



North Coast Regional Water Quality Control Board

February 18, 2020

Dean Holter
On Behalf of
White Lightning 2.5 LLC
315 P Street
Eureka, CA, 95501

Certified Mail No. 7016 2710 0000 2653 3241

Jesus Moreno-Munguia
On Behalf of
White Lightning 2.5 LLC
PO Box 9107,
Eureka, CA, 95502

Certified Mail No. 7016 2710 0000 2653 3258

Jesus Moreno-Munguia
On Behalf of
White Lightning 2.5 LLC
826 P Street, APT B
Eureka, CA 95501

Certified Mail No. 7016 2710 0000 2653 3265

Dear Mr. Moreno-Munguia and Mr. Holter:

Subject: **Notice of Violation, Directive to Obtain Regulatory Coverage for Cannabis Cultivation, and Transmittal of Inspection Report for September 25, 2018 and July 2, 2019 Inspections of Trinity County Assessor's Parcel No. 018-230-20-00**

File: Cannabis Inspections, Trinity County, 2019, 190702 White Lightning 2.5 LLC 018-230-20-00, CIWQS Place ID No. 854514

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

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

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

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 25, 2018, and July 2, 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 each 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 are copies of the water quality inspection reports (September 25, 2018 Inspection Report and July 2, 2019 Inspection Report). Please review the inspection reports carefully and completely. The inspection reports contain 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.

Relevant Requirements

During both inspections, 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 reports for both inspections, 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 the unauthorized fill of small boulders into the watercourse at the pond outlet identified as WQ 2 in the Inspection Reports.

Additional Potential Liabilities

The Regional Water Board is in the process of considering whether the violations of the Water Code 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.

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.

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.

Inspection Report Recommendations

As mentioned above, the September 25, 2018 and July 2, 2019 Inspection Reports provide 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.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, in inspection report, or our waste discharge regulatory programs in further detail.

Sincerely,

Diana Henriouille, P.E.
Enforcement Unit

200218 BMF dp White Lightning 2.5 LLC NOV

Attachments: Attachment A – Regulatory Citations
 Water Quality Report of September 25, 2018 Inspection
 Water Quality Report of July 2, 2019 Inspection

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

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

State Water Resources Control Board Division of Water Rights
David Rosas, David.Rosas@Waterboards.ca.gov
Steven Hall, Steven.Hall@Waterboards.ca.gov
Stormer Feiler, Stormer.Feiler@waterboards.ca.gov

Trinity County
Sgt. Nate Trujillo, NTrujillo@trinitycounty.org
Deputy D.A. Colleen Murray, CMurray@trinitycounty.org

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 Henrioulle

From: Brian Fuller

Date: March 01, 2019

Subject: **Inspection Report for September 25, 2018, Warrant Inspection of Trinity County Assessor Parcel Number (APN) 018-230-20-00**

File: Cannabis Program Inspections, Trinity County, September 2018 WET Inspections, CIWQS Place ID. 854514.

Property information

County: Trinity

Physical address: 390 Hale Creek Ridge Rd
Mad River, CA, 95552

APN: 018-230-20-00

Owner: White Lightning 2.5 LLC
826 P Street, APT B
Eureka, CA 95501

Size: 38.2 acres

Watershed: Mad River Hydrologic Unit; Ruth Hydrologic Area; (HU/HA/HSA 109.40; Table 2-1, Water Quality Control Plan for the North Coast Region).

Regulatory status with the Regional Water Board

Site Development:

- No record of permitting for site development.

Applicable programs:

- N/A.

Onsite activities/operations:

- 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: September 25, 2018

Type: CDFW WET warrant inspection.

Attendance:

Brian Fuller, Engineering Geologist, Regional Water Board
Shannon Utley, Engineering Geologist, Regional Water Board
David Rosas, Environmental Scientist, DIV
Steven Hall, Environmental Scientist, DIV
David Manthorne, Senior Environmental Scientist Specialist, CDFW
Rhett Imperiale, California Department of Forestry and Fire Protection, (CalFIRE)
Seth Toerpe, United States Forest Service (USFS) Law Enforcement Officer.
Lt DeWayne Little, Warden Brendan Lynch and other Law Enforcement personnel from CDFW.

