



North Coast Regional Water Quality Control Board

December 20, 2019

Jose Manuel Espino-Cardoza
Elvira D. Najera- Revolorio
43107 Covelo Road
Willits, CA 95490

Certified Mail No. 7016 0750 0001 0048 6702

Dear Mr. Espino and Ms. Najera:

Subject: Notice of Violation, Directive to Obtain Regulatory Coverage for Cannabis Cultivation, and Transmittal of Inspection Report for July 17, 2019, Inspection of Mendocino County Assessor's Parcel No. 036-230-53

File: Cannabis Inspections, Mendocino County, 2019, 190717 Espino Cardoza and Najera Revolorio 036-230-53, CIWQS Place ID No. 859930

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):

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

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 17, 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 17, 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 17, 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.

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**:

- 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 this link: 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

- 2) 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

- 3) 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 17, 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.

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 or by telephone at (707) 576-2350. Additionally, we are available to meet with you if you wish to discuss this letter, the inspection report, or our waste discharge regulatory programs in further detail.

Sincerely,

Diana Henriouille, P.E.
Enforcement Unit

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Attachments: Attachment A – Regulatory Citations
July 17, 2019, Water Quality Inspection Report

cc: Mendocino County

Trent Taylor, Daniel Knapp, Brian Webb
taylor@mendocinocounty.org, knappdj@mendocinocounty.org,
webbb@mendocinocounty.org

Department of Fish and Wildlife

Angela Liebenberg, Angela.Liebenberg@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

Tabatha Chavez, Tabatha.Chavez@cdfa.ca.gov

State Water Resources Control Board Division of Water Rights

Stormer Feiler, Stormer.Feiler@waterboards.ca.gov

Renee Avila, Renee.Avila@Waterboards.ca.gov

Cann Doan, Cann.Doan@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 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)	<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: Maurice Washington

DATE: December 16, 2019

Inspection Report for July 17, 2019, Warrant Inspection Mendocino County Assessor's Parcel Number 036-230-53

File: Cannabis Program Inspections, Mendocino County, July 2019 MCSO Inspections, Jose Manuel Espino-Cardoza and Elvira D. Najera-Revolorio, CIWQS Place ID.859930

Property information:

County: Mendocino

Physical address: 43121 Highway 162, Willits

Owner: Jose Manuel Espino-Cardoza and Elvira D. Najera-Revolorio

APN: 036-230-53

Transaction History: Last sale February 20, 2019; seller George Salomon.

Size: 160.74 acres.

Watershed: Eel River Hydrologic Unit; Upper Main Eel River Hydrologic Area; Tomki Creek Hydrologic Subarea (HU/HA/HSA 111.62; Table 2-1, Water Quality Control Plan for the North Coast Region).

Aerial Imagery Notes (Google Earth Pro): Development (roads and structures) visible in earliest available imagery (August 1998). Patterns possibly indicative of cannabis cultivation visible in June 2009 imagery. Pocking and/or other patterns indicative of cannabis cultivation visible at multiple locations from September 2010 imagery to present. South cultivation area expanded, with six hoop houses visible in August 2017 imagery.

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

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

Regulatory status with the Regional Water Board:

Site Development: N/A

Applicable programs: N/A

Onsite activities/operations: The site was enrolled in Order No. R1-2015-0023, the Regional cannabis order, through third party Pacific Watershed Associates (PWA), WDID 1B161447CMEN, but PWA withdrew the applicant from the third party program due to lack of payment for services rendered. As of July 1, 2019, enrollees under the Regional cannabis order were to have transferred their enrollment to the statewide cannabis order (referenced below). To date, there is no record that this site has been enrolled for coverage under the statewide order.

Applicable programs: Cannabis Cultivation General Order No. WQ 2019-0001-DWQ (statewide cannabis order).

