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## North Coast Regional Water Quality Control Board

December 17, 2019

Jesus Mendoza  
1771 Lockwood Drive,  
Ukiah, CA, 95482-3856

Certified Mail No. 7016 2710 0000 2635 9773

Dear Mr. Mendoza:

**Subject: Notice of Violation, Directive to Obtain Regulatory Coverage for Cannabis Cultivation, and Transmittal of Inspection Report for June 5, 2019, Inspection of Lake County Assessor's Parcel No. 002-012-230-000**

**File:** Cannabis Inspections, Lake County, 2019, 190605 Mendoza 002-012-230-000, CIWQS Place ID No. 858831

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 Prohibitions 1 and 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 June 05, 2019, staff from the North Coast Regional Water Quality Control Board (Regional Water Board), accompanied by personnel from the California Department of Fish and Wildlife (CDFW), State Water Resources Control Board Division of Water Rights, and various law enforcement agencies, inspected the subject Property.

The purpose of the inspection was to evaluate onsite development and conditions, and

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to identify and assess any impacts or threatened impacts to the quality and beneficial uses of waters of the state.

Attached is a copy of the water quality inspection report (June 5, 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 June 5, 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-2019-0001-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 Water Code sections 13260 and 13264 associated with unauthorized dredge/fill in surface waters at the Property locations identified as WQ 5, 6 and 7 in the June 5, 2019, inspection report.

## **D. Additional Potential Liabilities**

The Regional Water Board is in the process of considering whether the violations of the Water Code and the Basin Plan warrant further enforcement. We encourage you to take steps, to correct the violations as soon as possible, securing any applicable permits from this and other agencies prior to conducting work. Please note that the existing conditions, as observed and documented in the Inspection Report, may represent continuing violations of the Water Code and Basin Plan.

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 civil 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.

#### **E. 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.

**F. Inspection Report Recommendations**

As mentioned above, the June 5, 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 Brian Fuller of your intentions, plan, and schedule to implement recommendations in the inspection report. Brian Fuller can be reached at (707) 576 2806 or by email at [Brian.Fuller@waterboards.ca.gov](mailto:Brian.Fuller@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 Brian Fuller at the phone number or email above. You may also contact me at [Diana.Henrioulle@waterboards.ca.gov](mailto:Diana.Henrioulle@waterboards.ca.gov) or by phone 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 Henrioulle, P.E.  
Enforcement Unit

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Attachments: Attachment A – Regulatory Citations  
Water Quality Report of June 5, 2019 Inspection

**cc: Department of Fish and Wildlife**

Timothy Dodson, [Timothy.Dodson@wildlife.ca.gov](mailto:Timothy.Dodson@wildlife.ca.gov)

Wesley Stokes, [Wesley.Stokes@wildlife.ca.gov](mailto:Wesley.Stokes@wildlife.ca.gov)

**North Coast Regional Water Quality Control Board**

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

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

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

Zachary Gomer, [Zachary.Gomer@Waterboards.ca.gov](mailto:Zachary.Gomer@Waterboards.ca.gov)

### Attachment A – Regulatory Citations

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 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:”

Regulatory Section	Citation
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.”
California Water Code Section 13350	“A person who (1) violates a cease and desist order or cleanup and abatement order hereafter issued, reissued, or amended by a regional board or the state board, or (2) in violation of a waste discharge requirement, waiver condition, certification, or other order or prohibition issued, reissued, or amended by a regional board or the state board, discharges waste, or causes or permits waste to be deposited where it is discharged, into the waters of the state, or (3) causes or permits any oil or any residuary product of petroleum to be deposited in or on any of the waters of the state, except in accordance with waste discharge requirements or other actions or provisions of this division, shall be liable civilly, and remedies may be proposed, in accordance with subdivision (d) or (e).”



