



North Coast Regional Water Quality Control Board

December 20, 2019

Certified Mail No. 7016 0750 0001 0048 6733

Cherie Nicole Sexton
4703 Montgomery Drive
Santa Rosa, CA 95409

Dear Ms. Sexton:

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. 036-230-48

File: Cannabis Inspections, Mendocino County, 2019, 190717 Cherie Sexton 036-230-48, CIWQS Place ID No. 859929

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

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

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

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 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. Staff also observed an outhouse on the site, a feature that is not consistent with the North Coast Regional Water Board's onsite wastewater treatment systems (OWTS) policy and applicable local wastewater disposal standards.

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/

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 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 phone number or email above. You may also contact me at Diana.Henriouille@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, the inspection report, or our waste discharge regulatory programs in further detail.

Sincerely,

Diana Henriouille, P.E.
Enforcement Unit

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Certified – Return Receipt requested

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

cc: Mendocino County

Trent Taylor, taylor@mendocinocounty.org

Daniel Knapp, knappdj@mendocinocounty.org

Brian Webb, 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>



GAVIN NEWSOM
GOVERNOR



JARED BLUMENFELD
SECRETARY FOR
ENVIRONMENTAL PROTECTION

North Coast Regional Water Quality Control Board

TO: Diana Henriouille

FROM: Maurice Washington

DATE: November 15, 2019

Inspection Report for July 17, 2019, Warrant Inspection Mendocino County Assessor's Parcel Number 036-230-48

File: Cannabis Program Inspections, Mendocino County, July 2019 MCSO
Inspections, Cherie Sexton, CIWQS Place ID.859929

Property information:

County: Mendocino

Physical address: 42350 Covelo Road/Highway 162, Willits, CA 95490

APN: **036-230-48**

Owner: Cherie Nicole Sexton

Transaction History: Last sale November 15, 2013; seller Cavalier Investment Inc.

Size: 2.16 acres.

Watershed: Eel River Hydrologic Unit; Upper Main Eel River Hydrologic Area; Outlet Creek Hydrologic Subarea (HU/HA/HSA 111.61; Table 2-1, Water Quality Control Plan for the North Coast Region).

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Aerial Imagery Notes (Google Earth Pro): Narrow parcel bordered by Highway 162 and railroad tracks adjacent to Outlet Creek. Structures visible from earliest available imagery (August 1998), and development continues and varies in appearance in subsequent imagery to the present. Patterns indicative of cannabis cultivation periodically visible on the parcel over the series of available imagery.

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 17, 2019, 1:40 PM

Type: Mendocino County Sheriff's Office Warrant Inspection

Attendance:

Maurice Washington, WRCE, North Coast Regional Water Quality Control Board
Renee Avila, Environmental Scientist, Division of Water Rights, State Water Board
Cann Doan, Environmental Scientist, Division of Water Rights, State Water Board
Angela Liebenberg, Senior Environmental Scientist, California Department of Fish & Wildlife

Joseph Kermish-Wells, Environmental Scientist, California Department of Fish & Wildlife
Cal Cannabis Bureau

