



North Coast Regional Water Quality Control Board

August 22, 2023

Bao Vue
2821 S 20th St
Sheboygan, WI 53081

FEDEX: 7731-1580-9250

Dear Bao Vue:

Subject: Notice of Violation, Transmittal of Inspection Report for August 1, 2023, Inspection of Trinity County Assessor's Parcel Number 019-640-028, and Requirement to Respond within 30 days

File: Cannabis Program Inspections, Trinity County, August 1, 2023, CIWQS Place ID 889861

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 Trinity County Assessor's Parcel Number 019-640-028 (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) Section 13260 and 13264(a)

According to our records, the cannabis cultivation operation located on this Property is not enrolled for coverage under the 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).

On August 1, 2023, North Coast Regional Water Quality Control Board (Regional Water Board) staff inspected the Property and observed cannabis cultivation in grow bags 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

LandVision records show the Property is owned by Bao Vue with the last transfer occurring July 16, 2020.

On August 1, 2023, staff from the Regional Water Board, accompanied by staff of the California Department of Fish and Wildlife, 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 – 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 August 1, 2023, inspection report, Regional Water Board staff observed violations of the State Water Board Cannabis Policy, and of the California Water Code section 13260 and 13264(a).

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 require conformance with the Cannabis Policy and enrollment under the [Cannabis General Order](#). For more information, please visit our website at:
(https://www.waterboards.ca.gov/northcoast/water_issues/programs/cannabis/)

The site conditions observed on the Property do not meet the requirements of the Cannabis Policy. Please provide a written response, including photos if relevant, explaining when and how the Property will be restored in compliance with the Policy.

As documented in the inspection report, there is one existing stream crossing that may need to be upgraded, 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)

Additional Potential Liabilities

The Regional Water Board is in the process of considering whether the violations of the 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 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.

Inspection Report Recommendations

As mentioned above, the August 1, 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 Regional Water Board staff Kate Hawken 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 Kate Hawken by email at Katherine.Hawken@waterboards.ca.gov or by phone at 707-445-6127.

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.

Please contact Kate Hawken by email at Katherine.Hawken@waterboards.ca.gov or by phone at 707-445-6127 within 30 days of the date of this letter. 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 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

Claudia Villacorta, Claudia.Villacorta@waterboards.ca.gov
Kason Grady, Kason.Grady@waterboards.ca.gov
Mona Dougherty, Mona.Dougherty@waterboards.ca.gov

California Department of Fish and Wildlife

Brendan Lynch, Brendan.Lynch@wildlife.ca.gov
Jacqueline Matthews, jacqueline.matthews@wildlife.ca.gov
Matthew Mitchell, matthew.mitchell@wildlife.ca.gov

Trinity County Department of Environmental Health

Rikki Townzen, rtownzen@trinitycounty.org

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 style="padding-left: 40px;">(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 style="padding-left: 40px;">(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 (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)</p>

FACILITIES INSPECTION REPORT

Region/Office: 1	Status: Performed	Reg. Measure ID: 453903
Program Type: IRRICANNABIS	WDID:	Order Number:
Scheduled Insp. Date:	Actual Insp. Date: 08/01/2023	

Discharger Information

Party ID: 641024	Discharger Organization Name: Vue, Bao		
Address: 2821 South 20th Street	City, State, Zip: Sheboygan, WI 53081		
Discharger Contact Person:	Discharger Contact Phone:		
Discharger Contact Email Address:			

Facility Information

Place ID 889861	Facility Name: Bao Vue		
Address: 2331 Westridge Road	City, State, Zip: Hayfork, CA 96041		
County: Trinity	Latitude: 40.42578	Longitude: -123.23695	Method:

Lead Inspector Information

Lead Inspector Party ID: 569684	Lead Inspector Name: Katherine Hawken		
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: Miscellaneous inspection

VIOLATIONS

Were Violations noted during this inspection? Yes No

Violation ID	Violation Type	Occurrence Date	Rank	Description
1119310	Other Codes	08/01/2023	B	California Water Code 13260 and 13264

INSPECTION SUMMARY (REQUIRED) (500 character limit)

Observations:
 I observed a well under wood boards (Photo 1). I observed a 12" diameter plastic culvert stream crossing under the driveway accessing the property, with the top exposed, and the inlet blocked by a log round (Photos 2 and 3). I observed cannabis plants in grow bags 5 feet from a stream, and in raised beds (Photos 4 and 5). I observed trash bags and a burn barrel adjacent to the stream (Photos 6 and 7). I observed a burn pile in the stream (Photo 8).

