



North Coast Regional Water Quality Control Board

November 24, 2021

Daniel Young
19251 Del Mar Drive
Fort Bragg, CA 95437
danielyoung.fortbragg@gmail.com

Certified Mail 7021 0950 0001 6499 5295

Dear Daniel Young,

Subject: Notice of Violation and Transmittal of Inspection Report for November 5, 2021 Inspection of Mendocino County Assessor's Parcel APN 013-180-29, and Directive to Respond within 30 days

File: Cannabis Program Inspections, Mendocino County, November 5, 2021, CIWQS Place ID 854246

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 Mendocino County Assessor's Parcel Number: APN 013-180-29 (the Property):

1. Water Quality Control Plan for the North Coast Region (Basin Plan) Section 4.2.1 at locations WQ1 & WQ2
2. California Water Code (Water Code) section 13260
3. Water Code section 13264 at location WQ2

According to our records, the cannabis cultivation operation located on this Property is not enrolled for coverage under the Cannabis General Order.

On November 5, 2021, North Coast Regional Water Quality Control Board (Regional Water Board) staff (Staff) inspected the Property and observed outdoor cannabis cultivation facilities. Accordingly, this letter directs you to respond within 30 days by either enrolling in the Cannabis General Order, submitting a Report of Waste Discharge, or demonstrating why regulatory coverage is not needed, see below. 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

LandVision records show that the Property was purchased on March 12, 2012 by Daniel Young, from Lance Whitely III and Shelly Whitely.

You applied for coverage under the Cannabis General Order on December 11, 2018, but never finalized the enrollment.

On December 11, 2018, Daniel Young 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 APN 013-180-29, and listed Daniel Young as landowner of the Property. The application identified the cultivation area and disturbed area as 5,000 & 7,000 square feet, respectively. The enrollment was never finalized.

Review of aerial imagery available from Google Earth indicates that on June 25, 2006, August 4, 2009, and April 24, 2010, photos, the driveway arrived at a cleared ridgetop location. As of the August 23, 2012 photo, the ridgetop is cleared further, with outdoor cultivation. The August 12, 2017 photo, there was a combined outdoor and greenhouse cultivation areas of approximately 10,000 square feet, as well as the building. The April 21, 2019 Photo shows the addition of another greenhouse for a cultivation area of approximately 12,000 square feet. On the July 1, 2021 photo, the ridgetop and swale in the southwestern portion of the Property appears freshly cleared and the cultivation area is comprised of 10 hoop houses in an area of approximately 15,500 feet.

Review aerial imagery available from LandVision shows that between the February 7 and March 6, 2021 photos, the flat was cleared and expanded, and by May 13, 2021, constructed greenhouses with a new disturbed area of approximately 68,000 square feet, including the previously tree-vegetated swale in the southwestern portion of the Property. In the June 6 and July 18, 2021 photos, light deprivation tarps are visible, indicating ongoing use.

With your consent, on November 5, 2021, staff from the Regional Water Board, accompanied by you and Code Enforcement Officers of the County of Mendocino Planning and Building Services, 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 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 inspection report, Regional Water Board staff observed violations of Water Code Section 13260 for failure to obtain regulatory coverage for cultivation of cannabis at WQ1, of the Basin Plan for threatened discharges of sediment from developed features at WQ1 and WQ2, and of the Basin Plan for threatened discharges of sediment, and 13264 for unauthorized discharges of waste associated with the unpermitted development of the cultivation flat.

Directive to Respond Within 30 days

During the November 5, 2021, inspection, Staff observed cannabis cultivation operations, of sufficient size and scope to require regulatory coverage under the State Water Resources Control Board (State Water Board) Order No. WQ-2010-0001-DWQ, *General Waste Discharge Requirements and Waiver of Waste Discharge Requirements for Discharges of Waste Associated with Cannabis Cultivation Activities* (Cannabis General Order).

