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## North Coast Regional Water Quality Control Board

June 3, 2021

Certified Mail: 7016 0750 0001 0048 7358

Kyle Pullen  
3973 Loop Road  
Fortuna, CA 95540

Certified Mail: 7016 2710 0000 2653 4323

Clifford and Connie Mayhew  
PO Box 45  
Miranda, CA 95553

Dear Mr. Pullen and Mr. and Ms. Mayhew:

**Subject: Notice of Violation and Transmittal of Inspection Report for March 24, 2021 Inspection of Humboldt County Assessor's Parcel 212-263-042**

File: Cannabis Program Inspections, Humboldt County, March 2021,  
CIWQS Place ID 849347  
Cannabis General Order WDID: 1\_12CC403645

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: 212-263-042 (the Property):

1. State Water Resources Control Board Order WQ 2019-0001-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 Tier 2, Low Risk to water quality.

### Background

On August 14, 2018, Karen Lehman submitted an application for coverage under the State Water Resources Control Board Order WQ 2019-0001-DWQ, General Waste Discharge Requirements for Discharges of Waste Associated with Cannabis Cultivation Activities (Cannabis General Order), self-certifying the Property as Tier 2 – Low Risk, which requires, in part, that a Site Management Plan be submitted for approval by the

Executive Officer, and that no portion of the disturbed area may be within the minimum riparian setbacks as described in the Cannabis General Order.

As of January 21, 2019, Kyle Pullen replaced Karen Lehman as Discharger for the Enrollment under Order WQ 2019-001-DWQ. On July 14, 2020, the Property ownership transferred to Clifford and Connie Mayhew.

On March 24, 2021, staff from the Regional Water Board (Staff) inspected the Property, accompanied by staff of CDFW and personnel of various law enforcement agencies. 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.

On April 20, 2021, the California Department of Fish and Wildlife (CDFW) sent a Notice of Violation of Fish and Game Code 1602 and 5650 to Clifford and Connie Mayhew.

Attached is a copy of the water quality inspection report (Attachment B – March 24, 2021 Facilities Inspection Report). 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 Inspection Report, Regional Water Board Staff observed violations of the Cannabis General Order and the Basin Plan and as summarized in Table 1.

*Table 1. Summary of violations documented by Regional Water Board staff during the March 24, 2021 Inspection.*

<b>Locations</b>	<b>Violation Types</b>
WQ1, WQ2, WQ3, WQ4	State Water Resources Control Board Order WQ 2019-0001-DWQ General Waste Discharge Requirements for Discharges of Waste Associated with Cannabis Cultivation Activities (Cannabis General Order) various provisions
WQ2, WQ3	Water Quality Control Plan for the North Coast Region (Basin Plan) Section 4.2.1

### **Site Management Plan (SMP)**

Pursuant to the Cannabis General Order, all enrollees must submit a Site Management Plan within 90 days of enrollment. It has been more than 90 days since you enrolled your Property for coverage under the Cannabis General Order; to date, we have not received an SMP.

### **Additional Potential Liabilities**

The Regional Water Board reserves the right to take any enforcement action the law allows. Additionally, enrollment in the Cannabis General Order does not relieve you of responsibility to obtain other necessary local, state, or federal permits, nor does the Cannabis General Order prevent imposition of additional standards, requirements, or conditions by any other agency. In the event of duplicate or conflicting requirements, the most stringent requirement applies.

The Regional Water Board is in the process of considering whether the violations of 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 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.

An actual discharge to waters of the state, including waste discharges in violation of a waste discharge requirement, waiver condition, certification, or other order or prohibition issued by a regional board may subject a person to an administrative liability up to \$5,000 per day of violation for each violation, or \$10 for each gallon of waste discharged pursuant to Water Code section 13350 or up to \$10 per gallon for each gallon over 1,000 gallons not cleaned up, and up to \$10,000 per day per violation pursuant to Water Code section 13385.

### **Inspection Report Recommendations**

As mentioned above, the March 24, 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 Adona White 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 Adona White by email at [Adona.White@waterboards.ca.gov](mailto:Adona.White@waterboards.ca.gov) or by phone at (707) 576-2672.

