



North Coast Regional Water Quality Control Board

August 15, 2023

Arutro Jimenez Espinoza
5917 Grove St
Lucerne, CA 95458

Certified Mail No. 7021-0950-0001-6500-1261

Dear Arutro Jimenez Espinoza:

Subject: Notice of Violation, Transmittal of Inspection Report for July 21, 2023, Inspection of Mendocino County Assessor's Parcel No. 032-580-28-00, and Requirement to Respond within 30 days

File: Cannabis Program Inspections, Mendocino County, July 21, 2023, CIWQS Place ID 889679

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: 032-580-28-00 (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 Board) staff inspected the Property and observed active outdoor cannabis cultivation.

HECTOR BEDOLLA, CHAIR | VALERIE QUINTO, EXECUTIVE OFFICER

Background

LandVision records show that the Property was sold to Arutro Jimenez Espinoza on April 20, 2017.

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 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 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, 27, and Section 2 - Requirements Related to Water Diversions and Waste Discharge for Cannabis Cultivation Nos. 3-4, 7-8, 15-17, 22, 31, 38, 39, 48- 56, 59, 60-62, 65, 73, 90, 105, 113, 117, 119-120, and 130. Staff observed these violations at Property locations identified in the inspection report as WQ1 through WQ20.

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.

As documented in the inspection report, there are existing stream crossings that must be upgraded or decommissioned to comply with the Basin Plan, 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 at: [North Coast Cannabis Water Quality Certification Application](https://www.waterboards.ca.gov/northcoast/water_issues/programs/cannabis/pdf/220615/rb1_cannabis_wqc401.pdf) (https://www.waterboards.ca.gov/northcoast/water_issues/programs/cannabis/pdf/220615/rb1_cannabis_wqc401.pdf)

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.

Please contact Ermias Berhe at Ermias.Berhe@waterboards.ca.gov or (707) 445-6128 within 30 days to discuss your plan to correct the violations. 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 230522_Arutro Espinoza_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**
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
Ermas Berhe, Ermas.Berhe@Waterboards.ca.gov

Division of Water Rights

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

Department of Fish and Wildlife

Kalyn Bocast, Kalyn.Bocast@Wildlife.ca.gov
Erika Winner, Erika.Winner@Wildlife.ca.gov
Cheri Sanville, cheri.sanville@wildlife.ca.gov

Mendocino County Sheriff's Office

Sergeant Clinton Wyant, WyantC@mendocinosheriff.org

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 (https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=WAT&division=7.&title=&part=&chapter=4.&article=4) 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 15, 2023

Inspection Report for July 21, 2023, Warrant Inspection of Mendocino County Assessor's Parcel Number 032-580-28-00

File: Cannabis Program Inspections, Mendocino County, Arutro Jimenez Espinoza Property, CIWQS Place ID 889679

Property Information

County: Mendocino

APNs: 032-580-28-00

Owner: Arutro Jimenez Espinoza

Size: 10 Acres

Watershed: Eel River Hydrologic Unit, Middle Fork Eel River Hydrologic Area, Round Valley Hydrologic Subarea; Cal Water No. 1111.720302; HUC-12 180101040303

Clean Water Act Section 303(d) Listings: Eel River HU, Middle Fork HA, Round Valley HSA 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 0730-0900

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, an outdoor cannabis cultivation garden is visible in the Northern portion of the property in May 2014. The first hoop house and expansion of an outdoor grow is visible at this location starting March 2017. Additional hoop houses are visible in the north in September 2019. Starting July 2021, in addition to the four hoop houses in the northern portion of the property, seven hoop houses are visible in the southern portion of the property.

