



North Coast Regional Water Quality Control Board

August 25, 2022

Operation H, LLC
ATTN: Kiryl Mikhalkevich
13922 Mango Drive
Del Mar, CA 92014
operationhllc@gmail.com

Certified Mail 7021 0950 0001 6499 8463

Dear Kiryl Mikhalkevich:

Subject: Notice of Violation and Transmittal of Inspection Report for August 3, 2022, Inspection of Trinity County Assessor's Parcel 011-320-005-000

File: Cannabis Program Inspections, Trinity County, Operation H, LLC, CIWQS
Place ID 858299

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 011-320-005-000 (the Property):

1. State Water Resources Control Board Cannabis Cultivation Policy 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) various provisions
2. Water Quality Control Plan for the North Coast Region (Basin Plan) Section 4.2.1
3. California Water Code (Water Code) Section 13260 and 13264

According to our records, the cannabis cultivation operation located on this Property is enrolled for coverage under the Cannabis General Order as Tier 2, Low Risk to water quality.

On August 3, 2022, North Coast Regional Water Quality Control Board (Regional Water Board) staff inspected the Property and observed cannabis cultivation related infrastructure and waste. Accordingly, this letter directs you to address the violations

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

noticed herein. Within 30 days, please contact Regional Water Board staff to discuss your plan to correct the observed violations.

Background

On May 14, 2019, Zhanna Topolska submitted information through the State Water Resources Control Board's (State Water Board's) online portal for discharges of waste associated with cannabis cultivation related activities for APN 011-320-005-000 and listed Operation H, LLC as landowner of the Property and Kiryl Mikhailkevich as the landowner contact. Based on the information submitted by Zhanna Topolska, the cannabis cultivation activities are classified as Tier 2, Low Risk. Effective October 28, 2021, the Property was enrolled into State Cannabis Order No. WQ 2019-0001-DWQ, WDID 1_53CC415904.

On August 3, 2022, staff from the Regional Water Board, accompanied by staff of Trinity County, the California Department of Fish and Wildlife, and the California Department of Cannabis Control 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 – Inspection Report). Please review the inspection report carefully and completely. The inspection report contains recommendations for correcting observed violations.

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 violations of the Basin Plan Section 4.2.1 Prohibition 2, and California Water Code 13260 and 13264. In addition, staff observed violations of the State Cannabis Order Attachment A, Section 1 - General Requirements and Prohibitions Nos. 1, 12, 13, 26, 27, 29, and 37; and Section 2 – Requirements Related to Water Diversions and Waste Discharge for Cannabis Cultivation Nos. 7, 8, 15, 26, 57, 59, 62, 85, 89, 92, 95, 104, 105, 113, 117, 119, 120, 123, and 124.

Staff observed these violations at Property locations identified in the inspection report as cultivation runoff, RV, water tank, shed, generators/ diesel, and reservoir.

Additional Potential Liabilities

The Regional Water Board is in the process of considering whether the violations of the Policy 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 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 Kate Hawken 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 Kate Hawken by email at Katherine.Hawken@waterboards.ca.gov or by phone at 707-445-6127.

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, PE
Senior Water Resource Control Engineer
Cannabis Program

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Attachments: Attachment A – Regulatory Citations
Attachment B – Inspection Report
Attachment C – Inspection Photo Log

Certified Mail – Return Receipt requested

cc: **North Coast Regional Water Quality Control Board**
Northcoast.Cannabis@waterboards.ca.gov
Jeremiah Puget, Jeremiah.Puget@waterboards.ca.gov
Kason Grady, Kason.Grady@waterboards.ca.gov

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Trinity County

Bella Hedtke, bhedtke@trinitycounty.org
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Department of Cannabis Control

Erin Wonder, erin.wonder@cannabis.ca.gov
Robert Hogan, Robert.hogan@cannabis.ca.gov

Flowra

Jack Wright, jack@theflowraplatform.com
Linnea Kneaper, linnea@theflowraplatform.com

Attachment A – Regulatory Citations

Regulatory Section	Citation
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>
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>
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>

Regulatory Section	Citation
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."

