



North Coast Regional Water Quality Control Board

August 17, 2023

Certified Mail No. 7021-0950-0001-6500-1346

Neil Gaston
8117 W Manchester AVE# 475
Playa Del Rey CA, 90293-8211

Dear Neil Gaston:

Subject: Notice of Violation, Transmittal of Report for July 18, 2023 Inspection of Mendocino County Assessor's Parcel Numbers 176-030-08-00, and Requirement to Respond within 30 days

File: Cannabis Program Inspections, Mendocino County, 2023, Neil Gaston, CIWQS Place ID 889640

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 176-030-08-00 (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 July 18, 2023, North Coast Regional Water Quality Control Board (Regional Water Board) staff (Staff) inspected the Property and observed cannabis cultivation exceeding 6,000 square feet in size. Accordingly, this letter directs you to address the violations

HECTOR BEDOLLA, CHAIR | VALERIE QUINTO, EXECUTIVE OFFICER

noticed herein. Within 30 days, please contact Staff to discuss your plan to correct the observed violations.

Background

Land Vision records show Neil Gaston owns the Property with the last transfer of ownership occurring on August 27, 2020. According to review by Staff on August 16, 2023, of aerial imagery available from Google Earth, cannabis cultivation greenhouses are evident on the property as early as May 7, 2021.

On July 18, 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 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 July 18, 2023 inspection: Staff observed violations of the Basin Plan Section 4.2.1 Prohibition 2 at location WQ1 for threatened discharge of earthen material north to an unnamed tributaries to the East Fork Russian 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 WQ2 and WQ6; Staff observed violations of the California Water Code section 13264 for unauthorized discharges of the impounding dam berm at WQ3; and site conditions at WQ1 through WQ3 and 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 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.

As documented in the inspection report, there is at least one an onstream reservoir that will require work to comply with the Water Code and Cannabis Policy. A water quality certification/waste discharge requirements are required prior to conducting the associated 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 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
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Division of Water Rights

Stormer Feiler, Stormer.Feiler@waterboards.ca.gov
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Department of Fish and Wildlife

Kari Gahan, Kari.Gahan@wildlife.ca.gov
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Mendocino County Sheriff's Office

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Mendocino County

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
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>(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>

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	<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>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</p>



North Coast Regional Water Quality Control Board

TO: Jeremiah Puget

FROM: Brian Fuller

DATE: August 17, 2023

**Report of July 18, 2023 Warrant Inspection,
Mendocino County
Assessor's Parcel Number (APN) 176-030-08-00 (the "Property")**

File: Cannabis Program Inspections, Mendocino County, 2023, Neil Gaston, CIWQS
Place ID 889640

Property information:

Watershed: Russian River Hydrologic Unit; Upper Russian River Hydrologic Area; Coyote Valley Hydrologic Subarea; (HU/HA/HSA 114.32; 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 18, 2023 / afternoon

