
North Coast Regional Water Quality Control Board

NOTICE OF VIOLATION

June 27, 2018

Certified Mail Number 7016-2710-0000-2635-8592

Shadow Light Ranch, LLC
c/o Mr. Joshua Sweet
P.O. Box 250
Garberville, CA 95542

Dear Mr. Sweet:

Subject: Notice of Violation, Directive to Comply with Cannabis Waste Discharge Regulatory Program Requirements, and Transmittal of Inspection Reports for Humboldt County APNs 223-073-004-000, 223-073-005-000, 223-061-003-000, 223-061-038-000, 223-061-039-000, 223-061-043-000, 223-061-046-000

File: Shadow Light Ranch, LLC, WDID No. 1B16868CHUM

Please be advised that the subject parcels identified above (collectively, Property) have conditions or features violating the Water Quality Control Plan for the North Coast Region (Basin Plan), 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 as set forth in the North Coast Cannabis General Order, Order No. 2015-0023 (Order). This letter requires that within 30 days, you provide us with a revised Water Resource Protection Plan (WRPP) that includes a description of proposed work and a schedule to correct those violations.

Background

On November 2, 2017, staff from the North Coast Regional Water Quality Control Board (Regional Water Board), the State Water Resources Control Board Division of Water Rights (DIV), and the California Department of Fish and Wildlife (CDFW), inspected the Property.

Staff thanks you for consenting to the site visit, and for taking the time and effort to facilitate the inspection. 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, to evaluate impacts and potential impacts to the water quality and beneficial uses of receiving waters in the Ohman Creek watershed, tributary to the South Fork Eel River. On May 10, 2018, staff of the Regional Water Board, DIV, and CDFW re-inspected the Property with your consent.

Attached are copies of the water quality inspection reports. The DIV and CDFW will contact you separately if their inspection of the Property raised any concerns for those agencies. Please review the enclosed inspection reports carefully and completely.

Based upon observations made during the inspections, water quality staff identified several locations with conditions that represent water quality violations or threatened violations requiring corrective action, including the following:

Work Performed without Required Permits

1. Order Sections I.B and IV.A, Basin Plan, and Water Code: Staff verified that work occurred between June and September 2016 including dredge and/or placement of earthen materials into streams and/or wetlands at C2 through C8 and POND1 and POND2/OUT3 without the required preauthorization via Water Quality Certification. If work was done in streams or wetlands on the portions of the Property without a Water Quality Certification that would also constitute a violation (e.g. culvert crossings C1 and C9-C23 as identified in the WRPP). Additionally, no application was submitted for water quality certification (e.g. Appendix D Instream Workplan or another individual or general Clean Water Act section 401 application).
2. Order Section III.D: Disturbance of more than one acre of soil associated with new site preparation and development of cultivation areas and ponds throughout the Property, without coverage under General Permit for Discharges of Storm Water Associated with Construction Activity (Construction General Permit, 2009-0009-DWQ).

Standard Conditions out of Compliance

1. Order Section I.A.2.d: Insufficient maintenance at stream crossings C1, C2, C3, and C5 as demonstrated by the associated erosion from exposed surfaces adjacent to, and in the channel and on the banks.
2. Order Section I.A.2.e: Culverts C6 and C7 were not aligned with the stream grade or natural stream channel at the inlet and outlet.
3. Order Section I.A.3.a: Cultivation area CA2 is located within the minimum 50-foot riparian setback from the nearby Class III watercourse.
4. Order Section I.A.1.d: Evidence of discharge and hydrologic connection of the road system between stream crossing C2 and POND1 associated with SLIDE2 discharging to the unnamed Class III stream as observed on November 2, 2017, and May 10, 2018.

Enrollment Document Discrepancies and Deficiencies

1. Order Section I.D: Discrepancies of reporting information submitted to comply with the Monitoring and Reporting Program pursuant to Water Code section 13267.
2. Order Section I.B: The WRPP was not made available for review upon request while staff was on site. The WRPP was provided late on December 14, 2017, and is considered inadequate regarding deficient description of historical site development, stream crossing status and construction, and assessment of compliance with Standard Conditions.

The enclosed inspection reports document these violations and recommend actions for you to take in order to correct them. 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.

Revised WRPP

Please submit to this office a revised, complete, and accurate WRPP that addresses the violations and/or threat of future discharge documented in the attached inspection reports within **30 days** of the receipt of this letter. The WRPP shall address both interim and long-term measures, a site map, and a timeline of completion for the proposed actions.

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.

Finally, as discussed in the inspection reports, we are aware of several locations on the Property where you and/or parties working on your behalf, have engaged in unauthorized disturbance to waters of the State. In addition, you have discussed with staff your plans to engage in further activities that will disturb waters of the State. Please be advised that for ANY work located within or adjacent to waters of the State that may directly or indirectly impact those waters, you must apply for a Water Quality Certification and/or Waste Discharge Requirements (Dredge/Fill Projects) and receive approval prior to commencing work. State and federal, when applicable, rules and regulations apply to all waters of the State, including isolated wetlands and stream channels that may be dry during much of the year, have been modified in the past, look like a depression or drainage ditch, have no riparian corridor, or are on private land.

For any questions on this matter, please contact Shannon Utley at (707) 576-2684 or Shannon.Utley@waterboards.ca.gov.

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, Division Chief
Cannabis and Compliance Assurance

180627_SMU_dp_Sweet_NOV

Enclosures: November 2017 Inspection Report and Photographic Record
May 2018 Inspection Report and Photographic Record

cc: Taro Murano, State Water Board, Division of Water Rights, Sacramento,
taro.murano@waterboards.ca.gov
Dan Kippen, State Water Board, Office of Enforcement, Sacramento,
Dan.Kippen@Waterboards.ca.gov
David Manthorne, CDFW, Watershed Enforcement Team, Northern Region,
David.Manthorne@wildlife.ca.gov
John Ford, Director, County of Humboldt Planning and Building Department,
JFord@co.humboldt.ca.us
Elan Puno, King Range and Co., elan@kingrangeandco.com