
North Coast Regional Water Quality Control Board

November 9, 2021

Certified Mail 7021 0950 0001 6499 5318

Carl A Phelps
11985 Dockweiller Road
Alderpoint, CA 95560

To Whom It May Concern,

Subject: **Notice of Violation and Transmittal of Inspection Report for October 13, 2021 Inspection of Humboldt County Assessor's Parcel (APN) 216-391-027, and Directive to Respond within 30 days**

File: Cannabis Program Inspections, Humboldt County, October 13, 2021, CIWQS Place ID 877446

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 216-391-027 (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

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

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 owner is Carl A Phelps.

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 a violation for failure to obtain regulatory coverage under the Cannabis General Order for cultivation of cannabis on the Property.

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/
- 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.

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 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.Henriouille@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

Adona White, Adona.White@waterboards.ca.gov

Kason Grady, Kason.Grady@waterboards.ca.gov

Claudia Villacorta, Claudia.Villacorta@waterboards.ca.gov

Division of Water Rights

Ryan Babb, Ryan.Babb@waterboards.ca.gov

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

Taro Murano, Taro.Murano@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

Deputy Shane Steele, ssteele@co.humboldt.ca.us

Sergeant Conan Moore, 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: 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>

Regulatory Section	Citation
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 (e)."

FACILITIES INSPECTION REPORT

Region/Office: 1	Status: Performed	Reg. Measure ID: 445638
Program Type: IRRICANNABIS	WDID:	Order Number:
Scheduled Insp. Date:	Actual Insp. Date: 10/13/2021	

Discharger Information

Party ID: 628958	Discharger Organization Name: Carl A Phelps	
Address: 11985 Dockweiler Road	City, State, Zip: Alderpoint, CA 95511	
Discharger Contact Person:	Discharger Contact Phone:	
Discharger Contact Email Address:		

Facility Information

Place ID 877446	Facility Name: Carl A Phelps		
Address: 11985 Alderpoint Road	City, State, Zip: Alderpoint, CA 95511		
County: Humboldt	Latitude: 40.13969	Longitude: -123.65549	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

VIOLATIONSWere Violations noted during this inspection? Yes No

Violation ID	Violation Type	Occurrence Date	Rank	Description
1096291	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

INSPECTION SUMMARY (REQUIRED) (500 character limit)

Recommendations:

1. Clean up and haul refuse to appropriate disposal locations; provide receipts and photos
2. Enroll in Cannabis General Order

GENERAL NOTES (OPTIONAL) (2000 character limit)

Figure 2 shows the inspection map, including WayPoints (WP)

WP616 – Cultivation area, CA1

WP617 – Well

There is lots of plastic refuse, soil, amendments, and fertilizer containers. Malathion bottles were by the feed tank.

I observed signs of pigs and cows.

The Property is served by PGE. According to Humboldt County HazMat, they found 1 drum of waste oil, some batteries, and empty tanks of fuel.

The owner apparently died in 2016; I understand that the County of Humboldt has placed a lien on the Property.

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 45739450

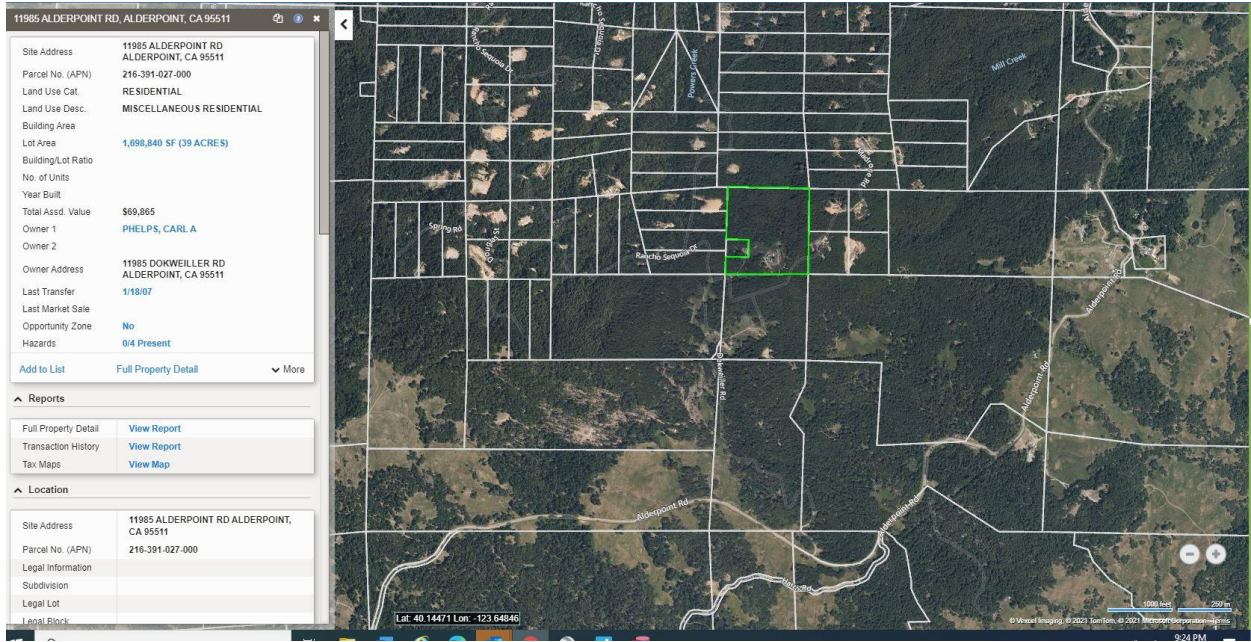


Figure 1. Location map of Property, located south of the Rancho Sequoia subdivision.



Figure 2. Inspection map of Property.

Map and Photo Appendix
CIWQS Inspection 45739450

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



Figure 3. The Property has lots of old grow materials.



Figure 4. Piles of cultivation related refuse.



Figure 5. Cultivation area, CA1 exceeds 2000 square feet in area.



Figure 6. Cultivation-related refuse

Map and Photo Appendix
CIWQS Inspection 45739450



Figure 7. Feed tank with discarded fertilizer jugs.



Figure 8. Well house.



Figure 9. Refuse.



Figure 10. Old plants in back of truck.



Figure 11. Discarded bottles of Malathion near feed tank.

Map and Photo Appendix
CIWQS Inspection 45739450



Figure 12. Discarded fertilizer jugs.



Figure 13. Refuse



Figure 14. Abandoned vehicles with refuse in back of truck.