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North Coast Regional Water Quality Control Board

July 29, 2022

Michael Kowtko  
648 Rigby Avenue  
Rio Dell, CA 95562  
[mikekowtkojr@gmail.com](mailto:mikekowtkojr@gmail.com)

Certified Mail 7021 0950 0001 6499 6148

Dear Michael Kowtko:

Subject: Notice of Violation, Transmittal of Inspection Report for July 11, 2022, Inspection of Trinity County Assessor's Parcel 020-500-021-000, and Requirement to Respond within 30 days

File: Cannabis Program Inspections, Trinity County, July 11, 2022, CIWQS Place ID 865999

**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: 020-500-021-000 (the Property):

1. State Water Resources Control 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* (Cannabis General Order) various provisions
2. Water Quality Control Plan for the North Coast Region (Basin Plan) Section 4.2.1

**Background**

On April 7, 2020, Michael Kowtko submitted information through the State Water Resources Control Board (State Water Board) online portal for discharges of waste associated with cannabis cultivation related activities for APNs 020-500-019-000 and 020-500-021-000 and listed Harold Johannsen as landowner of the Property. Based on the information submitted by Applicant, the cannabis cultivation activities are classified as Tier 1L. Effective June 11, 2020, the Property was enrolled into the Cannabis General Order, with WDID 1\_53CC426790.

LandVision records show that the Property was sold to Michael Kowtko, by Harold Johannsen, on May 27, 2022.

On July 11, 2022, staff from the Regional Water Board, accompanied by staff of California Department of Fish and Wildlife (CDFW), 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.

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 Basin Plan. In addition, staff observed violations of the Cannabis General Order Attachment A, Section 2 - Requirements Related to Water Diversions and Waste Discharge for Cannabis Cultivation Nos. 3-4, 15-17, 31, 48-51, 53, 56-57, 59, 61-62, 76, 85, 113, 119-120, 123, 126, and 130. Staff observed these violations at Property locations identified in the inspection report as WQ2 through WQ9.

### **Site Management Plan (SMP)**

Pursuant to the Cannabis General Order, all enrollees must submit a Site Management Plan within 90 days of enrollment. As of the date of this letter, no SMP has been submitted.

### **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.

### 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](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

220711\_Michael Kowtko\_NOV\_Report

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)  
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**

Taro Murano, [Taro.Murano@waterboards.ca.gov](mailto:Taro.Murano@waterboards.ca.gov)

**Department of Fish and Wildlife**

[r1lsaredding@wildlife.ca.gov](mailto:r1lsaredding@wildlife.ca.gov)

Scott Bauer, [scott.bauer@wildlife.ca.gov](mailto:scott.bauer@wildlife.ca.gov)

**County Sheriff's Office**

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

**Trinity 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.”
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 <a href="https://www.waterboards.ca.gov/water_issues/programs/cannabis/docs/policy/final_cannabis_policy_with_attachment_a.pdf">https://www.waterboards.ca.gov/water_issues/programs/cannabis/docs/policy/final_cannabis_policy_with_attachment_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>

**Attachment B – Facilities Inspection Report**

## FACILITIES INSPECTION REPORT

Region/Office: 1	Status: Performed	Reg. Measure ID: 437534

### Discharger Information

Party ID: 608088	Discharger Organization Name: Kowtko, Michael		
Address: 12011 Ruth-Zenia Road		City, State, Zip: Zenia, CA 95595	
Discharger Contact Person:	Mike Kowtko	Discharger Contact Phone:	707-845-6555
Discharger Contact Email Address: mikedowtkojr@gmail.com			

### Facility Information

Place ID: 865999	Facility Name: Mountain Boss Farms LLC		
Address: 12011 Ruth-Zenia Road		City, State, Zip: Zenia, CA 95595	
County: Trinity	Latitude: 40.288154	Longitude: -123.436592	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
1106825	Basin Plan Prohibition	07/11/2022	B	Basin Plan Section 4.2.1, Prohibition 1 and 2 at inspection points WQ4, WQ7, WQ8 and WQ9.
1106826	Order Conditions	07/11/2022	B	Cannabis Policy and General Order No. WQ 2019-0001-DWQ at inspection points WQ2, WQ4, WQ7, WQ8 and WQ9.

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

**Recommendation:**

1. Contain and properly dispose of cannabis plant waste and soils near WQ2.
2. Hire a professional to assess pond at WQ8 and stream crossings at WQ4 and WQ9.
3. If instream work is recommended at WQ4, WQ8 and WQ9, submit a 401 Water Quality Certification Application at: North Coast Cannabis Water Quality Certification Application
4. Work with Division of Water Rights for permits needed for water storage and use at WQ7.

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

On the southern portion of the property, I observed improperly disposed cannabis plant waste and soil nearby the cultivation site at inspection point WQ2. I also observed water storage tanks used for cannabis irrigation at inspection point WQ3, which were filled from the onstream pond at WQ7.

On the northeastern portion of the property, I observed a culverted stream crossing on the headwaters of a watercourse at inspection point WQ4. Downstream of this crossing, to the northwest at WQ7, there is an onstream pond used for cannabis cultivation. There is a diversion infrastructure installed at this pond. The outlet of the overflow pipe on the pond at inspection point WQ8 is connected to the inlet of the culverted stream crossing at inspection point WQ9. The outlet of the culvert at WQ9 is shot gunned and is threatening scouring and erosion to a Class I watercourse downstream.

There is a Point of Diversion (POD) on a spring outside of the parcel at GPS Location 40.287432, -123.433501. The use of this POD appears to be domestic.

