



North Coast Regional Water Quality Control Board

August 19, 2021

Adam Busch
1181 Q ST
Arcata, CA 95521

Certified Mail **7016 2070 0000 6486 2296**

Brian Horst
1431 Underwood Rd
McKinleyville, CA 95519

Certified Mail **7016 2070 0000 6486 2289**

Dear Adam Busch and Brian Horst:

Subject: **Notice of Violation and Transmittal of Inspection Report for July 22, 2021 Inspection of Humboldt County Assessor's Parcel Numbers (APNs) 531-095-011-000 and 531-095-005-000, and Directive to Respond within 30 days**

File: Cannabis Program Inspections, Humboldt County, July 22, 2021, CIWQS Place ID 875643

THIS LETTER REQUIRES THAT YOU ACT WITHIN 30 DAYS

This letter is to notify you of observed violations of the requirements listed below, and cited in Attachment A, at the property identified as Humboldt County Assessor's Parcel Numbers: 531-095-011-000 and 531-095-005-000 (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

On July 22, 2021, North Coast Regional Water Quality Control Board (Regional Water Board) staff inspected the Property and observed cannabis cultivation. Accordingly, this letter directs you to address the violations noticed herein. Within 30 days, please

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

contact Regional Water Board staff to discuss your plan to correct the observed violations.

Background

On July 22, 2021, staff from the Regional Water Board, accompanied by staff of CDFW, State Water Board Division of Water Rights, and personnel of various law enforcement agencies, inspected the Property. The purpose of the inspection 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. During the inspection, staff observed cannabis cultivation operations of sufficient size and scope to require regulatory coverage under the Cannabis General Order.

Attached is a copy of the water quality inspection report (Attachment B –Facilities Inspection Report and Attachment C – Inspection Map and Photolog). Please review the inspection report carefully and completely. The inspection report contains recommendations for correcting observed violations 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 July 22, 2021 inspection report, Regional Water Board staff observed violations of the California Water Code and Basin Plan. In addition, staff observed violations of the State Cannabis Order Attachment A, Section 1 - General Requirements and Prohibitions No. 1 and Section 2 - Requirements Related to Water Diversions and Waste Discharge for Cannabis Cultivation Nos. 3-4, 15-17, 22, 28, 31, 38-39, 48-51, 53, 85, 117, 119-120, 124, and 126. Staff observed these violations at Property locations identified in the inspection report as WQ1, WQ2, WQ3, WQ5 and WQ8.

Directive to Respond Within 30 Days

Based on the observations detailed in the attached inspection report, the Regional Water Board has determined that, pursuant to Water Code sections 13260¹ and 13264², you are required to respond to this NOV within 30 days by EITHER:

- 1) Enrolling the Property under the Cannabis General Order by submitting the appropriate fee (see below) and providing the information required in the online application: https://www.waterboards.ca.gov/water_issues/programs/cannabis/

Upon completion of the application through the online portal, you will receive a Notice of Receipt confirming your application and providing you a Fee Payment Application Number. When you submit the fee for this enrollment, you must include the Fee Payment Application Number on your electronic payment, check, or money order(s). All checks or money orders shall be made payable to: "State Water Resources Control Board," and shall be delivered by U.S. Mail to: Accounting Office, Attn: Water Quality Fees – Cannabis General Order, P.O. Box 1888, Sacramento, CA 95812-188;

- 2) Filing a Report of Waste Discharge to obtain individual Waste Discharge Requirements (WDRs) specific to the Property and submitting the appropriate fee. Since this option is project-specific, you will need to contact staff at Ermias.Berhe@waterboards.ca.gov for further instructions and to determine the appropriate application fee;

OR

- 3) Providing information demonstrating why regulatory coverage is not needed for the parcels identified above. **If you have received a Notice to Abate Nuisance from the County**, will no longer be cultivating cannabis, and will restore the Property in compliance with the Water Boards' Cannabis Cultivation Policy (Policy), please provide a written response, including a copy of the County's notice and any other supporting documentation, including photos if relevant, explaining why you are not

¹ Water Code section 13260 states, in relevant part: (a) All 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.

² 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.

seeking regulatory coverage for the parcel identified above and how the Property will be restored in compliance with the Policy.

Application fees submitted pursuant to Options 1 or 2, above, must be submitted to the State Water Board within 30 days of submitting the online application or Report of Waste Discharge. Failure to submit the application fee within 30 days will result in the application being voided and will thus constitute a failure to comply with the above directive pursuant to Water Code sections 13260 and 13264.

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.

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 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 July 22, 2021 Inspection Report provides recommendations to correct the alleged violations, as well as to address features and conditions that threaten to impact water quality. **Within 30 days of this letter**, please advise Regional Water Board staff Ermias Berhe of your intentions, plan, and schedule to implement recommendations in the inspection report. If you have questions about what is required of you to comply with the requirements outlined above, and to advise as to your plan and schedule to correct the alleged violations, please contact Regional Water Board staff Ermias Berhe by email at Ermias.Berhe@Waterboards.ca.gov or by phone at 707-445-6128.