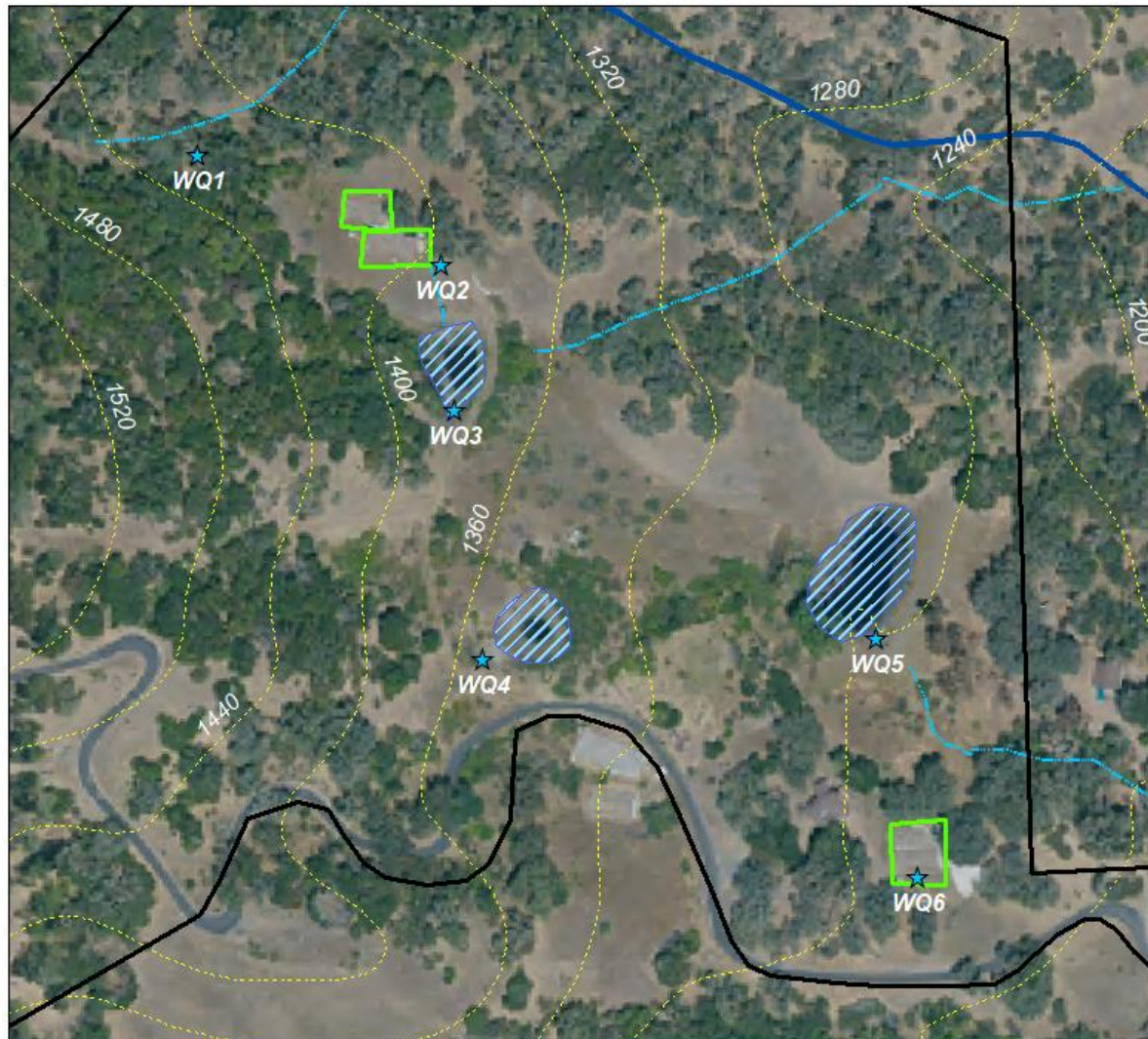
Weather: sunny

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:



0 100 200 400 600 800 Feet

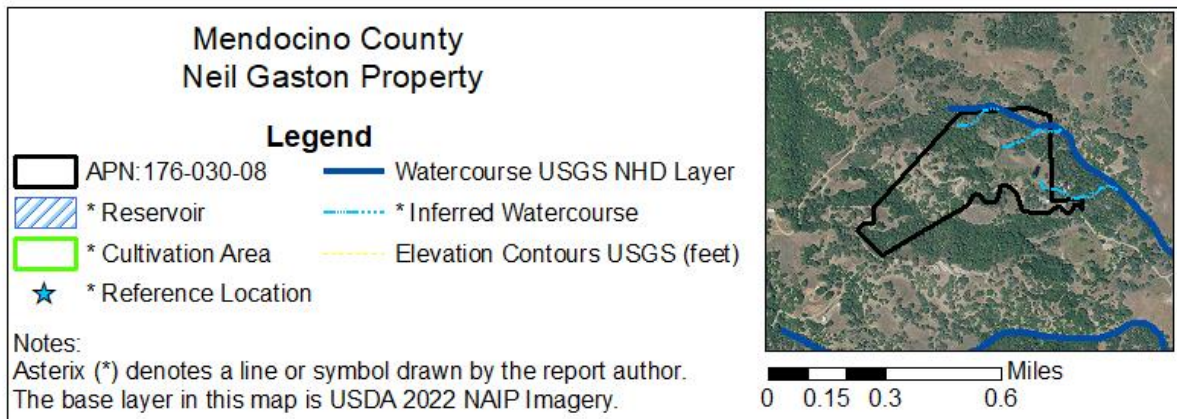


Figure 1—Aerial image/map showing inspection points discussed in this report.

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 the northern part of the Property. At WQ1 I observed water tanks installed on a dirt road. The road was shaped such that stormwater would concentrate on the road surface and I observed rills undercutting the water tanks. Earthen material eroded from the road surface threatened to be discharged north to an unnamed tributary to the East Fork Russian River during future precipitation events.

At WQ2 I observed hoop-type greenhouses with growing cannabis plants covering an area in excess of 4,000 square feet. At the southeastern edge of the cultivation area, I observed a channel which was shaped such that any stormwater or irrigation runoff would drain directly to the reservoir to the south. I walked across the reservoir's berm and observed that the reservoir's drainpipe, located at WQ3, was shallowly buried and the impounding berm had eroded around the edges of the pipe. I did not observe where the outfall pipe drained to, nor did I observe other cracks in the impounding berm which was densely vegetated with woody brush.

At WQ4 I observed another reservoir with no water. The drainpipe was closed-off with wooden boards and the impounding berm was densely vegetated with woody brush. I did not observe where the outfall pipe drained to, nor did I observe any cracks in the impounding berm. At WQ5 I observed a larger reservoir that still had water in it. I observed the inlet to the reservoir which was encased in concrete and the pipe top was eighteen inches below the dam crest. The pipe discharged into a channel below the impounding berm. South of the reservoir, at WQ6, I observed more hoop-type greenhouses covering an area exceeding 2,000 square feet.

