
North Coast Regional Water Quality Control Board

NOTICE OF VIOLATION

June 27, 2018

Certified Mail Number 7016-2710-0000-2635-8653
Certified Mail Number 7016-2710-0000-2635-8622

Edwin Barahona
2738 Kollmar Drive,
APT 41
San Jose, CA 95127

27690 State Highway 36 Bridgeville CA Rev Trust
117 Bernal Road,
#70543
San Jose, CA 95119

Dear Mr. Barahona:

Subject: Notice of Violation, Directive to Comply with Cannabis Waste Discharge Regulatory Program Requirements, and Inspection Report for Humboldt County APN 208-112-023

File: Edwin Barahona Property, CIWQS Place ID: 843667

Please be advised that the subject parcel has conditions or features violating the Water Quality Control Plan for the North Coast Region (Basin Plan), California Water Code, and/or Clean Water Act due to discharges or threatened discharges of earthen material into waters of the state and failure to comply with Cannabis Waste Discharge Regulatory Program requirements.

This letter requires the following:

- 1) Within 15 days, either take action to obtain regulatory coverage, file a report of Waste Discharge, or provide a written response explaining non-applicability.
- 2) Within 30 days, provide a copy of your plan and schedule to correct those violations.

Background

On December 6, 2017, staff from the North Coast Regional Water Quality Control Board (Regional Water Board) and the State Water Resources Control Board, accompanied by staff of the California Department of Fish and Wildlife's (CDFW) Watershed Enforcement Team, and the County of Humboldt, inspected the above-referenced property (Property). The purpose of the inspection was to observe site conditions, including roads and developed areas, onsite activities and overall site maintenance, as well as water diversion and use on the Property, in order to evaluate impacts and potential impacts to the water quality and beneficial uses of receiving waters in the Little Larabee Creek watershed.

Attached is a copy of the water quality inspection report. CDFW and Humboldt County Code Enforcement will contact you separately if their inspection of the Property raised any concerns for those agencies. Please review this inspection report carefully and completely.

Notice of Observed Violation

Based upon observations made during the inspection, water quality staff identified several locations with conditions that represent water quality violations or threatened violations requiring corrective action. The enclosed inspection report identifies these violations, and recommends actions for you to take in order to correct those violations. The Regional Water Board is in the process of assessing these violations and retains its full enforcement authority and discretion to bring formal enforcement for all violations and threatened violations.

Directive to Comply with Cannabis Waste Discharge Regulatory Program Requirements

Based on the observations detailed in the attached inspection report, the Regional Water Board has determined that you are required to comply with Water Code section 13260 by either: 1) obtaining regulatory coverage under the State Water Resources Control Board (State Water Board) Order No. WQ-2017-0023-DWQ, *General Waste Discharge Requirements and Waiver of Waste Discharge Requirements for Discharges of Waste Associated with Cannabis Cultivation Activities* (Statewide General Order); 2) filing a Report of Waste Discharge in order to obtain individual Waste Discharge Requirements (WDRs) specific to your property, or 3) providing information demonstrating that regulatory coverage is not needed for the parcel(s) identified above.

Water Code section 13260 states, in relevant part:

- (a) All of the following persons shall file with the appropriate regional board a report of the discharge, containing the information which may be required by the regional board:

- (1) Any person discharging waste, or proposing to discharge waste, within any region that could affect the quality of the waters of the state, other than into a community sewer system.

Accordingly, you **must** take **one** of the following actions within **15 calendar days of this letter**:

- 1) Enroll the property under the Statewide General Order by providing the information required in the online application process. The application can be accessed at: https://www.waterboards.ca.gov/water_issues/programs/cannabis/

You must also submit an application fee to the State Water Board within 30 days of submitting the online application. The fee must be submitted to one of the following addresses, based on the method of delivery.

By U.S. Mail: Accounting Office Attn: Water Quality Fees – Cannabis General Order P.O. Box 1888 Sacramento, CA 95812-1888	In person or by courier delivery: Accounting Office Attn: Water Quality Fees – Cannabis General Order 1001 I Street Sacramento, CA 95814
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- 2) File a Report of Waste Discharge in order to obtain individual Waste Discharge Requirements (WDRs) specific to your property.
Please submit the appropriate documents and payments to:
North Coast Water Board, Attn: Diana Henriouille, Cannabis Waste Discharge Regulatory Program, 5550 Skylane Boulevard, Suite A, Santa Rosa, CA 95403
OR
- 3) If you believe regulatory coverage is not required under any of the options listed above, either because there is no cultivation or associated activities occurring, or because the operations that are occurring are not subject to regulation under the Statewide General Order or individual WDRs, please provide a written response explaining your non-applicability (with all supporting documentation including photos if necessary) to the Regional Water Board at the address provided above. Regional Water Board staff may contact you to verify your response.

If you fail to take one of the actions described above, the Regional Water Board will refer this matter for formal enforcement and may impose penalties of up to \$1,000 per day for each day after the date by which the Directive Letter required action pursuant to Water Code section 13261.

