



September 28, 2022

Certified Mail No. 7021 0950 0001 6499 8838

David Buchanan  
5105 Vine Hill Rd.  
Sebastopol, CA 95472

Dear David Buchanan:

**Subject: Notice of Violation, Transmittal of Report for August 29, 2022 Inspection of Sonoma County Assessor's Parcel Numbers 069-080-004-000**

**File:** Cannabis Program Inspections, Sonoma County, 2022, David Buchanan, CIWQS Place ID 883395

### **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 Sonoma County Assessor's Parcel Numbers: 069-080-004-000 (the Property):

1. Water Quality Control Plan for the North Coast Region (Basin Plan) Section 4.2.1, Prohibitions 1 and 2;
2. California Water Code (Water Code) Sections 13260 and 13264;
3. State Water Resources Control Board (State Water Board) Cannabis Cultivation Policy Principals and Guidelines for Cannabis Cultivation (Cannabis Policy).

According to our records, the cannabis cultivation operation located on this Property is not enrolled for coverage under 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 (Cannabis General Order). On August 29, 2022, North Coast Regional Water Quality Control Board (Regional Water Board) staff (Staff) inspected the Property and observed cannabis cultivation exceeding a combined half-acre in size. Accordingly, this letter directs you to address the violations noticed herein. Within 30 days, please contact Staff to discuss your plan to correct the observed violations.

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

## **Background**

Land Vision records show that David John Buchanan purchased the Property on August 13, 1991. According to review by Staff on September 27, 2022, of aerial imagery available from Google Earth, the greenhouses identified in the inspection report south of WQ4 and at WQ8 were constructed between June 10, 2016 and June 16, 2017. Order No. R1-2015-0023 (the Regional Cannabis Order) was in effect from August 2015 through adoption of the Cannabis General Order, and required cannabis cultivators within the North Coast Region to enroll and implement water quality protection measures. The Property was never enrolled under the Regional Cannabis Order.

On August 29, 2022, during the execution of a criminal search warrant served by the California Department of Fish and Wildlife (CDFW), Staff, accompanied by personnel from CDFW, the State Water Resources Control Board Division of Water Rights, Sonoma County and 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. During the inspection, Staff observed cannabis cultivation operations of sufficient size and scope to require regulatory coverage under the Cannabis General Order. According to CDFW personnel, the requisite state and local authorizations for commercial cannabis cultivation are not associated with the Property.

Attached is a copy of the water quality inspection report (Attachment B – Property Inspection Report). 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 report of the August 29, 2022 inspection, Staff observed: violations of the of the Basin Plan Section 4.2.1 Prohibition 1 at locations WQ1, WQ6, WQ8, and WQ9 for discharges of organic and earthen material to tributaries to Hulbert Creek or directly to Hulbert Creek; violations of the of the Basin Plan Section 4.2.1 Prohibition 2 at locations WQ1 through WQ4 and WQ6 through WQ9 for threatened discharge of organic and earthen material to Hulbert Creek; Staff observed large-scale cannabis cultivation and associated activities that were being conducted without first obtaining regulatory coverage for associated waste discharges, in violation of Water Code section 13260 south of WQ4 and at WQ8; Staff observed violations of the California Water Code section 13264 for unauthorized discharges of cannabis

cultivation waste into a water of the state of California at locations WQ1, WQ4, WQ5, WQ6, WQ8 and WQ9; and site conditions at WQ1 through WQ9 that violate the Cannabis Policy. Additionally, Staff observed a failing on-site wastewater treatment system (OWTS, or septic system) and noted untreated sewage discharges to land, requiring immediate corrective actions.

### **Legal Requirements**

The State Water Board adopted the Cannabis Policy and the Cannabis General Order on October 17, 2017, and updates on February 5, 2019, which remain in effect today. The purpose of the Cannabis Policy is to ensure that the discharge of waste and diversion of water associated with cannabis cultivation does not have a negative impact on water quality, aquatic habitat, riparian habitat, wetlands, and springs. The Cannabis Policy applies to cannabis cultivation activities throughout California including, Commercial Recreational, Commercial Medical, and Personal Use Medical. The Policy does not apply to recreational cannabis cultivation for personal use, which is limited to six plants under the Adult Use of Marijuana Act (Proposition 64, approved by California voters in November 2016).

