



North Coast Regional Water Quality Control Board

August 10, 2022

Song Her and May Chang
2109 Greenbriar Ln
Eureka, CA 95503

Certified Mail 7021 0950 0001 6499 8258

Dear Song Her and May Chang:

Subject: Notice of Violation and Transmittal of Inspection Report for July 11, 2022, Inspection of Trinity County Assessor's Parcel 018-210-019-000, and Requirement to Respond within 30 days

File: Cannabis Program Inspections, Trinity County, CIWQS Place ID 882269

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: 018-210-019-000 (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 July 11, 2022, staff from the Regional Water Board, accompanied by staff of the California Department of Fish and Wildlife (CDFW), 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 July 11, 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, 15-17, 22, 26, 28, 31, 48-51, 53, 56-57, 59, 61-64, 76, 85, 124, and 126. Staff observed these violations at Property locations identified in the inspection report as WQ1 through WQ6.

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/

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 July 11, 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 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 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

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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
Claudia Villacorta, Claudia.Villacorta@waterboards.ca.gov
Kason Grady, Kason.Grady@waterboards.ca.gov
Jeremiah Puget, Jeremiah.Puget@waterboards.ca.gov
Ermias Berhe, Ermias.Berhe@Waterboards.ca.gov

Division of Water Rights

Taro Murano, Taro.Murano@waterboards.ca.gov

Department of Fish and Wildlife

r1saredding@wildlife.ca.gov
Scott Bauer, scott.bauer@wildlife.ca.gov

Song Her and May Chang
Property
Notice of Violation

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August 10, 2022

County Sheriff's Office

Sergeant Nathaniel Trujillo, ntrujillo@trinitycounty.org

County Planning and Permitting

info.cannabis@trinitycounty.org

Department of Cannabis Control

Erin Wonder, erin.wonder@cannabis.ca.gov

Attachment A – Regulatory Citations

Regulatory Section	Citation
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 Section 13260 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>https://www.waterboards.ca.gov/water_issues/programs/cannabis/docs/policy/final_cannabis_policy_with_attachment_a.pdf</p> <p>and</p> <p>https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2019/wqo2019_0001_dwq.pdf</p>

Song Her Property
Attachment B

Attachment B – Facilities Inspection Report

FACILITIES INSPECTION REPORT

Region/Office: 1	Status: Performed	Reg. Measure ID: 448552

Discharger Information

Party ID: Multiple	Discharger Organization Name: Multiple Dischargers	
Address: 2109 Greenbriar Lane	City, State, Zip: Eureka, CA 95503	
Discharger Contact Person: Song Her	Discharger Contact Phone:	
Discharger Contact Email Address:		

Facility Information

Place ID 882269	Facility Name: Her, Chang, Song, May Property		
Address: 6241 Van Duzen Road	City, State, Zip: Mad River, CA 95552		
County: Trinity	Latitude: 40.37427	Longitude: -123.50069	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

VIOLATIONSWere Violations noted during this inspection? Yes No

Violation ID	Violation Type	Occurrence Date	Rank	Description
1106961	Basin Plan Prohibition	07/11/2022	B	Water Quality Control Plan for the North Coast Region (Basin Plan) Section 4.2.1 at WQ3 and WQ6
1106962	Other Codes	07/11/2022	B	Cannabis Cultivation Policy requirements at inspection points WQ1-WQ6

INSPECTION SUMMARY (REQUIRED) (500 character limit)

I observed cannabis cultivation area of considerable size at inspection point WQ1. I also observed Point of Diversion (POD) and historical pond used for cannabis irrigation at WQ2 and WQ3 respectively. The historical impoundment at WQ3 is threatening sediment and waste delivery to a tributary of Van Duzen River, and it is within the required riparian setback. I observed an outhouse toilet at WQ5. At WQ6, I observed a rocked stream crossing threatening sediment delivery to a stream downstream.

GENERAL NOTES (OPTIONAL) (2000 character limit)

Recommendation:

1. If you intend to continue cannabis cultivation enroll in the Cannabis General Order WQ-2019-0001-DWQ.
2. Discontinue using outhouse toilet and work with Trinity County to ensure that all domestic and human wastes are collected and disposed of consistent with the applicable County requirements.
3. Hire a professional to address water quality issues associated with the point of diversion (POD) and Pond at WQ2, WQ3 and stream crossing at WQ6.
4. If instream work is recommended at WQ2, WQ3 and WQ6, submit a 401 Water Quality Certification Application at: North Coast Cannabis Water Quality Certification Application
5. Work with Division of Water Rights for permits needed for water storage and use at WQ2 and WQ3.