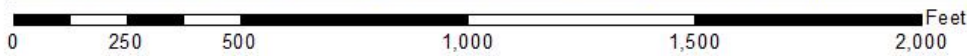
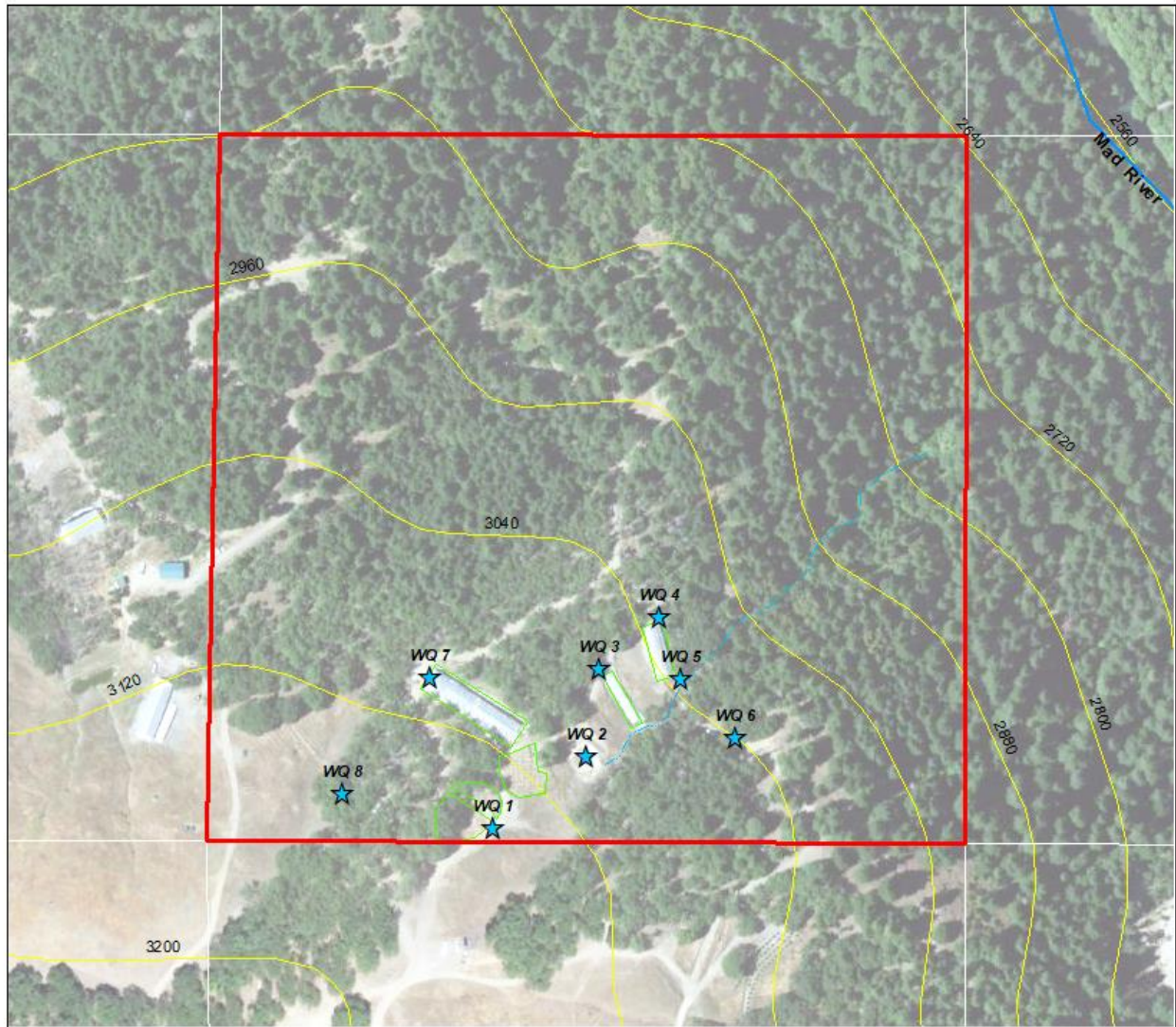
Background/Objective:

North Coast Regional Water Board (Regional Water Board) staff participated with staff of the California State Water Resources Control Board Division of Water Rights (DIV), California Department of Fish and Wildlife (CDFW), and personnel from various law enforcement agencies on an inspection of Trinity County assessor parcel number (APN) 018-230-20-00 owned by White Lightning 2.5 LLC. 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.

