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## North Coast Regional Water Quality Control Board

June 25, 2021

Certified Mail 7016 2070 0000 6486 1879

Duane Phommachan  
414 Alderpoint Road  
Garberville, CA 95542

Dear Duane Phommachan:

**Subject:** Notice of Violation and Transmittal of Inspection Report for May 25, 2021  
Inspection of Humboldt County Assessor's Parcel 216-393-026-000

**File:** Cannabis Program Inspections, Humboldt County, May 25, 2021,  
CIWQS Place ID 874710

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: 216-393-026-000 (the Property):

1. California Water Code (Water Code) Section 13260

On May 25, 2021, North Coast Regional Water Quality Control Board (Regional Water Board) staff (Staff) inspected the Property and observed active cannabis cultivation occurring indoors and outdoors. 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 May 25, 2021, staff from the Regional Water Board, accompanied by staff of California Department of Fish and Wildlife and personnel from the Humboldt County Sheriff's Office, 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 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 instream work and projects/activities

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

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 May 25, 2021 inspection report, Regional Water Board staff observed violations of the California Water Code. Staff observed these violations at Property locations identified in the inspection report as RES, CA1, and CA2.

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

During the May 25, 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-2019-0001-DWQ, *General Waste Discharge Requirements and Waiver of Waste Discharge Requirements for Discharges of Waste Associated with Cannabis Cultivation Activities* (Statewide General Order).

Please be aware that, pursuant to Water Code sections 13260 and 13264, if you elect to resume/continue cannabis cultivation on the subject Property, you must either:

- 1) Enroll 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/](https://www.waterboards.ca.gov/water_issues/programs/cannabis/)  
Submit the application fee within **30 days** of submitting the on-line application. Failure to submit the application fee within 30 days will result in the application being voided and authorization terminated. 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," and shall be delivered to:

(By US Mail):

Accounting Office  
Attn: Water Quality Fees – Cannabis General Order  
P.O. Box 1888  
Sacramento, CA 95812-1888

**OR**

- 2) File a Report of Waste Discharge in order to obtain individual Waste Discharge Requirements (WDRs) specific to your property.

Please submit the appropriate documents and payments to:

North Coast Water Board  
Attn: Cannabis Permitting  
5550 Skylane Boulevard, Suite A  
Santa Rosa, CA 95403

Water Code section 13260 states, in relevant part:

(a) Each 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.

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.

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 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 May 25, 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 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](mailto:Shannon.Utley@waterboards.ca.gov).

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 [Mona.Dougherty@waterboards.ca.gov](mailto:Mona.Dougherty@waterboards.ca.gov) or by phone at (707) 445-6129. 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,

Mona Dougherty, P.E.  
Senior Water Resource Control Engineer  
Northern Cannabis Permitting Unit

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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](mailto:Northcoast.Cannabis@waterboards.ca.gov)

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

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

Shannon Utley, [Shannon.Utley@waterboards.ca.gov](mailto:Shannon.Utley@waterboards.ca.gov)

**Division of Water Rights**

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**

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

Deputy Spellman Stallworth, [ssallworth@co.humboldt.ca.us](mailto:ssallworth@co.humboldt.ca.us)

**Attachment A – Regulatory Citations**

<b>Regulatory Section</b>	<b>Citation</b>
California Water Code Section 13260	“(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:  (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. (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.”
California Water Code Section 13261(a)	“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).”

**FACILITIES INSPECTION REPORT**

Region/Office: 1	Status: Performed	Reg. Measure ID: 443749
Program Type: IRRICANNABIS	WDID:	Order Number:
Scheduled Insp. Date:	Actual Insp. Date: 05/25/2021	

**Discharger Information**

Party ID: 625321	Discharger Organization Name: Duane Phommachan	
Address: 414 Alderpoint Road	City, State, Zip: Garberville, CA 95542	
Discharger Contact Person:	Discharger Contact Phone:	
Discharger Contact Email Address:		

**Facility Information**

Place ID 874710	Facility Name: Duane Phommachan		
Address:	City, State, Zip: CA		
County: Humboldt	Latitude:	Longitude:	Method:

**Lead Inspector Information**

Lead Inspector Party ID: 545131	Lead Inspector Name: Shannon Utlely		
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

**VIOLATIONS**Were Violations noted during this inspection?  Yes  No

Violation ID	Violation Type	Occurrence Date	Rank	Description
1091268	Other Codes	05/25/2021	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.

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

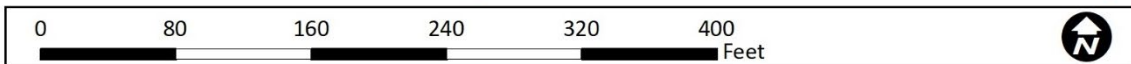
Recommendations:  
 Enroll in the State Water Resources Control Board Cannabis Policy and General Waste Discharge Requirements Order No. WQ 2019-0001-DWQ for cannabis cultivation and modify the cannabis cultivation activities and site conditions to comply with the General Order and Policy.

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

Inspection Description:  
 The May 25, 20121, 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 concern to water quality. Active cannabis cultivation was occurring inside a residence (RES) located on Humboldt County Accessor Parcel Number 216-393-026-000 (hereafter the Property) which requires enrollment under General Order No. WQ 2019-0001-DWQ for indoor cultivation activities. A small amount of active outdoor cannabis cultivation (approximately 600 square feet) was also located at the Property (CA1 and CA2). The Property also had a large generator and above ground storage tank (AST). Greywater from the residence was discharging to the ground surface.

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



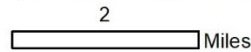
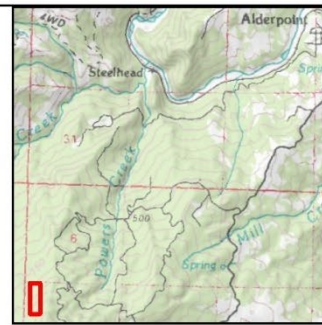
### Site Map of Phommanchanh Property Humboldt County

5/25/2021

- Point of Interest
- Cultivation Area
- Parcel Boundary



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



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

Photo 1: View of cultivation area CA1 located behind the residence.



Photo 2: View of cultivation area CA2 located on spur road near the residence.



Photo 3: A large mobile generator located near the residence.



Photo 4: An above ground fuels storage tank located near the residence.



Photo 5: View of the greywater pipe exiting the residence.



Photo 6: View of the greywater pipe discharging to the ground.

