



North Coast Regional Water Quality Control Board

January 9, 2020

Certified Mail No. 7016 0750 0001 0048 6573

Michael and Adele Yearry
754 Calle Vallarta
San Clemente, CA 92673

Dear Mr. and Mrs. Yearry:

Subject: Notice of Violation, Directive to Obtain Regulatory Coverage for Cannabis Cultivation, and Transmittal of Inspection Report for September 5, 2019, Inspection of Humboldt County Assessor's Parcel Nos. 529-281-006-000 and 529-285-005-000

File: Cannabis Program Inspections, Humboldt County, September 2019 HCSO CAMP Inspections, Michael and Adele Yearry, CIWQS Place ID 861064

This letter is to notify you of observed violations of the requirements listed below for threatened discharges to waters of the state from the above-referenced parcels (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.

Background

On September 5, 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 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. Please review the inspection report carefully and completely; it contains recommendations for correcting observed violations and water quality concerns observed on the Property and advises you of the

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

Regional Water Board permits necessary for instream work and projects/activities that result in discharges of waste to receiving waters.

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.

Observed Violations

As documented in the 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.

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: <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: 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
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- 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.

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.

Inspection Report Recommendations

As mentioned above, the enclosed 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.

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 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 September 5, 2019, Inspection

Certified Mail – Return Receipt requested

cc: Department of Fish and Wildlife
Warden Joshua Zulliger, Joshua.Zulliger@wildlife.ca.gov
David Manthorne, David.Manthorne@wildlife.ca.gov

Humboldt County
Marlen Richmond, mrichmond1@co.humboldt.ca.us

North Coast Regional Water Quality Control Board
Kason Grady, Kason.Grady@waterboards.ca.gov
Brian Fuller, Brian.Fuller@Waterboards.ca.gov

State Water Resources Control Board Division of Water Rights
Gagan Bhullar, Gagan.Bhullar@Waterboards.ca.gov
Steven Hall, Steven.Hall@Waterboards.ca.gov
Stormer Feiler, Stormer.Feiler@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>(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>(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>
California Water Code Section 13350	<p>“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).”</p>

North Coast Regional Water Quality Control Board

TO: Diana Henriouille

FROM: Brian Fuller

DATE: January 7, 2020

**Inspection Report for September 5, 2019, Warrant Inspection
Humboldt County Assessor's Parcel Numbers 529-281-006-000
and 529-285-005-000.**

File: Cannabis Program Inspections, Humboldt County, September 2019 HCISO
CAMP Inspections, Michael and Adele Yearry, CIWQS Place ID 861064

Property information:

County: Humboldt

Physical address: Cedar Camp Road/NF 12N12 Road, just north of Highway 96,
approximately 2 miles southwest of Orleans

APN: 529-281-006-000 and 529-285-005-000

Owner: Michael and Adele Yearry
754 Calle Vallarta
San Clemente, CA, 92673

Transaction History (per LandVision):

Most recent sale February 16, 2017, sellers Patrick and Barbara A. Hash.

Size: Parcel 529-281-006-000 is 26 acres and parcel 529-285-005-000 is 29 acres.

Watershed: Klamath River Hydrologic Unit; Lower Klamath River Hydrologic Area;
Orleans Hydrologic Sub Area (HU/HA/HSA 105.12; Table 2-1, Water Quality Control
Plan for the North Coast Region).

Aerial Imagery Notes: Small structure visible from earliest (June 1993) imagery. Slight
variations in visible patterns of disturbance within existing openings over subsequent
imagery. Patterns suggestive of tilling and/or row crops visible in July 2010 imagery.
Images available from Digital Map Products' Land Vision service shows patterns
consistent with cannabis planting as early as August 17, 2018.

Regulatory Status with the North Coast Regional Water Quality Control Board (Regional Water Board):

Site Development: N/A

Applicable programs: N/A

Onsite activities/operations: N/A

Applicable programs: The State Water Board Order WQ 2019-0001-DWQ (Statewide General Order).