Property ownership:

- Per records from the Trinity County Assessor-Recorder's office, as presented in Land Vision, White Lightning [sic] 2.5 LLC purchased the Property from Joshua St. Clair on January 12, 2016.
- Per records from the California Secretary of State Jesus Moreno-Munguia is the only listed member of White Lightning 2.5 LLC and Attorney Dean Holter, 315 P Street, Eureka, CA 95501, is the agent for service of process.

Inspection Map



**White Lightning 2.5 LLC. Trinity County
 APN 018-230-20-00**

Legend

APN: 018-230-20-00	Mad River
* Cultivation	* Watercourse
* Point discussed in report	Topographic Countours (feet)

* Line or symbol drawn by report author.
 Note: The base layer in this map is USDA 2016 NAIP Imagery

0 0.75 1.5 3 Miles

Inspection Observations

The Inspection Map, above, includes reference points for features of water quality interest discussed below.

We accessed the property along a dirt road from the south and walked northeast. The road, in the vicinity of *WQ 1*, was steep and the road surface did not have sufficient rock to prevent stormwater-related erosion (*photos 1 - 2*). We followed the road past an outdoor cannabis cultivation area, then left the road to investigate a lined pond (hereafter referred to as the Pond), located at *WQ 2*. At the Pond site, I observed an ephemeral watercourse draining into the Pond (*photos 3 - 4*). The hillslope was locally steeper upstream from the Pond, which I suspect resulted from earthwork during construction of the Pond, and this over-steepened cut-face appears to be eroding and discharging sediment into the Pond (*photos 3 - 5*). The Pond outflow discharges to a watercourse (hereafter referred to as the Watercourse), (*photos 6 - 8*), which flows towards the Mad River, however staff did not explore the northeastern portion of the property and were unable to determine the extent of the Watercourse.

We returned to the road and walked downhill to the north. Near *WQ 3*, the road is constructed on fine and loose fill (*photo 9*), which is susceptible to erosion by stormwater. Also near *WQ 3*, we observed a single row of cannabis plants abutting the Watercourse. We continued following the road northeast and arrived at a greenhouse between *WQ 4* and *WQ 5*. A trench at the north side of the greenhouse, located at *WQ 4*, drains onto the hillside to the east (*photo 10*). A trench leaving the south side of the greenhouse, located at *WQ 5*, discharges within 50 feet of the Watercourse (*photo 11*). Also at this location, staff observed cultivation waste, including roots bound with potting soil, and plastic netting, adjacent to the Watercourse (*photo 12*). A metal culvert conveys the Watercourse under a road immediately south of *WQ 5* (*photo 13*).

We next followed the road southeast of *WQ 5*, and I observed an 18-inch diameter metal culvert on the hillslope northeast of *WQ 6* (*photo 14*). Above this culvert, staff observed a graded flat area, inspection point *WQ 6*, with uncontained refuse (*photos 15a and 15b*). We then returned to the greenhouse at *WQ 4* and walked west to a greenhouse at *WQ 7*. The road leading to this greenhouse from the northwest was steep, and the road surface did not have sufficient rock to prevent stormwater-related erosion (*photo 16*). We then walked southwest, up a hill (*photo 17*), and arrived at a pit-toilet located at *WQ 8*, (*photo 18*).

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 are steep, and the road surfaces are not sufficiently rockered to prevent/minimize erosion (*photos 1, 2, 9, and 16*). Sediment eroded from the hillslope upstream of the Pond at *WQ 2* has been transported and delivered via runoff into the Pond. It is likely that the hillslope will continue to erode, and that eroded sediment will continue to be transported into the Pond (*photos 3 - 5*).

2. Stream crossing maintenance and improvement

The culvert conveying the Watercourse under the road south of *WQ 5* is old, however staff did not observe any scouring or erosion at the inlet or outlet at the culvert (*photo 13*). The culvert at *WQ 6* appears adequately sized, although it is longer than necessary (*photo 14*).

3. Riparian and wetland protection and management:

The Pond at *WQ 2* is onstream, (*photos 3, 7 and 8*). Cultivation areas at *WQ 3 and WQ 5* are less than 50 feet from the Watercourse.

4. Spoils management: Staff observed earthen spoils associated with roadwork (*photo 9*) at locations where it may be transported via runoff northeast towards the Mad River.

