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## North Coast Regional Water Quality Control Board

August 25, 2023

Melanie Thibodeaux  
PO BOX 1193 Hayfork, CA 96041  
[melliesletters@gmail.com](mailto:melliesletters@gmail.com)

Johanas Colby  
PO Box 1702  
Hayfork, CA 96401

Dear Melanie Thibodeaux and Johanas Colby:

**Subject: Notice of Violation, Transmittal of Inspection Report of July 26, 2023  
Inspection of Trinity County Assessor's Parcel Number 011-120-015**

**File: Cannabis Inspections, Trinity County 2023, CIWQS Place ID 828392**

### **THIS LETTER HAS RECOMMENDATIONS 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 (APN) 011-120-015 (the Property):

1. State Water Resources Control Board (State Water Board) Cannabis Cultivation Policy Principals and Guidelines for Cannabis Cultivation (Cannabis Policy).
2. California Water Code (Water Code) sections 13260, 13264 and 13350
3. The Water Quality Control Plan for the North Coast Region (Basin Plan) section 4.2.1

On July 26, 2023, staff of the North Coast Regional Water Quality Control Board (Regional Water Board) inspected the Property and observed site conditions that have resulted in unauthorized discharges of waste and threatened discharges of waste to waters of the state and the United States.

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HECTOR BEDOLLA, CHAIR | VALERIE QUINTO, EXECUTIVE OFFICER

5550 Skylane Blvd., Suite A, Santa Rosa, CA 95403 | [www.waterboards.ca.gov/northcoast](http://www.waterboards.ca.gov/northcoast)

According to our records, at the time of the inspection, the cannabis cultivation operation located on this Property was 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).

This letter has recommendations to address the violations noticed herein. Within 30 days, please contact staff to discuss your plan to correct the observed violations and implement the recommendations within the staff inspection report.

## **Background**

The Property is located in the Corral Creek watershed near the community of Burnt Ranch in the Lower Trinity River watershed. LandVision records show that the Property was last purchased on June 10, 2009 by Melanie Thibodeaux and Johanas Colby from Christopher and Lynnette Kneeland.

On July 5, 2019, Melanie Thibodeaux 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 the Property identifying themselves as operator and, along with Stephan Colby, landowner. Based on the information submitted by Melanie Thibodeaux, the cannabis cultivation activities are classified as Tier 2 Low Risk. Effective July 13, 2020, the Property was enrolled under the Cannabis General Order with WDID No. 1\_53CC417391.

On June 27, 2022, Melanie Thibeaux submitted a request form to terminate coverage under the Cannabis General Order. The Property is not currently enrolled under the Cannabis General Order.

On July 26, 2023, during the execution of a criminal search warrant served by the California Department of Fish and Wildlife (CDFW), Regional Water Board staff inspected the Property, accompanied by representatives from CDFW and the State Water Board Division of Water Rights. The purpose of the inspection was to evaluate site development and conditions on the Property, and to identify and assess any impacts or threatened impacts to the quality and beneficial uses of waters of the state, which include both surface water and groundwater. 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, required 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 – July 26, 2023 Water Quality Inspection Report). Please review the inspection report carefully and completely. The inspection report contains recommendations for correcting observed violations.

## **Relevant Requirements**

During the inspection, 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 26, 2023 inspection report, staff observed large-scale cannabis cultivation and associated activities conducted in a manner that has resulted in unauthorized discharges and threats of discharge to waters of the state, in violation of Water Code section 13260. These Property conditions also violate the Cannabis Policy.

During the inspection, staff observed Property conditions of concern to water quality, including:

1. Unauthorized cannabis cultivation. According to CDFW, the Property did not have the requisite regulatory coverage for commercial scale cultivation, including a county permit and state license.
2. The use of wet ford crossing across a Class I watercourse to access the cultivation area.

These Property conditions of concern lacked measures to prevent discharge and the threat of discharge of waste to waters of the state, in violation of Water Code section 13260, the Basin Plan section 4.2.1 Prohibition 2, and the Cannabis Policy.

As document in the inspection report, staff observed evidence of actual sediment discharge to a blue line stream at Point Feature 8, in violation of Water Code sections 13264 and 13350 and the Basin Plan section 4.2.1 Prohibition 1, and Clean Water Act section 301.

## **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 areas 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/](https://www.waterboards.ca.gov/northcoast/water_issues/programs/cannabis/))

As documented in the inspection report, the Property conditions observed on the Property do not meet the requirements of the Cannabis Policy. Please provide a written response supporting documentation, including relevant photos, explaining when and how the Property will be restored in compliance with the Policy.

As documented in the inspection report, the features at Point Feature 8 are located in surface waters and must be remediated to comply with the Basin Plan and the Water Code, 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](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 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.

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. 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.

