



EXECUTIVE OFFICER'S REPORT

North Coast Regional Water Quality Control Board
August 14 & 15, 2019

Cannabis Cultivation Waste Discharge Program Update: Regional Order Enrollees Transition to the State Water Board Order

Mona Dougherty, David Kuszmar, & Shannon Utley

Transitions and Terminations

July 1, 2019 was an important date for the North Coast Cannabis Cultivation Waste Discharge Regulatory Program. By that date, all enrollees under the North Coast Regional Cannabis Order (No. R1-2015-0023) were required, in part, by the Cannabis Cultivation Policy to either apply for a transition of their permit coverage to the Statewide Cannabis General Order (WQ 2019-0001-DWQ) or request termination of coverage altogether.

To prepare nearly 3,000 Regional Cannabis Order enrollees to meet this requirement, Regional Water Board staff implemented over a year-long campaign of education and outreach, which included appearances at local cannabis permitting events, radio interviews, letters and emails to active enrollees, webpage updates and announcements, and notices distributed via social media and email list serves.

As of June 4, 2019, 1,829 dischargers had not yet taken action in response to staff's outreach efforts. Consequently, Regional

Water Board staff prepared and distributed (via email and certified mail) transition-or-terminate directive letters. The letters, issued pursuant to the Regional Water Board's authority under California Water Code §13260, directed dischargers to transition their permit coverage to the Statewide Cannabis General Order by the July 1, 2019 due date, or else lose their permit coverage under the Regional Cannabis Order and face possible enforcement actions.

The outreach and directive campaigns were, ultimately, successful. Within the last two weeks of June, hundreds of Regional Cannabis Order enrollees submitted their transition applications or requested termination of coverage. Currently, staff are busy processing 1,489 outstanding transition applications, and 361 termination requests. All remaining enrollees who were non-responsive (737) have lost their permit coverage under the Regional Cannabis Order, have been administratively terminated, and will be referred to Water Boards enforcement staff and partner agencies for possible further action.

The North Coast Region remains the highest enrolled region in the Water Boards' statewide Cannabis Cultivation Program. Once all pending applications and termination requests have been processed, as many as 3,000 dischargers will be enrolled under the Statewide Cannabis

Order in the North Coast Region, which represents approximately 60% of all enrollments statewide.

While all commercial cannabis cultivators are required to seek coverage under the Statewide Cannabis Order, the Regional Order (No. R1-2015-0023) currently remains in effect as an important element of the North Coast Region's Irrigated Lands Regulatory Program for land management activities other than cannabis cultivation. Looking forward, staff anticipate enrolling dischargers in the Regional Order who are cultivating industrial hemp within the North Coast Region and who are engaging in land management activities with similar environmental effects as cannabis cultivation.



Marijuana Leaf in sunlight. Photo from Division of Water Rights/State Board presentation 02/26/19.

The Regional Cannabis Order is set to expire on August 23, 2020. As indicated in North Coast Region's FY 2019 – 2020 Cannabis and Enforcement Division Work Plan, staff will soon be working to revise that order, and plan to bring it to the Regional Water Board for renewal and adoption during the 2019-2020 fiscal year.

Water Quality Certification Procedures

During the 2018-2019 fiscal year the Cannabis Cultivation Program received 89

applications for Water Quality Certification (WQC) under the Regional Cannabis Order. Of the applications received, 41 of those applications were received between June 1, 2019 and July 1, 2019 prior to the deadline to transfer to the Statewide Cannabis General Order. Regional Water Board staff issued eight Notice of Applicability (NOA) letters for WQC under the Regional Cannabis Order during the past fiscal year. The WQC NOAs issued under the Regional Cannabis Order will remain in effect and enforceable even if the enrollees are now enrolled in the Statewide Cannabis General Order.

