



North Coast Regional Water Quality Control Board

August 17, 2023

Jesus Arturo Jimenez Ayala
5917 Grove St
Lucerne, CA 95458

Certified Mail No. 7021-0950-0001-6500-1254

Dear Jesus Arturo Jimenez Ayala:

Subject: Notice of Violation, Transmittal of Inspection Report for July 21, 2023, Inspection of Mendocino County Assessor's Parcel No. 034-300-14-00, and Requirement to Respond within 30 days

File: Cannabis Program Inspections, Mendocino County, July 21, 2023, CIWQS Place ID 889712

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 Mendocino County Assessor's Parcel Number: 034-300-14-00 (the Property):

1. State Water Resources Control 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) and State Water Resources Control Board (State Water Board) *Cannabis Cultivation Policy Principles and Guidelines for Cannabis Cultivation* (Cannabis Policy) various provisions
2. California Water Code (Water Code) Section 13260 and 13264

According to our records, the cannabis cultivation operation located on this Property is not enrolled for coverage under the Cannabis General Order No. WQ 2019-0001-DWQ.

On July 21, 2023, North Coast Regional Water Quality Control Board (Regional Water

HECTOR BEDOLLA, CHAIR | VALERIE QUINTO, EXECUTIVE OFFICER

5550 Skylane Blvd., Suite A, Santa Rosa, CA 95403 | www.waterboards.ca.gov/northcoast

Board) staff inspected the Property and observed active outdoor cannabis cultivation.

Background

LandVision records show that the Property was sold to Jesus Arturo Jimenez Ayala on May 29, 2020.

On July 21, 2023, staff from the Regional Water Board, accompanied by staff of the Division of Water Rights (DWR), California Department of Fish and Wildlife (CDFW), Department of Cannabis Control (DCC), and personnel of various law enforcement agencies, 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 – Property Inspection Report). Please review the inspection report carefully and completely. The inspection report contains recommendations for correcting observed violations.

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 July 21, 2023, inspection report, Regional Water Board staff observed violations of the California Water Code, section 13264 (a). In addition, staff observed violations of the Cannabis General Order Attachment A, Section 1 - General Requirements and Prohibitions Nos.1, 25, and Section 2 - Requirements Related to Water Diversions and Waste Discharge for Cannabis Cultivation Nos. 3-4, 7, 15, 73, 105, 117, 119-120, and 130. Staff observed these violations at Property locations identified in the inspection report as WQ1 through WQ9.

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.

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: [Cannabis Cultivation Waste Discharge Regulatory Program](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 site conditions observed on the Property do not meet the requirements of the Cannabis Policy. Please provide a written response, supporting documentation, including photos if relevant, explaining 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 California Water Code 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 California 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 pursuant to Water Code section 13350.

Inspection Report Recommendations

As mentioned above, the 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 Regional Water Board staff Ermias Berhe 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 Regional Water Board staff Ermias Berhe by email at Ermias.Berhe@Waterboards.ca.gov or by phone at 707-445-6128.

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 Mona.Dougherty@Waterboards.ca.gov. 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 Resources Control Engineer

Filename 230721_Jesus Arturo Jimenez Ayala_NOV_Report

Attachments: Attachment A - Regulatory Citations
Attachment B - Property Inspection Report

Certified Mail – Return Receipt requested

cc: **North Coast Regional Water Quality Control Board**
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Mendocino County Sheriff's Office

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Mendocino County Planning and Permitting

General email, cannabisprogram@mendocinocounty.org
Megan Dukett, dukettm@mendocinocounty.org

Department of Cannabis Control

Jaime Masuda, jaime.masuda@cannabis.ca.gov

Attachment A – 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>
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 Cannabis Cultivation Policy(https://www.waterboards.ca.gov/water_issues/programs/cannabis/docs/policy/final_cannabis_policy_with_attach_a.pdf) and Cannabis General Order WQ 2019-0001-DWQ (https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2019/wqo2019_0001_dwq.pdf)</p>

Attachment B – Inspection Report



North Coast Regional Water Quality Control Board

TO: Mona Dougherty

FROM: Ermias Berhe

DATE: August 17, 2023

Inspection Report for July 21, 2023, Warrant Inspection of Mendocino County Assessor's Parcel Number 034-300-14-00

File: Cannabis Program Inspections, Mendocino County, Jesus Arturo Jimenez Ayala Property, CIWQS Place ID 889712

Property Information

County: Mendocino

APNs: 034-300-14-00

Owner: Jesus Arturo Jimenez Ayala

Size: 20 Acres

Watershed: Eel River Hydrologic Unit, Middle Fork Eel River Hydrologic Area, Round Valley Hydrologic Subarea; Cal Water No. 1111.720501; HUC-12 180101040304

Clean Water Act Section 303(d) Listings: Eel River HU, Middle Fork HA, Round Valley HAS is listed for Sediment/Siltation, Temperature, and Aluminum Pollutants Category 5, in the 2020-2022 Integrated Report approved by the U.S. EPA on May 11, 2022.

TMDLs: The Middle Fork Eel River is listed in the North Coast TMDL Projects for Sediment and Temperature Pollutants. Technical TMDLs for Sediment and Temperature were established by US EPA in December 2003.