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) Enrolling the Property under the Statewide General Order by providing the information required in the online application process. The application can be accessed at: https://www.waterboards.ca.gov/water_issues/programs/cannabis/
- 2) Filing a Report of Waste Discharge in order to obtain individual Waste Discharge Requirements (WDRs) specific to your property, or

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.

- 3) Providing information demonstrating why regulatory coverage is not needed for the Property 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.

For Option 1 or 2, above, you must also submit an application fee to the State Water Board within 30 days of submitting the online application. Failure to submit the application fee within 30 days will result in the application being voided and failure to comply with the Water Code sections 13260 and 13264 directives in this Notice of Violation.

For Option 1, Payments shall be identified using the Fee Payment Application Number (found on the Notice of Receipt). All checks or money orders shall be made payable to: "State Water Resources Control Board."

Please submit the appropriate documents and payments to:

North Coast Water Board
Attn: Cannabis Permitting
5550 Skylane Boulevard, Suite A
Santa Rosa, CA 95403

Failure to comply with the requirements of this Notice of Violation, pursuant to 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 November 5, 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 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. 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
Enforcement Unit

Attachments: Attachment A – Regulatory Citations
Attachment B – Facilities Inspection Report and Map and Photo Appendix

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

Adona White, Adona.White@waterboards.ca.gov

Mendocino County Planning and Building Services

Fernand Gandolfo, gandolfof@mendocinocounty.org

Cody Dow, dowc@mendocinocounty.org

Daniel Knapp, knappdj@mendocinocounty.org

Department of Fish and Wildlife

Timothy Dodson, Timothy.Dodson@wildlife.ca.gov

Corinne Gray, Corinne.Gray@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>
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 style="padding-left: 20px;">(1) The issuance of waste discharge requirements pursuant to Section 13263.</p> <p style="padding-left: 20px;">(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 style="padding-left: 20px;">(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>

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 13350	“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).”

FACILITIES INSPECTION REPORT

Region/Office: 1	Status: Performed	Reg. Measure ID: 445637
Program Type: IRRICANNABIS	WDID:	Order Number:
Scheduled Insp. Date:	Actual Insp. Date: 11/05/2021	

Discharger Information

Party ID: 592271	Discharger Organization Name: Daniel Young	
Address: 19251 Del Mar Drive	City, State, Zip: Fort Bragg, CA 95437	
Discharger Contact Person:	Discharger Contact Phone:	
Discharger Contact Email Address:		

Facility Information

Place ID 854246	Facility Name: 151 Pond Rd	
Address: 151 Pond Road	City, State, Zip: Laytonville, CA 95454	
County: Mendocino	Latitude: 39.729773	Longitude: -123.502817 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

VIOLATIONSWere Violations noted during this inspection? Yes No

Violation ID	Violation Type	Occurrence Date	Rank	Description
1096290	Basin Plan Prohibition	11/05/2021	B	Water Quality Control Plan for the North Coast Region (Basin Plan) section 4.2.1, Action Plan for Logging Construction and Related Activities for threatened discharge of sediment to watercourses
1096466	Other Codes	11/05/2021	B	California Water Code (Water Code) section 13260 for cannabis cultivation operations of sufficient size and scope to require regulatory coverage under Order No. WQ 2019-0001-DWQ (Cannabis General Order)
1097047	Other Codes	11/05/2021	B	California Water Code section 13264 for unauthorized discharge of sediment waste to waters of the State at location WQ2

INSPECTION SUMMARY (REQUIRED) (500 character limit)

Recommendations:

1. Continue to implement interim stabilization measures, including:
 - a. water bars along the driveway to reduce stormwater concentration, minimize erosion and transport, and prevent sediment delivery to the Class III watercourse at WQ2
 - b. Avoid trapping water at beds by removing plastic fabric beyond beds
 - c. Disperse drainage onto stable ground, away from WQ1 & recently graded slopes
2. Enroll in Cannabis General Order, Tier 2, Moderate Risk.

