Recommended Enforcement Decision and Cease and Desist and Civil Penalty Order No. CDO 2018.02 North Coast Railroad Authority (NCRA)

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May 17, 2018

Outline

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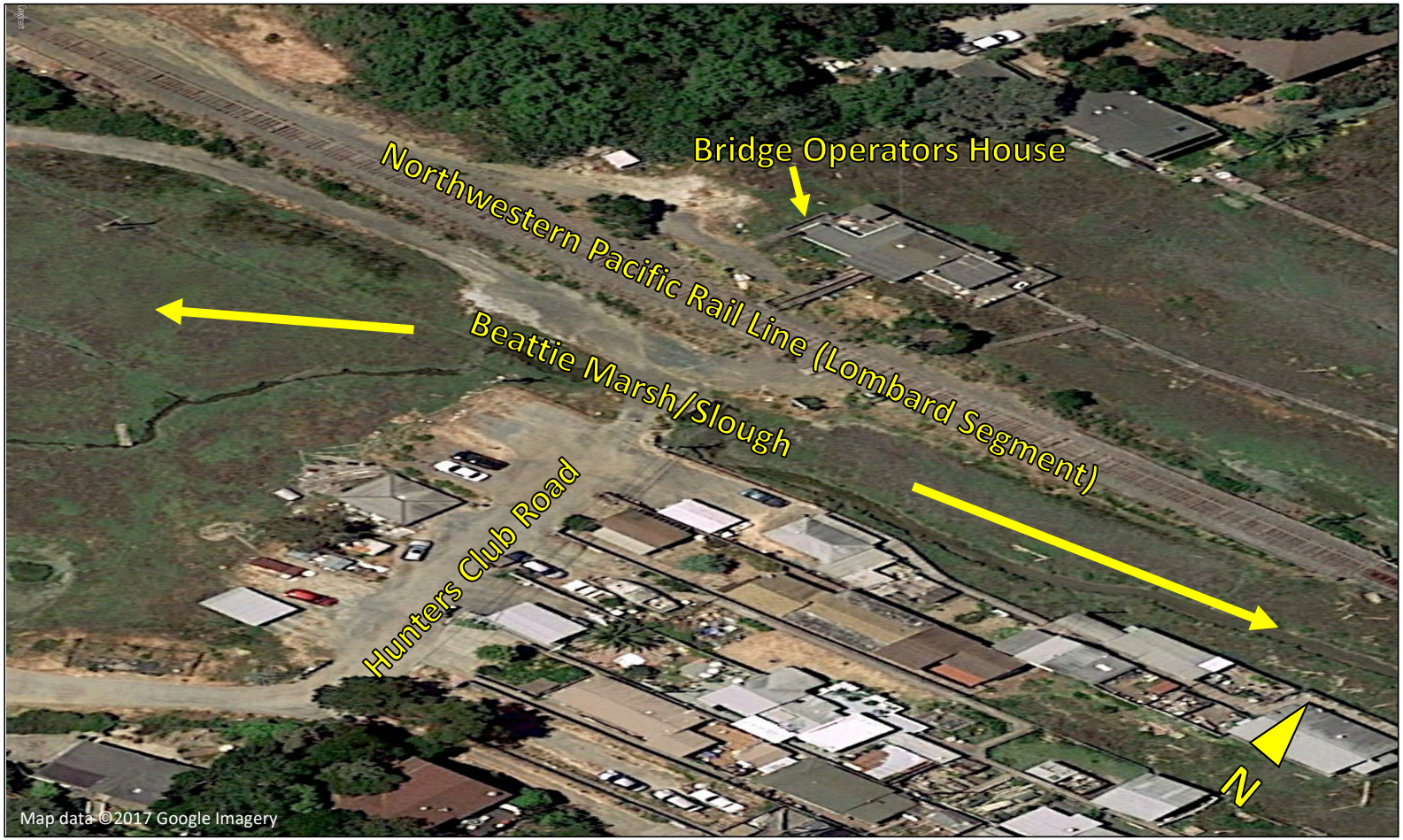
Introduction

- Unauthorized work occurred in March 2016.
- Violation could not be resolved with standardized administrative fines.
- Proposed Cease and Desist and Civil Penalty Order No. CDO 2018.02:
    1. Cease and desist from all activity in violation of the McAteer-Petris Act.
    2. Submit a site remediation plan to BCDC for review and approval.
    3. Implement the approved remediation plan.
    4. Pay a civil penalty (subject to a 100% waiver).

