

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
NORTH COAST REGION**

**Cleanup and Abatement and
Investigative Order No. R1-2024-0033**

for

**Laurence Istas, Yesenia Carrillo and Raul Carrillo
Assessor Parcel Number 032-293-15-00
Mendocino County**

This Cleanup and Abatement and Investigative Order (No. R1-2024-0033, the Order) is issued to Laurence Istas, Yesenia Carrillo and Raul Carrillo (hereafter referred to as the Dischargers) based on provisions of Water Code section 13304, which authorizes the North Coast Regional Water Quality Control Board (Regional Water Board) to issue a cleanup and abatement order, and Water Code section 13267, which authorizes the Regional Water Board to issue investigative orders requiring the preparation and submittal of technical and monitoring reports.

The Executive Officer finds, with respect to the Dischargers' acts, or failure to act, the following:

PURPOSE OF THE ORDER

1. This Order requires the Dischargers to clean up and abate the effects of sediment and other cultivation waste from inadequately constructed or maintained cultivation pads, roads, stream crossings and reservoirs on Mendocino County Assessor's Parcel Number 032-293-15-00 (hereafter the Property) and eliminate the threat of future discharges to tributaries of Black Butte River and the Middle Fork Eel River. Investigation and cleanup actions required under this Order shall be conducted to comply with the Porter-Cologne Water Quality Control Act (Wat. Code § 13000 *et seq.*), the *Water Quality Control Plan for the North Coast Region* (Basin Plan¹), State Water Resources Control Board (State Water Board) Resolution 92-49 *Policies and Procedures for Investigation and Cleanup and Abatement of Discharges under Water Code Section 13304* (Resolution 92-49), and other applicable State and Regional Water Board plans, policies, and regulations.

Property Location and Description

2. The Property is located east of the town of Covelo in Mendocino County less than two miles north of the Black Butte River, approximately three miles east and upstream from its confluence with the Middle Fork Eel River. The Middle Fork Eel River, Black Butte River and tributaries there-to are waters of the state, as well as waters of the United States (references hereafter to waters of the United States are

¹ The [Basin Plan](https://www.waterboards.ca.gov/northcoast/water_issues/programs/basin_plan/) can be found at:
(https://www.waterboards.ca.gov/northcoast/water_issues/programs/basin_plan/)

also waters of the state).² The Middle Fork Eel River is Clean Water Act section 303(d)-listed as impaired due to elevated sedimentation and temperature. In December of 2003, the U.S. Environmental Protection Agency established Total Maximum Daily Loads (TMDLs) for temperature and sediment for the Middle Fork Eel River and its tributaries. The TMDLs indicate that the cold freshwater habitat is the most sensitive of beneficial uses in the watershed. As such, protection of this beneficial use is presumed to protect any of the other beneficial uses that might also be harmed by sedimentation.

Responsible Parties

3. This Order finds that the Dischargers are responsible parties for discharging waste in violation of a Regional Water Board prohibition and creating conditions that are threatening to cause or permit the discharge of waste and creating a condition of pollution, and are all jointly and severally liable based on the following:
 - a. Parcel information available from the Mendocino County Assessor's Office indicates that Laurence Istas purchased the property in 1994.
 - b. Aerial images presented in the Inspection Report included in Attachment 1 show the following: a constructed cultivation pad encroaching on a watercourse as early as July 9, 2012; wetlands dredged between July 12, 2012 and May 30, 2014; and an onstream reservoir and additional cultivation pads constructed between June 8, 2016 and August 17, 2017. These land developments occurred during a time that the Property was owned by Laurence Istas.
 - c. Parcel information available from the Mendocino County Assessor's Office, as accessed via Digital Map Products' LandVision online service, indicates that Yesenia Carrillo and Raul Carrillo purchased the Property from Laurence Istas on August 27, 2019. Yesenia Carrillo and Raul Carrillo owned the Property during Regional Water Board staff's (hereinafter Staff) inspection in 2023.
 - d. Aerial images presented in the Inspection Report included in Attachment 1 show hoop-type greenhouses constructed during the time that Yesenia Carrillo

² The Regional Water Board administers and enforces the Clean Water Act (CWA). The CWA regulates what it refers to as "navigable waters" and defines those water as "waters of the United States." "Waters of the United States" has been interpreted broadly by the agencies responsible for implementing the CWA to include all traditionally navigable waters and their tributaries. (40 C.F.R. 122.2) The Porter-Cologne Water Quality Control Act provides the Regional Water Board additional authority to regulate discharges of waste into "waters of the state." (Wat. Code § 13260) The term "waters of the state" is defined as "any surface water or groundwater, including saline waters, within the boundaries of the state." (Wat. Code § 13050 subd. (e).) All waters of the United States that are within the borders of California are also waters of the state for purposes of the Porter-Cologne Water Quality Control Act.

and Raul Carrillo owned the Property between February 26, 2020, and July 1, 2021.

- e. Parcel information available from the Mendocino County Assessor's Office, as accessed via Digital Map Products' LandVision online service, indicates that Laurence Istas regained ownership through foreclosure proceedings from Yesenia Carrillo and Raul Carrillo on February 22, 2024. Laurence Istas currently owns the Property.
- f. For purposes of this Order, the Regional Water Board is naming the Dischargers as responsible parties on the basis that they owned the Property at the time of discharges and/or currently own the Property where there exist threatened discharges that could cause or permit the discharge of waste creating a condition of pollution or nuisance. The Dischargers had or should have had knowledge of the activities that resulted in the discharges and threatened discharges. The Dischargers have legal responsibility and dischargers Carrillo had, and discharger Istas has, the legal authority to prevent the discharges and threatened discharges from occurring on the Property.
- g. The Regional Water Board reserves the right to amend this Order, or issue a subsequent Order, to add additional responsible parties when/if those parties are identified.

Factual Basis of Order

4. Staff inspected the Property on May 9, 2023 during the execution of a search warrant obtained by California Department of Fish and Wildlife (CDFW) law enforcement. The purpose of the Staff 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. On August 9, 2023 the Regional Water Board transmitted a report of the inspection and a Notice of Violation to Yesenia Carrillo and Raul Carrillo (Attachment 1). On April 2, 2024, after Staff discovered that Laurance Istas foreclosed on the property pursuant to a seller carry back provision in the real estate agreement, the Regional Water Board transmitted a report of the inspection and a Notice of Violation to Laurence Istas (Attachment 2). The conditions observed at the Property, as documented in the Regional Water Board inspection report, included the following:
 - a. Refuse discharged to land where it threatens to be transported to receiving watercourses;

- b. Controllable sediment sources³ associated with a road ford⁴; constructed earthen pads; poorly designed roads and culverted stream crossings from where sediment has discharged, and threatens to discharge to receiving watercourses that have exceeded their capacity for fine sediment to the detriment of the most sensitive beneficial uses in the watershed;
- c. Cannabis cultivation waste discharged and threatening to discharge into watercourses at multiple locations;
- d. Unauthorized dredge and fill in a watercourse and suspected wetlands to facilitate the unauthorized diversion of surface water.

