



North Coast Regional Water Quality Control Board

November 5, 2021

Phil Flora and Rosemary Perez
9121 Atlanta AVE # 110
Huntington Beach CA 92646

Certified Mail 7021 0950 0001 6499 5257

Dear Phil Flora and Rosemary Perez:

Subject: Notice of Violation, Transmittal of Inspection Report for the October 11, 2021 Inspection of Mendocino County Assessor's Parcel 037-580-01-00, and Directive to Respond within 30 days

File: Cannabis Program Inspections, Mendocino County, October 11, 2021, CIWQS Place ID 877266

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 037-580-01-00 (the Property):

1. California Water Code (Water Code) sections 13260 and 13264
2. Water Quality Control Plan for the North Coast Region (Basin Plan) section 4.2.1

On October 11, 2021, North Coast Regional Water Quality Control Board (Regional Water Board) staff inspected the Property and observed cannabis cultivation with an associated disturbed area exceeding 20,000 square feet. 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.

Background

LandVision records show that you purchased the Property on November 6, 2006.

On October 11, 2021, staff from the Regional Water Board, accompanied by personnel from California Department of Fish and Wildlife (CDFW) and the State Water Resources Control Board Division of Water Rights (Water Rights) inspected the Property.

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

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. During the inspection, staff observed cannabis cultivation operations of sufficient size and scope to require regulatory coverage under the State Water Resources Control Board Order No. WQ 2019-0000-DWQ General Waste Discharge Requirements and Waiver of Waste Discharge Requirements for Discharges of Waste Associated with Cannabis Cultivation Activities (Cannabis General Order).

Attached is a copy of the water quality inspection report (Attachment B – Property 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 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 October 11, 2021 inspection report, Regional Water Board staff observed violations of the California Water Code section 13260 and 13264 for cannabis cultivation operations of sufficient size and scope to require regulatory coverage between WQ2 and WQ3, and Basin Plan Section 4.2.1, Prohibition 2, for threatened discharges of fine sediment to a tributary to Sherwood Creek from hydrologically connected roads and poorly aligned watercourse crossings at WQ4, WQ5 and WQ6.

Directive to Respond Within 30 Days

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 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

- 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 Brian.Fuller@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 identified above. If you 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 any 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.

filing the report but before whichever of the following occurs first: (1) The issuance of waste discharge requirements pursuant to Section 13263.

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 October 11, 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 Brian Fuller 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 Brian Fuller by email at Brian.Fuller@waterboards.ca.gov or by phone at (707) 576-2806.

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 by email 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, P.E.
Enforcement Unit

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Attachments: Attachment A – Regulatory Citations
Attachment B – Facilities Inspection Report
Attachment C – Inspection Maps 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

Brian Fuller, Brian.Fuller@Waterboards.ca.gov

Division of Water Rights

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

Karen Kramer, Karen.Kramer@Waterboards.ca.gov

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

Richard Ramirez, Richard.Ramirez@Waterboards.ca.gov

Mollie Preijers, Mollie.Preijers@Waterboards.ca.gov

Department of Fish and Wildlife

Warden Justin Rhoades, Justin.Rhoades@wildlife.ca.gov

Lieutenant Douglas Willson, Douglas.Willson@wildlife.ca.gov

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

Christopher DeTar, Christopher.DeTar@Wildlife.ca.gov

Mendocino County

Cannabis Program, CannabisProgram@mendocinocounty.org

California Department of Cannabis Control

Jaime Masuda, Jaime.Masuda@cannabis.ca.gov

Attachment A – Regulatory Citations

Regulatory Section	Citation
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	<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)	“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).”
California Water Code Section 13264	<p>“(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:</p> <p style="padding-left: 40px;">(1) The issuance of waste discharge requirements pursuant to Section 13263.”</p>

FACILITIES INSPECTION REPORT

Region/Office: 1	Status: Performed	Reg. Measure ID: 445619
Program Type: IRRICANNABIS	WDID:	Order Number:
Scheduled Insp. Date:	Actual Insp. Date: 10/11/2021	

Discharger Information

Party ID: 600945	Discharger Organization Name: Flora, Phillip		
Address: 9121 Atlanta Avenue #110	City, State, Zip: Huntington Beach, CA 92646		
Discharger Contact Person:	Discharger Contact Phone:		
Discharger Contact Email Address:			

