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## North Coast Regional Water Quality Control Board

June 30, 2021

Nick Paissios  
PO Box 86  
Mad River, CA 95552  
[npaissios@gmail.com](mailto:npaissios@gmail.com)

Certified Mail No. 7016 0750 0001 0048 7433

Neil Hardin  
PO Box 82  
Mad River, CA 95552  
[hardinproductions@gmail.com](mailto:hardinproductions@gmail.com)

Certified Mail No. 7016 2070 0000 6486 1961

Dear Mr. Paissios and Mr. Hardin:

Subject: **Notice of Violation and Transmittal of Inspection Report for May 27, 2021 Inspection of Humboldt County Assessor's Parcel 208-241-001-000**

Files: Cannabis Waste Discharge Regulatory Program, Nick Paissios, CIWQS Place ID 865734, WDID 1\_12CC426393  
Cannabis Waste Discharge Regulatory Program, Hip Farms / Neil Hardin, CIWQS Place ID 827594, WDID 1\_12CC416892

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 Section 301 (a), 401 and 404, and
4. The State Water Resources Control 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 (CANGO).

**Please provide us with a plan and schedule to correct the violations discussed herein, within 30 days of the date of this letter.**

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

## Background

Effective September 20, 2016, parcel 208-241-002-000 was enrolled in the North Coast Regional Cannabis Order R1-2015-0023 by Neil Hardin. The property was transferred to CANGO effective July 1, 2019. Effective September 1, 2020, parcel 208-241-001-000 was enrolled in CANGO by Nick Paissios. Parcels 208-241-001-000 and 208-241-002-000 are adjacent.

On May 27, 2021, staff from the Regional Water Board inspected parcel 208-241-001-000 with staff from the California Department of Fish and Wildlife. The purpose of the inspection was to evaluate onsite development and conditions associated with cannabis cultivation and associated activities and, for Regional Water Board staff to identify and assess any impacts or threatened impacts to the quality and beneficial uses of waters of the state.

During the site inspection, staff observed a steep road with no clear drainage patterns on the west side of the parcel. This road is labelled West Road in the enclosed inspection report and photo log. On West Road, staff observed a dam constructed on a watercourse with no stream crossing structure. Mr. Paissios informed staff that his neighbor, Mr. Hardin, constructed West Road to access his cannabis cultivation area on parcel 208-241-002-000. Staff confirmed via aerial imagery (see Attachment B) that West Road originates on parcel 208-241-002-000, crosses onto parcel 208-241-001-000, and terminates at a cultivation area on parcel 208-241-002-000. Staff also observed Mr. Hardin drive to and back from his cultivation area during the inspection.

## Relevant Requirements

Construction of a dam on a watercourse represents violations of water quality requirements and regulations. Attachment A – Regulatory Citations, provides references to these requirements and regulations. Additionally, West Road does not meet the requirements and prohibitions of CANGO. CANGO 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

Construction of a dam on a watercourse violates the 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 CANGO, Attachment A, Section 1 - General Requirements and Prohibitions Nos. 25-27, and Section 2 - Requirements Related to Water Diversions and Waste Discharge for Cannabis Cultivation Nos. 3, 4, 8, 10, 30, 31, 33, 35, 38, 48-50, 55, 63, 64, and 76.

Additionally, West Road violates CANGO Section 2 - Requirements Related to Water Diversions and Waste Discharge for Cannabis Cultivation Nos. 15-24, 26, and 29.



**cc: California Department of Fish and Wildlife**  
Christine Hahn Vertical, [Christine.HahnVertical@wildlife.ca.gov](mailto:Christine.HahnVertical@wildlife.ca.gov)

**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)  
Diana Henrioulle, [Diana.Henrioulle@waterboards.ca.gov](mailto:Diana.Henrioulle@waterboards.ca.gov)

**Humboldt County**  
Planning Department, [PlanningBuilding@co.humboldt.ca.us](mailto:PlanningBuilding@co.humboldt.ca.us)

## 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>

Attachment B - Map



Figure 1: Map showing West Road originating on parcel 208-241-002-000, crossing onto the west side of parcel 208-241-001-000, and terminating at a cultivation area on parcel 208-241-002-000. Red lines are Humboldt County parcel boundaries. Map produced by Kate Hawken with 2018 NAIP imagery

**FACILITIES INSPECTION REPORT**

Region/Office: 1	Status: Performed	Reg. Measure ID: 437328
Program Type: IRRICANNABIS	WDID: 1_12CC426393	Order Number: 2019-0001-DWQ
Scheduled Insp. Date:	Actual Insp. Date: 05/27/2021	

