\$9,269.00</b>
<b>Grand TOTAL</b>			<b>\$46,345.00</b>

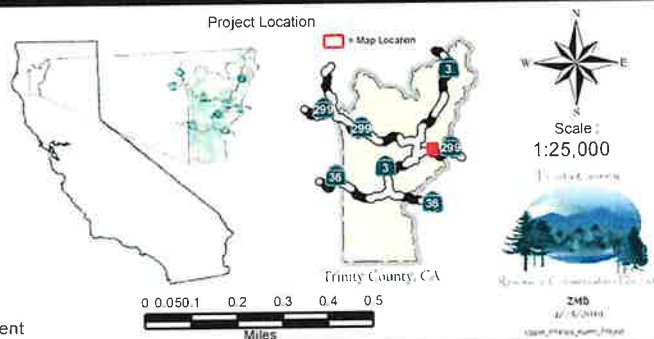
ctt 1/31/2020

**Notes:**

1. The TCRCD is still coordinating with the BLM for NEPA for stream crossing excavation on Phillips Gulch C and the BLM and SPI are in support of project.
2. The TCRCD should be able to complete some tasks in 2020, but cannot commit to full implementation by Fall 2020.



- Milemarkers
  - Upper Phillips Gulch Project Rds
  - Kuehl Property
  - Highway
  - Paved
  - Rocked
  - Native
  - Decommissioned
  - Jeep/Skid Trail
  - Trails
- 
- Streams
  - Perennial
  - Intermittent
  - Ephemeral
  - Private / Other
  - Private: Timber Production
  - Municipal Services
  - State of California
  - US Bureau of Reclamation
  - US Bureau of Land Management









## Upper Phillips Gulch Road

DRAFT 1/31/2020

MM	PROPOSED TREATMENT
0.00	GATED, Intx NE off Trinity Dam Blvd, 1.57 miles north from Highway 299, BLM Property
0.02	Construct Rock Ford at swale with no pipe
0.06	Construct Rock Ford at diverting swale with no pipe
0.10	Construct Rock Dip
0.11	Approx Private Boundary (SPI), Intx right to cross 2 Fords of Phillips Gulch
0.12-0.87	SPI Property
0.88	Approx SPI to BLM Property
0.94	Landing
	From here to end of road dips will be constructed without rocking, rip rap will still be utilized at stream fords.
1.00	Road is directly adjacent to, if not in, Phillips Gulch in this area.
1.02	Non functioning 12" CMP at spring, excavate and Construct Rock Ford (3 yds rip rap)
1.07	Intx right with Phillips Gulch Spur C, Excavate and decommission abandoned stream crossing with 24" CMP with flume. (See Phillips Gulch Spur C workplan, the BLM is conducting specialist review on this site for NEPA clearance)
1.10	Rebuild existing dip
1.13	Intx left with tanked spur
1.22	Rebuild existing dip
1.26	Stream crossing with no pipe, active erosion across road and at outlet, Construct rock ford (10 yds of rip rap)
1.28	Rebuild existing dip
1.35	Stream crossing with no pipe, active erosion across road and at outlet, Construct rock ford (20 yds of rip rap)
1.40	Rebuild existing dip
1.44	Rebuild existing dip
1.47	Stream crossing with no pipe, active erosion across road and at outlet, Construct rock ford (20 yds of rip rap)
	Intx with spur left
1.50	Rebuild existing dip
1.52	Stream crossing with no pipe, active erosion across road and at outlet, Construct rock ford (5 yds of rip rap)
1.56	Rebuild existing dip
1.58	Stream crossing with no pipe, active erosion across road and at outlet, Construct rock ford (10 yds of rip rap)
1.65	Stream crossing with no pipe, active diversion and erosion across road and at outlet, Construct rock ford (5 yds of rip rap)
1.68	Rebuild existing dip
1.70	Stream crossing, OK
1.78	Stream crossing with no pipe, active erosion across road and at outlet, Construct rock ford (10 yds of rip rap)
1.86	Stream crossing with no pipe, active diversion, Construct ford
1.92	Stream crossing with no pipe, active diversion, Construct ford
1.95	Rebuild existing dip
2.09	End of road, intx left with spur

