



North Coast Regional Water Quality Control Board

September 6, 2022

Mitchell Bradley Scott
1333 Casteel Dr
Willits, CA 95490

Certified Mail No. 7021 0950 0001 6499 8623

Mitchell Scott
PO Box 1591
Fort Bragg, CA 95437

Certified Mail No. 7021 0950 0001 6499 8609

Dear Mitchell Scott:

Subject: Notice of Violation, Transmittal of Report for August 8, 2022 Inspection of Mendocino County Assessor's Parcel Number (APN) 150-220-01-00

File: Cannabis Program Inspections, Mendocino County, 2022, Mitchell Scott, CIWQS Place ID 882700

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 Mendocino County Assessor's Parcel Number: 150-220-01-00 (the Property):

1. Water Quality Control Plan for the North Coast Region (Basin Plan) Section 4.2.1, Prohibition 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).

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

On August 8, 2022, North Coast Regional Water Quality Control Board (Regional Water Board) staff (Staff) inspected the Property and observed cannabis cultivation greenhouses exceeding a combined 10,000 square feet in size. Accordingly, this letter directs you to address the violations noticed herein. Within 30 days, please contact Regional Water Board staff to discuss your plan to correct the observed violations.

Background

Land Vision records show that Mitchell Bradley Scott purchased the Property on May 23, 2016. According to a September 20, 2019 Notice of Violation from the California Department of Fish and Wildlife (CDFW), unauthorized cannabis cultivation has been occurring on the Property since at least September 10, 2019.

On August 8, 2022, during the execution of a criminal search warrant served by CDFW, Staff, accompanied by personnel from CDFW, the State Water Resources Control Board Division of Water Rights, the California Department of Cannabis Control and Mendocino 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 8, 2022 inspection, Staff observed: violations of the of the Basin Plan Section 4.2.1 Prohibition 2 at locations WQ2 through WQ5 and WQ10 for threatened discharge of sediment or construction related wastes to tributaries to the Little North Fork Navarro River; 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; Staff observed violations of the California Water Code section 13264 for unauthorized discharges of waste cannabis plants stalks into a tributary to the Little North Fork

Navarro River, a water of the state, at locations WQ7. These site conditions also violate the Cannabis Policy.

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 in under the Cannabis General Order. For more information, please visit our website at:

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 numerous existing stream crossings that must be upgraded or decommissioned to comply with the Basin Plan, which 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

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 Regional Water Board 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 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 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
Claudia Villacorta, Claudia.Villacorta@waterboards.ca.gov
Kason Grady, Kason.Grady@waterboards.ca.gov
Jeremiah Puget, Jeremiah.Puget@waterboards.ca.gov

Division of Water Rights

Scott Shironaka, Scott.Shironaka@waterboards.ca.gov
Zachary Gomer, Zachary.Gomer@waterboards.ca.gov
Karen Kramer, Karen.Kramer@waterboards.ca.gov
Stormer Feiler, Stormer.Feiler@waterboards.ca.gov
Taro Murano, Taro.Murano@waterboards.ca.gov

Department of Fish and Wildlife

Nicholas Bennett, Nicholas.Bennett@Wildlife.ca.gov
Kari Gahan, Kari.Gahan@wildlife.ca.gov
Tim Dodson, Timothy.Dodson@wildlife.ca.gov
Warden Justin Rhoades, Justin.Rhoades@wildlife.ca.gov
Lieutenant Douglas Willson, Douglas.Willson@wildlife.ca.gov

County Sheriff's Office

Sergeant Clinton Wyant, WyantC@mendocinocounty.org

Mendocino County Cannabis Program

CannabisProgram@mendocinocounty.org

Mendocino County Code Enforcement

Trent Taylor, TaylorT@mendocinocounty.org

Department of Cannabis Control

Jaime Masuda, Jaime.Masuda@cannabis.ca.gov

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

Attachment A – Regulatory Citations

Regulatory Section	Citation
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: https://www.waterboards.ca.gov/northcoast/water_issues/programs/basin_plan/</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.”
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: https://www.waterboards.ca.gov/water_issues/programs/cannabis/docs/policy/final_cannabis_policy_with_attach_a.pdf and https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2019/wqo2019_0001_dwq.pdf

North Coast Regional Water Quality Control Board

TO: Jeremiah Puget

FROM: Brian Fuller

DATE: September 6, 2022

**Inspection Report for August 8, 2022 Warrant Inspection,
Mendocino County
Assessor's Parcel Number (APN) 150-220-01-00 (the "Property")**

File: Cannabis Program Inspections, Mendocino County, 2022, Scott,
CIWQS Place ID 882700

