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## North Coast Regional Water Quality Control Board

November 9, 2021

Certified Mail 7021 0950 0001 6499 5387

Ivetta Mkrtychian  
PO Box 163  
Alderpoint, CA 95511

Dear Ivetta Mkrtychian,

**Subject: Notice of Violation and Transmittal of Inspection Report for October 13, 2021 Inspection of Humboldt County Assessor's Parcel APN 216-243-006, and Directive to Respond within 30 days**

**File:** Cannabis Program Inspections, Humboldt County, October 13, 2021, CIWQS Place ID 877445

### **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 216-243-006 (the Property):

1. 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) at location CA1
2. Water Code section 13264 for unauthorized discharge of waste to waters of the state associated with a stream crossing at location WQ1
3. Clean Water Act section 301 for dredge and fill of a watercourse associated with a stream crossing at location WQ1
4. 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 a watercourse associated with the stream crossing at location WQ1 and an unstable area on a legacy road at location WQ4

On October 13, 2021, North Coast Regional Water Quality Control Board (Regional Water Board) staff inspected the Property and observed cannabis cultivation outdoors. According to our records, the cannabis cultivation operation on this Property is not enrolled for coverage under the Cannabis General Order.

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

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, on July 14, 2020, Ivetta Mkrtichian purchased the Property from Louise Hansen and the Louise Hansen Revocable Trust.

On October 13, 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 the Clean Water Act, associated with dredge and fill in a watercourse, and violations of the California Water Code for unauthorized discharge of waste associated with the watercourse crossing at WQ1, violations associated with your failure to obtain regulatory coverage under the Cannabis General Order, and violations of the Basin Plan associated with the threatened discharge of sediment to a watercourse at WQ1 and at a legacy road at WQ4.

### **Directive to Respond Within 30 days**

During the October 13, 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 13260 and 13264, you are required to respond to this NOV within 30 days by **either**:

- 1) Enrolling the Property under the Cannabis 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/](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 Options 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.

### **Inspection Report Recommendations**

As mentioned above, the October 13, 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). 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](mailto:Northcoast.Cannabis@waterboards.ca.gov)

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

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

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

**Division of Water Rights**

Ryan Babb, [Ryan.Babb@waterboards.ca.gov](mailto:Ryan.Babb@waterboards.ca.gov)

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

Taro Murano, [Taro.Murano@waterboards.ca.gov](mailto:Taro.Murano@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)

**Humboldt County Sheriff's Office**

Deputy Shane Steele, [ssteele@co.humboldt.ca.us](mailto:ssteele@co.humboldt.ca.us)

Sergeant Conan Moore, [cmoore@co.humboldt.ca.us](mailto:cmoore@co.humboldt.ca.us)

## 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: 40px;">(3) 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>
Basin Plan Section 4.2.1, Prohibition 1	<p>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.”</p>

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 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 €.”
Federal Clean Water Act Section 301 (a):	Section 301(a) provides that subject to certain exceptions, “the discharge of any pollutant by any person shall be unlawful.” 33 U.S.C. § 1311(a). One of the exceptions allowed for under the Clean Water Act is the discharge from a dredge and fill activity under the auspices of § 404 and 401 of the Clean Water Act. 33 U.S.C. § 1342. The Clean Water Act prohibits the discharge of any pollutant from a point source into waters of the United States without a section 404 dredge and fill permit and a section 401 state water quality certification.
Federal Clean Water Act Section 401	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”
Federal Clean Water Act Section 404	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 C.F.R. § 323.2(c). The term “discharge or dredged material” mean any addition of dredge 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 potion of a water of the United States with dry land or changing the bottom elevation of any potion of a water of the United States. 33 C.F.R. § 323.2(e)(1). The term “discharge of fill material” means the additional of fill material into waters of the United States. 33 C.F.R. § 323.2(f).

