



## North Coast Regional Water Quality Control Board

June 23, 2023

Jesse Wilensky  
18 S Ellwood Avenue  
Baltimore, MD 21224

FedEx Tracking No. 7725-4126-0210

Dear Jesse Wilensky:

**Subject: Notice of Violation and Transmittal of Inspection Report for May 25, 2023, Inspection of Siskiyou County Assessor's Parcel Number 102-011-080-000**

**File:** Cannabis Program Inspections, Siskiyou County, Jesse Wilensky 102-011-080-000, CIWQS Place ID 888795

### **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 Siskiyou County Assessor's Parcel Number 102-011-080-000 (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 and 13264
3. The Water Quality Control Plan for the North Coast Regional (Basin Plan) Section 4.2.1
4. Federal Clean Water Act Section 301

According to our records, the cannabis cultivation operation located on this Property is not enrolled for coverage under State Water Board 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 May 25, 2023, North Coast Regional Water Quality Control Board (Regional Water Board) staff inspected the Property and observed cannabis cultivation in pots and raised beds. Within 30 days, please contact Regional Water Board staff to discuss your plan to correct the observed violations.

HECTOR BEDOLLA, CHAIR | VALERIE QUINTO, EXECUTIVE OFFICER

## **Background**

The Property is 2.6 acres and located near Iron Gate Reservoir near the community of Holbrook in Siskiyou County. LandVision records show that the Property was sold to Jesse Wilensky by Wilco LLC, on July 10, 2017, for \$4000.

On May 23, 2023, staff from the Regional Water Board, accompanied by staff of the California Department of Fish and Wildlife 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.

Attached is a copy of the water quality inspection report (Attachment B – Inspection Report and Attachment C – Inspection Photo Log). 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 May 25, 2023, inspection report, Regional Water Board staff observed cannabis cultivation infrastructure and materials in the riparian setbacks to a class II watercourse, and cannabis cultivation and associated activities without requisite regulatory coverage for associated threatened waste discharges, in violation of the California Water Code section 13260 and the Cannabis Policy. Additionally, staff observed unauthorized discharges associated with dredge and fill of a watercourse to impound streamflow in onstream reservoirs, in violation of the California Water Code section 13264 and Federal Clean Water Act Section 301 and the Basin Plan Section 4.2.1 Prohibition 1.

## **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. 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/)

Siskiyou County bans outdoor cannabis cultivation. The cultivation and associated activities on the Property are not eligible for local authorization and thus, not eligible for enrollment under the Cannabis General Order.

As documented in the inspection report, the reservoirs are constructed in a watercourse and must be 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](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 and Basin Plan.

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 May 25, 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 [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,

Mona Dougherty, P.E.  
Senior Water Resource Control Engineer

Attachments: Attachment A - Regulatory Citations

Attachment B – Inspection Report  
Attachment C – Inspection Photo Log

**cc: North Coast Regional Water Quality Control Board**  
[Northcoast.Cannabis@waterboards.ca.gov](mailto:Northcoast.Cannabis@waterboards.ca.gov)  
Adona White, [Adona.White@waterboards.ca.gov](mailto:Adona.White@waterboards.ca.gov)  
Jeremiah Puget, [Jeremiah.Puget@waterboards.ca.gov](mailto:Jeremiah.Puget@waterboards.ca.gov)  
Kason Grady, [Kason.Grady@waterboards.ca.gov](mailto:Kason.Grady@waterboards.ca.gov)

**Division of Water Rights**

Stormer Feiler, [Stormer.Feiler@waterboards.ca.gov](mailto:Stormer.Feiler@waterboards.ca.gov)  
Taro Murano, [Taro.Murano@waterboards.ca.gov](mailto:Taro.Murano@waterboards.ca.gov)

**Department of Fish and Wildlife**

[r1cepredding@wildlife.ca.gov](mailto:r1cepredding@wildlife.ca.gov)  
Adam McKinney, [Adam.McKinney@wildlife.ca.gov](mailto:Adam.McKinney@wildlife.ca.gov)  
Tobi Freeny, [Tobi.Freeny@wildlife.ca.gov](mailto:Tobi.Freeny@wildlife.ca.gov)  
Ashley Worth, [Ashley.Worth@wildlife.ca.gov](mailto:Ashley.Worth@wildlife.ca.gov)  
Joseph Laugesen, [Joseph.Laugesen@wildlife.ca.gov](mailto:Joseph.Laugesen@wildlife.ca.gov)

