



North Coast Regional Water Quality Control Board

August 20, 2021

Garland Graves
1378 Dena Drive
McKinleyville, CA 95519

Certified Mail #7016 2070 0000 6486 2340

Dear Garland Graves:

**Subject: Notice of Violation, Transmittal of Inspection Report for July 22, 2021
Inspection of Humboldt County Assessor's Parcels 532-055-009-000 and
532-056-009-000, and Directive to Respond within 30 days**

File: Cannabis Program Inspections, Humboldt County, July 22, 2021,
CIWQS Place ID No. 842951

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: 532-055-009-000 and 532-056-009-000 (the Property):

1. California Water Code (Water Code) section 13260 and 13264
2. Federal Clean Water Act section 301 (a)

On July 22, 2021, North Coast Regional Water Quality Control Board (Regional Water Board) staff (Staff) inspected the Property and observed outdoor 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

Effective July 12, 2017 to June 30, 2019, parcel 532-055-009-000 was enrolled under Regional Cannabis Order R1-2015-0023, with Discharger Seth Graves, WDID 1B171367CHUM. The enrollment was not transitioned into State Cannabis Order WQ 2019-0001-DWQ.

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

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, Attachment C – Photo Log, and Attachment D – Inspection Map). 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 13264 (a) and Federal Clean Water Act Section 301 (a). Staff observed these violations at Property locations identified in the inspection report as GG4, GG6, GG7, GG9, and GG10.

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 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.

- 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 Katherine.hawken@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 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. Administrative civil liabilities may be assessed on a daily basis in the amount up to \$10,000 for each day the violation occurs and \$10/gallon beyond the first 1,000 gallons not cleaned up for actual discharges to waters of the United States without a permit pursuant to Water Code section 13385.

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 Katherine Hawken 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 Katherine Hawken by email at 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.

You may also contact me at diana.henrioulle@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 or our waste discharge regulatory programs in further detail.

Sincerely,

Diana Henrioulle, P.E.
Senior Water Resource Control Engineer

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Attachments: Attachment A – Regulatory Citations
 Attachment B – Facilities Inspection Report
 Attachment C – Photo Log
 Attachment D – Inspection Map

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

Division of Water Rights

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

Department of Fish and Wildlife

Kari Gahan, Kari.Gahan@wildlife.ca.gov

Attachment A – Regulatory Citations

Regulatory Section	Citation
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)	<p>“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).”</p>
Federal Clean Water Act Section 301 (a):	<p>Section 301(a) provides that subject to certain exceptions, “the discharge of any pollutant by any person shall be unlawful.” 33 U.S.C. § 1311(a). One of the exceptions allowed for under the Clean Water Act is the discharge from a dredge and fill activity under the auspices of § 404 and 401 of the Clean Water Act. 33 U.S.C. § 1342. The Clean Water Act prohibits the discharge of any pollutant from a point source into waters of the United States without a section 404 dredge and fill 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>

Regulatory Section	Citation
Federal Clean Water Act Section 404	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 term “discharge or dredged material” mean any addition of dredge 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 term “discharge of fill material” means the additional of fill material into waters of the United States. 33 C.F.R. § 323.2(f).

FACILITIES INSPECTION REPORT

Region/Office: 1	Status: Performed	Reg. Measure ID: 444536
Program Type: IRRICANNABIS	WDID:	Order Number:
Scheduled Insp. Date:	Actual Insp. Date: 07/22/2021	

Discharger Information

Party ID: 626804	Discharger Organization Name: Graves, Garland	
Address: 1378 Dena Drive	City, State, Zip: McKinleyville, CA 95519	
Discharger Contact Person:	Discharger Contact Phone:	
Discharger Contact Email Address:		

Facility Information

Place ID 842951	Facility Name: Garland Graves		
Address:	City, State, Zip: CA		
County: Humboldt	Latitude:	Longitude:	Method:

Lead Inspector Information

Lead Inspector Party ID: 569684	Lead Inspector Name: Katherine Hawken		
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 (Regional)	<input type="checkbox"/> EPA and State (State Lead)

INSPECTION TYPE

Inspection Type: Miscellaneous inspection

VIOLATIONSWere Violations noted during this inspection? Yes No

Violation ID	Violation Type	Occurrence Date	Rank	Description
1093268	Unauthorized Discharge	07/22/2021	B	Cannabis cultivation of sufficient size and scope to require regulatory coverage under Order No. WQ 2019-0001-DWQ.

