



---

## North Coast Regional Water Quality Control Board

February 24, 2020

MaiaTech LCC  
Attn: Kai Ferrara  
1325 Underhill AVE  
Mckinleyville, CA, 95519  
[MaiaTechLCC@gmail.com](mailto:MaiaTechLCC@gmail.com)

Certified Mail No. 7016 0750 0001 0048 7068

Dear Mr. Ferrara:

**Subject: Notice of Violation of California Water Code (Water Code) sections 13260, 13264, and 13376 and Directive to Modify your Application for Coverage Under the State Water Resources Control Board Order WQ 2019-0000-DWQ General Waste Discharge Requirements for Discharges of Waste Associated with Cannabis Cultivation Activities (CANGO)**

**File:** Cannabis Program Inspections, Trinity County, August 2019 WET Inspections, CIWQS Place ID: 863056, 862742 and 832104

This letter is to notify you of observed violations of California Water Code (Water Code) sections 13260, 13264, and 13376 at the property identified as Humboldt County Assessor's Parcel Number (APN) 524-114-011-000 and Trinity County APN 008-080-34-00 (Property).

**Failure to take corrective action may result in penalties of up to \$1,000 per day.**

### Background

You enrolled the property for coverage under Regional Water Board Order No. R1-2015-0023 (Regional Cannabis Order), effective from January 3, 2017 to June 30, 2019.

On August 23, 2019, Regional Water Board staff participated with personnel from California Department of Fish and Wildlife (CDFW) and the State Water Board's Division of Water Rights (DIV) in a warrant inspection of the Property. 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.

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

Attached is a copy of the water quality inspection report (August 23, 2019 Inspection Report). Please review the inspection report carefully and completely. The inspection report contains recommendations for correcting observed violations and water quality concerns observed on the Property and advises you of the Regional Water Board permits necessary for instream work and projects/activities that result in discharges of waste to receiving waters.

On November 25, 2019, you submitted an application for coverage under the State Water Resources Control Board Order WQ 2019-0000-DWQ General Waste Discharge Requirements for Discharges of Waste Associated with Cannabis Cultivation Activities (CANGO), self-certifying your Property as Tier 1 – Low Risk, which requires, in part, that total disturbed area on an enrolled site is less than 1 acre.

### **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 August 23, 2019 Inspection Report, staff observed at least 1.8 acres of disturbed area used for cannabis cultivation.

### **Legal requirements and directive to reassess and modify application to the CANGO**

In your application for enrollment under the CANGO, in November 2019, you indicated a total cultivation area of 37,575 square feet and a total disturbed area of 37,575 square feet. As a result, you self-certified as Tier 1 Low Risk. However, the cultivation areas and associated land disturbances identified in the August 23, 2019 inspection report exceeded 1.8 acres. Therefore, the Property does not qualify as a Tier 1 – Low Risk site. It is your responsibility, as the applicant for coverage under the CANGO, to correctly classify your Property and ensure that it is enrolled under the appropriate Tier and Risk level.

The CANGO defines land disturbance as including all activities whatsoever associated with developing or modifying land for cannabis cultivation, related activities, or access. Land disturbance activities include, but are not limited to, construction of roads, buildings, water storage areas; excavation, grading, and site clearing. Disturbed land includes cultivation areas, storage areas where soil or soil amendments (e.g., potting soil, compost, or biosolids) are located. All access roads and water crossings that have not been designed, constructed, and maintained consistent with the Handbook for Forest, Ranch, and Rural Roads and Attachment A of the CANGO, are considered disturbed areas, as well.

Pursuant to California Water Code section 13260 and CANGO Provisions C.2.h. and C.2.i, you must modify your application information by doing the following:

**Within 30 days of the date of this letter you must:**

Obtain appropriate coverage under the CANGO, identifying correct tier and risk level based on total site disturbance and any other applicable criteria.