## FACILITIES INSPECTION REPORT

Region/Office: 1	Status: Performed	Reg. Measure ID: 445636
Program Type: IRRICANNABIS	WDID:	Order Number:
Scheduled Insp. Date:	Actual Insp. Date: 10/13/2021	

### Discharger Information

Party ID: 628957	Discharger Organization Name: Ivetta Mkrkichian		
Address: Po Box 163	City, State, Zip: Alderpoint, CA 95511		
Discharger Contact Person:	Discharger Contact Phone:		
Discharger Contact Email Address:			

### Facility Information

Place ID 877445	Facility Name: Ivetta Mkrkichian		
Address: Unknown Address	City, State, Zip: Alderpoint, CA 95511		
County: Humboldt	Latitude: 40.16209	Longitude: -123.60198	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 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
1096293	Other Codes	10/13/2021	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) at location CA1
1096294	Basin Plan Prohibition	10/13/2021	B	Water Quality Control Plan for the North Coast Region(Basin Plan) Section 4.2.1 for threatened discharge of waste to a watercourse at locations WQ1 and WQ4
1096295	Unauthorized Discharge	10/13/2021	B	Federal Clean Water Act Section 301 for dredge and fill for an earthen ford stream crossing, at WQ1, of a class III watercourse, tributary to the Eel River
1096310	Unauthorized Discharge	10/13/2021	B	California Water Code section 13264 for unauthorized discharge of sediment waste to waters of the State at location WQ1

Showing the first 4 of 4 violations

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

Recommendations:

1. Hire a professional to assess Property, identify impacts to the watercourse at WQ1 associated with unimproved ford, related gullies, and graded flat. Submit treatment plan for threatened discharges of waste.
2. Obtain regulatory coverage prior to activities involving or resulting in discharges of waste including instream work and cannabis cultivation.
3. Work with Humboldt County on onsite waste treatment system at WQ3.
4. Work with Water Rights and CDFW on diversion.

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

WP 605 is Class III watercourse crossing at entrance, with minimal fill, erosion as watercourse goes over slope edge.

WP 606 is CA1 is outdoor cultivation located on the ridgetop.

WQ2: A bladder with no containment is located on the graded flat.  
The graded flat is pushed out at the edge of the swale with penny royal.

WQ1: WP 607 is a Class III watercourse crossing along the access driveway to the cultivation area. It consists of a 24" CMP, with a rocked inlet, and a scoured channel at the outlet. After the crossing, the water flows over the hillside and then runs into a road to a cannabis processing building below. The cut bank has eroded, they stuffed rock in it. The road crosses the watercourse without any sort of conveyance structure. At the outboard edge of the road, I observed additional gully erosion.

The gullies have the following dimensions, as measured with a measuring tape.

WP610: Cutbank gully: 10'L x 3.5' W x 2-3' D = 3.24 yd<sup>3</sup>

WP611: Outboard edge gully: 8'L x 4' W x 3' D = 3.56 yd<sup>3</sup>

Fill at road: 20'L x 1' W x 1' D = 0.74 yd<sup>3</sup>

Discharge: 3.24+3.56+0.74=1516 gallons

Below WP607 on the driveway is a ditch relief culvert that drains to the same watercourse below the outlet gully.

WP612: A pump line was located by CDFW and Water Rights in the Eel River in a pool.

WP613: An old grow site (CA2) is located at the base of the road down to the railroad tracks, located adjacent to class III watercourse.

WQ3, WP614: Two outhouses are built at the edge of the graded flat

WQ4, WP615: A legacy road is located beyond the graded flat and has an erosional void. Metal refuse is over the edge of the slope.

