



State Water Resources Control Board

NOTICE OF VIOLATION

October 20, 2023

OG Kush Diet, LLC
Attn: Ivan Vlahov
181 Oregon Mountain Road
Junction City, CA 96048
ivlahov66@gmail.com

CERTIFIED MAIL
NO. 7022 0410 0001 9243 6919

Subject: **Notice of Violation and Transmittal of Inspection Report for May 22, 2023, Inspection of Trinity County Assessor's Parcel Number (APN) 024-010-044-000**

File: Cannabis General Order Notice of Violation and Inspection, Trinity County, 2023; OG Kush Diet LLC, WDID: 1_53CC411330

THIS LETTER REQUESTS THAT YOU ACT WITHIN 30 DAYS

Dear Ivan Vlahov,

This letter is to notify you that OG Kush Diet, LLC (the Discharger) is in violation of the requirements listed below, and cited in Attachment A, of the State Water Resources Control Board's (State Water Board's) Order No. WQ 2019- 0000-DWQ General Waste Discharge Requirements and Waiver of Waste Discharge Requirements for Discharges of Waste Associated with Cannabis Cultivation Activities (Cannabis General Order) at the property identified as Trinity County APN: 024-010-044-000 (Site).

1. Cannabis General Order - various provisions.
2. California Water Code (Water Code) Section 13260, 13264, 13350

North Coast Regional Water Quality Control Board (Regional Water Board) and State Water Board staff (collectively, Staff) observed, during the Site inspection, that the Discharger failed to implement best management practices necessary to protect water quality from sediment discharges associated with you're the cannabis cultivation activities on Site, and performed additional unpermitted instream work since the

Office of Enforcement | 801 K Street, Suite 2300 | Sacramento, CA 95814 | 916.341.5272
E. JOAQUIN ESQUIVEL, CHAIR | EILEEN SOBECK, EXECUTIVE DIRECTOR

April 13, 2023, inspection. Accordingly, to protect water quality and minimize enforcement liability, I advise that you address the violations noticed herein as soon as possible.

As soon as you can, within 30 days, please contact Staff to discuss your plan to correct the observed violations.

Background

On March 4, 2019, Ivan Vlahov submitted information for the Site, which listed himself as the landowner to the State Water Board's online portal for discharges of waste associated with cannabis cultivation related activities. Based on the information submitted, the cannabis cultivation activities were classified as Tier 1, Low Risk.

On April 13, 2023, staff from the following four agencies inspected the site: Regional Water Board, California Department of Fish and Wildlife (CDFW), California Department of Cannabis Control (DCC), and Trinity County. On May 11, 2023, and June 5, 2023, respectively, the North Coast Water Board and CDFW issued Notices of Violation regarding actual and threatened discharges of waste to surface waters, and violations of water quality requirements and regulations observed during the April inspection. In its May 11, 2023, Notice of Violation, Regional Water Board staff required that the Discharger submit an application for Water Quality Certification/Waste Discharge Requirements for any instream work and a Disturbed Area Stabilization Plan to guide remediation of the Site and to meet permitting requirements. As of the date of this notice, Staff has not received these submittals.

On May 22, 2023, Staff met with Mr. Vlahov and Jess Gregory, with Gregory Engineering, Inc., to inspect the Site and evaluate Site conditions following cleanup efforts associated with the violations detailed in the Water Board's and CDFW's May 11, 2023, and June 5, 2023, respective notices of violation. The purpose of this inspection was to evaluate Site conditions, and to identify and assess any ongoing impacts or threatened impacts to the quality and beneficial uses of waters of the state.

Relevant Requirements

Staff identified several features and conditions on the Site that represent violations of water quality requirements and regulations. Attachment A, Regulatory Citations, provides references to the requirements and regulations.

Observed Violations

As documented in the May 22, 2023, Water Quality Inspection Memo (Attachment B), and in this notice, Staff observed violations of the Water Code, Water Quality Control Plan for the North Coast Region, and Cannabis General Order. Violations included sediment fill in ephemeral watercourse channels from access road crossings, unauthorized grading and excavation within the channels, and threatened sediment discharge to watercourses from unstable hillslopes.

The violated terms of the Cannabis General Order are the following from Attachment A:

Section 1, General Requirements and Prohibitions, terms: 1, 2, 3, 6, 7, 8, 9, 10, 12, 14, 25, 26, 27, 30, 32, 33, 34, 35, 36, and 37; and

Section 2, Requirements Related to Water Diversions and Waste Discharge for Cannabis Cultivation, terms: 2, 3, 4, 5, 7, 8, 10, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 33, 34, 35, 36, 37, 38, 39, 40, 41, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 59, 62, 63, 64, 104, 119, 120, and 123.

Additionally, pursuant to Order No. R1-2015-0023 (Waiver of Waste Discharge Requirements and General Water Quality Certification for Discharges of Waste), any person engaged in cultivating cannabis and/or associated activities that discharge waste to any area that could affect waters of the state, including stream crossing maintenance and improvement, are required to obtain a General Water Quality Certification. As provided in Water Code section 13264, no person shall initiate a new discharge of waste or make any material changes to any discharge prior to filing the report required by Water Code section 13260. At the time of inspection, Staff observed unpermitted discharges of sediment to ephemeral watercourses and the placement of water conveying infrastructure into an ephemeral watercourse and threat of discharge of waste into waters of the state; these discharges and threat of discharge represent material changes and initiation of discharges outside of your coverage under the Cannabis General Order.

