



State Water Resources Control Board

NOTICE OF VIOLATION

November 12, 2019

sent via certified mail

Ms. Susan Yang Xiong
841 Cook Avenue East
Saint Paul, MN 55106

VIA CERTIFIED MAIL
NO. 7018 0680 0000 1017 7967

Trinity County APN 015-420-27-00
CIWQS Place ID 861017

UNLAWFUL DISCHARGE OF WASTE AND THREAT OF DISCHARGE OF WASTE TO UNNAMED TRIBUTARY AND TO BARKER CREEK, TRINITY COUNTY ASSESSOR PARCEL NUMBER (APN) 015-420-27-00

Dear Ms. Xiong:

You are required to respond to this Notice of Violation by **December 16, 2019**. See **Response Required** on pages 2 and 4 and **Contact Information** on page 5. **Failure to respond to this Notice of Violation may result in significant monetary penalties.**

You are receiving this Notice of Violation because, based on information available to staff of the State Water Resources Control Board (Water Board), Office of Enforcement, you are identified as the property owner of record and are therefore responsible for unlawful discharges of waste and threatened discharges of waste into waters of the state. The details of those violations are set forth below.

Inspections and Findings

On June 26, 2019, Water Boards staff participated in an inspection at Trinity County APN 015-420-27-00 (Site) to document actual and/or threatened water quality impacts for potential California Water Code (Water Code) violations. Staff observed the following:

- Placement of fill material, consisting of a concrete structure for water diversion, in an unnamed ephemeral watercourse.
- Placement of fill material containing spent growth medium and perlite calculated at a volume of 733 gallons (98 cubic feet) into an unnamed ephemeral watercourse.
- Unpermitted active outdoor cannabis cultivation, including greenhouses, on an area measured for a combined total of 15,1823 square feet.

Office of Enforcement | 801 K Street, Suite 2300 | Sacramento, CA 95814 | 916.341.5272

E. JOAQUIN ESQUIVEL, CHAIR | EILEEN SOBECK, EXECUTIVE DIRECTOR

- On the west side, active cannabis cultivation measured 22 feet north of an unnamed ephemeral watercourse.
- Evidence of wastewater discharged from a PVC pipe connected to a mobile home wastewater outlet.
- Signs of discharge of an unknown oily liquid from a water pump measured 8 feet west of Barker Creek.
- Signs of discharge of an unknown oily liquid onto the ground from a portable generator.
- Signs of discharge of an unknown liquid onto the ground under and adjacent to a makeshift kitchen sink.
- Storage of a petroleum container 25 feet west of Barker Creek, and storage of petroleum containers on the ground on the west side of the parcel.
- An open trash container filled with an unknown bright green liquid measured at 25 feet from an unnamed ephemeral watercourse.
- Evidence of ashes and burnt solid waste on the ground with potential to discharge to surface waters.
- Signs of soil erosion below an inlet of a pond adjacent to an ephemeral watercourse.
- A constructed water storage pond with a calculated volume of 7,500 cubic feet (56,104 gallons) for water diverted from an ephemeral watercourse.
- Indoor sink connected to an outdoor PVC discharge pipe on the west side of the parcel.
- Throughout the Site, fertilizer containers were stored outdoors without protection, with potential to discharge to surface waters.
- Cultivation-related waste including piles of slash observed throughout the Site.

Conditions at the Site also show evidence of past discharge of fill materials, solid waste, and unknown liquids to an unnamed ephemeral watercourse and present a risk of threatened discharge of unknown liquids, sediment, petroleum products, fertilizers, and cannabis-related waste to an unnamed ephemeral watercourse, which is tributary to Barker Creek. Conditions at the Site present a risk of threatened discharge of unknown liquid and petroleum products to Barker Creek, a perennial watercourse.

The discharge and threatened discharge of cultivation-related waste, sediment, fill materials, petroleum products, and unknown liquids constitutes “waste” as defined in the California Water Code (Water Code) section 13050. Such discharges and threatened discharges to waterbodies can lead to adverse effects to the beneficial uses of waters of the state. Based on the findings in the attached inspection report, you are in violation of Water Code Section 13260 for discharging waste and threatening to discharge waste without filing a report of waste discharge. Mitigation measures to prevent waste from discharging to waters of the state must be implemented.

Response Required

To satisfy the requirements of this Notice of Violation, respond to the following two items by **December 16, 2019**. Item #1 is to comply with Water Code Section 13260. Item #2 is submission of a Site Restoration and Mitigation Plan (Plan). Each item is described in more detail below.

Item #1 - Compliance with Water Code section 13260

Based on the evidence of cannabis cultivation detailed in the attached inspection report, the Water Boards have determined that you are required to comply with Water Code section 13260. Compliance with Water Code section 13260 may be achieved by selecting one of the two options listed below and submitting proof of compliance by **December 16, 2019**.

- Option 1. Obtain regulatory coverage under State Water 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 (Cannabis General Order).

An application can be completed through the online portal at:

<https://public2.waterboards.ca.gov/cgo>

For general information about the Water Board's Cannabis Cultivation Regulatory Program, please visit:

https://www.waterboards.ca.gov/water_issues/programs/cannabis/index.html

OR

- Option 2. Provide information demonstrating that regulatory coverage is not needed for the parcel identified.