- a. To modify your application, you must handwrite in your selection on pages seven and eight of the enclosed Application Summary and sign and date next to the handwritten change.
- b. Submit a copy of the edited summary to [NorthCoast.Cannabis@waterboards.ca.gov](mailto:NorthCoast.Cannabis@waterboards.ca.gov).

If you fail to take the action outlined above, the Regional Water Board may impose penalties of up to \$1,000 per day, pursuant to Water Code section 13261 for violations of section 13260. In addition, the Regional Water Board Executive Officer may terminate your coverage under the CANGO for cause including, but not limited to, any of the following:

- i. Violation of any of the terms or conditions contained in the CANGO.
- ii. Obtaining the CANGO by misrepresentation, or failure to disclose fully all relevant facts.
- iii. A change in any condition that results in either a temporary or permanent need to reduce or eliminate the authorized discharge activities.
- iv. A material change in the activity, character, location, or volume of discharge.
- v. Adoption of a TMDL amendment, new TMDL, or TMDL alternative.

**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.

### 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.Henriouille@waterboards.ca.gov](mailto: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

200224\_BMF\_dp\_Ferrara NOV

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

Enclosure: Application Summary

**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**  
Robert 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)

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> <p>(1) The issuance of waste discharge requirements pursuant to Section 13263.</p> <p>(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>(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 13376	“A person who discharges pollutants or proposes to discharge pollutants to the navigable waters of the United States within the jurisdiction of this state or a person who discharges dredged or fill material or proposes to discharge dredged or fill material into the navigable waters of the United States within the jurisdiction of this state shall file a report of the discharge in compliance with the procedures set forth in Section 13260.”
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).”

---

## North Coast Regional Water Quality Control Board

TO: Diana Henriouille

FROM: Brian Fuller

DATE: February 18, 2020

**Inspection Report for August 23, 2019 Warrant Inspection of Humboldt County Assessor's Parcel Number 524-114-011-000 and Trinity County Assessor's Parcel Number 008-080-34-00**

File: Cannabis Program Inspections, Trinity County, August 2019 WET Inspections, CIWQS Place ID: 863056, 862742 and 832104

**Property information:**

Counties: Humboldt and Trinity

Physical address: Unknown address

Humboldt APN: 524-114-011-000

Trinity APN: 008-080-34-00

Owner: Kai Ferrara  
1325 Underhill AVE  
Mckinleyville, CA, 95519  
[MaiaTechLCC@gmail.com](mailto:MaiaTechLCC@gmail.com)

Transaction History (per LandVision):

- On January 30, 2015 Kai Ferrara 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).

**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 Kai Ferrara enrolled the property for coverage under Regional Water Board Order No. R1-2015-0023, (Regional Cannabis Order), effective January 3, 2017 to June 30, 2019. On November 25, 2019, Kai Ferrara submitted an application for the State Water Board Order WQ 2019-0001-DWQ (Statewide General Order) as a Tier 1 – Low Risk. The NOA is being held pending approval from Humboldt County.

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 Resources Control Engineer (WRCE), 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**