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

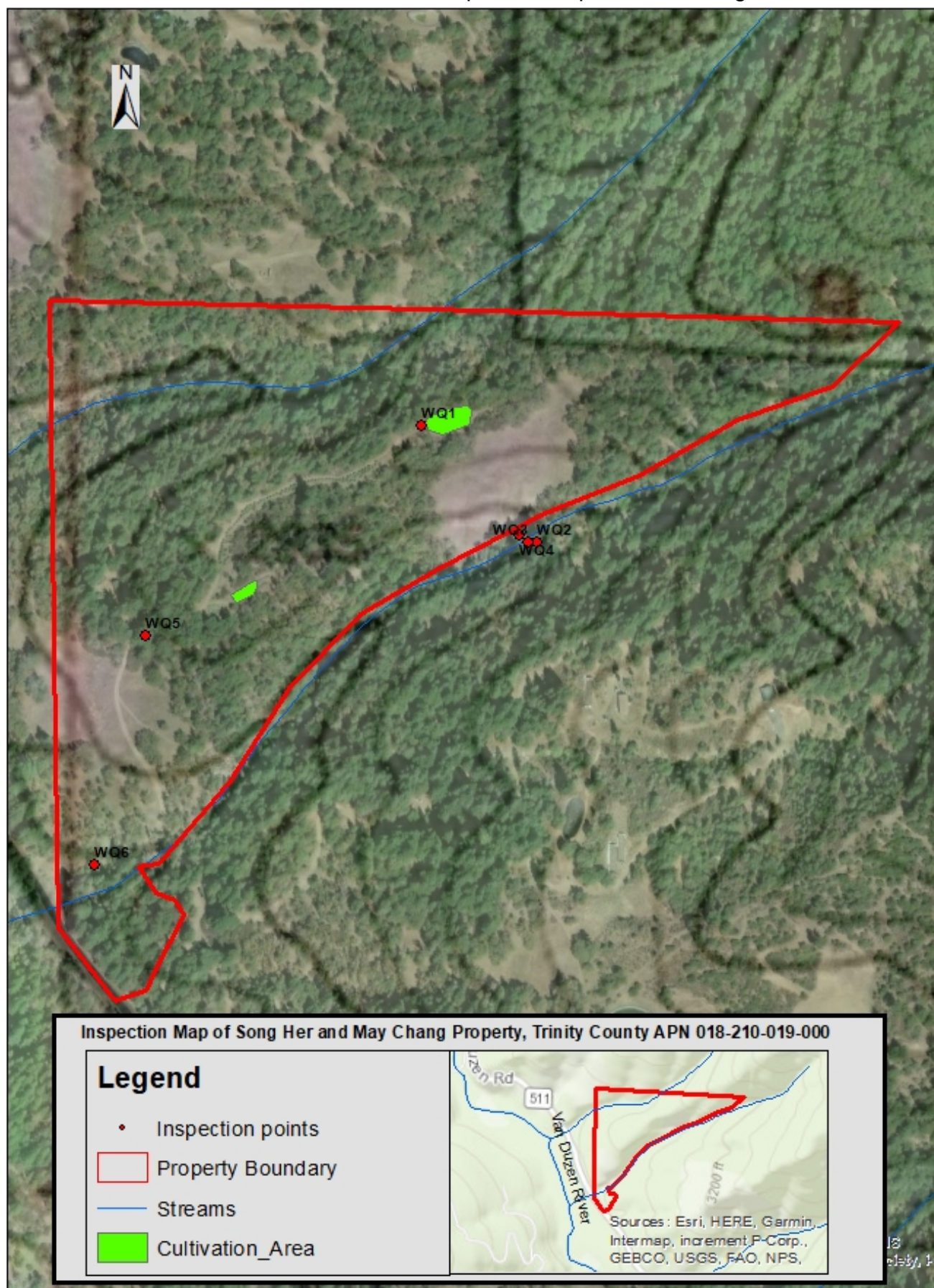


Figure 1 inspection map

Photo Log of July 11, 2022, Inspection of Song Her and May Chang Property, Trinity County APN 018-210-019-000. Photos taken by Ermias Berhe unless noted otherwise.



Photo 1: Outdoor cannabis cultivation at inspection point WQ1



Photo 2: Point of diversion (POD) at a spring at inspection point WQ2



Photo 3: Impoundment at inspection point WQ3



Photo 4: Outhouse toilet at inspection point WQ5



Photo 5: A rocked ford crossing at inspection point WQ6