## Upper Phillips Gulch Road

DRAFT 1/31/2020

MM	PROPOSED TREATMENT
----	--------------------

### Estimated Sediment Savings

0.00-2.09 Road surface erosion 6969 linear ft X 12' wide x 0.07' deep/27 x 10yrs x 40% delivery = 867 cu yds

0.00-1.07 6 Stream/swale/spring crossing sediment savings = 180 cu yds

1.08-2.09 9 Stream/swale/spring crossing sediment savings = 360 cu yds

Total sediment savings = 1407 cu yds





**Upper Phillips Gulch Road  
MM 1.00**

**Phillips Gulch is directly adjacent to road from this point to MM 2.09**



**Upper Phillips Gulch Road  
MM 1.02**

**Excavate non-functioning 12" CMP at spring on road and construct rock ford**





**Upper Phillips Gulch Road  
MM 1.26**

Stream crossing with no culvert, shape outlet area and construct rock ford.

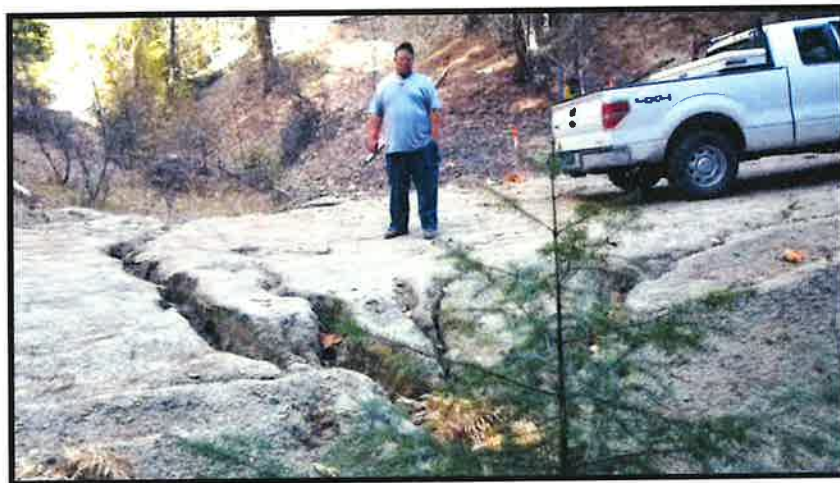






**Upper Phillips Gulch Road  
MM 1.35**

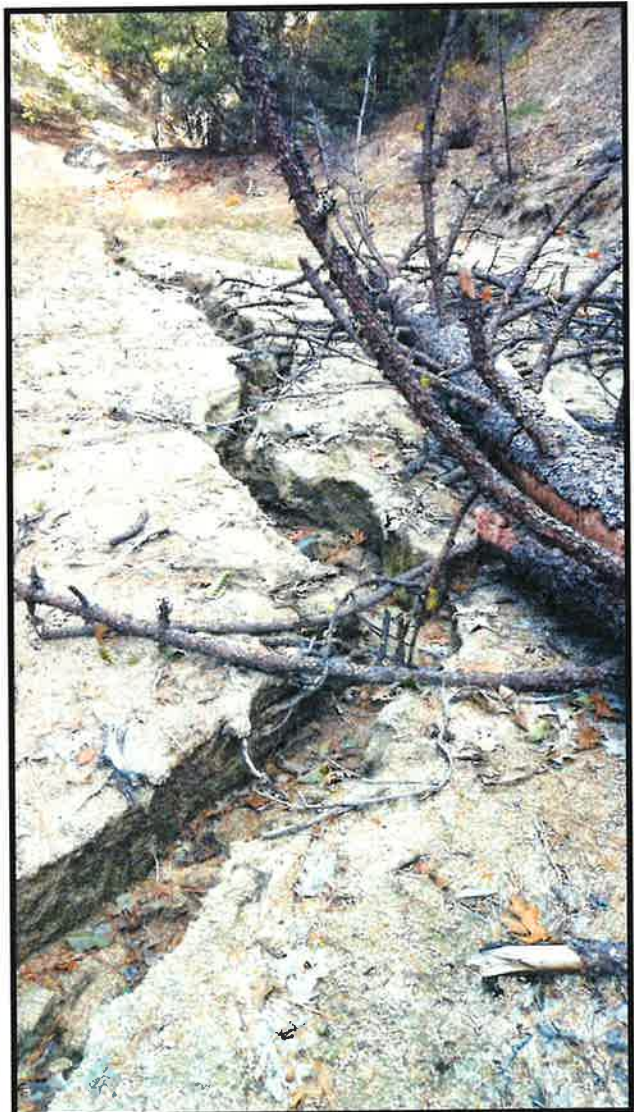
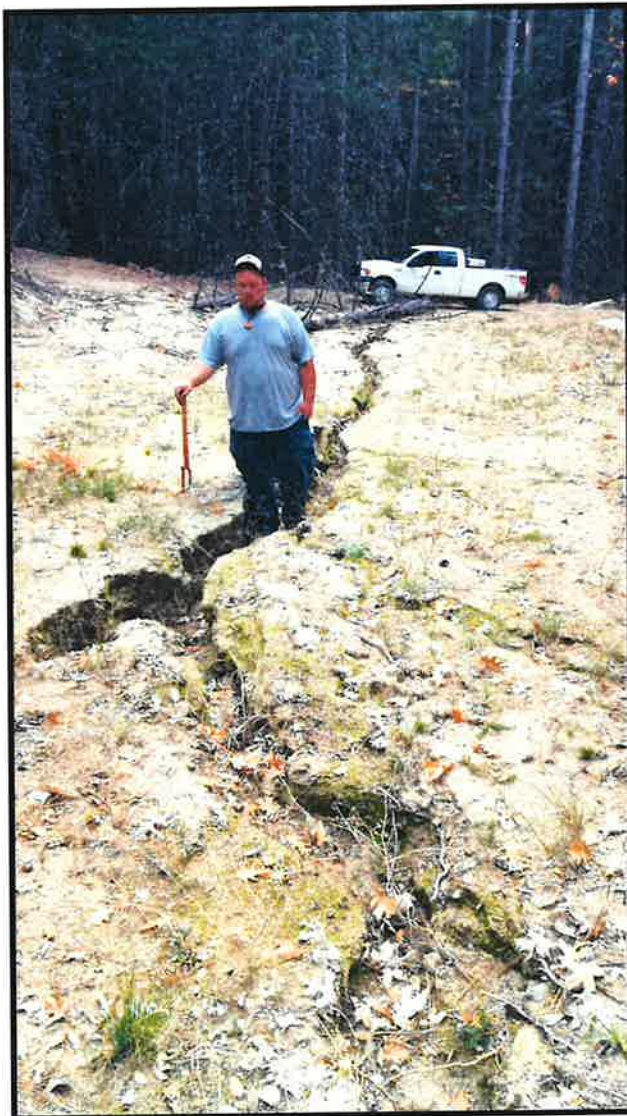
Stream crossing with no culvert, shape ford and outlet and construct rock ford.





**Upper Phillips Gulch Road  
MM 1.47**

Stream crossing with no culvert, shape ford and  
outlet and construct rock ford.







**Upper Phillips Gulch Road  
MM 1.65**

Diverting stream crossing with no culvert,  
construct rock ford.

**Upper Phillips Gulch Road  
MM 1.78**

Stream crossing with no culvert,  
construct rock ford.







**Upper Phillips Gulch Road  
MM 1.86**

Diverting stream crossing with no culvert,  
construct rock ford. Ford will be constructed at truck  
in photo.