If you believe regulatory coverage is not required because there is no cannabis cultivation or associated activities occurring, or because the operations that are occurring are not subject to regulation under the Cannabis General Order, please provide a short letter explaining your position, including photographs and other supporting evidence, to Ms. Yuen (contact information is on page 5). Ms. Yuen may contact you to verify your response.

It is important that you submit proof of your compliance with one of the two options listed above by mail or email to Ms. Pansy Yuen by December 16, 2019 (see **Contact Information** on page 5).

Item #2 - Site Restoration and Mitigation Plan

In addition to exercising one of the options in Item #1 above, you are also required to submit a Plan by **December 16, 2019**. Submit the completed Plan to Ms. Yuen by mail or email (see **Contact Information** on page 5).

The Plan must be prepared by a qualified professional, based on the scope of work. The Plan must contain a schedule to complete actions addressing the violations. The Plan must address past discharges and the threat of future discharges from the Site, including the following elements:

- Removal of the unauthorized concrete structure for water diversion and the unauthorized fill consisting of spent growth medium and perlite to restore and remediate the ephemeral watercourse.
- Cleanup and lawful disposal of cannabis cultivation-related materials including fertilizers, an open trash container with a bright green liquid, exposed containers of

petroleum product, and cultivation-related waste such as spent growth medium and plant waste throughout the Site.

- Terminate and cleanup unauthorized discharge of wastewater onto the ground from a mobile home.
- Terminate the threatened discharge of grey water onto the ground from an indoor sink, and the discharge of grey water onto the ground from a makeshift outdoor kitchen sink.
- Cleanup and remediate the discharge of unknown oily liquids on the ground from a water pump and a generator.
- Cleanup and dispose of ashes and burnt solid waste on the ground.

Implementation of the Plan may also require you to obtain additional permitting from other state and local agencies, which may include:

- A Lake and Streambed Alteration (LSA) Agreement from California Department of Fish and Wildlife (CDFW).
<https://www.wildlife.ca.gov/Conservation/Cannabis/Permitting#53542627-standard-agreement>
- A Clean Water Act Section 401 Water Quality Certification and/or Waste Discharge Requirement from the North Coast Regional Water Quality Control Board.
https://www.waterboards.ca.gov/northcoast/water_issues/programs/water_quality_certification/#401
- Additional permits, licenses, or approvals from local city or county government departments.

Failure to Comply and Potential Monetary Penalties

The Water Boards retain full enforcement authority and discretion to bring formal enforcement for all violations and may impose penalties under Water Code section 13261 of up to \$1,000 per day for each day that the requirements of this Notice of Violation are not complied with. Failure to comply with Water Code 13260, submit the Plan, and conduct the necessary mitigation measures will subject you to further enforcement action by the Water Boards.

Future correspondence regarding this matter will be sent to you at the mailing address indicated on page 1 unless an alternative address is provided to the Water Boards. If you would prefer to also receive such correspondence by another method (such as email), please let us know, as it is important that you receive all future communications.

Failure to accept mail from the Water Boards is not a valid excuse for non-compliance with any future directives, 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 which may include significant monetary penalties.

Note: Obtaining regulatory coverage in the Cannabis General Order does not relieve cultivators of any obligations they may have to obtain coverage with other agencies, such as the California Department of Food and Agriculture. Failure to comply with the regulatory requirements of other agencies may still result in penalties being imposed against you, even if you are enrolled in the Cannabis General Order.

Contact Information

For any questions on this matter, please contact Ms. Pansy Yuen by phone at (916) 341-5445, or via email at Pansy.Yuen@waterboards.ca.gov.

Documents and evidence described in the **Response Required** section above may be submitted by email or by mail to:

Ms. Pansy Yuen – State Water Resources Control Board – Office of Enforcement
801 K St., Suite 2300
Sacramento, CA 95814

Because it is important that you respond to this Notice of Violation in a timely manner, you should contact Ms. Yuen and confirm receipt of this letter and request written confirmation that she has received any submitted documents.

Additionally, we are available to discuss this letter, the inspection report, or our cannabis program in further detail.

Sincerely,



Dylan Seidner
Supervisor of Cannabis Enforcement Unit
Office of Enforcement

Enclosures: June 26, 2019 Cannabis Water Quality Inspection Memo

cc: *(via email only)*

Department of Fish and Wildlife

Ms. Ashley Worth

Ashley.Worth@wildlife.ca.gov

North Coast Regional Water Quality Control Board

Mr. Kason Grady

Kason.Grady@waterboards.ca.gov

Ms. Diana Henrioulle

Diana.Henrioulle@waterboards.ca.gov

**State Water Resources Control Board
Office of Enforcement**

Ms. Pansy Yuen

Pansy.Yuen@waterboards.ca.gov

Daniel Kippen, Esq.

Dan.Kippen@waterboards.ca.gov

**State Water Resources Control Board
Division of Water Rights**

Mr. Ryan Babb

Ryan.Babb@waterboards.ca.gov

Mr. Stormer Feiler

Stormer.Feiler@waterboards.ca.gov

Mr. Taro Murano

Taro.Murano@waterboards.ca.gov

Trinity County District Attorney

James E. Gandy, Esq.

JGandy@trinitycounty.org