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GOVERNOR



JARED BLUMENFELD
SECRETARY FOR
ENVIRONMENTAL PROTECTION

North Coast Regional Water Quality Control Board

October 21, 2020

Vang and Pao Yang
217 Samburu Street,
Pontiac, MI, 48341-1063

Certified Mail No. 7016 2710 0000 2653 2855

Dear Vang and Pao Yang:

Subject: Notice of Violation, Directive to Obtain Regulatory Coverage for Cannabis Cultivation, and Transmittal of Inspection Report for June 27, 2019 and July 20, 2020 Inspections of Humboldt County Assessor's Parcel Nos. 210-191-035-000 and 210-191-036-000

File: Cannabis Inspections, Humboldt County, 2019, Vang and Pao Yang, APN 210-191-035-000 and 210-191-036-000
CIWQS Place ID No. 863115

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

California Water Code (Water Code) sections 13260 and 13264

This letter directs you, within 30 days, to take action to comply with Water Code 13260. In addition, this letter directs you, within 30 days, to contact Regional Water Board staff to advise of your plan to implement recommendations in the attached report.

Background

On June 27, 2019, and July 20, 2020, staff from the North Coast Regional Water Quality Control Board (Regional Water Board), accompanied by personnel from Humboldt County, the California Department of Fish and Wildlife (CDFW), and various law enforcement agencies, inspected the subject Property. The purpose of both inspections 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.

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

Attached is a copy of the water quality inspection report (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 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 violation of the Water Code warrants 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 evidence of payment 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 Inspection Report provides recommendations to correct violations, as well as to address features and conditions that threaten to impact water quality. **Within 30 days of this letter**, please advise Brian Fuller of your intentions, plan, and schedule to implement recommendations in the inspection report. Brian Fuller can be reached at (707) 576-2806 or by email at Brian.Fuller@waterboards.ca.gov.

Future correspondence regarding this matter will be sent to you at this address unless an alternative address is provided to the Regional Water Board. Failure to accept mail from the Regional Water Board is not a valid excuse for non-compliance with any future enforcement orders, and a failure to respond or otherwise appear at a future enforcement proceeding could subject you to a default order and the imposition of administrative civil liability.

If you have any questions regarding this matter, please contact Brian Fuller at the phone number or email above. You may also contact me at Diana.Henriouille@waterboards.ca.gov. Additionally, we are available to meet with you if you wish to discuss this letter, the inspection report, or our waste discharge regulatory programs in further detail.

Sincerely,

Diana Henriouille, P.E.
Enforcement Unit

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Attachments: Attachment A – Regulatory Citations
Water Quality Report of Inspection

cc: Department of Fish and Wildlife

Ryan Bourque, Ryan.Bourque@wildlife.ca.gov
Warden Bradley Padilla, Bradley.Padilla@wildlife.ca.gov

Humboldt County Planning and Building Department

Brady Wiley, BWiley@co.humboldt.ca.us
Robert Russell, RRussell@co.humboldt.ca.us

North Coast Regional Water Quality Control Board

Kason Grady, Kason.Grady@waterboards.ca.gov
Brian Fuller, Brian.Fuller@Waterboards.ca.gov

State Water Resources Control Board Division of Water Rights

Chris Van de Wyngard, Christopher.VandeWyngard@Waterboards.ca.gov
David Rosas, David.Rosas@Waterboards.ca.gov
Stormer Feiler, Stormer.Feiler@waterboards.ca.gov