Inspection information:

Date/time: September 05, 2019

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

Attendance:

David Manthorne, California Department of Fish and Wildlife (CDFW)
Personnel from, Humboldt County Code Enforcement and Environmental Health
Steven Hall, State Water Resources Control Board Division of Water Rights (DIV)
Gagan Bhullar, DIV
Brian Fuller, Regional Water Board
Amanda Piscitelli, Regional Water Board

Background/Objective:

Regional Water Board staff (staff) participated with personnel from HCSO, CDFW, DIV and from various law enforcement agencies in four days of inspections of multiple cannabis cultivation sites in Humboldt County, on September 3-6, 2019. Inspection objectives for 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

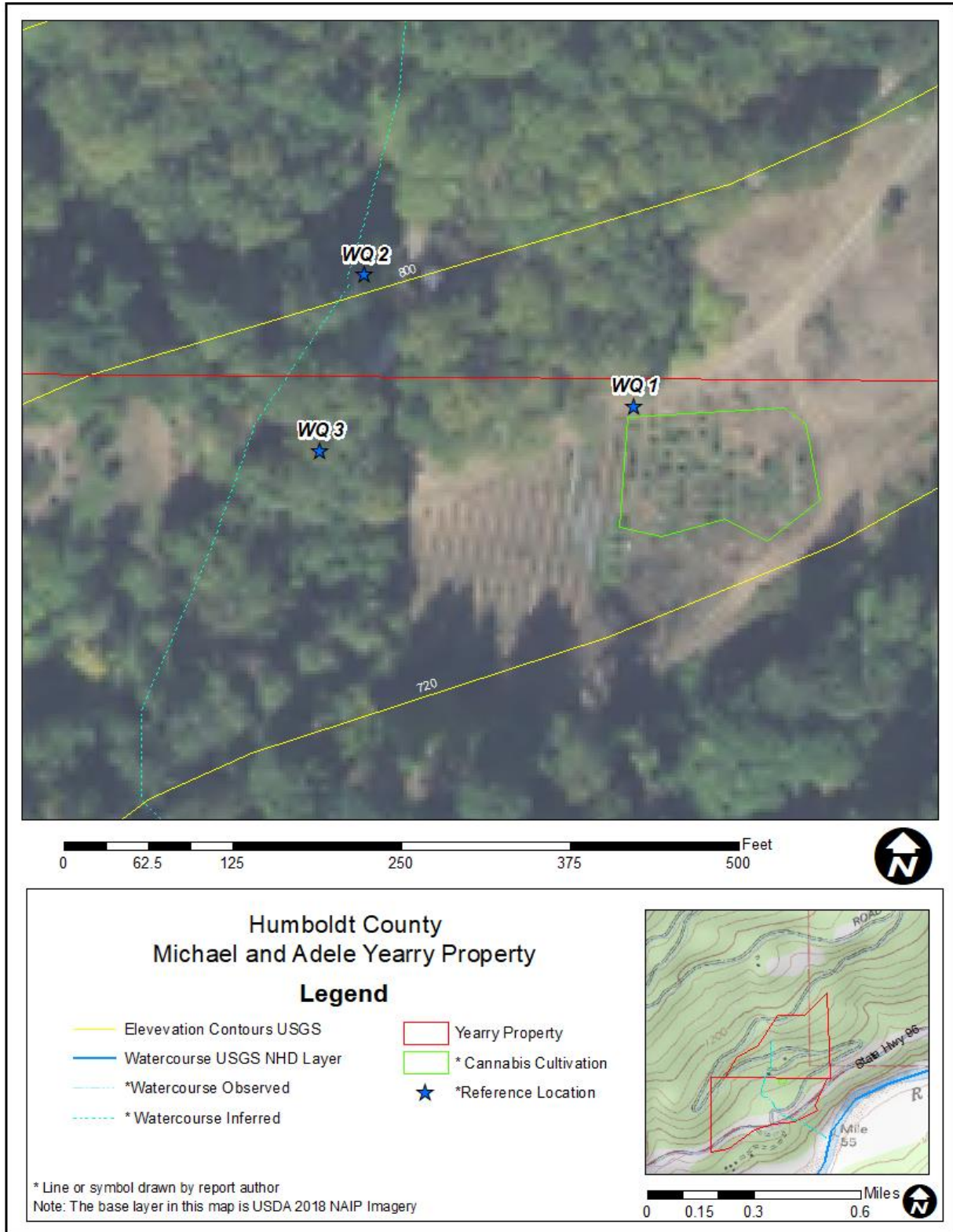


Figure 1: Map of Property, including inspection points of interest.

Inspection Observations:

Staff accessed the cultivation area (WQ 1) along a dirt road from the east, walked the boundary of cannabis cultivation then walked to the watercourse crossing at WQ 2. Staff then inspected the watercourse downstream from this location and observed a structure containing a pit toilet at WQ 3.

<i>Map point</i>	<i>Feature</i>	<i>Brief Description</i>	<i>Water Quality Concern</i>	<i>Associated Photo(s)</i>
WQ 1	Cannabis cultivation area	Approximately 12,000 square feet of outdoor cannabis cultivation adjacent to a vineyard of similar size	Cannabis cultivation/discharge of waste without a report of waste discharge and/or coverage under State Water Board regulatory order	Photo 1
WQ 2	Culverted watercourse	Culvert is rusted, 18" to 24" in diameter, perched and upstream from a 5 foot wide channel.	Threatened discharge of waste to receiving waters.	Photo 2
WQ 3	Pit toilet	Pit toilet is approximately 50 feet from watercourse.	Threatened discharge of waste to receiving waters.	Photo 3

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:

Staff did not observe water quality issues associated with site maintenance, erosion control and drainage features over the limited portion of the property visited during the inspection.

2. Stream crossing maintenance and improvement:

The culvert located at WQ 2 is undersized, perched and rusted to the point that water is flowing below the culvert (Photo 2).

3. Stream and wetland buffers:

The cultivation area (WQ 1) was more than 200 feet from the nearest watercourse, located at WQ 2. I did not observe any water quality issues associated with riparian and wetland protection and management.