## Upper Phillips Gulch Spur B

DRAFT 1/31/2020

MM	PROPOSED TREATMENT
0.00	Intx straight at MM 0.44 of Upper Phillips Gulch Road
0.00-0.06	Construct Rock Barrier, decommission or construct 3 rocked rolling dips, road is basically impassable to vehicles past MM 0.06 No turnaround right now, we backed down hill.
0.07	Excavate and recontour stream crossing
0.09	Excavate and recontour stream crossing
0.33	Excavate and recontour swale crossing
0.34	End of road just before stream crossing

### Estimated Sediment Savings

Road surface erosion 1795 linear ft X 12' wide x 0.07' deep/27 x 10yrs x 40% delivery = 223 cu yds

3 Stream crossing sediment savings = 150 cu yds

Total sediment Savings = 373 cu yds



## Leslie Hubbard

---

**From:** Danae Miller <danea@theflowraplatform.com>  
**Sent:** Tuesday, February 18, 2020 11:40 AM  
**To:** Christine Siverts; Mary B. Brinkley; Mary Lancaster  
**Cc:** Leslie Hubbard; Ana Wright; Amanda Percy  
**Subject:** Copy of License #427 Kuehl

Good morning,

I'm just about to submit a State app for the Kuehl's and I realize the local authorization letter in the file is dated November 2018. Was this license ever issued? If so, please send me a copy of the license as soon as humanly possible. If not, please let me know if a C.E. or an updated local authorization letter can be obtained quickly? If the answer is no to all of the above, please forward any notices of deficiencies associated with this license so that I might reach out to the client and assist with whatever is needed.

Please note, I've cc'd Leslie to help expedite this request in case you'll need authorization from her.

Thank you!

--

**Danea' Miller**

Lead Account Manager

Flowra

[www.theflowraplatform.com](http://www.theflowraplatform.com)

O: (800) 811-4356 xt. 506

C: (530) 739-8387

## Leslie Hubbard

---

**From:** jess gregory <laptop017@yahoo.com>  
**Sent:** Friday, January 31, 2020 6:45 AM  
**To:** Danny Kuehl; Freeny, Tobi@Wildlife  
**Cc:** Valverde, Jeremy@Wildlife; Mello, Steffanie@Wildlife; Luders, Joshua@Waterboards; Cannabis, NorthCoast@Waterboards; Leslie Hubbard; Kristalynne Anderson  
**Subject:** Re: Kuehl Draft LSAA - APN 025-350-52 & 53

Received. Please mail a hard copy to landowner.

Thank you Tobi,

Jess  
530-999-1933  
sent via mobile

On Thu, Jan 30, 2020 at 4:12 PM -0800, "Freeny, Tobi@Wildlife" <[Tobi.Freeny@wildlife.ca.gov](mailto:Tobi.Freeny@wildlife.ca.gov)> wrote:

Hello Jess

Attached to this email is Mr. Kuehl's Draft Streambed Alteration Agreement along with associated Cover Letter. Please read through all documents thoroughly and contact me with any questions. If you would like hardcopies mailed please let me know.

Thank you  
Tobi

**TOBI FREENY**

WATERSHED ENFORCEMENT TEAM  
SENIOR ENVIRONMENTAL SCIENTIST (SPECIALIST)  
Office: 530-225-2867  
Cell: 530-945-9688

CALIFORNIA DEPARTMENT OF  
**FISH and WILDLIFE** 

## Leslie Hubbard

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**From:** Freeny, Tobi@Wildlife <Tobi.Freeny@wildlife.ca.gov>  
**Sent:** Wednesday, October 30, 2019 8:01 AM  
**To:** Danny Kuehl; Jess Gregory  
**Cc:** Valverde, Jeremy@Wildlife; Mello, Steffanie@Wildlife; Henriouille, Diana@Waterboards; Grady, Kason@Waterboards; Luders, Joshua@Waterboards; Leslie Hubbard; Kristalynne Anderson  
**Subject:** Complete Letter - APN 025-350-52-00 & 025-350-53-00  
**Attachments:** 1600-2018-0663-R1\_TRI\_APN 025-350-52\_MJV\_Kuehl Remediation\_Com.pdf

Dear Mr. Kuehl

Attached is your Complete Letter for your LSA Notification pertaining to APNs 025-350-52-00 & 025-350-23-00. This letter states that CDFW has until the end of December to send you a draft LSA Agreement. If you have any questions please let me know.

