



North Coast Regional Water Quality Control Board

August 11, 2023

Certified Mail No. 7021 0950 0001 6500 1223

Raul and Yesenia Carrillo
34320 Mendocino Pass Road
Covelo, CA 95428

Dear Raul and Yesenia Carrillo:

Subject: Notice of Violation, Transmittal of Report for May 9, 2023 Inspection of Mendocino County Assessor's Parcel Numbers 032-294-03-00

File: Cannabis Program Inspections, Mendocino County, 2023, Raul and Yesenia Carrillo, CIWQS Place ID 889633

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 032-294-03-00 (the Property):

1. Water Quality Control Plan for the North Coast Region (Basin Plan) Section 4.2.1, Prohibition 2;
2. California Water Code (Water Code) Sections 13260 and 13264
3. State Water Resources Control Board (State Water Board) Cannabis Cultivation Policy Principals and Guidelines for Cannabis Cultivation (Cannabis Policy).

According to our records, the cannabis cultivation operation located on this Property is not enrolled for coverage under 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 9, 2023, North Coast Regional Water Quality Control Board (Regional Water Board) staff (Staff) inspected the Property and observed cannabis cultivation covering an area of approximately 8,000 square feet. Accordingly, this letter directs you to address the violations noticed herein. Within 30 days, please contact Staff to discuss your plan to correct the observed violations.

HECTOR BEDOLLA, CHAIR | VALERIE QUINTO, EXECUTIVE OFFICER

Background

Land Vision records show Yesenia and Raul Carrillo purchased the Property on August 28, 2020. According to review by Staff on August 7, 2023, of aerial imagery available from Google Earth, the greenhouses identified in the inspection report at WQ3 and WQ6 were constructed between February 26, 2020 and July 1, 2021.

On May 9, 2023, during the execution of a criminal search warrant served by the California Department of Fish and Wildlife (CDFW), Staff, accompanied by personnel from CDFW, the Department of Cannabis Control, the State Water Resources Control Board Division of Water Rights, and 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. According to CDFW personnel, the requisite state and local authorizations for commercial cannabis cultivation are not associated with the Property.

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 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, 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 report of the May 9, 2023 inspection, Staff observed: violations of the of the Basin Plan Section 4.2.1 Prohibition 2 at locations of WQ1, WQ3, WQ4 and WQ5 for threatened discharge of organic and earthen material to the Black Butte River; Staff observed large-scale cannabis cultivation and associated activities that were being conducted without first obtaining regulatory coverage for associated waste discharges, in violation of Water Code section 13260 in the vicinities of WQ3 and WQ6; Staff observed violations of the California Water Code section 13264 for unauthorized discharges of cannabis cultivation waste into a water of the state of California at locations WQ3, WQ4 and WQ5; and site conditions at WQ1, and WQ3 through WQ6 that violate the Cannabis Policy.

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

As documented in the inspection report, there is a stream crossing at WQ4 and alterations to the bed and bank of the watercourse at WQ5 which must be corrected to comply with the Basin Plan. The work to correct these violations will require a water quality certification/waste discharge requirements prior to conducting instream work.

The [application for the water quality certification/waste discharge requirements](https://www.waterboards.ca.gov/northcoast/water_issues/programs/cannabis/pdf/200204/RB1_Cannabis_WQC_401_App.pdf) 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 Basin Plan, Cannabis Policy and Water Code warrant further enforcement. We encourage you to take steps to correct the violations as soon as possible, and secure 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 Basin Plan, Cannabis Policy and 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 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 Staff Brian Fuller 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 Staff Brian Fuller by email at Brian.Fuller@waterboards.ca.gov or by phone at 707-576-2806.

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 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,

Jeremiah Puget
Senior Environmental Scientist
Enforcement Unit

Attachments: Attachment A – Regulatory Citations
Attachment B – Inspection Report

Certified Mail – Return Receipt requested.

cc: North Coast Regional Water Quality Control Board
Northcoast.Cannabis@waterboards.ca.gov
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Department of Fish and Wildlife

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Mendocino County Sheriff's Office

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Mendocino County

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Megan Dukett, dukettm@mendocinocounty.org

Carrillo Property
APN: 032-294-03-00
Notice of Violation

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August 11, 2023

Department of Cannabis Control

Travis White, Travis.White@cannabis.ca.gov

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

Attachment A – Regulatory Citations

Regulatory Section	Citation
Basin Plan Section 4.2.1, Prohibition 2	<p>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.”</p> <p>Available at: (https://www.waterboards.ca.gov/northcoast/water_issues/programs/basin_plan/)</p>
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>