Mendocino County Sheriff Office

California National Guard

Cal Fire

U.S. Forest Service

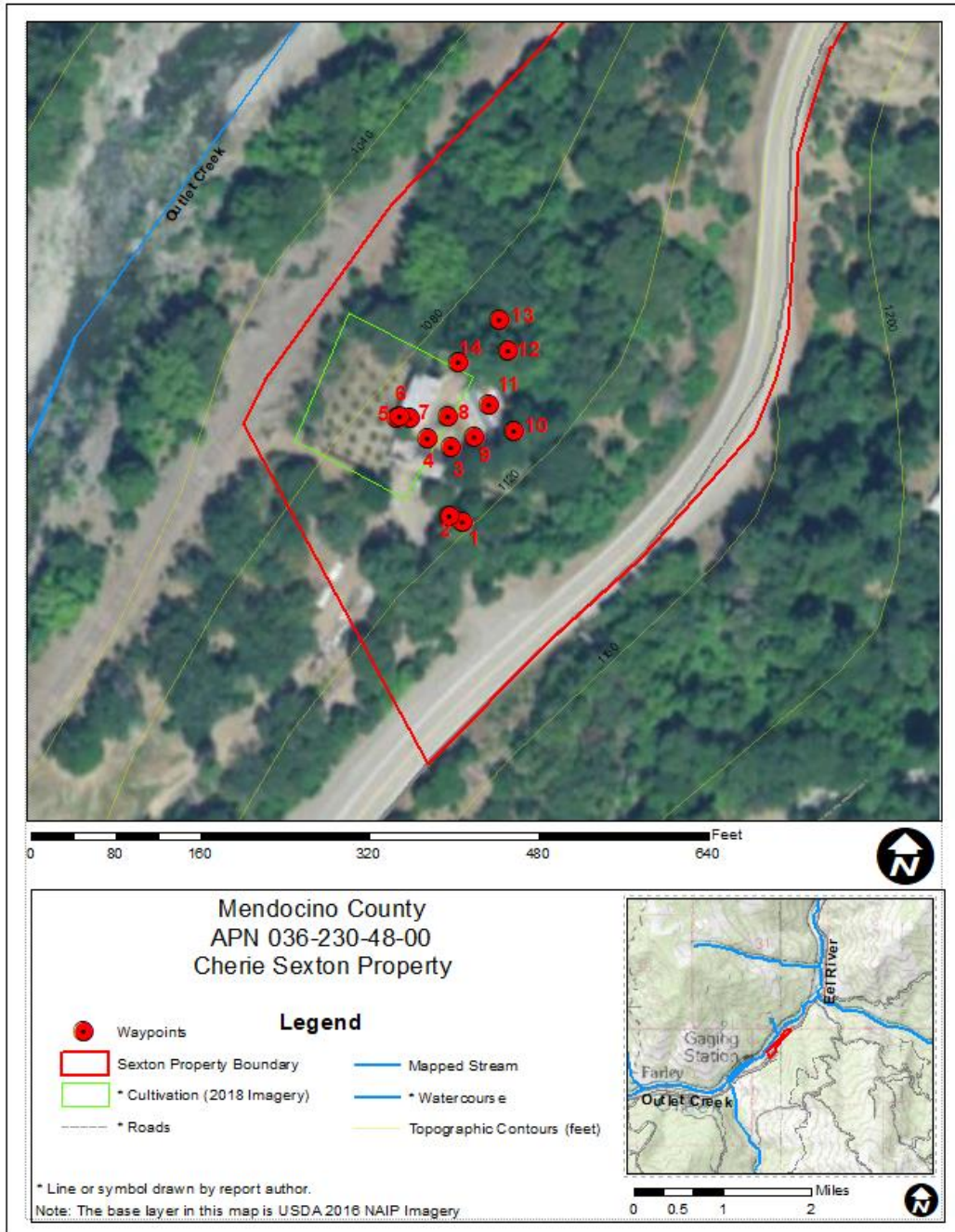
Bureau of Land Management

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), Cal Cannabis 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 below.

Development on the property includes two structures, a house and a drying facility for cannabis. There are five active cannabis cultivation areas, two large water tanks, a groundwater well, and an outhouse.

At inspection points, 1 and 2, I observed two large water tanks and a groundwater well. One of the water tanks had an intake pipe for water delivery service. At inspection points 4, 5, 8, 9, and 14 I observed cannabis cultivation areas. Cannabis cultivation at inspection points 9 and 14 is less than 200 feet from a class III watercourse. At inspection points 3 and 6, I observed 300-gallon water tanks filled with an unidentified chemical substance (photos 3 and 6). I observed fertilizers, pesticides, and chemicals on the bare ground at inspection point 7. I observed three areas where old harvested cultivation waste with soil medium had been dumped near surface waters (inspection points 10, 11, and 12). At inspection point 13, I observed an outhouse less than 75 feet from a class III watercourse.