Beneficial Uses, Basin Plan Prohibitions, and Water Quality Objectives

- 5. The Basin Plan designates beneficial uses, establishes water quality objectives, contains implementation programs for achieving objectives, and incorporates by reference the plans and policies adopted by the Regional Water Board.
 - a. Existing and potential beneficial uses for the Black Butte River Hydrologic Subarea within the Eel River Hydrologic Unit include the following: Municipal and Domestic Supply (MUN), Agricultural Supply (AGR), Industrial Service Supply (IND), Industrial Process Supply (PRO), Freshwater Replenishment (FRSH), Navigation (NAV), Hydropower Generation (POW), Water Contact Recreation (REC1), Non-Contact Water Recreation (REC2), Commercial or Sport Fishing (COMM), Warm Freshwater Habitat (WARM), Cold Freshwater Habitat (COLD), Wildlife Habitat (WILD), Rare, Threatened, or Endangered Species (RARE), Migration of Aquatic Organisms (MIGR), Spawning, Reproduction, and/or Early Development (SPWN), and Aquaculture (AQUA). Beneficial uses of any specifically identified water body generally apply to all its tributaries. Additionally, Native American Culture (CUL); Flood peak attenuation/Flood Water Storage (FLD); and Wetland habitat (WET) applies to all watersheds where those uses exist and have the potential to exist.
 - b. The Basin Plan contains specific standards and provisions for maintaining high-quality waters of the state that provide protection to the beneficial uses listed above. The Basin Plan's Action Plan for Logging, Construction, and Associated

³ Controllable sediment delivery sites are generally areas that are discharging or have the potential to discharge sediment to waters of the state, that are caused or affected by human activity, and may feasibly and reasonably respond to prevention and minimization management measures.

⁴ A ford is a shallow portion of stream used as a crossing by a vehicle. Fords may be unimproved (crossing of the natural streambed) or improved (crossing over material brought in to modify the streambed).

Activities (Action Plan) includes two waste discharge prohibitions (See section 4.2.1 of the Basin Plan):

- i. Prohibition 1 – “The discharge of soil, silt, bark, slash, sawdust, or other organic and earthen material from any logging, construction, or associated activity of whatever nature into any stream or watercourse in the basin in quantities deleterious to fish, wildlife, or other beneficial uses is prohibited.”
 - ii. Prohibition 2 – “The 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 is prohibited.”
- c. Chapter 3 of the Basin Plan contains water quality objectives not to be exceeded as a result of waste discharges. The water quality objectives that are considered of particular importance in protecting the beneficial uses from unreasonable effects due to waste discharges from land development include the following:
- i. Sediment: “The suspended sediment load and suspended sediment discharge rate of surface waters shall not be altered in such a manner as to cause nuisance or adversely affect beneficial uses.”
 - ii. Settleable Material: “Waters shall not contain substances in concentrations that result in deposition of material that causes nuisance or adversely affect beneficial uses.”
 - iii. Suspended Material: “Waters shall not contain suspended material in concentrations that cause nuisance or adversely affect beneficial uses.”
 - iv. Turbidity: “Turbidity shall not be increased more than 20 percent above naturally occurring background levels. Allowable zones of dilution within which higher percentages can be tolerated may be defined for specific discharges upon the issuance of discharge permits or waiver thereof.”

Regional Water Board and State Water Board Resolutions

6. As part of the Regional Water Board’s efforts to control sediment waste discharges and restore sediment-impaired water bodies, the Regional Water Board adopted the *Total Maximum Daily Load Implementation Policy Statement for Sediment Impaired Receiving Waters in the North Coast Region*, which is also known as the Sediment TMDL Implementation Policy, on November 29, 2004. This Policy was adopted through Resolution R1-2004-0087. The Sediment TMDL Implementation Policy directs the Executive Officer to use “all available authorities, including existing regulatory standards and permitting and enforcement tools, to more effectively and efficaciously pursue compliance with sediment-related standards by all dischargers

of sediment waste.” The goals of the policy are to control sediment waste discharges to impaired water bodies so that the TMDLs are met, sediment water quality objectives are attained, and beneficial uses are no longer adversely affected by sediment.

7. To address sources of elevated water temperature to reduce impairments to waters of the state and prevent further impairment, the Regional Water Board adopted the *Policy for Implementation of the Water Quality Objective for Temperature in the North Coast Region* (Temperature Implementation Policy) through Resolution R1-2014-0006. To attain and maintain the water quality objectives for temperature, the policy directs the Regional Water Board to implement programs and collaborate with others to prevent, minimize, and mitigate temperature alterations associated with certain activities, including, but not limited to, activities that result in either the removal of riparian vegetation that provide shade to a waterbody, sediment discharges, impoundments and other channel alterations, reduction of instream summer flows, and/or reduction of cold water sources.
8. State Water Board Resolution 92-49 sets forth the policies and procedures to be used during an investigation and cleanup of a polluted site and requires that cleanup levels be consistent with State Water Board Resolution 68-16, the *Statement of Policy with Respect to Maintaining High Quality Waters in California* (Resolution 68-16). Resolution 92-49 requires the waste to be cleaned up in a manner that promotes attainment of either background water quality, or the best water quality that is reasonable if background levels of water quality cannot be restored. Any alternative cleanup level to background must: (1) be consistent with the maximum benefit to the people of the state; (2) not unreasonably affect present and anticipated beneficial use of such water; and (3) not result in water quality less than that prescribed in the Basin Plan and applicable Water Quality Control Plans and Policies of the State Water Board. Resolution 92-49 directs that investigations and cleanup and abatement proceed in a progressive sequence. To the extent practical, it directs the Regional Water Board to require and review for adequacy written work plans for each element and phase, and the written reports that describe the results of each phase of the investigation and cleanup.

Legal Basis of the Order

9. Water Code section 13304, subdivision (a), states, in relevant part, “any person who has discharged or discharges waste into waters of this state in violation of any waste discharge requirements or other order or prohibition issued by a regional board or the state board, or who has caused or permitted, causes or permits, or threatens to cause or permit any waste to be discharged or deposited where it is, or probably will be, discharged into the waters of the state and causes, or threatens to create, a condition of pollution or nuisance, shall upon order of the regional board clean up the waste or abate the effects of the waste, or, in the case of threatened

pollution or nuisance, take other necessary remedial action, including, but not limited to, overseeing cleanup and abatement efforts.”

