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JARED BLUMENFELD
SECRETARY FOR
ENVIRONMENTAL PROTECTION

North Coast Regional Water Quality Control Board

August 16, 2019

Dina M. Fratis
22101 Petaluma Avenue
Fort Bragg, CA 95437

Certified Mail No. 7016 2070 0000 6486 3309

Dina M. Fratis
122 West Elm Street
Albion, IL 62806

Dear Ms. Fratis:

Subject: **Notice of Violation, Directive to Obtain Regulatory Coverage for Cannabis Cultivation, and Transmittal of Inspection Report for July 16, 2019, Inspection of Mendocino County Assessor's Parcel No. 033-040-55**

File: Cannabis Inspections, Mendocino County, 2019, 190716 Dina Fratis 033-040-55, CIWQS Place ID No. 859921

This letter is to notify you of observed violations of the requirements listed below for unauthorized discharges to waters of the state and United States from the above-referenced parcels (Property):

1. California Water Code (Water Code) sections 13260 and 13264

Within 30 days, please contact Regional Water Board staff to discuss your plan to correct the observed violations.

I. Background

On July 16, 2019, staff from the Regional Water Board, accompanied by staff of the California Department of Fish and Wildlife (CDFW), California Department of Food and Agriculture CalCannabis Bureau, State Water Resources Control Board Division of Water Rights, and various law enforcement personnel, inspected the subject Property. The purpose of the inspection was to evaluate onsite development and conditions, and to identify and assess any impacts or threatened impacts to the

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

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

quality and beneficial uses of waters of the state.

Attached is a copy of the water quality inspection report (July 16, 2019 Inspection Report). Please review the Inspection Report carefully and completely. The Inspection Report contains recommendations for correcting observed violations and advises you of the Regional Water Board permits necessary for instream work and projects/activities that result in discharges of waste to receiving waters.

A. Relevant Requirements

During the inspection, Regional Water Board staff identified several features and conditions on the Property that represent violations of water quality requirements and regulations. Attachment A – Regulatory Citations, provides references to these requirements and regulations.

B. Observed Violations

As documented in the July 16, 2019 Inspection Report, Regional Water Board staff observed violations of Water Code sections 13260 and 13264. Staff observed these violations at Property locations identified in the July 16, 2019, Inspection Report as Outdoor Grow 1, Cannabis in Class 2, and Outdoor Grow 2.

C. Directive to Obtain Regulatory Coverage Prior to Future Activities Involving or Resulting in Discharges of Waste to Waters of the State

During the July 16, 2019, inspection, staff observed cannabis cultivation operations of sufficient size and scope to require 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). Please be aware that, pursuant to Water Code sections 13260 and 13264, if you elect to resume/continue cannabis cultivation on the subject Property, you must either:

- 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://public2.waterboards.ca.gov/cgo>

Submit the application fee within **30 days** of submitting the on-line application. Failure to submit the application fee within 30 days will result in the application being voided and authorization terminated. Payments shall be identified using the Fee Payment Application Number (found on the Notice of Receipt). All checks or money orders shall be made payable to: "State Water Resources Control Board," and shall be delivered to:

(By US 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 95814-0100

2) Waste Discharge Requirements (WDRs) specific to your property.

Please submit the appropriate documents and payments to:

North Coast Water Board
Attn: Diana Henriouille
Enforcement Unit
5550 Skylane Boulevard, Suite A
Santa Rosa, CA 95403

Water Code section 13260 states, in relevant part:

(a) Each 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) 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.

Water Code section 13264 states, in relevant part:

(a) No person shall initiate any new discharge of waste or make any material changes in any discharge...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:

(1) The issuance of waste discharge requirements pursuant to Section 13263.

Failure to comply with Water Code sections 13260 and 13264 may result in an administrative civil liability under Water code sections 13261 and 13265 not to exceed \$1,000 per violation for each day in which each violation occurs.

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.

If you have questions about what is required of you to comply with the requirements outlined above, please contact Regional Water Board staff Heidi Bauer at Heidi.M.Bauer@waterboards.ca.gov or by telephone at (707) 570-3769 to advise as to your plan and schedule to correct the alleged violations as documented in the inspection report.

