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## North Coast Regional Water Quality Control Board

July 26, 2022

Brian Harper  
PO BOX 915  
Redway, CA 95560

Certified Mail 7021 0950 0001 6499 8142

Dear Brian Harper:

**Subject:** Notice of Violation and Transmittal of Inspection Report for June 29, 2022, Inspection of Trinity County Assessor's Parcel 022-250-021-000, and Requirement to Respond within 30 days

**File:** Cannabis Program Inspections, Trinity County, CIWQS Place ID 882294

### **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 Trinity County Assessor's Parcel Number: 022-250-021-000 (the Property):

1. State Water Resources Control Board (State Water Board) Cannabis Cultivation Policy Principals and Guidelines for Cannabis Cultivation (Cannabis Policy)
2. Water Quality Control Plan for the North Coast Region (Basin Plan) Section 4.2.1

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).

### **Background**

On June 29, 2022, staff from the Regional Water Board, accompanied by staff of the California Department of Fish and Wildlife (CDFW), State Water Board Division of Water Rights, Trinity County Planning and Environmental Health, and Trinity County Sheriff Department 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.

Attached is a copy of the water quality inspection report (Attachment B – Property 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 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 June 29, 2022, inspection report, Regional Water Board staff observed violations of the California Water Code and the Basin Plan. In addition, staff observed violations of the Cannabis Cultivation Policy, Section 1 - General Requirements and Prohibitions Nos. 25-27, and 37, and Section 2 - Requirements Related to Water Diversions and Waste Discharge for Cannabis Cultivation Nos. 3-4, 7-8, 15-17, 22, 26, 28, 31, 48-51, 53, 56-57, 59, 61-64, 76, 85, 90, 104, 113, 119, 123, 126, and 130. Staff observed these violations at Property locations identified in the inspection report as WQ1 through WQ17.

### **Cannabis Cultivation Waste Discharge Requirements Regulatory Program**

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.

Cannabis cultivation activities require conformance with the Cannabis Policy and enrollment in 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/)

### **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 June 29, 2022, 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 Ermias Berhe 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 Ermias Berhe by email at [Ermias.Berhe@Waterboards.ca.gov](mailto:Ermias.Berhe@Waterboards.ca.gov) or by phone at 707-445-6128.

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  
Senior Water Resources Control Engineer

220629\_Brian Harper\_NOV

Attachments:            Attachment A - Regulatory Citations  
                                 Attachment B – Facilities Inspection Report  
                                 Attachment C – Inspection Maps 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)  
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**Division of Water Rights**

Taro Murano, [Taro.Murano@waterboards.ca.gov](mailto:Taro.Murano@waterboards.ca.gov)  
Chris Baimas, [chris.baimas@waterboards.ca.gov](mailto:chris.baimas@waterboards.ca.gov)  
Anthony Southwood, [Anthony.Southwood@Waterboards.ca.gov](mailto:Anthony.Southwood@Waterboards.ca.gov)

**Department of Fish and Wildlife**

[r1saredding@wildlife.ca.gov](mailto:r1saredding@wildlife.ca.gov)  
Tobi Freeny, [Tobi.Freeny@wildlife.ca.gov](mailto:Tobi.Freeny@wildlife.ca.gov)

**County Sheriff's Office**

Sergeant Nathaniel Trujillo, [ntrujillo@trinitycounty.org](mailto:ntrujillo@trinitycounty.org)

**County Planning and Permitting**

[info.cannabis@trinitycounty.org](mailto:info.cannabis@trinitycounty.org)

**Department of Cannabis Control**

Erin Wonder, [erin.wonder@cannabis.ca.gov](mailto:erin.wonder@cannabis.ca.gov)

**Attachment A – Regulatory Citations**

<b>Regulatory Section</b>	<b>Citation</b>
Basin Plan Section 4.2.1, Prohibition 1	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.”
Basin Plan Section 4.2.1, Prohibition 2	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.”
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>(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>(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)	“A person who fails to furnish a report or pay a fee under <a href="#">Section 13260</a> when so requested by a regional board is guilty of a misdemeanor and may be liable civilly in accordance with subdivision (b).”
Cannabis Policy and General Order No. WQ 2019-0001-DWQ	<p>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</p> <p><a href="https://www.waterboards.ca.gov/water_issues/programs/cannabis/docs/policy/final_cannabis_policy_with_attachments.pdf">https://www.waterboards.ca.gov/water_issues/programs/cannabis/docs/policy/final_cannabis_policy_with_attachments.pdf</a></p> <p>and</p> <p><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></p>