**Department of Cannabis Control**

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

## Attachment A – Regulatory Citations

Regulatory Section	Citation
California Water Code Section 13260(a)	<p>“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... 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: (1) The issuance of waste discharge requirements pursuant to Section 13263.”</p>
Cannabis Policy and General Order No. WQ 2019-0001-DWQ	<p>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</p> <p><a href="https://www.waterboards.ca.gov/water_issues/programs/cannabis/docs/policy/final_cannabis_policy_with_attachment_a.pdf">https://www.waterboards.ca.gov/water_issues/programs/cannabis/docs/policy/final_cannabis_policy_with_attachment_a.pdf</a></p> <p>and</p> <p><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>

<b>Regulatory Section</b>	<b>Citation</b>
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”
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).

**FACILITIES INSPECTION REPORT**

Region/Office: 1	Status: Performed	Reg. Measure ID: 453046
Program Type: IRRICANNABIS	WDID: 1_47MJ000315	Order Number:
Scheduled Insp. Date:	Actual Insp. Date: 05/25/2023	

**Discharger Information**

Party ID: 640047	Discharger Organization Name: Wilensky, Jesse	
Address: 18 South Ellwood Avenue	City, State, Zip: Baltimore, MD 21224	
Discharger Contact Person: Jesse Wilensky	Discharger Contact Phone:	
Discharger Contact Email Address:		

**Facility Information**

Place ID 888795	Facility Name: Wilensky, Jesse Property, 080		
Address: Linda Drive	City, State, Zip: Hornbrook, CA 96044		
County: Siskiyou	Latitude: 41.95863	Longitude: -122.45968	Method:

**Lead Inspector Information**

Lead Inspector Party ID: 526285	Lead Inspector Name: Adona White		
Inspector Type:	<input checked="" type="checkbox"/> State	<input type="checkbox"/> State Contractor	<input type="checkbox"/> EPA Contractor
	<input type="checkbox"/> EPA and State (EPA Lead)	<input type="checkbox"/> EPA and State (State Lead)	<input type="checkbox"/> EPA (Regional)

**INSPECTION TYPE**

Inspection Type: Complaint inspection

**VIOLATIONS**Were Violations noted during this inspection?  Yes  No

Violation ID	Violation Type	Occurrence Date	Rank	Description
1117948	Other Codes	05/25/2023	B	California Water Code Section 13260
1117949	Basin Plan Prohibition	05/25/2023	B	Water Quality Control Plan of the North Coast Region (Basin Plan) Section 4.2.1
1117950	Other Codes	05/25/2023	B	California Water Code Section 13264
1118015	Unauthorized Discharge	05/25/2023	B	Federal Clean Water Act Section 301

Showing the first 4 of 4 violations

**INSPECTION SUMMARY (REQUIRED) (500 character limit)**

I conducted a water quality inspection of SIS APN 102-011-080 during the service of a criminal search warrant by Ca Dept of Fish and Wildlife.

I observed cannabis cultivation & associated site development including, graded flats for greenhouses, onsite waste disposal, dredge & fill of a watercourse for storage reservoirs. I observed chemicals and fertilizers and well as petroleum products for generators. I observed cement bags and outdoor cultivation areas within riparian areas.

**GENERAL NOTES (OPTIONAL) (2000 character limit)**

Recommendations:

- 1) Remove all cultivation materials from within 100 feet of the watercourse and 150 feet of wetlands.
- 2) Properly dispose of all pesticides and fertilizers.
- 3) Cease cultivation activities and cleanup associated infrastructure and refuse and properly dispose of waste.
- 4) Hire a qualified professional to evaluate the onstream impoundments and propose a plan to restore the natural watercourse and wetland habitat. Instream work requires a plan and pre-authorization from the Regional Water Board.