Regulatory Section	Citation
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 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. (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.”
California Water Code Section 13265(a)	“Any person discharging waste in violation of Section 13264, after such violation has been called to his attention in writing by the regional board, is guilty of a misdemeanor and may be liable civilly in accordance with subdivision (b). Each day of such discharge shall constitute a separate offense.”
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 Available at: (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)



North Coast Regional Water Quality Control Board

TO: Jeremiah Puget

FROM: Brian Fuller

DATE: August 11, 2023

**Report of May 9, 2023 Warrant Inspection,
Mendocino County
Assessor's Parcel Number (APN) 032-294-03-00 (the "Property")**

File: Cannabis Program Inspections, Mendocino County, 2023, Yesenia and Raul Carrillo, CIWQS Place ID 889633

Property information:

Watershed: Eel River Hydrologic Unit; Middle Fork Eel River Hydrologic Area; Black Butte River Hydrologic Subarea; (HU/HA/HSA 111.73; see Table 2-1 of the Water Quality Control Plan for the North Coast Region (Basin Plan), for beneficial uses)

Inspection information:

Date/time: May 9, 2023 / morning

Weather: sunny

Type: Warrant Inspection

Background/Objective:

Objectives for Regional Water Board staff included observing site development and 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.

Inspection Map:

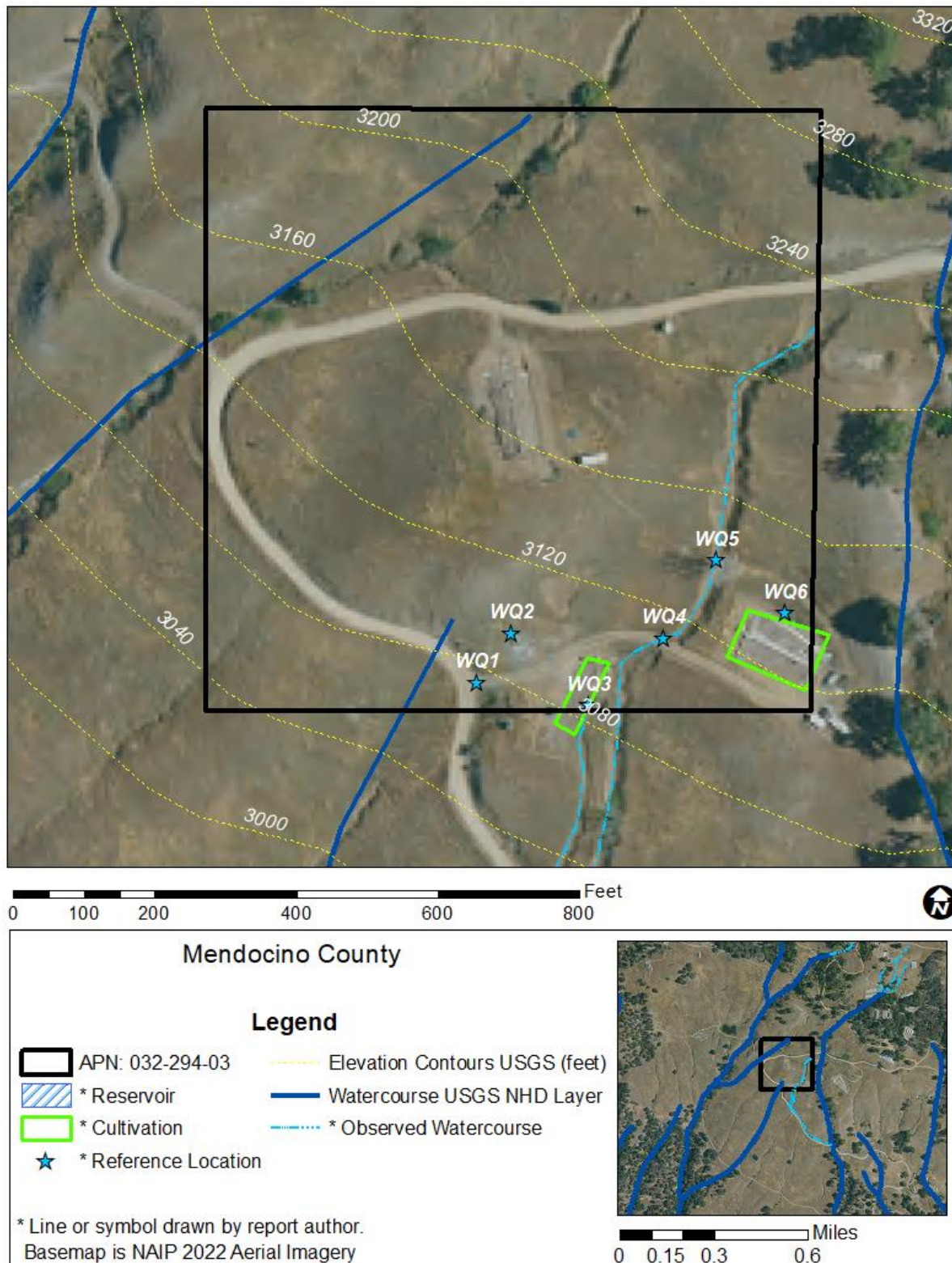


Figure 1—Aerial image/map showing inspection points discussed in this report.

Inspection Narrative:

The inspection was associated with a criminal search warrant, and I viewed only portions of the Property. See the above Inspection Map and below Photo Appendix for locations and details about features of concern to water quality. I entered the Property from the south along a shared-use access road. I observed a gated access road at WQ1 with rills on the road surface. North of the gated access, at WQ2, I observed a groundwater well with no casing or cap which leaves groundwater susceptible to contaminants from the surface. At WQ3, I observed a 3,000 square-foot greenhouse adjacent to a watercourse and I observed cannabis cultivation wastes including empty pots within the stream channel. I followed the watercourse downstream where I observed it connecting to a ditch that follows the shared-use road before discharging into a USGS mapped blue line stream that is tributary to Black Butte River.

I observed another channel east of, and parallel to, the watercourse passing by WQ3. This channel also discharges to the roadside ditch that discharges to the USGS mapped blue line stream that is tributary to Black Butte River. I walked north along this channel to WQ4, where I observed a ten-inch diameter culverted road crossing that was perched at its outlet. Farther upstream, at WQ5, I observed a small earthen pad extending into the watercourse with a water storage tank placed on the pad. I measured approximately eighteen cubic feet of earthen fill that was placed in the watercourse as part of the pad construction.

