



North Coast Regional Water Quality Control Board

May 22, 2023

ICRS LLC
Attn: Nezh Sabankaya
98 North 5th Street
San Jose, CA 95112
nezh.sabankaya@gmail.com

GLS Tracking No. 559437862

Subject: **Notice of Violation of the State Water Resources Control Board Order No. WQ-2017-0023-DWQ, General Waste Discharge Requirements and Waiver of Waste Discharge Requirements for Discharges of Waste Associated with Cannabis Cultivation Activities (Cannabis General Order), as amended by Order No. WQ-2019-0001-DWQ, and Transmittal of Inspection Report for December 5, 2022, Inspection of Trinity County Assessor's Parcel Numbers (APNs) 015-180-043-000, 015-180-044-000, and 015-180-046-000**

File: Cannabis General Order Notice of Violation and Inspection, Trinity County, 2022;
Sabankaya, CIWQS WDID: 1_53CC421210

THIS LETTER REQUIRES THAT YOU ACT WITHIN 15 DAYS

Dear Nezh Sabankaya,

This letter is to notify you that ICRS LLC (Discharger) is in violation of the requirements listed below, and cited in Attachment A, at the property identified as Trinity County APNs: 015-180-043-000, 015-180-044-000, 015-180-046-000 (Site):

1. Multiple provisions of the State Water Resources Control Board's (State Water Board's) Cannabis General Order

Despite a history of compliance assistance by North Coast Regional Water Quality Control Board (Regional Water Board) and State Water Board staff (combined, Staff),

HECTOR BEDOLLA, CHAIR | VALERIE QUINTO, EXECUTIVE OFFICER

the Discharger has failed to implement remediation necessary to protect water quality from sediment discharges associated with your cannabis cultivation activities on the Site. Accordingly, this letter directs you to address the violations noticed herein. Within 15 days, please contact Staff to discuss your plan to correct the observed violations.

Background

The cannabis cultivation operation at the Site is located at 1580 Indian Creek Road in Douglas City. LandVision records show that Trinity County Parcels APNs 015-180-043-000, 015-180-044-000 and 015-180-046-000 were purchased by Nezih Sabankaya and Semih Sabankaya on or about August 5, 2019. According to the California Secretary of State website, ICRS LLC has been registered in California since September 16, 2019, and based on the 2023 Statement of Information, you are identified as a manager or member of ICRS LLC.

The Site is enrolled under the Cannabis General Order as a Tier 2, Low Risk site; the Site is identified by Waste Discharge Identification Number (WDID) 1_53CC421210. A Notice of Applicability for the Site's enrollment under the Cannabis General Order was issued on November 15, 2019. In addition, the Site was enrolled as a Risk Level 2 site under the State Water Board Order No. 2009-0009-DWQ, *National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities* (Construction General Permit, CGP) for the grading work for the 3.6-acre area of pads. The Site is identified by CGP WDID Number 53C389202. A separate notice of violation is being issued for violations of the Construction General Permit that were observed at the Site.

On December 30, 2020, the Site was inspected by California Department of Fish and Wildlife (CDFW) and State Water Board staff to document ongoing work on an unnamed access road from Indian Creek Road to the graded pads on the Site, and the road's conditions for the winter season, including: surfacing, drainage, and installation of erosion and sediment control measures.

On February 16, 2021, State Water Board staff issued a notice of violation (NOV) for violations of the Cannabis General Order observed during the December 30, 2020, inspection, including threats of discharge of sediment to waters of the state. On May 5, 2021, an engineer hired by Mr. Birol Sabankaya certified, in a signed and stamped letter, that the access road construction done by Mr. Sabankaya was done in accordance with the Rural Roads Handbook, the primary reference in the Cannabis General Order for construction and maintenance of rural roads. At that time, staff determined that the engineer's certification satisfied the requirements of the 2021 NOV. On June 29, 2021, State Water Board staff sent a letter to ICRS LLC stating the requirements of the NOV had been met and no further action was required.

On December 5, 2022, Staff again inspected the Site and observed cannabis cultivation and related activities and Site conditions that pose a discharge of sediment and continued threat to water quality, including: muddy road surfacing, inconsistencies in

drainage of the roadway and inside drainage ditches, hydraulic connectivity of ditch relief culvert outlets to downstream ephemeral watercourse channels, and unstable slopes along the inboard ditches and slopes of all the graded pads.

