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## North Coast Regional Water Quality Control Board

December 14, 2020

Certified Mail No. 7016 2710 0000 2653 3067

Meghan Moody  
PO Box 4312  
Arcata, CA 95521  
[meghan4truth@gmail.com](mailto:meghan4truth@gmail.com)

Dear Meghan Moody,

**Subject: Notice of Violation and Transmittal of Inspection Report for March 24, 2020 Inspection of Humboldt County Assessor's Parcels 208-221-008, 208-221-015, and 208-221-016**

**File:** Cannabis Program Inspections, Humboldt County, March 2020 Humboldt County Inspections, CIWQS Place ID 824460

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):

1. California Water Code (Water Code) section 13264
2. Federal Clean Water Act Section 301 (a), 401 and 404.

A number of these features and conditions are also inconsistent with The State Water Resources Control Board Order WQ 2019-0001-DWQ General Waste Discharge Requirements and Waiver Of Waste Discharge Requirements For Discharges Of Waste Associated With Cannabis Cultivation Activities.

Please provide us with a plan and schedule to address the Recommendations in the enclosed inspection report within 30 days of the date of this letter.

### Background

Effective February 12, 2016, parcels 208-221-008, 208-221-015, and 208-221-016 were enrolled under Regional Cannabis Order R1-2015-0023 as Tyler Meenan (TRC19). The site was transferred to Meghan Moody effective June 24, 2019. Effective July 1, 2019, the site was transitioned into State Cannabis Order WQ 2019-0001-DWQ.

On March 24, 2020, staff from the Regional Water Board inspected portions of parcels 208-221-008, 208-221-015, and 208-221-016 for compliance with State Cannabis Order

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

March 24, 2019 Inspection

Humboldt Co. APN 208-221-008, 208-221-015, and 208-221-016

CIWQS Place ID. 824460

2019-0001-DWQ. The purpose of the inspection was to evaluate onsite development and conditions associated with cannabis cultivation and associated activities and, for Regional Water Board staff to identify and assess any impacts or threatened impacts to the quality and beneficial uses of waters of the state.

Staff have not received a Site Management Plan for this property.

### **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 enclosed inspection report, Regional Water Board staff observed violations of the California Water Code 13264 (a), Federal Clean Water Act Section 301 (a), Federal Clean Water Act Section 401, and Federal Clean Water Act Section 404. In addition, staff observed violations of the State Cannabis Order Attachment A, Section 1 - General Requirements and Prohibitions #25-27, 29, 32, and 37; Section 2 - Requirements Related to Water Diversions and Waste Discharge for Cannabis Cultivation #8, 12, 15, 17, 22, 26, 31, 49-52, 56, 59, 62, 63, 82, 85, 87, 88, 95, and 119.

Staff observed these violations at Property locations identified in the inspection report as MR1-MR3, MR4-MR9, MR11-MR17, and MR19-MR23.

### **Additional Potential Liabilities**

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

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 March 24, 2020 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 Kate Hawken of your intentions, plan, and schedule to implement recommendations in the inspection report. Ms. Hawken can be reached by email at [Katherine.Hawken@waterboards.ca.gov](mailto:Katherine.Hawken@waterboards.ca.gov) or by phone at (707) 445-6127.

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 Kate Hawken at the phone number or email above. You may also contact her supervisor, Mona Dougherty at [Mona.Dougherty@waterboards.ca.gov](mailto:Mona.Dougherty@waterboards.ca.gov) or (707) 445-6129. 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  
Senior Water Resources Control Engineer  
Enforcement Unit

201214\_KEH\_er\_Mad River Family Farms\_NOV

Enclosures: Attachment A – Regulatory Citations  
Water Quality Inspection Report

Certified Mail – Return Receipt requested

**cc: California Department of Fish and Wildlife**  
Northern Coastal Region, [r1lsaeureka@wildlife.ca.gov](mailto:r1lsaeureka@wildlife.ca.gov)

**Division of Water Rights**  
Stormer Feiler, [Stormer.Feiler@waterboards.ca.gov](mailto:Stormer.Feiler@waterboards.ca.gov)

**North Coast Regional Water Quality Control Board**  
Kason Grady, [Kason.Grady@waterboards.ca.gov](mailto:Kason.Grady@waterboards.ca.gov)  
Diana Henriouille, [Diana.Henriouille@waterboards.ca.gov](mailto:Diana.Henriouille@waterboards.ca.gov)

