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## North Coast Regional Water Quality Control Board

December 5, 2019

Certified Mail No. 7016 2710 0000 2635 9759

David R. Jones  
44640 Baywood Drive  
Mendocino, CA 95460

Dear Mr. Jones:

**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. 056-510-08**

File: Cannabis Inspections, Mendocino County, 2019, 190716 David Randall Jones 056-510-08, CIWQS Place ID No. 859920

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

California Water Code (Water Code) sections 13260 and 13264

Water Quality Control Plan for the North Coast Region (Basin Plan) section 4.2.1 Prohibition 2

This letter directs you, within 30 days, to take action to comply with Water Code 13260. In addition, this letter directs you, within 30 days, to contact Regional Water Board staff to advise of your plan to implement recommendations in the attached report.

### **A. 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 quality and beneficial uses of waters of the state.

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

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 water quality concerns observed on the Property, 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.

## **B. Relevant Requirements**

During the inspection, Regional Water Board staff observed 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.

## **C. Observed Violations**

As documented in the July 16, 2019 Inspection Report, Regional Water Board staff observed cannabis cultivation and associated site disturbance of sufficient size and scope to require regulatory coverage under 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). The Regional Water Board has no record of this Property's enrollment under the Statewide General Order. Outdoor cannabis cultivation activities in California with land disturbance of 2,000 square feet or more that are not enrolled for coverage under the Statewide General Order or individual waste discharge requirements violate Water Code section 13260. Staff also observed violations of Basin Plan section 4.2.1 Prohibitions 2 on the property access road, as discussed in the July 16, 2019, inspection report.

## **D. Directive to Obtain Regulatory Coverage**

Based on the observations detailed in the attached inspection report, and mentioned above, the Regional Water Board has determined that you are required to comply with Water Code section 13260 by taking one of the following actions within **30 calendar days of this letter**:

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/](https://www.waterboards.ca.gov/water_issues/programs/cannabis/)

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 95814-2828

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  
Enforcement Unit  
5550 Skylane Boulevard, Suite A  
Santa Rosa, CA 95403

**OR**

If you believe regulatory coverage is not required under either of the options listed above, either because you and/or your tenants elect to not resume or continue cannabis cultivation or associated activities, 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.

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) 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.

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.

### **E. Inspection Report Recommendations**

As mentioned above, the July 16, 2019, inspection report provides recommendations to correct violations, as well as to address features and conditions that threaten to impact water quality.

Within 30 days of this letter, please advise Maurice Washington of your intentions, plan, and schedule to implement recommendations in the inspection report. Maurice can be reached at (707)576-2831 or by email at [Maurice.Washington@waterboards.ca.gov](mailto:Maurice.Washington@waterboards.ca.gov).

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 any questions regarding this matter, please contact Maurice Washington at the telephone number or email above. You may also contact me at [Diana.Henriouille@waterboards.ca.gov](mailto:Diana.Henriouille@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, in inspection report, or our waste discharge regulatory programs in further detail.

Sincerely,

Diana Henriouille, P.E.  
Enforcement Unit

191205\_MTW\_er\_David Randall Jones Inspection\_NOV

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

**cc: Mendocino County**

Trent Taylor, [taylor@mendocinocounty.org](mailto:taylor@mendocinocounty.org)

Daniel Knapp, [knappdj@mendocinocounty.org](mailto:knappdj@mendocinocounty.org)

Brian Webb, [webbb@mendocinocounty.org](mailto:webbb@mendocinocounty.org)

**Department of Fish and Wildlife**

Angela Liebenberg, [Angela.Liebenberg@wildlife.ca.gov](mailto:Angela.Liebenberg@wildlife.ca.gov)

**North Coast Regional Water Quality Control Board**

Kason Grady, [Kason.Grady@waterboards.ca.gov](mailto:Kason.Grady@waterboards.ca.gov)

**California Department of Food and Agriculture, CalCannabis Bureau**

Tabatha Chavez, [Tabatha.Chavez@cdfa.ca.gov](mailto:Tabatha.Chavez@cdfa.ca.gov)

**State Water Resources Control Board Division of Water Rights**

Stormer Feiler, [Stormer.Feiler@waterboards.ca.gov](mailto:Stormer.Feiler@waterboards.ca.gov)

Renee Avila, [Renee.Avila@Waterboards.ca.gov](mailto:Renee.Avila@Waterboards.ca.gov)

Cann Doan, [Cann.Doan@waterboards.ca.gov](mailto:Cann.Doan@waterboards.ca.gov)

### Attachment A – Regulatory Citations

Regulatory Section	Citation
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 style="padding-left: 40px;">(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 style="padding-left: 40px;">(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)	“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).”
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 13265(a)	“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.”