5. Water storage and use:

As mentioned above, the Pond at *WQ 2* is onstream.

6. Irrigation runoff:

Excess irrigation would potentially transport pollutants to the Watercourse via the trench at *WQ 5*, (*photo 11*).

7. Fertilizers and soil amendments:

Imported soils in outdoor cultivation at *WQ 3* and within the greenhouse at *WQ 5*, are less than 50 feet from the Watercourse.

8. Pesticides/herbicides:

Staff observed Raid insecticide among the refuse at *WQ 6*.

9. Petroleum products and other chemicals:

Staff did not observe petroleum products on the property.

10. Cultivation-related wastes:

As noted above, staff observed cultivation-related waste, including roots and plastic netting, is placed where stormwater can transport it to receiving waters at *WQ 5*, (*photos 11 - 12*).

11. Refuse and human waste:

Refuse was uncontained at *WQ 6*. Pit-toilet located a *WQ 8* may not be permitted.

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 crossings throughout the parcels 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. As a reference for the goal of this recommendation, review standard conditions 1, 2, 3, and 4 of the regional cannabis order and applicable portions of the statewide cannabis order, or CANGO (see links to these orders below).

- 2) Comply with requirements/directives from CDFW and the Division of Water Rights with respect to appropriate permitting/licensing for water source(s), diversion(s), storage, and use, and ensure that water storage features are modified/maintained so as to minimize the potential for adverse impacts to water quality and beneficial uses. As a reference for the goal of this recommendation, review standard condition 5 of the Regional Water Board Order and relevant portions of the statewide cannabis order, or CANGO (see links to these orders below).
- 3) Remove and properly dispose of all trash, refuse, and cultivation-related waste. As a reference for the goal of this recommendation, review standard conditions 10 and 11 of the regional cannabis order and applicable portions of the statewide cannabis order, or CANGO (see links to these orders below).
- 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. For more information about Water Board permits that may apply to proposed site development or land use activities, refer to this link:

https://www.waterboards.ca.gov/northcoast/water_issues/programs/permit/

- 5) 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.

The regional cannabis order (Order No. R1-2015-0023) can be found at this link:

https://www.waterboards.ca.gov/northcoast/board_decisions/adopted_orders/pdf/2015/15_0023_Cannabis_Order.pdf

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) can be found at this link:

https://www.waterboards.ca.gov/water_issues/programs/cannabis/docs/finaladoptedcango101717.pdf

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.

Selected Photos



Photo Taken by: S. Utley 25 September 2018

photo 1 – Looking northeast towards the Mad River. Note steep road with a surface of fine sediment in lower right of image WQ 1.



Photo Taken by: S. Utley 25 September 2018

photo 2 – Looking south from same location as photo 1. Note steep road with a surface of fine sediment.



Photo Taken by: S. Utley 25 September 2018

photo 3 – Looking southwest at pond located at WQ 2. Note sediment covering pond liner on upslope side. Also note outline of ephemeral watercourse draining to pond.

