
North Coast Regional Water Quality Control Board

December 31, 2019

Robert Banque
19911 Sun Valley Road
Colfax, CA 95713

Dear Mr. Banque:

Subject: **Notice of Violation and Transmittal of Inspection Report for Humboldt County APN 216-382-026-000**

File: Robert Banque, Cannabis Waste Discharge Regulatory Program, CIWQS Place ID No. 849765

Please be advised that the subject property Humboldt County APN 216-382-026-000 (Property) has conditions or features violating the California Water Code due to discharges or threatened discharges of earthen material and other wastes into waters of the state.

This letter requires the following:

1. Within 15 days, either take action to obtain regulatory coverage, file a report of Waste Discharge, or provide a written response explaining non-applicability.
2. Within 30 days, provide a copy of your Site Management Plan, including a description of proposed work and schedule to correct all violations and/or threatened violations.

Background

On August 8, 2019 staff from the Regional Water Board accompanied by staff of the State Water Board Division of Water Rights (DWR), California Department of Fish and Wildlife (CDFW), California Department of Food and Agriculture (CDFA), and various law enforcement agencies inspected the Property.

The purpose of the inspection was to evaluate onsite development and conditions associated with cannabis cultivation and associated activities and, for Regional Water Board staff to identify and assess any impacts or threatened impacts to the quality and beneficial uses of waters of the state.

Directive to Comply with Cannabis Waste Discharge Regulatory Program Requirements

Based on cannabis cultivation activities on the Property the Regional Water Board has determined that you are required to comply with Water Code section 13260 by either: 1) obtaining regulatory coverage under the State Water Resources Control Board (State Water Board) Order No. WQ-2019-00201-DWQ, *General Waste Discharge Requirements and Waiver of Waste Discharge Requirements for Discharges of Waste Associated with Cannabis Cultivation Activities* (Statewide General Order); 2) filing a Report of Waste Discharge in order to obtain individual Waste Discharge Requirements (WDRs) specific to your property, or 3) providing information demonstrating that regulatory coverage is not needed for the parcel(s) identified above.

Water Code section 13260 states, in relevant part:

- (a) All 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.

Accordingly, you must take one of the following actions within 15 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: <https://public2.waterboards.ca.gov/cgo> You must also submit an application fee to the State Water Board within 30 days of submitting the online application. The fee must be submitted to one of the following addresses, based on the method of delivery.

By U.S. Mail:	In person or by courier delivery:
Accounting Office Attn: Water Quality Fees – Cannabis General Order P.O. Box 1888 Sacramento, CA 95812-1888	Accounting Office Attn: Water Quality Fees – Cannabis General Order 1001 I Street Sacramento, CA 95814

- 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
Cannabis Waste Discharge Regulatory Program
5550 Skylane Boulevard, Suite A
Santa Rosa, CA 95403

OR

- 3) If you believe regulatory coverage is not required under any of the options listed above, either because **there is no cultivation** or associated activities occurring, 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.

If you fail to take one of the actions described above, the Regional Water Board will refer this matter for formal enforcement and may impose penalties of up to \$1,000 per day for each day after the date by which the Directive Letter required action pursuant to Water Code section 13261.

Water Code section 13261 states, in relevant part:

- (a) Any person failing 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).
- (b) (1) Civil liability may be administratively imposed by a regional board ... in an amount that may not exceed one thousand dollars (\$1,000) for each day in which the violation occurs.

For general information about the State Water Board's Cannabis Cultivation Regulatory Program, including enrollment and program information and resources, please visit:

https://www.waterboards.ca.gov/water_issues/programs/cannabis/

Site Management Plan

Within 30 days of your receipt of this letter, please submit to this office a Site Management Plan (SMP) that includes a plan and schedule to address the recommendations identified in the enclosed inspection report. You can read the requirements of the Site Management Plan in the Statewide General Order Attachment D - Technical Report Guidance:

https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2019/wqo2019_0001_dwq.pdf#page=54

Please submit an electronic or hard copy of the SMP to:

North Coast Water Board
Attn: Diana Henriouille
Cannabis Waste Discharge Regulatory Program
5550 Skylane Boulevard, Suite A
Santa Rosa, CA 95403

OR

By email to: northcoast.cannabis@waterboards.ca.gov and Diana.Henriouille@waterboards.ca.gov

Potential Liabilities

These observed violations create potential liability enforceable by the Regional Water Board. Discharges or threatened discharges of waste, including earthen material, into waters of the state that create a condition of nuisance or pollution may subject a person to a Cleanup and Abatement Order pursuant to Water Code section 13304. An actual discharge to waters of the state, including waste discharges in violation of a waste discharge requirement, waiver condition, certification, or other order or prohibition issued by a regional board may subject a person to an administrative liability up to \$5,000 per day of violation for each violation, or \$10 for each gallon of waste discharged pursuant to Water Code section 13350.