Thank you

**TOBI FREENY**

WATERSHED ENFORCEMENT TEAM  
SENIOR ENVIRONMENTAL SCIENTIST (SPECIALIST)  
Office: 530-225-2867  
Cell: 530-945-9688

CALIFORNIA DEPARTMENT OF  
**FISH and WILDLIFE** 

## Leslie Hubbard

---

**From:** Freeny, Tobi@Wildlife <Tobi.Freeny@wildlife.ca.gov>  
**Sent:** Thursday, January 30, 2020 4:12 PM  
**To:** Jess Gregory; Danny Kuehl  
**Cc:** Valverde, Jeremy@Wildlife; Mello, Steffanie@Wildlife; Luders, Joshua@Waterboards; Cannabis, NorthCoast@Waterboards; Leslie Hubbard; Kristalynne Anderson  
**Subject:** Kuehl Draft LSAA - APN 025-350-52 & 53  
**Attachments:** 1600-2018-0663-R1\_TRI\_APN 025-350-52-00\_MJV\_Kuehl Stream Remediation\_Hoadley Gulch\_CvrLtrDLSAA.pdf; 1600-2018-0663-R1\_TRI\_APN 025-350-52-00\_MJV\_Kuehl Stream Remediation\_Hoadley Gulch\_DLSAA.pdf

Hello Jess

Attached to this email is Mr. Kuehl's Draft Streambed Alteration Agreement along with associated Cover Letter. Please read through all documents thoroughly and contact me with any questions. If you would like hardcopies mailed please let me know.

Thank you  
Tobi

**TOBI FREENY**

WATERSHED ENFORCEMENT TEAM  
SENIOR ENVIRONMENTAL SCIENTIST (SPECIALIST)  
Office: 530-225-2867  
Cell: 530-945-9688

CALIFORNIA DEPARTMENT OF  
**FISH and WILDLIFE** 



**From:** [Luders, Joshua@Waterboards](mailto:Luders_Joshua@Waterboards)  
**To:** [Leslie Hubbard](mailto:Leslie_Hubbard)  
**Cc:** [Utley, Shannon M@Waterboards](mailto:Utley_Shannon_M@Waterboards); [Grady, Kason@Waterboards](mailto:Grady_Kason@Waterboards)  
**Subject:** Re: status of Danny Kuehl  
**Date:** Monday, September 30, 2019 5:47:57 PM

---

Leslie,

Danny Kuehl has been cooperating with our agency and has been actively participating in addressing our concerns. We are expecting an amendment to his restoration efforts in the near future. In addition, he is still actively enrolled in our Cannabis Regulatory Program.

Regards,

Josh

---

**From:** Leslie Hubbard <lhubbard@trinitycounty.org>  
**Sent:** Monday, September 30, 2019 5:18:51 PM  
**To:** Luders, Joshua@Waterboards <Joshua.Luders@Waterboards.ca.gov>  
**Cc:** Utley, Shannon M@Waterboards <ShannonM.Utley@waterboards.ca.gov>  
**Subject:** RE: status of Danny Kuehl

Hello Josh,

I'd like to know if you can give me an update regarding Danny's Kuehl's site (APN s 025-350-52 and 025-350-53, located at 553 and 441 Henrietta Road in Lewiston). He is pursuing licensing with us, but we do not issue licenses on a site that has received a NOV until we receive correspondence from the relevant regulatory agency, in this case the Water Board, confirming that the site is in compliance with what is being requested on site for corrective actions.

Will you please let me know the status of this site at your earliest convenience?

Thanks,

***Leslie J. Hubbard***

Deputy Director of Planning  
Trinity County Planning Department  
61 Airport Road  
PO Box 2819  
Weaverville, CA 96093  
Office: (530) 623-1351 ext 3  
[lhubbard@trinitycounty.org](mailto:lhubbard@trinitycounty.org)

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**From:** Utley, Shannon M@Waterboards <ShannonM.Utley@waterboards.ca.gov>  
**Sent:** Wednesday, July 31, 2019 8:31 AM  
**To:** Leslie Hubbard <lhubbard@trinitycounty.org>  
**Subject:** RE: status of Danny Kuehl

Hi Leslie,  
I've forwarded your email to Kason and to Josh Luders, they should have the most updated information on Kuehl's site.

