



North Coast Regional Water Quality Control Board

September 18, 2023

Certified Mail No. 7021 0950 0001 6500 1698

Silviano Viscanio
74100 Hill Road
Covelo CA 95428-9852

Dear Silviano Viscanio:

Subject: Notice of Violation, Transmittal of Report for August 22, 2023 Inspection of Mendocino County Assessor's Parcel Numbers 034-290-22-00 and 034-290-27-00, and Recommendation to Respond within 30 days

File: Cannabis Program Inspections, Mendocino County, 2023, Silviano Viscanio, CIWQS Place ID 890271

THIS LETTER RECOMMENDS 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 Numbers 034-290-22-00 and 034-290-27-00 (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 August 22, 2023, North Coast Regional Water Quality Control Board (Regional Water Board) staff (Staff) inspected the Property and observed cannabis cultivation exceeding 8,000 square feet in size. Accordingly, we recommend that you address the

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

Background

Land Vision records show Silvano Viscanio owns the Property with the last transfer of ownership occurring on January 14, 2021. According to review by Staff on September 15, 2023, of aerial imagery available from Google Earth, cannabis cultivation activities are evident on the property as early as May 30, 2014.

On August 22, 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, the State Water Resources Control Board Division of Water Rights, 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 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 August 22, 2023 inspection, Staff observed: violations of the Basin Plan Section 4.2.1 Prohibition 2 at locations WQ1 and WQ7 for threatened discharge of organic and earthen material to unnamed tributaries to Mill Creek; 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, WQ3, WQ5, WQ6 and WQ8; Staff observed violations of the California Water Code section 13264 for unauthorized disposal of domestic waste at WQ2 and for the unauthorized discharges of cannabis cultivation wastes to land from where it threatens to discharge

into a water of the state of California at WQ1, WQ3, and WQ4; and site conditions at WQ1 through WQ8 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, at least one stream crossing must be corrected to comply with the Basin Plan. The work to correct this violation will require a water quality certification/waste discharge requirement prior to conducting instream work.

The [application for the water quality certification/waste discharge requirement](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 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

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Department of Fish and Wildlife

Kari Gahan, Kari.Gahan@wildlife.ca.gov
Paul Garrison, Paul.Garrison@Wildlife.ca.gov
Warden Grace Nunn, Grace.Nunn@Wildlife.ca.gov
Warden Justin Rhoades, Justin.Rhoades@wildlife.ca.gov
Captain Douglas Willson, Douglas.Willson@wildlife.ca.gov

Mendocino County Sheriff's Office

Sergeant Clinton Wyant, WyantC@mendocinocounty.org

Mendocino County

cannabisprogram@mendocinocounty.org
Sean Crackbon, CrackbonS@mendocinocounty.org

Viscanio Property
CIWQS Place ID: 890271
Notice of Violation

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September 18, 2023

California Environmental Protection Agency
Hasti Javid, Hasti.Javid@calepa.ca.gov

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 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>

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: September 18, 2023

**Report of August 22, 2023 Warrant Inspection,
Mendocino County
Assessor's Parcel Numbers 034-290-22-00 and 034-290-27-00
(the "Property")**

File: Cannabis Program Inspections, Mendocino County, 2023, Silvano Viscanio,
CIWQS Place ID 890271

Property information:

Watershed: Eel River Hydrologic Unit; Middle Fork Eel River Hydrologic Area;
Round Valley Hydrologic Subarea; (HU/HA/HSA 111.72; see Table 2-1 of the Water
Quality Control Plan for the North Coast Region (Basin Plan), for beneficial uses).

Regulatory Status with the Regional Water Board:

There is no record of enrollment under either the historical California Regional Water Quality Control Board, North Coast Region Order No. 2015-0023, Waiver of Waste Discharge Requirements and General Water Quality Certification for Discharges of Waste Resulting from Cannabis Cultivation and Associated Activities or Operations with Similar Environmental Effects In the North Coast Region (Regional Cannabis Order), or 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) for this property.

Inspection information:

Date/time: August 22, 2023 / morning

Weather: sunny

Type: Warrant Inspection

HECTOR BEDOLLA, CHAIR | VALERIE QUINTO, EXECUTIVE OFFICER

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:

