



North Coast Regional Water Quality Control Board

June 13, 2023

Mr. Gary Humecke
989 Cathey Road
Miranda, CA 95553
garyshouse@sbcglobal.net GLS 559571099

Mr. Matthew Humecke
115 Tranquility Lane
Whitethorn, CA 95589
matthumecke707@yahoo.com GLS 559571139

Tranquility Lane Farms Inc.
Attn: Gary William Humecke
4742 Woodview Drive
Santa Rosa, CA 95405 GLS 559571175

Dear Messrs. Humecke:

Subject: Notice of Violation for Failure to Comply with Cleanup and Abatement and 13267 Order No. R1-2022-0035 (CAO) Required Action No. 1

File: Cannabis Program Enforcement, Humboldt County, Tranquility Cathey / Tranquility Lane Farms Inc., CIWQS Place ID 869352

The purpose of this letter is to notify you that Gary Humecke, Matthew Humecke, and Tranquility Lane Farms, Inc. (collectively, the Dischargers) are in violation of the above-referenced CAO Required Action No. 1, for failure to submit a complete and acceptable Cleanup, Restoration, and Monitoring Plan (CRMP) by September 15, 2022.

Background

On August 12, 2022, the Executive Officer of the North Coast Regional Water Quality Control Board (Regional Water Board), issued the subject CAO to you. The CAO pertains to the discharge of earthen fill into and where it can enter into wetlands and unnamed tributaries to the South Fork Eel River as well as ongoing threatened

HECTOR BEDOLLA, CHAIR | VALERIE QUINTO, EXECUTIVE OFFICER

discharges at the property located at Humboldt County Assessor's Parcel Number (APN) 221-382-031-000 (the Property). The CAO contains requirements intended to address past and ongoing violations of the Water Quality Control Plan for the North Coast Region, the California Water Code, and the Federal Clean Water Act.

Required Action No. 1 of the CAO requires you to submit a proposed CRMP by September 15, 2022, that is acceptable to the Regional Water Board Executive Officer. The CRMP shall include, but not be limited to the following, which are described in detail in the CAO:

- a. Impacts Assessment
- b. Cleanup and Restoration Proposal
- c. Compensatory Mitigation Proposal
- d. Time Schedule
- e. Monitoring Plan

On September 15, 2022, staff received an email from Bret Rinehart, a licensed consulting engineer, claiming to have been retained by Gary Humecke to prepare "the required restoration grading plan." Both Gary Humecke and Mark Pera, a consulting forester/biologist, were copied on the email. A subsequent exchange between staff and Mr. Rinehart included staff expressing concerns about the missed deadline for the CRMP submittal and elaborating on the design and plan preparation standards specified in the CAO for the CRMP. The final email in the exchange was sent by staff on September 28, 2022. Gary Humecke, Matthew Humecke, and Mr. Pera were copied on that email.

On October 5, 2022, staff participated in a conference call with Gary Humecke, Matthew Humecke, and Mark Pera. Staff advised the Dischargers to submit a CRMP as soon as possible. After expressing concerns about the difficulty in finding a qualified professional who can timely complete the necessary surveying, engineering, design, and plan preparation work, Gary Humecke asked whether staff would accept conceptual, performance-based designs in the CRMP, in lieu of engineered designs. Staff indicated that we may not ultimately be able to accept such designs as being compliant with the CAO, but encouraged the Dischargers to send staff what they had as soon as possible, so that we could review it and provide feedback and input. Staff further clarified that our review of the CRMP would entail a comparison of what is submitted versus what is specifically called for in the CAO, along with consideration of whether the level of specificity in the CRMP could reasonably be relied upon to guide operators conducting the restoration work.

On March 9, 2023, Gary Humecke forwarded to staff an email exchange between himself and Humboldt County staff dated between December 29, 2022 and March 1, 2023, regarding the County's outstanding grading violations on the Property. In the exchange, Mr. Humecke indicates the "completed restoration plan" was sent to Humboldt County staff in January 2023.

Also on March 9, 2023, Gary Humecke emailed a Wetlands and Watercourses Restoration Plan (WWRP) to staff that was incorrectly dated December 14, 2023 (presumably the correct and intended year is 2022). In the transmittal email, on which Matthew Humecke and Steven Lazar (Humboldt County staff) were copied, Mr. Humecke indicates that the WWRP was completed by his consultant, Stephen Homan, a registered professional forester who employs Mark Pera, at the end of 2022. Mr. Humecke also indicates it was his expectation that Humboldt County staff would be distributing the WWRP to Regional Water Board staff. Mr. Humecke's submittal of the WWRP was 168 days beyond the CAO deadline for submitting a CRMP.

