



North Coast Regional Water Quality Control Board

June 20, 2023

Barker Valley Farms LLC
Attn. Brett Sandberg
4948 Caterpillar Road
Redding, CA 96003
brett@supplylifestyle.com

Dear Brett Sandberg:

Subject: Notice of Violation and Transmittal of Inspection Report for May 23, 2023, Inspection of Trinity County Assessor's Parcel Numbers 017-440-018-000 and 017-440-019-000

File: Cannabis Program Inspections, Trinity County, Barker Valley Farms, CIWQS Place ID 827207

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 Numbers 017-440-018-000 and 017-440-019-000 (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) Section 13260

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 23, 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

Effective August 11, 2016, parcels 017-440-18-00 and 017-440-19-00 were enrolled under Regional Cannabis Order R1-2015-0023, with Discharger Justin Hawkins, WDID 1A161066CTRI.

On December 1, 2018, Justin Hawkins submitted information through the State Water Board's online portal for discharges of waste associated with cannabis cultivation related activities for parcels 017-440-18-00 and 017-440-19-00 and listed himself as landowner of the Property. Based on the information submitted by Justin Hawkins, the cannabis cultivation activities were classified as Tier 1, Low Risk. Effective July 1, 2019, the Property was transitioned into State Cannabis Order No. WQ 2019-0001-DWQ, WDID 1_53CC407346.

LandVision records show that the Property was sold to 980 South Meadows LLC, by Justin Hawkins, on April 28, 2020.

On July 17, 2020, Justin Hawkins submitted a request to transfer the responsibility for State Cannabis Order enrollment to Barker Valley Farms LLC. The California Secretary of State lists Barker Valley Farms LLC as registered on December 5, 2016, active status, with Brett Sandberg as Agent for Service of Process in the state of California.

On May 15, 2023, the State Water Board issued a Notice of Termination of enrollment under the Cannabis General Order to Barker Valley Farms LLC due to two unpaid annual invoices.

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.

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 23, 2023, inspection report, Regional Water Board staff observed cannabis cultivation infrastructure and materials in the riparian setbacks to Barker Creek, and cannabis cultivation and associated activities without requisite regulatory coverage for associated waste discharges, in violation of the California Water Code section 13260 and the Cannabis Policy.

Directive to Respond Within 30 Days

Based on the observations detailed in the attached inspection report, the Regional Water Board has determined that, pursuant to Water Code sections 13260 and 13264, you are required to respond to this NOV within 30 days by EITHER:

- 1) Enrolling the Property under the Cannabis General Order by submitting the appropriate fee (see below) and providing the information required in the online application: https://www.waterboards.ca.gov/water_issues/programs/cannabis/

Upon completion of the application through the online portal, you will receive a Notice of Receipt confirming your application and providing you with a Fee Payment Application Number. When you submit the fee for this enrollment, you must include the Fee Payment Application Number on your electronic payment, check, or money order(s). All checks or money orders shall be made payable to: "State Water Resources Control Board," and shall be delivered by U.S. Mail to: Accounting Office, Attn: Water Quality Fees – Cannabis General Order, P.O. Box 1888, Sacramento, CA 95812-1888;

- 2) Filing a Report of Waste Discharge to obtain individual Waste Discharge Requirements (WDRs) specific to the Property and submitting the appropriate fee. Since this option is project-specific, you will need to contact staff at Katherine.Hawken@waterboards.ca.gov for further instructions and to determine the appropriate application fee;

OR

- 3) Providing information demonstrating why regulatory coverage is not needed for the parcels identified above.

Application fees submitted pursuant to Options 1 or 2, above, must be submitted to the State Water Board within 30 days of submitting the online application or Report of Waste Discharge. Failure to submit the application fee within 30 days will result in the application being voided and will thus constitute a failure to comply with the above directive pursuant to Water Code sections 13260 and 13264. **You must also pay the**

two unpaid invoices WD0188796 and WD0205386 as mentioned in the May 15, 2023, Notice of Termination.

Failure to comply with Water Code sections 13260 and 13264 may result in an administrative civil liability under Water Code sections 13261 and 13265 not to exceed \$1,000 per violation for each day in which each violation occurs.

Additional Potential Liabilities

The Regional Water Board is in the process of considering whether violations of the Water Code and the Cannabis 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. 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 May 23, 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. You may also contact me at Mona.Dougherty@waterboards.ca.gov or by phone at 707-445-6129. Additionally, we are available to meet with you if you wish to discuss this letter or our waste discharge regulatory programs in further detail.

