
North Coast Regional Water Quality Control Board

June 10, 2021

Travis Hunter
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Willits, CA 95490
travisjhunter@gmail.com

Certified Mail No. 7016 2070 0000 6486 1800

Dear Mr. Hunter:

Subject: **Notice of Violation and Transmittal of Inspection Report for May 11, 2021 Inspection of Mendocino County Assessor's Parcel 104-280-08**

File: Cannabis Program Inspections, Mendocino County, Travis Farm, CIWQS
Place ID 869748, WDID 1_23CC416064

This letter is to notify you of observed violations of the requirements listed below for unauthorized discharges to waters of the state from the above-referenced parcel (Property):

1. California Water Code (Water Code) section 13264
2. Federal Clean Water Act Section 301 (a), 401 and 404
3. State Water Resources Control Board Order WQ 2019-0001-DWQ General Waste Discharge Requirements and Waiver of Waste Discharge Requirements for Discharges of Waste Associated with Cannabis Cultivation Activities

Please provide us with a plan and schedule to address the Recommendations in the enclosed inspection report within 30 days of the date of this letter.

Background

Effective February 4, 2020, Mendocino parcel 104-280-08-00 was enrolled into the State Cannabis Order WQ 2019-0001-DWQ as a conditionally exempt site under the name Travis Farm.

On May 11, 2021, staff from the Regional Water Board inspected assessor's parcel number 104-280-08 in conjunction with staff from the California Department of Fish and Wildlife, Mendocino County Code Enforcement, and the Mendocino County Sheriff's Office. The purpose of the inspection was to evaluate onsite development and conditions related to cannabis cultivation and associated activities, and for Regional Water Board staff to identify and assess any impacts or threatened impacts to the quality and beneficial uses of waters of the state.

Relevant Requirements

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

Observed Violations

As documented in the enclosed inspection report, Regional Water Board staff observed violations of California Water Code 13264 (a), Federal Clean Water Act Section 301 (a), Federal Clean Water Act Section 401, Federal Clean Water Act Section 404. In addition, staff observed violations of the State Cannabis Order Attachment A, Section 1 - General Requirements and Prohibitions Nos. 1, 10, 25-27, 32, and 37; Section 2 - Requirements Related to Water Diversions and Waste Discharge for Cannabis Cultivation Nos. 7, 8, 15, 17, 22, 26, 31, 33, 38, 49, 50, 56, 62-63, 119, and 123.

Staff observed these violations at Property locations identified in the inspection report and photo log as upper cultivation area, lower cultivation area, access road, and pond.

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 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. 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 May 11, 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 Kate Hawken of your intentions, plan, and schedule to implement recommendations in the inspection report. Ms. Hawken can be reached by email at Katherine.Hawken@waterboards.ca.gov or by telephone 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.

If you have any questions regarding this matter, please contact Kate Hawken at the phone number or email above. You may also contact me at Mona.Dougherty@waterboards.ca.gov or (707) 445-6129. 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,

Mona Dougherty, P.E.
Senior Water Resources Control Engineer

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Enclosures: Attachment A – Regulatory Citations
Water Quality Inspection Report

cc: California Department of Fish and Wildlife
Timothy Dodson, Timothy.Dodson@wildlife.ca.gov
Justin Rhoades, Justin.Rhoades@wildlife.ca.gov
Division of Water Rights
Stormer Feiler, Stormer.Feiler@waterboards.ca.gov
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Kason Grady, Kason.Grady@waterboards.ca.gov
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Mendocino County
Cannabis Program, cannabisprogram@mendocinocounty.org

Attachment A – Regulatory Citations

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 13350	<p>“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).”</p>

Regulatory Section	Citation
Federal Clean Water Act Section 301 (a)	<p>Section 301(a) provides that except as in compliance with this section [301] and section 1342 and 1344 of the Clean Water Act, “the discharge of any pollutant by any person shall be unlawful.” 33 U.S.C. § 1311(a). The relevant exceptions allowed for under the Clean Water Act are the discharge of dredged and fill material into navigable waters pursuant to section 404 or the discharge of any pollutant to navigable waters from any point source pursuant to section 402 of the Clean Water Act. The Clean Water Act prohibits the discharge of any pollutant from a point source into waters of the United States without a section 402 permit and/or prohibits the discharge of dredge and fill material without a section 404 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>
Federal Clean Water Act Section 404	<p>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 phrase “discharge of dredged material” means any addition of dredged 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 phrase “discharge of fill material” means the addition of fill material into waters of the United States. 33 C.F.R. § 323.2(f).</p>