The remaining applications submitted under the Regional Cannabis Order will be issued an NOA for WQC under the authority of the Statewide Cannabis General Order. Staff is currently working on formalizing procedures for reviewing and issuing WQCs with the intent of training staff and improving the efficiency and consistency of issuing NOAs. We anticipate having the procedures done by the end of August 2019.

Additionally, staff is conducting inspections of applicant projects as often as possible. Our goal is to maintain close coordination with California Department of Fish and Wildlife (CDFW) on these projects, as they are often in the process of issuing their own permits for instream work.

Issuing WQCs is a high priority for Cannabis Regulatory Program staff because sediment delivery from undersized and failing culverts are one of the primary water quality issues encountered on cultivation sites. Issuing WQC NOAs will enable enrollees to complete projects that address water quality impacts and comply with the Statewide Cannabis General Order.

Regional Cannabis Order Tier 3 Enrollees

Tier 3 of the Regional Cannabis Order requires enrollees to conduct cleanup and restoration activities on their properties pursuant to Water Code section 13304. Now that enrollees under the Regional Cannabis Order have either transitioned their coverage to the Statewide Cannabis General Order or been terminated, staff must act to ensure that remaining cleanup requirements continue in effect. There were eight enrollments under Tier 3 of the Regional Cannabis Order during the 2018-2019 fiscal year that may require one of the following actions: 1) incorporation of existing cleanup requirements into their Statewide Cannabis General Order Site Management Plan, 2) issuance of an individual Cleanup and Abatement Order, or 3) termination. Staff is investigating the status of each of these cases to ensure that these sites are restored.



Statewide Bacteria, Sediment Quality and Mercury Provisions

Justin McSmith

BACTERIA PROVISIONS:

Summary

Effective March 22, 2019, the State Water Board adopted new statewide bacteria water quality objectives (Bacteria WQOs) and established a new beneficial use, Limited Water Contact Recreation (LREC-1), to protect recreational users from the effects of pathogens in both fresh water and saltwater

waterbodies. The objectives and implementation options are a new part 3 of the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries of California (ISWEBE), and an amendment to the Water Quality Control Plan for Oceans Waters of California (Ocean Plan).

The new bacteria provisions establish the use of *E. coli* as the indicator bacteria for fresh water and enterococci for estuarine waterbodies that have contact recreation beneficial use (REC-1), or the newly created LREC-1.

Incorporation in NPDES Permits

National Pollutant Discharge Elimination System (NPDES) permits that are up for renewal are incorporating monitoring requirements for *E. coli* or *enterococci* as appropriate to determine reasonable potential to exceed the Bacteria WQOs. Where monitoring has already been established in previous NPDES permits, reasonable potential analysis is performed, and effluent limitations are being established when there is a reasonable potential for the effluent to exceed the Bacteria WQOs.

The new LREC-1 designation applies to waterbodies where recreation is limited due to physical limitations, such as high flow flood conditions during winter. If the LREC-1 is applied to a waterway, the Bacteria WQOs would be suspended during either a specific timeframe, such as October through March, or specific flow conditions, such flood stage, that reflects when the waterbody is unsuitable for recreation.

The Regional Water Board has the discretion to determine the use to the LREC-1 through a State Water Board prescribed process. To designate a water body or waterbody segment(s) as LREC-1, the

Water Board must conduct a Use Attainability Analysis, which is a structured scientific assessment of the factors affecting the attainment of a water body's designated use, including physical, chemical, biological, and economic factors, in accordance with 40 Code of Federal Regulations section 131.10(g).



Santa Rosa Creek at Prince Gateway Park. Photo by Heaven Moore, NCRWQCB

Once a water body or water body segment is assigned the LREC-1 beneficial use, the Regional Water Board must incorporate new bacteria monitoring requirements and effluent limitations in new and renewing NPDES permits to protect the new beneficial use.