Property information:

Watershed: Mendocino Coast Hydrologic Unit; Navarro River Hydrologic Area;
(HU/HA 113.50; 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 8, 2022 / 9:45am -12:30pm

Weather: sunny

Type: Warrant Inspection

Background/Objective:

Objectives for Regional Water Board staff (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 Map:

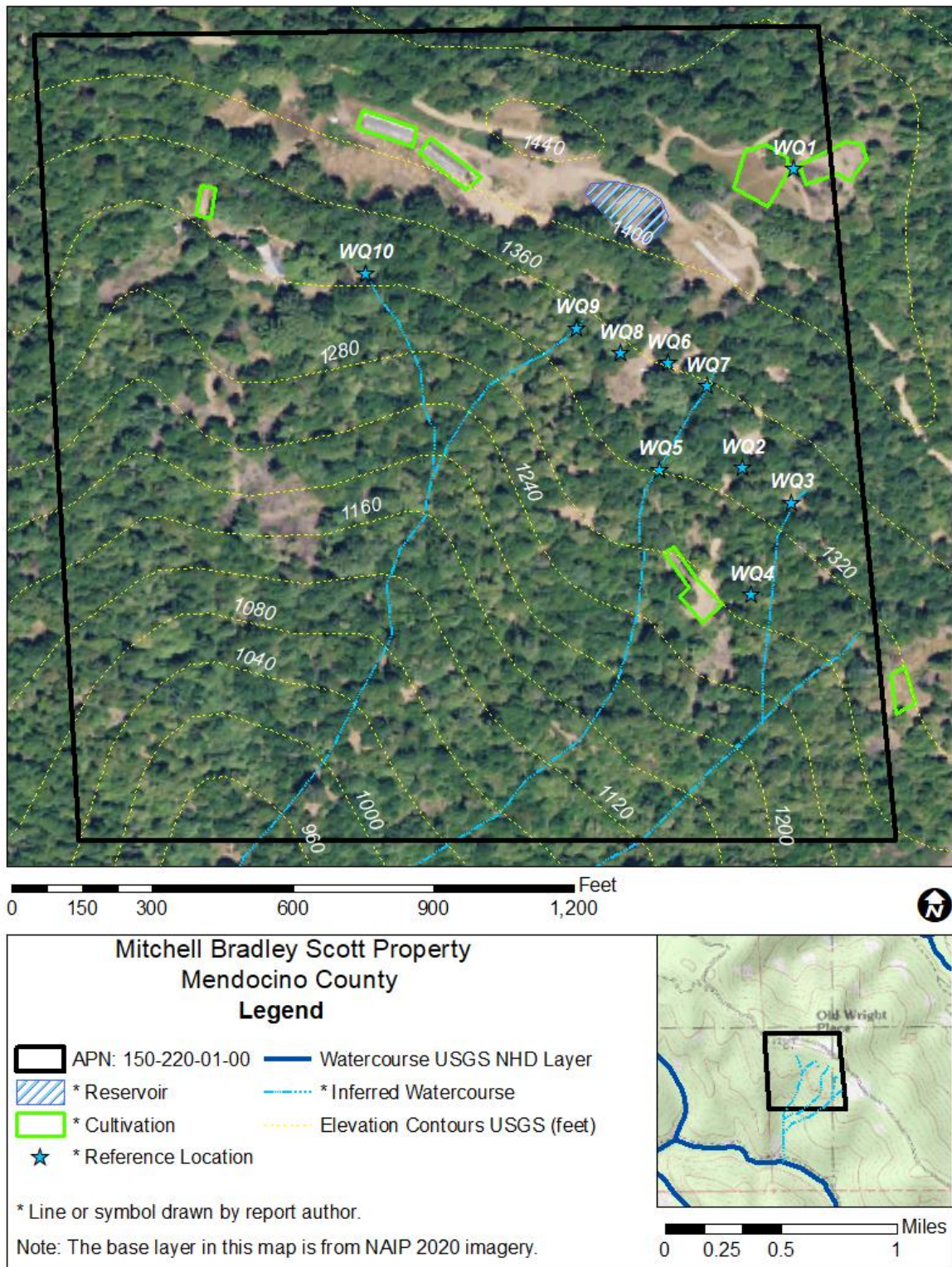


Figure 1: Aerial image/map showing inspection points discussed in this report.

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 northeast corner of the Property from the east and observed approximately 10,000 square feet of cannabis being cultivated outdoors and in hoop-type greenhouses at WQ1. I observed uncontained refuse and agricultural chemicals in the vicinity of WQ1.