GENERAL NOTES (OPTIONAL) (2000 character limit)

In response to a complaint of sediment transport associated with recent grading at 151 Pond Road, I coordinated with Mendocino County Code Enforcement officers, who had received a similar complaint, and on November 5, 2021, we inspected MEN APN 013-180-29 (the Property). Prior to my inspection, Code Enforcement had viewed the Property from a neighboring area, made contact with the owners, and conducted a consent inspection of the Property on October 26, 2021.

Inspection Observations

The driveway arrives to a ridgetop flat that is freshly graded, bare and soft, with erosion control applied to the descending slopes.

WQ1: A slope associated with expansion above cleared swale failed and sediment transported down slope where it ran into a brush pile of the cleared vegetation, and deposited a substantial amount. Concentrated water runs along margin to a skid onto neighbor property. The skid goes over a ditch culvert on the neighboring property. The ditch goes to a watercourse to the south. The runoff deposited on the neighbor's but not the watercourse. The discharger should coordinate with the neighbor regarding the runoff. It appears that the fabric under the beds could have accumulated water and contributed to the failure at WQ1. Few opportunities exist for safe drainage of the flat. Sloped trenches to carry water east-west and south to natural vegetated ground surface could be effective for drainage dispersion onto safe ground.

WQ2: The freshly graded slope above the existing driveway rip-rap received concentrated runoff and eroded. Concentrated water and sediment transported downslope, past the riprap, across the driveway, and down to a Class III watercourse, leaving sediment deposits to the watercourse. To prevent further discharge to Class III, the driveway needs waterbars and slope protection.

To avoid threatened and actual discharge of sediment to watercourses, the erosion control measures should be improved, maintained, and monitored.

For Internal Use (Optional)

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

Daniel Young
Map and Photo Appendix
CIWQS Inspection ID 45739449

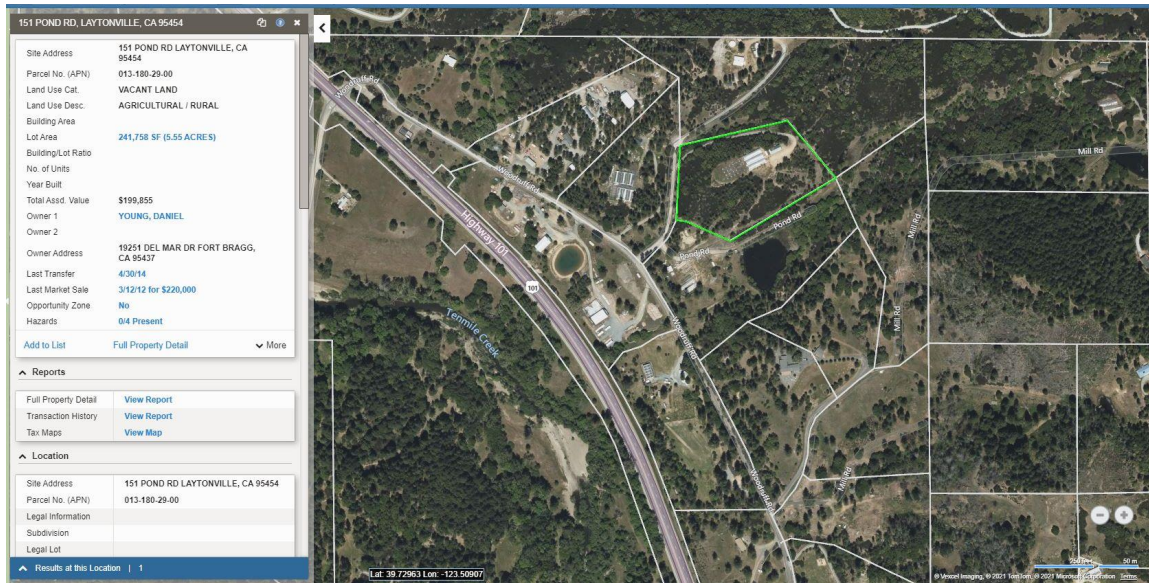


Figure 1. Location map of Property, located north of the town of Laytonville, at 151 Pond Road.