Regulatory Section	Citation
State Cannabis Order Attachment A, Section 1 - General Requirements and Prohibitions #1	Prior to commencing any cannabis cultivation activities, including cannabis cultivation land development or alteration, the cannabis cultivator shall comply with all applicable federal, state, and local laws, regulations, and permitting requirements
State Cannabis Order Attachment A, Section 1 - General Requirements and Prohibitions #10	Prior to commencing any cannabis land development or site expansion activities, the cannabis cultivator shall retain a Qualified Biologist to identify sensitive plant, wildlife species, or communities at the proposed development site. If sensitive plant, wildlife species, or communities are identified, the cannabis cultivator and Qualified Biologist shall consult with CDFW and CAL FIRE to designate a no-disturbance buffer to protect identified sensitive plant, wildlife species, and communities. A copy of the report shall be submitted to the appropriate Regional Water Board.
State Cannabis Order Attachment A, Section 1 - General Requirements and Prohibitions #25	Cannabis cultivators shall not discharge waste in a manner that creates or threatens to create a condition of pollution or nuisance, as defined by Water Code section 13050.
State Cannabis Order Attachment A, Section 1 - General Requirements and Prohibitions #26	<p>Except as allowed and authorized in this Policy, cannabis cultivators shall not discharge:</p> <ul style="list-style-type: none"> • irrigation runoff, tailwater, sediment, plant waste, or chemicals to surface water or via surface runoff; • waste classified as hazardous (California Code of Regulations, title 23, section 2521(a)) or defined as a designated waste (Water Code section 13173); or • waste in violation of, or in a manner inconsistent with, the appropriate Water Quality Control Plan(s).
State Cannabis Order Attachment A, Section 1 - General Requirements and Prohibitions #27	<p>Unless authorized by separate waste discharge requirements, the Cannabis Cultivation General Order, or a CWA section 404/401 permit, the following discharges are prohibited:</p> <ul style="list-style-type: none"> • any waste that could affect the quality of the waters of the state; or • wastewater from cannabis manufacturing activities defined in Business and Professions Code section 26100, indoor grow operations, or other industrial wastewater to an onsite wastewater treatment system (e.g., septic tank and associated disposal facilities), to surface water, or to land.

Regulatory Section	Citation
State Cannabis Order Attachment A, Section 1 - General Requirements and Prohibitions #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.

State Cannabis
 Order Attachment A,
 Section 1 - General
 Requirements and
 Prohibitions #37

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).

Minimum Riparian Setbacks^{1,2}

Common Name	Watercourse Class ³	Distance
Perennial watercourses, waterbodies (e.g. lakes, ponds), or springs ⁴	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

¹ 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.

² 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.

³ 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).

⁴ 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
State Cannabis Order Attachment A, Section 2 - Requirements Related to Water Diversions and Waste Discharge for Cannabis Cultivation #7	<p>Cannabis cultivators shall stage and store equipment, materials, fuels, lubricants, solvents, or hazardous or toxic materials in locations that minimize the potential for discharge to waters of the state. At a minimum, the following measures shall be implemented:</p> <ul style="list-style-type: none">a) Designate an area outside the riparian setback for equipment storage, short-term maintenance, and refueling. Cannabis cultivator shall not conduct any maintenance activity or refuel equipment in any location where the petroleum products or other pollutants may enter waters of the state as per Fish and Game Code section 5650 (a)(1).b) Frequently inspect equipment and vehicles for leaks.c) Immediately clean up leaks, drips, and spills. Except for emergency repairs that are necessary for the safe transport of equipment or vehicles to an appropriate repair facility; performing equipment or vehicle repairs, maintenance, and washing onsite is prohibited.d) If emergency repairs generate waste fluids, ensure they are contained and properly disposed or recycled off-site.e) Properly dispose of all construction debris off-site.
State Cannabis Order Attachment A, Section 2 - Requirements Related to Water Diversions and Waste Discharge for Cannabis Cultivation #8	<p>The cannabis cultivator shall use appropriate erosion control measures to minimize erosion of disturbed areas, potting soil, or bulk soil amendments to prevent discharges of waste. Fill soil shall not be placed where it may discharge into surface water. If used, weed-free straw mulch shall be applied at a rate of two tons per acre of exposed soils and, if warranted by site conditions, shall be secured to the ground.</p>

Regulatory Section	Citation
State Cannabis Order Attachment A, Section 2 - Requirements Related to Water Diversions and Waste Discharge for Cannabis Cultivation #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.
State Cannabis Order Attachment A, Section 2 - Requirements Related to Water Diversions and Waste Discharge for Cannabis Cultivation #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.
State Cannabis Order Attachment A, Section 2 - Requirements Related to Water Diversions and Waste Discharge for Cannabis Cultivation #22	Cannabis cultivators shall ensure that access road surfacing, especially within a segment leading to a waterbody, is sufficient to minimize sediment delivery to the wetland or waterbody and maximize access road integrity. Road surfacing may include pavement, chip-seal, lignin, rock, or other material appropriate for timing and nature of use. All access roads that will be used for winter or wet weather hauling/traffic shall be surfaced. Steeper access road grades require higher quality rock (e.g., crushed angular versus river-run) to remain in place. The use of asphalt grindings is prohibited.