### **Inspection Report Recommendations**

As mentioned above, the July 26, 2023 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 our staff, Adona White, 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 our staff Adona White by email at [Adona.White@waterboards.ca.gov](mailto:Adona.White@waterboards.ca.gov) or by phone at 707-576-2672.

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](mailto: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 – July 26, 2023 Water Quality Inspection Report

Cc: **North Coast Regional Water Quality Control Board**  
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**Trinity County**

Krystalynne Anderson, [KAnderson@trinitycounty.org](mailto:KAnderson@trinitycounty.org)  
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**Department of Cannabis Control**

Erin Wonder, [Erin.Wonder@cannabis.ca.gov](mailto:Erin.Wonder@cannabis.ca.gov)

Attachment A – Regulatory Citations

Table 1 Regulatory Citations

Regulatory Section	Citation
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)	<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>
California Water Code Section 13264(a)	<p>“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.”</p>
California Water Code Section 13265(a)	<p>“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.”</p>
California Water Code section 13350 (a)	<p>A person who (1) violates a cease and desist order or cleanup and abatement order hereafter issued, reissued, or amended by a regional board or the state board, or (2) in violation of a waste discharge requirement, waiver condition, certification, or other order or prohibition issued, reissued, or amended by a regional board or the state board, discharges waste, or causes or permits waste to be deposited where it is discharged, into the waters of the state, or (3) causes or permits any oil or any residuary product of petroleum to be deposited in or on any of the waters of the state, except in accordance with waste discharge requirements or other actions or provisions of this division, shall be liable civilly, and remedies may be proposed, in accordance with subdivision (d) or (e).</p>

Regulatory Section	Citation
Cannabis Policy and General Order No. WQ 2019-0001-DWQ	<p>State Water Resources Control Board <a href="#">Cannabis Cultivation Policy</a> and <a href="#">General Waste Discharge Requirements Order No. WQ 2019-0001-DWQ for Discharges of Waste Associated with Cannabis Cultivation Activities</a></p> <p>Available at:  <a href="https://www.waterboards.ca.gov/water_issues/programs/cannabis/docs/policy/final_cannabis_policy_with_attach_a.pdf">https://www.waterboards.ca.gov/water_issues/programs/cannabis/docs/policy/final_cannabis_policy_with_attach_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>)</p>
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.”
Federal Clean Water Act Section 301 (a):	Section 301(a) provides that subject to certain exceptions, “the discharge of any pollutant by any person shall be unlawful.” 33 U.S.C. § 1311(a). One of the exceptions allowed for under the Clean Water Act is the discharge from a dredge and fill activity under the auspices of § 404 and 401 of the Clean Water Act. 33 U.S.C. § 1342. The Clean Water Act prohibits the discharge of any pollutant from a point source into waters of the United States without a section 404 dredge and fill permit and a section 401 state water quality certification.
Federal Clean Water Act Section 401	Section 401 (a)(1) “Any applicant for a Federal license or permit to conduct any activity including, but not limited to, the construction or operation of facilities, which may result in any discharge into the navigable waters, shall provide the licensing or permitting agency a certification from the State in which the discharge originates”

<b>Regulatory Section</b>	<b>Citation</b>
Federal Clean Water Act Section 404	Section 404(a) provides, in relevant part, “The Secretary may issue permits...for the discharge of dredged or fill material into the navigable waters...” The Code of Federal Regulations defines the term “dredged material” as material that is excavated or dredged from waters of the United States. 33 C.F.R. § 323.2(c). The term “discharge or dredged material” mean any addition of dredge material into the waters of the United States. 33 C.F.R. § 323.2(d)(1). The Code of Federal Regulations defines “fill material” as material placed in waters of the United States that has the effect of replacing any portion of a water of the United States with dry land or changing the bottom elevation of any portion of a water of the United States. 33 C.F.R. § 323.2(e)(1). The term “discharge of fill material” means the additional of fill material into waters of the United States. 33 C.F.R. § 323.2(f).

**North Coast Regional Water Quality Control Board  
Attachment B**

**Cannabis Water Quality Inspection Report**

**Johanas Colby and Melanie Thibodeaux, Trinity County APN 011-120-015, CIWQS  
Place ID 889720 WDID No. 1\_53MJ000404**

	Inspection Details
Inspection Date & Time	July 26, 2023; 9:23
Address/Location	11221 Corral Bottom Road, Big Bar, CA 96010
County	Trinity
Assessor's Parcel Number (APN)	TRI 011-120-015
Watershed	Corral Bottom Creek, Lower Trinity HA, Trinity River HU
Property Owner/Operator Name	Johanas Colby and Melanie Thibodeaux
Mailing Addresses	P.O. Box 1702, Hayfork, CA 96401 P.O. Box 1193, Hayfork, CA 96401
Agency Responsible for Warrant	California Department of Fish and Wildlife (CDFW)
Person Responsible for Warrant	Warden Brendan Lynch
Warrant Date	July 26, 2023
Warrant Type	Criminal Search
Lead Inspector Name	Adona White, PE, Water Resources Control Engineer
Office/Regional Board	North Coast Regional Water Quality Control Board
Other Personnel Onsite	Representatives from CDFW and State Water Resources Control Board Division of Water Rights
Author of Report	Adona White

## Inspection Observations

The inspection maps are shown in Figures 3 and 4, labeled with the locations described at the following features of concern to water quality.