Shannon Utley  
707-445-6125

**From:** Leslie Hubbard <[lhubbard@trinitycounty.org](mailto:lhubbard@trinitycounty.org)>  
**Sent:** Tuesday, July 30, 2019 7:01 PM  
**To:** Utley, Shannon M@Waterboards <[ShannonM.Utley@waterboards.ca.gov](mailto:ShannonM.Utley@waterboards.ca.gov)>  
**Subject:** status of Danny Kuehl

Hi Shannon,

Can you tell me if Danny Kuehl is in good standing with the Water Board's CanGO? His consultant is asking when we will issue a county license to him and the answer is that we will do so as soon as we have verification from you and CDFW that he is in good standing and meeting the requirements of your applicable regulations. Will you please confirm his status or send me to the right contact to confirm?

Thanks,  
***Leslie J. Hubbard***  
Deputy Director of Planning  
Trinity County Planning Department  
61 Airport Road  
PO Box 2819  
Weaverville, CA 96093  
Office: (530) 623-1351 ext 3  
[lhubbard@trinitycounty.org](mailto:lhubbard@trinitycounty.org)

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CCL-2018-427

## TRINITY COUNTY PLANNING DEPARTMENT

P.O. BOX 2819 ♦ 61 AIRPORT ROAD  
WEAVERVILLE, CALIFORNIA 96093  
PHONE (530) 623-1351 ♦ FAX (530) 623-1353  
Email: [lhubbard@trinitycounty.org](mailto:lhubbard@trinitycounty.org)

November 28, 2018

Mr. Danny Kuehl  
PO Box 488  
Lewiston, CA 96052

Dear Mr. Kuehl

The Trinity County Planning Department received an application from you for a specialty cottage outdoor Cannabis cultivation site located on APN's 025-350-52-00 / 025-350-53-00 at 441 and 553 Henrietta Road in Lewiston.

Your project is subject to further review before we issue your commercial Cannabis cultivation license, although the County will grant local authorization to State licensing authorities if you choose to begin pursuing State licensure at this time.

**This local authorization does not give you the permission to begin site development, activities, operations or Cannabis cultivation as proposed in your application.** Developing your site before your project has received final approval may result in license denial.

If you have any questions, please contact Trinity County Planning Department, Cannabis Division between the hours of 8:00 am-2:00 pm Monday through Thursday or by appointment on Friday.



**Rachel Wood**

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**From:** Rachel Wood  
**Sent:** Tuesday, November 20, 2018 9:27 AM  
**To:** 'LISA WRIGHT'; 'dam.dk45@gmail.com'  
**Cc:** Leslie Hubbard  
**Subject:** CCL-2018-427 Maintain Site Conditions  
**Attachments:** 2018-11-20 Maintain Site Conditions 427.pdf

Good morning Danny and Lisa,

In order to obtain local authorization the Cannabis Division will need the applicant, Danny Kuehl, to sign the acknowledgement that he understands that there will be no site development nor cultivation until a CalCannabis Cultivation License and a Trinity County Cultivation License are obtained.

Danny, please sign the following document and you may submit a photo/scan (for expediency) to the Cannabis Division in order to obtain local authorization.

Please mail or submit the live signatures in person as soon as possible.

In addition, payment of your cultivation license is required in order to obtain local authorization. You have paid for a Specialty Cottage Outdoor, therefore if you want authorization for anything larger, you will need to pay additional fees.

