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## North Coast Regional Water Quality Control Board

August 17, 2023

Certified Mail No. 7021 0950 0001 6500 1339

Dan LaRue  
PO Box 114,  
Ukiah CA, 95482-0114

Dear Dan LaRue:

**Subject: Notice of Violation, Transmittal of Report for July 18, 2023 Inspection of Mendocino County Assessor's Parcel Numbers 149-260-05-00, and Requirement to Respond within 30 days**

**File:** Cannabis Program Inspections, Mendocino County, 2023, Dan LaRue, CIWQS Place ID 889639

### **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 149-260-05-00 (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 18, 2023, North Coast Regional Water Quality Control Board (Regional Water Board) staff (Staff) inspected the Property and observed cannabis cultivation exceeding 20,000 square feet in size. 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.

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HECTOR BEDOLLA, CHAIR | VALERIE QUINTO, EXECUTIVE OFFICER

## **Background**

Land Vision records show Dan LaRue owns the Property with the last transfer of ownership occurring on April 9, 2008. According to review by Staff on August 16, 2023, of aerial imagery available from Google Earth, patterns associated with cannabis cultivation are evident on the property as early as August 24, 2017.

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 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; Staff observed violations of California Water Code section 13264 for unauthorized discharges of waste (petroleum products) to land at WQ4; and site conditions at WQ2 through WQ4 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/](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 pond/wetland at WQ1. The inspection report does not recommend that you do any work in this water feature, but advises you that a water quality certification/waste discharge requirements from the Regional Water Board would be required prior to dredging, filling or otherwise altering the bed or banks of this feature.

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](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 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 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](mailto: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](mailto: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](mailto:Northcoast.Cannabis@waterboards.ca.gov)

Claudia Villacorta, [Claudia.Villacorta@waterboards.ca.gov](mailto:Claudia.Villacorta@waterboards.ca.gov)

Kason Grady, [Kason.Grady@waterboards.ca.gov](mailto:Kason.Grady@waterboards.ca.gov)

Jeremiah Puget, [Jeremiah.Puget@waterboards.ca.gov](mailto:Jeremiah.Puget@waterboards.ca.gov)

**Division of Water Rights**

Stormer Feiler, [Stormer.Feiler@waterboards.ca.gov](mailto:Stormer.Feiler@waterboards.ca.gov)

Taro Murano, [Taro.Murano@waterboards.ca.gov](mailto:Taro.Murano@waterboards.ca.gov)

**Department of Fish and Wildlife**

Kari Gahan, [Kari.Gahan@wildlife.ca.gov](mailto:Kari.Gahan@wildlife.ca.gov)

Nicholas Bennett, [Nicholas.Bennett@Wildlife.ca.gov](mailto:Nicholas.Bennett@Wildlife.ca.gov)

Warden Justin Rhoades, [Justin.Rhoades@wildlife.ca.gov](mailto:Justin.Rhoades@wildlife.ca.gov)

Captain Douglas Willson, [Douglas.Willson@wildlife.ca.gov](mailto:Douglas.Willson@wildlife.ca.gov)

**Mendocino County Sheriff's Office**

Sergeant Clinton Wyant, [WyantC@mendocinocounty.org](mailto:WyantC@mendocinocounty.org)

**Mendocino County**

[cannabisprogram@mendocinocounty.org](mailto:cannabisprogram@mendocinocounty.org)

Megan Dukett, [dukettm@mendocinocounty.org](mailto:dukettm@mendocinocounty.org)

**Department of Cannabis Control**

Jaime Masuda, [Jaime.Masuda@cannabis.ca.gov](mailto: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>

<b>Regulatory Section</b>	<b>Citation</b>
Cannabis Policy and General Order No. WQ 2019-0001-DWQ	State Water Resources Control Board <a href="#">Cannabis Cultivation Policy</a> and <a href="#">General Waste Discharge Requirements Order No. WQ 2019-0001-DWQ for Discharges of Waste Associated with Cannabis Cultivation Activities</a>  Available at: <a href="https://www.waterboards.ca.gov/water_issues/programs/cannabis/docs/policy/final_cannabis_policy_with_attach_a.pdf">https://www.waterboards.ca.gov/water_issues/programs/cannabis/docs/policy/final_cannabis_policy_with_attach_a.pdf</a> and  <a href="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</a>