Inspection Map

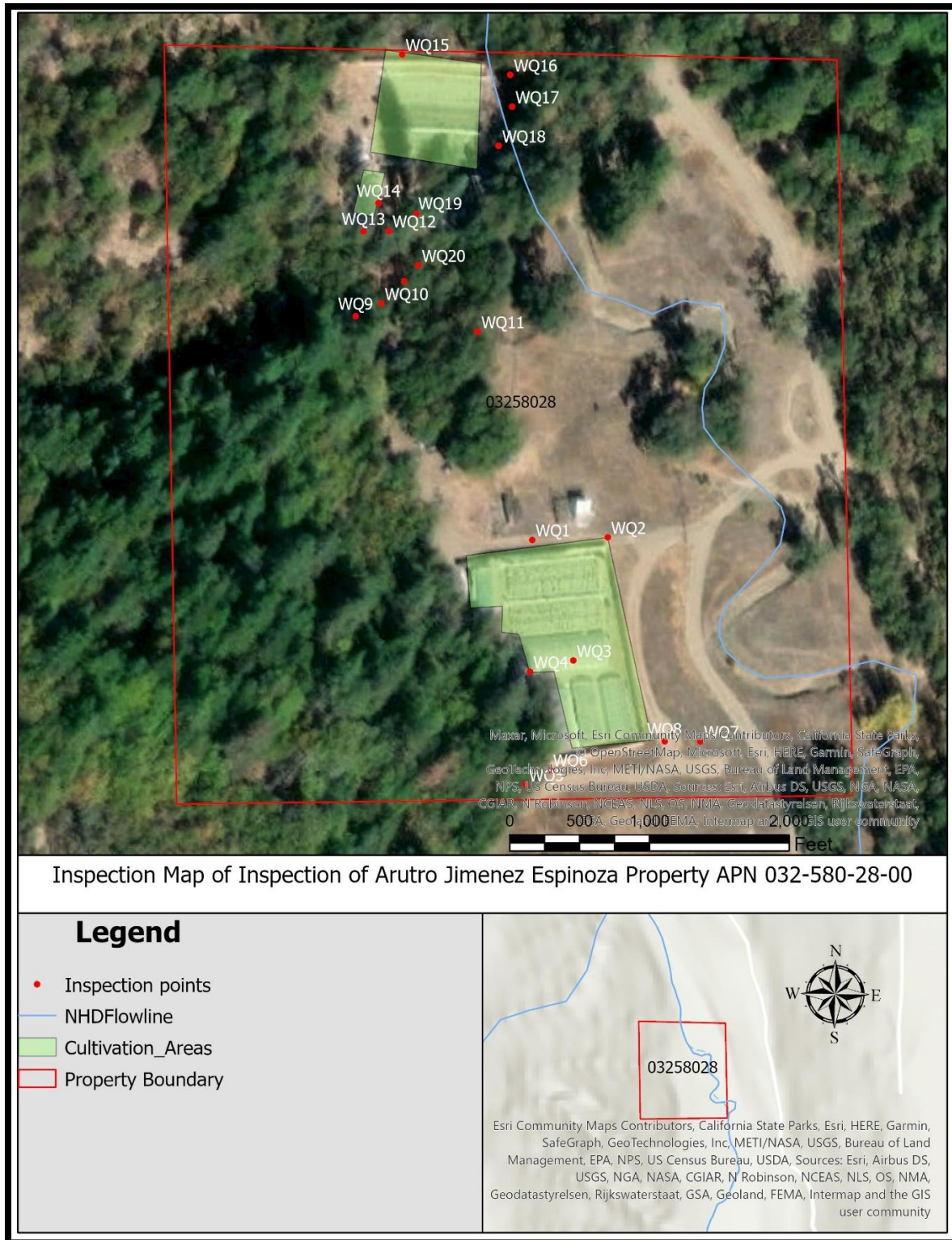


Figure 1: Inspection Map of the Property, showing inspection points and cannabis cultivation related activities.

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 cultivation areas on the property, south of inspection point WQ1, and south of inspection point WQ15. The total cultivation area is approximately 20,500 square feet.

Stream Crossings

I observed two adjacent parallel watercourse crossings at inspection point WQ10. The culverted watercourse crossing has a completely clogged inlet and rusted outlet and appears undersized and delivering sediment. There was also wood stacked near the outlet threatening delivery to surface waters. Parallel to this watercourse crossing, I observed a fill watercourse crossing with waste ash on top threatening sediment and waste discharge to waters of the state.

Water Storage and Use

I observed water storage tanks at inspection points WQ3, WQ4, WQ6, and WQ7.

I observed groundwater wells at WQ4, WQ7, and WQ8. The Groundwater well at WQ7 was connected to a nearby water storage tank.

Petroleum Products

I observed a generator, improperly stored gasoline containers and gas tanks, near WQ3, WQ12, and WQ19 respectively.

Potting Soil

I observed improperly stored or disposed potting soil at WQ1, WQ2, WQ3, WQ13, WQ16, WQ17, and WQ20.

Plant Waste

I observed improperly disposed cannabis plant waste at WQ2, and WQ11. The plant waste at WQ11 is within the riparian setback of a watercourse; it is approximately 10 ft from the watercourse.