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 45739448

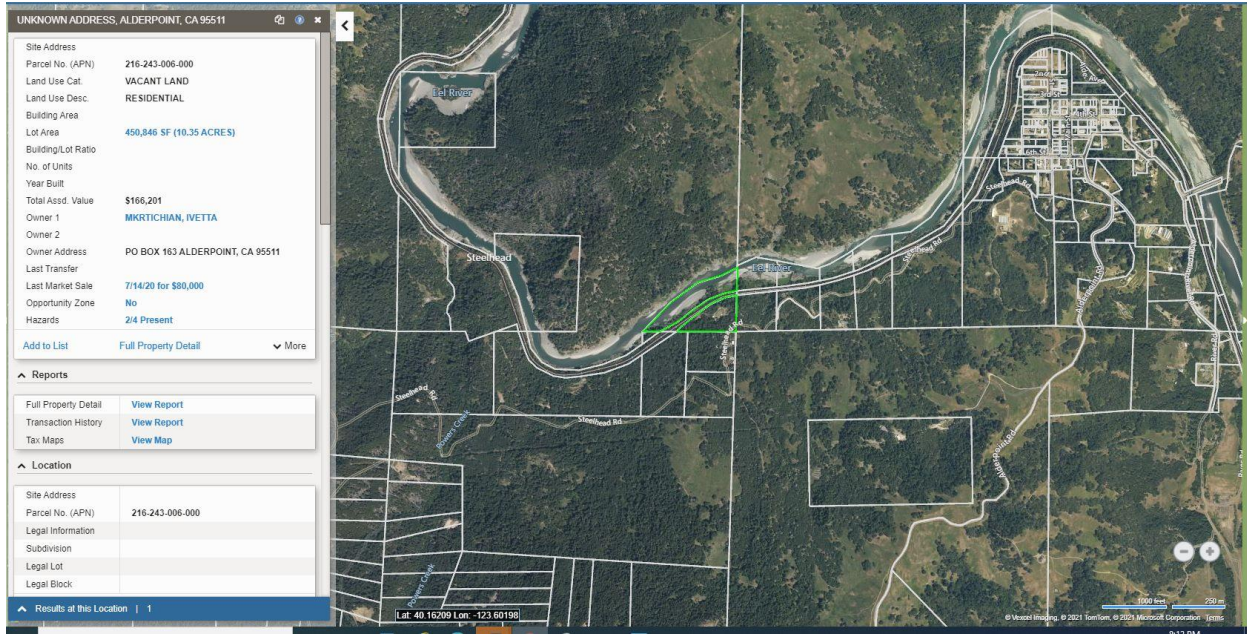


Figure 1. Location map of Property, located downstream of the community of Alderpoint, and downslope of the Rancho Sequoia subdivision.

