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## North Coast Regional Water Quality Control Board

July 20, 2021

Matt and Gary Humecke  
20452 Kittridge Street  
Winnetka, CA 91306  
[garyshouse@sbcglobal.net](mailto:garyshouse@sbcglobal.net)  
[matthumecke707@yahoo.com](mailto:matthumecke707@yahoo.com)

Certified Mail No. 7016 0750 0001 0048 7471

Dear Matt and Gary Humecke:

Subject: **Notice of Violation and Transmittal of Inspection Report for June 1, 2021  
Inspection of Humboldt County Assessor's Parcel 211-382-031-000**

File: Cannabis Program Inspections, Humboldt County, Tranquility Cathey /  
Tranquility Lane Farms Inc, CIWQS Place ID 869352

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. Water Quality Control Plan for the North Coast Region (Basin Plan) section 4.2.1,
3. Federal Clean Water Act sections 301(a), 401 and 404, and
4. State Water Resources Control Board (State Water 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 (Cannabis General Order).

**Please provide us with a Site Management Plan as soon as possible and an updated Disturbed Area Stabilization Plan, within 60 days of the date of this letter.**

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

## Background

On September 10, 2020, staff from the North Coast Regional Water Quality Control Board (Regional Water Board) were contacted by staff from the California Department of Fish and Wildlife (CDFW) regarding potential wetland disturbance on the Property. Staff from the Humboldt County Planning and Building Department (County) issued a stop work order on the Property, required interim erosion control measures, and requested a wetland delineation be conducted in the spring.

Effective September 30, 2020, the Property was enrolled under the Cannabis General Order as a Tier 2, High Risk site. On October 1, 2020, a Disturbed Area Stabilization Plan (DASP) was submitted by Steven Luu on behalf of Tranquility Lane Farms Inc (Discharger). The DASP included guidelines for short-term and long-term stabilization efforts on the Property. On October 29, 2020 the Regional Water Board issued a DASP approval letter to the Discharger.

On April 12, 2021, staff received an *Aquatic Resources Delineation Report: Humboldt County APN 211-382-031-000* (Report) prepared by Natural Resources Management Corporation on behalf of the Discharger. The Report delineated aquatic resources on the Property, including areas disturbed by site development for cannabis cultivation in 2020. The Report estimated 1 acre of wetlands and 215 linear feet of watercourses were impacted by site development. Site development included excavation, placement of fill, and removal of native soil and vegetation.

On June 1, 2021, staff from the Regional Water Board, accompanied by personnel from CDFW, the County, and the U.S. Army Corp of Engineers inspected the Property. The purpose of the inspection was to evaluate onsite development and to identify and assess any impacts or threatened impacts to the quality and beneficial uses of waters of the state. Additionally, staff compared site conditions to observations, findings, and exhibits presented in the above-mentioned Report and found them to be generally accurate.

Disturbance to wetlands and watercourses, as identified in the Report and confirmed by staff on the June 1, 2021 inspection, is beyond the scope described in the existing approved DASP. Therefore, disturbed area remains in the riparian setbacks and an updated DASP must be submitted for approval by the Regional Water Board Executive Officer. The DASP shall describe how compliance with the riparian setbacks will be achieved. If compliance cannot be achieved by the next onset of the winter period (November 15, 2021), the DASP must include a time schedule and scope of work.

Additionally, staff have no record of submission of a Site Management Plan (SMP) for the Property, which was due on December 30, 2020. The SMP shall describe how the Best Practicable Treatment or Control measures will be implemented on the Property in accordance with the Requirements listed in Attachment A of the Cannabis General Order. Attachment A, Section 2 includes specific requirements for Cleanup, Restoration, and Mitigation.

An approved 401 Water Quality Certification is required prior to starting work in watercourses or wetlands. You must submit design plans for approval of proposed instream work through the 401 Water Quality Certification application:

[https://www.waterboards.ca.gov/northcoast/water\\_issues/programs/cannabis/pdf/200204/RB1\\_Cannabis\\_WQC\\_401\\_App.pdf](https://www.waterboards.ca.gov/northcoast/water_issues/programs/cannabis/pdf/200204/RB1_Cannabis_WQC_401_App.pdf)

Enclosed is a copy of the water quality inspection report (June 1, 2021 Inspection Report). Please review the inspection report carefully and completely. The inspection report contains recommendations for correcting violations cited herein and water quality concerns observed on the Property.