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](mailto: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.  
Enforcement Unit

Attachments: Attachment A - Regulatory Citations  
Attachment B – March 24, 2021 Facilities Inspection Report

210607\_ACW\_er\_Pullen\_NOV

Certified Mail – Return Receipt requested

**cc: North Coast Regional Water Quality Control Board**

[Northcoast.Cannabis@waterboards.ca.gov](mailto:Northcoast.Cannabis@waterboards.ca.gov)

Claudia Villacorta, [Claudia.Villacorta@waterboards.ca.gov](mailto:Claudia.Villacorta@waterboards.ca.gov)

Kason Grady, [Kason.Grady@waterboards.ca.gov](mailto:Kason.Grady@waterboards.ca.gov)

Adona White, [Adona.White@waterboards.ca.gov](mailto:Adona.White@waterboards.ca.gov)

**Department of Fish and Wildlife**

Ryan Bourque, [Ryan.Bourque@wildlife.ca.gov](mailto:Ryan.Bourque@wildlife.ca.gov)

Scott Bauer, [Scott.Bauer@wildlife.ca.gov](mailto:Scott.Bauer@wildlife.ca.gov)

**Division of Water Rights**

Stormer Feiler, [Stormer.Feiler@waterboards.ca.gov](mailto:Stormer.Feiler@waterboards.ca.gov)

**Humboldt County Sheriff's Office**

Sergeant Conan Moore, [cmoore@co.humboldt.ca.us](mailto: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.”
Cannabis General Order, Cannabis Cultivation Policy, Attachment A, Section 2, Term 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.
Cannabis General Order, Cannabis Cultivation Policy, Attachment A, Section 2, Term 48	Cannabis cultivators shall ensure that watercourse crossings are designed by a Qualified Professional.
Cannabis General Order, Cannabis Cultivation Policy, Attachment A, Section 2, Term 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: <a href="http://calfire.ca.gov/resource_mgt/downloads/100%20yr%20revised%208-08-17%20(final-a).pdf">http://calfire.ca.gov/resource_mgt/downloads/100%20yr%20revised%208-08-17%20(final-a).pdf</a>

<b>Regulatory Section</b>	<b>Citation</b>
Cannabis General Order, Cannabis Cultivation Policy, Attachment A, Section 2, Term 76	Cannabis cultivators shall not obstruct, alter, dam, or divert any portion of a natural watercourse prior to obtaining all applicable permits and approvals. Permits may include a valid water right, 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.

## FACILITIES INSPECTION REPORT

Region/Office: 1	Status: Performed	Reg. Measure ID: 422928
Program Type: IRRICANNABIS	WDID: 1_12CC403645	Order Number: 2019-0001-DWQ
Scheduled Insp. Date:	Actual Insp. Date: 03/24/2021	

### Discharger Information

Party ID: 594172	Discharger Organization Name: Pullen, Kyle		
Address: 3973 Loop Court	City, State, Zip: Fortuna, CA 95540		
Discharger Contact Person:	Discharger Contact Phone:		
Discharger Contact Email Address:			

### Facility Information

Place ID 849347	Facility Name: Salmon Creek Farm		
Address: 344 Thomas Road	City, State, Zip: Miranda, CA 95553		
County: Humboldt	Latitude: 40.22451	Longitude: -123.866219	Method:

### Lead Inspector Information

Lead Inspector Party ID: 526285	Lead Inspector Name: Adona White		
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: Complaint inspection

## VIOLATIONS

Were Violations noted during this inspection?  Yes  No

Violation ID	Violation Type	Occurrence Date	Rank	Description
1090712	Basin Plan Prohibition	03/24/2021	U	Water Quality Control Plan for the North Coast Region(Basin Plan) Section 4.2.1
1090713	Late Report	03/24/2021	U	Cannabis General Order required Site Management Plan and Water Quality Certification Application

### INSPECTION SUMMARY (REQUIRED) (500 character limit)

Recommendations:  
 WQ1: 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 Property.  
 WQ2: Submit Site Management Plan (SMP), including assessment of crossing.  
 WQ3: Move slash placed near watercourse.  
 WQ4: Store and contain all potting soil properly to prevent spillage and potential for migration/transport into

### GENERAL NOTES (OPTIONAL) (2000 character limit)

Figure 1 shows locations of features described below.  
 -Enrolled in CANGO, Tier 1 Low risk.  
 -No outdoor cultivation. Indoor cultivation on PGE and Septic.  
 -WQ1 is unlined, seemingly stable, onstream pond, fed by surface water spring (GPS point 464) with irrigation line to exterior of cultivation building. The pond diversion infrastructure is buried. The pond outlet (GPS point 465) drains to a Class IV watercourse through a flat field.  
 -WQ2 is at GPS Point 467 and is 12-inch culvert. At the edge of the field, the Class IV delivers to a larger, much steeper natural topographic drainage which appears relatively stable.  
 WQ3 is adjacent to the natural channel, where slash and refuse has been pushed to the break in slope and is being held back by small trees. This material could deliver to natural watercourse.  
 At WQ4, I observed an uncontained pile of soil near the buildings.

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



Figure 1. Inspection map of APN 212-263-042 with aerial imagery (GoogleEarth, 2019), Humboldt County parcel boundaries (shown in yellow), GPS locations of inspection observations as 463-469, and locations of water quality-related concerns shown as WQ1-WQ4.