Brian Harper Property  
Attachment B

## **Attachment B – Facilities Inspection Report**

**FACILITIES INSPECTION REPORT**

Region/Office: 1	Status: Performed	Reg. Measure ID: 448585
Program Type: IRRICANNABIS	WDID: 1_53MJ000065	Order Number:
Scheduled Insp. Date:	Actual Insp. Date: 06/29/2022	

**Discharger Information**

Party ID: 634397	Discharger Organization Name: Harper, Brian	
Address: Po Box 915	City, State, Zip: Redway, CA 95560	
Discharger Contact Person:	Brian Harper	Discharger Contact Phone:
Discharger Contact Email Address:		

**Facility Information**

Place ID 882294	Facility Name: Harper, Brian Property	
Address: 2260 Betts Road	City, State, Zip: Zenia, CA 95595	
County: Trinity	Latitude: 40.00431313	Longitude: -123.3554172 Method:

**Lead Inspector Information**

Lead Inspector Party ID: 591567	Lead Inspector Name: Ermias Berhe		
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
1106475	Order Conditions	06/29/2022	B	Statewide Cannabis Cultivation Policy at WQ1, WQ2, WQ3, WQ7, WQ8, WQ10, WQ12, WQ13, WQ16 and WQ17
1106476	Basin Plan Prohibition	06/29/2022	B	Water Quality Control Plan for the North Coast Region (Basin Plan) Section 4.2.1 Prohibition 1 & 2 at WQ7, WQ12 and WQ13

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

**Recommendations:**

1. If you intend to continue cannabis cultivation, you need to enroll into the Statewide Cannabis General Order WQ 2019-0001-DWQ at: <https://public2.waterboards.ca.gov/CGO>
2. Properly contain and/or dispose fertilizers, soils, plastic containers, and trashes.
3. Hire a professional to assess the conditions of the pond and stream crossings and apply for a 401 Water Quality Certification at: North Coast Cannabis Water Quality Certification Application for instream works.

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

I observed approximately 22,000 square feet of cannabis cultivation in greenhouses on the southern portion of the property at inspection point WQ2, and approximately 1500 square feet of outdoor cannabis cultivation on the northern portion of the property at inspection point WQ16. In the vicinity of the cultivation area in the north, i observed trashes at inspection points WQ15, and uncontained and uncovered soils at inspection point WQ17.

At inspection points WQ1, WQ3 and WQ7 I observed water storage tanks associated with irrigation of cannabis cultivation. Nearby inspection point WQ2 I observed uncontained plastic containers. At inspection point WQ3 I observed uncontained fertilizers.

At inspection point WQ8 i observed an off-stream pond nearby the head water of a watercourse at inspection point WQ9. Nearby the pond i observed grading without any erosion control mechanism. The earthen material used as a pond berm was not compacted enough and the spillway of the pond was not designed properly and is threatening sediment delivery to a nearby watercourse during storm events.

At inspection point WQ7, WQ12 and WQ13 I observed three culverted stream crossings which are either improperly installed and/or undersized and are delivering sediment and waste to the waters of the state.