Attachment A – Regulatory Citations

Regulatory Section	Citation
California Water Code Section 13260	<p>“(a) Each of the following persons shall file with the appropriate regional board a report of the discharge, containing the information that may be required by the regional board:</p> <p>(1) A person discharging waste, or proposing to discharge waste, within any region that could affect the quality of the waters of the state, other than into a community sewer system.</p> <p>(2) A person who is a citizen, domiciliary, or political agency or entity of this state discharging waste, or proposing to discharge waste, outside the boundaries of the state in a manner that could affect the quality of the waters of the state within any region.”</p>
California Water Code Section 13261(a)	<p>“A person who fails to furnish a report or pay a fee under Section 13260 when so requested by a regional board is guilty of a misdemeanor and may be liable civilly in accordance with subdivision (b).”</p>
California Water Code Section 13264 (a)	<p>“No person shall initiate any new discharge of waste or make any material changes in any discharge, or initiate a discharge to, make any material changes in a discharge to, or construct, an injection well, prior to the filing of the report required by Section 13260 and no person shall take any of these actions after filing the report but before whichever of the following occurs first:</p> <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 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: October 8, 2020

**June 27, 2019 and July 20, 2020 Warrant Inspections
Humboldt County Assessor's Parcel Numbers (APNs) 210-191-035-000 and
210-191-036-000**

File: Cannabis Inspections, Humboldt County, 2019, Vang and Pao Yang,
APN 210-191-035-000 and 210-191-036-000, CIWQS Place ID No. 863115,

Property Information

County: Humboldt

Physical address: No physical address

APN: 210-191-035-000 and 210-191-036-000 (the Property)

Owner: Vang and Pao Yang
217 Samburu ST, MI, 48341-1063

Transaction History (per LandVision): Vang and Pao Yang purchased the Property from Marvin and Anita Salsberg on April 8, 2016.

Size: the two parcels combined cover 20 acres

Watershed:

Eel River Hydrologic Unit; Van Duzen River Hydrologic Area Bridgeville Hydrologic Subarea (HU/HA/HSA 111.22; Table 2-1, Water Quality Control Plan for the North Coast Region).

Aerial imagery:

Aerial imagery available on Digital Maps' Land Vision service shows a single hoop-type greenhouse was constructed on the north-south trending ridge on the southern parcel between November 4, 2015 and June 2, 2016. In imagery dated June 2, 2016, patterns consistent with cannabis cultivation can be seen north and east of the hoop house on

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the southern parcel. In imagery dated July 28, 2016, patterns consistent with cannabis cultivation can be seen north on the northern parcel, north of the Van Duzen River.

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 either inspection.]

Inspection information:

Date/time:

- June 27, 2018/ morning
- July 20, 2019/ morning

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

Attendance:

June 27, 2019

Adona White, Water Resources Control Engineer (WRCE), Regional Water Board
Ryan Bourque, Senior Environmental Scientist (ES) Specialist, CDFW
David Rosas, ES, State Water Board's Division of Water Rights (DIV)
Christopher Van de Wyngard, WRCE, DIV
Marlen Richmond, Humboldt County Code Enforcement

July 20, 2020

Brian Fuller, Engineering Geologist (EG), Regional Water Board
Ryan Bourque, Senior Environmental Scientist (ES) Specialist, CDFW
Brady Wiley, Humboldt County Code Enforcement

Background/Objective:

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

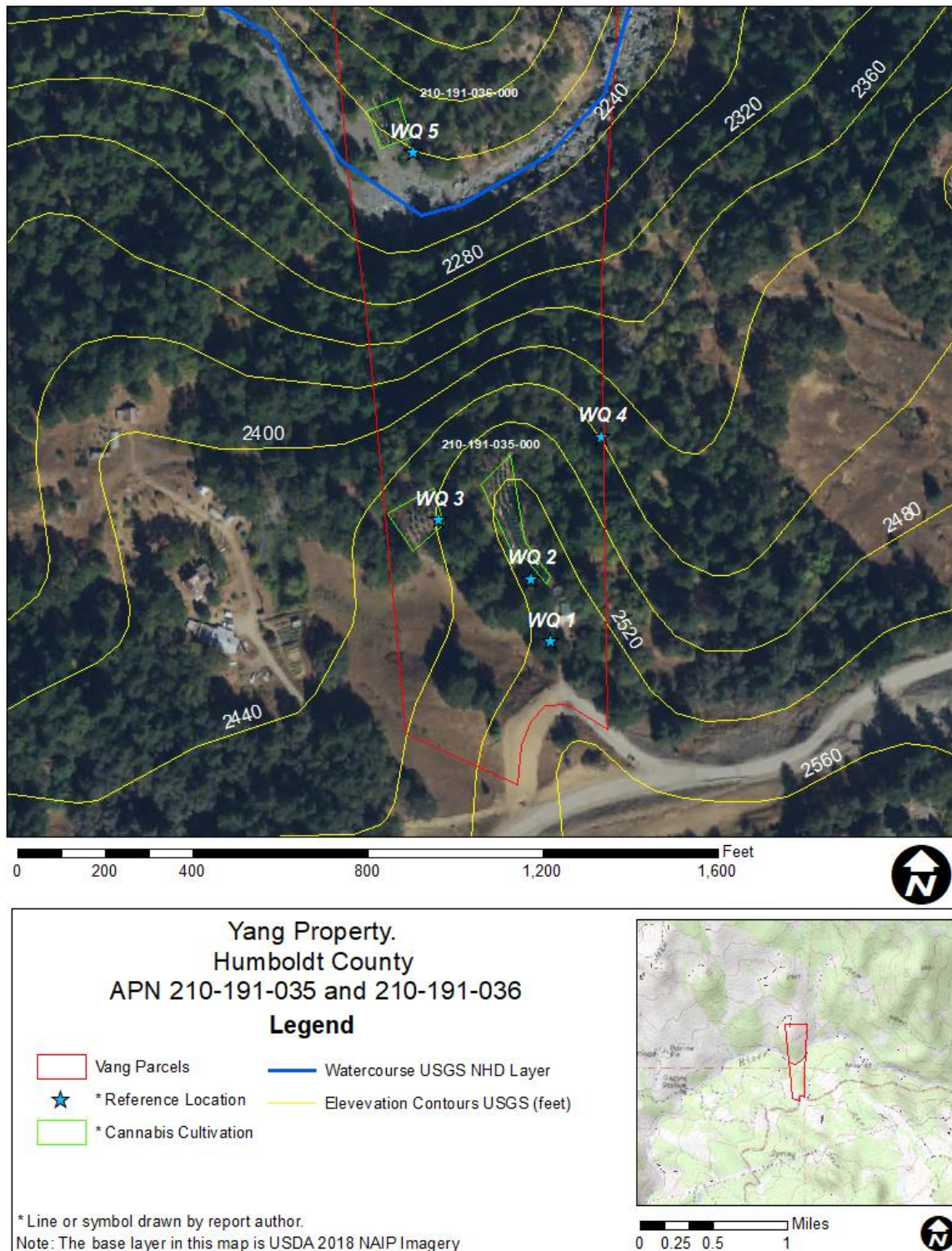


Figure 1: Map of Property, including inspection points of interest.

Inspection Observations

Figure 1, above, shows inspection points identified and discussed in this report. On June 27, 2019, staff observed: a flush toilet discharging to ground (Photo 1 and Photo 2) at WQ 1; uncontained fertilizers, outdoor cannabis cultivation and cannabis cultivation waste (Photo 3, Photo 4 and Photo 5) at WQ 2; outdoor cannabis cultivation and cannabis cultivation waste (Photo 6 and Photo 7) at WQ 3; and water diverted from the Van Duzen River (Photo 8) stored in an above ground pool (Photo 9) and a waste motor oil container (Photo 10) in the vicinity of WQ 4.