I drove south along a dirt road and observed scour marks on the road surface from where stormwater had concentrated. The road was shaped such that the concentrated stormwater would flow past parked vehicles in disrepair and toward a watercourse at WQ3. I observed another road segment fording a watercourse at WQ3. I continued south along the road from WQ2 and observed a dilapidated trailer at WQ4 with a watercourse to the east and cannabis cultivation area to the west. I walked northwest from WQ4 to WQ5 where I observed a road intersection at a watercourse.

I then proceeded north to WQ6 where I observed several 55-gallon drums. Some of the drums were partially filled and petroleum products had been released to the ground from where they threaten to discharge to the neighboring watercourse at WQ7. I walked to WQ7 and observed that waste cannabis stalks had been disposed in the watercourse. I then walked west to WQ8 and observed more waste metal and an open 55-gallon drum that was more than half filled with a black oily fluid. These wastes threaten to discharge to another watercourse at WQ9.

I then proceeded west to WQ10 where I observed a generator shed constructed above a watercourse. I observed petroleum products stored without adequate secondary containment and other wastes at the generator shed which threatened to discharge to the watercourse.

Recommendations:

1. Immediately collect all petroleum products, other chemicals, refuse and cannabis cultivation wastes on the Property which have discharged and/or threaten to discharge and properly dispose of these wastes at licensed waste collection facility.
2. Retain a licensed professional to investigate the extent of contaminated soil, surface water and groundwater associated with the spilled petroleum products and develop a workplan and schedule for cleaning up the spill.
3. Retain a licensed professional to inventory, assess, all aquatic resources including watercourses that are waters of the State of California on the Property, and to develop a workplan and schedule to implement measures to ensure that all developed features, roads and watercourse crossings throughout the Property are corrected, restored, and/or maintained in conditions that prevent or minimize

erosion, sediment transport/delivery, and adverse impacts to water quality and beneficial uses.

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.
6. Prior to conducting work in a water of the state, submit the below application and pay the required application fee for a Water Quality Certification/Waste Discharge Requirement:

https://www.waterboards.ca.gov/northcoast/water_issues/programs/cannabis/pdf/200204/RB1_Cannabis_WQC_401_App.pdf

Photo Appendix:



Photo1— Cannabis plants being grown in a hoop-type greenhouse in the vicinity of WQ1.



Photo 2— Cannabis plants outdoors in the vicinity of WQ1.



Photo 3— Bags of potting soil and multiple containers of high-concentration liquid nutrient containers in the vicinity of WQ1.



Photo 4— Empty plant containers, soil bags and other cannabis cultivation waste in the vicinity of WQ1.



Photo 5— Looking south along road in the vicinity of WQ2. A scour mark is visible in the middle of the road where stormwater had concentrated and flowed downslope and past vehicles pictured in the top left of the image.



Photo 6—Looking west at Vehicles pictured in the top left of the previous image. Stormwater from the road will flow past the vehicles and to a watercourse to the back of the photographer at WQ3.



Photo 7—Looking south at a road fording a watercourse at WQ3. A channel scoured from concentrated stormwater is visible in the foreground of the image and the topographic form of a watercourse with a duff covered bed is visible below the road in the background of the image.



Photo 8—A flush toilet and waste from human habitation at WQ4. The topographic form of a watercourse is out of view behind the structure pictured in the image.



Photo 9—Looking north and upstream along a watercourse at WQ5.



Photo 10—Looking west at WQ5, where the road fords the watercourse pictured in the previous image.



Photo 11—Looking at an oil spill at WQ6. Several 55-gallon drums labeled with hydraulic fluid along with two damaged vehicles are visible in the back left of the image. A watercourse pictured in the following image is out of view to the back right.



Photo 12—Cannabis stalks in a watercourse at WQ7. The channel has the topographic form of a watercourse with a bed covered by duff and leaf-litter.



Photo 13—Uncovered 55-gallon drum containing an oily substance at WQ8.



Photo 14—Looking south and downstream at watercourse at WQ9 located downslope from 55-gallon drum pictured in previous image



Photo 15—Looking inside generator shed located at WQ10. The wooden floor is stained with oil.



Photo 16—Looking east at a leaking 55-gallon drum outside of the generator shed at WQ10. The drum is on top of a piece of plywood and surrounded by leaf litter. Oil is visible on the ground at the bottom of the drum.



Photo 17—Looking at the area between the shed and drum pictured at WQ10 in the previous image. The drum is visible in the bottom right of the image and the receiving watercourse is visible in the top right.



Photo 18—Looking south at watercourse at WQ10. The generator shed pictured in the previous three photos is behind the photographer.