**For Internal Use (Optional)**

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

# Attachment C – Inspection Map and Photo Log

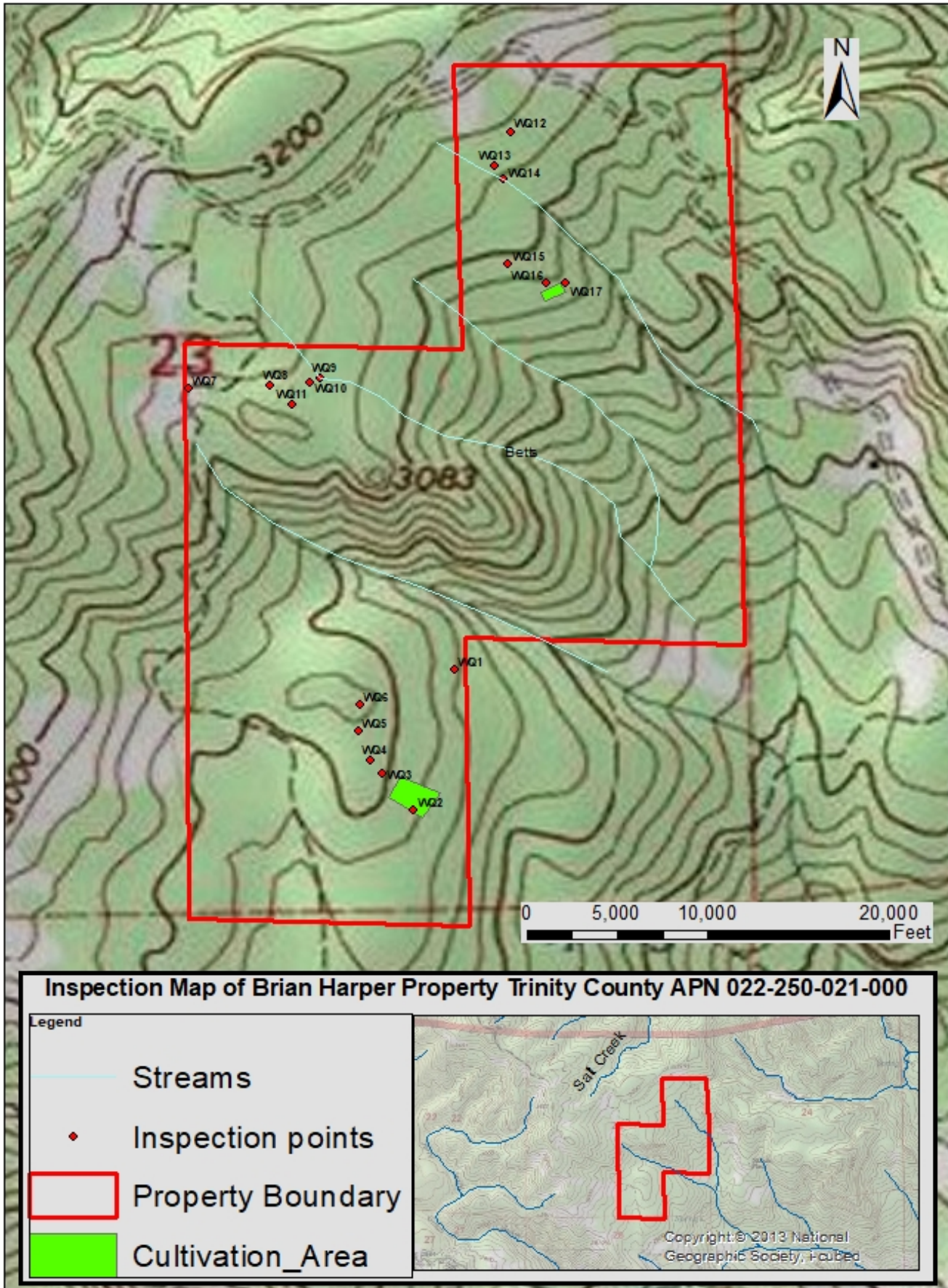


Figure 1 inspection map

*Photo Log of June 29, 2022, Inspection of Brian Harper Property, Trinity County APN 022-250-021-000. Photos taken by Ermias Berhe unless noted otherwise.*



*Photo 1: water storage tank at inspection point WQ1*



*Photo 2: Cultivation area at inspection point WQ2*



*Photo 3: uncontained plastic containers at nearby inspection point WQ2*



*Photo 4: water storage tanks and a pump at inspection point WQ3*



*Photo 5: uncontained fertilizers nearby inspection point WQ3*



*Photo 6: properly contained fertilizers and soils at inspection point WQ4*



*Photo 7: water storage tanks at inspection point WQ5*



*Photo 8: damaged water bladder at inspection point WQ6*



*Photo 9: culvert installed high in the fill at inspection point WQ7*



*Photo 10: an off-stream pond near a class III at inspection point WQ8*



*Photo 11: improperly designed overflow at inspection point WQ8*



*Photo 12: highly vegetated headwaters of a watercourse at inspection point WQ9*



*Photo 73: grading within a riparian setback of a watercourse at inspection point WQ10*



*Photo 14: pipe out of the pond at inspection point WQ11*



*Photo 15: inlet of a culverted stream crossing installed high in the fill at inspection point WQ12*



*Photo 16: outlet of an improperly installed culverted stream crossing at inspection point WQ12*



*Photo 17: inlet of an improperly installed culverted stream crossing at inspection point WQ13*



*Photo 18: outlet of an improperly installed culverted stream crossing at inspection point WQ13*



*Photo 19: water storage tanks at inspection point WQ14*



*Photo 20: trash at inspection point WQ15*



*Photo 21: cultivation area nearby inspection point WQ16*



*Photo 22: uncontained/uncovered soil nearby inspection point WQ17*