SEDIMENT QUALITY PROVISIONS:

Summary

State Water Board Resolution No. 2018-0028, Adoption of Amendments to the ISWEBE: Sediment Quality Provisions (Sediment Provisions), took effect on March 11, 2019. The Sediment Provisions establish sediment quality objectives to protect aquatic ecosystems and human health from pollutant sources such as discharges from industrial facilities, agricultural activities, municipal wastewater treatment plants, and municipal stormwater sewer systems. The Provisions include:

- a narrative objective protecting resident finfish and wildlife from contaminants in sediments;
- new procedures for implementing the narrative human health objectives applicable to organochlorine pesticides and polychlorinated biphenyls (PCBs) in sediments;
- revisions to the chemical score index implementing the narrative objective for the protection of benthic communities from contaminants in sediments.

Incorporation in NPDES Permits

The Sediment Provisions supersede the current applicable narrative water quality objectives and related implementation provisions in the Basin Plan. Staff are evaluating the impacts of the new Sediment Provisions and will be incorporating the new provisions into future NPDES permits that regulating facilities discharge to inland surface waters, enclosed bays and estuaries.

MERCURY PROVISIONS:

Summary

Effective July 4, 2017, State Water Board Resolution No. 2017-0027 established mercury WQOs to protect the beneficial uses associated with the consumption of fish by both humans and wildlife. Additionally, it established three new beneficial uses: Tribal Traditional Culture (CUL), Tribal Subsistence Fishing (T-SUB), and Subsistence Fishing (SUB) and sets numeric mercury limits for each based on the type of waterbody. The objectives are a new Part 2 of the ISWEBE: Tribal and Subsistence Fishing Beneficial Uses and Mercury Provisions.



Rain Barrel

- **Plant Natives:** Plant drought-tolerant, low water use plants. Natives are recommended since they are adapted to our climate and will demand less resources.
- **Add Mulch:** Make sure to add mulch around plants to help insulate the soil, to provide a buffer from heat, help retain water, and prevents weeds that would otherwise compete for resources.



Mulch

- **Convert your lawn:** Lawn uses a majority of outdoor irrigation because of spray irrigation inefficiencies. Remove lawn, plant natives, and install drip irrigation.
- **Rebate Programs:** Local water utilities offer rebates to help customers conserve water. Check your local

water utilities website to see which rebates are available.

- **Rethink your summer car washing:** Automatic car washes are required by law to properly dispose of their water waste. Everything that's been stuck to your car—gasoline, oil, heavy metal particles, tar, and particulate matter from exhaust fumes—has the potential to flow from your wash area to the nearest storm drain and eventually reach the Russian River. Most commercial car wash facilities will filter rinse water and direct it to a sanitary sewer where it will get treated and possibly reused (recycled water).



Car Wash

For online information about water conservation, green car wash facilities in Sonoma County or to report water waste, go to the Sonoma-Marín Saving Water Partnership website at: <http://www.savingwaterpartnership.org/>



This article was authored by Chad Singleton, of Sonoma Water, on behalf of RRWA.

Enforcement Report for August 2019 Executive Officer's Report

Diana Henriouille

Date Issued	Discharger	Action Type	Violation Type	Status as of July 24, 2019
May 24, 2019	Kostadin Guerginov and Eugeni Ivanov Dragnev	Water Code Section 13267 Order to Submit Information	Unauthorized dredge/fill in surface waters.	Ongoing

Comments: On May 24, 2019, Assistant Executive Officer (AEO) Claudia Villacorta issued a Water Code section 13267 Order directing Kostadin Guerginov and Eugeni Ivanov Dragnev to submit technical information, including a wetland delineation and a cleanup and restoration plan (CRP), for a property in Trinity County, in the Mad River watershed. During an April 26, 2016, inspection, staff observed a bulldozer constructing cut/fill terraces on the property, in and adjacent to surface waters. The 13267 Order requires that the Dischargers submit a wetland delineation plan by July 1, 2019, and a CRP 30 days from Executive Officer (EO) acceptance, of a sufficient wetland delineation. This matter is ongoing.