Inspection information:

Date/time: July 17, 2019, 8:45 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, DIV

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

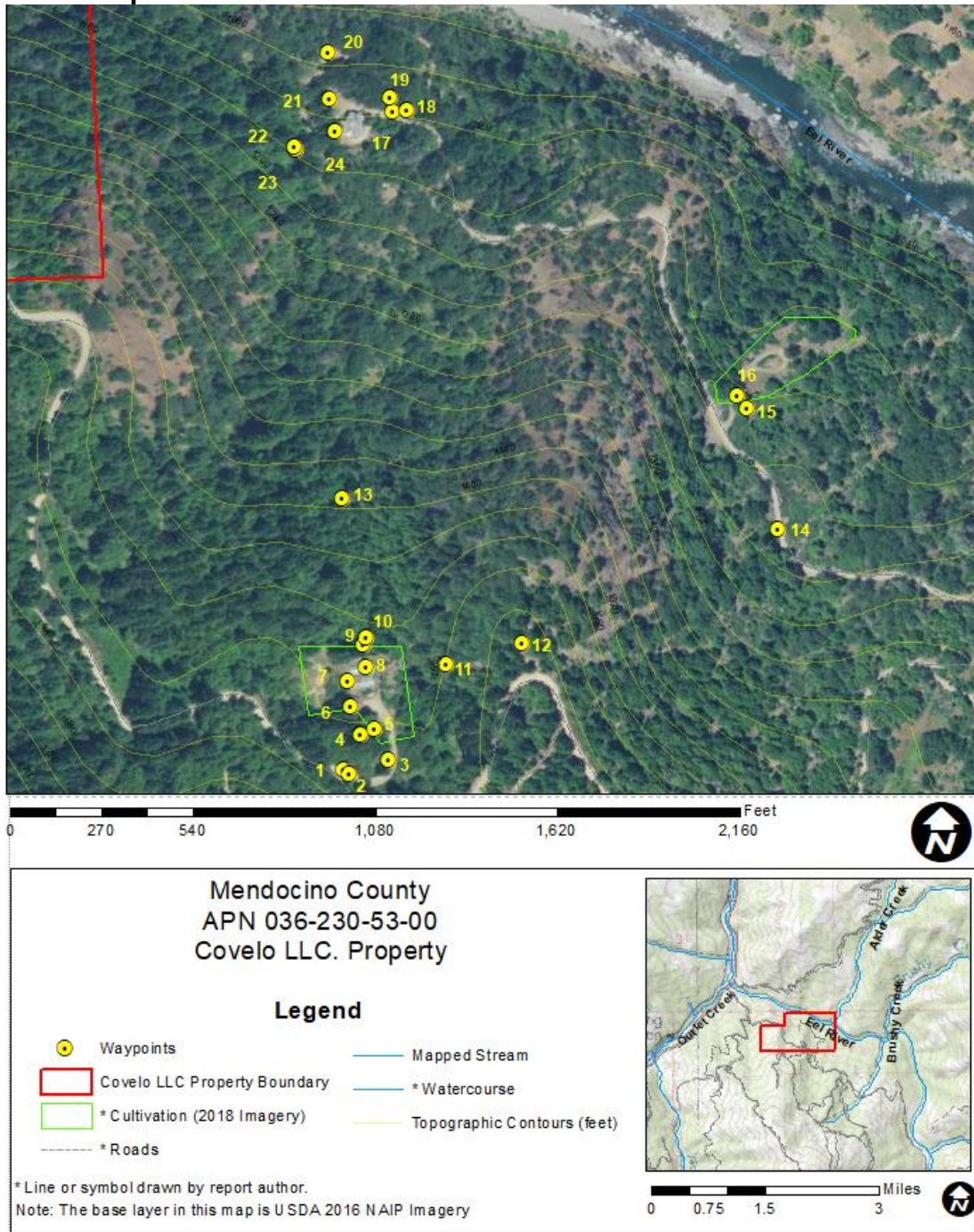
Bureau of Land Management

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



Inspection Observations:

On July 17, 2019, I inspected the subject property. The inspection map above, shows the inspection points identified and discussed in this report.