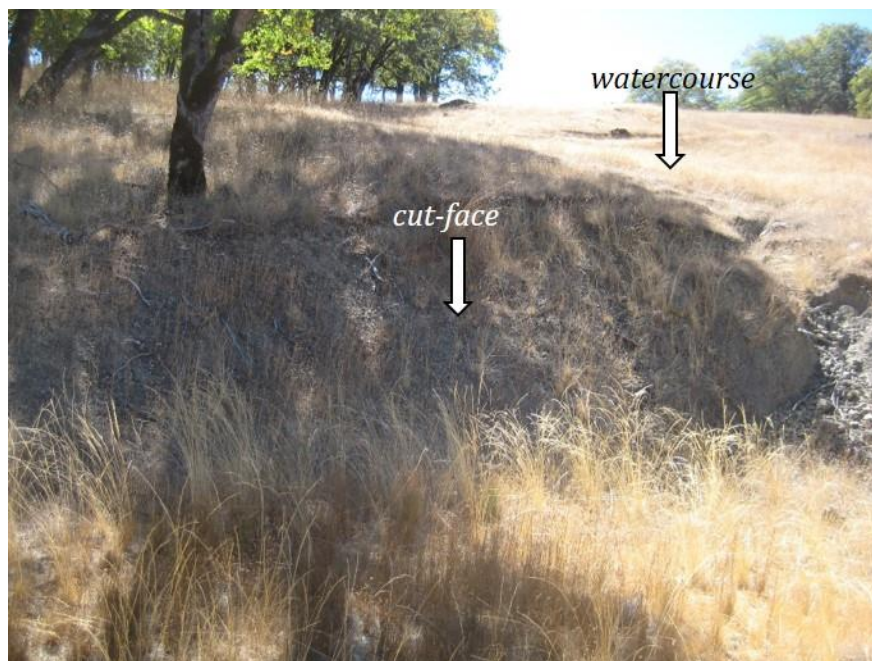


Photo Taken by: B. Fuller 25 September 2018

photo 4 – Looking southwest from eastern edge of pond located at WQ 2. Note steep cut-face upstream from pond is susceptible to erosion. Also note outline of ephemeral watercourse in upper right of image.



Photo Taken by: B. Fuller 25 September 2018

photo 5 – Looking west at pond located at WQ 2. Note sediment covering pond liner on upslope side.



Photo Taken by: B. Fuller 25 September 2018

photo 6 – Looking northeast from south of pond located at WQ 2. Pond outflow is located on northeast side, back right of the image, and drains to ephemeral watercourse which follows the tree line in the back right of the image.



Photo Taken by: B. Fuller 25 September 2018

photo 7 – Looking at pond outflow. Note how pond outflow discharges to watercourse also pictured in photo 8.



Photo Taken by: B. Fuller 25 September 2018

photo 8 – Looking east at ephemeral watercourse from where pond discharge enters watercourse.



Photo Taken by: S. Utley 25 September 2018

photo 9 – Looking south *WQ 3* at row of cultivation. Note road constructed on top of fine and loose fill and roadwork spoils.



Photo Taken by: S. Utley 25 September 2018

photo 10 – Looking southeast from north side of greenhouse (*WQ 4*). Note trench in foreground of image drains greenhouse directing flow to the hillslope to the east.



Photo Taken by: S. Utley 25 September 2018

photo 11 – Looking north west from WQ 5 to WQ 4. Note the trench draining the watercourse in the left of the image, cultivation waste is in the right foreground of the image and watercourse pictured in photo 12 is behind the photographer.

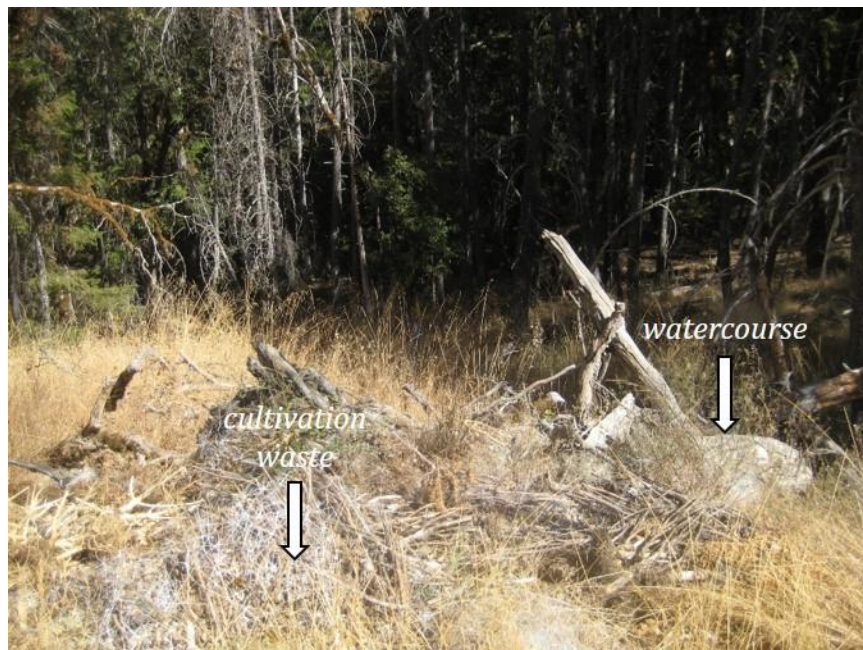


Photo Taken by: B. Fuller 25 September 2018

photo 12 – Looking northeast in the vicinity of WQ 5. Note cultivation waste, including soil-containing roots and plastic netting. Also note ephemeral watercourse in back right of image.