You may also contact me at Diana.Henrioulle@waterboards.ca.gov or by telephone at (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,

Diana Henrioulle, P.E.
Enforcement Unit

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Attachments: Attachment A – Regulatory Citations
July 16, 2019, Water Quality Inspection Report

cc: Department of Fish and Wildlife
Douglas Wilson, CDFW Fish and Game Warden,
Douglas.Willson@wildlife.ca.gov
Ryan Bourque, CDFW, Ryan.Bourque@wildlife.ca.gov
Tim Dodson, CDFW, Timothy.Dodson@wildlife.ca.gov

North Coast Regional Water Quality Control Board
Kason Grady, Kason.Grady@waterboards.ca.gov

California Department of Food and Agriculture, CalCannabis Bureau
Shannon Townsend, CDFA CalCannabis Bureau,
Shannon.TownsendBettis@cdfa.ca.gov
Michael Vella, CDFA CalCannabis Bureau, Michael.Vella@cdfa.ca.gov

State Water Resources Control Board Division of Water Rights
David Rosas, SWRCB DIV, David.Rosas@Waterboards.ca.gov
Gagan Bhullar, SWRCB DIV, Gagan.Bhullar@waterboards.ca.gov

Attachment A – Regulatory Citations

Regulatory Section	Citation
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 13261(a)	<p>“A person who fails 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).”</p>
California Water Code Section 13264 (a)	<p>“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:”</p>
California Water Code Section 13265(a)	<p>“Any person discharging waste in violation of Section 13264 , after such violation has been called to his attention in writing by the regional board, is guilty of a misdemeanor and may be liable civilly in accordance with subdivision (b). Each day of such discharge shall constitute a separate offense.”</p>

North Coast Regional Water Quality Control Board

TO: Diana Henriouille

FROM: Heidi Bauer

DATE: August 12, 2019

Inspection Report for July 16, 2019, Warrant Inspection Mendocino County Assessor's Parcel Number 033-040-55

File: Cannabis Program Inspections, Mendocino County, July 2019 MCSO
Inspections, Dina M. Fratis, CIWQS Place ID. 859921

Property information:

County: Mendocino

Physical address: Unknown address on Simmerly Road, Laytonville, CA 95454

APN: **033-040-55**

Owner: Dina Fratis

Transaction History: Last sale August 22, 2007; seller Scott McKinney.

Size: 52 acres.

Watershed: Eel River Hydrologic Unit; Middle Eel River Hydrologic Area; Spy Rock Hydrologic Subarea (HU/HA/HSA 111.42; Table 2-1, Water Quality Control Plan for the North Coast Region).

Aerial Imagery Notes (Google Earth Pro): Short access road and small structures visible in July 2003 imagery. Developed features (access roads and clearing near structures) more defined in July 2004 imagery. Pocking visible on south clearing in June 2009 imagery, and varying signs indicative of cannabis cultivation appear in this area in successive imagery to present. 4 hoop houses visible in north clearing in August 2017 imagery (not apparent in previous, August 2014 imagery).

Regulatory status with the Regional Water Board:

Site Development: N/A

Applicable programs: 401 Water Quality Certification

Onsite activities/operations: N/A.

Applicable programs: Cannabis cultivation waste discharge regulatory program.

Inspection information:

Date: July 16, 2019

Type: Mendocino County Sheriff's Office Warrant Inspection

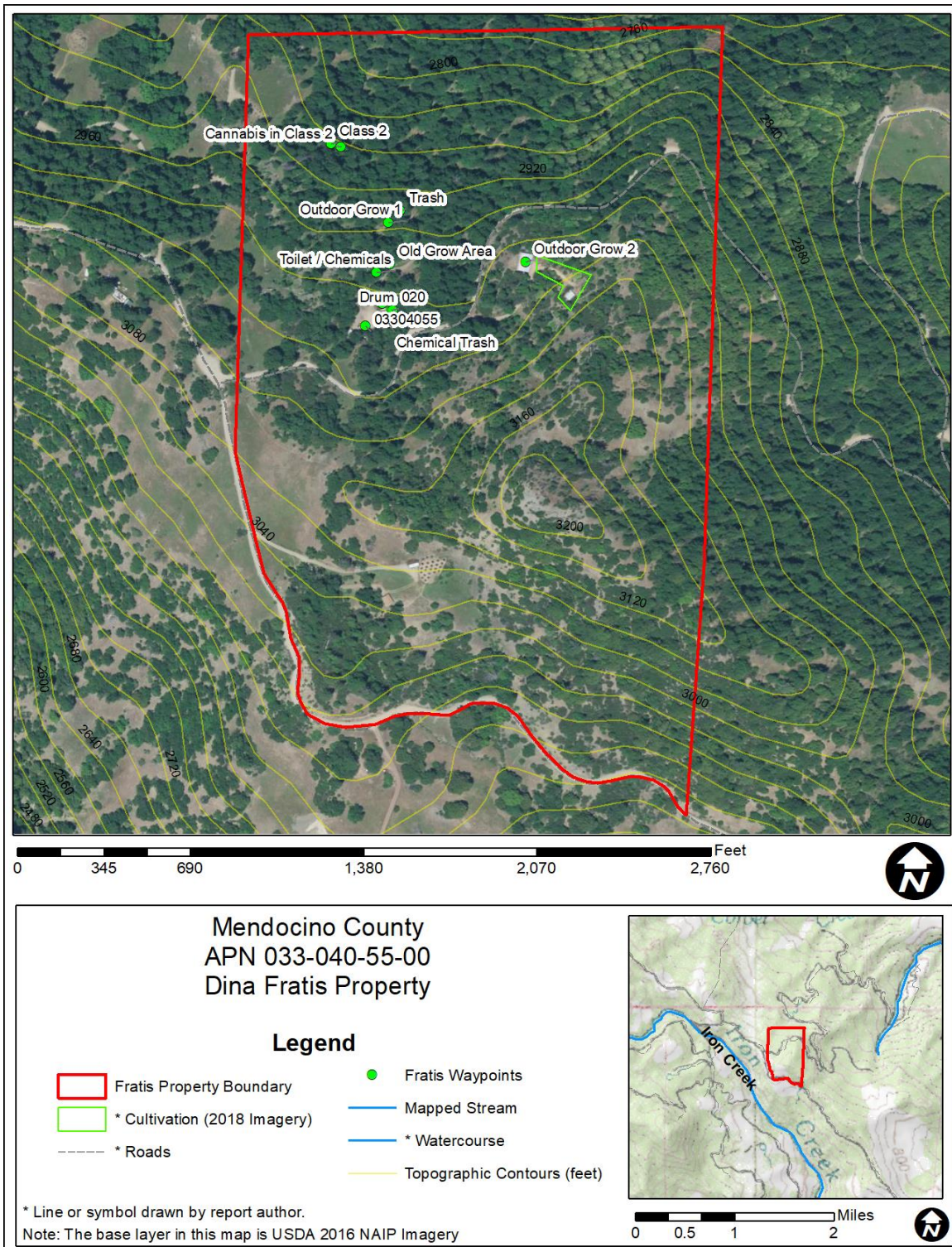
Attendance:

Mendocino County Sheriff's Law Enforcement personnel
Douglas Wilson, California Department of Fish and Wildlife (CDFW) Warden,
Ryan Bourque, CDFW
Tim Dodson, CDFW
Shannon Townsend, California Department of Food and Agriculture (CDFA),
CalCannabis Bureau
Michael Vella, CDFA CalCannabis Bureau
David Rosas, State Water Resources Control Board (SWRCB) Division of Water Rights
(DIV)
Gagan Bhullar, SWRCB DIV
Heidi Bauer, Engineering Geologist, North Coast Regional Water Board
National Guard personnel

Background/Objective:

North Coast Regional Water Board (Regional Water Board) staff participated with staff of the Mendocino County Sheriff's Office (MCSO), California Department of Fish and Wildlife (CDFW), State Water Board's Division of Water Rights (DIV), the California Department of Food and Agriculture's (CDFA) CalCannabis Bureau, and personnel from various law enforcement agencies in four days of inspections of multiple cannabis cultivation sites in Mendocino County, on July 15-18, 2019. Inspection objectives for Regional Water Board staff included observing site development and activities and identifying and assessing onsite features or conditions that are causing or may cause adverse impacts to the quality and beneficial uses of receiving waters, including surface and ground water.

Inspection Map



Inspection Observations (Shown on Figure 1):

During the inspection for this site on July 16, 2019 I observed one active cultivation area (Photo 1). South of this site was a privy toilet with no current discharge and some chemicals in the outhouse area (Photo 2). North of the active cultivation area was a Class 2 watercourse which had cannabis drying within it (Photos 3,4,5). Next observed were chemicals and trash improperly stored/disposed of (Photo 6). In this area I observed an open 55 gallon plastic drum containing an unknown liquid (Photo 7). Lastly, there was a large stockpile of trash that was improperly disposed of located in an area that could be transported into receiving waters (Photo 8).