Recommendations for the Discharger:

1. Retain a licensed professional to certify that the reservoir impoundments at WQ3, WQ4 and WQ5 meet, or specify necessary work to ensure that the impoundment will meet, the following standards:
 - a. Interior and exterior embankment slopes are no steeper than a 2:1 ratio
 - b. 90% compaction of earthen slopes
 - c. No discernible cracks in any portion of the berm.
 - d. Designed, constructed, and maintained to ensure a 2-foot elevational freeboard above the outflow structure.
 - e. The outflow structure must have a minimum capacity adequate to accommodate the expected 100-year peak inflow plus debris.
 - f. The overflow outlet must promote the dispersal and infiltration of flow and prevent channelization downstream.
 - g. A stability analysis must demonstrate that the factor of safety for the critical slope is at least 1.5 under dynamic conditions and include a description of the

method used to calculate the factor of safety and a description of the assumptions used in the stability analysis.

2. Dispose of all development and restoration-related earthen spoils in a manner to prevent/minimize transport and delivery to receiving waters.
3. Prior to cultivating cannabis or developing a property for cannabis cultivation, enroll for coverage under the Cannabis General Order¹.
4. 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 Requirement²
5. Dispose of all development and restoration-related earthen spoils in a manner to prevent/minimize transport and delivery to receiving waters.

¹ [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>

² 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 July 10, 1993, obtained from Google Earth. The image shows the reservoirs in the vicinity of WQ3, WQ4 and WQ5 were present during this time.



Figure 3—Aerial image of the Property taken on February 5, 2020, obtained from Google Earth. The hoop-type greenhouses observed in later imagery at WQ2 and WQ6 are not present in this image.



Figure 4—Aerial image of the Property taken on May 7, 2021, obtained from Google Earth. Hoop-type greenhouses are visible at WQ2 and WQ6.

Photo Appendix:



Figure 5—Photo looking at the ground adjacent to water tanks at WQ1. A channel/rill is visible with black plastic tubing laying in the rill.



Figure 6—Cannabis plants growing below a plastic framed structure at WQ2. A fence covered with a black plastic sheet is visible in the left of the image.



Figure 7—Bottom of fence pictured in the previous image at WQ2. A channel is visible passing under the fence.



Figure 8—Looking south from WQ2 along channel pictured in previous image. The channel connects to the reservoir in the middle of the image. A road passing over the reservoir's berm, located at WQ3, is visible in the top left of the image.



Figure 9—Photo looking at the reservoir’s outlet, located at WQ3, from the road passing over the reservoir’s berm. The outlet pipe is shallowly buried and there are voids in the dam berm surrounding the outlet pipe.



Figure 10—Looking east across reservoir from WQ4. The reservoir drain is visible at the top of the image. The reservoir’s outboard face is densely vegetated with woody brush.



Figure 11—Looking at the inlet for the reservoir drain at WQ5 from within the reservoir’s berm. The drainpipe is eighteen inches in diameter and the top of the drainpipe is approximately eighteen inches below the dam crest. The drainpipe is blocked by a rusted gate valve.

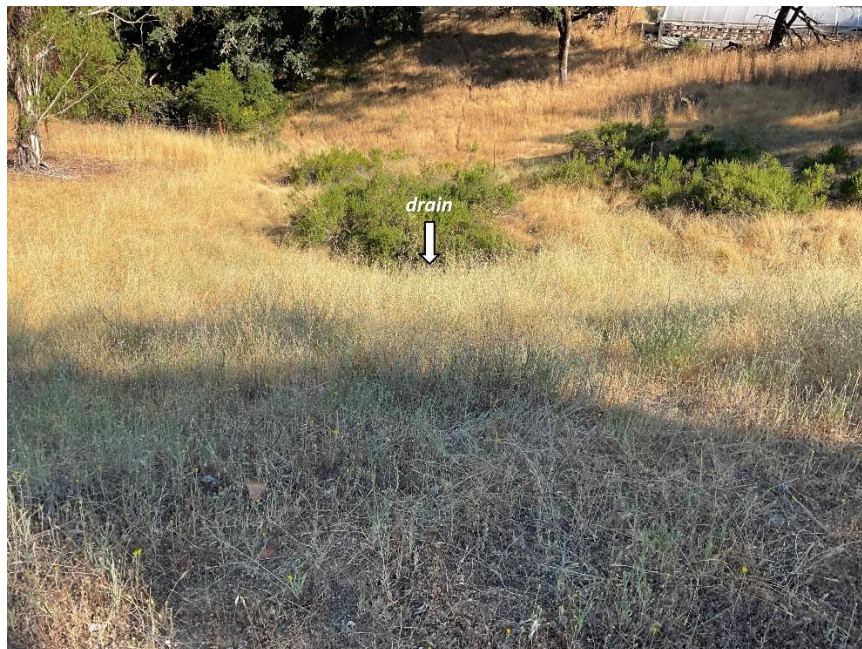


Figure 12—Looking south from reservoir at WQ5. The outfall or “drain” of the reservoir is in an unarmored cavity densely vegetated with woody brush visible in the middle of the image. The cannabis hoophouses at WQ6 are visible in the top right of the image.