On July 20, 2020, staff again observed: a flush toilet discharging to ground at WQ 1 (Photo 11 and Photo 12); staff also observed uncontained fuels at WQ 1 (Photo 13) at WQ 1. At WQ 2, staff again observed uncontained fertilizers, outdoor cannabis cultivation and cannabis cultivation waste (Photo 14, Photo 15 and Photo 16). Staff did not visit WQ 3. At WQ 4, staff again observed water storage in an above ground pool (Photo 17), as well as a waste motor oil container (Photo 18). Staff observed an inactive cultivation area, WQ 5, with and refuse and cultivation waste (Photo 19 and Photo 20).

<i>Map point</i>	<i>Feature</i>	<i>Brief Description</i>	<i>Water Quality Concern</i>	<i>Associated Photo(s)</i>
WQ 1	toilet shed	refuse and unpermitted toilet discharging to ground	threatened discharge of waste to receiving waters	Photo 1, Photo 2, Photo 11, and Photo 12,
WQ 2 and WQ 3	outdoor cannabis cultivation area.	a half-acre total 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 4, Photo 6, and Photo 15
WQ 1, WQ 2, WQ 3 and WQ 4	combined habitation, fertilizer storage and cultivation areas	uncontained fuels, fertilizers and other chemicals	threatened discharge of waste to receiving waters	Photo 3, Photo 10, Photo 13, and Photo 18

<i>Map point</i>	<i>Feature</i>	<i>Brief Description</i>	<i>Water Quality Concern</i>	<i>Associated Photo(s)</i>
WQ 5	inactive cannabis cultivation area	cannabis cultivation waste, within the seasonal floodplain of the Van Duzen River.	threatened discharge of waste to receiving waters	Photo 19 and Photo 20

A comparison of conditions observed on the site with categories of activities typically associated with water quality concerns at cannabis cultivation sites:

1. Site maintenance, erosion control and drainage features:

Staff did not observe significant threats to water quality associated with site maintenance, erosion control or drainage features.

2. Stream crossing maintenance and improvement:

Staff did not observe any areas where roads crossed watercourses on the property.

3. Riparian and wetland protection and management:

Waste from historical cannabis cultivation in the vicinity of WQ 5 threatens to discharge to the Van Duzen River during a large flow event.

4. Spoils management:

Other than waste potting soils left at WQ 5, staff did not observe water quality issues associated with spoils management.

5. Water storage and use:

Water diverted from the Van Duzen river was being stored in an above ground pool at WQ 4.

6. Irrigation runoff:

Staff did not observe significant threats to water quality associated with irrigation runoff.

7. Fertilizers and soil amendments:

Staff observed fertilizers and soil amendments uncontained at WQ 2 and WQ 3.

8. Pesticides:

Staff did not observe pesticides on the property.

9. Petroleum products and other chemicals:

Staff observed fuel cans, uncontained, on the bare ground at WQ 1.

10. Cultivation-related wastes:

Staff observed cultivation waste at location(s) and in condition(s) that pose a threat to water quality at WQ 2 and WQ 3.

11. Refuse and human waste:

Staff observed uncontained refuse and human waste discharged to ground without a permitted septic system at WQ 1.

Recommendations

1. Discontinue use of and dismantle any outhouse or pit-toilet features and work with Humboldt County to ensure that all domestic and human wastes are collected and disposed of consistent with applicable County requirements.
2. 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.
3. Store and contain all chemicals, including petroleum, and fertilizer properly to prevent spillage and discharge to receiving waters. Provide secondary containment for all petroleum products.
4. 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.
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 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

6. 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/

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 1—Taken June 27, 2019, flush toilet located at WQ 1.



Photo 2—Taken June 27, 2019, plastic pipe leaving shed containing flush toilet and discharging to ground at WQ 1.



Photo 3—Taken June 27, 2019, uncontained fertilizers and liquid soil amendments in the vicinity of WQ 2.



Photo 4—Taken June 27, 2019, cannabis plants growing outdoors in raised beds in the vicinity of WQ 2.



Photo 5—Taken June 27, 2019, plant stalks and other cannabis cultivation waste on the edge of cultivation area located in the vicinity of WQ 2.