The Cannabis General Order is the statewide water quality permit that implements the Cannabis Policy through the overarching general Waste Discharge Requirements (WDRs) in accordance with the California Water Code and is available for eligible cannabis cultivators to enroll under. The Cannabis General Order regulates waste discharges from cultivation sites including sediment, irrigation runoff, fertilizers, pesticides/herbicides, petroleum, agricultural related chemicals, cultivation related waste, and refuse. Threats of waste discharge may be from irrigation runoff, over fertilization, pond failure, road construction, grading activities, domestic and cultivation related waste, refuse placement, etc. All commercial cannabis cultivators must obtain coverage under the Cannabis General Order, including for both indoor and outdoor cultivation.

Cultivation activities on the Property requires conformance with the Cannabis Policy and enrollment under the Cannabis General Order. For more information, please visit our website at:

[https://www.waterboards.ca.gov/northcoast/water\\_issues/programs/cannabis/](https://www.waterboards.ca.gov/northcoast/water_issues/programs/cannabis/)

As documented in the inspection report, the site conditions observed on the Property do not meet the requirements of the Cannabis Policy. Please provide a written response supporting documentation, including photos if relevant, explaining how the Property will be restored in compliance with the Policy.

As documented in the inspection report, there are large dumps of waste in watercourses requiring significant work within a water of the state to cleanup and numerous existing stream crossings that must be upgraded or decommissioned to comply with the Basin Plan. The work to correct these violation will require a water quality certification prior to conducting instream work.

The application for the water quality certification for cannabis cultivation-related projects is available 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)

### **Additional Potential Liabilities**

The Regional Water Board is in the process of considering whether the violations of the Basin Plan, Cannabis Policy and Water Code warrant further enforcement. We encourage you to take steps, to correct the violations as soon as possible, and secure 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 Basin Plan, Cannabis Policy and Water Code.

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 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 Staff Brian Fuller 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 Brian Fuller by email at [Brian.Fuller@waterboards.ca.gov](mailto:Brian.Fuller@waterboards.ca.gov) or by phone at 707-576-2806.

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 [Jeremiah.Puget@waterboards.ca.gov](mailto:Jeremiah.Puget@waterboards.ca.gov) or by phone at 707-576-2835. 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,

Jeremiah Puget  
Senior Environmental Scientist  
Enforcement Unit

Attachments: Attachment A – Regulatory Citations  
Attachment B – Inspection Report

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)  
Jeremiah Puget, [Jeremiah.Puget@waterboards.ca.gov](mailto:Jeremiah.Puget@waterboards.ca.gov)

**Division of Water Rights**

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Karen Kramer, [Karen.Kramer@waterboards.ca.gov](mailto:Karen.Kramer@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**

Timothy Dodson, [Timothy.Dodson@wildlife.ca.gov](mailto:Timothy.Dodson@wildlife.ca.gov)  
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Lieutenant Douglas Willson, [Douglas.Willson@wildlife.ca.gov](mailto:Douglas.Willson@wildlife.ca.gov)  
Matt Jones, [Matthew.Jones@wildlife.ca.gov](mailto:Matthew.Jones@wildlife.ca.gov)

**Sonoma County**

[cannabis@sonoma-county.org](mailto:cannabis@sonoma-county.org)  
Jesse Cablk, [jesse.cablk@sonoma-county.org](mailto:jesse.cablk@sonoma-county.org)  
Todd Hoffman, [todd.hoffman@sonoma-county.org](mailto:todd.hoffman@sonoma-county.org)

**Department of Cannabis Control**

Jon Silva, [Jon.Silva@cannabis.ca.gov](mailto:Jon.Silva@cannabis.ca.gov)  
Erin Wonder, [Erin.Wonder@cannabis.ca.gov](mailto:Erin.Wonder@cannabis.ca.gov)