Development on the property includes two houses, access roads, large water tank storage areas, a groundwater well, a cannabis drying structure, and four cannabis cultivation areas, at inspection points 5, 14, 16, and 19, which I have designated # 1, 2, 3, and 4, respectively. The total area of cannabis cultivation on the property was more than 2,000 square feet.

On the access road just south of cultivation area #1, I observed a gate with a third-party consultant sign, indicating enrollment in the Regional cannabis order, No. R1-2015-0023. Just north of the gate, I observed rill erosion in the middle of the access road (inspection point 2).

Proceeding to cannabis cultivation area # 1, I observed a large clearing with two large greenhouses and outdoor cultivation with cannabis plants in grow bags/rings. I observed several housekeeping issues within this area that posed a threat to water quality and were not consistent with the standard conditions of the statewide cannabis order. Specifically, I observed a large diesel generator and fuel canisters, uncovered and uncontained (inspection point 4); petroleum, chemical, and fertilizer bottles sitting on the bare ground (inspection point 6); and a large pile of amended soil, uncovered and uncontained (inspection point 10).

East of cannabis cultivation area #1, at inspection points 11 and 12, I observed large irrigation lines sourced from two large water storage tanks, leading to cannabis cultivation area #1. I did not observe any water quality concerns associated with the irrigation lines or water storage tank area.

The remaining three cannabis cultivation areas # 2, 3, and 4, at inspection points 14, 16, and 19, were smaller than cannabis cultivation area #1, and with the exception of unknown chemical containers sitting on the ground at cultivation area #2, I did not observe any specific features of water quality concern in or associated with these areas.

West of cannabis cultivation area #4, at inspection point 23, I observed a large diesel generator with a large fuel storage tank, approximately 10 feet from a class III watercourse (inspection point 22).

In a shed just west of cannabis cultivation area #4, at inspection point 24, I observed a container labeled as containing a pesticide, which is prohibited for use in cannabis cultivation.

<i>Map point</i>	<i>Feature</i>	<i>Brief Description</i>	<i>Water Quality Concern</i>	<i>Associated Photo(s)</i>
2	Access road just north of gate to cultivation area #1	Rill erosion visible on road surface.	Threatened discharge of waste to waters of the state	2
3, 5, 7, 8, 14, 16, and 19	Cannabis cultivation areas #1, 2, 3, and 4	Clearings with cannabis plants in hoop houses and/or growing outdoors in grow bags/rings.	Cannabis cultivation/discharge of waste without a report of waste discharge and/or coverage under State Water Board regulatory order	3, 4, 7, 9, 14, 16, and 19
4	Diesel generator	Large diesel generator housed under a shed with fuel containers on the ground.	Threatened discharge of waste to waters of the state	5
6	Petroleum, fertilizer, chemicals	Pesticide, fertilizers, chemicals and other cultivation materials sitting on the bare ground.	Threatened discharge of waste to waters of the state	6
10	Pile of potting soil spoils	Large soil amendment pile sitting just off of cannabis cultivation area # 1.	Threatened discharge of waste to waters of the state	10 & 6
21- 23	Generators and fuel tanks/ containers near a Class III watercourse	Fuel tanks and generators on bare dirt at various locations, some under a lean to, others uncovered, at a location where fuel spills/leaks could enter or be transported into receiving waters.	Threatened discharge of waste to waters of the state. Petroleum products placed/stored at a location where they are likely to enter waters of the state.	20 & 21

<i>Map point</i>	<i>Feature</i>	<i>Brief Description</i>	<i>Water Quality Concern</i>	<i>Associated Photo(s)</i>
24	Pesticide in storage shed	Container labeled as containing Triazicide. a banned pesticide for cannabis cultivation.	N/A.	24