BCDC Jurisdiction

Site Description



Flooding of the Road and Marsh ca. Winter 2015/2016

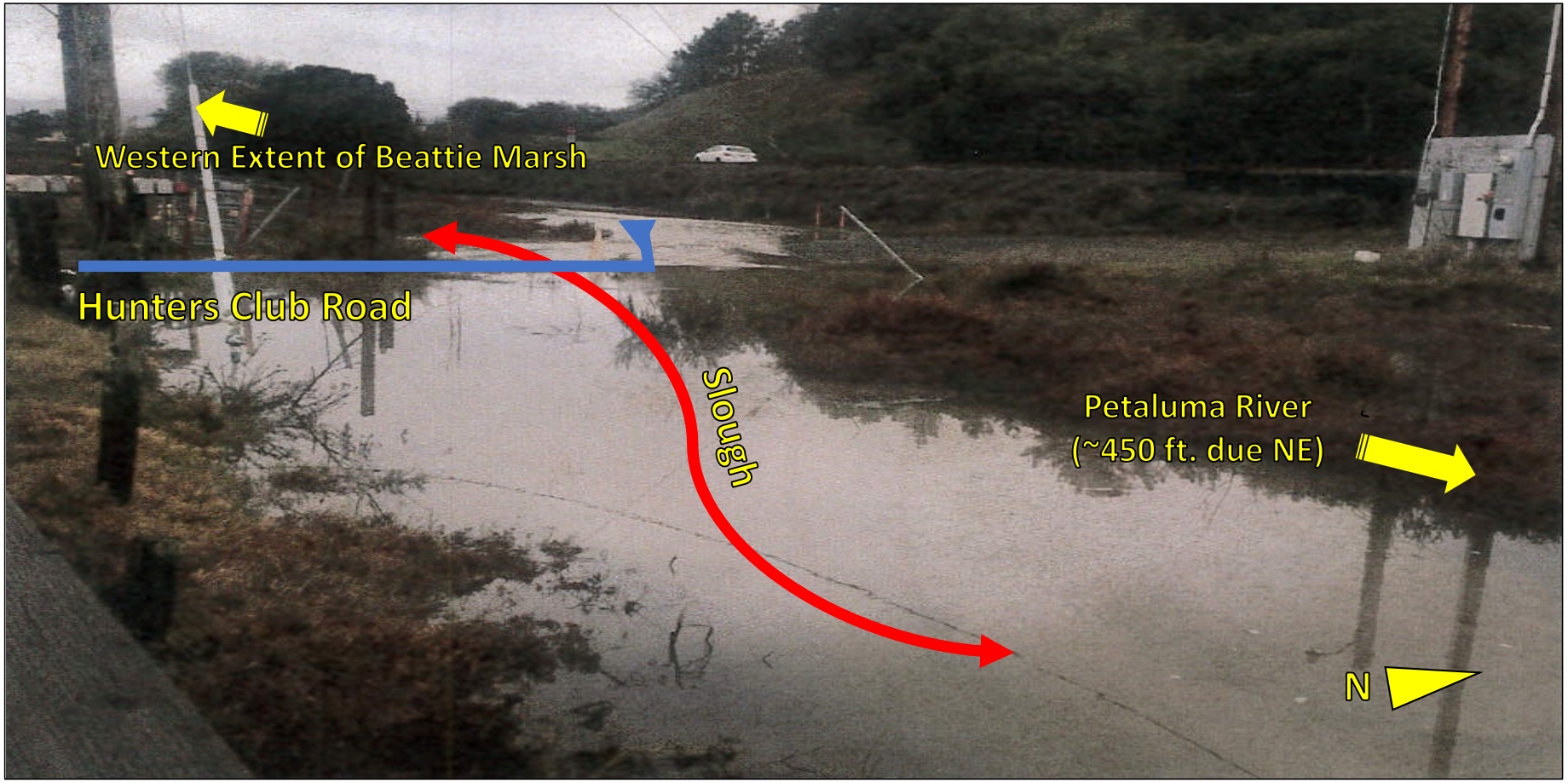


Photo Credit: Jim Armstrong, a private third-party, submitted to BCDC staff on June 24, 2016. Annotated by BCDC staff.