<i>Map point</i>	<i>Feature</i>	<i>Brief Description</i>	<i>Water Quality Concern</i>	<i>Associated Photo(s)</i>
1 - 2	Water Source & Storage	Water storage tank for cannabis cultivation. Water tank had an intake pipe for water delivery. In addition, a groundwater well was used for cultivation.	N/A	1 - 3
3 & 6	Water/Fertilizer	300-gallon water storage tanks filled with an unidentified chemical substance.	N/A	4 & 6

<i>Map point</i>	<i>Feature</i>	<i>Brief Description</i>	<i>Water Quality Concern</i>	<i>Associated Photo(s)</i>
4, 5, 8, 9, 14	Cannabis cultivation areas.	Mixed light cultivation areas. Cultivation areas (Inspection points 9 & 14) are less than 200 feet from surface waters.	Cannabis cultivation/discharge of waste without a report of waste discharge and/or coverage under State Water Board regulatory order	5, 7, 9, 10, 15
7	Fertilizers, Pesticides, Chemicals	Fertilizer and chemicals on the ground	Threatened discharge of waste to waters of the state	8
10 - 12	Cultivation Waste	Old harvested cultivation waste with soil medium near a surface water.	Threatened discharge of waste to waters of the State	11 - 13
13	Outhouse	An outhouse sitting off the edge of a cultivation area and less than 75 feet from a surface water.	Not consistent with onsite wastewater treatment systems (OWTS) policy. Threatened discharge of waste to waters of the state.	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: I observed no water quality issues associated with site maintenance, erosion control, or drainage features.
2. Stream crossing maintenance and improvement: I observed no stream crossings during the inspection.
3. Stream and wetland buffers: I observed two cannabis cultivation areas located less than 200 feet from a class III watercourse.
4. Spoils management: As noted above, I observed cultivation-related potting soil spoils and plant waste at locations where material could enter or be transported into a class III watercourse. These spoils were approximately 25 feet away from the watercourse.

5. Water storage and use: As noted above, I observed two large water storage containers near the entrance of the Property. These tanks also had intake pipes for water delivery. In addition, I observed a groundwater well near the water tanks. I also observed three smaller 300-gallon tanks with an unidentified chemical in them.
6. Irrigation runoff: As noted above, two of the cultivation areas are close to surface waters, at locations where irrigation runoff would pose a threat to water quality.
7. Fertilizers and soil amendments: As noted above, I observed fertilizers lying on the ground, uncovered and uncontained.
8. Pesticides: As noted above, I observed pesticides lying on the ground, uncovered and uncontained.
9. Petroleum products and other chemicals: I observed containers of petroleum and other chemicals on the ground.
10. Cultivation-related wastes: Apart from the spoils mentioned above, I observed no other water quality issues associated with storage/disposal of cultivation-related wastes.
11. Refuse and human waste: As noted above, I observed an outhouse approximately 75 feet from a watercourse.

Recommendations:

1.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

2.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/

3. 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.
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. 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 tank storage.



Photo 2 – Water storage tank.



Photo 3 - Ground water well and pump.



Photo 4 – Water storage with chemical



Photo 5 – Cannabis cultivation area insp.
pt. 4.



Photo 6 – Water container with
chemicals in it.



Photo 7 –Cannabis cultivation area insp.
pt. 5.



Photo 8 – Chemicals, fertilizers,
pesticides



Photo 9 – Cannabis cultivation area insp.
pt. 8.



Photo 10 – Cannabis cultivation area
insp. pt. 9.



Photo 11 – Cannabis cultivation waste near a watercourse.



Photo 12 – Cannabis cultivation waste near a watercourse.



Photo 13 – Cannabis cultivation waste near a watercourse.



Photo 14 – Outhouse near a watercourse.



Photo 15 – Cannabis cultivation area insp.
pt. 14.