



North Coast Regional Water Quality Control Board

May 10, 2021

Zhivko Gochev
8025 Calvert Circle
San Ramon, CA 94582
ZHIVKO_GOCHEV@YAHOO.COM

Certified Mail No. 7016 0750 0001 0048 7327

Dear Mr. Gochev:

Subject: Notice of Violation and Transmittal of Inspection Report for March 25, 2021 Inspection of Humboldt County Assessor's Parcel Numbers: 210-131-007-000 and 210-131-008-000

File: Cannabis Program Inspections, Humboldt County, 2021,
CIWQS Place ID: 844233
Cannabis General Order WDID: 1_12CC419077

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 Numbers (APNs): 210-131-007-000 and 210-131-008-000 (the Property).

1. State Water Resources Control Board Order WQ 2019-0000-DWQ General Waste Discharge Requirements for Discharges of Waste Associated with Cannabis Cultivation Activities (Cannabis General Order) various provisions
2. Water Quality Control Plan for the North Coast Region (Basin Plan) section 4.2.1,
3. California Water Code (Water Code) Section 13260 and 13264
4. Federal Clean Water Act Section 301

Background

Effective February 15, 2017 to June 30, 2019, the Property was enrolled under Regional Cannabis Order R1-2015-0023, with Discharger Ventsislav Donchev, WDID 1B170398CHUM.

GREGORY A. GIUSTI , CHAIR | MATTHIAS ST. JOHN, EXECUTIVE OFFICER

On June 28, 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 (Cannabis General Order), self-certifying your Property as Tier 2 – Moderate Risk, which requires, in part, that total disturbed area on an enrolled site is less than 1 acre and no portion of the disturbed area may be within the minimum riparian setbacks as described in the Cannabis General Order.

On March 25, 2021, Regional Water Board staff participated with personnel from California Department of Fish and Wildlife (CDFW) and Humboldt County 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.

Attached is a copy of the water quality inspection report (March 25, 2021 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.

Relevant Requirements

During the inspection, Regional Water Board staff identified several features and conditions on the Property that represent violations of water quality requirements and regulations. Attachment A – Regulatory Citations, provides references to these, and related, requirements and regulations.

Observed Violations

As documented in the Inspection Report, Regional Water Board Staff observed violations of the California Water Code, the Basin Plan and the Cannabis General Order as summarized in the below table:

Table 1. Summary of violations documented by Staff during March 25, 2021 Inspection.

Locations ¹	Violation types
WQ 1	Basin Plan Prohibition 2; Cannabis General Order, Attachment A, Section 2, Terms 17, 31 and 119
WQ 2	Basin Plan Prohibition 2;

¹ Locations are identified on the map located on page 4 of the Inspection Report included as Attachment B.

Locations¹	Violation types
	Cannabis General Order, Attachment A, Section 1, Terms 4 and 32 and Section 2 Terms 31 and 120
WQ 3	Clean Water Act Section 301; Basin Plan Prohibitions 1 and 2; Porter Cologne 13260 and 13264, Cannabis General Order, Attachment A, Section 1, Terms 4, and 32 and Section 2 Term 76
WQ 4	Cannabis General Order, Attachment A, Section 2, Terms 15 and 26,
WQ 5 and WQ 6	Basin Plan Prohibitions 1 and 2; Cannabis General Order, Attachment A, Section 2, Terms 15, 17, 19, 20, 26, 31, and 76
WQ 7	Basin Plan Prohibition 2; Porter Cologne 13264, Cannabis General Order, Attachment A, Section 1, Term 37 and Section 2 Terms 114 and 120

Site Management Plan (SMP)

Pursuant to the Cannabis General Order, all enrollees must submit a Site Management Plan within 90 days of enrollment. It has been more than 90 days since you enrolled your Property for coverage under the Cannabis General Order; to date, we have not received an SMP.

Legal requirements and directive to reassess and modify enrollment in the Cannabis General Order

In your application for enrollment under the Cannabis General Order, in June 2019, you indicated a total cultivation area of 17,695 square feet and a total disturbed area of 90,000 square feet. As a result, you self-certified as Tier 2 – Moderate Risk. However, the land disturbances at WQ 2, 3, 5, 6 and 7 are within setback requirements.

Therefore, the Property does not qualify as a Moderate Risk site. It is your responsibility, as the applicant for coverage under the Cannabis General Order, to correctly classify your Property and ensure that it is enrolled under the appropriate Risk level.

The Cannabis 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 Cannabis General Order, are considered disturbed areas, as well.

Pursuant to California Water Code section 13260 and Cannabis General Order 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 Cannabis General Order, 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.

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 Cannabis General Order for cause including, but not limited to, any of the following:

- i. Violation of any of the terms or conditions contained in the Cannabis General Order.
- ii. Obtaining the Cannabis General Order 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.

Be aware that termination of coverage under the Cannabis General Order may impact your ability to maintain a cannabis cultivation license with the California Department of Food and Agriculture.