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

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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.

You may also contact me at Mona.Dougherty@Waterboards.ca.gov or by phone at 707-445-6129. Additionally, we are available to meet with you if you wish to discuss this letter or our waste discharge regulatory programs in further detail.

Sincerely,

Mona Dougherty
Senior Water Resources Control Engineer

Filename 210819_MSD_Adam Busch & Brian Horst_Inspection_NOV

Attachments: Attachment A - Regulatory Citations
Attachment B – Facilities Inspection Report
Attachment C – Inspection Map and Photolog

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
Ermias Berhe, Ermias.Berhe@waterboards.ca.gov

Division of Water Rights

Stormer Feiler, Stormer.Feiler@waterboards.ca.gov
Taro Murano, Taro.Murano@waterboards.ca.gov
Gagan Bhullar, Gagan.Bhullar@Waterboards.ca.gov

Department of Fish and Wildlife

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

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	<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 style="padding-left: 40px;">(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 style="padding-left: 40px;">(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)	“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).”
Cannabis policy and General Order No. WQ 2019-0001-DWQ	<p>State Water Resources Control Board Cannabis Cultivation Policy and General Waste Discharge Requirements Order No. WQ 2019-0001-DWQ for Discharges of Waste Associated with Cannabis Cultivation Activities</p> <p>https://www.waterboards.ca.gov/water_issues/programs/cannabis/docs/policy/final_cannabis_policy_with_attachments.pdf</p> <p>and</p> <p>https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2019/wqo2019_0001_dwq.pdf</p>

Attachment B – Facilities Inspection Report

FACILITIES INSPECTION REPORT

Region/Office: 1	Status: Performed	Reg. Measure ID: 444466
Program Type: IRRICANNABIS	WDID:	Order Number:
Scheduled Insp. Date:	Actual Insp. Date: 07/22/2021	

Discharger Information

Party ID: 626621	Discharger Organization Name: Busch, Adam	
Address: 1181 Q Street	City, State, Zip: ARCATA, CA 95521	
Discharger Contact Person:	Discharger Contact Phone:	
Discharger Contact Email Address:		

Facility Information

Place ID 875643	Facility Name: Adam Busch & Brian Horst		
Address:	City, State, Zip: CA		
County: Humboldt	Latitude: 41.19047	Longitude: -123.81057	Method:

Lead Inspector Information

Lead Inspector Party ID: 591567	Lead Inspector Name: Ermias Berhe		
Inspector Type:	<input checked="" type="checkbox"/> State	<input type="checkbox"/> State Contractor	<input type="checkbox"/> EPA Contractor
	<input type="checkbox"/> EPA and State (EPA Lead)	<input type="checkbox"/> EPA and State (State Lead)	<input type="checkbox"/> EPA (Regional)

INSPECTION TYPE

Inspection Type: Miscellaneous inspection

VIOLATIONSWere Violations noted during this inspection? Yes No

Violation ID	Violation Type	Occurrence Date	Rank	Description
1092822	Unauthorized Discharge	07/22/2021	B	California Water Code Section 13260 at inspection points WQ3 and WQ8
1093247	Basin Plan Prohibition	07/22/2021	B	Basin Plan Section 4.2.1, Prohibitions 1 & 2 at inspection point WQ1
1093248	Order Conditions	07/22/2021	B	Cannabis policy and General Order No. WQ 2019-0001-DWQ at inspection points WQ1, WQ2, WQ3 , WQ5 and WQ8.

INSPECTION SUMMARY (REQUIRED) (500 character limit)

I observed a fill crossing delivering sediment to surface waters at inspection point WQ1. I observed uncontained and improperly disposed cannabis waste at WQ2. I observed approximately 10,000 square feet of open grow cannabis cultivation at W Q3 and east of it. I observed water storage tanks at WQ4, WQ7, WQ9 and WQ10. I also observed an outhouse toilet at WQ5. I observed a small, approximately 1,200 square feet, area of cannabis cultivation at WQ8. (see attached inspection map and photo log).

GENERAL NOTES (OPTIONAL) (2000 character limit)

Recommendations

1. Prior to conducting any instream work associated with WQ1, submit to the Regional Water Board an application for Clean Water Act section 401 water quality certification, and secure approval from the Regional Water Board. The 401 Application may be found at the following hyperlink:
https://www.waterboards.ca.gov/northcoast/water_issues/programs/cannabis/pdf/200204/RB1_Cannabis_WQC_401_App.pdf
2. 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 CANGO (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 CANGO can be found at this hyperlink:
https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2019/wqo2019_0001_dwq.pdf
3. Discontinue use of and dismantle any outhouse/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.
4. 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.