10. “Waste,” as defined by Water Code section 13050, subdivision (d), includes “sewage and any and all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing, or processing operation, including waste placed within containers of whatever nature prior to, and for the purpose of, disposal.” Earthen material, including sediment, when discharged to waters of the state, is a “waste” as defined in Water Code section 13050, subdivision (d). The Dischargers have caused or permitted waste to be discharged or deposited where it is or probably will be, discharged to tributaries of the Middle Fork Eel River.
11. “Pollution” is defined in Water Code section 13050, subdivision (l)(1), as an alteration of the quality of the waters of the state by waste to a degree that unreasonably affects either the waters for beneficial use, or facilities which serve these beneficial uses. Earthen material from the unauthorized construction of an onstream reservoir and unauthorized cannabis cultivation activities on the Property has discharged, and still has the potential to discharge, into unnamed watercourses tributary to the Middle Fork Eel River, creating or threatening to create a condition of pollution by unreasonably affecting the beneficial uses of waters of the state. Additionally, the unauthorized dredging of wetlands creates a condition of pollution by unreasonably affecting the beneficial uses of these wetlands as waters of the state.
 - a. Discharges of sediment and other inert material alter the hydrologic and sediment transport regimes of surface waters by affecting the flow of water and establishment of vegetation. Such changes may lead to adverse conditions such as flooding, increases in suspended sediment and turbidity, accelerated erosion of the watercourse bed or banks, and localized accumulation of deleterious materials. Additionally, such discharges directly threaten wildlife habitat and aquatic species (Beneficial Uses impacted: RARE, MIGR, SPWN, COLD, COMM, and WILD). Increased sedimentation and turbidity can result in increased treatment and/or maintenance costs for downstream agricultural and municipal users that withdraw and treat the water (Beneficial Uses impacted: AGR and MUN). Sediment laden storm water discharges to surface water and the resulting turbidity can also affect the recreational and aesthetic enjoyment of the surface waters (Beneficial Uses impacted: REC-1 and REC-2).
 - b. The discharge of organic and earthen material in the Eel River watershed is especially problematic because, as noted above, the Middle Fork Eel River is listed as an impaired water body under Section 303, subdivision (d), of the Clean Water Act due to several pollutants, including sedimentation/siltation and high-water temperatures. Sediment delivery impacts the migration, spawning, reproduction, and early development of cold-water fish.

- c. Suspended sediment in surface waters can cause harm to aquatic organisms by abrasion of surface membranes and interference with respiration and sensory perception in aquatic fauna. Suspended sediment can reduce photosynthesis in and survival of aquatic life by limiting the transmittance of light. The Basin Plan contains a water quality objective for sediment which requires that the suspended sediment load and suspended sediment discharge rate of surface waters shall not be altered in such a manner as to cause nuisance or adversely affect beneficial uses. Suspended sediment can result in (1) increased turbidity (loss of clarity) resulting in decreased light transmittance, biological productivity, and aesthetic value; and (2) physical suffocation through burial of bottom dwelling (benthic) organisms, salmonid eggs, and alevin (newly spawned salmon or trout still carrying its yolk). Sediment can also physically damage gills causing fish mortality; increase physiological stress; reduce reproduction; impair normal feeding and predator avoidance behaviors, resulting in impacts to commercial and recreational fishing resources; increase water temperature; and fill in lagoons and wetlands converting them from aquatic to terrestrial habitat. These water quality impacts occur both during sediment transport and sediment deposition.
 - d. Sediment is also a known transport mechanism for toxics (e.g., metals and synthetic organics), which bind to sediment particles (Beneficial Uses impacted: REC1, REC-2, COLD, SPWN, RARE, MIGR, COMM, MUN, and WILD).
12. Cleanup and abatement is necessary to ensure that any existing condition of pollution is cleaned up, that the threat of unauthorized discharges to waters of the state from the Property are prevented, background water quality conditions are restored, and that any impacts to beneficial uses are mitigated. Issuance of a cleanup and abatement order pursuant to Water Code section 13304 is appropriate and consistent with the policies of the Regional Water Board and State Water Board.

Technical Reports Required

13. Water Code section 13267, subdivision (a), provides that the Regional Water Board, “in establishing or reviewing any water quality control plan or waste discharge requirements, or in connection with any action relating to any plan or requirement authorized by this division [Division 7], may investigate the quality of any water of the state within its region.” Water Code section 13267, subdivision (b), provides that the Regional Water Board, in conducting an investigation may require a discharger to furnish, under penalty of perjury, technical or monitoring program reports. The burden, including costs, of these technical reports shall bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports. Staff estimates the total cost of technical reports required by this Order to

be between \$13,620 to \$49,840⁵ over seven years. The costs of the technical or monitoring reports required by this Order bear a reasonable relationship to the need for these reports and the benefit to be gained by these reports, as discussed below:

- a. The Interim Stabilization Plan is a technical report that is necessary to gain Executive Officer authorization to conduct work to stabilize the site and prevent further discharges and threatened discharges of waste to waters of the state, prior to the full implementation of the Cleanup Restoration and Monitoring Plan described in item b, which might not occur until 2025. Implementation of this plan will reduce the threat of discharges of fine sediment to surface waters during the upcoming wet weather season. The Interim Stabilization Plan shall be prepared by an appropriately licensed professional for the completion of cleanup and stabilization measures necessary to clean up wastes, and to prevent further erosion and discharge of sediment to receiving waters during the 2024/2025 wet weather period. The plan requirements (i.e., field inspection and report preparation) are comparable to that of preparing a Site Erosion and Sediment Control Plan as presented in the 2017 Direct Cost Analysis⁵, which Staff estimates will cost between \$1,200 to \$2,400. .
- b. The Cleanup, Restoration and Monitoring Plan (CRMP) is a technical report that is necessary to: (1) assess impacts to waters of the state resulting from the cannabis cultivation, alteration of the bed and bank of watercourses, and the discharge and threatened discharge of sediment and cannabis cultivation waste; (2) determine the appropriate restoration and abatement work to correct those impacts; and (3) create a plan along with an implementation schedule that will guide the scope of work to clean up and abate the discharges and threat of discharges of waste on the Property. By requiring the Dischargers to submit a CRMP, the Regional Water Board or its delegated officer will have the opportunity to review and approve the scope of the proposed restoration and corrective actions to confirm that the proposed work will adequately remediate site conditions and prevent the discharges of sediment and other wastes from