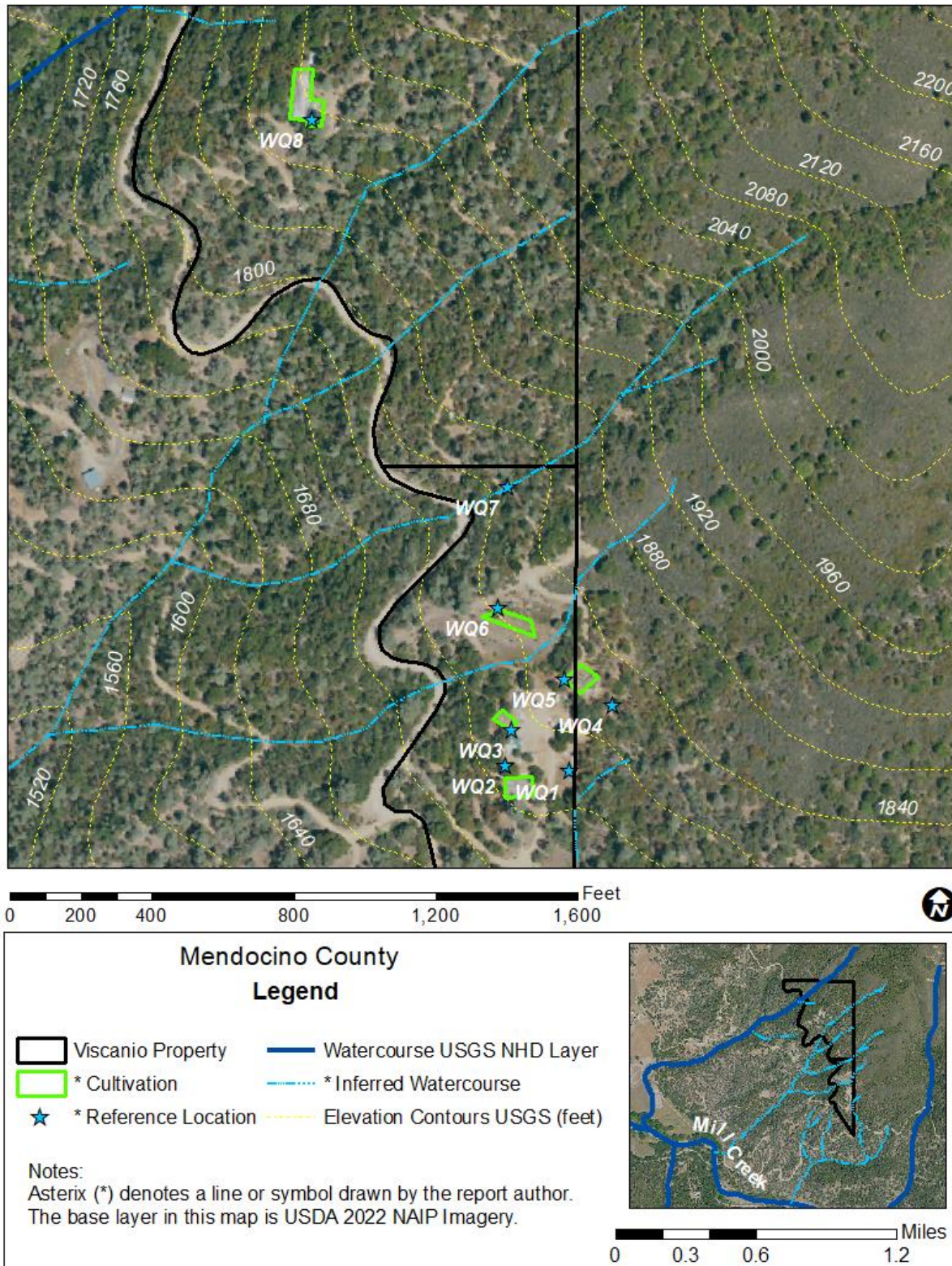


Figure 1—Aerial image/map showing inspection points discussed in this report.

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 south and observed a pile of waste potting soils uncontained at WQ1. I observed a watercourse less than 100 feet east of the soil pile. In the vicinity of the soil pile, I observed erosional rills on the surface of the dirt access road. West of the access road, at WQ2, I observed a residential structure that appears from historical aerial imagery to have been constructed between 2012 and 2014. I observed that the sanitary sewer lines exiting the structure entered a partially buried tank with an open pipe on the side. Sewage had collected in the open pipe and in a visible pile for dozens of feet downslope.

South of the sewage tank, I observed a hoop-type greenhouse covering an area of at least 1,200 square feet with cannabis plants growing in plastic pots. North of the structure, at WQ3, I observed another hoop-type greenhouse covering an area of at least 1,200 square feet with cannabis plants growing in plastic pots. To the east of WQ3, at WQ4, I observed a shallowly excavated hole filled with refuse. North of the hole, at WQ5 I observed more hoop-type greenhouses with cannabis plants growing in raised garden beds. The greenhouses cover an area of approximately 2,000 square feet on top of a graded pad. The northeast edge of the pad was cut into the hillside forming near vertical slopes. I observed piles of uncontained potting soils in the vicinity of WQ5.

Northwest of WQ5, I observed a terraced outdoor cultivation area with two rows of cannabis plants at WQ6. I walked to the eastern edge of the terraced cultivation area and then north along a road to WQ7 where I observed a watercourse culverted under the road. The culvert was significantly narrower than the channel downstream and I observed scour marks on the road prism above the pipe indicating that stormwater flows had exceeded the capacity of the culvert and begun eroding the road prism.