## Attachment A – Regulatory Citations

Regulatory Section	Citation
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> <p>Available at: <a href="https://www.waterboards.ca.gov/northcoast/water_issues/programs/basin_plan/">https://www.waterboards.ca.gov/northcoast/water_issues/programs/basin_plan/</a></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> <p>Available at: <a href="https://www.waterboards.ca.gov/northcoast/water_issues/programs/basin_plan/">https://www.waterboards.ca.gov/northcoast/water_issues/programs/basin_plan/</a></p>
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>

<b>Regulatory Section</b>	<b>Citation</b>
California Water Code Section 13264(a)	“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: (3) The issuance of waste discharge requirements pursuant to Section 13263. (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:... (3) The issuance of a waiver pursuant to Section 13269.”
California Water Code Section 13265(a)	“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.”
Cannabis Policy and General Order No. WQ 2019-0001-DWQ	State Water Resources Control Board Cannabis Cultivation Policy and General Waste Discharge Requirements Order No. WQ 2019-0001-DWQ for Discharges of Waste Associated with Cannabis Cultivation Activities  Available at: <a href="https://www.waterboards.ca.gov/water_issues/programs/cannabis/docs/policy/final_cannabis_policy_with_attach_a.pdf">https://www.waterboards.ca.gov/water_issues/programs/cannabis/docs/policy/final_cannabis_policy_with_attach_a.pdf</a> and <a href="https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2019/wqo2019_0001_dwq.pdf">https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2019/wqo2019_0001_dwq.pdf</a>



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## North Coast Regional Water Quality Control Board

TO: Jeremiah Puget

FROM: Brian Fuller

DATE: September 27, 2022

**Inspection Report for August 29, 2022 Warrant Inspection,  
Sonoma County  
Assessor's Parcel Number (APN) 069-080-004-000  
(the "Property")**

File: Cannabis Program Inspections, Sonoma County, 2022, David Buchanan,  
CIWQS Place ID 883395

**Property information:**

Watershed: Russian River Hydrologic Unit; Lower Russian River Hydrologic Area;  
Guerneville Hydrologic Subarea; (HU/HA/HSA 114.11; see Table 2-1 of the Water  
Quality Control Plan for the North Coast Region (Basin Plan), for beneficial uses)

**Inspection information:**

Date/time: August 29, 2022 / morning

Weather: sunny

Type: Warrant Inspection

**Background/Objective:**

Objectives for Regional Water Board staff included observing site development and activities and identifying and assessing onsite features or conditions that are causing or may cause adverse impacts to the quality and beneficial uses of receiving waters, including surface and ground water.