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.

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
Jeremiah Puget, Jeremiah.Puget@waterboards.ca.gov
Kason Grady, Kason.Grady@waterboards.ca.gov

Division of Water Rights

Stormer Feiler, Stormer.Feiler@waterboards.ca.gov
Taro Murano, Taro.Murano@waterboards.ca.gov

Department of Fish and Wildlife

Dyana Judnick, Dyana.Judnick@wildlife.ca.gov
r1cepredding@wildlife.ca.gov

Department of Cannabis Control

Robert Hogan, Robert.Hogan@cannabis.ca.gov

Trinity County

Drew Plebani, dplebani@trinitycounty.org

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>https://www.waterboards.ca.gov/water_issues/programs/cannabis/docs/policy/final_cannabis_policy_with_attachment_a.pdf</p> <p>and</p> <p>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: 452987 |
| Program Type: IRRICANNABIS | WDID: | Order Number: |
| Scheduled Insp. Date: | Actual Insp. Date: 05/23/2023 | |

Discharger Information

| | | | |
|-----------------------------------|---|--|--|
| Party ID: 611321 | Discharger Organization Name: Barker Valley Farms LLC | | |
| Address: 4948 Caterpillar Road | City, State, Zip: REDDING , CA 96003 | | |
| Discharger Contact Person: | Discharger Contact Phone: | | |
| Discharger Contact Email Address: | | | |

Facility Information

| | | | |
|--------------------------------|-------------------------------------|----------------------|-------------------------------------|
| Place ID 827207 | Facility Name: Barker Valley Farms | | |
| Address: 980 South Meadow Lane | City, State, Zip: Hayfork, CA 96041 | | |
| County: Trinity | Latitude: 40.567528 | Longitude: -123.1129 | Method: Map Interpolation (digital) |

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: B Type compliance inspection

VIOLATIONS

Were Violations noted during this inspection? Yes No

| Violation ID | Violation Type | Occurrence Date | Rank | Description |
|--------------|----------------|-----------------|------|--|
| 1117704 | Other Codes | 05/23/2023 | B | Water Code 13260 for cannabis cultivation and related activities of sufficient size without a waste discharge regulatory permit. |
| | | | | |
| | | | | |
| | | | | |

INSPECTION SUMMARY (REQUIRED) (500 character limit)

Attendance
 Kate Hawken, Regional Water Board; Dyana Judnick and Helen Bowman; Department of Fish and Wildlife; David Claycomb, consultant

GENERAL NOTES (OPTIONAL) (2000 character limit)

Observations

I observed a metal water diversion structure adjacent to Barker Creek (Photo 1). David stated it is used for domestic and irrigation water. I observed a wooden shed, metal shipping container, gravel pile, plastic pipes, wooden pallets, and other cultivation related materials within the riparian setbacks to Barker Creek (Photos 2 and 3). I observed a pond with a black plastic liner constructed at the base of a hill (Photo 4). The pond did not have an outlet or spillway. I observed erosion in the pond berm approximately 89 feet from Barker Creek (Photo 5). I observed a graded flat with four hoop houses, three of which had cannabis plants in pots or raised beds (Photo 6). I observed erosion at the far edge of the cultivation flat (Photo 7).

Recommendations

1. 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 (Cannabis General Order).
2. Relocate cannabis cultivation related infrastructure and materials outside of the 150 foot riparian setback to Barker Creek.
3. Stabilize the eroding edge of the cultivation flat, and revegetate exposed soils, to prevent sediment discharge. Redirect drainage that caused the erosion as necessary.
4. Submit a plan to:
 - a. Reconfigure the pond to comply with riparian setbacks and other applicable requirements of the Cannabis General Order, including installing an appropriate overflow spillway, OR
 - b. Remove the pond liner and fill and compact the area.

For Internal Use (Optional)

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

Attachment C - Inspection Photo Log
Photos taken by Kate Hawken on 5/23/23



Photo 1: Metal water diversion structure on right side of photo adjacent to Barker Creek.



Photos 2 and 3: Wooden shed, metal shipping container, gravel pile, plastic pipes, and other cultivation related materials in riparian setbacks to Barker Creek.



Photos 4 and 5: Pond with black plastic liner capturing hillside runoff. Evidence of overtopping and erosion on the corner nearest to Barker Creek.



Photo 6: Graded flat with hoop houses containing cannabis plants.



Photo 7: Eroded drainage channel on back edge of cultivation flat.