For Internal Use (Optional)

Reviewed By:	(1)	(2)	(3)
CIWQS Entry Date:		Regional Board File Number:	CIWQS Inspection ID:

Attachment C – Inspection Map and Photolog

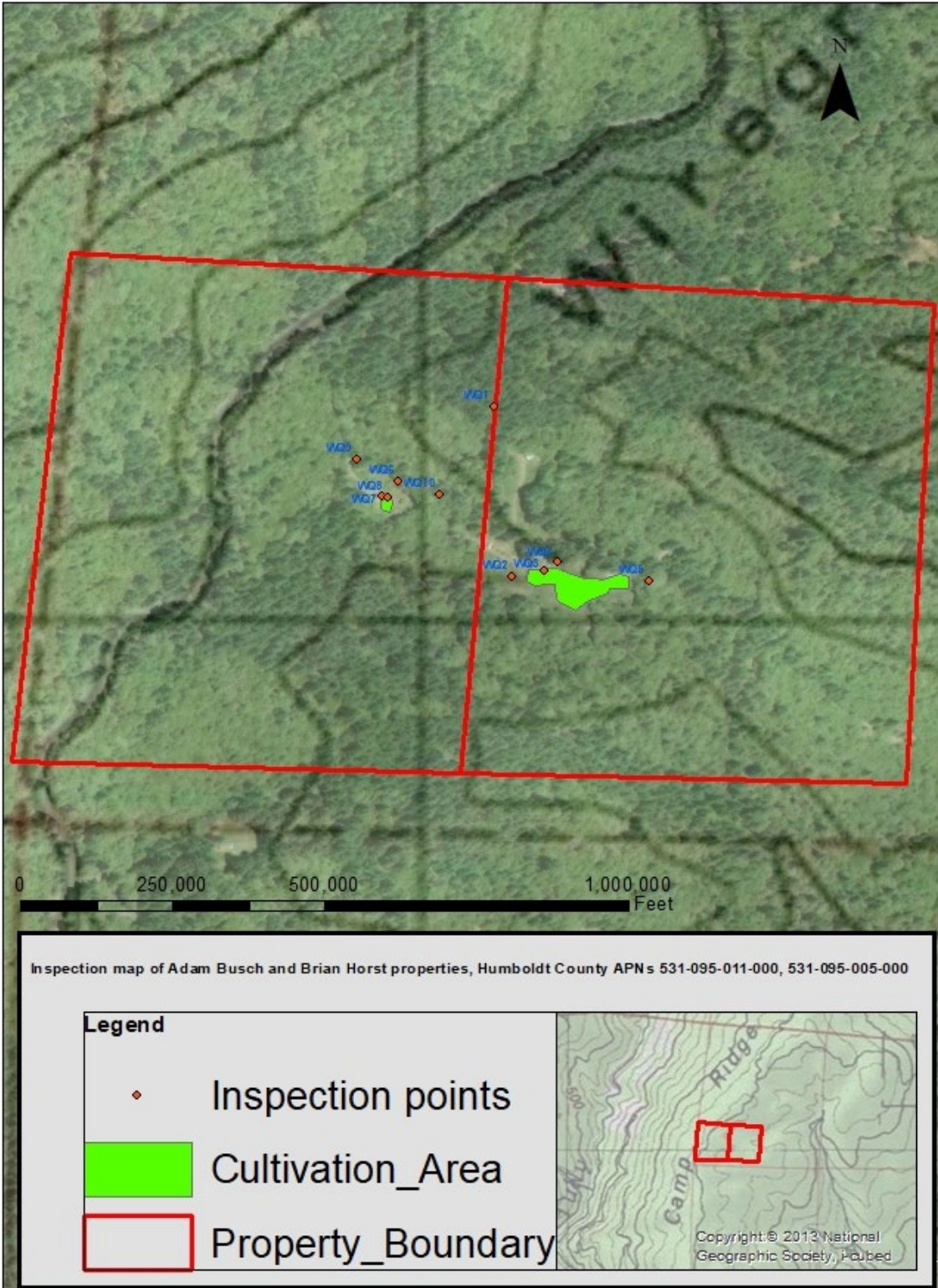


Figure 1: inspection map

Photo Log of July 22, 2021, Inspection of Adam Busch and Brian Horst Properties, Humboldt County APNs 531-095-011 and 531-095-005-000. Photo taken by Ermias Berhe unless noted otherwise.



Photo 1: Fill crossing at WQ1



Photo 2: uncontained cannabis waste at WQ2



Photo 3: cannabis cultivation at inspection point WQ3



Photo 4: water storage tanks at WQ4



Photo 5: outhouse toilet at WQ5



Photo 6: properly stored petroleum and petroleum products at WQ6



Photo 7: a water storage tank at WQ7



Photo 8: outdoor cannabis cultivation WQ8



Photo 9: water storage tanks at WQ9



Photo 10: water storage tanks at WQ10