FACILITIES INSPECTION REPORT

Region/Office: 1	Status: Performed	Reg. Measure ID: 430522
Program Type: IRRICANNABIS	WDID: 1_53CC415904	Order Number: 2019-0001-DWQ
Scheduled Insp. Date:	Actual Insp. Date: 08/03/2022	

Discharger Information

Party ID: 597788	Discharger Organization Name: Operation H, LLC	
Address: 3990 Hyampom Road	City, State, Zip: Hayfork, CA 96041	
Discharger Contact Person: Kiryl Mikhalkevich	Discharger	410-603-5088
	Contact Phone:	
Discharger Contact Email Address: operationhllc@gmail.com		

Facility Information

Place ID 858299	Facility Name: 3990H	
Address: 3990 Hyampom Road	City, State, Zip: Hayfork, CA 96041	
County: Trinity	Latitude: 40.576518	Longitude: -123.244746 Method:

Lead Inspector Information

Lead Inspector Party ID: 569684	Lead Inspector Name: Katherine Hawken		
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: B Type compliance inspection

VIOLATIONSWere Violations noted during this inspection? Yes No

Violation ID	Violation Type	Occurrence Date	Rank	Description
1107412	Basin Plan Prohibition	08/03/2022	B	Basin Plan Prohibition 4.2.1, Section 2, for materials staged where they may discharge to or enter surface waters.
1107413	Other Codes	08/03/2022	B	Water Code 13260 and 13264 for discharge of waste beyond scope of CANGO enrollment and mischaracterization of site conditions.

INSPECTION SUMMARY (REQUIRED) (500 character limit)

Observations

Cultivation Runoff: I observed dirt-floor and concrete-floor buildings with cultivation infrastructure (Photo 1-2). I observed pipes exiting the buildings into the ground (Photo 3). I observed the ground around the discharge pipes, and the buildings, was wet and covered with algae suggesting recent nutrient-laden runoff (Photo 4). I observed abnormally lush vegetation for August surrounding a cultivation building, suggesting the discharge had been going on for some time (Photo 5).

GENERAL NOTES (OPTIONAL) (2000 character limit)

Observations cont.

RV: I observed an RV with an open discharge valve and a moist channel below it where black mold was growing (Photo 6). The RV historically discharged to an illegal septic tank; the tank was removed with oversight from Trinity County staff.

Water Tank: I observed an overflowing water storage tank with an erosional path continuing several hundred feet down a steep dirt access road (Photo 7-8).

Shed: I observed irrigation lines, a pump, potting soil, tarps, and a shed containing processed cannabis, approximately 15 feet from a Class III watercourse (Photo 9).

Generators/ Diesel: I observed multiple generators on a landing that smelled strongly of petroleum. After digging around in the wood chips and pulling back tarps, I observed black soil concentrated with diesel (Photo 10-11). The extent of the diesel spill is unknown; the generator landing was approximately 900 square feet.

Reservoir: I observed a small man-made reservoir with standing water, cannabis plant waste, and black plastic waste (Photo 12). I observed a PVC pipe in the reservoir. The source and composition of the water are unknown.

Recommendations

1. Discontinue discharge of wastewater to ground. Cap discharge valve on RV and defer to Trinity County staff for septic system permitting requirements and guidance on legal RV discharge locations.
2. Install float valves or similar shutoff devices on water storage tanks. Do not discharge water or allow water to concentrate and flow down road surfaces.
3. Relocate all cannabis-related infrastructure, equipment, and trash at least 50 feet away from the Class III watercourse.
4. Hire a qualified professional to assess the extent of the diesel spill and to prepare a plan and timeline to remove the diesel safely. After concurrence from applicable agencies, proceed with cleanup.
5. Characterize source and composition of the water in the small reservoir. Discontinue discharge of water and waste to reservoir.

For Internal Use (Optional)

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

Mikhailkevich August 3, 2022, Inspection Photo Log
Photos taken by Kate Hawken unless otherwise noted



Photo 1: Inactive indoor cultivation setup in building with concrete flooring.



Photo 2: Inactive indoor cultivation setup in building with dirt flooring.



Photo 3: Pipes discharging to ground surrounded by wet soil outside of cultivation building.



Photo 4: Pipes discharging to ground surrounded by wet soil and algae outside of cultivation building.



Photo 5: Downhill of Photo 4, lush vegetation surrounding cultivation building.



Photo 6: RV discharge valve and evidence of wastewater discharge. Mold was growing in the path below the valve.



Photo 7: Overflowing water storage tank.



Photo 8: Erosional path down steep dirt access road from overflowing water storage tank in Photo 7.



Photo 9: Cannabis cultivation related materials including plastic tarps and potting soil next to a Class III watercourse.



Photo 10: Generator on landing with wood chips and tarps. Black soil concentrated with diesel uncovered. Area smelled strongly of petroleum.



Photo 11 (taken by Helen Bowman): View under generator with inadequate secondary containment and diesel spill evident on tarp.



Photo 12: Small man-made reservoir with standing water, cannabis plant waste, and black plastic waste. Hayfork Creek is across the road in the background.