Please let me know if you have any questions,

Rachel Wood  
Administrative Coordinator  
Trinity County Planning Department  
Cannabis Division  
(530) 623-1351 x6  
[rwood@trinitycounty.org](mailto:rwood@trinitycounty.org)

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**TRINITY COUNTY  
PLANNING DEPARTMENT  
CANNABIS DIVISION**

61 Airport Road  
PO Box 2819  
Weaverville, CA 96093  
[Planning.cannabis@trinitycounty.org](mailto:Planning.cannabis@trinitycounty.org)

CCL-2018-427

Danny Kuehl  
PO Box 488,  
Lewiston, CA 96052

Dear Danny Kuehl,

This is a courtesy letter to remind you to address unfulfilled site specific components regarding septic installation and dwelling permits. If this deadline is not met, your Cannabis Cultivation License may be revoked or denied.

**Septic Component:** Completed

**Dwelling Component:** Your dwelling plans must be submitted to the Trinity County Building Department by December 31, 2018.

Please contact the Trinity County Cannabis Division in order to submit and/or report on these items. Your assistance in this matter is critical.

If you believe you have received this letter in error, please contact us immediately.

Thank you for your time and attention. If you have any questions, please email administrative staff at [planning.cannabis@trinitycounty.org](mailto:planning.cannabis@trinitycounty.org).

Trinity County Cannabis Division  
PO Box 2819  
Weaverville, CA 96093  
[Planning.cannabis@trinitycounty.org](mailto:Planning.cannabis@trinitycounty.org)

FILE COPY

Sent via post 11/16/18 RUW

## Rachel Wood

---

**From:** LISA WRIGHT <lisa@theflowraplatform.com>  
**Sent:** Thursday, October 11, 2018 3:06 PM  
**To:** Rachel Wood  
**Cc:** Ana Wright; Leslie Hubbard  
**Subject:** Re: CCL-2018-427 Danny Kuehl  
**Attachments:** Danny Kuehl WDID 1A161078CTRI Annual Report.pdf

Rachel,

Sending the attached electronically for your files:

1/2 - WDID/NCRWQCB Appendix C Annual Report

SMP with move to SGO is under contract with Flowra but we are waiting for final plan on WB/CDFW violation remediation plan.

Other items, I will go back to client.

Please confirm receipt? Thanks!

Best Regards,

Lisa

Lisa Wright  
CEO  
Flowra  
[www.theflowraplatform.com](http://www.theflowraplatform.com)  
312.961.0773 direct/text



On Thu, Oct 11, 2018 at 2:09 PM Rachel Wood <[rwood@trinitycounty.org](mailto:rwood@trinitycounty.org)> wrote:

Hi Lisa and Ana,

Attached is the documentation we have on file for Danny Kuehl CCL-2018-427.

Here is what we are missing for a complete application:

1. Waterboard number or proof of payment
2. North Coast Waterboard Appendix C or State Waterboard Enrollment Questionnaire

3. An additional water source since the well he has on file only produces 2 GPM or a well test showing over 3GPM for that well.
4. A site management plan or a WRPP as applicable by the Waterboard
5. BOE Sellers Permit
6. Business Documentation for Fat Wallet Farms

The Cannabis Division has to defer to CDFW and the Waterboard for the violations issued to this site.

Please let me know if you have any questions or concerns,

Rachel Wood

Administrative Coordinator

Trinity County Planning Department

Cannabis Division

(530) 623-1351 x6

[rwood@trinitycounty.org](mailto:rwood@trinitycounty.org)

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## Rachel Wood

---

**From:** Leslie Hubbard  
**Sent:** Thursday, October 11, 2018 10:38 AM  
**To:** 'Freeny, Tobi@Wildlife'; Little, DeWayne@Wildlife  
**Cc:** Rachel Wood; Luders, Joshua@Waterboards; Cobb, Donna@Wildlife  
**Subject:** RE: Danny Kuehl

Thanks, Tobi. Thanks for including Rachel on this email, too, since she will follow-through to include this correspondence in Kuehl's project file as verification that he is not yet in compliance with CDFW. Therefore, the County will not issue a license to him until further notification from CDFW.