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 noted above, I observed rill erosion on the access road south of cultivation area #1, at a location where eroded material may enter or be transported into receiving waters.
2. Stream crossing maintenance and improvement: The foot path following the large irrigation lines from cultivation area #1 to the water storage tank area crosses a small watercourse, and I observed evidence of disturbance to the watercourse resulting from foot traffic.
3. Stream and wetland buffers: I observed no water quality issues associated with wetland and riparian protection and management.
4. Spoils management: As mentioned above, I observed a large pile of potting soil spoils near cultivation area #1 at a location where the material may enter or be transported into receiving waters.
5. Water storage and use: I observed four water storage tank areas, all in good condition, with no apparent water quality concerns. I also observed a groundwater well on the property, the apparent water source for irrigation.
6. Irrigation runoff: I did not observe evidence of irrigation runoff during the inspection.
7. Fertilizers and soil amendments: As mentioned above, I observed fertilizer bottles and spent soil amendments sitting on the bare ground.
8. Pesticides: As mentioned above, I observed a pesticide banned for use in California, but it did not appear to pose a direct water quality concern. In addition, as mentioned above, I observed pesticide containers on the ground at cultivation area #1

9. Petroleum products and other chemicals: As mentioned above, I observed petroleum products and generators, as well as various other chemical containers on the ground at several locations, including an area less than 10 feet from a Class III watercourse, fertilizers, and pesticides containers stored on the bare ground.

10. Cultivation-related wastes: I observed cultivation-related wastes uncovered and/or uncontained, but not at locations that appeared to pose a threat for discharge/delivery into receiving waters.

11. Refuse and human waste: I observed refuse waste during the inspection of the parcel near inspection point 4 but did not pose a threat to water quality. I did not observe or review human waste containment/disposal facilities on the property.

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/finaladoptedcan go101717.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/

4. 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.

5. Immediately remove and properly dispose of all illegal pesticides.

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 right to take any enforcement action authorized by law.

PHOTO APPENDIX



Photo 1 - Property entry gate with sign indicating enrollment under Regional cannabis order



Photo 2 – Rilling on road behind entry gate.



Photo 3 – Cannabis cultivation area #1



Photo 4 – Cannabis cultivation area #1



Photo 5 – Diesel generator and gasoline tanks.



Photo 6 – Petroleum, chemical, and pesticide bottles.



Photo 7 – Hoop house in cannabis cultivation area # 1.



Photo 9 – Hoop house in cannabis cultivation area #1.

Photo 8 – Shed with generator and juvenile starter plants.



Photo 10 – Spoils pile of soil amendments.



Photo 11 – Large irrigation lines leading to water storage tanks.



Photo 12 – Large water storage tanks with fertilizer bottles on the ground.



Photo 13 – Large water storage tank.



Photo 14 – Cannabis cultivation area #2; plastic chemical containers are

visible on the ground at the end of the
hoop house frame toward the left side
of the photo.



Photo 15 – Water storage tank.



Photo 16 – Cannabis cultivation area
#3.



Photo 17 – Water storage tank.

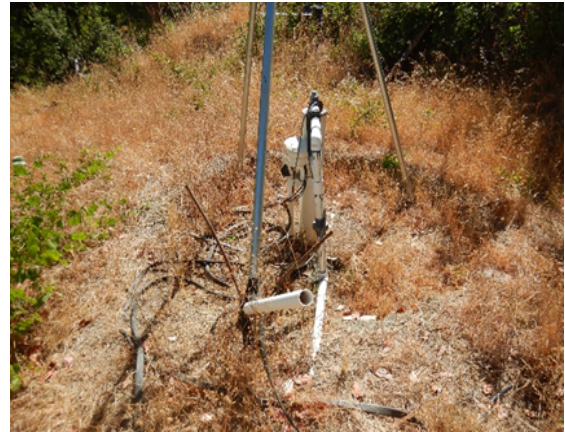


Photo 18 – Water well and pump.



Photo 19 – Cannabis cultivation area #4.



Photo 20 - Generator and gas tanks.



Photo 21 – Large diesel generator and large fuel storage tank.



Photo 22 – Watercourse.



Photo 23 – Cannabis drying facility.



Photo 24 – Pesticides.