For Internal Use (Optional)

Reviewed By:	(1)	(2)	(3)
CIWQS Entry Date:		Regional Board File Number:	CIWQS Inspection ID:

Map and Photo Appendix  
 Wilensky Inspection, May 25, 2023  
 SIS APN 102-011-080



Figure 1. Inspection map of Property.

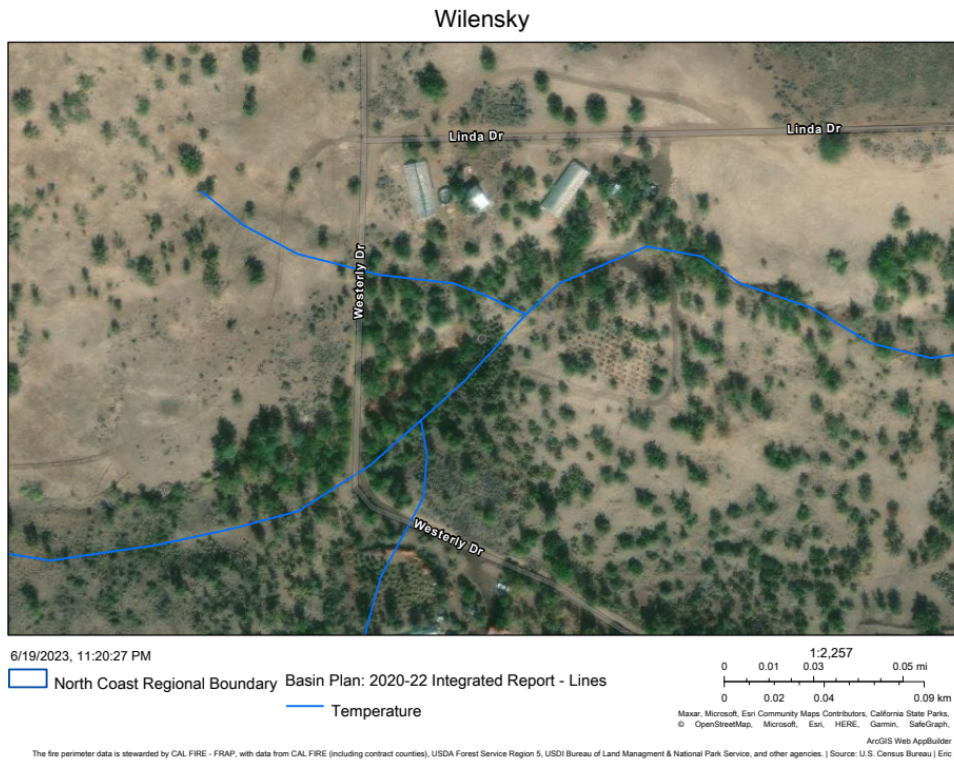


Figure 2. Map of watercourses based on NHD layer, which is representative of the USGS blue line stream network.

All inspection photographs were taken by Adona White on May 25, 2023.



*Figure 3. Generator shed at Way Point (WP) 1059.*



*Figure 4. Cannabis cultivation in greenhouse at WP 1058 (CA1).*



*Figure 5. Pool and feed tank located at (WP) 1061.*



*Figure 6. Feed tank located at WP 1061.*



Figure 7. Bag of fertilizer.



Figure 8. Unknown orange liquid in bottle.



Figure 9. Bottles of cultivation related chemicals and fertilizers and rat poison.



Figure 10. Greenhouse is approximately 2453 square feet and is located approximately between WPs 1062, 1063, 1064 and 1065 (CA2).



Figure 11. Toilet shed.



Figure 12. Toilet shed.

Map and Photo Appendix  
Wilensky Inspection, May 25, 2023  
SIS APN 102-011-080



*Figure 13. Toilet shed and greenhouse are built on at the edge of a fill slope.*



*Figure 16. CA3 is 45 feet from the top of left bank of the stream (when looking downstream).*



*Figure 14. Downslope of the cultivation and domestic areas is a Class II watercourse that has been excavated (watercourse runs right to left in photo). Beyond the watercourse, on the other bank is an outdoor cultivation area CA3.*



*Figure 17. Near the right bank of the watercourse I observed a pile of cement bags. Discharge of cement can result in impacts to aquatic organisms due to its high pH.*



*Figure 15. Outdoor cultivation located at WP 1069 had signs of recent preparation for planting (CA3).*



Figure 18. Channel upstream of exaction at WP 1068 was flowing water and was approximately 16" wide.