Regulatory Status with the Regional Water Board

There is no history of enrollment under either the historical North Coast Regional Order No. 2015-0023, and the statewide Cannabis General Order WQ 2019-0001-DWQ for this property.

Inspection information:

Date/time: July 21,2023, approximately 1230-13:30

Type: Warrant

Attendance: Ermias Berhe, Engineering Geologist, North Coast Regional Water Board
Zyruss E. Edjan, Water Resources Control Engineer, Division of Water Rights
Jessica Monroy, Environmental Scientist, Division of Water Rights
Kalyn Bocast, Senior Environmental Scientist Specialist, California Department of Fish and Wildlife
Erika Winner, Environmental Scientist, California Department of Fish and Wildlife

Background/Objective:

Inspection objectives for Regional Water Board staff includes observing site development activities and identifying and assessing onsite features or conditions that are causing or may cause adverse impacts to the quality and beneficial uses of receiving waters, including surface and ground water.

From the available Google Earth Pro imagery, a small outdoor cannabis garden is visible near the southwestern corner of the property boundary in July 2012. Expansion of this outdoor cultivation to the south is visible in May 2014, and further expansion to the northwest in June, 2016. The first hoopouses are visible starting Sept 2019 at this location. Starting July 2021 six hoopouses are visible in the southwestern portion of the property.

Inspection Map



Figure 1: Inspection Map of the Property, showing inspection points and cannabis cultivation related activities

Inspection Observations

I inspected the subject property on July 21, 2023. Figure 1 is a site map showing inspection points discussed in Table 1. Below are inspection observations.

Cultivation Areas

I observed two nearby cultivation areas separated by an access road in the southwestern portion of the property at inspection points WQ1 and WQ6. The total cultivation area is approximately 16,000 square feet. Most of the cultivation areas are on graded pads on steep slopes.

Water Storage and Use

I observed water storage tanks at inspection points WQ5 and WQ8.

Petroleum Products

I observed an uncontained gasoline powered pump, generator, and improperly stored gasoline containers in the vicinity of cultivation areas at WQ5 and WQ8.

Plant Waste and trash

I observed improperly disposed cannabis plant waste at WQ3, and WQ4. I observed uncontained cement at WQ1.

Table 1: Map Points with Descriptions and Water Quality Concerns

<i>Map point</i>		<i>Feature</i>	<i>Brief Description</i>	<i>Water Quality Concern</i>	<i>Associated Photo(s)</i>
<i>WQ1 and WQ6</i>		<i>Cultivation Areas</i>	<i>Cultivation area of sufficient size and scope, and on steep slopes</i>	<i>Threatened discharge of waste to receiving waters</i>	<i>1-4</i>
<i>WQ4, and WQ7</i>		<i>Water Storage</i>	<i>Water storage tank</i>	<i>N/A</i>	<i>5-6</i>

<i>Map point</i>		<i>Feature</i>	<i>Brief Description</i>	<i>Water Quality Concern</i>	<i>Associated Photo(s)</i>
<i>In the vicinity of WQ5</i>		<i>A generator, gas tanks, and gasoline containers</i>	<i>Uncontained or improperly stored or disposed petroleum containers at WQ3, and gas tanks and gasoline container within the required riparian setback at WQ12</i>	<i>Threatened discharge of waste to receiving waters</i>	<i>7-10</i>
<i>WQ1, WQ3, WQ8, and WQ9</i>		<i>Plant waste and trash</i>	<i>Improperly disposed cannabis plant waste and trash</i>	<i>Threatened discharge of waste to receiving waters</i>	<i>11-14</i>

Recommendations

1. If the property owner and/or tenant(s) choose to continue to cultivate cannabis, enroll for coverage under and take steps to comply with the requirements of the Cannabis General Order (CANGO) (Order WQ 2019-0001-DWQ, General Waste Discharge Requirements and Waiver of Waste Discharge Requirements for Discharges of Waste Associated with Cannabis Cultivation Activities). More information about the CANGO can be found at: Cannabis General Order WQ 2019-0001-DWQ(https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2019/wqo2019_0001_dwq.pdf)
2. Collect and dispose of or contain all refuse and cultivation-related wastes in a location and manner to minimize potential for these wastes to enter or be transported into receiving waters.
3. Store and contain all chemicals, including petroleum, fertilizer and/or pesticides properly to prevent spillage and discharge to receiving waters.

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.

PHOTO APPENDIX - All photos taken by Ermias Berhe on July 21, 2023, unless noted otherwise



Photo 1 – Cultivation area east of the access road, photo taken from WQ1 looking northeast



Photo 2 – Cultivation area west of the access road, photo taken from WQ9 looking west



Photo 3 - Cultivation area on a steep slope, photo taken around WQ7



Photo 4 – Graded pad at the eastern cultivation area photo taken from WQ1 looking east



Photo 5 – Water storage tanks at WQ4 looking west



Photo 6 – Water storage at WQ5



Photo 7 – uncontained pump and gasoline tank around WQ5



Photo 8 – uncontained pump at around WQ5



Photo 9 – uncontained gasoline tanks around WQ5



Photo 10 – uncontained generator around WQ5



Photo 11– Cannabis plant waste nearby WQ3



Photo 12– improperly disposed plant waste and trash at WQ8



*Photo 13- improperly disposed trash near
WQ9*



*Photo 14- uncontained cement near
WQ1*