



North Coast Regional Water Quality Control Board

June 6, 2019

Mr. Hugh Reimers
7030 Faught Road
Santa Rosa, CA 95403

Certified Mail Number 7016 2710 0000 2635 6383

Dear Mr. Reimers

Subject: **Notice of Violation (NOV)**, of
(1) Water Quality Control Plan for the North Coast Region (Basin Plan),
(2) California Water Code
(3) The Federal Water Pollution Control Act (Clean Water Act) (33 U.S.C. § 1311(a)).

File: Krasilsa Pacific Farms LLC, Sonoma County Assessor's Parcel Numbers (APNs)
115-200-002-000, 115-210-002-000, 116-240-006-000, 117-260-002-000, 117-260-
001-000, 117-270-002-000, 117-270-003-000, 117-270-006-000 the (Property)
CIWQS Place ID 855983.

This letter is to notify you of observed violations of water quality protection regulations and requirements, listed in section II below, associated with your disturbance of wetlands and placement and/or discharge of waste into waters of the State and the United States in the Russian River watershed.

I. Background

On January 14, 2019, staff from the North Coast Regional Water Quality Control Board (Regional Water Board) and the Sonoma County Agricultural Commissioner's Office (SCACO) inspected the Property, accompanied by you and engineer Cort Munselle. The purpose of the inspection was to observe site conditions, including roads and developed areas, onsite activities and overall site maintenance, in order to evaluate impacts and potential impacts to the water quality and beneficial uses of receiving waters in the Russian River watershed.

Based upon observations made during the inspection, Regional Water Board staff identified several locations with conditions that represent water quality violations or threatened violations requiring corrective action. Enclosed is a copy of the water quality inspection report (Inspection Report). SCACO will contact you separately if their inspection of the Property raised any concerns for their agency. Please review the Inspection Report carefully and completely. This NOV documents observed violations at the Property (see Section III. Observed Violations below).

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

5550 Skylane Blvd., Suite A, Santa Rosa, CA 95403 | www.waterboards.ca.gov/northcoast



II. Relevant Requirements

Based upon observations made during the inspection, Regional Water Board staff identified several features and conditions on the Property that represent violations of the Water Quality Control Plan for the North Coast Region (Basin Plan); the California Water Code and the Clean Water Act. References to these requirements and regulations are included in Attachment A Regulatory Citations.

III. Observed Violations

As documented in the Inspection Report, Regional Water Board staff observed violations of the Basin Plan, the California Water Code and the Federal Clean Water Act as summarized in the below table:

Table 1. Summary of violations documented by Regional Water Board Staff during January 14, 2019 Inspection.

Location¹	Violation types
WQ 1.2	Basin Plan Prohibitions 1 and 2, Porter Cologne 13260, 13264, 13376, CWA 301, 401 and 404
WQ 1.3	Basin Plan Prohibitions 1 and 2, Porter Cologne 13260, 13264, 13376 and CWA 301
WQ 1.4	Basin Plan Prohibitions 1 and 2, Porter Cologne 13260, 13264, 13376, CWA 301, 401 and 404
WQ 1.5	Basin Plan Prohibitions 1 and 2, Porter Cologne 13260, 13264, 13376, CWA 301, 401 and 404
WQ 1.6	Basin Plan Prohibitions 1 and 2, Porter Cologne 13260, 13264, 13376, CWA 301, 401 and 404
WQ 1.7	Basin Plan, Prohibition 2
WQ 1.8	Basin Plan Prohibitions 1 and 2, Porter Cologne 13260, 13264, 13376, CWA 301, 401 and 404
WQ 2.3	Basin Plan Prohibitions 1 and 2, Porter Cologne 13260, 13264, 13376, CWA 301, 401 and 404
WQ 2.4	Basin Plan, Prohibition 2
WQ 2.5	Basin Plan, Prohibition 2
WQ 2.6	Basin Plan Prohibitions 1 and 2, Porter Cologne 13260, 13264, 13376, CWA 301, 401 and 404
WQ 2.7	Basin Plan Prohibitions 1 and 2, Porter Cologne 13260, 13264, 13376, CWA 301, 401 and 404
WQ 2.8	Basin Plan Prohibitions 1 and 2, Porter Cologne 13260, 13264, 13376, CWA 301, 401 and 404
WQ 2.9	Basin Plan, Prohibition 2
WQ 2.10	Basin Plan, Prohibition 2
WQ 2.11	Basin Plan Prohibitions 1 and 2, Porter Cologne 13260, 13264, 13376, CWA 301, 401 and 404

¹ Locations are identified on the maps located on pages 6 and 45 in the enclosed inspection report.