Following the inspection, staff from CDFW received a response from Mr. Birol Sabankaya on or before January 27, 2023 that identified actions that had been taken or would be taken at the Site. CDFW provided State Water Board staff with a copy of that submittal. Please note that the actions outlined in that submittal are not sufficient to resolve the violations identified in this notice and the attachments. Therefore, the Required Actions section of this notice requires additional information be submitted so that Staff can verify the observed violations have been resolved.

Relevant Requirements

Staff identified several features and conditions on the Site that represent violations of water quality requirements and regulations. Attachment A, Regulatory Citations, provides references to the requirements and regulations.

Observed Violations

As documented in Attachment B, December 5, 2022 Inspection Report, and in this notice, Staff observed violations of the Cannabis General Order, Attachment A, Section 1, General Requirements and Prohibitions, terms 6, 8, 9, 12, 14, 25, 26, 33, and 34; and Section 2, Requirements Related to Water Diversions and Waste Discharge for Cannabis Cultivation, terms 2, 4, 10, 12, 13, 14, 15, 17, 18, 21, 25, 26, 27, 28, 30, 126, 128, 129, 130, and 133.

Staff observed these violations at the Site during the December 5, 2022, inspection, as summarized in the attached report. Additionally, the features shown in Table 1 are related to cannabis cultivation activities and constitute violations that must be remedied through cleanup, stabilization, and restoration.

Table 1. Features that pose threat to water quality and violate applicable regulations.

| Locations | Violation Types |
|---|---|
| Unstable areas and actual and threatened sediment discharge to watercourses | Cannabis General Order, Attachment A, Section 1, terms 6, 8, 9, 12, 14, 25, 26, 33, and 34; and Section 2, terms 2, 4, 10, 12, 13, 14, 15, 17, 18, 21, 25, 26, 27, 28, 30, 126, 128, 129, 130, and 133 |

Additional Potential Liability

The Regional Water Board is considering whether the observed violations of the Cannabis General Order warrant further enforcement. We encourage you to take steps to correct the violations as soon as possible. Please note that the existing conditions, as observed and documented in the attached inspection report, may represent continuing violations of the Water Code.

Correcting the conditions of non-compliance at the Site does not preclude enforcement for the violations alleged in this notice. The Regional Water Board reserves its right to fully enforce against any violation and threatened violation by taking additional actions such as issuance of a cleanup and abatement order, time schedule order, administrative civil liability, and/or referral to the California Attorney General's Office. Administrative civil liability may be assessed for unauthorized discharges of waste into waters of the state in violation of waste discharge requirements or prohibitions on a daily basis in an amount up to \$5,000 for each day the violation occurs or up to \$10 per gallon, pursuant to Water Code section 13350.

Required Actions

Within 15 days of this letter, please advise Staff of your intentions, plan, and schedule to correct these violations. 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 State Water Board staff Casey Yearout at Casey.Yearout@waterboards.ca.gov or by phone at 916-341-5629.

Future correspondence regarding this matter will be sent to you at this address unless an alternative address is provided to Staff. Failure to accept mail from the Regional Water Board or State 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 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

Enclosures: Attachment A - Regulatory Citations
Attachment B – December 5, 2022 Inspection Report

ec: ICRS LLC
Bervely Sandra Soruco, birols@live.com

North Coast Regional Water Quality Control Board

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Helen Bowman, Helen.Bowman@wildlife.ca.gov

California Department of Cannabis Control

Erin Wonder, Erin.Wonder@cannabis.ca.gov
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Engineer of Record