Photo Taken by: S. Utley 25 September 2018

photo 13 – Culvert 20 feet south of cultivation waste pictured in photo 12.



Photo Taken by: S. Utley 25 September 2018

photo 14 – Metal culvert, with an 18inch diameter, on the hillslope northeast of WQ 6.



Photo Taken by: B. Fuller 25 September 2018

photos 15a and 15b – Refuse uncontained at WQ 6.



Photo Taken by: B. Fuller 25 September 2018

photo 16 – Northwestern corner of greenhouse at WQ 7. Note road in the background is susceptible to erosion from stormwater.



Photo Taken by: B. Fuller 25 September 2018

photo 17 – Looking northeast at greenhouse located at WQ7. Pit-toilet in photo 18 is behind the photographer.



Photo Taken by: S. Utley 25 September 2018

photo 18 – Pit-toilet located at WQ 8.



North Coast Regional Water Quality Control Board

TO: Diana Henriouille

FROM: Brian Fuller

DATE: February 11, 2020

Subject: July 02, 2019 Warrant Inspection

Trinity County Assessor's Parcel Number (APN) 018-230-20-00

File: Cannabis Inspections, Trinity County, 2019, 190702 White Lightning 2.5 LLC
018-230-20-00, CIWQS Place ID No. 854514

Property Information

County: Trinity

Physical address: 390 Hale Creek Ridge Road, Mad River

APN: 018-230-20-00

Owner: White Lightning 2.5 LLC
826 P Street, APT B
Eureka, CA 95501

Transaction History (per LandVision): Last recorded sale January 12, 2016; seller Joshua St. Clair

Size: 38.2 acres

Watershed: Mad River Hydrologic Unit; Ruth Hydrologic Area; (HU/HA/HSA 109.40; Table 2-1, Water Quality Control Plan for the North Coast Region).

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 North Coast Regional Water Quality Control Board
(Regional Water Board)**

Site Development:

- No record of permitting for site development.

Applicable programs:

- N/A

Onsite activities/operations:

- 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: July 2, 2019/ morning

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

Attendance:

David Manthorne, Senior Environmental Scientist (ES) Specialist, CDFW
David Rosas, ES, DIV
Steven Hall, ES, DIV
Brian Fuller, Engineering Geologist (EG), Regional Water Board
Adona White, PE, Water Resource Control Engineer, Regional Water Board
Ermias Berhe, EG, Regional Water Board
Amanda Piscitelli, ES, Regional Water Board

Background/Objective:

North Coast Regional Water Board (Regional Water Board) staff participated with personnel from CDFW and the State Water Board's Division of Water Rights (DIV) in the inspection. Objectives for Regional Water Board staff (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