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## 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) 149-260-05-00 (the "Property")**

File: Cannabis Program Inspections, Mendocino County, 2023, Dan LaRue, CIWQS  
Place ID 889639

**Property information:**

Watershed: Mendocino Coast Hydrologic Unit; Big River Hydrologic Area; (HU/HA 113.30; 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 / midday

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:**

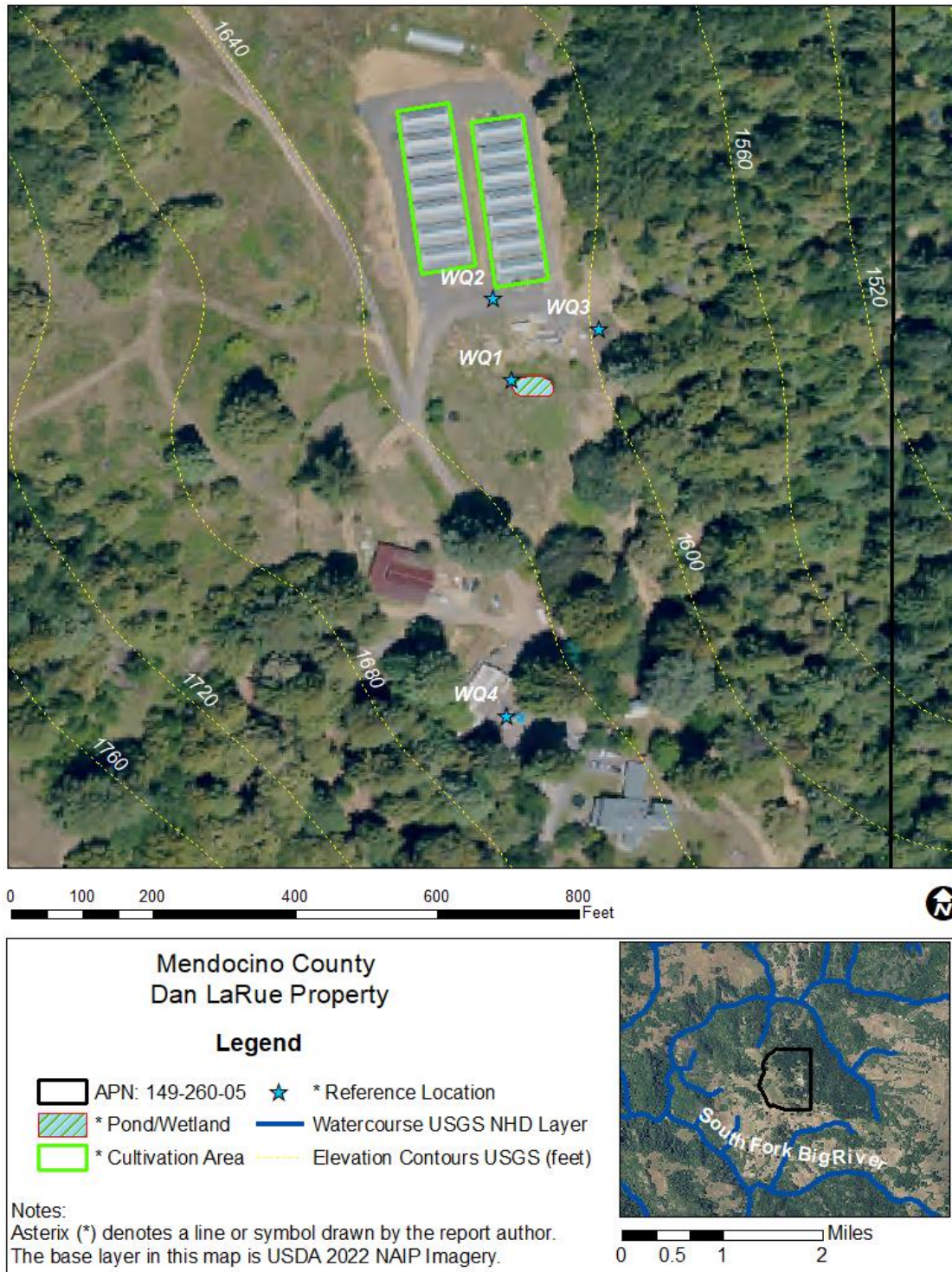


Figure 1—Aerial image/map showing inspection points discussed in this report.