GENERAL NOTES (OPTIONAL) (2000 character limit)

Observations continued:
 I observed an outhouse with a black pipe discharging to land approximately 20 feet from the stream (Photos 9 and 10). I observed pesticides including Sevin and Malathion (Photo 11). I left a field notice on the property with the warrant (Photo 12).

Recommendations:
 1. If you and/or your tenant(s) plan to continue commercial cannabis cultivation, enroll for coverage under the State Water Board's Order WQ 2019-0023-DWQ, General Waste Discharge Requirements and Waiver of Waste Discharge Requirements for Discharges of Waste Associated with Cannabis Cultivation Activities.
 2. Regularly inspect and cleanout culvert to prevent blockage. Retain a qualified professional to assess the culvert's capacity to convey the 100 year flood flow, and apply for a 401 Water Quality Certification prior to culvert replacement.
 3. Relocate all cannabis cultivation activities, supplies, and trash outside of the riparian setbacks (50 feet from Class III, 100 feet from Class II, 150 feet from Class I).
 4. Discontinue burning of trash. Regularly contain and dispose of trash at a licensed transfer site.
 5. Discontinue use of outhouse discharging to ground. Adhere to Trinity County regulations on human waste management.
 6. Adhere to the California Department of Pesticide Regulation guidance on appropriate pesticide use for cannabis cultivation.

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

Bao Vue Inspection Photo Log
Photos taken by Kate Hawken on August 1, 2023



Photo 1: Groundwater well



Photo 2: Exposed culvert



Photo 3: Culvert stream crossing with blocked inlet



Photo 4: Cannabis plants in grow bags adjacent to a stream



Photo 5: Raised Beds



Photo 6: Trash placed near dry streambed



Photo 7: Trash placed near dry streambed



Photo 8: Burn pile in stream



Photo 9: Outhouse with black pipe discharging human waste to land



Photo 10: Outhouse with black pipe discharging human waste to land



Photo 11: Pesticides Sevin and Malathion found near a water storage tank

**-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: 8/11/23 Inspector: Kate Hawken
 Owner: Rao Vye Operator: _____
 Address: 2331 Westridge Ct APN: 019-640-025

II. California Water Code Violations

Water Code 13260. Commercial cannabis cultivation with site conditions requiring regulatory coverage for waste discharge or proposed discharge that could affect the quality of the water of the state, with no record of regulatory coverage in CIWQS Water Boards' database. See Section III.

Water Code 13264. Actual discharges of waste without regulatory coverage or material changes to existing authorized waste discharge activities without regulatory coverage. See Section III.

These violations may subject you to civil or criminal liability. See reverse for code text.

III. Conditions of Discharge or Proposed/Threatened Discharge Affecting Waters of the State (REQ'D)

Actual Discharge	Threatened Discharge	Brief description and location:
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Sediment/Fill <u>terrace above stream</u>
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Soils/Potting Material <u>grow bags perched above stream</u>
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Runoff
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Fertilizers/Pesticides <u>near KV + mix tanks, Sevin, Malathion</u>
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Petroleum/Chemicals
<input type="checkbox"/>	<input type="checkbox"/>	Cultivation Waste
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Refuse/Debris/Human Waste <u>trash piled by tree, toilet discharge pipe</u>
<input type="checkbox"/>	<input type="checkbox"/>	Other <u>+ burn pile</u>

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 Kate Hawken at katherine.hawken @waterboards.ca.gov or (707) 445-1227, 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.

Inspector Signature: Kate Hawken Date: 8/11/23

Delivery Method of Notice: with warrant

Photo 12: Field notice left on property with warrant