Photo 6—Taken June 27, 2019, Cannabis plants growing in raised beds in the vicinity of WQ 3.



Photo 7—Taken June 27, 2019, uncontained cannabis cultivation waste including soil bags and plastic netting in the vicinity of WQ 3.



Photo 8—Taken June 27, 2019, shows water line leading from the Van Duzen to water storage located at WQ 4 pictured in Photo 9 below.



Photo 9—Taken June 27, 2019, water storage in above ground pool at WQ 4.



Photo 10—Taken June 27, 2019, waste motor oil container uncontained on bare ground in the vicinity of WQ 4.



Photo 11—Taken July 20, 2020, plastic pipe leaving shed containing flush toilet and discharging to ground at WQ 1.

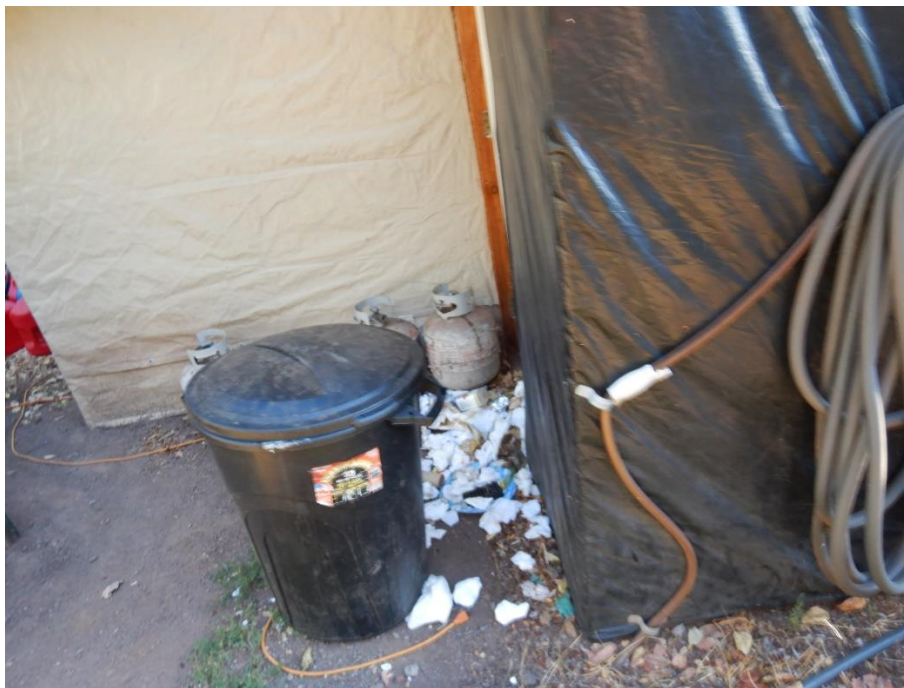


Photo 12—Taken July 20, 2020, uncontained refuse behind shed at WQ 1.



Photo 13—Taken July 20, 2020, uncontained fuel containers behind shed at WQ 1.



Photo 14—Taken July 20, 2020, uncontained cannabis cultivation waste including plastic netting in the vicinity of WQ 2.



Photo 15—Taken July 20, 2020, cannabis cultivation in the vicinity of WQ 2.



Photo 16—Taken July 20, 2020, uncontained cannabis cultivation waste including liquid nutrient container and plastic netting in the vicinity of WQ 2.



Photo 17—Taken July 20, 2020, water storage in above ground pool at WQ 4.



Photo 18—Taken July 20, 2020, waste motor oil container, uncontained, on bare ground in the vicinity of WQ 4.



Photo 19—Taken July 20, 2020, cannabis cultivation waste at WQ 5 within 100 feet of the Van Duzen river.



Photo 20—Taken July 20, 2020, cannabis cultivation waste including soil-filled felt planting pots and a capped five-gallon bucket with unknown contents in the vicinity of WQ 5.