### **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. Additionally, Cannabis General Order requirements and prohibitions can be found here:

[https://www.waterboards.ca.gov/water\\_issues/programs/cannabis/docs/policy/final\\_cannabis\\_policy\\_with\\_attach\\_a.pdf#page=40](https://www.waterboards.ca.gov/water_issues/programs/cannabis/docs/policy/final_cannabis_policy_with_attach_a.pdf#page=40)

### **Observed Violations**

The grading of wetlands and watercourses on the Property violates Basin Plan section 4.2.1, Prohibition 2; California Water Code section 13264(a); Federal Clean Water Act sections 301(a), 401, and 404; and the Cannabis General Order, Attachment A, Section 1 - General Requirements and Prohibitions Nos. 1, 25, 26, 27, and 37; and Section 2 - Requirements Related to Water Diversions and Waste Discharge for Cannabis Cultivation Nos. 3, 4, 33, 38, 57, 59, 62, 63, 64, and 76.

Additionally, Culverts 1, 2, and 3 do not meet the Cannabis General Order, Section 2 - Requirements Related to Water Diversions and Waste Discharge for Cannabis Cultivation Nos. 31, 48, 49, 50, 52, and 56.

Failure to submit a SMP by December 30, 2020, is an ongoing violation of Provision C.1.a of the Cannabis General Order.

### **Potential Liabilities**

These observed violations create potential liability enforceable by the Regional Water Board. Discharges or threatened discharges of waste, including earthen material, into waters of the state that create a condition of nuisance or pollution may subject a person to a Cleanup and Abatement Order pursuant to Water Code section 13304.

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 \$10,000 per day per violation plus an additional liability of up to \$10 multiplied by the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons pursuant to Water Code section 13385.

Failure to comply with Water Code sections 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.

The Regional Water Board staff is in the process of assessing these violations and retains its full authority and discretion to bring formal enforcement for all violations.

### **Inspection Report Recommendations**

The June 1, 2021 Inspection Report provides recommendations to correct violations, as well as to address features and conditions that threaten to impact water quality.

Please contact Regional Water Board staff Kate Hawken at [Katherine.Hawken@waterboards.ca.gov](mailto:Katherine.Hawken@waterboards.ca.gov) or (707) 445-6127 to advise as to your preliminary workplan and schedule to correct the alleged violations discussed herein.

You may also contact [David.Kuszmar@waterboards.ca.gov](mailto:David.Kuszmar@waterboards.ca.gov) or (707) 576-2693. 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,

Kason Grady, P.E.  
Supervising Water Resource Control Engineer

210720\_KEH\_dp\_Humecke\_NOV

Enclosures: Attachment A – Regulatory Citations  
Water Quality Inspection Report (w/ photo log and maps)

cc: Prairie Moore, [pmoore@nrmcorp.com](mailto:pmoore@nrmcorp.com)  
Steven Luu, [steven@slconsultinginc.com](mailto:steven@slconsultinginc.com)

**California Department of Fish and Wildlife**

Christine Hahn Vertical, [Christine.HahnVertical@wildlife.ca.gov](mailto:Christine.HahnVertical@wildlife.ca.gov)  
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**Division of Water Rights**

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

**North Coast Regional Water Quality Control Board**

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

**Humboldt County**

Christopher Alberts, [calberts@co.humboldt.ca.us](mailto:calberts@co.humboldt.ca.us)

**U.S. Army Corp of Engineers**

Kasey Sirkin, [l.k.sirkin@usace.army.mil](mailto:l.k.sirkin@usace.army.mil)

## 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 style="padding-left: 40px;">(1) The issuance of waste discharge requirements pursuant to Section 13263.</p> <p style="padding-left: 40px;">(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: 40px;">(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>
Basin Plan Section 4.2.1, Prohibition 2	<p>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.”</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</p> <p>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</p> <p>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>

**FACILITIES INSPECTION REPORT**

Region/Office: 1	Status: Performed	Reg. Measure ID: 440647
Program Type: IRRICANNABIS	WDID: 1_12CC429223	Order Number: 2019-0001-DWQ
Scheduled Insp. Date:	Actual Insp. Date: 06/01/2021	

**Discharger Information**

Party ID: 613270	Discharger Organization Name: Tranquility Lane Farms Inc	
Address: 20452 Kittridge Street	City, State, Zip: Winnetka, CA 91306	
Discharger Contact Person: Gary Humecke	Discharger Contact Phone: 818-231-3817	