Allen Boyd, boydengineering@charter.net

Attachment A – Regulatory Citations

Table 2- Regulatory Citations

| Regulatory Section | Citation |
|---------------------------------|--|
| Cannabis General Order | <p>State Water Resources Control Board Order No. WQ 2017-0023-DWQ, <i>General Waste Discharge Requirements and Waiver of Waste Discharge Requirements for Discharges of Waste Associated with Cannabis Cultivation Activities</i> (Cannabis General Order), as amended by State Water Board Order No. WQ 2019-0001-DWQ, and Attachment A to the Cannabis General Order, Definitions and Requirements for Cannabis Cultivation</p> <p>(https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2019/wqo2019_0001_dwq.pdf) and (https://www.waterboards.ca.gov/water_issues/programs/cannabis/docs/policy/final_cannabis_policy_with_attachment_a.pdf)</p> |
| Attachment A Section 1 – Term 6 | To avoid water quality degradation from erosion and sedimentation, land disturbance activities shall not occur during the winter period unless authorized by a Regional Water Board Executive Officer. Cannabis cultivators shall ensure land disturbing activities are completed and site stabilization measures are in place prior to the onset of the winter period. All land disturbing activities during the winter period shall be supervised by a Qualified Professional. |
| Attachment A Section 1 – Term 8 | Site improvements and limited repairs may be performed by the cannabis cultivator or contractors as allowed by the Business and Professions Code (Bus. & Prof. Code, section 7044 and/or section 7048). All contracts to perform work that is valued at \$500 or more in combined labor and material costs shall be performed by an appropriately qualified and licensed contractor as required by the California Contractors' State License Board. |
| Attachment A Section 1 – Term 9 | During land disturbance activities, the cannabis cultivator shall review and evaluate the applicable daily weather forecast and any applicable 24 hour forecast at least once per 24-hour period and maintain records of the weather forecast for each day land disturbance activities are conducted. The cannabis cultivator shall cease land disturbance activities and shall implement erosion control Requirements described in this Policy during and 24-hour period in which the applicable daily weather forecast, or any 24-hour forecast reports a 50 percent or greater chance of precipitation greater than 0.5 inch per 24 hours. |

| Regulatory Section | Citation |
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| Attachment A Section 1 – Term 12 | The cannabis cultivator shall comply with all applicable requirements of the State Water Board and Regional Water Boards’ (collectively Water Boards) water quality control plans and policies. |
| Attachment A Section 1 – Term 14 | The cannabis cultivator shall comply with all water quality objectives/standards, policies, and implementation plans adopted or approved pursuant to the Porter-Cologne Water Quality Control Act (California Water Code section 13000, et seq.) or CWA section 303 (33 U.S.C. § 1313). |
| Attachment A Section 1 – Term 25 | Cannabis cultivators shall not discharge waste in a manner that creates or threatens to create a condition of pollution or nuisance, as defined by Water Code section 13050. |
| Attachment A Section 1 – Term 26 | <p>Except as allowed and authorized in this Policy, cannabis cultivators shall not discharge:</p> <ul style="list-style-type: none"> • irrigation runoff, tailwater, sediment, plant waste, or chemicals to surface water or via surface runoff; • waste classified as hazardous (California Code of Regulations, title 23, section 2521(a)) or defined as a designated waste (Water Code section 13173); or • waste in violation of, or in a manner inconsistent with, the appropriate Water Quality Control Plan(s). |
| Attachment A Section 1 – Term 33 | Cannabis cultivators under any Cannabis Cultivation General Order or individual WDRs implementing this Policy shall self-certify that they have complied with or will comply with all applicable Requirements in this Policy no later than the onset of the winter period of the same year as the application date and each year thereafter. If application occurs after the onset of the winter period, cannabis cultivators shall self-certify that all applicable Requirements in this Policy will be implemented by the onset of the winter period of the next calendar year, and each year thereafter. Those cannabis cultivators that cannot implement all applicable Requirements by the onset of the winter period shall, within 90 days of application submittal, submit to the Executive Officer of the applicable Regional Water Board a time schedule and scope of work for use by the Regional Water Board in developing a compliance schedule. |
| Attachment A Section 1 – Term 34 | Cannabis cultivators shall implement interim Requirements immediately following land disturbance, to minimize discharge of waste constituents. Interim Requirements are those that are implemented immediately upon site development. Cannabis cultivators shall complete all winterization Requirements prior to the onset of the winter period to prevent waste discharges that may result in water quality degradation. |
| Attachment A Section 2 – Term 2 | Finished cut and fill slopes, including side slopes between terraces, shall not exceed slopes of 50 percent and should conform to the natural pre-grade slope whenever possible. |