Water Code section 13261 states, in relevant part:

- (a) Any person failing to furnish a report or pay a fee under Section 13260 when so requested by a regional board is guilty of a misdemeanor and may be liable civilly in accordance with subdivision (b).

- (b) (1) Civil liability may be administratively imposed by a regional board ... in an amount that may not exceed one thousand dollars (\$1,000) for each day in which the violation occurs.

For general information about the State Water Board's Cannabis Cultivation Regulatory Program, including enrollment and program information and resources, please visit: https://www.waterboards.ca.gov/water_issues/programs/cannabis/index.html

Water Resource Protection Plan

Within 30 days of this letter, submit to this office a Water Resource Protection Plan (WRPP) that addresses the threat of future discharge to the Little Larabee Creek watershed. The WRPP shall address both interim and long-term measures, with timeline of completion, a map, and before-and-after photos for all corrected violations referred to in this Notice.

The following measures (1. through 6. below) refer to findings documented in the attached inspection report that should be addressed in the submitted WRPP. Acronyms listed here are associated with locations indicated on figures within the report.

1. Remove cultivation waste from within 150' of surface waters (wetlands and watercourses) in a manner to ensure that there is no potential for discharge of waste to receiving waters (WQ-1, WQ-2, & WQ-7).
2. Remove excess fertilizers from the property (WQ-9) and contain and/or dispose of in a manner that is protective of water quality.
3. Remove and properly contain/dispose of refuse from throughout the property, including potting soil and cultivation waste (e.g., stems, seedling cubes, grow bags, plastic fencing, plastic tarps previously used for the purposes of light deprivation cultivation practices) from areas with a potential to discharge or blow into surface waters.
4. Engage appropriately qualified and licensed professional(s) to conduct a U.S. Army Corps verified forensic wetland delineation of the entire Property and to assess the entire Property for controllable sediment discharge sites and evaluate the geological/geotechnical stability of the upper bladder pad (WQ-6) and the lower greenhouse cultivation flats (WQ-8).
5. Engage appropriately qualified professional(s) with relevant experience in restoration of wetlands and controllable sediment delivery sites to develop workplan(s) and schedule to make appropriate corrective measures to restore slope stability, prevent/minimize sediment discharges to surface waters, and to restore hydrology and diversity associated with impacted wetlands and watercourses throughout the Property. This should include but not be limited to, a project description, goal of restoration, implementation plan and schedule, plan for monitoring and site maintenance following restoration, and contingency measures addressing the diversity index of wetland/ non-wetland native plant species

occurring on the Property. The plan should include proposed mitigation to address the temporal and permanent losses of wetland value and function. Site restoration pursuant to the plan, once approved, should be conducted under the guidance of a qualified professional with wetland restoration experience. Plan implementation will need to include considerations to address the requirements of other applicable agencies.

Submit an electronic or hard copy of the WRPP to:

Adona.White@Waterboards.ca.gov - North Coast Regional Water Quality Control Board,
Attention: Adona White, 5550 Skylane Boulevard, Suite A, Santa Rosa, CA 95403

Future correspondence regarding this matter will be sent to you at this address unless an alternative address is provided to the Regional Water Board. Failure to accept mail from the Regional Water Board is not a valid excuse for non-compliance with any future enforcement orders, and a failure to respond or otherwise appear at a future enforcement proceeding could subject you to a default order and the imposition of administrative civil liability.

For any questions on this matter, please contact Adona White at 707-576-2672 or Adona.White@waterboards.ca.gov.

Additionally, we are available to meet with you if you wish to discuss this letter, the inspection report, or our cannabis program in further detail.

Sincerely,

Kason Grady, P.E., Chief
Cannabis and Compliance Assurance Division

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Enclosure: Water Quality Inspection Report

cc:

Department of Fish and Wildlife

Mr. Steve White, Steve.White@wildlife.ca.gov

Mr. Scott Bauer, Scott.Bauer@wildlife.ca.gov

Mr. David Manthorne, David.Manthorne@wildlife.ca.gov

Mr. Joshua Zulliger, Joshua.Zulliger@wildlife.ca.gov

North Coast Regional Water Quality Control Board

Ms. Diana Henriouille, Diana.Henriouille@waterboards.ca.gov

Mr. Matt St. John, Matt.St.John@waterboards.ca.gov

Mr. Stormer Feiler, Stormer.Feiler@waterboards.ca.gov

Mr. Kason Grady, Kason.Grady@waterboards.ca.gov

State Water Resources Control Board

Mr. Ramzi Ibrahim, Ramzi.Ibrahim@waterboards.ca.gov

Mr. Nathan Jacobsen, Nathan.Jacobsen@waterboards.ca.gov

Ms. Yvonne West, Yvonne.West@waterboards.ca.gov

Mr. Taro Murano, Taro.Murano@waterboards.ca.gov

Humboldt County

Adrian Kamada, AKamada@co.humboldt.ca.us

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