4. Spoils management: Staff did not observe water quality concerns associated with spoils management.

5. Water storage and use: Staff did not review water storage and use at the Property.

6. Irrigation runoff: Staff did not observe water quality concerns associated with irrigation runoff.

7. Fertilizers and soil amendments: Staff did not observe water quality concerns associated with the storage or use of fertilizers and soil amendments.

8. Pesticides: Staff did not identify any pesticides.

9. Petroleum products and other chemicals: Staff did not observe water quality concerns associated with the storage or use of petroleum products and other chemicals.

10. Cultivation-related wastes: Staff did not observe water quality concerns associated with the storage or disposal of cultivation-related wastes.

11. Refuse and human waste: Staff did not observe water quality concerns associated with storage or disposal of refuse. As noted above, the pit toilet at WQ 3 is approximately 50 feet from a watercourse (Photo 3).

Recommendations

1. Retain a qualified professional to develop a workplan and schedule to decommission or replace the watercourse crossing at WQ 2. Dispose of all development and restoration-related earthen spoils in a manner to prevent/minimize transport and delivery to receiving waters.
2. Prior to conducting any instream work associated with recommendation 1, 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

3. 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 Statewide General Order (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 Statewide General Order can be found at this hyperlink:

https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2019/wq2019_0001_dwq.pdf

4. 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/

5. Discontinue use of and dismantle any outhouse features and work with Humboldt County to ensure that all domestic and human wastes are collected and disposed of consistent with applicable County requirements.

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—Approximately 12,000 square feet of cannabis growing outdoors in the vicinity of WQ 1. Plants in the left of the image are cannabis.



Photo 2—Approximate 5-foot wide watercourse with 18 to 24-inch diameter culvert that has rusted through the bottom below the road upstream.



Photo 3—Outhouse. Note watercourse is in background of image.