**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

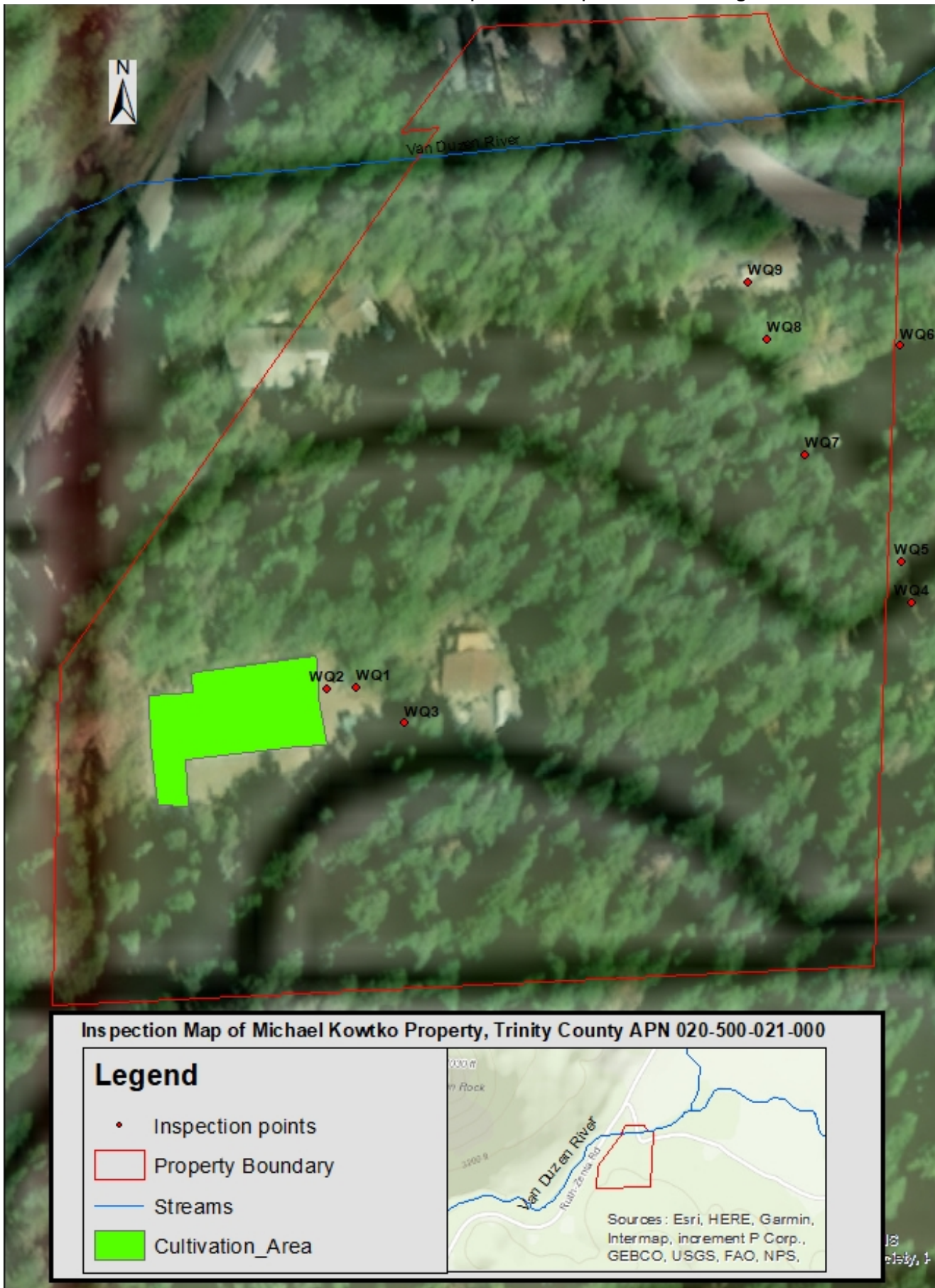


Figure 1 inspection map

Photo Log of July 11, 2022, Inspection of Michael Kowtko Property, Trinity County APN 020-500-021-000. Photos taken by Ermias Berhe unless noted otherwise.



Photo 1: water storage tank and pump at inspection point WQ1



Photo 2: Properly contained petroleum products and fertilizers at inspection point WQ1



Photo 3: Greenhouses near inspection point WQ2



Photo 4: improperly disposed cannabis plant waste near inspection point WQ2

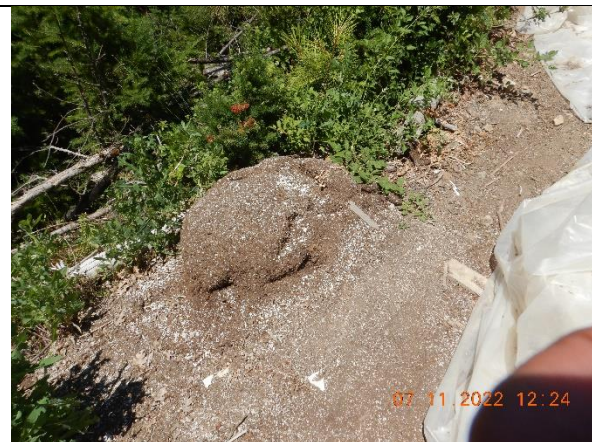


Photo 5: uncontained soils near inspection point WQ2



Photo 6: water storage tanks at inspection point WQ3



*Photo 7: inlet of a culverted stream crossing at inspection point WQ4*



*Photo 8: outlet of a culverted stream crossing at inspection point WQ4*



*Photo 9: onstream pond at inspection point WQ7*



*Photo 10: Point of diversion at an onstream pond at inspection point WQ7*



*Photo 11: pond overflow culvert and downspout at inspection point WQ8*



*Photo 12: outlet of a culverted stream crossing installed high in the fill at inspection point WQ9*