Facility Information

Place ID 877266	Facility Name: Phil Flora Property MENCO APN 037-580-01-00		
Address: 7351 Third Gate Road	City, State, Zip: Willits, CA 95490-9037		
County: Mendocino	Latitude: 39.49982	Longitude: -123.41589	Method: Map Interpolation (digital)

Lead Inspector Information

Lead Inspector Party ID: 568606	Lead Inspector Name: Brian Fuller		
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
1096238	Basin Plan Prohibition	10/11/2021	B	Basin Plan Section 4.2.1 for threatened discharges of fine sediment to a tributary to Sherwood Creek from hydrologically connected roads and poorly aligned watercourse crossings at WQ4, WQ5 and WQ6.
1096239	Other Codes	10/11/2021	B	California Water Code Section 13260: cannabis cultivation operations of sufficient size and scope to require regulatory coverage under State Water Resources Control Board Order No. WQ 2019-0001-DWQ (Cannabis General Order).

INSPECTION SUMMARY (REQUIRED) (500 character limit)

Recommendations:

1. Enroll in the Cannabis General Order.
2. Provide secondary containment for all petroleum products.
3. Engage a qualified professional to develop and submit a work plan to restore disturbed areas bordering watercourse at WQ2, and correct/decommission roads and watercourse crossings at WQ4, WQ5 and WQ6 to conform with the Cannabis Policy.
4. Submit application for and obtain 401 WQC from Water Board before performing any instream work.

GENERAL NOTES (OPTIONAL) (2000 character limit)

My inspection was associated with a criminal search warrant and I viewed only portions of the Property. See the attached map and photos for locations and details about features of concern to water quality.

I parked near the northern boundary of the Property and walked west to a reservoir. I inspected the reservoir outlet at WQ1 and observed that it was perched 3.5 feet above a scoured bed. I observed dry grasses vegetating the channel banks. I followed the watercourse that received the reservoir outflow where it crossed a road through a 36-inch diameter plastic pipe that appeared adequately aligned with the channel-bed and close to the same width as the channel upstream.

I followed the road to a cultivation area west of WQ2. I observed that the disturbed area associated with cannabis cultivation was less than 50 feet from the watercourse at WQ2. At WQ3 I observed fuel tanks connected to a generator. The fuel tanks did not have secondary containment.

I walked south along the road and observed the road surface was vegetated with dry grasses. At WQ4 I observed an undersized culvert with perched outlet. I observed a one-foot deep scour hole on the road-surface at WQ5 where stormwater had concentrated before discharging to a watercourse crossing the road at WQ6. I observed that the culvert crossing at WQ6 was shallowly buried, narrow relative to the width of the watercourse upstream and perched at the outlet.

For Internal Use (Optional)