**Humboldt County**  
Planning Department, [PlanningBuilding@co.humboldt.ca.us](mailto:PlanningBuilding@co.humboldt.ca.us)

## Attachment A – Regulatory Citations

Regulatory Section	Citation
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>
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>

Regulatory Section	Citation
Federal Clean Water Act Section 301 (a)	<p>Section 301(a) provides that except as in compliance with this section [301] and section 1342 and 1344 of the Clean Water Act, “the discharge of any pollutant by any person shall be unlawful.” 33 U.S.C. § 1311(a). The relevant exceptions allowed for under the Clean Water Act are the discharge of dredged and fill material into navigable waters pursuant to section 404 or the discharge of any pollutant to navigable waters from any point source pursuant to section 402 of the Clean Water Act. The Clean Water Act prohibits the discharge of any pollutant from a point source into waters of the United States without a section 402 permit and/or prohibits the discharge of dredge and fill material without a section 404 permit and a section 401 state water quality certification.</p>
Federal Clean Water Act Section 401	<p>Section 401 (a)(1) “Any applicant for a Federal license or permit to conduct any activity including, but not limited to, the construction or operation of facilities, which may result in any discharge into the navigable waters, shall provide the licensing or permitting agency a certification from the State in which the discharge originates”</p>
Federal Clean Water Act Section 404	<p>Section 404(a) provides, in relevant part, “The Secretary may issue permits...for the discharge of dredged or fill material into the navigable waters...” The Code of Federal Regulations defines the term “dredged material” as material that is excavated or dredged from waters of the United States. 33 C.F.R. § 323.2(c). The phrase “discharge of dredged material” means any addition of dredged material into the waters of the United States. 33 C.F.R. § 323.2(d)(1). The Code of Federal Regulations defines “fill material” as material placed in waters of the United States that has the effect of replacing any portion of a water of the United States with dry land or changing the bottom elevation of any portion of a water of the United States. 33 C.F.R. § 323.2(e)(1). The phrase “discharge of fill material” means the addition of fill material into waters of the United States. 33 C.F.R. § 323.2(f).</p>
State Cannabis Order Attachment A, Section 1 - General Requirements and Prohibitions #25	<p>Cannabis cultivators shall not discharge waste in a manner that creates or threatens to create a condition of pollution or nuisance, as defined by Water Code section 13050.</p>

Regulatory Section	Citation
State Cannabis Order Attachment A, Section 1 - General Requirements and Prohibitions #26	<p>Except as allowed and authorized in this Policy, cannabis cultivators shall not discharge:</p> <ul style="list-style-type: none"> <li>• irrigation runoff, tailwater, sediment, plant waste, or chemicals to surface water or via surface runoff;</li> <li>• waste classified as hazardous (California Code of Regulations, title 23, section 2521(a)) or defined as a designated waste (Water Code section 13173); or</li> <li>• waste in violation of, or in a manner inconsistent with, the appropriate Water Quality Control Plan(s).</li> </ul>
State Cannabis Order Attachment A, Section 1 - General Requirements and Prohibitions #27	<p>Unless authorized by separate waste discharge requirements, the Cannabis Cultivation General Order, or a CWA section 404/401 permit, the following discharges are prohibited:</p> <ul style="list-style-type: none"> <li>• any waste that could affect the quality of the waters of the state; or</li> <li>• wastewater from cannabis manufacturing activities defined in Business and Professions Code section 26100, indoor grow operations, or other industrial wastewater to an onsite wastewater treatment system (e.g., septic tank and associated disposal facilities), to surface water, or to land.</li> </ul>
State Cannabis Order Attachment A, Section 1 - General Requirements and Prohibitions #29	<p>Cannabis cultivators shall not use a cesspool for domestic or industrial wastewater disposal. Cannabis cultivators shall not install or continue use of an outhouse, pit-privy, pit-toilet, or similar device without approval from the Regional Water Board Executive Officer of the applicable Regional Water Board.</p>
State Cannabis Order Attachment A, Section 1 - General Requirements and Prohibitions #32	<p>Tier 1 or 2 cannabis cultivators with any portion of the disturbed areas existing within the setbacks shall submit a Disturbed Area Stabilization Plan to the Regional Water Board Executive Officer. The Disturbed Area Stabilization Plan shall be approved by the applicable Regional Water Board Executive Officer prior to the cannabis cultivator initiating any land stabilization activities. This requirement does not apply to disturbed areas resulting from activities authorized under 404/401 CWA permits, a CDFW LSA Agreement, coverage under the Cannabis Cultivation General Order water quality certification, or site-specific WDRs issued by the Regional Water Board.</p>

