



North Coast Regional Water Quality Control Board

August 17, 2021

James Barbati
P.O. Box 549
Whitethorn, CA 95589

Certified Mail # 7016 2070 0000 6486

Dear James Barbati:

Subject: Notice of Violation and Transmittal of Inspection Report for July 19, 2021 Inspection of Humboldt County Assessor's Parcel 220-292-014-000

File: Cannabis Program Inspections, Humboldt County, July 19, 2021, CIWQS Place ID 875645

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: 220-292-014-000 (the Property):

1. State Water Resources Control Board Order Cannabis Cultivation Policy, various provisions
2. California Water Code (Water Code) Sections 13260 and 13264

On July 19, 2021, North Coast Regional Water Quality Control Board (Regional Water Board) staff inspected the Property and observed active outdoor cannabis cultivation. Accordingly, 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

On July 19, 2021, staff from the Regional Water Board, accompanied by staff of California Department of Fish and Wildlife, 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.

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

Attached is a copy of the water quality inspection report (Attachment B –Facilities 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 projects/activities on the Property 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 to related requirements and regulations.

Observed Violations

As documented in the July 19, 2021 inspection report, Regional Water Board staff observed violations of the Water Boards' Cannabis Cultivation Policy and California Water Code. Staff observed these violations at Property locations identified in the inspection report as CA1, CA2, TANK, and GEN, among others.

Directive to Obtain Regulatory Coverage Prior to Future Activities Involving or Resulting in Discharges of Waste to Waters of the State

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 notice within 30 days by EITHER:

- 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

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.

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 Shannon.Utley@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(s) 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.

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. Please note that the existing conditions, as observed and documented in the attached 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 July 19, 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 notice**, please advise Regional Water Board staff Shannon Utley 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 Shannon Utley by email at Shannon.Utley@waterboards.ca.gov.

Future correspondence regarding this matter will be sent to you at this address unless you provide an alternative address 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 David.Kuszmar@waterboards.ca.gov. Additionally, we are available to meet with you if you wish to discuss this notice or our waste discharge regulatory programs in further detail.

Sincerely,

David Kuszmar, P.E. #C65460
Senior Water Resource Control Engineer
Southern Cannabis Regulatory Unit

Barbati_NOV_Report

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

Shannon Utley, Shannon.Utley@waterboards.ca.gov

Division of Water Rights

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

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

Chris Van de Wyngard, Christopher.VandeWyngard@waterboards.ca.gov

Department of Fish and Wildlife

Ryan Bourque, Ryan.Bourque@wildlife.ca.gov

Scott Bauer, Scott.Bauer@wildlife.ca.gov

Humboldt County Sheriff's Office

Sergeant Conan Moore, cmoore@co.humboldt.ca.us

Attachment A – Regulatory Citations

Regulatory Section	Citation
California 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 that may be required by the regional board: (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.”
California 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 an no person shatt 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.”
Cannabis Cultivation Policy and General Order No. WQ 2019-0001-DWQ	State Water Resources Control Board Cannabis Cultivation Policy – Principles and Guidelines for Cannabis Cultivation and Order No. WQ 2019-0001-DWQ General Waste Discharge Requirements and Waiver of Waste Discharge Requirements for Discharges of Waste Associated with Cannabis Cultivation Activities: https://www.waterboards.ca.gov/water_issues/programs/cannabis/docs/policy/final_cannabis_policy_with_attach_a.pdf and https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2019/wqo2019_0001_dwq.pdf

FACILITIES INSPECTION REPORT

Region/Office: 1	Status: Performed	Reg. Measure ID: 444457
Program Type: IRRICANNABIS	WDID:	Order Number:
Scheduled Insp. Date:	Actual Insp. Date: 07/19/2021	

Discharger Information

Party ID: 626623	Discharger Organization Name: James Barbati	
Address: Po Box 549	City, State, Zip: Whitethorn, CA 95589	
Discharger Contact Person:	Discharger	Contact Phone:
Discharger Contact Email Address:		

