



North Coast Regional Water Quality Control Board

July 28, 2021

Joan Dale
PO Box 1012
Healdsburg, CA 95448

Certified Mail

James Baker
2711 Northwest Bunim Road
Laytonville, CA 95454
planbeehalohoney@gmail.com

Certified Mail

Dear Joan Dale and James Baker:

Subject: **Notice of Violation and Transmittal of Inspection Report for June 29, 2021
Inspection of Mendocino County Assessor's Parcel Numbers 056-130-05-00
and 056-120-06-00**

File: Cannabis Program Inspections, Mendocino County, June 29, 2021, CIWQS Place ID
No. 847539

This letter is to notify you of observed violations of the requirements listed below, and cited in Attachment A, at the property identified as Mendocino County Assessor's Parcel Numbers: 056-130-05-00 and 056-120-06-00 (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

According to our records, the cannabis cultivation operation located on this Property is enrolled for coverage under the Cannabis General Order as Low Risk to water quality. On June 29, 2021, North Coast Regional Water Quality Control Board (Regional Water Board) staff inspected the Property and observed cannabis cultivation within the required riparian setbacks of Class II and Class III watercourses. Accordingly, this letter directs you to reassess the risk designation for this Property, and address the violations noticed herein. Within 30

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

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

Background

On May 25, 2018, James Baker submitted information through the State Water Resources Control Board's (State Water Board's) online portal for discharges of waste associated with cannabis cultivation related activities for APNs 056-120-06 and 056-130-05, and listed James Baker as landowner of the Property. Based on the information submitted by James Baker, the cannabis cultivation activities are classified as Tier 2 Low Risk. On December 3, 2019, James Baker submitted a tier change request to modify it to Tier 1L. Effective December 26, 2019, the Property was enrolled into State Cannabis Order WQ 2019-0001-DWQ, WDID 1_23CC402546.

LandVision records show that the Property was sold to Joan Dale, by James Baker, on June 14, 2019.

On June 29, 2021, staff from the Regional Water Board, accompanied by staff of California Department of Fish and Wildlife (CDFW), 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, 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 June 29, 2021 inspection report, Regional Water Board staff observed violations of the Basin Plan Section 4.2.1, Prohibitions 1 and 2. In addition, staff observed violations of the State Cannabis Order Attachment A, Section 1 - General Requirements and Prohibitions Nos. 25-27, 32, and 37 and Section 2 - Requirements Related to Water Diversions and Waste Discharge for Cannabis Cultivation Nos. 4, 8, 15-17, 22, 31, 48-51, 53, 56, 59, 63-64, 70,72,76,79, 85, 113, 119 and 123. Staff observed these violations at Property locations identified in the inspection report as C1-C4, C6, CULT2, CULT3, CULT6, CULT8, Soil1, Soil2 and CAWAST1, CAWAST2.

Legal requirements and directive to reassess and modify enrollment in the Cannabis General Order

James Baker, in his application for enrollment under the Cannabis General Order, in May 25, 2018, indicated that no portion of the disturbed area was located within the required setbacks from surface waters, and self-certified the site as a Tier 1 Low Risk site.

During the June 29, 2021, inspection, staff observed and documented cultivation areas, water storage facilities, and associated land disturbances within and adjacent to surface waters. This does not meet requirements to be considered a Tier 1 Low Risk site.

For the purposes of Cannabis General Order, land disturbance is defined as including all activities whatsoever associated with developing or modifying land for cannabis cultivation, related activities, or access. Land disturbance activities include, but are not limited to, construction of roads, buildings, water storage areas, excavation, grading, and site clearing. Disturbed land includes cultivation areas, storage areas where soil or soil amendments (e.g., potting soil, compost, or biosolids) are located. All access roads and water crossings that have not been designed, constructed, and maintained consistent with the Handbook for Forest, Ranch, and Rural Roads and Attachment A of the Cannabis General Order, are considered disturbed areas, as well.

If any land disturbance activities have occurred or are occurring within the riparian setback, as defined within the Cannabis General Order, you must revise your enrollment under that order to reflect that the site is a High-Risk site.

Note that the High Risk designation is considered to be a temporary condition, with the requirement that enrollees of High Risk sites will take steps to develop and implement Disturbed Area Stabilization Plans to stabilize the disturbed area and cease all cannabis cultivation-related activities located within the riparian setback. Once the riparian setback area is stabilized and the Regional Water Board approves the work, you can request to reclassify the site as either low or moderate risk, depending upon the site conditions, allowing a lower annual fee to be assessed. Your High-Risk designation is therefore temporary until you reconfigure your operations to comply with the riparian setback requirements, per an approved plan.

Pursuant to Water Code section 13260 and Cannabis General Order Provision C.2.i, the Regional Water Board requires you to modify your application information by doing the following:

Within 30 days of the date of this letter you must obtain appropriate coverage under the Cannabis General Order, representative of disturbed area based on tier and risk level.

- a. To modify enrollment, you must handwrite in your selection on pages seven and eight of the enclosed Application Summary (Attachment C) and sign and date next to the handwritten change.

- b. Submit a copy of the edited summary to NorthCoast.Cannabis@waterboards.ca.gov.

If you fail to take the action described above, the Regional Water Board may impose penalties of up to \$1,000 per day pursuant to Water Code section 13261 for violations of section 13260. In addition, pursuant to Cannabis General Order Provision C.2.h, the Regional Water Board Executive Officer may terminate a Discharger's coverage under the Cannabis General Order for cause including, but not limited to, any of the following:

- i. Violation of any of the terms or conditions contained in the General Order.
- ii. Obtaining the General Order by misrepresentation, or failure to disclose fully all relevant facts.
- iii. A change in any condition that results in either a temporary or permanent need to reduce or eliminate the authorized discharge activities.
- iv. A material change in the activity, character, location, or volume of discharge.
- v. Adoption of a TMDL amendment, new TMDL, or TMDL alternative.

Be aware that termination of coverage under the Cannabis General Order may impact your ability to maintain a cannabis cultivation license with the California Department of Food and Agriculture.

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 June 29, 2019 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 S.
Dougherty



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

210716_MSD_James Baker_Inspection_NOV

Attachments: Attachment A - Regulatory Citations
Attachment B – Facilities Inspection Report, Inspection Maps and Photolog
Attachment C – General Cannabis Order Application Summary

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

Department of Fish and Wildlife Ryan Bourque, Ryan.Bourque@wildlife.ca.gov

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

Christine Hahn Vertical, Christine.HahnVertical@wildlife.ca.gov

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.”
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_attach_a.pdf</p> <p>and</p> <p>https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2019/wqo2019_0001_dwq.pdf</p>