Additional Potential Liabilities

The Regional Water Board reserves the right to take any enforcement action the law allows. Additionally, enrollment in the Cannabis General Order does not relieve you of responsibility to obtain other necessary local, state, or federal permits, nor does the

Cannabis General Order prevent imposition of additional standards, requirements, or conditions by any other agency. In the event of duplicate or conflicting requirements, the most stringent requirement applies.

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 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.

An actual discharge to waters of the state, including waste discharges in violation of a waste discharge requirement, waiver condition, certification, or other order or prohibition issued by a regional board may subject a person to an administrative liability up to \$5,000 per day of violation for each violation, or \$10 for each gallon of waste discharged pursuant to Water Code section 13350 or up to \$10 per gallon for each gallon over 1,000 gallons not cleaned up, and up to \$10,000 per day per violation pursuant to Water Code section 13385.

Inspection Report Recommendations

As mentioned above, the March 25, 2021 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 or by phone at (707) 576-2350.

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
Attachment B – Water Quality Report of March 25, 2021 Inspection

Enclosure: Application Summary

Certified Mail – Return Receipt requested

cc:

North Coast Regional Water Quality Control Board

Northcoast.Cannabis@waterboards.ca.gov

Claudia Villacorta, Claudia.Villacorta@waterboards.ca.gov

Kason Grady, Kason.Grady@waterboards.ca.gov

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Department of Fish and Wildlife

Ryan Bourque, Ryan.Bourque@wildlife.ca.gov

Scott Bauer, Scott.Bauer@wildlife.ca.gov

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Division of Water Rights

Stormer Feiler, Stormer.Feiler@waterboards.ca.gov

Humboldt County Planning and Building Department

Branden Howton, bhowton1@co.humboldt.ca.us

Humboldt County Sheriff's Office

Sergeant Conan Moore, cmoore@co.humboldt.ca.us

Attachment A – Regulatory Citations

Regulatory Section	Citation
Basin Plan Section 4.2.1, Prohibition 1	“Prohibits “[t]he discharge of soil, silt, bark, slash, sawdust, or other organic and earthen material from any logging, construction, or associated activity of whatever nature into any stream or watercourse in the basin in quantities deleterious to fish, wildlife, or other beneficial uses.”
Basin Plan Section 4.2.1, Prohibition 2	“Prohibits “[t]he placing or disposal of soil, silt, bark, slash, sawdust, or other organic and earthen material from any logging, construction, or associated activity of whatever nature at locations where such material could pass into any stream or watercourse in the basin in quantities which could be deleterious to fish, wildlife, or other beneficial uses.”
California Water Code Section 13260	“(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: (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. (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.”
California Water Code Section 13261(a)	“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).”

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>(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>
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 13376	<p>“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.”</p>

Regulatory Section	Citation
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).”
Cannabis General Order, Attachment A, Cannabis Cultivation Policy, Section 1, Cannabis General Water Quality Certification—Term 4	“A cannabis cultivator seeking water quality certification coverage for activities in surface waters shall notify the Executive Officer of the Regional Water Board or State Water Board Executive Director at least 60 days prior to commencement of the activity and submit information regarding the construction schedule and other relevant information. Work may not commence until the cannabis cultivator is provided authorization by the appropriate Executive Officer of the Regional Water Board or Executive Director of the State Water Board. The Executive Officer of the Regional Water Board or Executive Director of the State Water Board may include specific monitoring requirements for turbidity and other constituents that may be associated with the activity to ensure applicable state water quality standards are met.”

Regulatory Section	Citation
Cannabis General Order, Attachment A, Cannabis Cultivation Policy, Section 1 Term 31	Tier 1 or 2 cannabis cultivators located on slopes greater than 30% and less than 50% must submit a Site Erosion and Sediment Control Plan to the Regional Water Board Executive Officer for any cannabis-related land development or alteration. The Site Erosion and Sediment Control Plan shall be approved by the applicable Regional Water Board Executive Officer prior to the cannabis cultivator initiating or expanding any land disturbance. The Regional Water Board Executive Officer may deny the request to conduct new land disturbance activities for cannabis cultivation if local conditions (e.g., soil type, site instability, proximity to a waterbody, etc.) do not allow for adequate erosion and sediment control measures to ensure discharges to waters of the state will not occur.
Cannabis General Order, Attachment A, Cannabis Cultivation Policy, Section 1 Term 32	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.

