



North Coast Regional Water Quality Control Board

August 19, 2021

John Devoe
PO Box 570
Arcata, CA 95518

Certified Mail **7016 2070 0000 6486 2272**

Dear John Devoe:

Subject: Notice of Violation and Transmittal of Inspection Report for July 22, 2021 Inspection of Humboldt County Assessor's Parcel Number (APN) 531-023-006-000, and Directive to Respond within 30 days

File: Cannabis Program Inspections, Humboldt County, July 22, 2021, CIWQS Place ID 863384

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: 531-023-006-000 (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 (Staff) inspected the Property and observed cannabis cultivation. Accordingly, this letter directs you to address the violations noticed herein. Within 30 days, please 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 Photo Log). 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 Prohibition Nos. 1, 25-27 and Section 2 - Requirements Related to Water Diversions and Waste Discharge for Cannabis Cultivation Nos. 3-4, 15-17, 22, 26, 28, 31, 38-39, 48-51, 53, 56, 76, and 126. Staff observed these violations at Property locations identified in the inspection report as WQ2, WQ4, WQ5, WQ6, WQ10, WQ11 and WQ12.

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 95812-1888;

- 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 parcel 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

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

210817_MSD_John Devoe_Inspection_NOV

Attachments: Attachment A - Regulatory Citations
Attachment B – Facilities Inspection Report
Attachment C – Inspection Maps 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_attachment_a.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: 444496
Program Type: IRRICANNABIS	WDID:	Order Number:
Scheduled Insp. Date:	Actual Insp. Date: 07/22/2021	

Discharger Information

Party ID: 626726	Discharger Organization Name: Devoe, John		
Address: Po Box 570	City, State, Zip: Arcata, CA 95518		
Discharger Contact Person:	Discharger Contact Phone:		
Discharger Contact Email Address:			

Facility Information

Place ID 863384	Facility Name: John H Devoe		
Address: 21000 Bald Hills Road	City, State, Zip: Weitchpec, CA 95546		
County: Humboldt	Latitude: 41.143952	Longitude: -123.836914	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

VIOLATIONS

Were Violations noted during this inspection? Yes No

Violation ID	Violation Type	Occurrence Date	Rank	Description
1092905	Basin Plan Prohibition	07/22/2021	B	Basin Plan Section 4.2.1, Prohibition 1, 2 at inspection points WQ2, WQ4, WQ5, WQ10, WQ11 and WQ12.
1093263	Order Conditions	07/22/2021	B	Cannabis policy and General Order No. WQ 2019-0001-DWQ at inspection points WQ4, WQ4, WQ5, WQ6, WQ10, WQ11 AND WQ12.
1093269	Unauthorized Discharge	07/22/2021	B	California Water Code Section 13260- Cannabis cultivation of sufficient size without permit at inspection point WQ6

INSPECTION SUMMARY (REQUIRED) (500 character limit)

I observed four stream crossings at inspection points WQ2, WQ4, WQ10 and WQ11, three are improperly installed plastic culverts and one fill crossing on an old logging road actively delivering sediment to the waters of the state. I observed water storage tanks at WQ1, WQ3, WQ8 and WQ9. I observed cultivation area of approximately 14,000 square feet at WQ6. I also observed an unpermitted water diversion infrastructure at WQ 12. For more information see attached inspection map and Photo log.

GENERAL NOTES (OPTIONAL) (2000 character limit)

Recommendations

1. Retain a licensed professional to inventory, assess, and develop a workplan and schedule to implement measures to ensure that all developed features, roads, watercourse crossings, and cultivation areas throughout the Property are corrected, restored, and/or maintained in conditions that prevent or minimize erosion, sediment transport/delivery, and adverse impacts to water quality and beneficial uses.
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. Work with CDFW and the State Water Resources Control Board’s Division of Water Rights (DIV) to determine and secure any applicable permits or licensing required for surface water diversion, storage, and use on the site. If the existing surface water diversion does not meet applicable CDFW or DIV requirements, remove diversion infrastructure from surface waters, include provisions for restoring any instream or riparian disturbance associated with this features or removal thereof.
4. Prior to conducting any instream work associated with inspection points WQ2,WQ4,WQ10,WQ11 and WQ12, 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

For Internal Use (Optional)