Figure 19. Looking downstream from the top of the impacted reach and the upstream reservoir. The upstream reservoir is estimated to be 45 feet long,

ten feet wide, and 5 feet deep. Gravel sorting by the incoming stream was evident by a gravel bar at the upstream extent of the upstream reservoir.



Figure 20. Looking upstream at upstream reservoir at WP 1067. Natural stream channel is at top of photo. Bullfrogs were observed by me and scientists from California Department of Fish and Wildlife.



Figure 21. Adjacent to the stream, on the right bank (when facing downstream) are saturated areas with vegetation indicative of wetlands. Cultivation area CA3 is seen in middle of photo.

Map and Photo Appendix  
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Figure 22. Standing water in area with wetland indicators.



Figure 23. Watercourse flows from right to left in photo, with outlet of downstream reservoir on right and a berm and stream crossing approximately 5' long and 4' high. The downstream reservoir is approximately 12 feet wide, 10 feet long, and 2 feet deep.



Figure 24. Looking downstream of onstream impoundment wetland area associated with watercourse.

**FIELD NOTICE - WATER QUALITY VIOLATIONS**

NORTH COAST REGIONAL WATER QUALITY CONTROL BOARD STAFF HAVE OBSERVED CERTAIN VIOLATIONS OF THE CALIFORNIA WATER CODE RELATED TO WATER QUALITY AND CANNABIS CULTIVATION ON THIS PROPERTY.

**I. Inspection Information**  
 Date: May 25, 2023 Inspector: Adria Wilensky  
 Operator: APN: Stanislaus County 102-011-080

**II. California Water Code Violations**  
 Water Code section 13260. Commercial cannabis cultivation without regulatory coverage, verified through California Integrated Water Quality System (CIWQS) database.  
 Water Code 13264. Actual discharges of waste without regulatory coverage or material charges to existing authorized waste discharge activities without regulatory coverage. See blue SL.

Per California Health and Safety Code 113580(c)(9), violation of Water Code sections 13260 or 13264 while cultivating more than six cannabis plants may subject you to imprisonment. Violation of Water Code sections 13260 or 13264 may also subject you to fines of up to \$1,000/day. See reverse for code text.

**III. Unauthorized or Threatened Discharges to Waters of the State Observed**

Discharge	Threat description and location of where discharge may occur
<input type="checkbox"/>	Sediment (rocks or disturbed area)
<input type="checkbox"/>	Refuse, debris, or household wastes
<input type="checkbox"/>	Wastewater - <i>toilet in open package pit</i>
<input type="checkbox"/>	Fertilizers and/or pesticides - <i>stains on ground</i>
<input type="checkbox"/>	Soils and/or potting material
<input type="checkbox"/>	Petroleum products in open container or stains on ground
<input type="checkbox"/>	Other: <i>Cultivation pit</i>

Notes:

Unauthorized discharges of waste as defined in Water Code section 13050 may subject you to fines of up to \$5,000/day per violation, pursuant to Water Code section 13350. See reverse for code text.

**IV. Actions to be taken:**  
 You are hereby provided notice of these violations and the need to resolve them. Please contact Adria Wilensky at Adria.wilensky@ncrwqc.com or (707) 970-2622, within 72 hours to discuss your intentions to correct these violations.

Please note: The violations outlined in this notice are not a description of all recorded Water Code violations on the property. You will receive a complete Inspection Report and Notice of Violation in approximately 30 days. Additional actions may also be required to address violations documented by other local or state departments/agencies. You must comply with all applicable requirements for cleanup activities which may require permits. Failure to obtain applicable permits and comply with applicable requirements may subject you to additional violations and enforcement action.

Signature: *[Signature]* Date: *5/25/23*

1 of Notice: *left onsite*

2023.05.24 08:15

Figure 25. I left a field notice with the case agent for posting with the warrant.