



North Coast Regional Water Quality Control Board

June 9, 2023

Ann Hathaway
PO Box 2905
White City, OR. 97503
annyretired@gmail.com

Certified Mail No.: 7021-0950-0001-6500-1124

David Samson
1215 S. Cloverdale Blvd.
Cloverdale, CA. 95425
dave@seed2soul.com

GLS Tracking No.: 559557454

Samuel Jurist
315 Montana Ave. #101
Santa Monica, CA. 90403

GLS Tracking No.:559557495

Subject: Notice of Violation of Water Code Section 13260(a)

File: 1215 S. Cloverdale Blvd, Cloverdale, CA. 95425; WDID No. 1B23083CNSO; CIWQS Place ID. 888697

Dear Ms. Hathaway, Mr. Samson, and Mr. Jurist:

Please respond within 15 days of the date of this letter.

The purpose of this letter is to notify you that the building located at 1215 S. Cloverdale Blvd, Cloverdale, CA. 95425 (hereinafter, Facility) is in violation of California Water Code (Water Code) section 13260(a), which states:

13260. (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:

HECTOR BEDOLLA, CHAIR | VALERIE QUINTO, EXECUTIVE OFFICER

- (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.

Depending on the nature of recent and ongoing commercial and industrial activities conducted at the Facility, it may also be inappropriately enrolled under, or in violation of *General Waste Discharge Requirements and Waiver of Waste Discharge Requirements for Discharges of Waste Associated with Cannabis Cultivation Activities*, Order WQ-2019-0001-DWQ (Cannabis General Order).

Background

In November 2018, a tenant at the Facility, Seed 2 Soul, LLC, applied for and was granted enrollment under the Cannabis General Order. The enrollment was assigned the waste discharge identification (WDID) number 1_49CC405915. The application submitted by Seed 2 Soul, LLC claimed that indoor cannabis cultivation occurs at the Facility and that all wastewaters generated are discharged to a community sewer system. The Facility was therefore enrolled under a conditionally exempt waiver category in the Cannabis General Order reserved for indoor cultivation operations that discharge to municipal sewage collection systems.

On May 24, 2023, North Coast Regional Water Quality Control Board (Regional Board) staff (Staff) received information from the City of Cloverdale indicating that an unauthorized discharge of wastewater had occurred and may still be occurring at the Facility.

Staff has reviewed materials related to the Facility and determined that it has a septic tank of 1,200 gallons and was authorized by the County in September 2018 to discharge 50 gallons per day of domestic waste to an Onsite Wastewater Treatment System (OWTS) through September 2023. It has come to Staff's attention that the Facility has discharged an average of approximately 550 gallons per day thus far in 2023, overwhelming the OWTS and putting it into failure. It has also come to Staff's attention that the Facility is discharging industrial process wastewater from the production of cannabis concentrates.

Although City of Cloverdale staff have recently notified Regional Board Staff that some of the wastewater is being pumped and hauled offsite, on May 24, 2023, our office received a video showing an aboveground cistern filled with industrial process wastewater, sewage, or comingled industrial process wastewater and sewage being drained by a hose onto the Facility's lot and adjacent property. Such discharges have not been permitted by the Regional Board.

Alleged Violations

1. Unauthorized discharge of industrial process wastewater, sewage, and/or comingled industrial process wastewater and sewage.

Water Code section 13260, subdivision (a) requires that any person discharging waste that could affect the quality of the waters of the State (including groundwater), other than into a community sewer system, shall file with the appropriate Regional Board a Report of Waste Discharge (RWD) containing such information and data as may be required for the Regional Board to issue Waste Discharge Requirements (WDRs, a permit) for the discharge, should the Regional Board determine that the discharge can be permitted.

The discharge of industrial process waste from the failed septic system and from the hose draining the cistern are not currently authorized by the Regional Board. Therefore, the Facility is in violation of Water Code section 13260.

2. Possible unauthorized discharge of cannabis cultivation wastewater.

If the Facility is appropriately enrolled under the conditionally exempt waiver category in the Cannabis General Order and is not discharging all industrial wastewaters to a municipal sewage collection system, any wastewaters discharged to other locations are in violation of the Cannabis General Order.

Potential Liabilities

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, cease and desist order, administrative civil liabilities, and referral to the California Attorney General's office. Failing to submit a Report of Waste Discharge when requested by the Regional Water Board subjects you to potential liability of up to \$1,000 per day pursuant to Water Code section 13261 and you may be found guilty of a misdemeanor. In addition, discharging waste without having submitted a Report of Waste Discharge and receiving authorization to discharge subjects you to potential liability of up to \$1,000 per day pursuant to Water Code section 13265. 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 for violations of a WDR or Waiver (e.g. the Cannabis General Order). Administrative civil liabilities may be assessed on a daily basis in the amount up to \$10,000 for each day the violation occurs and \$10/gallon beyond the first 1,000 gallons not cleaned up for actual discharges to Waters of the United States without a permit pursuant to Water Code section 13385.

The Regional Water Board is in the process of considering whether the violations of the Water Code warrant further enforcement. We encourage you to take steps to correct the violations as soon as possible, including: (1) comply fully with the conditions placed by

the County on the use of the Facility's OWTS, (2) if applicable, comply fully with the Cannabis General Order, and (3) concurrent with the previous, either connect to municipal sewer or obtain WDRs (a permit) from the Regional Board for the discharge of industrial process wastewater. Please note that the existing conditions may represent continuing violations of the Water Code and that correcting these conditions at the Facility does not preclude enforcement for the violations alleged in this notice.

Recommendations

Within 15 days from the date of this letter, please advise the Regional Board of your intentions, plan, and schedule to implement corrective actions with respect to industrial waste discharges associated with cannabis concentrate production as well as any other waste discharges associated with cannabis cultivation as defined under the Cannabis General Order.

If you have questions about what is required of you to comply with Water Code section 13260, and to discuss your plan and schedule to correct the alleged violations, please contact me by email at Kelsey.Cody@waterboards.ca.gov or by phone at 707-576-2347.

If you have questions about whether the Facility's enrollment under the Cannabis General Order is appropriate, and if so, what is required of you to comply with the Cannabis General Order, please contact David Kuszmar by email at David.Kuszmar@waterboards.ca.gov or by phone at 707-576-2693.

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.

Sincerely,

Kelsey C. Cody, Ph.D.
Senior Environmental Scientist
Groundwater Permitting Unit

Cc:

North Coast Regional Water Quality Control Board

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