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

Inspection Maps and Photolog for inspection conducted, October 11, 2021

Map and photo selection completed by Brian Fuller, PG, Engineering Geologist

Inspection Map

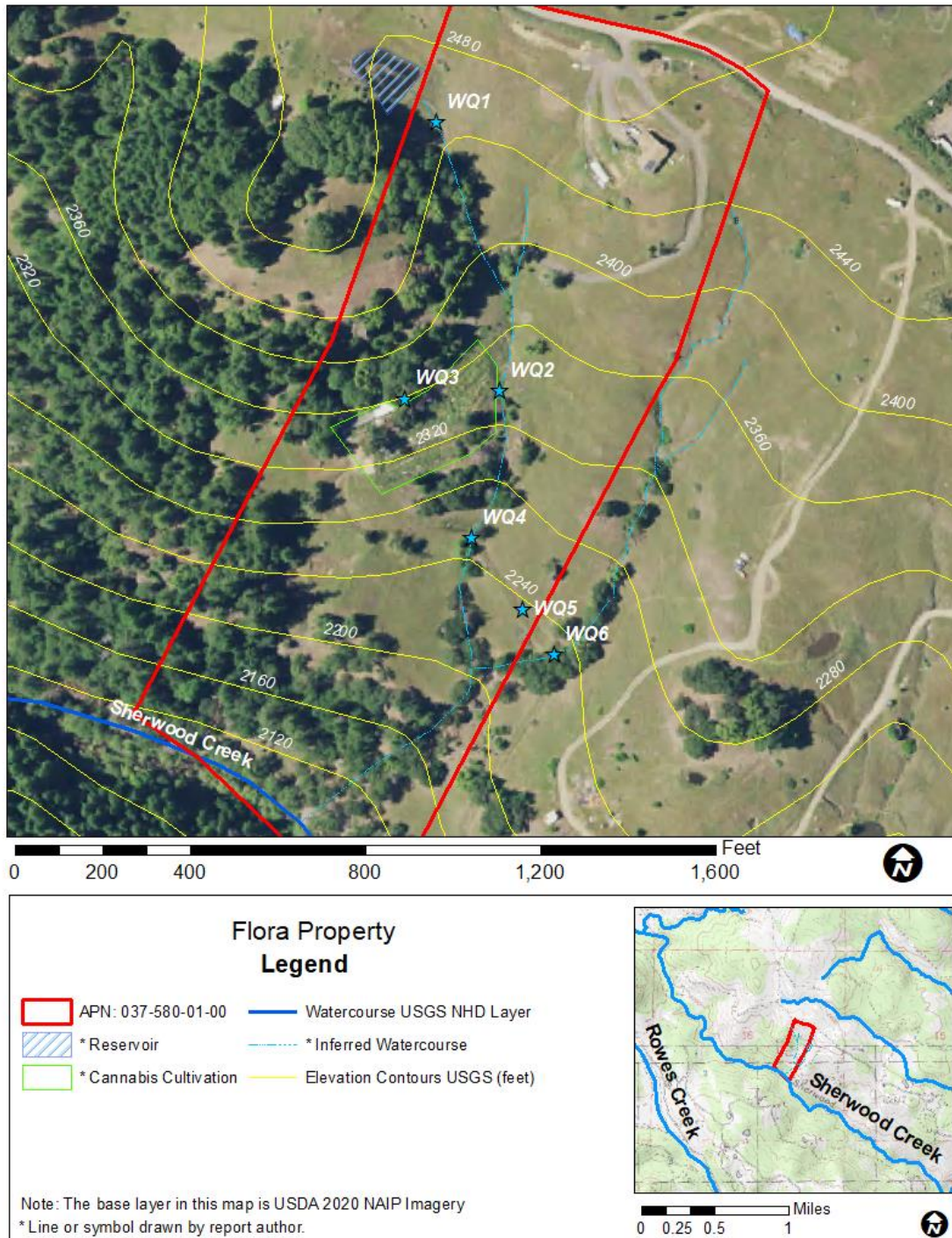


Figure 1: Map of Property, including inspection points of interest.

Photo Appendix:



Photo 1—Looking south at reservoir outlet located at WQ1. The pipe is 18 inches in diameter and perched 3.5 feet above the locally scoured channel. The scoured channel is vegetated and appears to have stabilized given the age of the culvert.



Photo 2—Looking southeast toward WQ2. The topographic form of an ephemeral watercourse is visible in the middle back of the image with a cannabis cultivation area less than 50 feet from the watercourse.



Photo 3—Hoop-type greenhouses with cannabis plants immediately south of cannabis cultivation pictured in the previous image.



Photo 4—Diesel tanks without secondary containment in the vicinity of WQ3.



Photo 5—Diesel tanks without secondary containment in the vicinity of WQ3.



Photo 6—Fuel lines from tanks in two previous images connected to a diesel powered generator in the vicinity of WQ3.



Photo 7—Culvert inlet at watercourse crossing located at WQ4. The culvert is 18 inches in diameter.



Photo 8—Culvert outlet perched 3.5 feet above the receiving watercourse's bed at WQ4.



Photo 9—Looking south east at a one-foot deep scour hole on the road-surface at WQ5 where stormwater concentrates before discharging to the watercourse crossing the road at WQ6.



Photo 10—Looking south at a shallowly buried, 18-inch diameter corrugate metal pipe culverting a watercourse across the road at WQ6. The watercourse upslope has a four to 6-foot bank-full width and a substrate consisting of small boulder steps and pools. The culvert outlet is perched two feet above the channel bed.