<i>Map point</i>	<i>Feature</i>	<i>Brief Description</i>	<i>Water Quality Concern</i>	<i>Associated Photo(s)</i>
Outdoor Grow 1	Outdoor cannabis cultivation area.	Numerous cannabis plants in plastic pots on relatively undisturbed ground.	Cannabis cultivation/discharge of waste without a report of waste discharge and/or coverage under State Water Board regulatory order	Photo 1
Toilet/Chemicals	Toilet and chemicals in a shed/lean-to	Toilet not plumbed to permitted sanitary/septic system; chemicals containers sitting on dirt.	Threatened discharge of waste to receiving waters.	Photo 2
Cannabis in Class 2	Cannabis plant drying area in watercourse channel.	Cannabis plants strung on wires over ~20 foot segment of watercourse.	Discharges and/or threatened discharges of (cannabis and netting) to receiving waters.	Photo 3,4,5, 5.1
Chemicals/Trash	Chemical containers in and adjacent to a metal tray.	Trash and chemicals, uncovered and/or uncontained.	Threatened discharge of waste to receiving waters.	Photo 6

<i>Map point</i>	<i>Feature</i>	<i>Brief Description</i>	<i>Water Quality Concern</i>	<i>Associated Photo(s)</i>
Drum	Uncovered drum and bucket, assorted waste and miscellaneous items	Wastes and possible chemicals uncontained and/or uncovered	Threatened discharge of waste to receiving waters.	Photo 7
03304055	Bags of wastes and/or supplies piled on the ground	Wastes and possible chemicals uncontained and/or uncovered.	Threatened discharge of waste to receiving waters.	Photo 8
Outdoor Grow 2	Outdoor cannabis cultivation area.	Numerous cannabis plants in plastic pots on relatively undisturbed ground.	Cannabis cultivation/discharge of waste without a report of waste discharge and/or coverage under State Water Board regulatory order	Photo 9
Outdoor Grow 2	Erodible slopes	Erodible sediment on steep slopes	Threatened discharge of sediment to receiving waters.	Photo 10
Outdoor Grow 2	Above ground storage tank	Open tank on bare ground with staining on bottom	Threatened discharge of petroleum to receiving waters.	Photo 11
Outdoor Grow 2	Petroleum Products	Petroleum products improperly stored	Threatened discharge of waste to receiving waters.	Photo 12

A comparison of conditions observed on the site with categories of activities typically associated with water quality concerns at cannabis cultivation sites:

1. Site maintenance, erosion control and drainage features: Staff observed steep erodible banks near Outdoor grow 2 which could lead to sediment discharge to receiving waters.
2. Stream crossing maintenance and improvement: Staff observed no water quality concerns associated with stream crossing maintenance and improvement.
3. Stream and wetland buffers: Staff observed cannabis plants drying within a Class II watercourse.
4. Spoils management: Staff observed no water quality concerns with spoils management.
5. Water storage and use: Staff observed no water quality concerns associated with water storage and use.
6. Irrigation runoff: Staff observed no water quality concerns associated with irrigation runoff.
7. Fertilizers and soil amendments: Staff observed no water quality concerns associated with fertilizers and soil amendments.
8. Pesticides: Staff observed no water quality concerns associated with pesticides.
9. Petroleum products and other chemicals: Staff observed a number of uncovered, uncontained, and/or open containers of chemicals on the ground, at locations where spilled or leaked material could enter or be transported into receiving waters.
10. Cultivation-related wastes: Staff observed no water quality concerns associated with cultivation-related wastes.
11. Refuse and human waste: Staff observed on privy toilet which was not plumbed into a septic system; the toilet did not appear to be in use.

Recommendations:

1. Retain a licensed professional to inventory, assess, and develop a workplan and schedule to implement measures to ensure that all developed features, roads, watercourse crossings, and cultivation areas throughout the Property are

corrected, restored, and/or maintained in conditions that prevent or minimize erosion, sediment transport/delivery, and adverse impacts to water quality and beneficial uses. Include measures to ensure that unstable features, specifically the erodible banks for “Outdoor grow 2”, caused or affected by onsite development and operations are removed or otherwise protected so as to minimize the potential for these features to cause adverse impacts to water quality and beneficial uses. Dispose of all development and restoration-related earthen spoils in a manner to prevent/minimize transport and delivery to receiving waters.