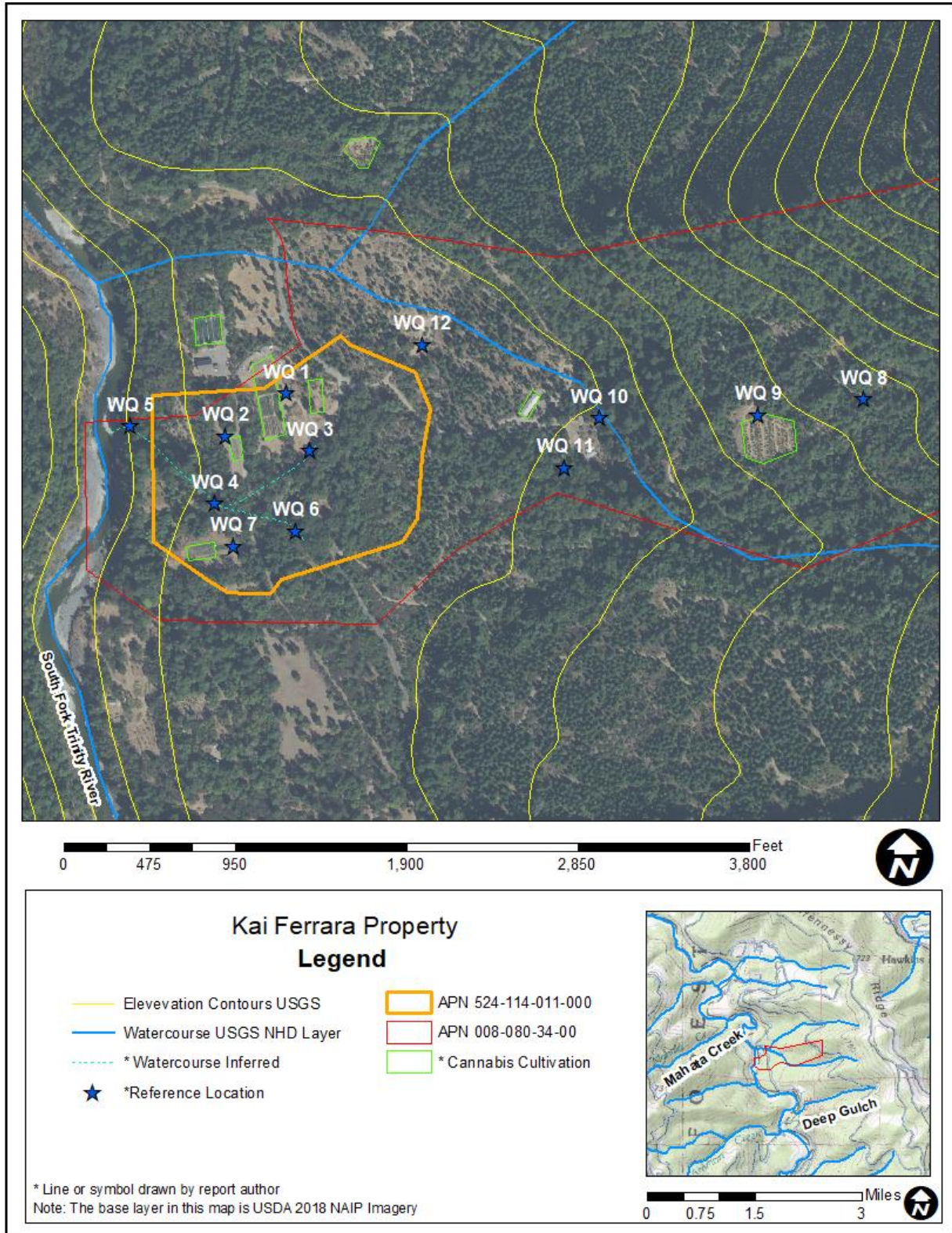


Figure 1: Map of Property, including inspection points of interest.

### **Inspection Observations:**

On August 23, 2019, I inspected the above-referenced property. Figure 1, above, shows inspection points discussed below.

We accessed the property from the north along South Fork Road/Forest Route 5N03 and parked east of an approximate 32,000-square foot cultivation area at WQ 1 (Photo 1 and Photo 2). I observed many greenhouses with growing cannabis plants or under preparation for planting. I walked to an approximately 8,000-square foot cannabis cultivation area to WQ 2 (Photo 3), and I observed potting soil (Photo 4) and refuse (Photo 5) left uncontained on bare ground. I observed uncontained chemical containers at the fertilizer mixing area (Photo 6).

I walked back to the parking area and down a road heading southwest. At inspection point WQ 3, I observed the inlet of a culvert that appeared to be adequately sized at (Photo 7), but I did not investigate the culvert outlet. I continued down the road, which had a surface of fine sediment, and at inspection point WQ 4, I noticed fuel cans on the side of the road, and a footpath (Photo 8) that hydrologically connected the road to the watercourse below the footpath. The footpath led to a point where the watercourse was being diverted (Photo 9). I went back to the road and walked to the right bank of the South Fork Trinity River and walked to the location where the watercourse arrived at the floodplain of the river at WQ 5 (Photo 10).