**Facility Information**

Place ID 869352	Facility Name: Tranquility Cathey	
Address: 989 Cathey Road	City, State, Zip: Miranda, CA 95553	
County: Humboldt	Latitude: 40.26892	Longitude: -123.82697 Method:

**Lead Inspector Information**

Lead Inspector Party ID: 569684	Lead Inspector Name: Katherine Hawken		
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: B Type compliance inspection

**VIOLATIONS**Were Violations noted during this inspection?  Yes  No

Violation ID	Violation Type	Occurrence Date	Rank	Description
1091913	Other Codes	06/01/2021	B	California Water Code section 13264; Federal Clean Water Act sections 301, 401 and 404; Basin Plan section 4.2.1; and various CANGO provisions for dredge and fill of wetlands and watercourses and failure to submit a Site Management Plan.

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

**Observations**

Approximately 1 acre of wetlands and 215 linear feet of watercourses were graded during property development for cannabis cultivation in 2020. I observed constructed flats, graded and filled areas, an excavated pond, and stockpiled fill at locations generally consistent with those documented in the 4/7/21 Aquatic Resources Delineation Report prepared by NRM. These disturbed areas were revegetated with grasses, and stabilized with rock, wattles, and silt fences.

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

**Observations cont.**

- Pond: I observed a partially constructed pond connected to a complex of wetlands and watercourses.
- Wetland Culverts: Downslope of a wetland, I observed the outlet of a plastic 12-inch diameter culvert with an entrenched channel downstream. In the channel I observed a partially buried metal culvert.
- Culvert 1: I observed a recently installed, re-used 24-inch diameter culvert at a watercourse crossing with rock at the inlet and outlet.
- Culvert 2: Directly downstream of Culvert 1, I observed a rock ford at a watercourse crossing of the residential driveway. The landowner stated there was a buried culvert at this location.
- Culvert 3: I observed a metal culvert at a watercourse crossing extending from the fill face with a scour pool below its outlet.

**Recommendations**

Retain appropriately qualified and licensed professionals to update the Disturbed Area Stabilization Plan to include a workplan and schedule to:

1. Remove the Wetland Culverts, constructed drainage ditches, and any other miscellaneous waste found in the riparian setbacks to wetlands or watercourses. Revegetate all associated disturbed areas with native plants.
2. Replace Culverts 1-3 with stream crossing structures capable of conveying the 100-flood flow, including debris and sediment loads.
3. Remove the Pond and restore and mitigate for associated impacts to the watercourse channel and riparian areas.
4. Restore and mitigate for all impacts to disturbed wetlands and watercourses on the Property. Onsite, in-kind mitigation is strongly preferred.

Components of the workplan and schedule should also be incorporated into the Site Management Plan.

**For Internal Use (Optional)**

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



Figure 4. Delineation Feature ID Map - Corresponds to Table 3

Figure 1: Mapped assessment of aquatic resources within a study area on the Property prepared by Natural Resources Management Corporation