Regulatory Section	Citation
<p>State Cannabis Order Attachment A, Section 1 - General Requirements and Prohibitions #37</p>	<p>Cannabis cultivators shall comply with the minimum riparian setbacks described below for all land disturbance, cannabis cultivation activities, and facilities (e.g., material or vehicle storage, petroleum powered pump locations, off-stream water storage areas, and chemical toilet placement). The riparian setbacks shall be measured from the waterbody's bankfull stage (high flow water levels that occur every 1.5 to 2 years) or from the top edge of the waterbody bank in incised channels, whichever is more conservative. Riparian setbacks for springheads shall be measured from the springhead in all directions (circular buffer). Riparian setbacks for wetlands shall be measured from the edge of wetland as delineated by a Qualified Professional with experience implementing the Corps of Engineers Wetlands Delineation Manual (with regional supplements).</p>
<p>State Cannabis Order Attachment A, Section 2 - Requirements Related to Water Diversions and Waste Discharge for Cannabis Cultivation #8</p>	<p>The cannabis cultivator shall use appropriate erosion control measures to minimize erosion of disturbed areas, potting soil, or bulk soil amendments to prevent discharges of waste. Fill soil shall not be placed where it may discharge into surface water. If used, weed-free straw mulch shall be applied at a rate of two tons per acre of exposed soils and, if warranted by site conditions, shall be secured to the ground.</p>
<p>State Cannabis Order Attachment A, Section 2 - Requirements Related to Water Diversions and Waste Discharge for Cannabis Cultivation #12</p>	<p>Cultivation sites constructed on or near slopes with a slope greater than or equal to 30 percent shall be inspected for indications of instability. Indications of instability include the occurrence of slope failures at nearby similar sites, weak soil layers, geologic bedding parallel to slope surface, hillside creep (trees, fence posts, etc. leaning downslope), tension cracks in the slope surface, bulging soil at the base of the slope, and groundwater discharge from the slope. If indicators of instability are present, the cannabis cultivator shall consult with a Qualified Professional to design measures to stabilize the slope to prevent sediment discharge to surface waters.</p>

Regulatory Section	Citation
State Cannabis Order Attachment A, Section 2 - Requirements Related to Water Diversions and Waste Discharge for Cannabis Cultivation #15	Access roads shall be constructed consistent with the requirements of California Code of Regulations Title 14, Chapter 4. The Road Handbook describes how to implement the regulations and is available at <a href="http://www.pacificwatershed.com/PWA-publications-library">http://www.pacificwatershed.com/PWA-publications-library</a> . Existing access roads shall be upgraded to comply with the Road Handbook.
State Cannabis Order Attachment A, Section 2 - Requirements Related to Water Diversions and Waste Discharge for Cannabis Cultivation #17	Cannabis cultivators shall ensure that all access roads are hydrologically disconnected to receiving waters to the extent possible by installing disconnecting drainage features, increasing the frequency of (inside) ditch drain relief as needed, constructing out-sloped roads, constructing energy dissipating structures, avoiding concentrating flows in unstable areas, and performing inspection and maintenance as needed to optimize the access road performance.
State Cannabis Order Attachment A, Section 2 - Requirements Related to Water Diversions and Waste Discharge for Cannabis Cultivation #22	Cannabis cultivators shall ensure that access road surfacing, especially within a segment leading to a waterbody, is sufficient to minimize sediment delivery to the wetland or waterbody and maximize access road integrity. Road surfacing may include pavement, chip-seal, lignin, rock, or other material appropriate for timing and nature of use. All access roads that will be used for winter or wet weather hauling/traffic shall be surfaced. Steeper access road grades require higher quality rock (e.g., crushed angular versus river-run) to remain in place. The use of asphalt grindings is prohibited.