Despite the document's title and organization, staff reviewed the WWRP under the presumption that it was intended to satisfy the CAO requirements for submitting a CRMP. However, the opening paragraph of the WWRP indicates it is intended to address land disturbance documented in staff's Notice of Violation, dated July 20, 2021, which appears as Attachment 4 to the CAO. The WWRP does not reference or even acknowledge the existence of the CAO and fails to fulfill most requirements for a CRMP. For example:

- The WWRP does not include an Impacts Assessment beyond a handful of brief narrative statements distributed throughout the document and a reference to the April 7, 2021 *Delineation of Aquatic Resources Report* prepared by Natural Resources Management Corporation, which appears as Attachment 3 to the CAO.
- The WWRP does not include a Compensatory Mitigation Proposal, upon which the required Cleanup and Restoration Proposal, Time Schedule, and Monitoring Plan must necessarily be predicated.
- The WWRP does not include a timeline for obtaining necessary permits for activities required under the CAO, including a Clean Water Act section 401 water quality certification, other waste discharge requirements, or waiver thereof, for all proposed work that may affect surface waters on the Property.
- The WWRP calls for annual monitoring for revegetation, but does not include proposals for monitoring slope stability, erosion control, or sediment control, and does not address the CAO requirement for monthly reporting.
- The WWRP does not conform to the advice provided in staff's September 28, 2022 email to Bret Rinehart et al. regarding design and plan preparation standards specified in the CAO for a CRMP.
- The WWRP includes a proposal to remove two culverts (a.k.a. 'Wetland Culverts') from wetland habitat, and to replace two culvert stream crossings. However, it does not propose work associated with two vehicles installed in the bank of a watercourse approximately 200 feet south of the Wetland Culverts, which Mark Pera described to staff during a phone call on February 28, 2022.

- The WWRP does not comply with applicable General Requirements listed in Attachment 6 to the CAO, including Requirement No. 1, which establishes the Dischargers' duty to use qualified professionals. Based on staff's review of the WWRP, it does not appear to have been prepared by appropriately qualified professionals and/or does not adequately provide statements of qualification, registration numbers, signatures, and registration stamps of all responsible lead professionals who prepared it. Stephen Homan's consultancy is known to staff to be sufficiently experienced in the realms of forestry, land management, and natural resource planning and conservation. However, noting that Mr. Homan is a registered professional forester, and noting Mark Pera's title and presumed experience as a biologist familiar with the flora, fauna, and ecosystems of the North Coast Region, it is unclear whether appropriately licensed geologists and/or engineers contributed to the WWRP as appropriate, or whether any contributors to the WWRP possess relevant experience in stream and wetland restoration as required under the CAO.

On May 12, 2023, staff contacted the Dischargers and Mark Pera by email, expressing concerns about the timing and inadequate content of the WWRP, assuming it was intended to satisfy the CAO requirement for a CRMP. In the email, we indicated this notice of violation was being prepared and would soon be issued, and suggested a meeting to compare notes, to answer questions, and to plot a pathway forward.

On May 15, 2023, the Dischargers met with staff via conference call as suggested. During the call, we re-emphasized our concerns about missed deadlines under the CAO and the inadequacies of the WWRP to satisfy the CAO requirements for a CRMP. Further, we noted the specificity of CAO requirements for the contents of a CRMP; we reiterated the advice provided in our September 28, 2022 email to Brett Rinehart et al. and during our October 5, 2022 conference call with the Dischargers and Mark Pera; and we specifically highlighted the Dischargers' Duty to Use Qualified Professionals for preparing and submitting a CRMP. Lastly, we indicated the possibility of progressive enforcement action based on the Dischargers' continued failure to comply with the CAO.

Future Enforcement

Submittal of a CRMP is required under the CAO pursuant to Water Code section 13267. Failure to submit reports required under Water Code section 13267 is a misdemeanor and may result in administrative civil liability from the Regional Water Board in an amount up to one thousand dollars (\$1,000) per day, or civil liability imposed by the superior court in an amount up to five thousand dollars (\$5,000) per day. As of the date of this notice, your required CRMP is 271 days overdue. Until you submit a complete and acceptable CRMP, you remain in violation of CAO Required Action No. 1 and may be subject to ongoing liability.

Additionally, please note that CAO Required Action No. 5 requires that you complete all cleanup and restoration activities on the Property, as described in the approved CRMP,

by July 31, 2023. Implementation of the cleanup and restoration activities described in the approved CRMP is required under the CAO pursuant to Water Code section 13304. Failure to comply with requirements imposed under Water Code section 13304 may result in administrative civil liability from the Regional Water Board in an amount up to five thousand dollars (\$5,000) per day, or civil liability imposed by the superior court in an amount up to fifteen thousand dollars (\$15,000) per day.

Recommendation

To minimize additional potential liability, we recommend you submit a CRMP as soon as possible that meets the requirements of the CAO, including requirements specified in Attachment 6, which (in part) emphasizes that it is your responsibility to engage qualified professionals in the development and submittal of plans and reports required under the CAO. The organization and content of the CRMP should closely match that which is specified in CAO Required Action No. 1. As usual, we will consider the adequacy and timeliness of your response(s) to this notice of violation in determining our next steps, including whether formal enforcement action is warranted.

If you have any questions about this notice or about the requirements of the CAO, please contact me via email at David.Kuszmar@waterboards.ca.gov or by phone at (707) 576-2693. Alternatively, you may reach out to Kate Hawken of our staff via email at Katherine.Hawken@waterboards.ca.gov or by phone at (707) 445-6127.

Sincerely,

David Kuszmar, P.E. C65460
Senior Water Resource Control Engineer
Southern Cannabis Regulatory Unit

Cc: Dischargers' Agents

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