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## North Coast Regional Water Quality Control Board

TO: Diana Henriouille

FROM: Maurice Washington

DATE: October 16, 2019

### **Inspection Report for July 16, 2019, Warrant Inspection Mendocino County Assessor's Parcel Number 056-510-08**

File: Cannabis Program Inspections, Mendocino County, July 2019 MCSO  
Inspections, David Randall Jones, CIWQS Place ID. 859920

#### **Property information:**

County: Mendocino

Physical address: 9151 Simmerly Road, Covelo, CA 95428

APN: **056-510-08**

Owner: David Randall Jones

Transaction History: Last sale April 4, 2007; seller Gabriel Suarez.

Size: 23.85 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): Access road visible in earliest available imagery (August 1998). Small clearings visible at the end of the access road in July 2004 imagery. Patterns indicative of cannabis cultivation visible in June 2009 imagery. Cultivation patterns continue in the same locations, with some variation in appearance from year to year, from 2009 to present.

**Regulatory status with the Regional Water Board:**

Site Development: N/A

Applicable programs: North Coast Water Quality Control Board Onsite Wastewater Treatment System (OWTS) Policy

Onsite activities/operations: N/A

Applicable programs: Cannabis cultivation General Order No. WQ 2019-0001-DWQ

**Inspection information:**

Date/time: July 16, 2019, 11:50 AM

Type: Mendocino County Sheriff's Office Warrant Inspection

Attendance:

Maurice Washington, WRCE, North Coast Regional Water Quality Control Board  
Renee Avila, Environmental Scientist (ES), State Water Board Division of Water Rights (DWR)

Cann Doan, ES, DWR

Angela Liebenberg, Senior ES, California Department of Fish & Wildlife (CDFW)

Joseph Kermish-Wells, ES, CDFW

CalCannabis Bureau

Mendocino County Sheriff Office

California National Guard

Cal Fire

U.S. Forest Service

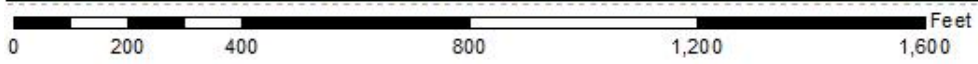
Bureau of Land Management

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), CalCannabis Bureau, State Water Board's Division of Water Rights (DIV), 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



**Mendocino County  
APN 056-510-08-00  
David Jones Property**

Jones Property Boundary	Mapped Stream
Waypoints_16JUL19	* Watercourse
* Cultivation (2018 Imagery)	Topographic Contours (feet)
* Roads	

\* Line or symbol drawn by report author.  
Note: The base layer in this map is USDA 2016 NAIP Imagery

0 0.75 1.5 3 Miles

**Inspection Observations:**

On July 16, 2019, I inspected the subject property. The inspection map, above, shows the inspection points identified and discussed below.

Development on the property includes a clearing near the property entrance with a well and photovoltaic solar area (inspection point 2), a larger clearing with two cannabis cultivation areas and associated structures and features (inspection points 3-8), and a connecting driveway.

Near the driveway as we accessed the property, I observed water storage tanks (inspection point 1). I did not observe any water quality concerns associated with this area. I observed a groundwater well and photovoltaic array on the clearing at inspection point 2. I did not observe any water quality concerns in this area. South of the property entrance following the access road, I observed rill erosion on the outboard side of the access road at inspection point 3.

Directly south of inspection point 3, I observed an outdoor cannabis cultivation area, approximately 3,400 square feet in area (Photo 7). To the west of this cultivation area, I observed fertilizer and petroleum products on the ground at inspection point 4. Farther south along the access road, I observed a clearing with a structure used for drying cannabis. At this structure, I observed a pesticide bottle and pesticide applicator (photo 12). South of the drying structure, between inspection points 5 and 6, I observed a clearing with 3 greenhouses with cannabis cultivation. At inspection point 6 on the south side of the greenhouses, I observed piles of cultivation waste.

South of the cultivation areas, at inspection points 7, 8, and 9, I observed a house with gas generators and fuel containers stored in front, and refuse piles (inspection point 8) and a sewage outfall (inspection point 9) in back. In the vicinity of the sewage outfall, I observed raw sewage accumulated on the ground (Photos 9 and 10).