**Inspection Maps:**

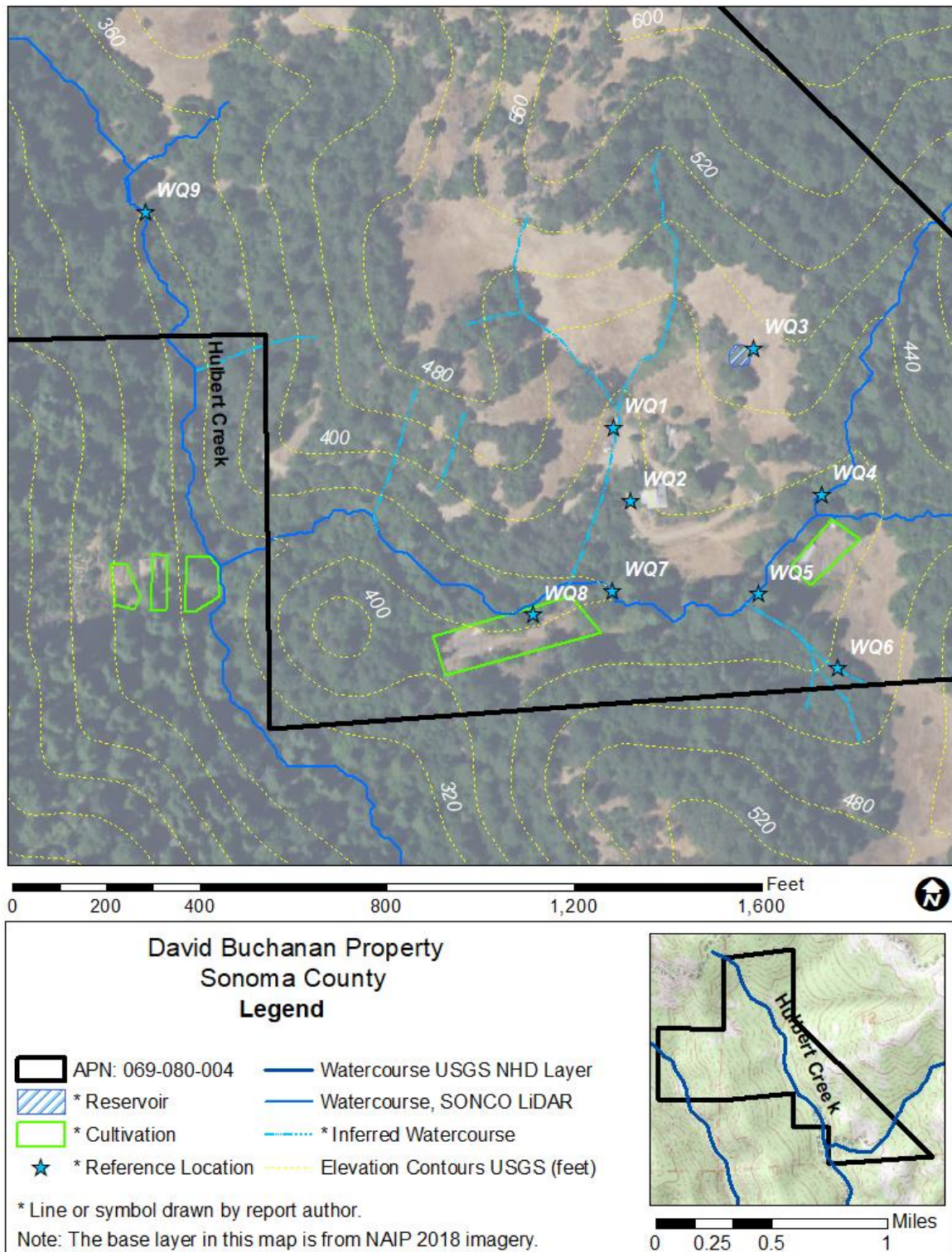


Figure 1: Aerial image/map showing inspection points discussed in this report.

**Inspection Narrative:**

The inspection was associated with a criminal search warrant, and I viewed only portions of the Property. See the above Inspection Map and below Photo Appendix for locations and details about features of concern to water quality. I entered the center of the Property from the south and parked in the vicinity of WQ1. I observed that the local topography was shaped such that stormwater from the north would concentrate at WQ1 and flow past a pile of refuse and into the watercourse to the south (Photos 1 - 3). I observed a large amount of waste had been dumped into the watercourse at this location (Photo 4). I followed a road south, and at WQ2, I observed a broken sewage line exiting a residence. I observed that sewage had discharged onto the hillside and road (Photo 5). I observed more refuse dumped south of WQ2 (Photo 6).

I walked north to WQ3 where I observed an approximate 1,000 square foot reservoir with small earthen berm (Photo 7). I did not observe an outlet structure and it appears that overflowing water likely spilled over the narrow earthen berm on the downslope side of the reservoir (Photo 8). I walked south-east and observed an approximate quarter-acre cannabis cultivation area at WQ4 (Photo 9). The cultivation area was within 15 feet of a watercourse (Photo 10). I followed the watercourse to the south and I observed a spray canister and pesticide container adjacent to the watercourse at WQ5 (Photos 11 and 12). I walked south-east up a tributary to the watercourse and observed waste, including construction material such as paint cans, dumped into the tributary at WQ6 (Photo 13). I walked back downstream and observed a road fording the watercourse at WQ7 (Photo 14).

I continued following the watercourse to the west and observed an approximate half-acre cannabis cultivation area located at WQ8 (Photo 15). I observed a channel connecting the cultivation area to a receiving watercourse and evidence that soils containing perlite had discharged to the receiving watercourse (Photo 16). At WQ 9, where the road exiting the Property crosses Hulbert Creek, I observed a six-foot diameter culvert that had been obstructed by debris and the road fill on one side of the culvert had eroded away leaving a gap next to the pipe (Photos 17 and 18).

