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## North Coast Regional Water Quality Control Board

February 19, 2020

Ashley Toms  
PO BOX 14,  
Bayside, CA, 95524-0014  
[didgirt@gmail.com](mailto:didgirt@gmail.com)

Certified Mail No. 7016 2710 0000 2653 3494

Dear Ms. Toms:

**Subject: Notice of Violation, Directive to Obtain Regulatory Coverage for Cannabis Cultivation, and Transmittal of Inspection Report for Humboldt County Assessor's Parcel Number 524-114-010-000 and Trinity County Assessor's Parcel Number 008-080-33-00**

**File: Cannabis Program Inspections, Trinity County, August 2019 WET Inspections, CIWQS Place ID: 832687 and 862734**

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.

### **Background**

On August 23, 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 (August 23, 2019 Inspection Report). Please review the inspection report carefully and completely.

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

The inspection report contains recommendations for correcting observed violations and water quality concerns observed on the Property and advises you of the Regional Water Board permits necessary for instream work and projects/activities that result in discharges of waste to receiving waters.

### **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.

### **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**:

- 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.

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.
- (2) The expiration of 140 days after compliance with section 13260
- (3) The issuance of a waiver pursuant to section 13269.

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 August 23, 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 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](mailto: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](mailto: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

200219\_BMF\_dp\_Ashley Toms NOV

Attachments: Attachment A – Regulatory Citations  
Water Quality Report of August 23, 2019 Inspection

**cc: Department of Fish and Wildlife**  
Ryan Bourque, [Ryan.Bourque@wildlife.ca.gov](mailto:Ryan.Bourque@wildlife.ca.gov)

**Humboldt County Planning and Building Department**  
Bob Russell, [RRussell@co.humboldt.ca.us](mailto:RRussell@co.humboldt.ca.us)

**State Water Resources Control Board Division of Water Rights**  
Ryan Babb, [Ryan.Babb@waterboards.ca.gov](mailto:Ryan.Babb@waterboards.ca.gov)  
David Rosas, [David.Rosas@Waterboards.ca.gov](mailto:David.Rosas@Waterboards.ca.gov)

**North Coast Regional Water Quality Control Board**  
Kason Grady, [Kason.Grady@waterboards.ca.gov](mailto:Kason.Grady@waterboards.ca.gov)  
Brian Fuller, [Brian.Fuller@Waterboards.ca.gov](mailto:Brian.Fuller@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> <p style="padding-left: 40px;">(1) The issuance of waste discharge requirements pursuant to Section 13263.</p> <p style="padding-left: 40px;">(2) The expiration of 140 days after compliance with Section 13260 if the waste to be discharged does not create or threaten to create a condition of pollution or nuisance and any of the following applies:.....</p> <p style="padding-left: 40px;">(3) The issuance of a waiver pursuant to Section 13269.”</p>

Regulatory Section	Citation
California Water Code Section 13265(a)	“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.”
California Water Code Section 13350	“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).”

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## North Coast Regional Water Quality Control Board

TO: Diana Henriouille

FROM: Brian Fuller

DATE: February 14, 2020

**Inspection Report for August 23, 2019 Warrant Inspection of Humboldt County Assessor's Parcel Number 524-114-010-000 and Trinity County Assessor's Parcel Number 008-080-33-00**

File: Cannabis Program Inspections, Trinity County, August 2019 WET Inspections, CIWQS Place ID: 832687 and 862734

**Property information:**

Counties: Humboldt and Trinity

Physical address: Unknown address

Humboldt APN: 524-114-010-000

Trinity APN: 008-080-33-00

Owner: Ashley Toms  
P.O. Box 14,  
Bayside, CA, 95524-0014  
[idigdirt@gmail.com](mailto:idigdirt@gmail.com)

Transaction History (per LandVision):

- On January 30, 2015, Ashley Toms purchased the property from South Fork Trinity River LLC.

Size: 144 acres.

Watershed: Trinity River Hydrologic Unit; South Fork Trinity River Hydrologic Area; Grouse Creek Hydrologic Sub Area (HU/HA/HSA 106.21; Table 2-1, Water Quality Control Plan for the North Coast Region).