Regulatory Section	Citation
State Cannabis Order Attachment A, Section 2 - Requirements Related to Water Diversions and Waste Discharge for Cannabis Cultivation #26	Cannabis cultivators shall ensure that access roads are not allowed to develop or show evidence of significant surface rutting or gullyng. Cannabis cultivators shall use water bars and rolling dips as designed by a Qualified Professional to minimize access road surface erosion and dissipate runoff.
State Cannabis Order Attachment A, Section 2 - Requirements Related to Water Diversions and Waste Discharge for Cannabis Cultivation #31	Cannabis cultivators shall ensure that all permanent watercourse crossings that are constructed or reconstructed are capable of accommodating the estimated 100-year flood flow, including debris and sediment loads. Watercourse crossings shall be designed and sized by a Qualified Professional.
State Cannabis Order Attachment A, Section 2 - Requirements Related to Water Diversions and Waste Discharge for Cannabis Cultivation #49	Cannabis cultivators shall ensure that all access road watercourse crossing structures allow for the unrestricted passage of water and shall be designed to accommodate the estimated 100-year flood flow and associated debris (based upon an assessment of the streams potential to generate debris during high flow events). Watercourse crossings shall be designed and sized by a Qualified Professional. Consult CAL FIRE 100 year Watercourse Crossings document for examples and design calculations, available at: <a href="http://calfire.ca.gov/resource_mgt/downloads/100%20yr%20revised%208-08-17%20(final-a).pdf">http://calfire.ca.gov/resource_mgt/downloads/100%20yr%20revised%208-08-17%20(final-a).pdf</a> .

Regulatory Section	Citation
State Cannabis Order Attachment A, Section 2 - Requirements Related to Water Diversions and Waste Discharge for Cannabis Cultivation #50	<p>Cannabis cultivators shall ensure that watercourse crossings allow migration of aquatic life during all life stages supported or potentially supported by that stream reach. Design measures shall be incorporated to ensure water depth and velocity does not inhibit migration of aquatic life. Any access road crossing structure on watercourses that support fish shall be constructed for the unrestricted passage of fish at all life stages, and should use the following design guidelines:</p> <ul style="list-style-type: none"> <li>• CDFW's Culvert Criteria for Fish Passage;</li> <li>• CDFW's Salmonid Stream Habitat Restoration Manual, Volume 2, Part IX: Fish Passage Evaluation at Stream Crossings; and</li> <li>• National Marine Fisheries Service, Southwest Region Guidelines for Salmonid Passage at Stream Crossings.</li> </ul>
State Cannabis Order Attachment A, Section 2 - Requirements Related to Water Diversions and Waste Discharge for Cannabis Cultivation #51	<p>Cannabis cultivators shall conduct regular inspection and maintenance of stream crossings to ensure crossings are not blocked by debris. Refer to California Board of Forestry Technical Rule No. 5 available at: <a href="http://www.calforests.org/wp-content/uploads/2013/10/Adopted-TRA5.pdf">http://www.calforests.org/wp-content/uploads/2013/10/Adopted-TRA5.pdf</a>.</p>
State Cannabis Order Attachment A, Section 2 - Requirements Related to Water Diversions and Waste Discharge for Cannabis Cultivation #56	<p>Cannabis cultivators shall ensure that culverts used at watercourse crossings are: 1) installed parallel to the watercourse alignment to the extent possible, 2) of sufficient length to extend beyond stabilized fill/sidecast material, and 3) embedded or installed at the same level and gradient of the streambed in which they are being placed to prevent erosion.</p>

Regulatory Section	Citation
<p>State Cannabis Order Attachment A, Section 2 - Requirements Related to Water Diversions and Waste Discharge for Cannabis Cultivation #59</p>	<p>Cannabis cultivators shall store erodible soil, soil amendments, and spoil piles to prevent sediment discharges in storm water. Storage practices may include use of tarps, upslope land contouring to divert surface flow around the material, or use of sediment control devices (e.g., silt fences, straw wattles, etc.).</p>
<p>State Cannabis Order Attachment A, Section 2 - Requirements Related to Water Diversions and Waste Discharge for Cannabis Cultivation #62</p>	<p>Cannabis cultivators shall haul away and properly dispose of excess soil and other debris as needed to prevent discharge to waters of the state.</p>
<p>State Cannabis Order Attachment A, Section 2 - Requirements Related to Water Diversions and Waste Discharge for Cannabis Cultivation #63</p>	<p>Cannabis cultivators shall not disturb aquatic or riparian habitat, such as pools, spawning sites, large wood, or shading vegetation unless authorized under a CWA section 404 permit, CWA section 401 certification, Regional Water Board WDRs (when applicable), or a CDFW LSA Agreement.</p>