⁵ The State Water Board considered the estimated costs associated with various technical reports regarding site characterization, stabilization, and restoration during the adoption and amendment of the State Water Resources Control Board Cannabis Cultivation Policy Principles and Guidelines for Cannabis Cultivation and General Order. Estimated costs for technical reports were presented in the [State Water Board's 2017 Direct Cost Analysis For the Proposed Cannabis Cultivation Policy \(2017 Direct Cost Analysis\)](http://www.waterboards.ca.gov/water_issues/programs/cannabis/docs/policy/20171017_cannabis_cultivation_policy_cost_analysis.pdf) (www.waterboards.ca.gov/water_issues/programs/cannabis/docs/policy/20171017_cannabis_cultivation_policy_cost_analysis.pdf). The costs to develop the technical reports required in this Order are anticipated to be comparable to the preparation of reports presented in the 2017 Direct Cost Analysis, as detailed in Paragraph 24, subparagraphs a-d.

further impacting the beneficial uses of sensitive water bodies. As previously mentioned, the Middle Fork Eel River and its tributaries are Clean Water Act section 303(d)-listed as impaired due to elevated sedimentation/siltation and elevated temperature, thereby heightening the need for this technical report in order to reduce further impairment to waters of the state. The CRMP requirements (i.e., field inspection and report preparation) are comparable to that of preparing a combined Site Management Plan, Site Erosion and Sediment Control Plan, and Disturbed Area Stabilization Plan as presented in the 2017 Direct Cost Analysis⁵, which is estimated to cost between \$4,860 and \$14,120.

- c. Separate Completion Reports are necessary to demonstrate that the Dischargers have successfully completed implementation of the Interim Stabilization Plan and the CRMP in a timely manner in accordance with this Order. The benefit derived from a Completion Report is the Regional Water Board's, or its delegated officer's, ability to verify that remedial activities and best management practices were adequately implemented to ensure that cleanup and abatement activities remedy all water quality threats and impacts. Separate Completion Reports for the Interim Stabilization Plan and the CRMP are needed because the Interim Stabilization Plan and the CRMP will cover different scopes of work and be completed approximately one year apart. The cost of a Completion Reports (i.e., field inspection and report preparation) is comparable to that of a Site Closure Report as described in the 2017 Direct Cost Analysis described above, which is estimated to cost between \$1,080 and \$4,760 each. Therefore, the estimated cost to prepare two Completion Reports is between \$2,160 and \$9,520.
 - d. Annual Monitoring Reports are necessary to allow the Regional Water Board, or its delegated officer, to confirm the long-term stability of restored areas, to identify any areas where restoration is failing or needs improvement, and to demonstrate the effectiveness of erosion control measures in preventing sediment discharges to waters of the state. Given the condition of the Property as a result of the Dischargers' activities, observation and maintenance of the completed project for a period of five years is needed to ensure that the anticipated water quality benefits are achieved in the long-term and that CRMP components continue to function and remain effective. The cost to prepare an Annual Monitoring Report (i.e., field inspection and report preparation) are comparable to that of a Site Closure Report as presented in the 2017 Direct Cost Analysis, which is estimated to cost between \$1,080-\$4,760. Therefore, the cost to prepare five Annual Monitoring Reports is estimated to be between \$5,400 and \$23,800.
14. The Dischargers named in this Order currently own the Property and/or owned the Property at the time of Regional Water Board staff's inspections during which the

discharges and threatened discharges were observed, and thus are appropriately responsible for providing the reports.

California Environmental Quality Act

15. Issuance of this Order is an enforcement action by a regulatory agency to enforce the regulatory provisions of the Basin Plan, and is exempt from provisions of the California Environmental Quality Act (CEQA) (Pub. Resources Code § 21000 et seq.) in accordance with California Code of Regulations, title 14, section 15321. This action may also be considered exempt because it involves minor alterations to land and/or is an action by a regulatory agency for the protection of natural resources and an action by a regulatory agency for the protection of the environment (Cal. Code Regs., tit. 14, §§ 15304, 15307, & 15308). To the extent that the Order requires earth-disturbing and revegetation activities not to exceed five acres in size and to assure restoration of stream habitat and prevent erosion, such actions are exempt from provisions of CEQA pursuant to California Code of Regulations, title 14, section 15333. Should additional environmental review be required by the Regional Water Board in connection with future discretionary regulatory actions at the Property, the Regional Water Board may recover the costs associated with preparing and processing environmental documents from the Dischargers (Pub. Resources Code, § 21089).

REQUIRED ACTIONS

IT IS HEREBY ORDERED, pursuant to Water Code sections 13267 and 13304, that the Dischargers shall clean up the wastes and abate the impacts to water quality in accordance with the scope and schedule set forth below and provide the following information.

1. **Submit an Interim Stabilization Plan:** Within 60 days of issuance of this Order, the Dischargers shall submit a proposed Interim Stabilization Plan for approval by the Regional Water Board or its delegated officer. The Interim Stabilization Plan shall be prepared by an appropriately licensed professional and shall describe immediate cleanup and stabilization measures necessary to clean up wastes, including trash, disperse concentrated stormwater, and prevent further erosion and discharges of sediment and other pollutants. The Interim Stabilization Plan is generally intended for the type and scope of work that would not require additional permitting from the Regional Water Board. The Interim Stabilization Plan shall include, at a minimum:
 - a. A site map depicting topography, watercourses, roads, stream crossings, graded/disturbed surfaces, areas of accumulated refuse, areas of human waste disposal and/or domestic waste treatment systems, and areas of fertilizer and potting soil accumulation.

- b. Identification of locations of controllable sediment delivery sites³ or other sites where waste has discharged or threatens to discharge to waters of the state; and
 - c. Identification of all areas of immediate concern, using the above information, along with proposed cleanup and stabilization measures to be implemented at each area of concern. Cleanup and stabilization measures shall include, but not be limited to:
 - i. Installation of water breaks designed to reduce road surface erosion by diverting storm water runoff from the road surface and directing it to a safe discharge area;
 - ii. Hydrologic disconnection of road drainage from waters of the state;
 - iii. Stabilization of disturbed areas with appropriate erosion control measures to protect the disturbed areas from the forces of rain drop impact and overland flow;
 - iv. Prevention of discharges of sediment, stagnant water, and other wastes to surface waters; and
 - v. Ensuring the proper storage and containment of petroleum products, chemicals, pesticides, waste piles, potting soil, and soil amendments and fertilizers to avoid transport into surface waters – this includes proper disposal of waste materials, including empty or partially used containers per manufacturer and waste disposal guidelines.
 - d. A monitoring plan and schedule to regularly inspect the Property to determine if actions are being implemented as planned, evaluate the effectiveness of cleanup and stabilization measures and corrective actions, and identify where additional work and maintenance of site cleanup and stabilization measures may be needed.
2. **Complete Implementation of the Interim Stabilization Plan:** The Dischargers shall obtain approval of the Interim Stabilization Plan from the Regional Water Board and complete the work specified in the approved Interim Stabilization Plan by October 15, 2024.
 3. **Submit Completion Report for Interim Stabilization Plan:** No more than 45 days after completion of the work specified in the Interim Stabilization Plan, the Dischargers shall provide a report of completion of the measures outlined in the Interim Stabilization Plan for approval by the Regional Water Board or its delegated officer. This report shall include a written summary and photographs of the completed cleanup and stabilization measures.