Point Feature 1: Well and two gas powered pumps.

Point Feature 2: Class III watercourse crossing. 18" culvert. Outlet is half buried. Black poly water line running through culvert.

Point Feature 3: Ditch relief culvert.

Polygon Feature 4: Outdoor cultivation area, with northern portion at a lower level.

Point Feature 8: Wet ford watercourse crossing of Corral Creek. Streambanks have been impacted with road. Both left and right bank road approaches concentrate stormwater runoff and are hydrologically connected with delivery to Corral Creek. The use of this crossing appears to be to access the outdoor cultivation area at Polygon Feature 4.

Point Feature 8 poses a threat to the quality of waters of the state with the threatened and actual discharges to surface waters.

## Inspection Recommendations

1. Immediately cease vehicular use of the wet ford at Point Feature 8.
2. Ensure cannabis cultivation activities are in conformance with state and local requirements. If cultivation activities cease, remove related infrastructure and cleanup materials and provide photos.
3. Hire a qualified professional to assess the Property, including but not limited to the ford crossing of Corral Creek at Point Feature 8, and to develop a treatment plan to guide that the cleanup and remediation of the assessed features and stabilize disturbed areas to ensure they will now longer pose a threat of discharge or impacts to the quality of waters of the state.
4. Submit an application for instream work describing plans to upgrade the stream crossings in conformance with the Basin Plan, Water Code, and Clean Water Act.
5. Contact me at [Adona.White@waterboards.ca.gov](mailto:Adona.White@waterboards.ca.gov) or 707-576-2672 to discuss your plans to cleanup and remediate the site conditions that threaten water quality.

### Enforcement Discretion

The observations in this report will be assessed for violations of the California Water Code. The Regional Water Board and the State Water Board reserve the right to take any enforcement action authorized by law.

### Inspection Maps

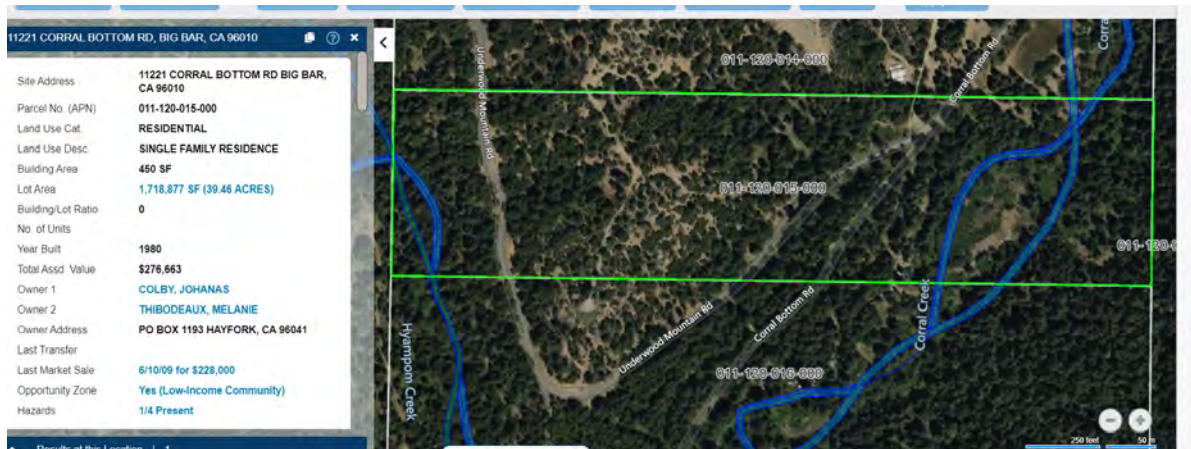


Figure 1. Property map and ownership information.



Figure 2. GPS track of my July 26, 2023 inspection route.



Figure 3. Inspection map with aerial imagery showing the point, line, and polygon feature locations of interest described in the text.



Figure 4 Inspection map with terrain showing features of interest described in the text.

## Inspection Photographs

All photographs taken by Adona White on July 26, 2023.



*Figure 5. Well and gas pumps.*



*Figure 6. Corral Creek at point of surface water diversion.*



*Figure 7. Ford. Both left and right bank road approaches are hydrologically connected with threat of sediment delivery to Corral Creek. The stream banks have been impacted by the road.*



Figure 8. Polygon Feature 4 – outdoor cultivation area accessed via ford.



Figure 9. Field Notice I left onsite with case agent. In response, I received a call, as requested, from Johanas Colby.