



North Coast Regional Water Quality Control Board

August 11, 2023

Neil Thao
14820 Marshall Rd
Montague, CA 96064

GLS Tracking No.: 559929420

Dear Neil Thao:

Subject **Notice of Violation, Transmittal of Inspection Report of July 11, 2023
Inspection of Siskiyou County Assessor's Parcel Number 100-451-020**

File: Cannabis Inspections, Siskiyou County 2023

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 Siskiyou County Assessor's Parcel Number (APN) 100-451-020 (the Property):

1. California Water Code (Water Code) section 13260
2. Water Code section 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).

On July 11, 2023, staff of the North Coast Regional Water Quality Control Board (Regional Water Board) and the State Water Resources Control Board (State Water Board) (Staff) inspected the Property and observed cannabis cultivation and associated activities with unauthorized discharges of waste to land and threatened discharges of

HECTOR BEDOLLA, CHAIR | VALERIE QUINTO, EXECUTIVE OFFICER

waste to waters of the state. This letter directs you 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 withing the Staff inspection reports.

Background

The Property is located in subdivision in the Whitney Creek Area, near the Big Springs area north of Mount Shasta and Lake Shastina, in the Shasta River Hydrologic Area of the Klamath River Hydrologic Unit. LandVision records show that the Property was purchased on April 3, 2019 by Neil Thao from Eric L Prescott.

On July 11, 2023, during the execution of a criminal search warrant served by the California Department of Fish and Wildlife (CDFW), Staff inspected the Property, accompanied by personnel from CDFW, California Department of Cannabis Control, California Department of Tax and Fee Administration, California Department of Toxic Substances Control, the Siskiyou County Sheriff's Office, the Siskiyou County Department of Environmental Health, and Siskiyou County Code Enforcement. 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. Siskiyou County bans outdoor cannabis cultivation.

Attached is a copy of the water quality inspection report (Attachment B – July 11, 2023 Water Quality Inspection Report). Please review the inspection report carefully and completely.

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 11, 2023 inspection report, Staff observed large-scale cannabis cultivation and associated activities conducted in a manner that has resulted in numerous unauthorized discharges of waste to land and threats of waste discharge to groundwater, without first obtaining regulatory coverage for associated waste discharges, in violation of Water Code section 13260. These Property conditions also violate the Cannabis Policy.

During the inspection, Staff observed Property conditions of concern, which include:

1. Active cannabis cultivation activities, infrastructure, and materials.
2. Improper storage, handling, containment and disposal of fertilizers, pesticides, and petroleum products.
3. Improper storage, containment and disposal of cultivation related waste and household refuse.
4. Disturbed soil areas throughout the Property.
5. Runoff from cultivation areas hydrologically connect to streams.

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.

As document in the inspection report, Staff observed discharges of petroleum and chemicals to land, that threaten the quality of waters of the state in violation of Water Code section 13264.

Legal Requirements

Please note that Siskiyou County bans outdoor cannabis cultivation. With respect to State water quality permits, 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/)

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 and how the Property will be restored in compliance with the Policy.

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.

Inspection Report Recommendations

As mentioned above, the July 11, 2023 inspection reports provide 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 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 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 11, 2023 Water Quality Inspection Report

cc:

North Coast Regional Water Quality Control Board

Northcoast.Cannabis@waterboards.ca.gov

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Siskiyou County Code Enforcement

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Siskiyou County Environmental Health

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Siskiyou County District Attorney's Office

Martha Aker, maker@siskiyouda.org

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>

Regulatory Section	Citation
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
Attachment B**

Cannabis Water Quality Inspection Report

Neil Thao Property, Siskiyou APN: 100-451-020

	Inspection Details
Inspection Date/Time	July 11, 2023, 15:50
Property Location	14820 Marshall Road, Montague, CA 96064 41.53982, -122.31801
County	Siskiyou
Assessor's Parcel Number (APN)	100-451-020
Watershed	Shasta HA/Klamath HU
Property Owner's Legal Name and Company	Neil Thao
Mailing Address	14820 Marshall Rd Montague, CA 96064
Agency Responsible for Warrant	California Department of Fish and Wildlife (CDFW)
Person Responsible for Warrant	Joe Laugesen
Warrant Date	July 11, 2023
Warrant Type	Criminal Search
Lead Inspector	Adona White, PE, Water Resource Control Engineer
Office/Regional Board	North Coast Regional Water Quality Control Board (Regional Water Board)
Team Members	Pansy Yuen, Engineering Geologist, State Water Resources Control Board (State Water Board)
Other Personnel Onsite	Representatives from CDFW, California Department of Cannabis Control, California Department of Tax and Fee Administration, California Department of Toxic Substances Control, the Siskiyou County Sheriff's Office, the Siskiyou County Department of Environmental Health, and Siskiyou County Code Enforcement.
Author of Report	Adona White
Permit Status/Waiver	Unpermitted

Inspection Observations

Point Location 1: Water truck with pump

Point Location 2: Water storage tanks

Polygon Location 2: Greenhouse cultivation area with fertilizers

Polygon Location 3: Outdoor cultivation area

Polygon Location 4: Greenhouse cultivation area. Imported pesticides not authorized for use in the United States. Disturbed soil area. Uncontained fertilizers and chemicals. Sprayer equipment.

Point Location 6: Water storage pool

Polygon Location 7: Building

Point Location 8: Bathroom building with flush toilet

Polygon Location 9: Residence

Polygon Location 13: Refuse stockpile area with widespread staining associated with multiple sources of various vintages. Petroleum and chemical discharges to land.

