



North Coast Regional Water Quality Control Board

October 7, 2021

Charles Leib
3541 I Street
Eureka, CA 95503

Certified Mail 7016 0750 0001 0048 6504

Dear Charles Leib,

Subject: Notice of Violation and Transmittal of Inspection Report for September 8 2021 Inspection of Humboldt County Assessor's Parcel APN 128-230-07, and Directive to Respond within 30 days

File: Cannabis Program Inspections, Mendocino County, September 8, 2021, CIWQS Place ID 876708

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 Humboldt County Assessor's Parcel Numbers: APN 128-230-07 (the Property):

1. California Water Code (Water Code) section 13260 at location WQ1

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

On September 8, 2021, North Coast Regional Water Quality Control Board (Regional Water Board) staff (Staff) inspected the Property and observed cannabis cultivation in greenhouses and outdoors. 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.

Background

LandVision records show that the Property was sold on August 30, 2017 by Benjamin Brownstone to Charles Leib.

On September 8, 2021, staff from the Regional Water Board, accompanied by staff of CDFW, State Water Board Division of Water Rights, and personnel of various law enforcement agencies, 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 California Water Code 13260 for failure to obtain regulatory coverage for cultivation of cannabis at WQ1.

Directive to Respond Within 30 days

During the September 8, 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* (Statewide General Order).

Based on the observations detailed in the attached inspection report, the Regional Water Board has determined that, pursuant to Water Code section 13260¹, 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.

- 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
- 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.

Inspection Report Recommendations

As mentioned above, the September 8, 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

Division of Water Rights

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

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>

FACILITIES INSPECTION REPORT

Region/Office: 1	Status: Performed	Reg. Measure ID: 445187
Program Type: IRRICANNABIS	WDID:	Order Number:
Scheduled Insp. Date:	Actual Insp. Date: 09/08/2021	

Discharger Information

Party ID: 627998	Discharger Organization Name: Charles Leib	
Address: Po Box 846	City, State, Zip: Fort Bragg, CA 95437	
Discharger Contact Person:	Discharger Contact Phone:	
Discharger Contact Email Address:		

Facility Information

Place ID 876708	Facility Name: Charles Leib	
Address: 1901 Flynn Creek Road	City, State, Zip: Navarro, CA 95463	
County: Mendocino	Latitude: 39.18232	Longitude: -123.59156 Method: Map Interpolation (digital)

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 (Regional) <input type="checkbox"/> EPA and State (EPA Lead) <input type="checkbox"/> EPA and State (State Lead)	

INSPECTION TYPE

Inspection Type: Complaint inspection

VIOLATIONSWere Violations noted during this inspection? Yes No

Violation ID	Violation Type	Occurrence Date	Rank	Description
1094922	Other Codes	09/08/2021	B	California Water Code Section 13260: cannabis cultivation operations of sufficient size and scope to require regulatory coverage under Order No. WQ 2019-0001-DWQ (Cannabis General Order)

INSPECTION SUMMARY (REQUIRED) (500 character limit)

Recommendations:

1. Enroll in Cannabis General Order
2. Haul refuse to appropriate disposal and remove waste from near steep slopes.
3. Improve road drainage and break up concentrated runoff.
4. Coordinate with Mendocino County regarding appropriate onsite waste treatment system

GENERAL NOTES (OPTIONAL) (2000 character limit)

Inspection of Mendocino APN 128-230-07 (Property) in Navarro with Department of Cannabis Control Warrant (DCC), along with California Dept of Fish and Wildlife (CDFW) and Division of Water Rights (DIV). Cannabis Cultivation; Property not enrolled in Cannabis General Order. Well with water pumped up to tanks, gravity flow down to cultivation area, which is located on top of ridge, surrounded by steep slopes. I observed housekeeping issues including potting soil and fertilizer containers accumulated, uncontained potting soil, cultivation waste spilling over steep slope above swale. Small compost toilet observed. Native surfaced driveway is steep and lacks adequate drainage. Concentrated storm water runoff has caused rill erosion on road surface, with sediment transport to a swale. However, due to the Flynn Creek Road crossing, the runoff does not appear to deliver to Flynn Creek.

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

Map and Photo Appendix, CIWQS Inspection 45369572
September 8, 2021

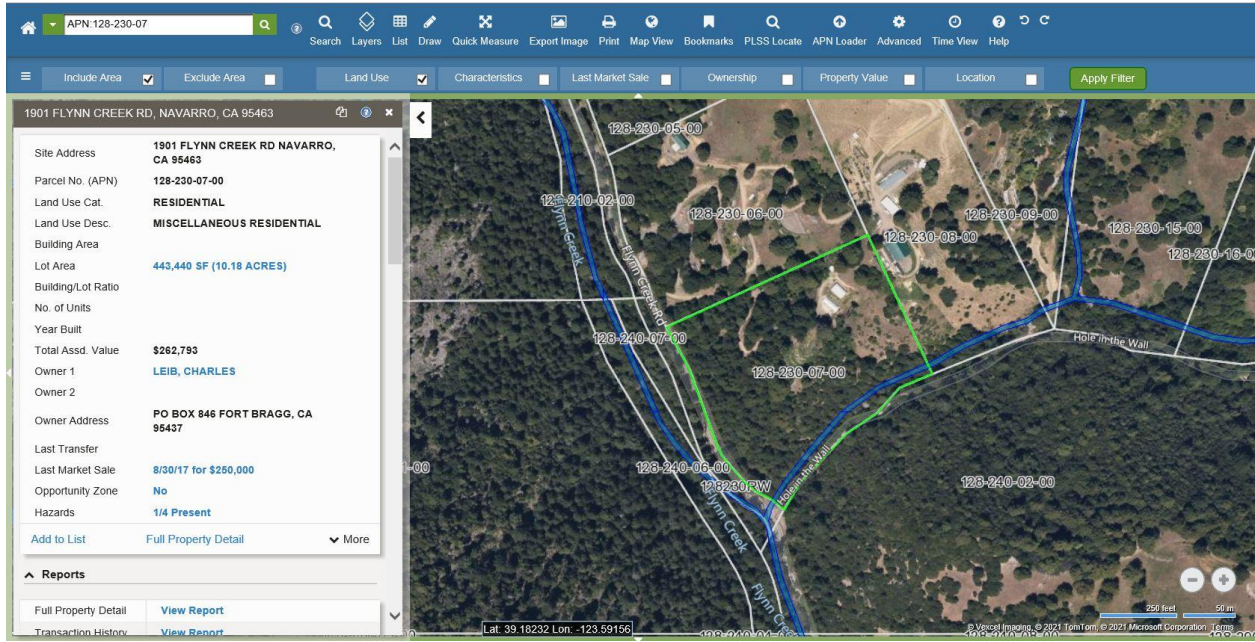


Figure 1. Parcel map of Mendocino APN 128-230-07.



Figure 2. Inspection Map of Property associated with September 8, 2021, Inspection.



Figure 3. Well



Figure 6. Outdoor cultivation area.



Figure 4. Tanks



Figure 7. Housekeeping at edge of cultivation area above steep slope.



Figure 5. Outdoor cultivation area.



Figure 8. Composting of cultivation waste at edge of steep slope.



Figure 9. Refuse accumulation.



Figure 10. Steep slope below disturbed area.



Figure 11. Concentrated stormwater runoff has resulted in sediment erosion and transport but not delivery to a watercourse.