



North Coast Regional Water Quality Control Board

July 11, 2023

Loc Phun
7792 DOLPHINFISH WAY
SACRAMENTO, CA 95828

GLS TRACKING NO: 559738327

Dear Loc Phun:

Subject: Notice of Violation and Transmittal of Inspection Report for June 16, 2023, Inspection of Siskiyou County Assessor's Parcel Number 104-050-100

File: Cannabis Program Inspections, Siskiyou County, Loc Phun, CIWQS Place ID 850519

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 Siskiyou County Assessor's Parcel Number 104-050-100 (the Property):

1. State Water Resources Control Board (State Water Board) *Cannabis Cultivation Policy Principals and Guidelines for Cannabis Cultivation* (Cannabis Policy)
2. California Water Code (Water Code) Sections 13260

According to our records, the cannabis cultivation operation located on this Property is not enrolled for coverage under State Water 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).

On June 16, 2023, North Coast Regional Water Quality Control Board (Regional Water Board) staff inspected the Property and observed cannabis cultivation in pots and in the ground. Within 30 days, please contact Regional Water Board staff to discuss your plan to correct the observed violations.

Background

The Property is 2.1 acres and located near the community of Hornbrook in Siskiyou County. LandVision records show that the Property is owned by Loc Phun and Kathy Chang and was last transferred December 3, 2020.

HECTOR BEDOLLA, CHAIR | VALERIE QUINTO, EXECUTIVE OFFICER

On June 16, 2023, staff from the Regional Water Board, accompanied by staff of the California Department of Fish and Wildlife, and Siskiyou County 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 – Inspection Report and Attachment C – Inspection Photo Log). Please review the inspection report carefully and completely. The inspection report contains recommendations for correcting observed violations.

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 June 16, 2023, inspection report, Regional Water Board staff observed cannabis cultivation and associated activities without requisite regulatory coverage for associated threatened waste discharges, in violation of the California Water Code section 13260 and 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. For more information, please visit our website at:

https://www.waterboards.ca.gov/northcoast/water_issues/programs/cannabis/

Siskiyou County bans outdoor cannabis cultivation. The cultivation and associated activities on the Property are not eligible for local authorization and thus, not eligible for enrollment under the Cannabis General Order.

Additional Potential Liabilities

The Regional Water Board is in the process of considering whether the violations of the Policy 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 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 June 16, 2023, 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 our Staff Kate Hawken 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 our Staff Kate Hawken by email at katherine.hawken@waterboards.ca.gov or by phone at 707-445-6127.

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 Mona.Dougherty@waterboards.ca.gov or by phone at 707-445-6129. 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 Resource Control Engineer

Attachments: Attachment A - Regulatory Citations
 Attachment B – Inspection Report
 Attachment C – Inspection Photo Log

cc: **North Coast Regional Water Quality Control Board**
Northcoast.Cannabis@waterboards.ca.gov
Jeremiah Puget, Jeremiah.Puget@waterboards.ca.gov
Kason Grady, Kason.Grady@waterboards.ca.gov

Division of Water Rights

Stormer Feiler, Stormer.Feiler@waterboards.ca.gov
Taro Murano, Taro.Murano@waterboards.ca.gov

Department of Fish and Wildlife

r1cepredding@wildlife.ca.gov
Jacqueline Matthews, Jacqueline.Matthews@wildlife.ca.gov
Jennifer VanDyke, Jennifer.Vandyke@Wildlife.ca.gov
Warden Joseph Laugesen, Joseph.M.Laugesen@wildlife.ca.gov

Department of Cannabis Control

Robert Hogan, Robert.Hogan@cannabis.ca.gov
Erin Wonder, Erin.Wonder@cannabis.ca.gov

Siskiyou County Code Enforcement

Andrea Fox, afox@co.siskiyou.ca.us

Attachment A – Regulatory Citations

Regulatory Section	Citation
California Water Code Section 13260(a)	<p>“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>
California Water Code Section 13264(a)	<p>“No person shall initiate any new discharge of waste or make any material changes in any discharge...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.”</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</p> <p>https://www.waterboards.ca.gov/water_issues/programs/cannabis/docs/policy/final_cannabis_policy_with_attachment_a.pdf</p> <p>and</p> <p>https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2019/wqo2019_0001_dwq.pdf</p>

FACILITIES INSPECTION REPORT

Region/Office: 1	Status: Performed	Reg. Measure ID: 453131
Program Type: IRRICANNABIS	WDID:	Order Number:
Scheduled Insp. Date:	Actual Insp. Date: 06/16/2023	

Discharger Information

Party ID: 640147	Discharger Organization Name: Phun, Loc	
Address: 7792 Dolphinfish Way	City, State, Zip: Sacramento, CA 95828	
Discharger Contact Person:	Discharger Contact Phone:	
Discharger Contact Email Address:		

Facility Information

Place ID 850519	Facility Name: Loc Phun	
Address: Desavado Road	City, State, Zip: CA	
County: Siskiyou	Latitude: 41.916208	Longitude: -122.421704 Method:

Lead Inspector Information

Lead Inspector Party ID: 569684	Lead Inspector Name: Katherine Hawken		
Inspector Type:	<input checked="" type="checkbox"/> State	<input type="checkbox"/> State Contractor	<input type="checkbox"/> EPA Contractor
	<input type="checkbox"/> EPA and State (EPA Lead)	<input type="checkbox"/> EPA and State (State Lead)	<input type="checkbox"/> EPA (Regional)

INSPECTION TYPE

Inspection Type: Miscellaneous inspection

VIOLATIONSWere Violations noted during this inspection? Yes No

Violation ID	Violation Type	Occurrence Date	Rank	Description
1118364	Other Codes	06/16/2023	B	California Water Code Section 13260

INSPECTION SUMMARY (REQUIRED) (500 character limit)

Observations

I observed petroleum products and open fertilizer containers stored outside near an RV (Photo 1). I observed cannabis cultivation occurring outdoors in pots and in the ground, and in pots under wooden structures (Photos 2 and 3). I observed multiple trash piles around the property containing domestic and cultivation related wastes (Photo 4).

GENERAL NOTES (OPTIONAL) (2000 character limit)

Observations cont.

I observed holes in the fencing surrounding the property, where trash was able to discharge into the streams on the outside of the fence (Photo 5). I observed petroleum product stored in a water bottle near a generator with a small fuel spill (Photo 6).

Recommendations

1. Properly contain and dispose of all fertilizers, petroleum products, and trash.
2. Cease cannabis cultivation activities and cleanup associated infrastructure and refuse and properly dispose of waste.
3. Properly contain petroleum products to prevent release; properly dispose of waste oil.
4. Repair fence and contain trash to prevent further discharge of waste to streams.

For Internal Use (Optional)

Reviewed By:	(1)	(2)	(3)
CIWQS Entry Date:		Regional Board File Number:	CIWQS Inspection ID:

Inspection Photo Log
Photos taken by Kate Hawken on June 16, 2023



Photo 1: Petroleum products and fertilizers stored outside.



Photos 2 and 3: Cannabis cultivation in pots, outdoors and in wooden structure.



Photos 4 and 5: Cannabis cultivation related waste piled around fence, and in stream on other side of fence.



Photo 6: Petroleum product stored in water bottle. Fuel spill near edge of generator.



-FIELD NOTICE- WATER QUALITY VIOLATIONS

REGIONAL WATER QUALITY CONTROL BOARD STAFF HAVE OBSERVED CERTAIN VIOLATIONS OF THE CALIFORNIA WATER CODE RELATED TO WATER QUALITY AND CANNABIS CULTIVATION ON THIS PROPERTY.

I. Inspection Information

Date: 6/16/23 Inspector: Kate Hawken
Owner: Joe Phun Operator: _____
Address: _____ APN: 104-050-100

II. California Water Code Violations

Water Code 13260. Commercial cannabis cultivation with site conditions requiring regulatory coverage for waste discharge or proposed discharge that could affect the quality of the water of the state, with no record of regulatory coverage in CIWQS Water Boards' database. See Section III.

Water Code 13264. Actual discharges of waste without regulatory coverage or material changes to existing authorized waste discharge activities without regulatory coverage. See Section III.

These violations may subject you to civil or criminal liability. See reverse for code text.

III. Conditions of Discharge or Proposed/Threatened Discharge Affecting Waters of the State (REQ'D)

Actual Discharge	Threatened Discharge	Brief description and location:
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Sediment/Fill <u>erosion along fence</u>
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Soils/Potting Material <u>exposed soil at cultivation area (CA)</u>
<input type="checkbox"/>	<input type="checkbox"/>	Runoff
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Fertilizers/Pesticides <u>open fertilizer containers at CA</u>
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Petroleum/Chemicals <u>petroleum spill at CA adjacent generator</u>
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Cultivation Waste <u>multiple trash pits at CA</u>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Refuse/Debris/Human Waste <u>plastic trash in streams</u>
<input type="checkbox"/>	<input type="checkbox"/>	Other

Notes: _____

Unauthorized discharges of waste as defined in Water Code section 13050 may subject you to fines of up to \$5,000/day per violation, pursuant to Water Code section 13350. See reverse for code text.

IV. Actions To Be Taken

YOU ARE HEREBY PROVIDED NOTICE OF THESE VIOLATIONS AND THE NEED TO RESOLVE THEM.

Please contact Kate Hawken at Katherine.Hawken@waterboards.ca.gov or (707) 445-6127, within 72 hours to discuss your intentions to correct these violations.

Please note: The violations outlined in this notice are not a description of all recorded Water Code violations on the property. You will receive a complete Inspection Report and Notice of Violation in approximately 30 days. Additional actions may also be required to address violations documented by other local or state departments/agencies. You must comply with all applicable requirements for cleanup activities which may require permits. Failure to obtain applicable permits and comply with applicable requirements may subject you to additional violations and enforcement action.

Inspector Signature: [Signature] Date: 6/16/23

Delivery Method of Notice: _____

Photo 7: I left a field notice posted on the RV door.