<i>Map point</i>	<i>Feature</i>	<i>Brief Description</i>	<i>Water Quality Concern</i>	<i>Associated Photo(s)</i>
1	Water Storage	Water tanks	N/A	1
2	Well	Well head and solar pump	N/A	2

<i>Map point</i>	<i>Feature</i>	<i>Brief Description</i>	<i>Water Quality Concern</i>	<i>Associated Photo(s)</i>
3	Access Road	Erosion within the road prism.	Threatened discharge of waste to waters of the State	3
4	Chemicals	Fertilizer and chemicals stored on the bare ground improperly without secondary containment	Threatened discharge of waste to waters of the State	4
3 and 5/6	Cannabis Cultivation Areas	Cannabis cultivation areas, one outdoor, one with greenhouses; more than 2,000 square feet total area.	Cannabis cultivation/discharge of waste without a report of waste discharge and/or coverage under State Water Board regulatory order	5 and 7
6	Cultivation Waste	Pile of cultivation-related waste.	N/A	6
7	Generator	Generator and gas containers on the ground without secondary containment	Threatened discharge of waste to waters of the State	8
8	Refuse pile	Pile of black garbage bags behind the house	Threatened discharge of waste to waters of the State.	11
9	Domestic waste	Raw sewage outfall from house discharging onto the ground.	Threatened discharge of waste to waters of the State. Sewage disposal practices not consistent with applicable County Health Department standards.	9 & 10

**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: As mentioned above, I observed rilling on the outboard edge of the access road, posing a threat of sediment discharges to receiving waters.
2. Stream crossing maintenance and improvement: I did not observe watercourse crossings on the Property.
3. Stream and wetland buffers: I did not observe water quality issues associated with stream and wetland buffers.
4. Spoils management: As mentioned above, I observed cultivation spoil piles, but they were at a location with a low potential to enter or be transported into receiving waters.
5. Water storage and use: As mentioned above, I observed a groundwater well head and water storage tanks. I observed no water quality concerns associated with water storage and use.
6. Irrigation runoff: I did not observe evidence of irrigation runoff during the inspection.
7. Fertilizers and soil amendments: I observed fertilizers that were uncovered and/or uncontained, but they were at a location with a low potential for spills or leaks to enter or be transported into receiving waters.
8. Pesticides: As noted above, I observed pesticide containers that were uncovered and/or uncontained, but they were at a location with a low potential for spills or leaks to enter or be transported into receiving waters.
9. Petroleum products and other chemicals: As mentioned above, I observed generators and fuel containers sitting on bare dirt near the residence
10. Cultivation-related wastes: Apart from the spoils pile I observed at inspection point 6, I observed no other cultivation-related wastes.
11. Refuse and human waste: As noted above, I observed garbage bags piled behind the residence. In addition, as noted above, I observed an open sewage outfall with raw sewage ponded on the ground. While neither feature was located in the immediate vicinity of surface water, both pose a potential threat to water quality and public health.

**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, 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 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.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/finaladoptedcango101717.pdf](https://www.waterboards.ca.gov/water_issues/programs/cannabis/docs/finaladoptedcango101717.pdf)

3.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/](https://www.waterboards.ca.gov/northcoast/water_issues/programs/permit/)

4.Discontinue sewage discharges to the ground. Collect and properly dispose of all discharged sewage. Work with Mendocino County to identify and implement appropriate temporary sewage containment/disposal features as needed. Engage a licensed professional with relevant experience to identify/design an onsite waste treatment/disposal system consistent with applicable County requirements. Ensure that all domestic and human wastes are collected and disposed of consistent with applicable County requirements over both the short and long term.

5. 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.

6. 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 rights to take any enforcement action authorized by law.

**PHOTO APPENDIX**



Photo – 1 Water storage tanks.



Photo – 2 Well head with solar pump.



Photo – 3 Outboard road erosion.



Photo – 4 Fertilizers and other chemicals stored on the ground.



Photo – 5 Cannabis cultivation area at inspection points 5/6.



Photo – 6 Cannabis cultivation waste.



Photo – 7 Cannabis cultivation area near inspection point 3.



Photo – 8 Gas containers and generator.



Photo – 9 Sewage outfall.



Photo – 10 Sewage outfall flowing downhill.



Photo – 11 Trash located behind the house.



Photo 12 – Pesticide and pesticide applicator.