**Recommendations for the Discharger:**

1. Immediately cease the discharge of sewage to land, implement corrective actions, and obtain the appropriate county permit for the disposal of on-site wastewater (i.e., septic system permit).
2. Immediately collect all refuse and wastes which have discharged and/or threaten to discharge to receiving waters and which can be collected by hand. You are not authorized to use heavy equipment in a water of the state or modify the bed bank or channel of a water of the state without a permit from the Regional Water Board (see recommendation 6 below). Properly dispose of these wastes at a licensed waste collection facility.

3. Retain a qualified professional to delineate all watercourses that are waters of the state of California on the Property and develop a workplan and schedule to remove all waste dumped into waters of the state and implement measures to ensure that all developed features, including roads, watercourse crossings, reservoirs and cultivation pads throughout the Property are corrected, restored, and/or maintained in conditions that comply with the Cannabis Cultivation Policy<sup>1</sup>.
4. Dispose of all development and restoration-related earthen spoils in a manner to prevent/minimize transport and delivery to receiving waters.
5. Prior to cultivating cannabis or developing a property for cannabis cultivation, enroll for coverage under the Cannabis General Order<sup>2</sup>.
6. Prior to conducting work in a water of the state of California, submit an application and pay the required application fee for a Water Quality Certification/Waste Discharge Requirement<sup>3</sup>:

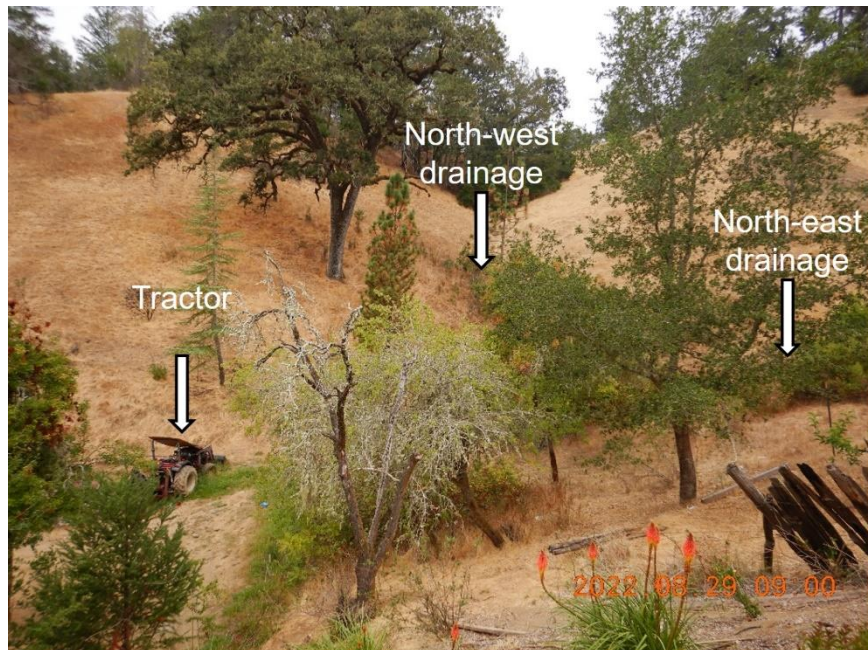
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<sup>1</sup> The Cannabis Cultivation Policy can be found at:  
[https://www.waterboards.ca.gov/water\\_issues/programs/cannabis/docs/policy/final\\_cannabis\\_policy\\_with\\_attach\\_a.pdf](https://www.waterboards.ca.gov/water_issues/programs/cannabis/docs/policy/final_cannabis_policy_with_attach_a.pdf)

<sup>2</sup> Details about enrolling in the Cannabis General Order can be found at:  
<https://public2.waterboards.ca.gov/mt/Home/Index>

<sup>3</sup> The application for instream work can be found at:  
[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)