Southeast of WQ5, I observed a 5,000 square foot greenhouse on an earthen pad that had been cut into the hillslope at WQ6. I observed cannabis cultivation wastes including plastic netting scattered around the greenhouse. I observed a human habitation area southeast of WQ6 with uncontained refuse. The area of uncontained refuse appears east of the mapped boundary in Figure 1, but it is west of a fence marking the property boundary in the field.

Recommendations for the Discharger:

1. Immediately collect all refuse and wastes which have discharged and/or threaten to discharge to receiving waters and which can be collected by hand. You are not authorized to use heavy equipment in a water of the state of California (Water of the State) or modify the bed bank or channel of a Water of the State without a permit from the Regional Water Board (see recommendation 6 below). Properly dispose of these wastes at a licensed waste collection facility.
2. Retain a licensed professional to inventory, assess, all aquatic resources including any wetlands or watercourses that are Waters of the State on the Property, and to develop a workplan and schedule to implement measures to ensure that all developed features, roads and watercourse crossings throughout the Property are corrected, restored, and/or maintained in conditions that comply with the Cannabis Cultivation Policy¹.
3. Retain a qualified professional to either close or complete the groundwater well at WQ2 according to Mendocino County's well ordinance and well standards.
4. Dispose of all development and restoration-related earthen spoils in a manner to prevent/minimize transport and delivery to receiving waters.
5. Prior to cultivating cannabis or developing a property for cannabis cultivation, enroll for coverage under the Cannabis General Order².
6. Prior to conducting work in a Water of the State, submit an application and pay the required application fee for a Water Quality Certification/Waste Discharge Requirement³:

¹ The [Cannabis Cultivation Policy](https://www.waterboards.ca.gov/water_issues/programs/cannabis/docs/policy/final_cannabis_policy_with_attach_a.pdf) can be found at:
https://www.waterboards.ca.gov/water_issues/programs/cannabis/docs/policy/final_cannabis_policy_with_attach_a.pdf

² [Details about enrolling](https://public2.waterboards.ca.gov/mt/Home/Index) in the Cannabis General Order can be found at:
<https://public2.waterboards.ca.gov/mt/Home/Index>

³ The [application for instream work](https://www.waterboards.ca.gov/northcoast/water_issues/programs/cannabis/pdf/200204/RB1_Cannabis_WQC_401_App.pdf) can be found at:
https://www.waterboards.ca.gov/northcoast/water_issues/programs/cannabis/pdf/200204/RB1_Cannabis_WQC_401_App.pdf

Aerial Imagery:



Figure 2—Aerial image of the Property taken on February 26, 2020, obtained from Google Earth. Other than a shared-use road and access driveway, the property appears undeveloped.