The Regional Water Board staff is in the process of assessing these violations and retains its full authority and discretion to bring formal enforcement for all violations.

For any technical questions on this matter, please contact Kate Hawken at Katherine.Hawken@waterboards.ca.gov or (707) 445-6127.

Robert Banque
Humboldt County APN 216-382-026-000
August 8, 2019 Inspection

December 31, 2019

You may also contact me at Diana.Henrioulle@waterboards.ca.gov or (707) 576-2350. Additionally, we are available to meet with you if you wish to discuss this letter or our waste discharge regulatory programs in further detail.

Sincerely,

Diana Henrioulle, P.E.
Senior Water Resource Control Engineer

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Enclosures: 1) Regulatory Citation
2) Water Quality Inspection Report

cc: **California Department of Fish and Wildlife**
Ryan Bourque, Ryan.Bourque@wildlife.ca.gov

Division of Water Rights

Renee Avila, Renee.Avila@Waterboards.ca.gov
Stormer Feiler, Stormer.Feiler@waterboards.ca.gov

North Coast Regional Water Quality Control Board

Kason Grady, Kason.Grady@waterboards.ca.gov
Diana Henrioulle, Diana.Henrioulle@waterboards.ca.gov

Humboldt County

Planning Department, PlanningBuilding@co.humboldt.ca.us

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>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>



North Coast Regional Water Quality Control Board

TO: Diana Henriouille

FROM: Kate Hawken

DATE: December 30, 2019

Inspection Report for August 8, 2019, Warrant Inspection Humboldt County Assessor's Parcel Number 216-382-026-000

File: Cannabis Program Inspections, Humboldt County, August 2019 HCSO/CAMP Inspections, Robert Banque, CIWQS Place ID. 849765

Property Information

County: Humboldt

Physical address: 4955 Rancho Sequoia Drive, Alderpoint, CA 95511

APN: 216-382-026

Owner: Robert Banque

Transaction History (per LandVision): Not available

Size: 10 acres

Watershed: Eel River Hydrologic Unit; Middle Main Eel River Hydrologic Area; Sequoia Hydrologic Subarea (HU/HA/HSA 111.41; Table 2-1, Water Quality Control Plan for the North Coast Region).

Aerial Imagery Notes (Google Earth Pro):

Cultivation area cleared of trees between 10/12/2006 and 5/24/2009

Hoop house visible in 4/24/2010 imagery; outdoor cannabis visible in 8/23/2012 imagery

Additional ~15,000 square feet of trees cleared south of cultivation area between 5/28/2014 and 4/21/2019

Regulatory status with the Regional Water Board

Site Development: N/A

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

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

Applicable programs: Timber

Onsite activities/operations: N/A

Applicable programs: Cannabis cultivation waste discharge regulatory program, State Water Board Order WQ 2019-0001-DWQ

Inspection information

Date/time: August 8, 2019

Type: Humboldt County Sheriff's Office (HCSO)/Campaign Against Marijuana Planting (CAMP) Warrant Inspection

Attendance:

Kate Hawken and Connor McIntee, North Coast Regional Water Quality Control Board (Regional Water Board)

Ryan Bourque, California Department of Fish and Wildlife (CDFW)

Renee Avila, Division of Water Rights (DIV)

Staff, California Department of Food and Agriculture (CDFA)

Law Enforcement Officials from Humboldt County Sheriff's Office (HCSO), CDFW, and the California Army National Guard

Background/Objective:

North Coast Regional Water Board (Regional Water Board) staff participated with staff of the Humboldt County Sheriff's Office (HCSO), California Department of Fish and Wildlife (CDFW), State Water Board's Division of Water Rights (DIV), California Department of Food and Agriculture (CDFA), and personnel from various law enforcement agencies in four days of inspections of multiple cannabis cultivation sites in Humboldt County, on August 5-8, 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