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

Attachment C – Inspection Maps and Photo Log

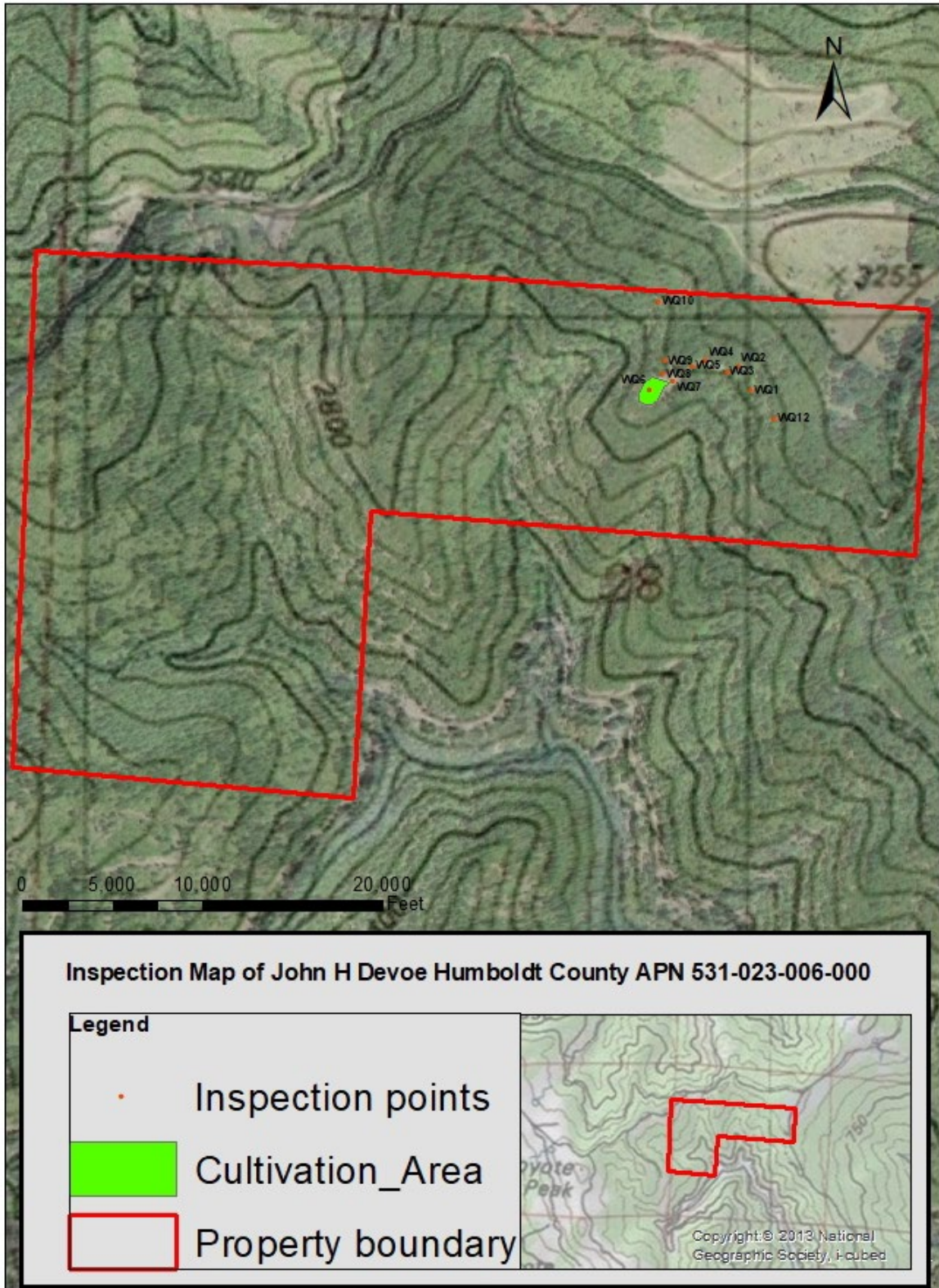


Figure 1 inspection map

Photo Log of July 22, 2021, Inspection of John Devoe Property, Humboldt County APN 531-023-006-000. Photos taken by Ermias Berhe unless noted otherwise



Photo 1: water storage tank at inspection point WQ1



Photo 2: culverted stream crossing skewed and installed high in the fill at WQ2



Photo 3: water storage tanks at WQ3



Photo 4: culverted stream crossing skewed and installed high in the fill at WQ4



Photo 5: road erosion at WQ5



Photo 6: Outdoor cannabis cultivation at WQ6



Photo 7: log at WQ.



Photo 8: water storage tanks at WQ8



Photo 9: water storage tanks at WQ9 (photo taken by Shannon Utley from the Regional Water Board during the inspection)



Photo 10: a fill stream crossing at an old logging road at WQ10. (photo taken by Shannon Utley from the Regional Water Board during the inspection)



Photo 11: an improperly installed culverted stream crossing draining a spring and a drainage ditch at WQ11



Photo 12: 2 Point of Diversion (POD) on a spring at WQ12