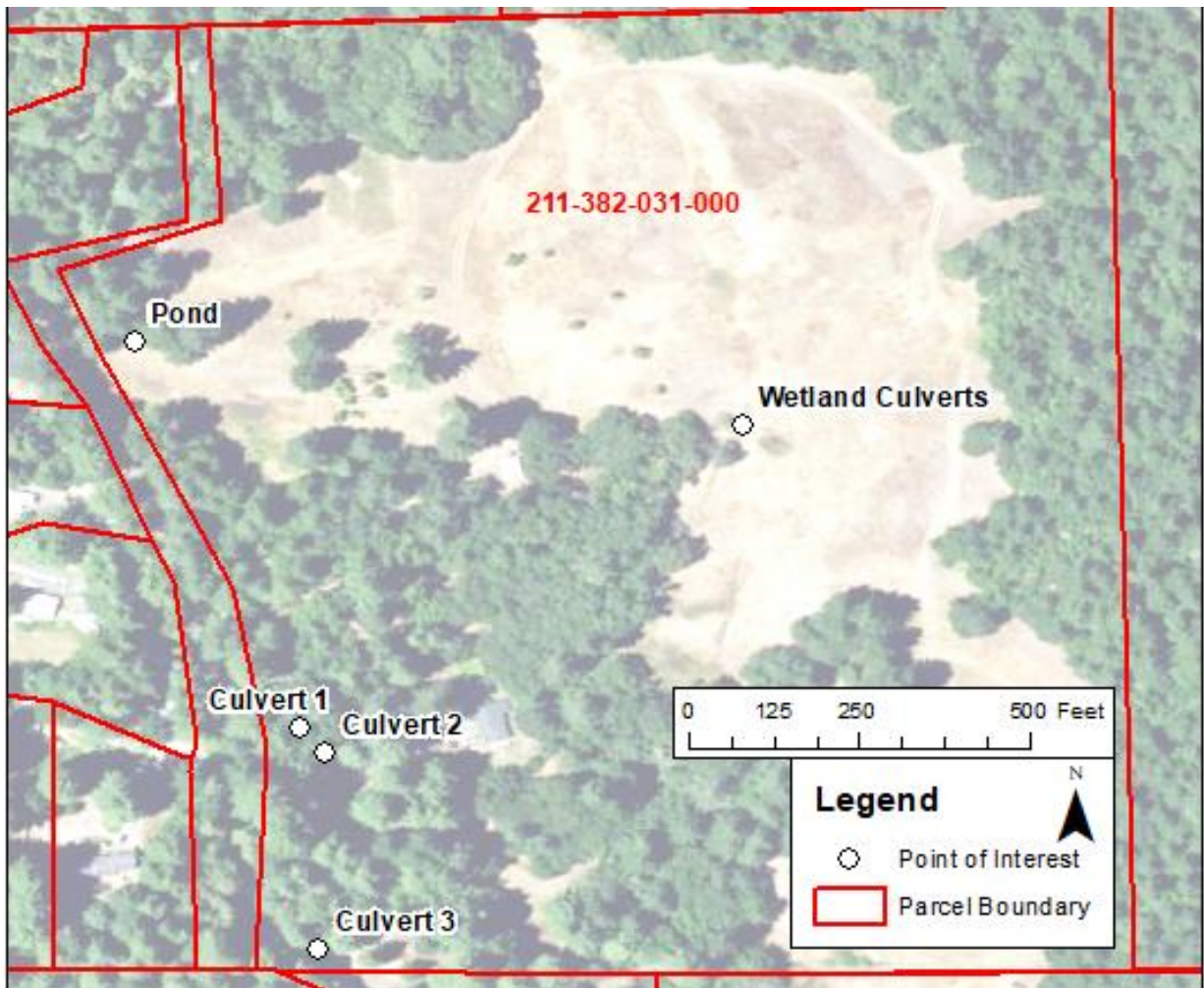


Figure 2: Map prepared by Kate Hawken with inspection points of interest



Photo 1: Pond: Partially constructed pond with staked straw wattles on downstream side



Photo 2: Wetland Culverts: Plastic culvert outlet in wetland area with entrenched channel downstream



Photo 3: Wetlands Culverts:  
Partially buried metal culvert in  
entrenched channel

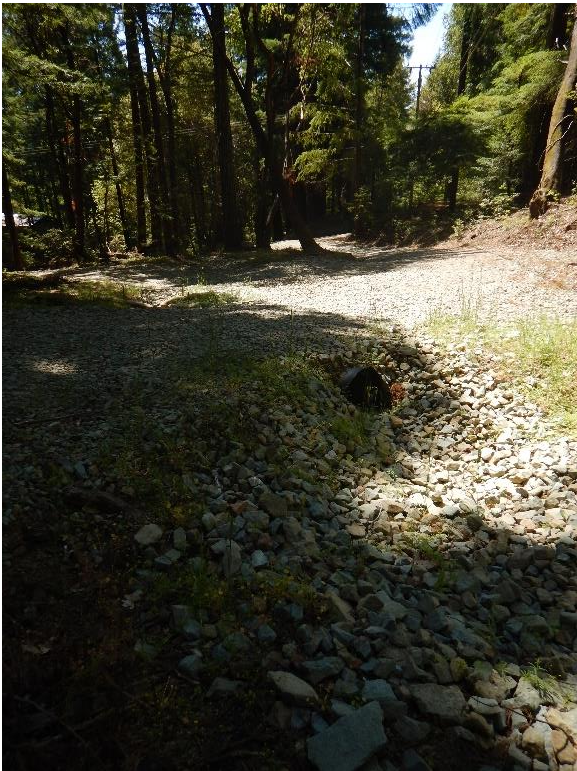


Photo 4: Culvert 1: Watercourse crossing with  
recently installed, re-used plastic 24-inch  
diameter culvert with rock at inlet



Photo 5: Culvert 2: Rock ford watercourse crossing with freshly installed straw wattles at driveway underlain by buried culvert



Photo 6: Culvert 3: Watercourse crossing with perched metal culvert outlet