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## North Coast Regional Water Quality Control Board

TO: Diana Henriouille

FROM: Brian Fuller

DATE: December 9, 2019

**June 05, 2019, Warrant Inspection  
Lake County Assessor's Parcel Number 002-012-230-000**

File: Cannabis Inspections, Lake County, 2019, 190605 Mendoza 002-012-230-000,  
CIWQS Place ID No. 858831

**Property Information**

County: Lake

Physical address: Unknown address, approximately 10 miles southeast of Lake Pillsbury

APN: 002-012-230-000

Owner: Jesus Mendoza  
1771 Lockwood Drive,  
Ukiah, CA, 95482-3856

Transaction History (per LandVision): Last recorded sale September 21, 2007; seller Thomas P Hill and the Thomas P Hill Trust Agreement

Size: 80 acres

Watershed: Eel River Hydrologic Unit; Upper Main Eel River Hydrologic Area; Lake Pillsbury Hydrologic Subarea (HU/HA/HSA 1111.63; Table 2-1, Water Quality Control Plan for the North Coast Region)

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5550 Skylane Blvd., Suite A, Santa Rosa, CA 95403 | [www.waterboards.ca.gov/northcoast](http://www.waterboards.ca.gov/northcoast)

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

#### Site Development: N/A

- No record of permitting for site development

#### Applicable programs:

- Regional Water Board's Clean Water Act section 401 Water Quality Certification permit for dredge/fill activities in a surface water
- Action Plan for Logging and Construction

#### Onsite activities/operations: N/A.

- No record of enrollment in any State or Regional Water Board regulatory program

#### Applicable programs:

- Regional or statewide cannabis order
- Waste discharge requirements for discharge of waste to waters of the state.

[Note: This Property did not have a County permit for cannabis cultivation at the time of the inspection.]

#### Inspection information:

Date/time: June 5, 2019/ MIDDAY

Type: California Department of Fish and Wildlife (CDFW) Warrant Inspection

#### Attendance:

Timothy Dodson, CDFW  
Wesley Stokes, CDFW  
Cann Doan, Division of Water Rights (DIV)  
Zach Gomer, DIV  
Brian Fuller, North Coast Regional Water Quality Control Board (NCRWQCB)

#### Background/Objective:

North Coast Regional Water Board (Regional Water Board) staff participated with personnel from CDFW, State Water Board's Division of Water Rights (DIV), in the 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**