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>
South of WQ1 and South of WQ15	Cultivation Areas	Cultivation area of sufficient size and scope	Threatened discharge of waste to receiving waters	1-6
WQ10	Stream Crossings	Parallel adjacent stream crossings at WQ10, are improperly installed and sized, and hydrologically connected to surface waters	Discharge of sediment and waste to receiving waters	7-13
WQ3, WQ4, WQ6, and WQ7	Water Storage	water storage tank at WQ4 is on steep slope	Threatened discharge of waste to receiving waters	14-17
WQ3, WQ12, and WQ19,	a Generator, Gas tanks, and Gasoline Containers	Uncontained or improperly stored or disposed petroleum containers at WQ3, and gas tanks and gasoline container within the required riparian setback at WQ12	Threatened discharge of waste to receiving waters	15, 20-21
WQ1, WQ2, WQ3, WQ13, WQ16, WQ17, and WQ20	Potting Soil	Improperly disposed/contained potting soil	Threatened discharge of waste to receiving waters	22-30

<i>Map point</i>	<i>Feature</i>	<i>Brief Description</i>	<i>Water Quality Concern</i>	<i>Associated Photo(s)</i>
WQ2, and WQ11	Plant waste	<i>Improperly disposed cannabis plant waste within riparian setback of a watercourse approximately 10 ft</i>	<i>Threatened discharge of sediment to receiving waters</i>	31-32

Recommendations

1. Retain a licensed professional to inventory, assess, and develop a workplan and schedule to implement measures to ensure that all developed features, roads, watercourse crossings, and cultivation areas throughout the Property are corrected, restored, and/or maintained in conditions that prevent or minimize erosion, sediment transport/delivery, and adverse impacts to water quality and beneficial uses. Include measures to ensure that unstable features caused or affected by onsite development and operations are removed or otherwise protected to minimize the potential for these features to cause adverse impacts to water quality and beneficial uses. Dispose of all development and restoration-related earthen spoils in a manner to prevent/minimize transport and delivery to receiving waters.
2. 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) (https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2019/wqo2019_0001_dwq.pdf)
3. 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.

4. Store and contain all chemicals, including petroleum, fertilizer and/or pesticides properly to prevent spillage and discharge to receiving waters.
5. Prior to conducting any instream work associated with recommendation 1 above, submit to the Regional Water Board an application for Clean Water Act section 401 water quality certification, and secure approval from the Regional Water Board.

The Water Quality Certification Application may be found at:

[North Coast Cannabis Water Quality Certification Application](https://www.waterboards.ca.gov/northcoast/water_issues/programs/cannabis/pdf/220615/rb1_cannabis_wqc401.pdf)(https://www.waterboards.ca.gov/northcoast/water_issues/programs/cannabis/pdf/220615/rb1_cannabis_wqc401.pdf)

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, photo taken from WQ2 looking southwest



Photo 2 – Cultivation area, inside hoophouses appearance, photo taken south of WQ2 looking west



Photo 3 - Cultivation area at WQ14



Photo 4 - Cultivation area, photo taken from WQ15 looking southeast



Photo 5 – Cultivation area, photo from WQ17 looking west



Photo 6 – Northern hoophouses looking north



Photo 7 – a watercourse at WQ9 entering to a culverted watercourse crossing



Photo 8 – Culverted watercourse crossing the inlet side at WQ10



Photo 9 – photo taken of the road section at WQ10



Photo 10 – completely buried and clogged inlet of a culverted watercourse crossing at WQ10



Photo 11 – A partially rusted and clogged outlet of a culverted watercourse crossing at WQ10



Photo 12 – wood stack near the outlet of the culverted watercourse crossing at WQ10



Photo 13- A burn ash on top of a fill crossing near WQ20



Photo 14- Water storage tanks at WQ6 and nearby what appears an inactive Groundwater well on the left bottom corner of the photo



Photo 15 – water storage tank and an improperly contained generator and gasoline at WQ3



Photo 16 – Water storage tank on a steep slope at WQ4



Photo 17- Water storage tank near Groundwater well at WQ7



Photo 18 – Active groundwater well at WQ7



Photo 19 – Groundwater well at WQ8



Photo 20 – improperly stored gas tanks, trash, and gasoline tank near a watercourse at WQ12



Photo 21– Petroleum and fertilizer storage at WQ19



Photo 22 – uncovered potting soil in the vicinity of cultivation area at WQ3



Photo 23 – improperly disposed or contained potting soil in the vicinity of cultivation area in the south at WQ1



Photo 24 – improperly disposed potting soil in the vicinity of cultivation area in the south at WQ2



Photo 25 – uncovered potting soil at WQ13



Photo 26 – Improperly disposed potting soil at WQ16



Photo 27 - Improperly disposed potting soil at WQ16



Photo 28 - Improperly disposed potting soil at WQ17



Photo 29 - Improperly disposed potting soil at WQ13



Photo 30 – improperly disposed potting soil at WQ20



Photo 31 – Improperly disposed plant waste in the vicinity of cultivation area at WQ2



Photo 32 – Improperly disposed cannabis plant waste within riparian setback of a watercourse at WQ11