Thanks again,

**Leslie J. Hubbard**

Deputy Director of Planning  
Trinity County Planning Department  
61 Airport Road  
PO Box 2819  
Weaverville, CA 96093  
Office: (530) 623-1351 ext 3  
[lhubbard@trinitycounty.org](mailto:lhubbard@trinitycounty.org)

---

**From:** Freeny, Tobi@Wildlife <Tobi.Freeny@wildlife.ca.gov>  
**Sent:** Thursday, October 11, 2018 8:13 AM  
**To:** Leslie Hubbard <lhubbard@trinitycounty.org>; Little, DeWayne@Wildlife <DeWayne.Little@wildlife.ca.gov>  
**Cc:** Rachel Wood <rwood@trinitycounty.org>; Luders, Joshua@Waterboards <Joshua.Luders@Waterboards.ca.gov>; Cobb, Donna@Wildlife <Donna.Cobb@wildlife.ca.gov>  
**Subject:** RE: Danny Kuehl

Hi Leslie

Mr. Kuehl is in the process of working with CDFW and the Board towards addressing the violations documented on his property and will be in the process of implementing his temporary stabilization plan to reduce sediment discharge from his property into streams soon however he will not be able to begin any of the necessary ground disturbing work to address the violations until next year, late spring/early summer of 2019.

It is my understanding that a LSA Notification will be submitted by the end of the month however it will be incomplete since the necessary engineered plans still need to be completed and will not be done by then. It is my belief that the Notification will not be deemed complete until next year. Mr. Kuehl wanted to submit his Notification to stay in compliance with his court settlement and to show that he is trying to work with the agencies.

For CDFW, once the work required to remediate the Fish and Game Code violations is complete and a compliance site visit is conducted to verify this than he will be in compliance with CDFW and we will send him a remediation complete letter.

If you have further questions please let me know.

Thanks

Tobi

**From:** Leslie Hubbard <[lhubbard@trinitycounty.org](mailto:lhubbard@trinitycounty.org)>

**Sent:** Tuesday, October 9, 2018 12:17 PM

**To:** Freeny, Tobi@Wildlife <[Tobi.Freeny@wildlife.ca.gov](mailto:Tobi.Freeny@wildlife.ca.gov)>; Little, DeWayne@Wildlife <[DeWayne.Little@wildlife.ca.gov](mailto:DeWayne.Little@wildlife.ca.gov)>

**Cc:** Rachel Wood <[rwood@trinitycounty.org](mailto:rwood@trinitycounty.org)>

**Subject:** Danny Kuehl

Hello Tobi and DeWayne,

We have received several messages from Danny Kuehl's consultant, Lisa Wright with Flowra, who wants to know the status of his County license. We won't move forward without you and/or the Water Board confirming that the site is in compliance. The violations fall under your jurisdiction, so we defer to your judgement regarding whether the site is in compliance with your agency's regulations.

Will you please confirm whether this site is in compliance or not? If you have the impression that he is on track to remediate the site, that's your call. We just need an acknowledgement one way or the other so we know how to handle his County application.

Thanks,

***Leslie J. Hubbard***

Deputy Director of Planning

Trinity County Planning Department

61 Airport Road

PO Box 2819

Weaverville, CA 96093

Office: (530) 623-1351 ext 3

[lhubbard@trinitycounty.org](mailto:lhubbard@trinitycounty.org)

## Rachel Wood

---

**From:** Rachel Wood  
**Sent:** Thursday, March 22, 2018 10:35 AM  
**To:** 'dam.dk45@gmail.com'  
**Subject:** CCL-2018-427

Hi Danny,

I am missing some documents from you for your application

1. Waterboard Enrollment Documents
2. Waterboard Number or Proof of Payment
3. BOE Sellers Permit
4. Business Documentation if you want to be associated with a business

I also cannot issue you a license until your process with CDFW, and the DA's office is complete.

Thank you,

Rachel Wood  
Administrative Coordinator  
Trinity County Planning Department  
Cannabis Division  
PO Box 2819  
61 Airport Road  
Weaverville, CA 96093  
(530) 623-1351 x6  
[rwood@trinitycounty.org](mailto:rwood@trinitycounty.org)