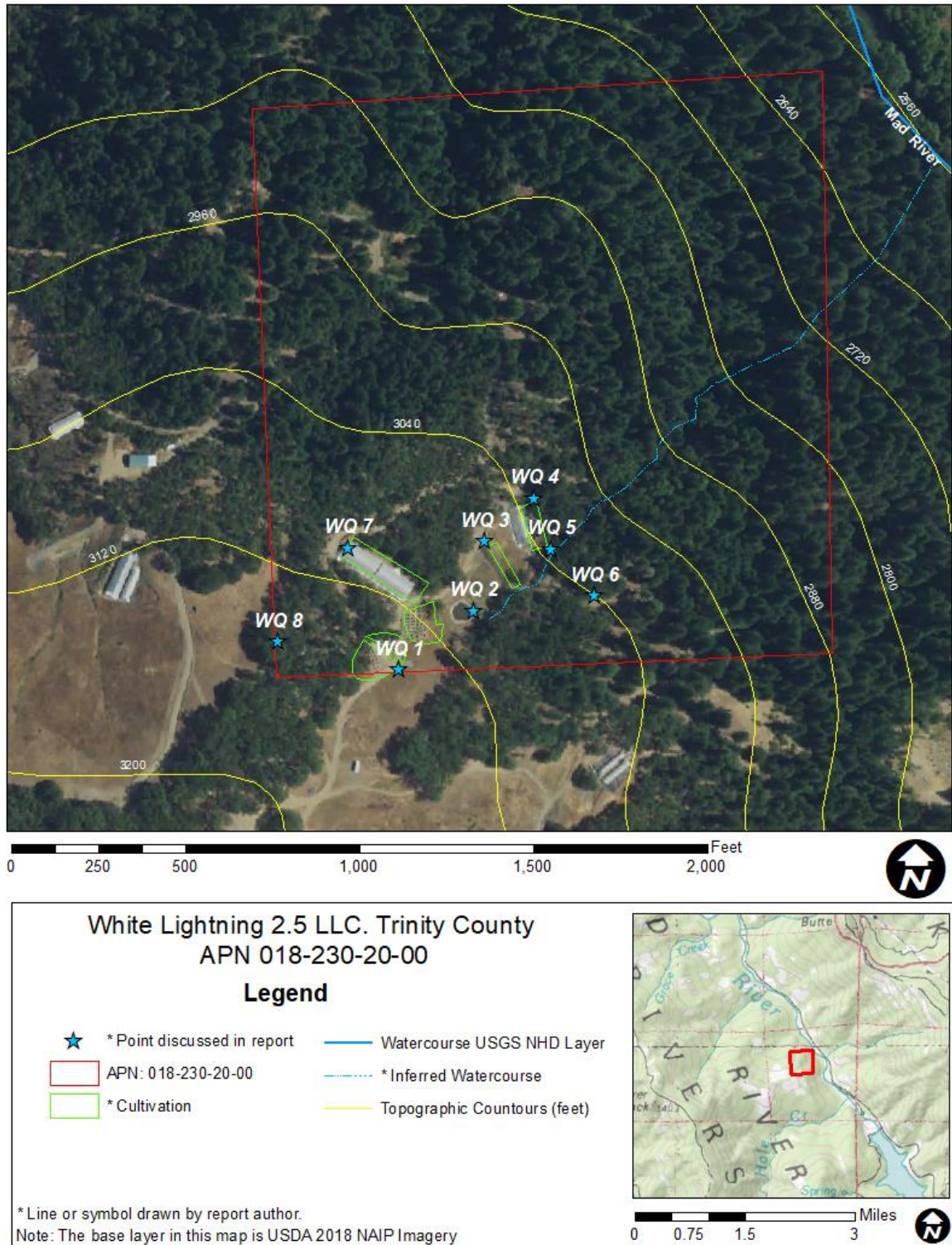


Figure 1: Map of Property, including inspection points of interest

Inspection Observations

On July 2, 2019, I participated in an inspection of the subject Property. I previously inspected the Property on September 25, 2018; this report compares and contrasts site conditions with those I observed and reported in my report for the September 2018 inspection. Figure 1, above, is a site map showing inspection points discussed both in this report and the report for the September 2018 inspection.

During the July 2, 2019 inspection, I observed that rutting in the road at WQ 1 had deepened since the September 2018 inspection (Photo 1). I inspected the hillslope upstream from the pond at WQ2, and I did not identify the channelized watercourse that I had suspected was there during the September 2018 inspection. I observed that the pond water had a thick layer of algae at the surface (Photo 2). The pond drains to a watercourse channel, in which I observed a number of uniform-sized boulders that appeared to have been placed at the pond outfall. I did not observe cannabis plants in the vicinity of WQ 1 or WQ 3 (Photo 5).

I observed cannabis growing in an approximately 3,000-square foot greenhouse at WQ 5 and I observed that cannabis had been growing in 7,000 square feet of greenhouses at WQ 7 (Photo 6 and Photo 8). I observed what appeared to be the same refuse that was present in the September 2018 inspection at WQ 6 (Photo 7). I did not re-inspect the pit-toilet located at WQ 8.

<i>Map point</i>	<i>Feature</i>	<i>Brief Description</i>	<i>Water Quality Concern</i>	<i>Associated Photo(s)</i>
WQ 1	Roads	Roads are steep, and the road surfaces are not sufficiently rocked to minimize erosion	Threatened discharge of waste to receiving waters.	Photo 1
WQ 2	Pond	Pond water is not managed and discharges to receiving waters.	Threatened discharge of waste to receiving waters.	Photo 2
WQ 2	Pond outflow	Watercourse is filled with small boulders where it receives pond outflow.	Unauthorized dredge/fill in surface water.	Photo 3 and Photo 4