4. **Submit a Cleanup, Restoration, and Monitoring Plan:** By March 31, 2025, the Dischargers shall submit to the Regional Water Board for approval, a proposed Cleanup, Restoration, and Monitoring Plan (CRMP) acceptable to the Regional Water Board or its delegated officer. The CRMP shall include but not be limited to:
- a. An assessment of any direct and indirect impacts to any waters of the state on the Property, including, but not limited to, rivers, streams, seeps, springs, bogs, and wetlands, caused by developed features used for cannabis cultivation activities such as greenhouse/cultivation areas, roads, reservoirs and all other disturbed areas on the Property; and identify controllable sediment sources that can be practicably treated/stabilized to prevent future discharges to receiving waters. The assessment shall characterize the location and quality of the watercourses and wetlands on the Property before the impacts occurred and their current conditions. The assessment shall be completed by an appropriately qualified professional and must, at a minimum, address surface water hydrology, bed and bank stability, riparian and aquatic habitat and loss thereof, channel slope stability, active or potential erosion and sedimentation sites, stability of graded and disturbed features, culverts, and other stream crossings, as well as roads and all disturbed areas on the Property.

The assessment shall include aerial photographs and/or satellite images, photographs, forensic wetland delineation reports⁶, topographic maps, and drawings, etc., of existing Property conditions, and include a detailed map of features accurately depicting the Property's topography, all graded surfaces, all waters of the state and waters of the United States, drainages, stream crossings, instream structures, and the functional status of these features. Assessment findings shall serve as the basis for the CRMP;

- b. A plan for Property restoration, including a description of how long-term impacts from erosion and sedimentation sources will be abated (e.g., re-grading and reengineering, graveling or paving road surface, etc.), as well as a proposal to restore beneficial uses of any waters of the state on the Property that were adversely impacted or threatened by unauthorized site development/disturbance activities, including the tributaries to the Eel River and any springs, seeps, bogs, or wetlands (e.g. restoration of the stream channels and any adjoining wetlands). The plan shall contain, at a minimum, design specifications for: roads, graded areas, any water crossings, in-stream structures, riparian and aquatic habitat restoration, surface drainage controls,

⁶ A wetland delineation acceptable to the Executive Officer that is developed by a professional wetland specialist with experience in wetland delineation; pursuant to the methodology described in the United States Army Corps of Engineers Wetlands Research Program Technical Report Y-87-1, Section F. Atypical situations (pages 73-83).

and erosion and sediment controls. The CRMP shall comply with the design standards and requirements included in the Cannabis Cultivation Policy⁷ and the State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State (State Wetland Definition and Procedures⁸).

- c. A proposal to provide mitigation to compensate for any permanent impacts to waters of the state that resulted from unauthorized activities on the Property. Compensatory mitigation shall comply with the state's No Net Loss Policy, the State Wetland Definition and Procedures and be developed in accordance with the United States Army Corps of Engineers Regulatory Program Standard Operating Procedure for Determination of Mitigation Ratios (12501-SPD)⁹; The Compensatory Mitigation Proposal shall (1) describe existing and proposed site conditions at the proposed mitigation sites; (2) describe implementation methods used to provide compensatory mitigation; (3) include a land use covenant, deed restriction, or other legal mechanism to preserve all mitigation sites in place and in perpetuity; (4) include photo point monitoring that will document success of the compensatory mitigation; and (5) the submittal of monthly progress updates due on the 1st of each month until all required construction activities are completed.
- d. An implementation schedule that includes a time schedule for submitting permit applications to all applicable local, state¹⁰, and federal agencies, necessary and, detailed project milestones to fulfill the requirements of this Order once those permits are obtained and a deadline for having fully implemented and completed the CRMP.

⁷ 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)

⁸ The [State Wetland Definition and Procedures](https://www.waterboards.ca.gov/water_issues/programs/cwa401/docs/2021/procedures.pdf) can be found online at:
(https://www.waterboards.ca.gov/water_issues/programs/cwa401/docs/2021/procedures.pdf)

⁹ The [12501-SPD](https://www.spd.usace.army.mil/Portals/13/docs/regulatory/qmsref/ratio/12501-SPD.pdf) can be found online at:
(<https://www.spd.usace.army.mil/Portals/13/docs/regulatory/qmsref/ratio/12501-SPD.pdf>)

¹⁰ The Dischargers shall obtain a Water Quality Certification /Waste Discharge Requirements (WQC/WDR) prior to implementing the instream work associated with the CRMP. The [application for WQC/WDR](https://www.waterboards.ca.gov/northcoast/water_issues/programs/water_quality_certification/pdf/Final20201210_ADA401Application.docx) can be found at:
(https://www.waterboards.ca.gov/northcoast/water_issues/programs/water_quality_certification/pdf/Final20201210_ADA401Application.docx)

5. **Modifications to the approved CRMP:** The Dischargers shall notify and obtain approval from the Regional Water Board or its delegated officer at least 30 days prior to making any modifications to the approved CRMP.
6. **Complete the Cleanup and Restoration:** By October 15, 2025, the Dischargers shall complete all work to clean up and abate the Property contained in the CRMP as approved by the Regional Water Board or its delegated officer.
7. **Completion Report for the CRMP:** No more than 60 days after completing implementation of the CRMP, the Dischargers shall submit a Completion Report for the CRMP for approval by the Regional Water Board or its delegated officer. The Completion Report shall include accurate depictions, documentation, and as-built designs of all completed restoration construction and/or abatement measures included in the approved CRMP to demonstrate the CRMP has been fully implemented. This report shall also include pre- and post-construction photographs taken at each photo point, as depicted on site maps/figures.
8. **Annual Monitoring Reports:** Upon completion of the restoration and mitigation under the CRMP, the Dischargers shall submit annual monitoring reports by January 31 of each year, beginning in 2027, for at least five years or until the Regional Water Board or its delegated officer approves a request to discontinue monitoring. Such a request may be submitted when the approved success criteria in the CRMP are met with supporting documentation. Each annual monitoring report shall include, at a minimum, a completed inspection checklist, photos of areas restored, a description of any locations where restoration is failing and/or needs to be corrected to achieve the success criteria.