Regulatory Section	Citation
State Cannabis Order Attachment A, Section 2 - Requirements Related to Water Diversions and Waste Discharge for Cannabis Cultivation #26	Cannabis cultivators shall ensure that access roads are not allowed to develop or show evidence of significant surface rutting or gulying. Cannabis cultivators shall use water bars and rolling dips as designed by a Qualified Professional to minimize access road surface erosion and dissipate runoff.
State Cannabis Order Attachment A, Section 2 - Requirements Related to Water Diversions and Waste Discharge for Cannabis Cultivation #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.
State Cannabis Order Attachment A, Section 2 - Requirements Related to Water Diversions and Waste Discharge for Cannabis Cultivation #33	Cannabis cultivators shall avoid damage to native riparian vegetation. All exposed or disturbed land and access points within the stream and riparian setback with damaged vegetation shall be restored with regional native vegetation of similar native species. Riparian trees over four inches diameter at breast height shall be replaced by similar native species at a ratio of three to one (3:1). Restored areas must be mulched, using at least 2 to 4 inches of weed-free, clean straw or similar biodegradable mulch over the seeded area. Mulching shall be completed within 30 days after land disturbance activities in the areas cease. Revegetation planting shall occur at a seasonally appropriate time until vegetation is restored to pre-cannabis or pre-legacy condition or better. Cannabis cultivators shall stabilize and restore any temporary work areas with native vegetation to pre-cannabis cultivation or pre-legacy conditions or better. Vegetation shall be planted at an adequate density and variety to control surface erosion and re-generate a diverse composition of regional native vegetation of similar native species.

Regulatory Section	Citation
State Cannabis Order Attachment A, Section 2 - Requirements Related to Water Diversions and Waste Discharge for Cannabis Cultivation #38	Cannabis cultivators shall obtain all applicable permits and approvals prior to doing any work in or around waterbodies or within the riparian setbacks. Permits may include section 404/401 CWA permits, Regional Water Board WDRs (when applicable), and a CDFW LSA Agreement.
State Cannabis Order Attachment A, Section 2 - Requirements Related to Water Diversions and Waste Discharge for Cannabis Cultivation #49	Cannabis cultivators shall ensure that all access road watercourse crossing structures allow for the unrestricted passage of water and shall be designed to accommodate the estimated 100-year flood flow and associated debris (based upon an assessment of the streams potential to generate debris during high flow events). Watercourse crossings shall be designed and sized by a Qualified Professional. Consult CAL FIRE 100-year Watercourse Crossings document for examples and design calculations, available at: http://calfire.ca.gov/resource_mgt/downloads/100%20yr%20revised%208-08-17%20(final-a).pdf .
State Cannabis Order Attachment A, Section 2 - Requirements Related to Water Diversions and Waste Discharge for Cannabis Cultivation #50	Cannabis cultivators shall ensure that watercourse crossings allow migration of aquatic life during all life stages supported or potentially supported by that stream reach. Design measures shall be incorporated to ensure water depth and velocity does not inhibit migration of aquatic life. Any access road crossing structure on watercourses that support fish shall be constructed for the unrestricted passage of fish at all life stages, and should use the following design guidelines: <ul style="list-style-type: none"> • CDFW's Culvert Criteria for Fish Passage; • CDFW's Salmonid Stream Habitat Restoration Manual, Volume 2, Part IX: Fish Passage Evaluation at Stream Crossings; and • National Marine Fisheries Service, Southwest Region Guidelines for Salmonid Passage at Stream Crossings.

Regulatory Section	Citation
State Cannabis Order Attachment A, Section 2 - Requirements Related to Water Diversions and Waste Discharge for Cannabis Cultivation #56	Cannabis cultivators shall ensure that culverts used at watercourse crossings are: 1) installed parallel to the watercourse alignment to the extent possible, 2) of sufficient length to extend beyond stabilized fill/sidecast material, and 3) embedded or installed at the same level and gradient of the streambed in which they are being placed to prevent erosion.
State Cannabis Order Attachment A, Section 2 - Requirements Related to Water Diversions and Waste Discharge for Cannabis Cultivation #62	Cannabis cultivators shall haul away and properly dispose of excess soil and other debris as needed to prevent discharge to waters of the state.
State Cannabis Order Attachment A, Section 2 - Requirements Related to Water Diversions and Waste Discharge for Cannabis Cultivation #63	Cannabis cultivators shall not disturb aquatic or riparian habitat, such as pools, spawning sites, large wood, or shading vegetation unless authorized under a CWA section 404 permit, CWA section 401 certification, Regional Water Board WDRs (when applicable), or a CDFW LSA Agreement.

Regulatory Section	Citation
State Cannabis Order Attachment A, Section 2 - Requirements Related to Water Diversions and Waste Discharge for Cannabis Cultivation #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.
State Cannabis Order Attachment A, Section 2 - Requirements Related to Water Diversions and Waste Discharge for Cannabis Cultivation #123	Cannabis cultivators shall ensure that debris, soil, silt, bark, slash, sawdust, rubbish, creosote-treated wood, raw cement and concrete or washings thereof, asphalt, paint or other coating material, oil or other petroleum products, or any other substances which could be hazardous to any life stage of fish and wildlife or their habitat (including food sources) does not contaminate soil or enter the riparian setback or waters of the state.