INSPECTION SUMMARY (REQUIRED) (500 character limit)

GG1: I observed a water tank with a leaking hose connector on a platform with another water tank below it (Photo 1).
 GG2: I observed an outdoor cultivation area with cannabis plants in grow bags (Photo 2).
 GG3: I observed an outdoor cultivation area with cannabis plants in pots (Photo 3).
 GG4: I observed a squashed, blocked culvert stream crossing (Photo 4).
 GG5: I observed three small outdoor cultivation areas with mixing tanks, fertilizer, and petroleum products left open (Photo 5).

GENERAL NOTES (OPTIONAL) (2000 character limit)

GG6: I observed an unlined pond with an outlet culvert in the berm (Photo 6). The pond was fed by a spring. I observed a water diversion line in the pond and a pump on the bank. The pond appeared to be leaking with wet areas evident around the base.
 GG7: I observed a misaligned culvert stream crossing receiving road runoff (Photo 7).
 GG8: I observed an outdoor cultivation area with cannabis plants in terraced raised beds (Photo 8).
 GG9: I observed an unlined pond in a low-lying area (Photo 9). The pond was fed by a spring (GG10). Flow overtops the pond berm and discharges to a watercourse channel downhill.
 GG10: Uphill of the pond (GG9) I observed a spring with a constructed pump shed and diversion line in the springhead (Photo 10).

Recommendations:

1. If the property owner and/or tenant(s) plan to continue cultivating cannabis on the Property, enroll for coverage under the State Water Board’s Order WQ 2019-0001-DWQ here: <https://public2.waterboards.ca.gov/cgo>
2. Retain a licensed professional to develop a workplan and schedule to:
 - a. Install stream crossings with the capacity to convey the 100-flood flow at GG4 and GG7.
 - b. Hydrologically disconnect access roads from watercourses.
 - c. Improve instream impoundments GG6 and GG9 so they are not at risk of failing and discharging sediment; or remove the ponds and restore the riparian areas.
3. An approved 401 Water Quality Certification is required prior to work in streams. See application here: https://www.waterboards.ca.gov/northcoast/water_issues/programs/cannabis/pdf/200204/RB1_Cannabis_WQC_401_App.pdf
4. Regularly inspect water diversion and storage system, and fix leaks promptly.
5. Work with the California Department of Fish and Wildlife and the State Water Board Division of Water Rights on permitting options for instream diversions.
6. Store and dispose of petroleum products, domestic waste, and cultivation waste properly to prevent spillage and potential for migration/transport into receiving waters.

For Internal Use (Optional)

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

Attachment D

Graves Inspection Map



Map of property with inspection points of interest and parcel boundaries created by Kate Hawken. Background is 2020 NAIP Imagery

Attachment C

Graves July 22, 2021 Inspection Photo Log
Photos Taken by Kate Hawken



Photo 1: GG1: Two water tanks with leaking connection



Photo 2: GG2: Outdoor cultivation area with cannabis plants in grow bags

Attachment C



Photo 3: GG3:
Outdoor cultivation
area with cannabis
plants in pots



Photo 4: GG4:
Squashed, rusted
culvert inlet

Attachment C



Photo 5: GG5: Mixing tanks, fertilizer, and petroleum products near outdoor cultivation area



Photo 6: GG6: Onstream, unlined pond with culvert set high in berm

Attachment C



Photo 7: GG7: Misaligned culvert receiving flow from a Class III watercourse and road runoff



Photo 8: GG8: Cannabis plants in terraced raised beds

Attachment C



Photo 9: GG9: Unlined onstream pond fed by uphill spring



Photo 10: GG10: Shed, pump, and black poly diversion line in spring above pond