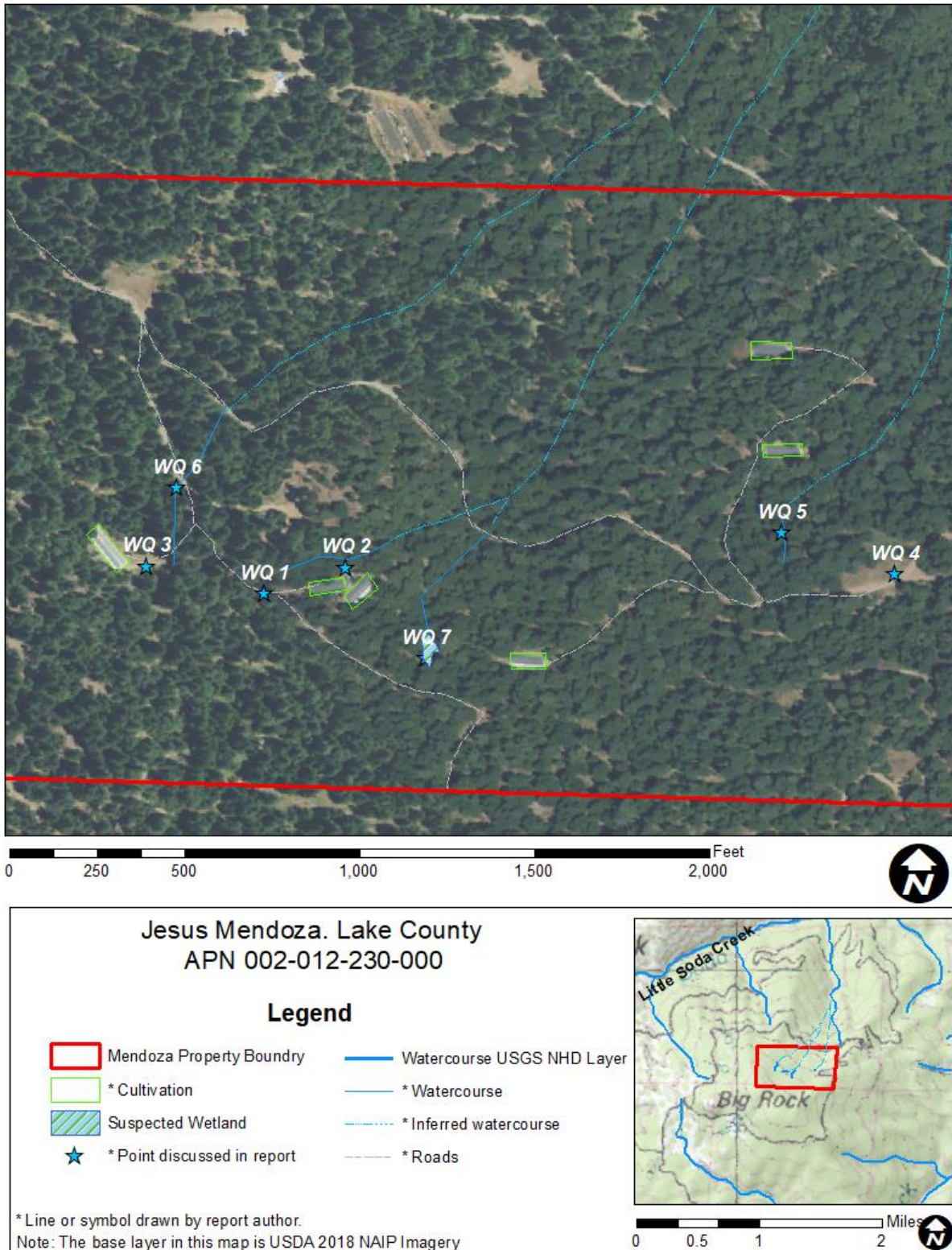


Figure 1: Map of Property, including Inspection Points of Interest

**Inspection Observations**

The above site map show inspection points with features representing water quality concerns that are summarized in the below table.

<i>Map point</i>	<i>Feature</i>	<i>Brief Description</i>	<i>Water Quality Concern</i>	<i>Associated Photo(s)</i>
WQ 2	Cannabis cultivation area	Approximately 30,000 square feet of greenhouses, property wide, used for cannabis cultivation.	Cannabis cultivation/discharge of waste without a report of waste discharge and/or coverage under State Water Board regulatory order.	photo 6
WQ 1	Fuel and pesticide storage	Fuel and pesticide containers sitting on bare ground.	Threatened discharge of waste to receiving waters.	photo 1 and photo 2
WQ 2	Potting soils near watercourse	Waste potting soils on hillslope above watercourse.	Threatened discharge of waste to receiving waters.	photo 3
WQ 2	Trench	Trench extends from cultivation area to watercourse.	Threatened discharge of waste to receiving waters.	photo 4 and photo 5
WQ 3	Nutrient mixing location	Mixing tank with no lid. Fertilizer containers on the ground.	Threatened discharge of waste to receiving waters.	photo 10
WQ 4	Rilling on roads	Erosional rill visible on road surface.	Threatened discharge of waste to receiving waters.	photo 11

<i>Map point</i>	<i>Feature</i>	<i>Brief Description</i>	<i>Water Quality Concern</i>	<i>Associated Photo(s)</i>
WQ 5	Onstream reservoir adjacent to road.	Excavated reservoir where road crosses watercourse.	Unauthorized dredge/fill in surface water.	photo 12
WQ 6	Onstream reservoir adjacent to road.	Excavated reservoir where road crosses watercourse	Unauthorized dredge/fill in surface water.	photo 13
WQ 7	Reservoir.	Excavated reservoir for surface water diversion in suspected wetland.	Unauthorized dredge/fill in surface water.	photo 14

**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: The roads between WQ 3 and WQ 6 are steep, susceptible to erosion by stormwater, and hydrologically connected to nearby watercourses. The road at WQ 4 is susceptible to erosion by stormwater.
2. Stream crossing maintenance and improvement: I observed earthen fill from roads and trails crossing watercourses in the vicinity of WQ 1 and WQ 3, at locations where it could enter or be transported into receiving waters.
3. Riparian and wetland protection and management: The watercourse thalweg at WQ 2 is 35 feet from the edge of the greenhouse to the south. Furthermore, I observed a handmade trench that extended from the greenhouse directly to a watercourse, providing a conduit to transport pollutants to receiving waters.
4. Spoils management:  
I observed waste cannabis plants and imported potting soils at locations where they are likely to discharge to receiving waters at WQ 2.
5. Water storage and use: I observed reservoirs in watercourses at WQ 5 and WQ 6. I observed a reservoir in a suspected wetland feature at WQ 7.

6. Irrigation runoff: I observed a man-made trench connecting the cultivation area to the watercourse in the vicinity of WQ 2, creating a preferential pathway for drainage of any excess irrigation water, and entrained pollutants into surface waters.