Date Issued	Discharger	Action Type	Violation Type	Status as of July 24, 2019
June 4, 2019	Jeff McPherson	Notice of Violation	Discharges and/or threatened discharges of waste to surface waters. Non-compliance with the Regional Cannabis Order.	Ongoing

Comments: On June 4, 2019, the chief of the Northern Cannabis Regulatory Unit issued a Notice of Violation (NOV) to Jeff McPherson, for violations of the Water Quality Control Plan for the North Coast Region (Basin Plan), the California Water Code (CWC), and the federal Clean Water Act (CWA) on a property in Trinity County, in the Sequoia hydrologic subarea of the Middle Fork Eel River watershed. During a September 11, 2018, inspection of the property with the California Department of Fish and Wildlife (CDFW) Watershed Enforcement Team (WET), Regional Water Board staff observed evidence of significant land disturbance within an earthflow-stream complex associated with development and operation of a cannabis cultivation site.

The NOV directs Mr. McPherson, within 30 days of receipt of the NOV, to submit an updated Water Resource Protection Plan (WRPP) for the site that includes a plan and schedule to address observed violations. This matter is ongoing.

Date Issued	Discharger	Action Type	Violation Type	Status as of July 24, 2019
June 6, 2019	Hugh Reimers; Krasilsa Pacific Farms LLC	NOV	Discharges and threatened discharges of waste to surface waters. Unauthorized dredge/fill in surface waters.	Ongoing

Comments: On June 6, 2019, AEO Joshua Curtis issued a NOV to Hugh Reimers for violations of the Basin Plan, CWC, and CWA on a property in Sonoma County in the Sulphur Creek hydrologic subarea of the Middle Russian River watershed. During a January 14, 2019, inspection of the site, Regional Water Board staff observed evidence of numerous violations associated with large-scale land disturbance with heavy equipment. The NOV directs Mr. Reimers and Krasilsa Pacific Farms LLC to correct the violations. This matter is ongoing.

Date Issued	Discharger	Action Type	Violation Type	Status as of July 24, 2019
June 10, 2019	Michael Mihos and Tammi Mihos	NOV	Violation of an Order issued pursuant to Health and Safety Code section 25296.10.	Ongoing

Comments: On June 10, 2019, the Chief of the Point Source Control and Groundwater Protection Division issued a NOV to Michael and Tammi Mihos, Trustees of the Michael T. Mihos and Tammi L. Mihos Revocable Living Trust, for failure to submit information required by the EO, pursuant to a Health and Safety Code section 25296.10 Order. The Order requires the Mr. and Mrs. Mihos to provide, in part, a plan and schedule to investigate and clean up groundwater contamination associated with releases from three underground storage tanks at 500 North Main Street, in Fort Bragg. The NOV advises Mr. and Mrs. Mihos of potential liability associated with continued failure to comply with the Order. This matter is ongoing.

Date Issued	Discharger	Action Type	Violation Type	Status as of July 24, 2019
June 17, 2019	Mazari Farms Inc., Flore Farms Inc., and Tobias Hafenecker-Dodge	NOV	Violations of the Regional and Statewide Cannabis Orders.	Ongoing

Comments: On June 17, 2019, the chief of the Enforcement Unit issued a NOV to Mazari Farms Inc., Flore Farms Inc., and Tobias Hafenecker-Dodge for violations of Regional Order No. R1-2015-0023, State Board Order No. WQ 2017-0023-DWQ, the Basin Plan, the CWC, and the CWA on a property in the Benbow hydrologic subarea of the South Fork Eel River watershed.

On April 2018 and March 2019 inspections, Regional Water Board staff observed numerous, continuing impacts and threatened impacts to water quality associated with site development and use for cannabis cultivation and associated activities. The NOV directs the dischargers to modify enrollment under the statewide cannabis Order to correctly reflect site conditions, and to submit a Site Management Plan, Disturbed Area Stabilization Plan, and a Site Erosion and Sediment Control Plan. This matter is ongoing.