I returned to the road and observed an approximately 8,000-square foot cannabis cultivation area at WQ 7 (Photo 11). In this area, I observed trashcans that were being used to mix fertilizers. The trashcans were sitting on a board balanced on 5-gallon buckets, and appeared prone to spillage (Photo 12). I returned to the road and observed a swale passing across a duff-covered road south of WQ 6. The swale channelizes, then enters an 8" culvert passing below the main road (Photo 13).

I walked back to WQ 1 and traveled east up a road to water tanks and a nutrient mixing area at inspection point WQ 8 (Photo 14). I walked back down the road and observed an approximately 26,000-square foot cannabis cultivation area at WQ 9 (Photo 15). I continued west to WQ 10, and observed a bucket of waste oil (Photo 16), uncontained refuse (Photo 17), and a human habitation area (Photo 18). To the south, I observed more uncontained refuse at WQ 11 (Photo 19) near to what appeared to be a dry riverbed (Photo 20). To the west of WQ 10, I observed an approximately 4,000-square foot cultivation area.

I continued to WQ 12 and observed a large area that appeared to be in the process of being cleared for some sort of development (Photo 21). I also observed a well at WQ 12 (Photo 22).

<i>Map point</i>	<i>Feature</i>	<i>Brief Description</i>	<i>Water Quality Concern</i>	<i>Associated Photo(s)</i>
WQ 1, WQ 2, WQ 7, WQ 9 and west of WQ 10	Cannabis cultivation areas	Approximately 1.8 acres of outdoor cannabis cultivation	Cannabis cultivation/discharge of waste without a report of waste discharge and/or coverage under State Water Board regulatory order	Photo 1, Photo 3, Photo 11, and Photo 15
WQ 2	Potting soils	Potting soils are uncovered and on bare ground.	Threatened discharge of waste to receiving waters	Photo 4
WQ 7	Fertilizer mixing areas	Fertilizers are mixed on an unstable stand on bare ground, and risk spilling.	Threatened discharge of waste to receiving waters	Photo 12
WQ 10	Waste oil	Waste oil stored in a closed bucket on bare ground.	Threatened discharge of waste to receiving waters	Photo 16
WQ 2, WQ 10, and WQ 11	Refuse	Refuse in small piles left uncontained on bare ground.	Threatened discharge of waste to receiving waters	Photo 5, Photo 17, and Photo 19

**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:

Cultivation areas approximate native slopes and appeared stable. The road at WQ 3 was hydrologically-connected to the watercourse to the north.

2. Stream crossing maintenance and improvement:

The culvert at WQ 3 may be adequately sized. I did not inspect the outlet and cannot say whether it is aligned appropriately. The watercourse at WQ 6 is shallow, so a larger culvert may not be appropriate. Armoring the road in this location may limit erosion of the road surface.

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 the point of diversion at WQ 4 and water storage tanks at WQ 8. 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: Potting soils were left uncontained on bare ground at WQ 2. Chemicals were being mixed in a precarious setup at WQ 7 which might result in a spill.

8. Pesticides: Staff did not identify any pesticides.

9. Petroleum products and other chemicals: Waste oil at WQ 10 had been sitting outdoors long enough to collect leaf litter on the lid.

10. Cultivation-related wastes: I observed soil bags among uncontained refuse at WQ 11. Chemicals were being mixed above bare ground at WQ 7, in a manner that could result in a spill as discussed above.

11. Refuse and human waste: I observed uncontained refuse at WQ 2, WQ 10, and WQ 11. I observed human waste being collected in a bucket at WQ 10, which may be a problem depending on how the bucket is disposed of.