WQ 2.12	Basin Plan Prohibitions 1 and 2, Porter Cologne 13260, 13264, 13376, CWA 301, 401 and 404
WQ 2.13	Basin Plan, Prohibition 2
WQ 2.14	Basin Plan Prohibitions 1 and 2, Porter Cologne 13260, 13264, 13376, CWA 301, 401 and 404
WQ 2.15	Basin Plan Prohibitions 1 and 2, Porter Cologne 13260, 13264, 13376, CWA 301, 401 and 404
WQ 2.16	Basin Plan Prohibitions 1 and 2, Porter Cologne 13260, 13264, 13376, CWA 301, 401 and 404
WQ 2.17	Basin Plan Prohibitions 1 and 2, Porter Cologne 13260, 13264, 13376, CWA 301, 401 and 404
WQ 2.18	Basin Plan Prohibitions 1 and 2, Porter Cologne 13260, 13264, 13376, CWA 301, 401 and 404
WQ 3.1	Basin Plan Prohibitions 1 and 2, Porter Cologne 13260, 13264, 13376, CWA 301, 401 and 404
WQ 3.2	Basin Plan Prohibitions 1 and 2, Porter Cologne 13260, 13264, 13376, CWA 301, 401 and 404
WQ 3.3	Basin Plan Prohibitions 1 and 2, Porter Cologne 13260, 13264, 13376, CWA 301, 401 and 404
WQ 3.4	Basin Plan Prohibitions 1 and 2, Porter Cologne 13260, 13264, 13376, CWA 301, 401 and 404
WQ 3.5	Basin Plan Prohibitions 1 and 2, Porter Cologne 13260, 13264, 13376, CWA 301, 401 and 404

IV. Future Enforcement Action

The Regional Water Board is in the process of assessing violations of the Clean Water Act, Porter Cologne Water Quality Control Act, and the Basin Plan. We retain our full enforcement authority and discretion to bring formal enforcement for all violations and threatened violations. Any efforts the Dischargers take to voluntarily comply will be considered as we assess the violations and paths to compliance. We encourage the Dischargers to correct the violations.

Please note that correcting the conditions of non-compliance at the Property does not preclude enforcement for the violations alleged in this notice. As noted above, the Regional Water Board reserves its right to fully enforce the law against any violation and threatened violation by taking enforcement actions such as a cleanup and abatement order, time schedule order, administrative civil liabilities, and referral to the California Attorney General's office. Administrative liabilities may be assessed on a daily basis in the amount up to \$5,000 for each day the violation occurs or up to \$10 per gallon, but not both pursuant to Water Code section 13350 or up to \$10 per gallon for each gallon over 1,000 gallons not cleaned up, and up to \$10,000 per day per violation pursuant to Water Code section 13385. Additionally, pursuant to Water Code sections 13261 and 13265, it is the Regional Water Board's intent for this Notice of Violation to constitute the type of notice that is required as a condition precedent to the potential penalties described therein.

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 technical questions on this matter, please contact Brian Fuller at 707-576-2806 or Brian.Fuller@waterboards.ca.gov. For legal questions, please contact Andrew Tauriainen, at 916-341-5889 or at Andrew.Tauriainen@Waterboards.ca.gov.

Additionally, we are available to meet with you if you wish to discuss this letter or the Inspection Report.