I then returned to the southern property entrance and drove to a separate entrance near the northwestern portion of the Property. At WQ8 I observed hoop-type greenhouses covering 3,000 square feet of a graded pad. I observed waste potting soil disposed on the downslope edges of the pad in addition to other cultivation waste including plastic netting.

Recommendations for the Discharger:

1. Immediately cease the discharge of sewage to land, implement corrective actions, and obtain the appropriate county permit for the disposal of on-site wastewater (i.e., septic system permit).
2. Immediately collect all refuse and waste which have discharged and/or threatens to discharge to receiving waters and which can be collected by hand. You are not authorized to use heavy equipment in a water of the state or modify the bed bank or channel of a water of the state without a permit from the Regional Water Board (see

recommendation 6 below). Properly dispose of these wastes at a licensed waste collection facility.

3. Retain a licensed professional to inventory, assess, all aquatic resources including watercourses that are Waters of the State on the Property, and to develop a workplan and schedule to implement measures to ensure that all developed features, roads and watercourse crossings throughout the Property are corrected, restored, and/or maintained in conditions that comply with the Cannabis Cultivation Policy¹.
4. Dispose of all development and restoration-related earthen spoils in a manner to prevent/minimize transport and delivery to receiving waters.
5. Prior to cultivating cannabis or developing a property for cannabis cultivation, enroll for coverage under the Cannabis General Order².
6. 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 Requirement³

¹ 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

² [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>

³ 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 9, 2012, obtained from Google Earth. The image shows that the hillslope east of WQ6 has been terraced and a structure is present on the pad east of WQ5.



Figure 3—Aerial image of the Property taken on May 30, 2014, obtained from Google Earth. The image shows a pattern of circles on the terraced hillslope east of WQ6 that is consistent with cannabis cultivation and a newly constructed structure between WQ2 and WQ3.



Figure 4—Aerial image of the Property taken on August 12, 2017, obtained from Google Earth. The image shows continued cultivation on the terraced hillslope east of WQ6.



Figure 5—Aerial image of the Property taken on February 26, 2020, obtained from Google Earth. The image shows that the structure between WQ2 and WQ3 has been replaced with hoop-type greenhouses and additional hoop-type greenhouses have been constructed north of WQ3 and south of WQ2.

Photo Appendix:



Figure 6—Photo looking southeast at a pile of uncontained waste potting soils at WQ1. A watercourse runs from north to south out of view and less than 100 feet behind the soil pile.



Figure 7—Photo of the dirt road in the vicinity of WQ1. Erosional rills are visible on the road surface.



Figure 8—Photo of sewage tank at WQ2. Sewage pipes from the structure in background of image flow into tank. A pipe exiting the tank is open and human waste is visible on the pipe and on the ground next to the tank.



Figure 9—Photo showing the area downstream from discharging tank pictured in the previous image. The black plastic bag in the right of the image is visible in both pictures. A path of darkened soil marks the location where sewage has discharged.



Figure 10—Photo showing cannabis plants growing in black plastic pots inside a hoop-type greenhouse south of WQ2.



Figure 11—Photo showing cannabis plants growing in black plastic pots inside a hoop-type greenhouse at WQ3.



Figure 12—Photo showing a bag of high-concentration, water-soluble nutrients on the ground in the vicinity of WQ3.



Figure 13—Photo showing refuse placed in a shallowly excavated hole at WQ4.



Figure 14—Photo of hoop-type greenhouse occupying the pad at WQ5. Cannabis plants are visible growing in raised garden beds inside the greenhouse.



Figure 15—Photo of hoop-type greenhouse at WQ5. The back of the image shows near-vertical slopes where the pad was cut into the hillside. The foreground shows a pile of waste potting soils, identifiable from the white speckles of perlite contained in the soils.



Figure 16—Photo looking northwest at the terraced outdoor cultivation area at WQ6. Approximately a dozen cannabis plants are visible growing on the top row, and a few are visible growing on the second row.



Figure 17—Photo looking downstream at a watercourse crossing located at WQ7. A rusted 12-inch diameter corrugated metal pipe is identified as the drain in the middle of the image. The pipe is significantly narrower than the channel downstream and scour marks are visible on the road prism above the pipe.



Figure 18—Photo looking upstream from the left bank at the culvert outlet at WQ7. The picture shows the same drain and scour marks as in the other image but from a different angle.



Figure 19— Photo showing cannabis plants growing in black plastic bags inside a hoop-type greenhouse at WQ8.



Figure 20—Photo of the western edge of the cannabis cultivation pad located at WQ8. Waste potting soils, identifiable from the white speckles of perlite contained in the soils, cover the downslope side of the pad.



Figure 21—Photo showing uncontained plastic netting and plastic tarps in the vicinity of WQ8.