**Discharger Information**

Party ID: 607733	Discharger Organization Name: Paissios, Nick	
Address: 862 Mad River Road	City, State, Zip: Mad River, CA 95552	
Discharger Contact Person: Nick Paissos	Discharger	916-439-9079
	Contact Phone:	

**Facility Information**

Place ID 865734	Facility Name: Nick Paissios	
Address: 862 Mad River Road	City, State, Zip: Mad River, CA 95552	
County: Humboldt	Latitude: 40.505964	Longitude: -123.545907 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
1091360	Basin Plan Prohibition	05/27/2021	B	Construction of a dam in a watercourse

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

Observations:

- Remediated Cultivation Area: I observed a vegetated hillside with wattles, and some cultivation related waste.
- Spring: Northwest of the residence I observed an undeveloped spring.
- East Pond: I observed a small pond with no overflow channel discharging to a wetland. Mr. Paissios filled the pond from a deeded spring on an adjacent parcel.
- Greenhouse: I observed cultivation waste Mr. Paissios is in the process of removing. I observed straw on the former cultivation area.

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

Observations cont.:

- West Pond: I observed a small pond with an earthen embankment receiving hillside and road runoff.
- West Road: I observed an overly steep, 30-40% in sections, dirt road with no clear drainage patterns. The road intersects and dams a watercourse with no stream crossing structure. I observed fill and fine sediment in the watercourse around the dam.
- Pond (not mapped): I observed a small pond at the base of a hillside wetland complex with an overflow channel that eventually connects to the Mad River.

Recommendations:

- Remediated Cultivation Area and Greenhouse: Continue trash removal and erosion control efforts.
- Spring: Update the site map to display the location of the spring. Do not place cannabis cultivation related infrastructure within 150 feet of the springhead.
- East Pond: Develop a plan to bring the pond up to regulations, including development of an emergency spillway, and permitting for use of the spring diversion, or develop a plan to decommission the pond and restore to nature conditions.
- West Pond: Monitor water inflow after completing road drainage improvements.
- West Road: Remove the dam and restore the watercourse to natural conditions. Dispose of fill outside of the riparian setbacks to prevent discharge to waters of the state. Decommission the overly steep road. See guidelines for erosion and sediment control in the Handbook for Forest, Ranch & Rural Roads: [https://www.waterboards.ca.gov/centralvalley/water\\_issues/cannabis/education\\_outreach/ccwdrp\\_forestranchrural\\_rds\\_handbook.pdf](https://www.waterboards.ca.gov/centralvalley/water_issues/cannabis/education_outreach/ccwdrp_forestranchrural_rds_handbook.pdf)
- Pond (not mapped): Decommission the pond and restore the watercourse to natural conditions.
- Note: An approved 401 Water Quality Certification is necessary prior to work in a stream, including decommissioning of the West Pond and removal of the dam on the West Road. See 401 application here: [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)

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



Photo 1: Remediated Cultivation Area: former cultivation site on hillside with wattles and some cultivation related waste

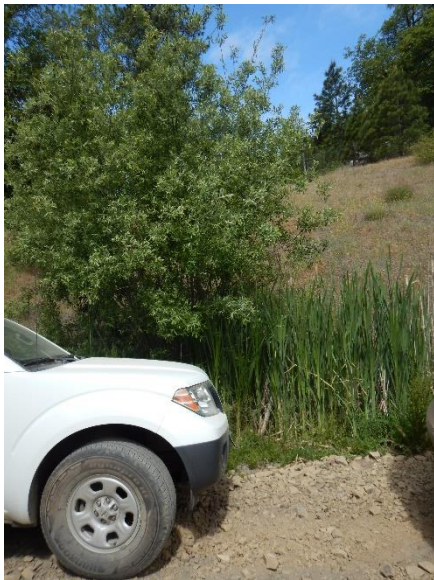


Photo 2: Spring: undeveloped spring with riparian plants adjacent to access road northwest of residence



Photo 3: East Pond: small pond fed by spring diversion on neighboring parcel



Photo 4: Greenhouse: looking downhill at previous cultivation site covered in straw, and stockpiled cultivation related waste



Photo 5: West Pond: small pond with earthen embankment receiving hillside and road runoff



Photo 6: West Road: steep dirt road with no drainage structures



Photo 7: West Road: view of fill and fine sediment in upstream side of watercourse while standing on dam



Photo 8: West Road: view of dam fill while standing in downstream side of watercourse



Photo 9: Pond (not mapped): small pond at base of hillside wetland complex, not used by landowner