<i>Map point</i>	<i>Feature</i>	<i>Brief Description</i>	<i>Water Quality Concern</i>	<i>Associated Photo(s)</i>
WQ 6	Refuse	Refuse uncontained on bare ground.	Threatened discharge of waste to receiving waters.	Photo 7
WQ 5 and WQ 7	Cannabis cultivation area	Estimated 10,000 square foot greenhouse 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 and Photo 8

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 are steep, and the road surfaces are not sufficiently rocked to prevent/minimize erosion. Sediment eroded from the hillslope upstream of the pond at WQ 2 has been transported and delivered via runoff into the pond.
2. Stream crossing maintenance and improvement: The culvert conveying the watercourse under the road south of WQ 5 is old, however I did not observe any scouring or erosion at the inlet or outlet at the culvert. The culvert at WQ 6 appears adequately sized.
3. Riparian and wetland protection and management: The pond at WQ 2 discharges to a watercourse downstream. The greenhouse at WQ 5 is less than 50 feet from this watercourse.
4. Spoils management: During the September 2018 inspection, I observed earthen spoils at WQ 3 where they may be transported via runoff down the road and northeast towards Mad River. The spoils appeared to have dispersed and were stabilized with vegetation during this inspection.
5. Water storage and use: Other than the pond at WQ 2 discussed above, staff did not review water storage and use on the Property.
6. Irrigation runoff: I did not inspect the area where I had observed a trench exiting the

greenhouse at WQ 4 during the September 2018 inspection. I did not observe any water quality concerns associated with irrigation runoff.

7. Fertilizers and soil amendments: I did not review use or storage of fertilizer and soil amendments during this inspection.

8. Pesticides: I did not observe any pesticides on the property.

9. Petroleum products and other chemicals: I did not review use or storage of petroleum products and other chemicals during this inspection.

10. Cultivation-related wastes: I observed waste plastic netting uncontained at WQ 5.

11. Refuse and human waste: During the September 2018 inspection, I observed uncontained refuse at WQ 6 and a pit-toilet located a WQ 8. I observed the same piles of refuse near WQ 6; however, I did not inspect location WQ 8.

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 crossings throughout the parcels 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. As a reference for the goal of this recommendation, review standard conditions 1, 2, 3, and 4 of the regional cannabis order and applicable portions of the statewide cannabis order, or CANGO (see links to these orders below).
- 2) Comply with requirements/directives from CDFW and the Division of Water Rights with respect to appropriate permitting/licensing for water source(s), diversion(s), storage, and use, and ensure that water storage features are modified/maintained so as to minimize the potential for adverse impacts to water quality and beneficial uses. As a reference for the goal of this recommendation, review standard condition 5 of the Regional Water Board Order and relevant portions of the statewide cannabis order, or CANGO (see links to these orders below).
- 3) Remove and properly dispose of all trash, refuse, and cultivation-related waste. As a reference for the goal of this recommendation, review standard conditions 10 and 11 of the regional cannabis order and applicable portions of the statewide

cannabis order, or CANGO (see links to these orders below).

- 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. For more information about Water Board permits that may apply to proposed site development or land use activities, refer to this link:

https://www.waterboards.ca.gov/northcoast/water_issues/programs/permit/

- 5) 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.

The regional cannabis order (Order No. R1-2015-0023) can be found at this link:

https://www.waterboards.ca.gov/northcoast/board_decisions/adopted_orders/pdf/2015/15_0023_Cannabis_Order.pdf

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) can be found at this link:

https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2019/wqo2019_0001_dwq.pdf

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—Looking northeast towards the Mad River from WQ 1. Note steep road with a surface of fine sediment and ruts.



Photo 2—Looking at pond located at WQ 2. Note sediment covering pond liner on upslope side.



Photo 3—Pond outflow discharges to watercourse. Note a relatively uniform distribution of small boulders fill the small headwater channel.



Photo 4—Watercourse downstream from the previous picture. Note transition from boulder filled segment to smaller sediment size downstream.



Photo 5—Historical cultivation area at WQ3. No cannabis growing at this location during this inspection. The roadwork spoils that I had observed the previous year have dispersed.



Photo 6—Looking north at the greenhouse between WQ 4 and WQ 5. Note pile of plastic netting at the right corner of the greenhouse.



Photo 7—Refuse above culvert outlet in the vicinity of WQ 6.



Photo 8—Greenhouse located at WQ 7. The cannabis plants have been cut and piled in bundles.