**Photo Appendix:**



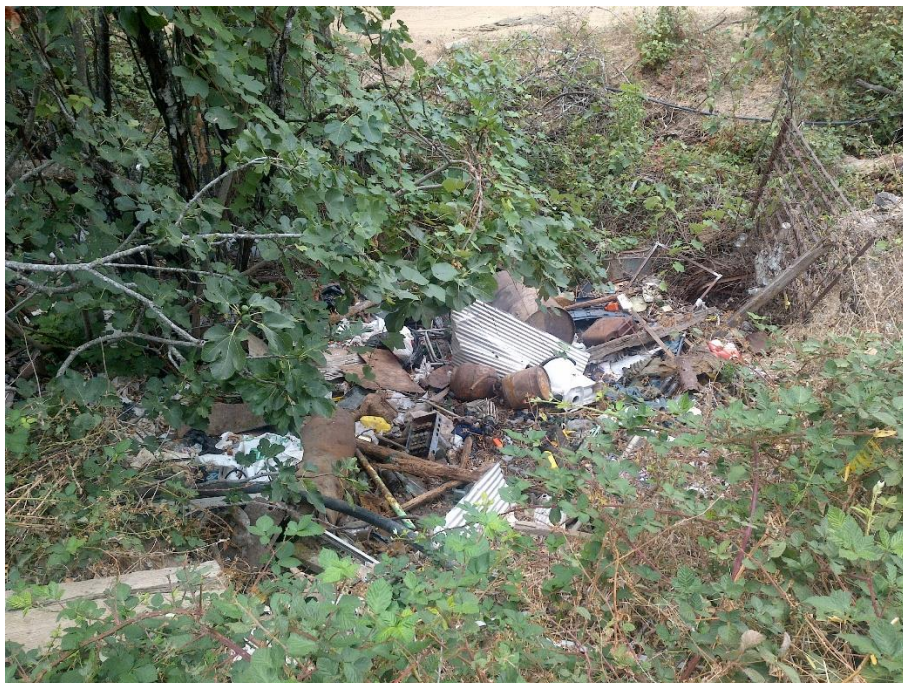
*Photo 1—Looking north-west. A tractor, located in the vicinity of WQ1 in Figure 1 and visible in the lower left of this image, is in the flow path of two drainage areas from the north-west and north-east.*



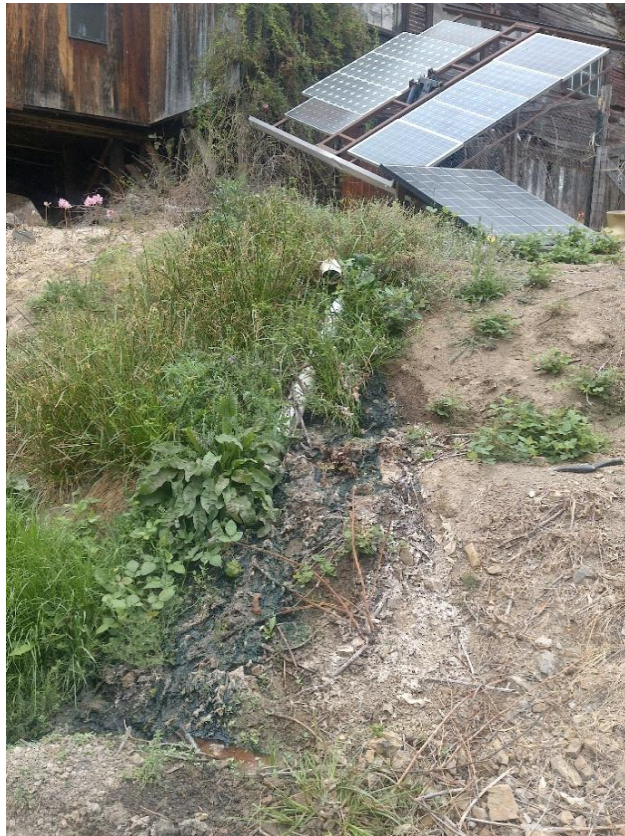
*Photo 2—Looking west towards WQ1. The tractor pictured in the previous image is visible in the right of this image.*