Figure 2. Inspection map of the Property. Blue line shows inspection track. WQ1 and WQ2 show locations of areas of concern for water quality, as discussed in the Inspection Report. The white polygon is a measure in Google Earth, indicating the cleared area as 1.9 acres.



Figure 3. LIDAR-based topography of Property and surrounding area.

All photographs taken by Adona White
on November 5, 2021.



Figure 4. North eastern portion of freshly graded flat. Fuel tank appears empty. Well is water source.



Figure 5. Upper flat looking east. Building has no gutters and the tanks located behind in are at edge of freshly graded flat and are full with water from well.



Figure 6. Beds with divettes in soil that I believe are associated with the season's cultivation.

WQ1:



Figure 7. View looking west from top of swale at WQ1, showing from right to left the cultivation beds, the plastic woven fabric underneath, the break in slope, and erosion control measures, including straw and fiber rolls. The slope failure formed a void that now has straw stuffed into and fiber rolls terminate there, leaving the same location vulnerable to reactivation.



Figure 8. Woven plastic fabric likely holds water which, then drained to initiation point.



Figure 9. View from edge of bed of filter fabric and top of slope near WQ1.



Figure 10. View from top of slope at WQ1. On right top is the location where concentrated water spilled over edge and caused erosion and transport of the recently graded slope material.



Figure 11. View looking up at slope. The location where the fiber rolls are separated is where concentrated water came down the slope. Straw was pushed in void.



Figure 12. The steep swale levels out; cleared brush piled along the thalweg of the swale remains in place and intercepted sediment being transported and likely helped it settle out. Erosion control measures were applied to that point. Note the silt fence which is shown in next photo.



Figure 13. Straw mulch covers the erosional voids created during the period of high runoff.



Figure 14. Looking up at the silt fence and settled sediment from the slope failure. Note light color of the fresh deposits.



Figure 15. View from swale, looking upslope, with silt fence, brush pile, new deposits and natural hillslope.



Figure 16. View from swale, looking upslope, with, brush pile, new deposits and natural hillslope. During my inspection, water continued to flow along the surface of this northern margin, on top of the deposits.



Figure 18. View from downslope Property boundary showing water flowpath through wood chips and into neighbors use area.

WQ2:



Figure 17. Concentrated water flowed across the parcel line, down a skid road, crosses the ditch on top of culvert and delivers into the neighbors use areas.



Figure 19. The base of the driveway to the Property at the gate.



Figure 20. View of the driveway arriving to the ridgetop flat. There are no waterbars along the road; it is located next to a Class III watercourse.



Figure 22. Eroded material and stormwater runoff crossed the road and was transported to a Class III watercourse that runs parallel to the driveway.



Figure 21. Along the cut bank of the driveway, rip-rap had been placed, according to the landowner prior to his purchase of the Property. Above the riprap is the cleared flat. Runoff from the cleared flat caused fill erosion at the rip rap



Figure 23. Slope below road at runoff point is sparsely vegetated.



Figure 24. Slope between the road and the Class III watercourse.



Figure 25. Sediment deposits on slope between road and watercourse.



Figure 26. View of the confluence of two Class III watercourses on north boundary of Property.



Figure 27. Class III watercourse along the northern Property boundary.



Figure 28. Class III watercourse below road runoff point, with sediment deposition, at WQ1. It appeared that the majority of the deposits were adjacent to, not in the watercourse bed, though turbid water certainly discharged to the Class III watercourse.



Figure 29. The Class III watercourse and road are parallel and at the base of the driveway, the watercourse enters a functional culvert.