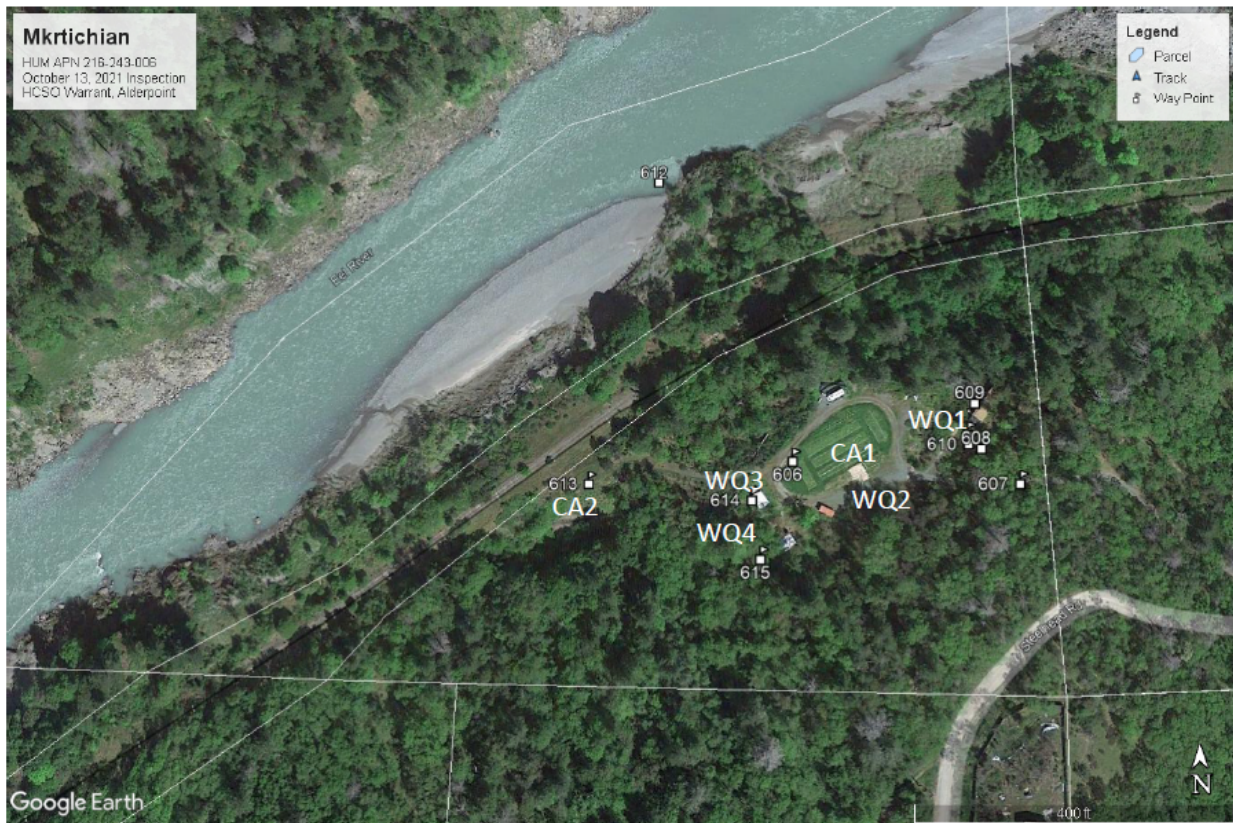


Figure 2. Inspection map of the Property.

Map and Photo Appendix  
CIWQS Inspection 45739448

All photographs taken by Adona White  
on October 13, 2021.



*Figure 3. Cultivation area, CA1 .*



*Figure 4. Edge of graded flat has debris and waste pushed over edge toward watercourse at WQ1.*



*Figure 5. Class III watercourse channel upstream of crossing on driveway in at WP607.*



*Figure 6. Class III watercourse crossing, culvert inlet at WP 607.*



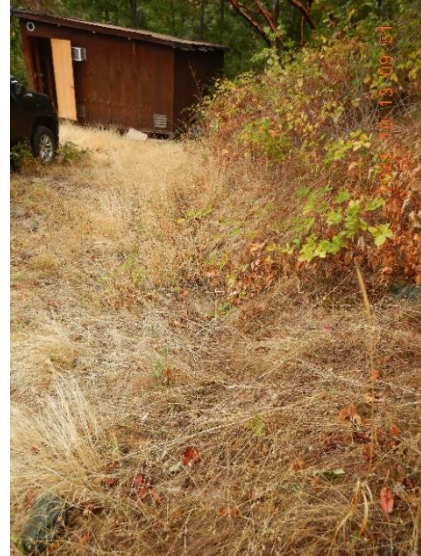
*Figure 7. Class III watercourse crossing, culvert outlet at WP 607.*



*Figure 8. Class III watercourse channel on hillside below culvert at WP607.*



*Figure 9. Looking up driveway in and driveway to processing building.*



*Figure 10. Lower road is access to processing building at WP609.*



*Figure 11. As watercourse hits cut bank, it has eroded a gully at WP 608. The road is constructed across the watercourse, with no conveyance structure.*

Map and Photo Appendix  
CIWQS Inspection 45739448



Figure 12. At WP 608, rock is placed in an attempt to stabilize the gully



Figure 13. Gully at outboard edge of roadway at WQ1, at WP610.



Figure 14. Processing building accessed over unimproved ford at WQ1.



Figure 15. WQ2, Bladder without containment, with potential to runoff to and further erode Class watercourse at WQ1.



Figure 16. WQ3, WP615: Outhouses at edge of slope.



Figure 17. Road access down to railroad tracks from CA1.



*Figure 18. Old grow site, CA2, located near Class III watercourse.*



*Figure 19. Point of diversion in Eel River.*



*Figure 20. Point of diversion in Eel River.*