



North Coast Regional Water Quality Control Board

August 18, 2023

Certified Mail No. 7021 0950 0001 6500 1360

Alexander Diaz
PO Box 1101
Covelo CA, 95428-1101

Dear Alexander Diaz:

Subject: Notice of Violation, Transmittal of Report for July 20, 2023 Inspection of Mendocino County Assessor's Parcel Numbers 032-520-08-05, and Recommendation to Respond within 30 days

File: Cannabis Program Inspections, Mendocino County, 2023, Alexander Diaz, CIWQS Place ID 889649

THIS LETTER HAS RECOMMENDATIONS 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 032-520-08-05 (the Property):

1. California Water Code (Water Code) Sections 13260 and 13264
2. 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 July 20, 2023, North Coast Regional Water Quality Control Board (Regional Water Board) staff (Staff) inspected the Property and observed cannabis cultivation exceeding 5,000 square feet in size. Accordingly, we recommend that you 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 Alexander Diaz owns the Property with the last transfer of ownership occurring on April 25, 2014. According to review by Staff on August 17, 2023, of aerial imagery available from Google Earth, cannabis cultivation activities are evident on the property as early as May 30, 2014.

On July 20, 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 projects/activities that result in discharges of waste to waters of the state.

Relevant Requirements

During the inspection, Staff identified 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 July 20, 2023 inspection: 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 WQ1; Staff observed violations of the California Water Code section 13264 for unauthorized discharges cannabis cultivation wastes to the ground at WQ2; and the cannabis cultivation occurring at WQ1 violated 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 the [Regional Water Board's 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.

Additional Potential Liabilities

The Regional Water Board is in the process of considering whether the violations of the Water Code and Cannabis Policy 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 Water Code and Cannabis Policy.

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 Regional Water Board 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
Claudia Villacorta, Claudia.Villacorta@waterboards.ca.gov
Kason Grady, Kason.Grady@waterboards.ca.gov
Jeremiah Puget, Jeremiah.Puget@waterboards.ca.gov

Division of Water Rights

Jessica Monroy, Jessica.Monroy@Waterboards.ca.gov
Zyruss Edjan, Zyruss.Edjan@waterboards.ca.gov
Stormer Feiler, Stormer.Feiler@waterboards.ca.gov
Taro Murano, Taro.Murano@waterboards.ca.gov

Department of Fish and Wildlife

Kalyn Bocast, Kalyn.Bocast@Wildlife.ca.gov
Erika Winner, Erika.Winner@Wildlife.ca.gov
Warden Justin Rhoades, Justin.Rhoades@wildlife.ca.gov
Captain Douglas Willson, Douglas.Willson@wildlife.ca.gov

Mendocino County Sheriff's Office

Sergeant Clinton Wyant, WyantC@mendocinocounty.org

Mendocino County

cannabisprogram@mendocinocounty.org
Sean Crackbon, crackbons@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 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: (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.”</p>
California Water Code Section 13265(a)	<p>“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.”</p>

Regulatory Section	Citation
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 18, 2023

Report of July 20, 2023 Warrant Inspection, Mendocino County

Assessor's Parcel Number (APN) 032-520-08-05 (the "Property")

File: Cannabis Program Inspections, Mendocino County, 2023, Alexander Diaz,
CIWQS Place ID 889649

Property information:

Watershed: Eel River Hydrologic Unit; Middle Fork Eel River Hydrologic Area;
Round Valley Hydrologic Subarea; (HU/HA/HSA 111.72; see Table 2-1 of the Water
Quality Control Plan for the North Coast Region (Basin Plan), for beneficial uses)

Inspection information:

Date/time: Jul 20, 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 groundwater.

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 Aerial Imagery and Photo Appendix for locations and details about features of concern to water quality. I entered the Property from the east and drove to a residence in the vicinity of WQ1. East and south of the residence, I observed hoop-type greenhouses covering a combined area in excess of 5,000 square feet. I observed cannabis plant stalks, that appeared to have been freshly cut, extending from soil bags and raised garden beds located within the greenhouses. I observed many small immature cannabis plants in a shed to the southwest of WQ1.

Southwest of the shed, at WQ2, I observed a pile of waste cannabis stalks that had begun to decompose. I walked to the east and observed a small shallow reservoir at WQ3. I observed two side-by-side five-inch diameter pipes draining the northern edge of the reservoir. I observed a scour-hole where the outlet pipes discharged and I measured the dimensions of the hole with a tape measure to be three feet wide, three feet deep and eight feet long. I observed a shallow intermittent channel continuing northeast from the reservoir for a few hundred feet before dissipating. I did not observe any evidence to suggest that the channelized flow would continue to a receiving watercourse.

Recommendations for the Discharger:

1. Retain a qualified professional to develop a workplan and schedule to implement measures to ensure that all developed features, including the reservoir at WQ3, are corrected, restored, and/or maintained in conditions that comply with the Cannabis Cultivation Policy¹.
2. Prior to cultivating cannabis or developing a property for cannabis cultivation, enroll for coverage under the Cannabis General Order².

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>

Aerial Imagery:



Figure 2—Aerial image of the Property taken on July 9, 2012, obtained from Google Earth. The image does not show any signs of cannabis cultivation activities at WQ1, but the reservoir at WQ3 is visible.



Figure 3—Aerial image of the Property taken on May 30, 2014, obtained from Google Earth. The image shows evenly spaced plants in the vicinity of WQ1 that resembles the size and spacing of outdoor cannabis cultivation.



Figure 4—Aerial image of the Property taken on September 16, 2019, obtained from Google Earth. The image shows a hoop-type greenhouse southwest of WQ1.



Figure 5—Aerial image of the Property taken on July 1, 2021, obtained from Google Earth. The image shows hoop-type greenhouses north of WQ1.

Photo Appendix:



Figure 6—Photo looking inside greenhouse north of WQ1. Soil bags are aligned in rows on the earthen ground. Plant stalks are visible protruding from the soil where cannabis plants had been recently cut.



Figure 7—Photo looking at many small immature cannabis plants in a shed to the southwest of WQ1.



Figure 8—Photo looking through the side of a greenhouse south of WQ1. Plant stalks are visible sticking out of raised garden beds inside the greenhouse.



Figure 9—Pile of waste cannabis stalks in at WQ2.



Figure 10—Photo of a shallow reservoir at WQ3. An arrow identifies the location of two five-inch diameter drainpipes.



Figure 11—Photo looking at the drainpipe outlets located WQ3. A void has formed in the unarmored buttress at the discharge location.