Staff observed these violations at the Site during the May 22, 2023 inspection and they must be remedied through cleanup, stabilization, and restoration because they pose a threat to water quality and violate applicable regulations. Any work in waters of the state, including streams or wetlands, requires a water quality certification prior to conducting the work. Pursuant to Water Code section 13260, the Regional Water Board requires you to submit a report of waste discharge associated with the existing instream work and the need for remedial work. That report of waste discharge can be provided through the submission of a complete application¹ for water quality certification and waste discharge requirements and payment of the appropriate fee, which is in addition to (separate from) the fees paid for enrollment in the Cannabis General Order because the scope of work associated with the instream work is beyond the scope of your enrollment in the Cannabis General Order.

Additionally, since the current Low Risk enrollment designation in the Cannabis General Order does not reflect site conditions, modification of the enrollment Risk Level is necessary. I, hereby, recommend that the Regional Water Board Executive Officer utilize her authority pursuant to Cannabis General Order Provision C.2.i, to require you to modify your application information from Low to High Risk. You can accomplish this recommended enrollment modification by submitting an Annual Monitoring Report

¹ Requirements for a complete application can be found in the California Code of Regulations Title 23. Waters Division 3 State Water Resources Control Board Chapter 28. Certifications: https://www.waterboards.ca.gov/northcoast/water_issues/programs/cannabis/pdf/220615/rb1_cannabis_wqc401.pdf

through the online portal <https://public2.waterboards.ca.gov/cgo> and select the option to update your tier and risk level.

Additional Potential Liability

The Regional Water Board is considering whether the observed violations warrant further enforcement.

Please note that the existing conditions, as observed and documented in the attached Water Quality Inspection Memo, may represent continuing violations of the Water Code and site conditions, if not improved, may result in the accrual of additional enforceable violations.

Correcting the conditions of non-compliance at the Site does not preclude enforcement of the violations alleged in this notice. The Regional Water Board reserves its right to fully enforce against any violation and threatened violation by taking additional actions such as issuance of a cleanup and abatement order, time schedule order, administrative civil liability, and/or referral to the California Attorney General's Office. Administrative civil liability may be assessed for unauthorized discharges of waste into waters of the state in violation of waste discharge requirements or prohibitions on a daily basis in an amount up to \$5,000 for each day the violation occurs or up to \$10 per gallon, pursuant to Water Code section 13350.

Recommended Actions

Within 30 days of this letter, please advise Staff of your intentions, plan, and schedule to correct these violations. If you have questions about what is required of you to comply with the requirements outlined above, and to advise us as to your plan and schedule to correct the alleged violations, please contact Casey Yearout at Casey.Yearout@waterboards.ca.gov or by phone at 916-341-5629.

In addition, as an enrolled Site you are required to implement the Winterization Requirements detailed in Cannabis General Order Attachment A, prior to the start of the wet season (no later than November 15th). Under Attachment A of the Cannabis General Order, cannabis cultivators shall stabilize all disturbed areas, construction entrances (specifically roadways) and clear any culverts or drainage features of debris before the wet season. Refer to Attachment A for additional information and details.

Additionally, pursuant to General Reporting Requirement, Provision C.3.a, of the Cannabis General Order, you are required to notify Regional Water Board staff by telephone if you cannot comply with the General Order or will be unable to implement an applicable Best Practicable Treatment Control measure contained in Attachment A by November 15th.

Future correspondence regarding this matter will be sent to you at the address listed above unless an alternative address is provided to Staff. Failure to accept mail from the Regional Water Board or State 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 Jordan.Zakaria@waterboards.ca.gov or by phone at 916-323-0579. Additionally, Staff is available to meet with you if you wish to discuss this letter or our waste discharge regulatory programs in further detail.

Sincerely,

Original signed by Jordan Zakaria on 10/20/2023

Jordan Zakaria, REHS
Supervising Environmental Scientist
Office of Enforcement

Attachments: Attachment A – Regulatory Citations
Attachment B – May 22, 2023, Inspection Report

ec: North Coast Regional Water Quality Control Board

Kason Grady, Kason.Grady@waterboards.ca.gov
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State Water Resources Control Board

Casey Yearout, Casey.Yearout@waterboards.ca.gov
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California Department of Fish and Wildlife

Helen Bowman, Helen.Bowman@wildlife.ca.gov

California Department of Cannabis Control

Erin Wonder, Erin.Wonder@cannabis.ca.gov
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Trinity County Cannabis

Daniel Marvel, dmarvel@trinitycounty.org
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Trinity County Environmental Health

Rikki Townzen, rtownzen@trinitycounty.org

Consultant

Jess Gregory, jgregory@gregoryengineering.net

Attachment A – Regulatory Citations

<u>Regulatory Section</u>	<u>Citation</u>
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.”
California Water Code Section 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: <ul style="list-style-type: none"> (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. (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.”
California Water Code Section 13261(a)	“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).”
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...”
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 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
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.

bc: Jordan Zakaria

October 20, 2023

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October 20, 2023

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