*Photo 3—Looking south at WQ1. The tractor pictured in the previous image is to the back of the photographer. There is no culvert in this location and the topography is shaped such that stormwater will pass from behind the photographer to a receiving watercourse behind a pile of refuse in the top center of the image.*



*Photo 4— Waste, including fuel tanks and construction materials, dumped into the watercourse south of WQ1.*



*Photo 5—Sewage discharging from a broken pipe at WQ2.*



*Photo 6—Looking west from WQ2 at refuse above a watercourse.*



*Photo 7—Looking west at reservoir located at WQ3.*



*Photo 8—Berm on western side of reservoir located at WQ3. The berm is only 2 feet wide at the narrowest point.*



*Photo 9—Looking south at an approximate quarter-acre cannabis cultivation area from WQ4.*



*Photo 10—Watercourse at WQ4. The cultivation area pictured in the previous image is behind the photographer and only 14 feet from the channel bank. A gallon jug of isopropyl alcohol is visible in the top left of the image.*



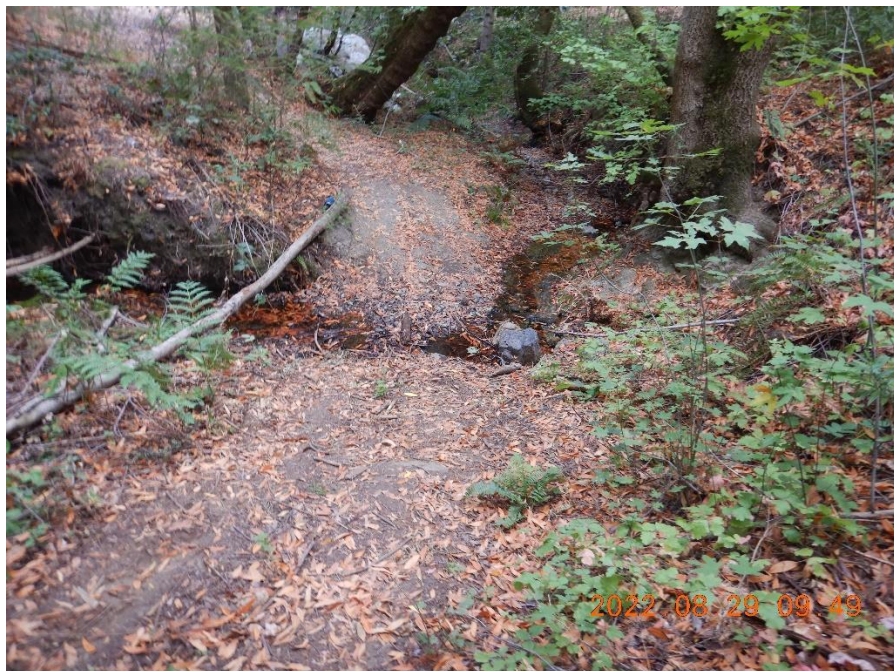
*Photo 11—Spray canister near a red plastic pesticide container at WQ5. The topographic form of a watercourse is visible in the back of the image.*



*Photo 12—The pesticide container pictured in the previous image. The container is labeled with the pesticide Sevin.*



*Photo 13— Waste, including fuel tanks and construction materials, dumped into a watercourse at WQ6.*



*Photo 14—Road fording watercourse at WQ7.*



*Photo 15—Looking north at an approximate half-acre cannabis cultivation area located at WQ8.*



*Photo 16—Looking north towards watercourse at WQ8. The cultivation area pictured in the previous image is behind the photographer. A channel extending from the bottom right of the image to the watercourse in the top of the image shows where excess irrigation discharged from the cultivation area into the watercourse. White speckles from perlite from imported potting soils are visible in the middle of the image and a generator and fuel containers are visible within the banks of the watercourse.*



*Photo 17—Looking south and downstream at the road crossing Hulbert Creek at WQ9. Debris is visible blocking the culvert inlet and a scoured channel appears to the left of the culvert.*



*Photo 18—Looking north and upstream at the crossing pictured in the previous image. The culvert is six feet in diameter.*