Aerial Images reviewed on Google Earth Pro:

The well-cover structure was installed between August 23, 2012 and May 28, 2014. The house on the west side and hoop houses on the eastern side of the property appear between May 28, 2014 and May 26, 2016. A 15,000-square foot forested area north of the house was cleared for cannabis cultivation between May 26, 2016 and April 30, 2019.

**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: Discharger Ashley Toms enrolled the property for coverage under Regional Water Board Order No. R1-2015-0023, (Regional Cannabis Order), effective January 11, 2017 to June 30, 2019. No record of transition to the State Water Board Order WQ 2019-0001-DWQ (Statewide General Order).

Applicable programs: Statewide General Order.

**Inspection information:**

Date: August 23, 2019

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

Attendance:

Ryan Bourque, Senior Environmental Scientist (ES) Specialist, CDFW  
David Rosas, ES, State Water Resources Control Board Division of Water Rights (DIV)  
Ryan Babb, Water Resource Control Engineer, DIV  
Brian Fuller, Engineering Geologist (EG), Regional Water Board

Background/Objective:

Regional Water Board staff (staff) participated with personnel from CDFW and the State Water Board's Division of Water Rights (DIV) in the 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**

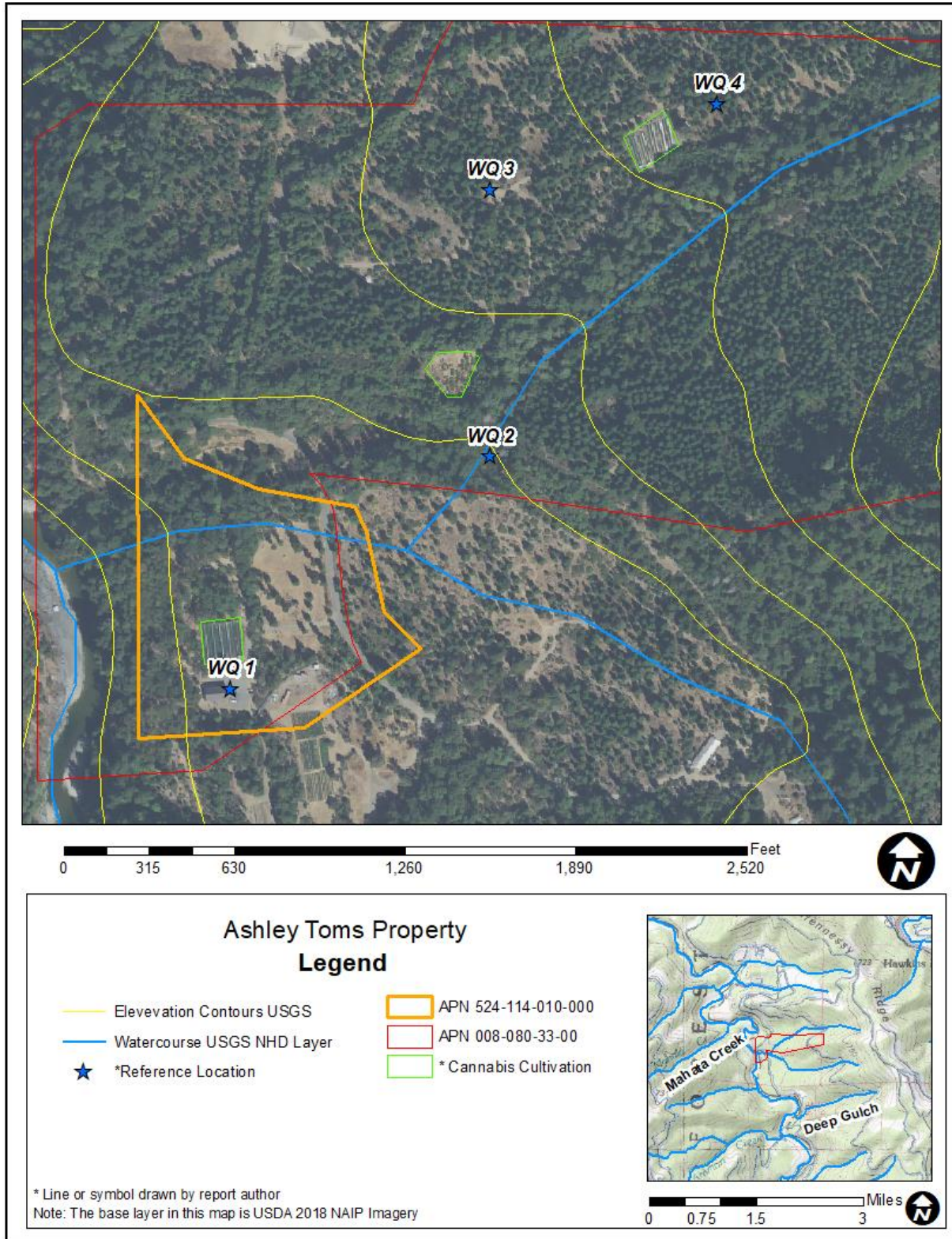


Figure 1: Map of Property, including inspection points of interest.

**Inspection Observations:**

We accessed the property from the north along South Fork Road/Forest Route 5N03 and parked east of the house in the vicinity of WQ 1. There were cannabis cultivation operations occurring immediately east and south of the house, however there was uncertainty about where the property line was, so the area immediately east and south of the house is not covered in this inspection report. I observed an approximately 12,000-square foot cannabis cultivation area north of WQ 1. I observed a row of porta potties at the northeast corner of this cultivation area.

I inspected the northern branch of a tributary to the South Fork Trinity River in the vicinity of WQ 2. The watercourse had an alluvial bedded substrate of small boulders and gravel. I did not look at the location where South Fork Road crosses this watercourse. I also inspected the area around a well at WQ 3 and a pit toilet at WQ 4.

<i>Map point</i>	<i>Feature</i>	<i>Brief Description</i>	<i>Water Quality Concern</i>	<i>Associated Photo(s)</i>