| Regulatory Section | Citation |
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| Attachment A Section 2 – Term 4 | Cannabis cultivation land development and access road construction shall be designed by Qualified Professionals. Cannabis cultivators shall conduct all construction or land development activities to minimize grading, soil disturbance, and disturbance to aquatic habitat. |
| Attachment A Section 2 – Term 10 | <p>Cannabis cultivators shall incorporate erosion control and sediment detention devices and materials into the design, work schedule, and implementation of the cannabis cultivation activities. The erosion prevention and sediment capture measures shall be effective in protecting water quality.</p> <ul style="list-style-type: none"> • Interim erosion prevention and sediment capture measures shall be implemented within seven days of completion of grading and land disturbance activities, and shall consist of erosion prevention measures and sediment capture measures including: <ul style="list-style-type: none"> ○ Erosion prevention measures are required for any earthwork that uses heavy equipment (e.g., bulldozer, compactor, excavator, etc.). Erosion prevention measures may include surface contouring, slope roughening, and upslope storm water diversion. Other types of erosion prevention measures may include mulching, hydroseeding, tarp placement, revegetation, and rock slope protection. ○ Sediment capture measures include the implementation of measures such as gravel bag berms, fiber rolls, straw bale barriers, properly installed silt fences, and sediment settling basins. • Long-term erosion prevention and sediment capture measures shall be implemented as soon as possible and prior to the onset of fall and winter precipitation. Long-term measures may include the use of heavy equipment to reconfigure access roads or improve access road drainage, installation of properly-sized culvert, gravel placement on steeper grades, and stabilization of previously disturbed land. <p>Maintenance of all erosion protection and sediment capture measures is required year-round. Early monitoring allows for identification of problem areas or underperforming erosion or sediment control measures. Verification of the effectiveness of all erosion prevention and sediment capture measures is required as part of winterization activities.</p> |
| Attachment A Section 2 – Term 12 | Cultivation sites constructed on or near slopes with a slope greater than or equal to 30 percent shall be inspected for indications of instability. Indications of instability include the occurrence of slope failures at nearby similar sites, weak soil layers, geologic bedding parallel to slope surface, hillside creep (trees, fence |

| Regulatory Section | Citation |
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| | posts, etc. leaning downslope), tension cracks in the slope surface, bulging soil at the base of the slope, and groundwater discharge from the slope. If indicators of instability are present, the cannabis cultivator shall consult with a Qualified Professional to design measures to stabilize the slope to prevent sediment discharge to surface waters. |
| Attachment A Section 2 – Term 13 | For areas outside of riparian setbacks of for upland areas, cannabis cultivators shall ensure that rock placed for slope protection is the minimum amount necessary and is part of a design that provides for native plant revegetation. If retaining walls or other structures are required to provide slope stability, they shall be designed by a Qualified Professional. |
| Attachment A Section 2 – Term 14 | Cannabis cultivators shall monitor erosion control measures during and after each storm event that produces at least 0.5 in/day or 1.0 inch/4 days of precipitation, and repair or replace, as needed, ineffective erosion control measures immediately. |
| Attachment A Section 2 – Term 15 | Access roads shall be constructed consistent with the requirements of California Code of Regulations Title 14, Chapter 4. The Road Handbook describes how to implement the regulations and is available at (http://www.pacificwatershed.com/PWA-publications-library). Existing access roads shall be upgraded to comply with the Road Handbook. |
| Attachment A Section 2 – Term 17 | Cannabis cultivators shall ensure that all access roads are hydrologically disconnected to receiving waters to the extent possible by installing disconnecting drainage features, increasing the frequency of (inside) ditch drain relief as needed, constructing out-sloped roads, constructing energy dissipating structures, avoiding concentrating flows in unstable areas, and performing inspection and maintenance as needed to optimize the access road performance. |
| Attachment A Section 2 – Term 18 | New access road alignments should be constructed with grades (slopes) of 3- to 8-percent, or less, wherever possible. Forest access roads should generally be kept below 12-percent except for short pitches of 500 feet or less where road slopes may go up to 20-percent. These steeper access road slopes should be paved or rock surfaces and equipped with adequate drainage. Existing access roads that do not comply with these limits shall be inspected by a Qualified Professional to determine if improvements are needed. |
| Attachment A Section 2 – Term 21 | Cannabis cultivators shall have a Qualified Professional design the optimal access road alignment, surfacing, drainage, maintenance requirements, and spoils handling procedures. |
| Attachment A Section 2 – Term 25 | If unable to eliminate inboard or inside ditches, the cannabis cultivator shall ensure adequate ditch relief culvert to prevent down-cutting of the ditch and to reduce water runoff concentration, velocity, and erosion. Ditches shall be designed and maintained as recommended by a Qualified Professional. To avoid point- |