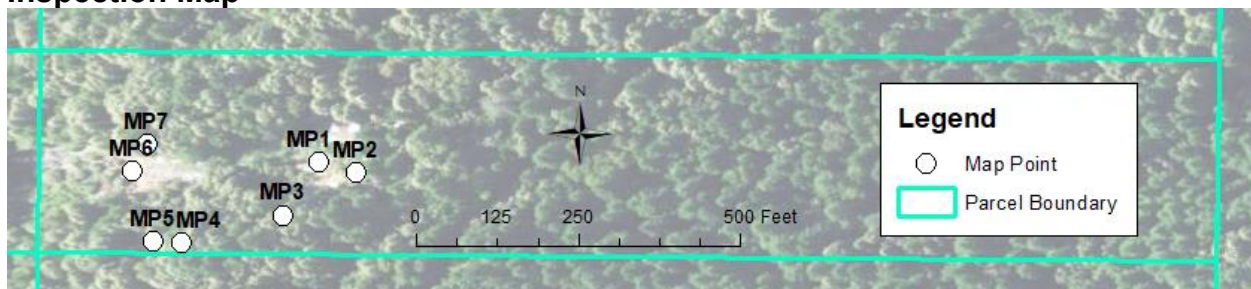


Figure 1: Map of Property, including Inspection Points of Interest

Inspection Observations

On August 8, 2019 I inspected the subject property shown in Figure 1. Table 1 summarizes inspection points of interest. I observed outdoor cannabis cultivation on a sparsely vegetated slope at inspection point MP1. It appeared that the cultivation area had been recently expanded; I observed slash on the perimeter of the cleared area. I observed multiple generators, fuel canisters, fertilizer bags, and chemicals on the ground without cover and secondary containment. I observed a large burn pile containing domestic waste including plastics and metals. I also observed a junkyard adjacent to the residence containing numerous abandoned vehicles.

<i>Map point</i>	<i>Feature</i>	<i>Brief Description</i>	<i>Water Quality Concern</i>	<i>Associated Photo(s)</i>
MP1	Cannabis cultivation area	Outdoor cannabis cultivation	Cannabis cultivation/discharge of waste without a report of waste discharge and/or coverage under State Water Board regulatory order	1
MP2-3	Generators	Generators and fuels stored outside without secondary containment	Threatened discharge of waste to receiving waters.	2
MP4	Pink chemical	Open bottle of unknown pink chemical	Threatened discharge of waste to receiving waters.	3
MP5	Burn pile	Pile of partially burnt domestic waste	Threatened discharge of waste to receiving waters.	4
MP6	Perlite	Perlite abandoned/deposited on steep slope	Threatened discharge of waste to receiving waters.	5

<i>Map point</i>	<i>Feature</i>	<i>Brief Description</i>	<i>Water Quality Concern</i>	<i>Associated Photo(s)</i>
MP7	Spilt fertilizer bags	Fertilizer bags spilt open on bare ground	Threatened discharge of waste to receiving waters.	6

Table 1: Features and water quality concerns

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 cannabis cultivation on steep, recently cleared slopes that may be prone to erosion. I did not observe signs of erosion at the time of inspection.
2. Stream crossing maintenance and improvement: I did not observe stream crossings on the property.
3. Riparian and wetland protection and management: I did not observe water quality concerns associated with riparian or wetland protection on the property.
4. Spoils management: I observed perlite spread or abandoned on a steep slope. The perlite may discharge to surface water or leach to groundwater.
5. Water storage and use: I observed water storage tanks on the property. I did not observe water quality concerns associated with water storage or use.
6. Irrigation runoff: I did not observe water quality concerns associated with irrigation runoff.
7. Fertilizers and soil amendments: I observed spilt fertilizer bags that may discharge to surface water or leach to groundwater.
8. Pesticides: I did not review pesticides on the property.
9. Petroleum products and other chemicals: I observed an unknown pink liquid without a lid and fuels and generators stored outside without secondary containments. Chemicals may discharge to surface water or leach to groundwater.

10. Cultivation-related wastes: I observed perlite spread or abandoned on a steep slope. The perlite may discharge to surface water or leach to groundwater.
11. Refuse and human waste: I observed a burnt pile of domestic waste including plastics and metals. I also observed a large junkyard adjacent to the residence with multiple abandoned vehicles. Heavy metals and toxic chemicals from the burn pile and junkyard may discharge to surface water or leach to groundwater.

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 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: www.waterboards.ca.gov/water_issues/programs/cannabis/cannabis_water_quality.html
2. Collect and dispose of or contain all refuse and cultivation-related wastes in a location and manner to minimize potential for these wastes to enter or be transported into receiving waters.
3. Store and contain all chemicals, including petroleum products, fertilizers and pesticides properly to prevent spillage and discharge to receiving waters. Provide a cover and secondary containment for all generators.

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 – MP1; outdoor cannabis cultivation on a sparsely vegetated slope



Photo 2 – MP2&3; generators and fuels stored outside without secondary containment



Photo 3 – MP4; open container of unknown pink chemical



Photo 4 – MP5; pile of burnt domestic waste



Photo 5 – MP6; perlite visible in foreground abandoned or spread on steep slope



Photo 6 – MP7; twelve open bags
of fertilizer spilt on bare ground