Regulatory Section	Citation		
Cannabis General Order, Attachment A, Cannabis Cultivation Policy, Section 1 Term 37	<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). The Regional Water Board Executive Officer may require additional riparian setbacks or additional requirements, as needed, to meet the performance requirement of protecting surface water from discharges that threaten water quality. If the cannabis cultivation site cannot be managed to protect water quality, the Executive Officer of the applicable Regional Water Board may revoke authorization for cannabis cultivation activities at the cannabis cultivation site.</p>		
Cannabis General Order, Attachment A, Cannabis Cultivation Policy, Section 1 Term 37 (continued)	Minimum Riparian Setbacks ^{2,3}		
	Common Name	Watercourse Class⁴	Distance
	Perennial watercourses, waterbodies (e.g. lakes, ponds), or springs ⁵	I	150 ft.
	Intermittent watercourses or wetlands	II	100 ft.
	Ephemeral watercourses	III	50 ft.
	Man-made irrigation canals, water supply reservoirs, or hydroelectric canals that support native aquatic species	IV	Established Riparian Vegetation Zone
	All other man-made irrigation canals, water supply reservoirs, or hydroelectric canals	IV	N/A

Regulatory Section	Citation
Cannabis General Order, Attachment A, Cannabis Cultivation Policy, Section 2, Term 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 http://www.pacificwatershed.com/PWA-publications-library . Existing access roads shall be upgraded to comply with the Road Handbook.”
Cannabis General Order, Attachment A, Cannabis Cultivation Policy, Section 2, Term 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.”

² A Regional Water Board may adopt site-specific WDRs or an enforcement order for a cannabis cultivator with requirements that are inconsistent with the setbacks in this table if the Executive Officer determines that the site-specific WDRs or enforcement order contains sufficient requirements to be protective of water quality.

³ Cannabis cultivators enrolled in a Regional Water Board order adopting WDRs or a waiver of WDRs for cannabis cultivation activities prior to October 17, 2017, may retain reduced setbacks applicable under that Regional Water Board order unless the Regional Water Board’s Executive Officer determines that the reduced setbacks applicable under that order are not protective of water quality.

⁴ Except where more restrictive, the stream class designations are equivalent to the Forest Practice Rules Water Course and Lake Protection Zone definitions (California Code of Regulations, title 14, Chapter 4. Forest Practice Rules, Subchapters 4, 5, and 6 Forest District Rules, Article 6 Water Course and Lake Protection).

⁵ Spring riparian setbacks default to the applicable watercourse riparian setback 150 feet downstream and/or upstream of the spring’s confluence with the watercourse or 150 feet downstream of the point where the spring forms a watercourse with defined bed and banks.

Regulatory Section	Citation
Cannabis General Order, Attachment A, Cannabis Cultivation Policy, Section 2, Term 19,	“Cannabis cultivators shall decommission or relocate existing roads away from riparian setbacks whenever possible. Roads that are proposed for decommissioning shall be abandoned and left in a condition that provides for long-term, maintenance-free function of drainage and erosion controls. Abandoned roads shall be blocked to prevent unauthorized vehicle traffic.”
Cannabis General Order, Attachment A, Cannabis Cultivation Policy, Section 2, Term 20,	“If site conditions prohibit drainage structures (including rolling dips and ditch-relief culverts) at adequate intervals to avoid erosion, the cannabis cultivator shall use bioengineering techniques as the preferred measure to minimize erosion (e.g., live fascines). If bioengineering cannot be used, then engineering fixes such as armoring (e.g., rock of adequate size and depth to remain in place under traffic and flow conditions) and velocity dissipaters (e.g., gravel-filled “pillows” in an inside ditch to trap sediment) may be used for problem sites. The maximum distance between water breaks shall not exceed those defined in the Road Handbook.”
Cannabis General Order, Attachment A, Cannabis Cultivation Policy, Section 2, Term 26,	“Cannabis cultivators shall ensure that access roads are not allowed to develop or show evidence of significant surface rutting or gullying. Cannabis cultivators shall use water bars and rolling dips as designed by a Qualified Professional to minimize access road surface erosion and dissipate runoff.”
Cannabis General Order, Attachment A, Cannabis Cultivation Policy, Section 2, Term 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.”

Regulatory Section	Citation
Cannabis General Order, Attachment A, Cannabis Cultivation Policy, Section 2, Term 76,	“Cannabis cultivators shall not obstruct, alter, dam, or divert any portion of a natural watercourse prior to obtaining all applicable permits and approvals. Permits may include a valid water right, 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.”
Cannabis General Order, Attachment A, Cannabis Cultivation Policy, Section 2, Term 114	“Cannabis cultivators shall not apply restricted materials, including restricted pesticides, or allow restricted materials to be stored at the cannabis cultivation site.”
Cannabis General Order, Attachment A, Cannabis Cultivation Policy, Section 2, Term 119,	“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.”

Regulatory Section	Citation
Cannabis General Order, Attachment A, Cannabis Cultivation Policy, Section 2, Term 120,	“Cannabis cultivators shall only dispose, or reuse spent growth medium (e.g., soil and other organic media) in a manner that prevents discharge of soil and residual nutrients and chemicals to the riparian setback or waters of the state. Spent growth medium shall be covered with plastic sheeting or stored in watertight dumpsters prior to proper disposal or reuse. Spent growth medium should be disposed of at an authorized landfill or other disposal site in compliance with state and local laws, ordinances, and regulations. Proper reuse of spent growth medium may include incorporation into garden beds or spreading on a stable surface and revegetating the surface with native plants. Cannabis cultivators shall use erosion control techniques, as needed, for any reused or stored spent growth medium to prevent polluted runoff.”