GENERAL REQUIREMENTS AND NOTICES

1. **Duty to Use Qualified Professionals:** The Dischargers shall provide documentation that identifies plans and reports required under this Order are prepared under the direction of appropriately qualified professionals. As required by the California Business and Professions Code sections 6735, 7835, and 7835.1, engineering and geologic evaluations and judgments shall be performed by or under the direction of registered professionals competent and proficient in the fields pertinent to the required activities. The Dischargers shall include a statement of qualification and registration numbers of the responsible lead professionals in all plans and reports required under this Order. The lead professional shall sign and affix their registration stamp to the report, plan, or document. The required activities must be implemented by the appropriately qualified/licensed professional as otherwise required by law.
2. **Signatory Requirements:** All technical reports submitted by the Dischargers shall include a cover letter signed by the Dischargers, or a duly authorized representative, certifying under penalty of law that the signer has examined and is

familiar with the report and that to his/her knowledge, the report is true, complete, and accurate. The Dischargers shall also state in the cover letter whether he/she will implement the recommendations/proposals provided in the report and the schedule for implementation. Any person signing a document submitted under this Order shall make the following certification:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my knowledge and on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

3. **Notice of Onsite Work:** The Dischargers, or a duly authorized agent, shall notify Regional Water Board staff at least 48 hours prior to any onsite work, testing, or sampling that pertains to environmental remediation and investigation and is not routine monitoring, maintenance, or inspection. The Dischargers shall contact Brian Fuller at (707) 576-2806 or by email Brian.Fuller@waterboards.ca.gov.
4. **Notice of Change in Ownership or Occupancy:** The Dischargers shall file a written report on any changes in the Property's ownership or occupancy. This report shall be submitted to Regional Water Board staff no later than 30 days prior to a planned change and shall reference the number of this Order.
5. **Reasonable Access:** The Dischargers shall allow the State Water Board and Regional Water Board, or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to enter at reasonable times to inspect the Property and any records that must be kept under the conditions of this Order for the purposes of assuring compliance with this Order or as otherwise authorized by the Water Code.
6. **Submissions:** The CRMP and all monitoring reports, technical reports, or notices required under this Order shall be submitted to Regional Water Board staff at the addresses provided below.

By email (preferred) to:

Brian Fuller, Engineering Geologist
Brian.Fuller@waterboards.ca.gov

Or by mail to:

North Coast Regional Water Quality Control Board
Attn: Brian Fuller
5550 Skylane Boulevard, Suite A,
Santa Rosa, CA 95403

7. **Other Regulatory Requirements:** The Dischargers shall obtain all applicable local, state, and federal permits necessary to fulfill the requirements of this Order prior to beginning the work.
8. **Cost Recovery:** Pursuant to Water code section 13304, the State or Regional Water Board is entitled to all reasonable costs it actually incurs to investigate and abate the effects of unauthorized discharges of waste and to oversee/supervise the cleanup of such waste, or other restoration action, required by this Order. If requested by the Regional Water Board or State Water Board, the Dischargers shall enroll in the State Water Board's Cost Recovery Program and shall reimburse the State of California for all reasonable costs actually incurred by the State Water Board and Regional Water Board.
9. **Delayed Compliance:** If for any reason, the Dischargers are unable to perform any activity or submit any document in compliance with the schedule set forth herein, or in compliance with any work schedule submitted pursuant to this Order and approved by the Regional Water Board or its delegated officer, the Dischargers may request, in writing, an extension of the time specified. The extension request shall include justification for the delay. Any extension request shall be submitted as soon as a delay is recognized and prior to the compliance date. An extension may only be granted by modification of this Order or by a letter from the Executive Officer. The Regional Water Board acknowledges that local, state, and federal permits may cause a delay beyond the control of the Dischargers and will take all the available relevant facts into consideration when considering whether or not to exercise its enforcement authority.
10. **Modifications:** Any modification to this Order shall be in writing and approved by the Regional Water Board or its delegated officer including any potential extension requests.
11. **Enforcement Authority:** If the Dischargers fails to comply with the requirements of this Order, this matter may be referred to the Attorney General for judicial enforcement or a complaint for administrative civil liability may be issued by the Regional Water Board. Failure to comply with this Order may result in the assessment of an administrative civil liability of up to \$10,000 per violation per day and/or up to \$10 per gallon when the violation results in the discharge of waste, pursuant to Water Code sections 13268, 13350, and/or 13385. The Regional Water Board reserves its right to take any enforcement actions authorized by law, including, but not limited to, violation of the terms and conditions of this Order.
12. **No Limitation of Water Board Authority:** This Order in no way limits the authority of the Regional Water Board to institute additional enforcement actions or to require additional investigation and cleanup of the Property consistent with the Water Code. This Order may be modified if additional information becomes available.

13. **Requesting Review by the State Water Board:** Any person aggrieved by this action of the Regional Water Board may petition the State Water Board to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, section 2050 et seq. The State Water Board must receive the petition no later than 5:00 p.m., 30 days following the date of this Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, the petition must be received on the next business day. [Copies of the law and regulations applicable to filing petitions](https://www.waterboards.ca.gov/public_notices/petitions/water_quality/) may be found on the Internet at: (https://www.waterboards.ca.gov/public_notices/petitions/water_quality/) or will be provided upon request.

This Order is effective upon the date of signature.

Valerie Quinto
Executive Officer

Attachments:

1. August 9, 2023, NOV and Report of May 9, 2023, Inspection
2. April 2, 2024, NOV



North Coast Regional Water Quality Control Board

August 9, 2023

Certified Mail No. 7021 0950 0001 6500 1230

Yesenia and Raul Carrillo
34320 Mendocino Pass Road
Covelo, CA 95428

Dear Yesenia and Raul Carrillo:

Subject: Notice of Violation, Transmittal of Report for May 9, 2023 Inspection of Mendocino County Assessor's Parcel Numbers 032-293-15-00

File: Cannabis Program Inspections, Mendocino County, 2023, Yesenia and Raul Carrillo, CIWQS Place ID 889632

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 032-293-15-00 (the Property):

1. Water Quality Control Plan for the North Coast Region (Basin Plan) Section 4.2.1, Prohibitions 1 and 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 May 9, 2023, North Coast Regional Water Quality Control Board (Regional Water Board) staff (Staff) inspected the Property and observed cannabis cultivation exceeding a combined half-acre in size. Accordingly, this letter directs you to address the violations

HECTOR BEDOLLA, CHAIR | VALERIE QUINTO, EXECUTIVE OFFICER

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

Background

Land Vision records show Yesenia and Raul Carrillo own the Property with the last transfer of ownership occurring on August 27, 2019. According to review by Staff on July 27, 2023, of aerial imagery available from Google Earth, the greenhouses identified in the inspection report at WQ1, WQ5, WQ8 and WQ11 were constructed between February 26, 2020 and July 1, 2021.

