



North Coast Regional Water Quality Control Board

August 17, 2021

Jacqueline Groft

Certified Mail #7016 2070 0000 6486 2210

Andre Groft
P.O. Box 867
Garberville, CA 95542

Dear Jacqueline and Andre Groft:

Subject: Notice of Violation and Transmittal of Inspection Report for July 19, 2021 Inspection of Humboldt County Assessor's Parcel 220-272-004-000

File: Cannabis Program Inspections, Humboldt County, July 19, 2021, CIWQS Place ID 875490

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 Number: 220-272-004-000 (the Property):

1. State Water Resources Control Board Cannabis Cultivation Policy, various provisions
2. Water Quality Control Plan for the North Coast Region (Basin Plan) Section 4.2.1
3. California Water Code (Water Code) Sections 13260 and 13264
4. Federal Clean Water Act Sections 301, 401, and 404

On July 19, 2021, North Coast Regional Water Quality Control Board (Regional Water Board) staff inspected the Property and observed active 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.

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

Background

On July 19, 2021, staff from the Regional Water Board, accompanied by staff of California Department of Fish and Wildlife, 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.

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.

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 to related requirements and regulations.

Observed Violations

As documented in the July 19, 2021 inspection report, Regional Water Board staff observed violations of the North Coast Basin Plan, the Water Boards' Cannabis Cultivation Policy, California Water Code, and Federal Clean Water Act. Staff observed these violations at Property locations identified in the inspection report as CA1, CA2, XNG1 through XNG3, and CIII, among others.

Directive to Obtain Regulatory Coverage Prior to Future Activities Involving or Resulting in Discharges of Waste to Waters of the State

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 notice 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 Shannon.Utley@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(s) 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 attached 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. Furthermore, pursuant to Water Code section 13385, 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.

Inspection Report Recommendations

As mentioned above, the July 19, 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 notice**, please advise Regional Water Board staff Shannon Utley 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 Shannon Utley by email at Shannon.Utley@waterboards.ca.gov.

Future correspondence regarding this matter will be sent to you at this address unless you provide an alternative address 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 by email at David.Kuszmar@waterboards.ca.gov. Additionally, we are available to meet with you if you wish to discuss this notice or our waste discharge regulatory programs in further detail.

Sincerely,

David Kuszmar, P.E. #C65460
Senior Water Resource Control Engineer

Southern Cannabis Regulatory Unit

Groft_NOV_Report

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

Shannon Utley, Shannon.Utley@waterboards.ca.gov

Division of Water Rights

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

Taro Murano, Taro.Murano@waterboards.ca.gov

Chris Van de Wyngard, Christopher.VandeWyngard@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	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 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.”
California 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 an no person shatt 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.”
Federal Clean Water Act Section 301	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 sections 404 and 401 of the Clean Water Act. 33 U.S.C. § 1341 and 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.
Federal Clean Water Act Section 401	States, in relevant part: “(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.”
Federal Clean Water Act Section 404	States, in relevant part: “(a) 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. §

Regulatory Section	Citation
	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).
Cannabis Cultivation Policy and General Order No. WQ 2019-0001-DWQ	State Water Resources Control Board Cannabis Cultivation Policy – Principles and Guidelines for Cannabis Cultivation and Order No. WQ 2019-0001-DWQ General Waste Discharge Requirements and Waiver of Waste Discharge Requirements for Discharges of Waste Associated with Cannabis Cultivation Activities: https://www.waterboards.ca.gov/water_issues/programs/cannabis/docs/policy/final_cannabis_policy_with_attach_a.pdf and https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2019/wqo2019_0001_dwq.pdf

FACILITIES INSPECTION REPORT

Region/Office: 1	Status: Performed	Reg. Measure ID: 444363
Program Type: IRRICANNABIS	WDID:	Order Number:
Scheduled Insp. Date:	Actual Insp. Date: 07/19/2021	

Discharger Information

Party ID: 626466	Discharger Organization Name: Jacqueline Groft and Andre Groft	
Address: P.O. Box 867	City, State, Zip: Garberville, CA 95542	
Discharger Contact Person:	Jaqueline Groft	Discharger Contact Phone:
Discharger Contact Email Address:		

Facility Information

Place ID 875490	Facility Name: Jacqueline Groft and Andre Groft		
Address: 1520 Elk Ridge Road	City, State, Zip: Whitethorn, CA 95589		
County: Humboldt	Latitude:	Longitude:	Method:

Lead Inspector Information

Lead Inspector Party ID: 545131	Lead Inspector Name: Shannon Utlej		
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
1093226	Order Conditions	07/19/2021	B	State Water Resources Control Board Cannabis Cultivation Policy & Principles and Guidelines for Cannabis Cultivation, various provisions.
1093227	Other Codes	07/19/2021	B	California Water Code Sections 13260 and 13264: Cannabis cultivation operations of sufficient size and scope to require regulatory coverage under State Water Resources Control Board Cannabis Cultivation Policy and General Order No. WQ 2019-0001-DWQ.
1093228	Basin Plan Prohibition	07/19/2021	B	Water Quality Control Plan for the North Coast Region (Basin Plan) Section 4.2.1, Prohibition 1 and Prohibition 2: Discharge of soil, silt, bark, slash, sawdust, or other organic and earthen material to surface waters.
1093229	Other Codes	07/19/2021	B	Federal Clean Water Act Section 301: The discharge of any pollutant by any person shall be unlawful except as allowed under Sections 401 and 404 for the discharge from approved dredge and fill activities.