| Regulatory Section | Citation |
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| | source discharges, inboard ditches and ditch relief culverts shall be discharged onto vegetated or armored slopes that are designed to dissipate and prevent runoff channelization. Inboard ditches and ditch relief culverts shall be designed to ensure discharges into natural stream channels or watercourses are prevented. |
| Attachment A Section 2 – Term 26 | Cannabis cultivators shall ensure that access roads are not allowed to develop or show evidence of significant surface rutting or gulying. Cannabis cultivators shall use water bars and rolling dips and designed by a Qualified Professional to minimize access road surface erosion and dissipate runoff. |
| Attachment A Section 2 – Term 27 | Cannabis cultivators shall only grade ditches when necessary to prevent erosion of the ditch, undermining the banks, or expose the toe of the cut slope to erosion. Cannabis cultivators shall not remove more vegetation than necessary to keep water moving, as vegetation prevent scour and filters out sediment. |
| Attachment A Section 2 – Term 28 | Access road storm water drainage structures shall not discharge onto unstable slopes, earthen fills, or directly to a waterbody. Drainage structures shall discharge onto stable areas with straw bales, slash, vegetation, and/or rock riprap. |
| Attachment A Section 2 – Term 30 | Cannabis cultivators shall regularly inspect ditch-relief culverts and clear them of any debris or sediment. To reduce ditch-relief culvert plugging by debris, cannabis cultivators shall use 15- to 24-inch diameter pipes, at minimum. In forested areas with a potential for woody debris, a minimum 18-inch diameter pipe shall be used to reduce clogging. Ditch relief culverts shall be designed by a Qualified Professional based on site-specific conditions. |
| Attachment A Section 2 – Term 126 | Cannabis cultivators shall implement all applicable Erosion Control and Soil Disposal and Spoils Management Requirements in addition to the Winterization Requirements below by the onset of the winter period. |
| Attachment A Section 2 – Term 128 | Cannabis cultivators shall not operate heavy equipment of any kind at the cannabis cultivation site during the winter period, unless authorized (1) in a site management plan as described below, or (2) for emergency repairs contained in an enforcement order issued by the State Water Board, Regional Water Board, or other agency having jurisdiction. Use of heavy equipment (e.g., agricultural equipment) for routine cannabis cultivation soil preparation or planting may be authorized in a site management plan approved by the Regional Water Boar Executive Officer or designee if both of the following conditions are met: <ul style="list-style-type: none"> • all soil preparation and planting activities occur outside of the riparian setbacks; and • all soil preparation and planting activities are located on an average slope equal to or less than five percent (5%) (e.g., valley floor). |

| Regulatory Section | Citation | | | | | | | | | |
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| Attachment A Section 2 – Term 129 | <p>Cannabis cultivators shall apply linear sediment controls (e.g., silt fence, wattles, etc.) along the toe of the slope, face of the slope, and at the grade breaks of exposed slopes to comply with sheet flow length at the frequency specified below or as authorized in a site management plan approved by the applicable Regional Water Board Executive Officer or designee.</p> <table border="1" data-bbox="453 464 963 708"> <thead> <tr> <th data-bbox="453 464 644 565">Slope (percent)</th> <th data-bbox="644 464 963 565">Sheet Flow Length Not to Exceed (feet)</th> </tr> </thead> <tbody> <tr> <td data-bbox="453 565 644 613">0 - 25</td> <td data-bbox="644 565 963 613">20</td> </tr> <tr> <td data-bbox="453 613 644 662">25 - 50</td> <td data-bbox="644 613 963 662">15</td> </tr> <tr> <td data-bbox="453 662 644 708">>50</td> <td data-bbox="644 662 963 708">10</td> </tr> </tbody> </table> | | Slope (percent) | Sheet Flow Length Not to Exceed (feet) | 0 - 25 | 20 | 25 - 50 | 15 | >50 | 10 |
| Slope (percent) | Sheet Flow Length Not to Exceed (feet) | | | | | | | | | |
| 0 - 25 | 20 | | | | | | | | | |
| 25 - 50 | 15 | | | | | | | | | |
| >50 | 10 | | | | | | | | | |
| Attachment A Section 2 – Term 130 | <p>Cannabis cultivators shall maintain all culverts, drop inlets, trash racks and similar devices to ensure they are not blocked by debris or sediment. The outflow of culverts shall be inspected to ensure erosion is not undermining the culvert. Culverts shall be inspected prior to the onset of fall and winter precipitation and following precipitation events that produce at least 0.5 in/day or 1.0 inch/7 days of precipitation to determine if maintenance or cleaning is required.</p> | | | | | | | | | |
| Attachment A Section 2 – Term 133 | <p>Cannabis cultivators shall apply erosion repair and control measures to the bare ground (e.g., cultivation area, access paths, etc.) to prevent discharge of sediment to waters of the state.</p> | | | | | | | | | |