Point Location 10: Bottle of oil discharged to land

Point Location 11: Sand and oil mixture discharged to land

Point Location 12: Used hydraulic fluid stockpile with discharge to land

Line Location 13: A scoured surface flow path from areas of petroleum discharges, with stormwater and sediment transport past a pallet of fertilizer, refuse and tires to the north beyond the Property line.

Point Location 14: A pallet of fertilizer located along the flow path of concentrated surface runoff.

Point Location 14: Storage structure

Point Location 16: Old truck with a broken hydraulic line and stains consistent with discharge to land

Inspection Recommendations

1. Cease unauthorized cannabis cultivation.
2. Cease use of pesticides not authorized for use in the United States.
3. Cease land disposal of petroleum and other chemical wastes.
4. Remove cultivation infrastructure and properly dispose of waste including but not

limited to trash, fertilizer, pesticide and petroleum containers, plastic tarps and sheeting at a legal facility.

5. Hire a qualified profession to evaluate the extent of petroleum and other chemical contamination on the Property and propose remediation measures. Submit an assessment and cleanup workplan to ensure that additional threats to water quality associated with the discharges are prevented.
6. Properly dispose of all pesticides and fertilizers at legal disposal facilities.
7. Properly contain leaky vehicles, generators, pumps and petroleum products to prevent spillage and release; properly dispose of waste oil at a legal disposal facility.
8. Cleanup and remediate the Site to ensure that additional discharges and threats of discharges of fertilizers, petroleum, chemicals and other deleterious materials are prevented during rain events and at times of elevated surface water flow.
9. Contact me at 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

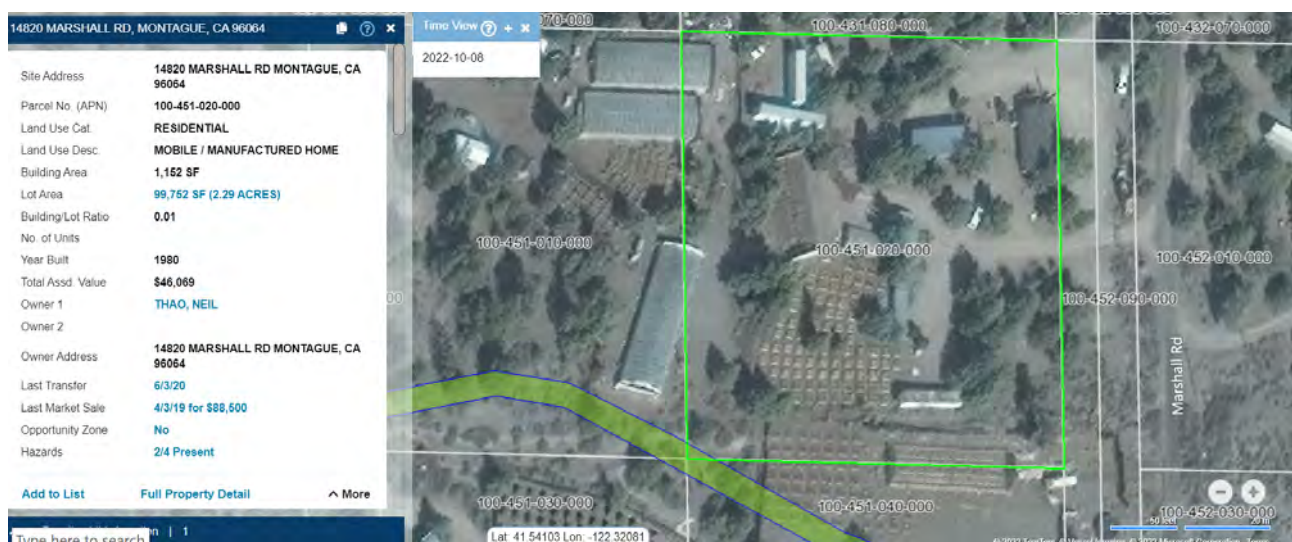


Figure 1. Property ownership and parcel map. The 2.3 Acre Property is located in the southwestern extent of a subdivision in the Whitey Creek Area, east of Big Springs.

Whitney Creek is mapped at the south west corner of the Property.



Figure 2. Inspection Map of the Property with Locations referenced in the text.



Figure 3. Water truck at Point Location 1, appears to be in service.



Figure 4. Water storage tanks at Point Location 2.



Figure 5. Greenhouse cultivation at Polygon Location 2.



Figure 6. Fertilizers and mixing tank in greenhouse at Polygon Location 2.



Figure 7. Outdoor cultivation at Polygon Location 3.



Figure 8. Water storage pool at Point Location 3.



Figure 9. Greenhouse cultivation at Polygon Location 4.



Figure 10. Disturbed area around greenhouse.



Figure 11. Imported pesticides not authorized for use in the United States found in cultivation area at Polygon Location 4.



Figure 12. Sprayer and chemicals at greenhouse at Polygon Location 4.



Figure 13. Building at Polygon Location 7.



Figure 14. Stockpile area with old equipment, waste oil, containers, small engines, and tires with discharge to land at Polygon Location 13.



Figure 15. Oil container with contents discharged to land at Point Location 10.



Figure 16. Petroleum waste mixed with sand and discharged to land at Point Location 11.



Figure 17. Waste hydraulic fluid stockpile with discharge to land at Point Location 12.



Figure 18. A pallet of fertilizer is located along the flow path of concentrated surface runoff at Point Location 14.



Figure 19. The stormwater runoff flow path runs through tires.



Figure 20. Old truck with broken hydraulic line and stains resulting from discharge to land at Location 16.