2. Remove the cannabis plants and all associated netting, drying materials from the watercourse and the riparian corridor. Dispose of all development and restoration-related earthen spoils in a manner to prevent/minimize transport and delivery to receiving waters.
3. If the property owner and/or tenant(s) choose to continue to cultivate cannabis, enroll for coverage under and take steps to comply with the requirements of the CANGO (Order WQ 2017-0023-DWQ, General Waste Discharge Requirements and Waiver of Waste Discharge Requirements for Discharges of Waste Associated with Cannabis Cultivation Activities). More information about the CANGO can be found at this hyperlink:

https://www.waterboards.ca.gov/water_issues/programs/cannabis/docs/finaladopedcango101717.pdf

4. In the event that the property owner and/or tenant(s) propose in the future to develop or use the Property in a manner or method that will or may result in a discharge of waste to waters of the state in the future, staff recommend that the owner(s)/tenant(s) be aware of and comply with relevant regulatory requirements for water quality protection. For example, Water Code section 13260 requires that 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 shall file with the appropriate regional board a report of the discharge. Further, Water Code section 13264 states, in part: “No person shall initiate any new discharge of waste or make any material changes in any discharge...prior to the filing of the report required by Section 13260.” In addition, projects involving the disturbance of an acre or more of land are subject to regulation under the State Water Board’s Construction General Stormwater permit, and projects involving dredge or fill in waters of the United States are subject to regulation under Clean Water Act section 401. You may find further information about Water Board permits that may apply to proposed site development or land use activities at this hyperlink:

https://www.waterboards.ca.gov/northcoast/water_issues/programs/permit/

5. Discontinue use of and dismantle any outhouse/pit toilet features and work with Mendocino County to ensure that all domestic and human wastes are collected and disposed of consistent with applicable County requirements.
6. Collect and dispose of or contain all refuse and cultivation-related wastes in a location and manner so as to minimize potential for these wastes to enter or be transported into receiving waters.
7. Store and contain all chemicals, including petroleum, fertilizer and/or pesticides properly to prevent spillage and discharge to receiving waters. Provide secondary containment for all petroleum products.

Enforcement Discretion:

The observations in this report will be assessed for violations of the California Water Code. The Regional Water Board and the State Water Board reserve the right to take any enforcement action authorized by law.

cc:

Douglas Wilson, CDFW Fish and Game Warden, Douglas.Wilson@wildlife.ca.gov

Ryan Bourque, CDFW, Ryan.Bourque@wildlife.ca.gov

Tim Dodson, CDFW, Timothy.Dodson@wildlife.ca.gov

Shannon Townsend, CDFA CalCannabis Bureau,

Shannon.TownsendBettis@cdfa.ca.gov

Michael Vella, CDFA CalCannabis Bureau, Vella, Michael.Vella@cdfa.ca.gov

David Rosas, SWRCB DIV, David.Rosas@Waterboards.ca.gov

Gagan Bhullar, SWRCB DIV, gagan.bhullar@waterboards.ca.gov

PHOTO APPENDIX



Photo 1 – Outdoor Grow Area 1



Photo 2 – Toilet/Chemicals



Photo 3 – Cannabis being dried in watercourse (“Cannabis in Class 2” on Figure 1)

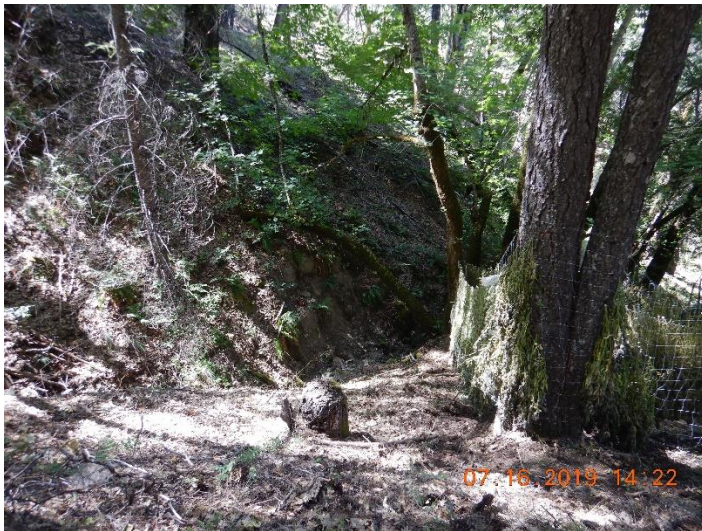


Photo 4 – Cannabis being dried in watercourse (“Cannabis in Class 2” on Figure 1)



Photo 5.1 – Damage to riparian corridor from cannabis drying area installation



Photo 5 – Cannabis being dried in watercourse (“Cannabis in Class 2” on Figure 1)



Photo 6 – Chemicals containers (“Chemicals/Trash” on Figure 1)



Photo 7 – Uncovered chemical containers (“Drum” on Figure 1)



Photo 8 – Trash pile (“03304055” on Figure 1)



Photo 9 – Outdoor Grow 2



Photo 10 – Trash along edge of grow area



Photo 11 – Steep erodible cut banks



Photo 12 – 500 gallon tank on ground



Photo 13 – Petroleum products improperly stored.