Showing the first 4 of 4 violations

INSPECTION SUMMARY (REQUIRED) (500 character limit)

Recommendations:
 Hire a qualified professional to assess all watercourses on the Property, to ensure appropriately sized crossings are designed and installed to accommodate a 100-year flow event, and to ensure restoration of the impacted reaches of the Class III watercourse.

Remove household waste from the Property and move water storage tanks and all other cultivation-related infrastructure outside of required watercourse setbacks (e.g. at least 50 feet for Class III watercourses).

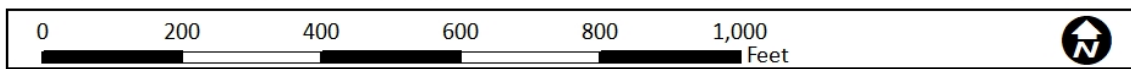
GENERAL NOTES (OPTIONAL) (2000 character limit)

Inspection Description:
 The July 19, 2021 inspection was associated with a criminal search warrant and only portions of the Property were viewed. Please see the attached Map and Appendices for locations and details about features of water quality concern. Active cannabis cultivation was occurring in two locations on the Humboldt County Assessor Parcel Number 220-272-004-000 (hereafter the Property), which requires regulatory coverage pursuant to the State Water Resources Control Board Cannabis Cultivation Policy and General Order No. WQ 2019-0001-DWQ (Cannabis General Order). Active outdoor cannabis cultivation was occurring on a terraced hillside and within a hoop-house style greenhouse (CA1 on the Inspection Map). Cultivation-related infrastructure, three large greenhouses, irrigation lines, and several hundred grow bags inside and outside of the greenhouses, were located at CA2. The class III watercourse located near the Property's point of diversion (POD) appeared to have been buried upstream of CIII on the Inspection Map and had a stream crossing without any engineered crossing infrastructure (XNG3. An undersized and buried culvert (XNG2) was located on a class III watercourse crossing the main road between cultivation area CA2 and the residence. Multiple water storage tanks were located throughout the property including TANK2 which was located adjacent to a watercourse. A pile of household waste was located on the opposite side of the road from crossing XNG1.

Additional Recommendations:
 Enroll in the State Water Resources Control Board Cannabis General Order for discharges of waste associated with cannabis cultivation and modify cannabis cultivation activities and site conditions to comply with applicable terms of the Cannabis General Order and related Cannabis Cultivation Policy.

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



Site Map of Graft Property Humboldt County

7/19/2021

	Cultivation Area		Watercourse
	Point of Diversion		Cultivation Area
	Storage Tank		Parcel Boundary
	Stream		
	Stream Crossing		

CALIFORNIA
Water Boards
STATE WATER RESOURCES CONTROL BOARD
REGIONAL WATER QUALITY CONTROL BOARD

Note: 2020 NAP Imagery provided by California Department of Fish and Wildlife online mapping services
Points of interest and watercourses may be drawn in by hand

2 Miles

All photographs and GPS locations were taken by Shannon Utley, North Coast Regional Water Quality Control Board

Photo 1: View of cultivation area CA1 looking down from the greenhouse.



Photo 2: View of cultivation area CA1 looking down toward the stream.



Photo 3: View of cultivation area CA1 looking up from the road.



Photo 4: View of the greenhouse at CA1 with active cannabis cultivation occurring.



Photo 5: View of cultivation infrastructure at cultivation area CA2.



Photo 6: View inside one of the greenhouses at CA2.



Photo 7: View of outdoor cultivation infrastructure at CA2.



Photo 8: View of outdoor cultivation infrastructure at CA2.



Photo 9: Downstream view of crossing XNG1.



Photo 10: Upstream view of crossing XNG1.

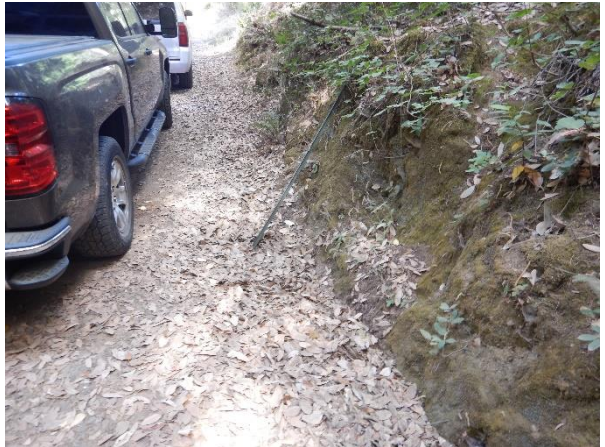


Photo 11: Upstream view of stream crossing XNG2.



Photo 12: Downstream view of stream crossing XNG2.



Photo 13: Downstream view of stream crossing XNG3.



Photo 14: Upstream view of stream crossing XNG3.



Photo 15: Upstream view of CIII and the Class III watercourse.



Photo 16: Downstream view of the Class III watercourse (CIII on the Site Map).



Photo 17: Water storage tanks (TANK1) located at cultivation area CA2.



Photo 18: Water storage tank (TANK2) upstream of stream crossing XNG3.



Photo 19: View of Class III watercourse located south of the residence.



Photo 20: Downstream view of Class III south of the residence.



Photo 21: South side of the residence, Class III watercourse, and generator.



Photo 22: Household waste located on the opposite side of the road from XNG1.