North of WQ 1	Cannabis cultivation area	Approximate 12,000 square feet of cannabis cultivation.	Cannabis cultivation/discharge of waste without a report of waste discharge and/or coverage under State Water Board regulatory order	Photo 2
WQ 4	Pit toilet	Toilet discharges waste to the ground.	Threatened discharge of waste to ground waters.	Photo 4

**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 did not observe water quality concerns associated with site maintenance, erosion control and drainage features.

2. Stream crossing maintenance and improvement:

I did not observe any stream crossings on the property.

3. Stream and wetland buffers:

I did not observe any water quality issues associated with wetland and riparian protection and management.

4. Spoils management: I did not observe any water quality issues associated with spoils management.

5. Water storage and use: I observed a well and tanks at WQ 3. Other than these observations, I did not review water storage and use.

6. Irrigation runoff: I did not observe any water quality issues associated with irrigation runoff.

7. Fertilizers and soil amendments: I did not observe any water quality issues associated with storage or use of fertilizers and soil amendment.

8. Pesticides: I did not identify any pesticides.

9. Petroleum products and other chemicals: I did not observe petroleum products or other chemicals.

10. Cultivation-related wastes: I did not observe any water quality issues associated with storage or disposal of cultivation-related wastes.

11. Refuse and human waste: I observed porta-potties northeast of the cultivation area immediately north of WQ 1, which did not appear to pose a threat to water quality. I observed a pit toilet at WQ 4 which should be decommissioned.

### **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 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/wqo2019\\_0001\\_dwq.pdf](https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2019/wqo2019_0001_dwq.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/](https://www.waterboards.ca.gov/northcoast/water_issues/programs/permit/)

3. Discontinue use of and dismantle any outhouse features and work with 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—Porta-potties northeast of cultivation area at WQ 1.*



*Photo 2—Looking south at cannabis cultivation area located at WQ 1.*



*Photo 3—Watercourse located at WQ 2*



*Photo 4—Pit Toilet located at WQ 4.*