On May 9, 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, 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 report of the May 9, 2023 inspection, Staff observed: violations of the of the Basin Plan Section 4.2.1 Prohibition 1 at locations WQ9 and WQ10 for discharges of slash and waste potting soils into tributaries to the Black Butte River; violations of the Basin Plan Section 4.2.1 Prohibition 2 at locations WQ2 through WQ8 for threatened discharge of organic and earthen material to the Black Butte River; 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 WQ1, WQ5, WQ8, WQ10

and WQ11; Staff observed violations of the California Water Code section 13264 for unauthorized discharges of cannabis cultivation waste into a water of the state of California at locations WQ4, WQ6, WQ9, WQ10 and WQ11; and site conditions at WQ1 through WQ11 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 our [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, 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 an onstream reservoir and several stream crossings that must be corrected to comply with the Basin Plan. The work to correct these violations 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 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,

Original signed by Jeremiah Puget on August 9, 2023

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
Jeremiah Puget, Jeremiah.Puget@waterboards.ca.gov

Division of Water Rights

Zachary Gomer, Zachary.Gomer@Waterboards.ca.gov
Jessica Monroy, Jessica.Monroy@Waterboards.ca.gov
Stormer Feiler, Stormer.Feiler@waterboards.ca.gov
Taro Murano, Taro.Murano@waterboards.ca.gov

Department of Fish and Wildlife

Daniel Harrington, Daniel.Harrington@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
Megan Dukett, dukettm@mendocinocounty.org

Carrillo Property
APN: 032-293-15-00
Notice of Violation

- 6 -

August 9, 2023

Department of Cannabis Control

Travis White, Travis.White@cannabis.ca.gov

Jaime Masuda, Jaime.Masuda@cannabis.ca.gov

Attachment A – Regulatory Citations

Regulatory Section	Citation
Basin Plan Section 4.2.1, Prohibition 1	<p>Prohibits “[t]he discharge of soil, silt, bark, slash, sawdust, or other organic and earthen material from any logging, construction, or associated activity of whatever nature into any stream or watercourse in the basin in quantities deleterious to fish, wildlife, or other beneficial uses.”</p> <p>Available at: (https://www.waterboards.ca.gov/northcoast/water_issues/programs/basin_plan/)</p>
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: August 9, 2023

**Report of May 9, 2023 Warrant Inspection,
Mendocino County
Assessor's Parcel Number (APN) 032-293-15-00 (the "Property")**

File: Cannabis Program Inspections, Mendocino County, 2023, Yesenia and Raul Carrillo, CIWQS Place ID 889632

Property information:

Watershed: Eel River Hydrologic Unit; Middle Fork Eel River Hydrologic Area; Black Butte River Hydrologic Subarea; (HU/HA/HSA 111.73; see Table 2-1 of the Water Quality Control Plan for the North Coast Region (Basin Plan), for beneficial uses)

Inspection information:

Date/time: May 9, 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:

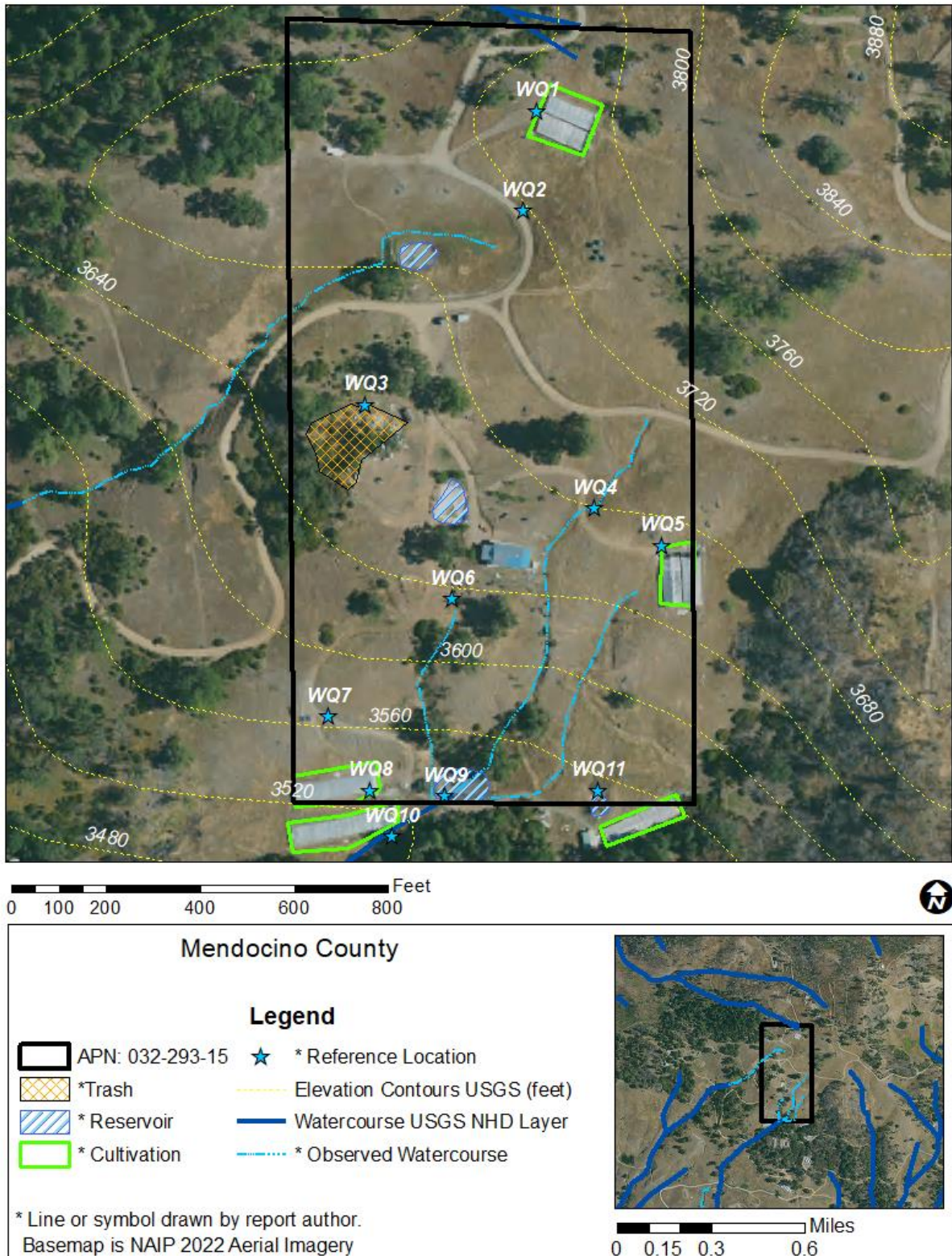


Figure 1—Aerial image/map showing inspection points discussed in this report.