Facility Information

Place ID 875645	Facility Name: James Barbati		
Address:	City, State, Zip: CA		
County: Humboldt	Latitude:	Longitude:	Method:

Lead Inspector Information

Lead Inspector Party ID: 545131	Lead Inspector Name: Shannon Utley		
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: Miscellaneous inspection

VIOLATIONSWere Violations noted during this inspection? Yes No

Violation ID	Violation Type	Occurrence Date	Rank	Description
1093220	Other Codes	07/19/2021	B	California Water Code Sections 13260 and 13264: Cannabis cultivation operations of sufficient size and scope to require regulatory coverage under State Water Resources Control Board Cannabis Cultivation Policy and General Order No. WQ 2019-0001-DWQ.
1093221	Order Conditions	07/19/2021	B	State Water Resources Control Board Cannabis Cultivation Policy & Principles and Guidelines for Cannabis Cultivation, various provisions.

INSPECTION SUMMARY (REQUIRED) (500 character limit)

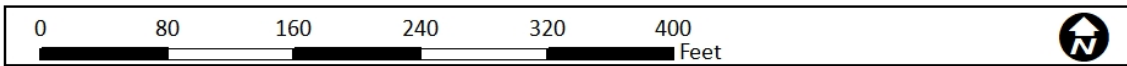
Recommendations:
 Enroll in the State Water Resources Control Board Cannabis General Order for discharges of waste associated with cannabis cultivation and modify cannabis cultivation activities and site conditions to comply with applicable terms of the Cannabis General Order and related Cannabis Cultivation Policy.
 Remove and/or properly store all petroleum products, nutrients, wastes, and chemicals on the Property to ensure soil and groundwater are protected. Clean up any spills or leaks.

GENERAL NOTES (OPTIONAL) (2000 character limit)

Inspection Description:
 The July 19, 2021 inspection was associated with a criminal search warrant and only portions of the Property were viewed. Please see the attached Map and Appendices for locations and details about features of water quality concern. Active cannabis cultivation was occurring in two locations on the Humboldt County Assessor Parcel Number 220-292-014-000 (hereafter the Property), which requires regulatory coverage pursuant to the State Water Resources Control Board Cannabis Cultivation Policy and General Order No. WQ 2019-0001-DWQ (Cannabis General Order). Active outdoor cannabis cultivation was occurring inside three hoop-house style greenhouses (CA1 and CA2 on the Inspection Map) on the Property. Petroleum-based products, nutrients, and other chemicals were located in a storage carport near the water storage tank (TANK on the Inspection Map) and in the proximity of a large generator with associated above ground fuel storage tanks (GEN on the Inspection Map).


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

Attachment C – Inspection Map and Photolog




Site Map of Barbati Property
Humboldt County
7/19/2021

- Cultivation Area
- Generator
- Water Storage
- Cultivation Area
- Parcel Boundary




STATE WATER QUALITY CONTROL BOARD
REGIONAL WATER QUALITY CONTROL BOARD

Note: 2020 NAP Imagery provided by California Department of Fish and Wildlife online mapping services
Points of interest and watercourses may be drawn in by hand



2.5 Miles



All photographs and GPS locations were taken by Shannon Utley, North Coast Regional Water Quality Control Board

Photo 1: View of cultivation area CA1 looking up from the lower road.



Photo 2: View of cultivation area CA1 looking towards the property entrance.



Photo 3: View of cultivation area CA1 greenhouses



Photo 4: View of the greenhouse at CA1 with active cannabis cultivation occurring.



Photo 5: View of active cannabis cultivation at cultivation area CA2.



Photo 6: View of CA2 looking towards the residence and water storage tank,



Photo 7: View of assumed septic related piping at the residence.



Photo 8: View of exterior water storage tank and tower with water tank inside.



Photo 9: View of storage carport located near the water storage tank and tower.



Photo 10: View inside the storage carport, including nutrients, fuels, and equipment.



Photo 11: Above ground storage tank and generator located below the water tank.



Photo 12: Closer view of the generator and drying shed behind.