## **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, watercourse crossings, and cultivation areas throughout the Property 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.
2. Modify enrollment under the Statewide General Order to reflect actual disturbed and cultivation areas. The Statewide General Order defines land disturbance as including all activities whatsoever associated with developing or modifying land for cannabis cultivation, related activities, or access. Land disturbance activities include, but are not limited to, construction of roads, buildings, water storage areas; excavation, grading, and site clearing. Disturbed land includes cultivation areas, storage areas where soil or soil amendments (e.g., potting soil, compost, or biosolids) are located. All access roads and water crossings that have not been designed, constructed, and maintained consistent with the Handbook for Forest, Ranch, and Rural Roads and Attachment A of the Statewide General Order, are considered disturbed areas, as well.
  - a. To modify enrollment, you must handwrite in your selection on pages seven and eight of the enclosed Application Summary and sign and date next to the handwritten change.
  - b. Submit a copy of the edited summary to  
NorthCoast.Cannabis@waterboards.ca.gov.

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)

3. 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/)

4. Discontinue use of and dismantle any outhouse features and work with the appropriate County to ensure that all domestic and human wastes are collected and disposed of consistent with applicable County requirements.
5. Collect and dispose of or contain all refuse and cultivation-related wastes in a location and manner so as to minimize potential for these wastes to enter or be transported into receiving waters.
6. Store and contain all chemicals, including petroleum, fertilizer and/or pesticides properly to prevent spillage and discharge to receiving waters. Provide secondary containment for all petroleum products.

**Enforcement Discretion:**

The observations in this report will be assessed for violations of the California Water Code. The Regional Water Board and the State Water Board reserve the rights to take any enforcement action authorized by law.

**PHOTO APPENDIX**



*Photo 1—Cannabis cultivation area in the vicinity of WQ 1.*



*Photo 2—Fertilizer mixing area in the vicinity of WQ 1.*



*Photo 3—Cannabis cultivation area in the vicinity of WQ 2.*



*Photo 4—Potting soils uncontained at the edge of the cultivation area at WQ 2.*



Photo 5—Uncontained refuse in the vicinity of WQ 2.



Photo 6— Fertilizer mixing area in the vicinity of WQ 2.



*Photo 7—Inlet to culvert located at WQ 3. The upstream gradient is shallow and the culvert diameter is close to that of the channel width. The culvert is not aligned with the watercourse upstream and the bank has eroded upstream from the culvert inlet.*



*Photo 8—Trail leading to point of diversion at WQ 4. The footpath hydrologically connects the road to the watercourse.*



*Photo 9—Lid to box can be seen in the middle of the image. The box was placed in an excavated hole in the stream bed to facilitate the diversion at WQ 4.*



*Photo 10—Watercourse entering the flood plain at the right bank of the South Fork Trinity River at WQ 5.*



*Photo 11—Looking west at cannabis cultivation area located at WQ 7.*



*Photo 12—Fertilizer mixing tanks located at WQ 7.*



*Photo 13—Looking upstream in the vicinity of WQ 6. The picture shows an ephemeral watercourse before it passes over a less-used road and through an 8" culvert below the main road. The culvert bends the watercourse to cross the road over a shorter length before discharging along the side of the road.*



*Photo 14—Water tanks at and fertilizer mixing tanks at WQ 8.*



*Photo 15—Cultivation area at WQ 9*



*Photo 16—Waste motor oil at WQ 10. Note the lid is covered with leaf litter suggesting it has been there for a while.*



*Photo 17—Uncontained refuse at WQ 10*



*Photo 18—Toilet and shower at WQ 10. Human waste is collected in a bucket.*



*Photo 19—Uncontained refuse, including soil bags, at WQ 11. Refuse is adjacent to a dry watercourse pictured in the foreground of the image and in below.*



*Photo 20—Dry watercourse located in the vicinity of WQ 11.*



*Photo 21—Hummocky ground from recent earthwork suspected grading for cannabis cultivation in the vicinity of WQ 12.*



*Photo 22—Monitoring well located at WQ 12*