Sincerely,

Joshua Curtis
Assistant Executive Officer

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Attachments: A) Regulatory Citations

Enclosures: 1) Water Quality Inspection Report

Certified – Return Receipt Requested

cc: Via email with attachments

U. S. Army Corps of Engineers

Mr. William Connor,
William.M.Connor@usace.army.mil

Department of Fish and Wildlife

Warden James Reed,
James.Reed@wildlife.ca.gov
Mr. James Hansen,
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State Water Resources Control Board

Mr. Andrew Tauriainen
Andrew.Tauriainen@Waterboards.ca.gov

**North Coast Regional Water Quality
Control Board**

Mr. Joshua Curtis
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Ms. Diana Henrioulle,
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Sonoma County

Ms. Ann Gallagher-White
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Mr. Ryan Pelleriti
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Mr. Andy Casarez
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Attachment A

Regulatory Section	Citation
Basin Plan Section 4.2.1, Prohibition 1	Prohibits “[t]he discharge of soil, silt, bark, slash, sawdust, or other organic and earthen material from any logging, construction, or associated activity of whatever nature into any stream or watercourse in the basin in quantities deleterious to fish, wildlife, or other beneficial uses.”
Basin Plan Section 4.2.1, Prohibition 2	Prohibits “[t]he placing or disposal of soil, silt, bark, slash, sawdust, or other organic and earthen material from any logging, construction, or associated activity of whatever nature at locations where such material could pass into any stream or watercourse in the basin in quantities which could be deleterious to fish, wildlife, or other beneficial uses.”
California Water Code Section 13260	<p>“(a) Each of the following persons shall file with the appropriate regional board a report of the discharge, containing the information that may be required by the regional board:</p> <p>(1) A 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.</p> <p>(2) A person who is a citizen, domiciliary, or political agency or entity of this state discharging waste, or proposing to discharge waste, outside the boundaries of the state in a manner that could affect the quality of the waters of the state within any region.”</p>
California Water Code Section 13264 (a)	“No person shall initiate any new discharge of waste or make any material changes in any discharge, or initiate a discharge to, make any material changes in a discharge to, or construct, an injection well, prior to the filing of the report required by Section 13260 and no person shall take any of these actions after filing the report but before whichever of the following occurs first:”
California Water Code Section 13376	“A person who discharges pollutants or proposes to discharge pollutants to the navigable waters of the United States within the jurisdiction of this state or a person who discharges dredged or fill material or proposes to discharge dredged or fill material into the navigable waters of the United States within the jurisdiction of this state shall file a report of the discharge in compliance with the procedures set forth in Section 13260.”
Federal Clean Water Act Section 301 (a):	Section 301(a) provides that except as in compliance with this section [301] and section 1342 and 1344 of the Clean Water Act, “the discharge of any pollutant by any person shall be unlawful.” 33 U.S.C. § 1311(a). The relevant exceptions allowed for under the Clean Water Act are the discharge of dredged and fill material into navigable waters pursuant to section 404 or the discharge of any pollutant to navigable waters from any point source pursuant to section 402 of the Clean Water Act. The Clean Water Act prohibits the discharge of any pollutant from a point source into waters of the

Regulatory Section	Citation
	United States without a section 402 permit and/or prohibits the discharge of dredge and fill material without a section 404 permit and a section 401 state water quality certification.
Federal Clean Water Act Section 401	Section 401 (a)(1) "Any applicant for a Federal license or permit to conduct any activity including, but not limited to, the construction or operation of facilities, which may result in any discharge into the navigable waters, shall provide the licensing or permitting agency a certification from the State in which the discharge originates"
Federal Clean Water Act Section 404	Section 404(a) provides, in relevant part, "The Secretary may issue permits...for the discharge of dredged or fill material into the navigable waters..." The Code of Federal Regulations defines the term "dredged material" as material that is excavated or dredged from waters of the United States. 33 C.F.R. § 323.2(c). The term "discharge or dredged material" mean any addition of dredge material into the waters of the United States. 33 C.F.R. § 323.2(d)(1). The Code of Federal Regulations defines "fill material" as material placed in waters of the United States that has the effect of replacing any portion of a water of the United States with dry land or changing the bottom elevation of any portion of a water of the United States. 33 C.F.R. § 323.2(e)(1). The term "discharge of fill material" means the additional of fill material into waters of the United States. 33 C.F.R. § 323.2(f).