Date Issued	Discharger	Action Type	Violation Type	Status as of July 24, 2019
June 27, 2019	Robert McKee	NOV	Discharges and threatened discharges of waste to receiving waters.	Ongoing

Comments: On June 27, 2019, the chief of the Southern Nonpoint Source and Forestry Unit issued a NOV to Robert McKee for violations of the Basin Plan and the CWC on a property in the Middle Main Eel River watershed near Redcrest. On March 25, 2019, Regional Water Board staff participated in a Pre-Harvest Inspection (PHI) of the site (Holmes #2 THP) and observed, in part, uncovered/uncontained waste and refuse associated with cannabis cultivation in and where they could deliver into surface waters. The NOV directs the discharger to remove and properly dispose of cannabis cultivation-related wastes and to provide a report documenting this corrective action. This matter is ongoing.

Date Issued	Discharger	Action Type	Violation Type	Status as of July 24, 2019
July 2, 2019	Dean Soiland; Bodean Company, Inc.	NOV	Violations of Order No. 2014-0057 DWQ General Permit for Storm Water Discharges Associated with Industrial Activities (Industrial General Permit)	Ongoing

Comments: On July 2, 2019, AEO Villacorta issued a NOV, on behalf of the Chief of the Point Source Control and Groundwater Protection Division, to Dean Soiland and the Bodean Company, Inc., for violations of the Industrial General Permit at the Blue Rock Quarry, in Forestville, in the Green Valley Creek subwatershed of the Russian River watershed. On a December 17, 2018, inspection, Regional Water Board staff observed turbid water downstream of the facility, and confirmed through sampling, a violation of the Basin Plan turbidity objective, with downstream turbidity measurement 357 percent higher than the upstream turbidity measurement. Violation of the Basin Plan objective demonstrated corresponding violations of Discharge Prohibitions, Effluent Limitations, and Receiving Water Limitations of the Industrial General Permit. The NOV advises the dischargers of potential liability associated with violations of the CWA and the Industrial General Permit.

Projected List of Future Regional Water Board Agenda Items

The following is a list of Regional Water Board agenda items that staff are planning for the October and December Board meetings in 2019. **This list of agenda items is intended for general planning purposes and is subject to change.** Questions regarding the listed agenda items should be addressed to the identified staff person.

October 17 – 18, 2019 (Weaverville, CA)

- Supplemental Environmental Project List and update on Enforcement priorities (*Diana Henriouille*) [A]
- Humboldt State University Telonicher Lab NPDES Permit (*Cathy Goodwin*) [A]
- Arcata NPDES (*Justin McSmith*) [A]
- Update on Status of Implementation of the Scott & Shasta River TMDL Waivers (*Eli Scott*) [I]

December 18 – 19, 2019 (Santa Rosa, CA)

- Lewiston CSD WDRs (*Roy O'Connor*) [A]
- County of Sonoma LAMP (*Charles Reed*) [A]
- Town of Scotia WWTP NPDES (*Justin McSmith*) [A]
- Green Diamond Elk River WDR (*Jim Burke*) [A]
- South Coast SWDS WDRs Reissuance (*Terri Cia*) [A]
- UC Davis Bodega Marine Lab NPDES Permit Reissuance (*Cathy Goodwin*) [A]
- Loleta CSD WWTP (*Justin McSmith*) [A]
- Stitz Creek WDRs (*Maggie Robinson*) [A]
- Aging Wastewater & Water Supply Infrastructure (*Rachel Prat*) [I]
- Cannabis Economics (*Christopher Dillis*) [I]
- Smith River Plain Water Quality Management Plan (Ben Zabinsky & Clayton Creager) [I]
- Draft 303(d)/305(b) Integrated Report (*Katharine Carter*) [I]