7. Fertilizers and soil amendments: I observed fertilizer containers sitting uncontained on bare ground next to a mixing tank with no lid at WQ 3.

8. Pesticides: I observed pesticides, sitting on bare ground, without cover or containment, including Eagle 20 EW and Forbid 4f. These products are not permitted for cannabis cultivation and threaten beneficial uses of receiving waters.

9. Petroleum products and other chemicals: I observed fuel cans uncontained and on bare ground.

10. Cultivation-related wastes: I observed waste cannabis plants and imported potting soils on a slope above a watercourse at WQ 2.

11. Refuse and human waste: I did not observe evidence of appropriate facilities for human waste containment or disposal.

### **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 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. Engage an appropriately licensed, qualified professional to conduct a forensic wetland delineation, per U.S. Army Corps protocols, at WQ 7.
3. Engage an appropriately qualified professional with relevant experience in wetland restoration to prepare and submit a wetland restoration plan which includes but is not 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 at WQ 7. The plan should include proposed mitigation to address the temporal and permanent losses of

wetland value and function. The plan should include specifications for debris removal and disposal.

4. Retain a qualified professional to develop a workplan and schedule to remove the reservoirs at WQ 5 and WQ 6 and restore the channels to their natural state. Dispose of all development and restoration-related earthen spoils in a manner to prevent/minimize transport and delivery to receiving waters.
5. Work with CDFW and the State Water Resources Control Board's Division of Water Rights (DIV) to determine and secure any applicable permits or licensing required for surface water diversion, storage, and use on the site. If the existing surface water diversions do not meet applicable CDFW or DIV requirements, remove diversion infrastructure from surface waters and ensure that restoration plans developed pursuant to Recommendation 3 and 4, above, include provisions for restoring any instream or riparian disturbance associated with this features or removal thereof.
6. Prior to conducting any work in surface waters associated with recommendations 3, 4, and 5, above, submit to the Regional Water Board an application for Clean Water Act section 401 water quality certification, and secure approval from the Regional Water Board.

The 401 Application may be found at the following hyperlink:

[https://www.waterboards.ca.gov/northcoast/water\\_issues/programs/wqc\\_docs/031616\\_401-Application.pdf](https://www.waterboards.ca.gov/northcoast/water_issues/programs/wqc_docs/031616_401-Application.pdf)

7. 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 2019-0001-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/board\\_decisions/adopted\\_orders/water\\_quality/2019/wqo2019\\_0001\\_dwq.pdf](https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2019/wqo2019_0001_dwq.pdf)

8. 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/)

9. Work with Lake County to ensure that all domestic and human wastes are collected and disposed of consistent with applicable County requirements.
10. 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.
11. Immediately remove and properly dispose of all illegal pesticides.
12. 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 – Fuel stored uncontained and on bare ground in the vicinity of WQ 1.



photo 2 – Pesticides, that are not permitted for cannabis cultivation, stored uncontained and on bare ground in the vicinity of WQ 1.



photo 3 – Looking north at waste cannabis plants and imported potting soils placed where it is likely to discharge to the watercourse north of the greenhouse between WQ1 and WQ 2.



photo 4 – Irrigation runoff from cannabis shown in photo 6, in the vicinity of WQ 2, discharging where it is likely to reach receiving waters.



photo 5 – Continuation of trench shown in photo 4, in the vicinity of WQ 2. Valley in background of image contains a watercourse.



photo 6 – Cannabis plants inside hoop house shown in photo 4, in the vicinity of WQ 2. Watercourse thalweg is 35 feet from edge of greenhouse.



photo 7 – Looking upstream, and to the west, at watercourse. Road crossed watercourse over fill, 3,5 feet wide and 22 feet long. The watercourse has incised up into the fill.



photo 8 – Looking downstream, and to the east, at watercourse.



photo 9 – Watercourse east of WQ 3.



photo 10 – Nutrient mixing located at WQ 3.



photo 11 – Rilling on road-surface; evidence the road is susceptible to erosion by stormwater.



photo 12 – Reservoir excavated in watercourse at road crossing at WQ 5. The reservoir is approximately 8 feet deep. Impounding fill is approximately 8 feet high, 30 feet wide and 40 feet long.



photo 13 – Excavated stream impoundment at WQ 6, with a wetted surface area 26 feet long, 35 feet wide and an approximate depth of 4 feet.



photo 14 – Reservoir dredged in suspected wetland/watercourse feature at WQ 7.