Figure 3—Aerial image of the Property taken on July 1, 2021, obtained from Google Earth. Hoop-type greenhouses are visible including the 3,000 square foot greenhouse at WQ3 and the 5,000 square-foot pair of greenhouses at WQ6. The pair of greenhouses in the northern part of the property had been disassembled when the site was inspected on May 9, 2023.

Photo Appendix⁴:



Figure 4—Looking south at WQ1 at the intersection of the gated access to the Property to the left and the shared-use access road to the right. The road has been graded such that stormwater will flow across the road instead of through the culvert pictured in the left of the image.



Figure 5—Looking southwest across the gated access to the Property at WQ1. Ruts have eroded into the road-surface.

⁴ Timestamp on photos is slow by one hour.



Figure 6—Looking southwest at WQ2. A white pipe protrudes up from the ground in the middle of the image and an orange submersible pump is visible to the left of the white pipe. Plastic sheeting covers holes used to collect water in the top back of the image.



Figure 7—Looking down at a four-inch diameter plastic pipe in a twelve-inch diameter hole at WQ2. The well hole does not have a casing or cap to protect groundwater from any pollutants that could be introduced at the surface.



Figure 8—Looking south from WQ3. Cannabis cultivation is occurring adjacent to a watercourse and soil pots and other cultivation waste are within the banks of the watercourse.



Figure 9—Looking southwest at a ten-inch diameter culverted watercourse crossing at WQ4. The watercourse upstream and to the back of the photographer is approximately three-feet wide.



Figure 10—Looking north at culverted watercourse crossing at WQ4. The culvert is perched approximately two feet above the channel bed.



Figure 11—Looking upstream from WQ4. A pad with a water tank is visible adjacent to the watercourse at WQ5. A standing dead tree is visible in the middle of the watercourse.



Figure 12—Looking west where an earthen pad extends into the watercourse at WQ5. The dead tree in the left of the image is also visible in the previous image. Approximately 18 cubic feet of earthen fill has been placed into the channel; a patch six feet square averaging six inches deep.



Figure 13—Looking east along the northern edge of the pair of greenhouses at WQ6. Plastic netting and other cultivation wastes are visibly scattered around the area.



Figure 14—Looking inside greenhouses at WQ6. Cannabis plants are growing in the earthen floor.

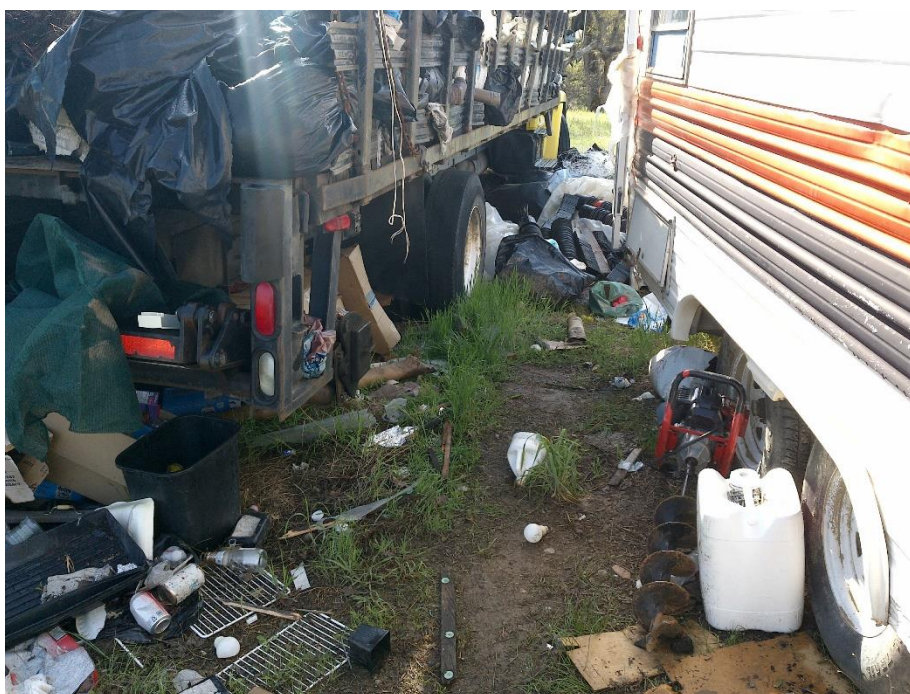


Figure 15—Photo showing piles of refuse in the back of a truck and uncontained outside of the truck in the vicinity of WQ6.