**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 southeast and drove to a parking area near WQ1 where I observed a pond with plants from the genus *Juncus* growing around the pond's fringe. Review of aerial imagery shows that the pond pre-dates the development of the area and is likely a natural feature. I observed cannabis plants growing in greenhouses on a graded pad at WQ2, less than 100 feet north of the pond and associated wetlands. I also observed a pile of potting soil uncovered at WQ3, also less than 100 feet from WQ1.

I walked south to WQ4 where I observed several areas where petroleum products were being stored and used without secondary containment. I also observed several locations where petroleum products had discharged to ground.

**Recommendations for the Discharger:**

1. Immediately collect all petroleum products that threaten to spill, including those in the vicinity of WQ4, and haul away to a licensed waste disposal facility or store in accordance with the Cannabis Cultivation Policy<sup>1</sup>.
2. Retain a qualified professional to investigate the extent of contaminated soil associated with the spilled petroleum products and develop a workplan and schedule for cleaning up the spill.
3. Retain a qualified professional to inventory/delineate and assess, all aquatic resources including any wetlands and watercourses that are Waters of the State on the Property, including the pond/wetlands at WQ1, and to develop a workplan and schedule to move all cannabis cultivation activities outside of required setbacks and restore any disturbed area within setbacks to comply with the Cannabis Cultivation Policy.
4. Dispose of all development and restoration-related earthen spoils in a manner to prevent/minimize transport and delivery to receiving waters.

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<sup>1</sup> 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](https://www.waterboards.ca.gov/water_issues/programs/cannabis/docs/policy/final_cannabis_policy_with_attach_a.pdf)

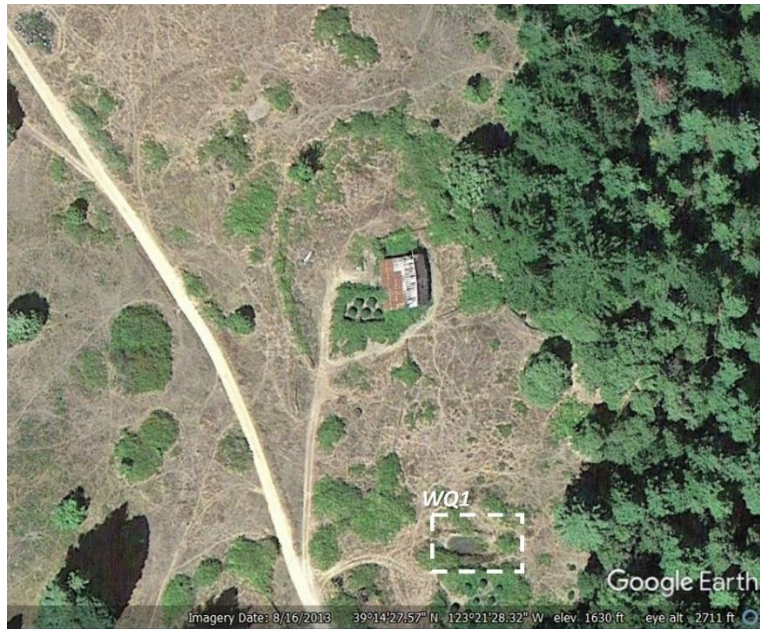
5. Prior to cultivating cannabis or developing a property for cannabis cultivation, enroll for coverage under the Cannabis General Order<sup>2</sup>.
6. Prior to conducting work in a Water of the State, including the pond/wetlands at WQ1, submit an application and pay the required application fee for a Water Quality Certification/Waste Discharge Requirement<sup>3</sup>:

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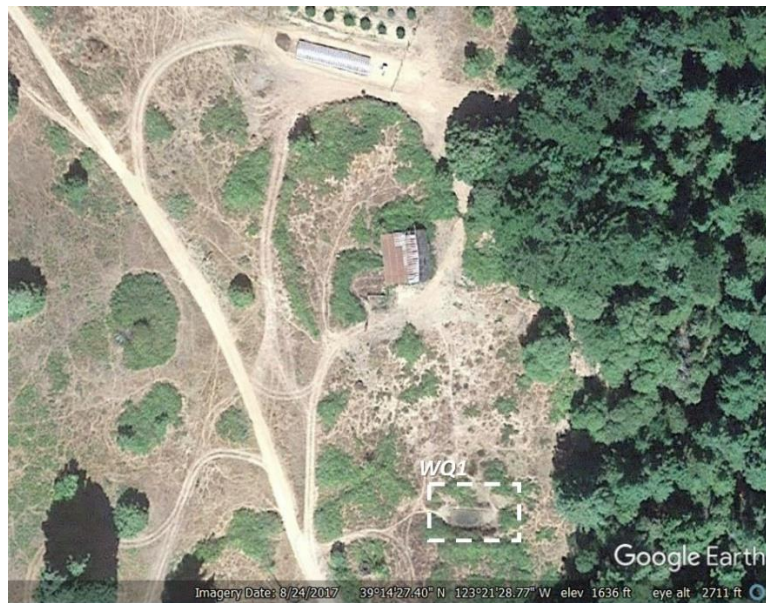
<sup>2</sup> [Details about enrolling](https://public2.waterboards.ca.gov/mt/Home/Index) in the Cannabis General Order can be found at:  
<https://public2.waterboards.ca.gov/mt/Home/Index>

<sup>3</sup> 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](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 middle eastern portion of the Property taken on August 16, 2013, obtained from Google Earth. A white dashed box identifies the location of a pond at WQ1.*



*Figure 3—Aerial image of middle eastern portion of the Property taken on August 24, 2017, obtained from Google Earth. In the top of the image, hoop-type greenhouse and rows of plants are visible where no structure or cultivation were present in the earlier imagery. These greenhouses and planting arrangements match a pattern that is commonly associated with outdoor cannabis cultivation.*



*Figure 4— Aerial image of middle eastern portion of the Property taken on November 7, 2019, obtained from Google Earth. Three hoop-type greenhouses, that were not present in earlier imagery, are visible next to a pre-existing barn in the middle of the image.*



*Figure 5—Aerial image of middle eastern portion of the Property taken on June 18, 2020, obtained from Google Earth. The barn visible in the earlier images has been removed and a row of seven hoop-type greenhouses have been added in its place extending north, east and south of the previously developed area.*



*Figure 6— Aerial image of middle eastern portion of the Property taken on June 2, 2021, obtained from Google Earth. The three hoop-type greenhouses first visible on November 7, 2019, have been replaced with a row of seven smaller greenhouses and an enlarged pad extends the developed area in all directions.*

**Photo Appendix:**



*Figure 7—Photo looking north. Pond and associated wetland are visible at WQ1 in the middle of the image, a parking area and cannabis cultivation greenhouses are within 100 feet of the wetlands in the middle left of the image at WQ2, and a pile of potting soils is uncovered within 100 feet of the wetlands in the right of the image at WQ3.*



*Figure 8—Looking west from the northeast corner of the cultivation area. Growing cannabis plants are visible through the side of one of the greenhouses.*



*Figure 9—Looking east at pond and wetlands located at WQ1. Plants from the genus Juncus are visible growing around the fringe of the pond.*



*Figure 10—A closer view of the vegetation pictured along the fringes of the pond at WQ1. Plants from the genus Juncus are visible in the back of the image.*



*Figure 11—Looking west at pile of potting soils located at WQ3. The pile of is approximately five feet tall at the center and covers a circular area with an approximate radius of ten feet.*



*Figure 12—Picture of petroleum products in five-gallon buckets without secondary containment ground in the vicinity of WQ4. A thin layer of gravel covers the earthen ground. The ground to the left of the image is darker in color apparently from spilled petroleum products.*



*Figure 13—Patches of oil-stained ground at WQ4. The earthen ground is covered by a layer of permeable rock.*



*Figure 14—Two of many 55-gallon drums without secondary containment in the vicinity of WQ4. A pipe and hose are connected to the drum in the middle left suggesting that there are intended fluid transfers at its current location.*