Regulatory Section	Citation
<p>State Cannabis Order Attachment A, Section 2 - Requirements Related to Water Diversions and Waste Discharge for Cannabis Cultivation #82</p>	<p>Cannabis cultivators shall not use water storage bladders unless the bladder is safely contained within a secondary containment system with sufficient capacity to capture 110 percent of a bladder's maximum possible contents in the event of bladder failure (i.e., 110 percent of bladder's capacity). Secondary containment systems shall be of sufficient strength and stability to withstand the forces of released contents in the event of catastrophic bladder failure. In addition, secondary containment systems that are open to the environment shall be designed and maintained with sufficient capacity to accommodate precipitation and storm water inputs from a 25-year, 24-hour storm event.</p>
<p>State Cannabis Order Attachment A, Section 2 - Requirements Related to Water Diversions and Waste Discharge for Cannabis Cultivation #85</p>	<p>Cannabis cultivators shall not use reservoirs and ponds to store water for cannabis cultivation unless they are sited and designed or approved by a Qualified Professional in compliance with Division of Safety of Dams (DSOD), county, and/or city requirements, as applicable. If the DSOD, county, and/or city do not have established requirements, they shall be designed consistent with the Natural Resource Conservation Service National Engineering Manual. Reservoirs shall be designed with an adequate overflow outlet that is protected and promotes the dispersal and infiltration of flow and prevents channelization.</p> <p>All off-stream storage reservoirs and ponds shall be designed, managed, and maintained to accommodate average annual winter period precipitation and storm water inputs to reduce the potential for overflow.</p> <p>Cannabis cultivators shall plant native vegetation along the perimeter of the reservoir in locations where it does not impact the structural integrity of the reservoir berm or spillway. The cannabis cultivator shall control vegetation around the reservoir berm and spillway to allow for visual inspection of berm and spillway condition and control burrowing animals as necessary.</p>
<p>State Cannabis Order Attachment A, Section 2 - Requirements Related to Water Diversions and Waste Discharge for Cannabis Cultivation #87</p>	<p>Water storage bladders are not encouraged for long-term use. If bladders are used, the cannabis cultivator shall ensure that the bladder is designed and properly installed to store water and that the bladder is sited to minimize the potential for water to flow into a watercourse in the event of a catastrophic failure. If a storage bladder has been previously used, the cannabis cultivator shall carefully inspect the bladder to confirm its integrity and confirm the absence of any interior residual chemicals prior to resuming use. Cannabis cultivators shall periodically inspect water storage bladders and containment features to ensure integrity. Water storage bladders shall be properly disposed of or recycled and not resold when assurance of structural integrity is no longer guaranteed.</p>

Regulatory Section	Citation
State Cannabis Order Attachment A, Section 2 - Requirements Related to Water Diversions and Waste Discharge for Cannabis Cultivation #88	<p>Cannabis cultivators shall not use water storage bladders unless the bladder is safely contained within a secondary containment system with sufficient capacity to capture 110 percent of a bladder's maximum possible contents in the event of bladder failure (i.e., 110 percent of bladder's capacity). Secondary containment systems shall be of sufficient strength and stability to withstand the forces of released contents in the event of catastrophic bladder failure. In addition, secondary containment systems that are open to the environment shall be designed and maintained with sufficient capacity to accommodate precipitation and storm water inputs from a 25-year, 24-hour storm event.</p>
State Cannabis Order Attachment A, Section 2 - Requirements Related to Water Diversions and Waste Discharge for Cannabis Cultivation #95	<p>Cannabis cultivators shall on a monthly basis, at a minimum, inspect their entire water delivery system for leaks and immediately repair any leaky faucets, pipes, connectors, or other leaks.</p>
State Cannabis Order Attachment A, Section 2 - Requirements Related to Water Diversions and Waste Discharge for Cannabis Cultivation #119	<p>Cannabis cultivators shall contain and regularly remove all debris and trash associated with cannabis cultivation activities from the cannabis cultivation site. Cannabis cultivators shall only dispose of debris and trash at an authorized landfill or other disposal site in compliance with state and local laws, ordinances, and regulations. Cannabis cultivators shall not allow litter, plastic, or similar debris to enter the riparian setback or waters of the state. Cannabis plant material may be disposed of onsite in compliance with any applicable CDFA license conditions.</p>