Alleged Unauthorized Activity by NCRA ca. March 2016

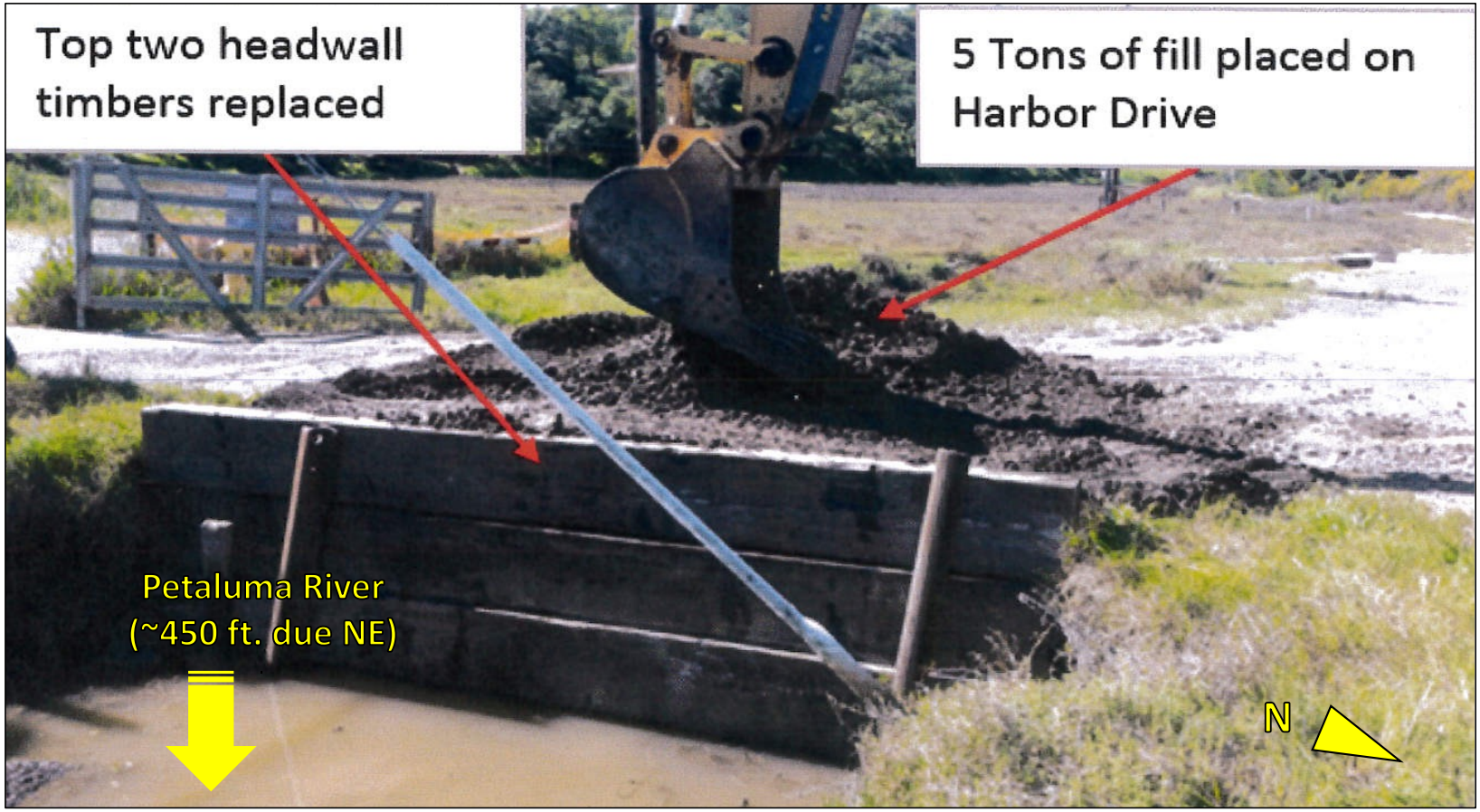


Photo credit: Picture taken and annotated by Northwestern Pacific Railroad Company staff of the unauthorized road repair work (ca. Spring 2016). Submitted to BCDC staff by NCRA on May 28, 2016. Additional annotation by BCDC staff.

Staff Notifies NCRA of Alleged Violation in May 2016

Photo Credit: BCDC staff, June 24, 2016.

Subsequent Road Wash-Out ca. Winter 2016/2017

Photo Credit: BCDC Staff, July 14, 2017.

Impacts of the Alleged Violation Were Exacerbated

Debris in the slough, at least 100 ft. northeast of the road.

Scouring of the slough bank with road debris at the base of the scar.

Road debris in front of the culvert.

Photo Credit: BCDC Staff, July 14, 2017

Staff's Attempts to Resolve the Alleged Violation and Enforcement Committee's Recommendation

- **May 23, 2016 to September 5, 2017 -** repeated attempts to resolve the violation with NCRA. Violation Report/Complaint issued September 5, 2017.
- **October 3, 2017** - staff meets with NCRA to discuss the Violation Report/Complaint.
- **January 10, 2018 to April 2, 2018** - staff informs NCRA that it will not accept its proposed remediation plan, attempts to negotiate a stipulated order with NCRA.
- **April 19, 2018** – Enforcement Committee agrees to recommend waiving 100% of the penalty for documented inability to pay and substantial compliance with the Order.

Recommended Site Assessment & Remediation Plan

- Prepare within 60 days.
- Hire a qualified professional.
- Remove all road debris from the slough, culvert, and marsh.
- Secure the road.
- Mitigate damage.
- Monitor for 2 years.

Recommended Administrative Civil Penalty

- Assessed penalty of $30,000.
  - $4,000 for unauthorized placement of fill.
  - $24,000 or $100 per day from May 23, 2016 through August 2, 2017.
  - $2,000 (capped) or $20 per day for September 5, 2017 through May 18, 2018 (256 days).
- $30,000 will be waived if NCRA substantially complies with the terms of the Order.

Thank You. Questions?