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 northern portion of Property from the west and observed greenhouses covering an area of 6,000 square feet with growing cannabis plants at WQ1. On the road leading to the greenhouses from the south, at WQ2, I observed groundwater emanating from the cut-face upslope from the road and concentrating on the road surface. Downslope of the road, I observed grasses that appeared to have been laid flat by flowing water. I observed that the local topography was shaped such that the surface water from WQ2 would flow immediately north of the nearby reservoir.

At WQ3, I observed a large area where waste was being collected and sorted. At WQ4, I observed a road fording a watercourse with pooled water on the road surface. The road leads to a greenhouse at WQ5 that covers an area of 6,000 square feet. I observed a graded earthen pad at WQ6 with fabric soil bags from past cultivation. I observed a partially blocked, 12-inch diameter culvert directed into a watercourse on the downslope side of the pad, but I did not find the culvert inlet upslope of the pad. I observed cannabis cultivation waste including plant stalks, slash and wire mesh within the channel downstream from the pad.

At WQ7, I observed a gully that had eroded into the middle of a dirt road leading to greenhouses covering an area of 12,000 square feet at WQ8 and a reservoir at WQ9. I observed three watercourses approaching the reservoir: the channel from WQ6 passes the western bank of the reservoir and flows over the dirt road transporting fine sediment to the receiving watercourse downstream from WQ9; the channel from WQ4 discharges into the northeast corner of the reservoir; the topography east of the reservoir is shaped in such a way to direct the watercourse originating in the vicinity of WQ5 over a road and into the reservoir. At WQ9, I observed a 20-inch diameter culvert directing the reservoir outfall to a USGS mapped blue line stream. I observed voids surrounding the pipe outlet indicating that earthen fill had been eroded and discharged to the channel downstream. I also observed slash placed in the channel.

I observed waste potting soils damming the watercourse at WQ10, in an area that appears south of the property boundary mapped in Figure 1; however, I suspect that the waste came from the cannabis cultivation occurring on the subject Property because there is a clear fence separating this Property from the property to the south and it did not appear to be easy to access to the waste discharge location from the southern property. At WQ11, I observed plastic sheeting in the wetland that the below Aerial Images indicate was dredged between July 9, 2012 and May 30, 2014. South of WQ11, I observed another greenhouse covering an area of approximately 5,000 square feet.

Recommendations for the Discharger:

1. Immediately collect all refuse and wastes which have discharged and/or threaten 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 of California (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 5 below). Properly dispose of these wastes at a licensed waste collection facility.
2. Retain a licensed professional to inventory, assess, all aquatic resources including wetlands and watercourses that are Waters of the State on the Property, and to develop a workplan and schedule to implement measures to ensure that all impacted features, including the onstream reservoir at WQ9 and dredged wetlands at WQ11 are restored and 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.
3. Dispose of all development and restoration-related earthen spoils in a manner to prevent/minimize transport and delivery to receiving waters.
4. Prior to cultivating cannabis or developing a property for cannabis cultivation, enroll for coverage under the Cannabis General Order².
5. 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 southern portion of the Property taken on July 9, 2012, obtained from Google Earth. The area south of a residence pictured in the top of the image appears undeveloped. A dashed blue line identifies a watercourse originating in the middle of the image and passing through the bottom of the image. A white dashed box identifies the location of a wetland.



Figure 3— Aerial image of southern portion of the Property taken on May 30, 2014, obtained from Google Earth. Vehicle tracks are visible crossing the watercourse in the bottom of the image and the wetland in the bottom right, at WQ11, has been dredged creating a pond.



Figure 4—Aerial image of southern portion of Property taken on June 8, 2016, obtained from Google Earth.



Figure 5— Aerial image of southern portion of the Property taken on August 12, 2017, obtained from Google Earth. A reservoir appears constructed on the stream at WQ9 in the bottom of the image and a pad appears in the lower left of the image.



Figure 6— Aerial image of southern portion of Property taken on February 26, 2020, obtained from Google Earth. The Reservoir at WQ9 has filled with water.



Figure 7— Aerial image of southern portion of Property taken on July 1, 2021, obtained from Google Earth. Hoop-type greenhouses are visible in the lower-left, right and bottom-right of the image.

Photo Appendix⁴:



Figure 8—Cannabis plants growing in soil bags resting on permeable ground within a greenhouse at WQ1.



Figure 9—Looking north at road located at WQ2. Groundwater emanating from above the road concentrates on the earthen road surface.

⁴ Timestamp on photos is slow by one hour.



Figure 10—Trash including plastic sheeting and pipe in pile at WQ3.



Figure 11— Trash including scrap metal and several old appliances at WQ3.



Figure 12— Trash including glass bottles and metal cans in pile at WQ3.



Figure 13— Buried plastic drum within area of large trash pile at WQ3.



Figure 14—A road fording a watercourse at WQ4.



Figure 15—Looking east at northern side of greenhouse located at WQ5.



Figure 16— Looking south from northwest corner of greenhouse located at WQ5. A topographic swale visible in the right of the image connects to a watercourse with a defined bed and bank channel out of view to the right of the image.



Figure 17—Earthen pad filling watercourse at WQ6. Fabric soil bags show past outdoor cannabis cultivation on pad. Waste slash, wire mesh and other trash are within the channel downstream in the right of the image.



Figure 18—Partially buried culvert outlet at WQ6 among cultivation waste including plant stalks and plastic containers.



Figure 19—Looking south along watercourse at WQ6.



Figure 20—A gully eroded along the middle of a dirt road at WQ7. Cannabis greenhouses located at WQ8 are visible in the top-right of the image and an onstream pond located at WQ9 is visible in the top-middle with a pickup truck parked on the reservoir’s impounding berm for scale.



Figure 21—Photo of a 12-inch-tall clipboard in road gully at WQ7.



Figure 22—Looking west toward reservoir at WQ9 and greenhouses at WQ8. The topography is shaped such that flowing water from the stream behind the photographer would enter the road and flow into the reservoir in the upper right of the image.



Figure 23—Water on top of the reservoir's impounding berm. The topography is shaped such that the stream channel approaching the reservoir from the northwest would bypass the reservoir and flow over the road at this location.



Figure 24—Sediment laden water from road surface pictured in previous image, flowing towards the USGS mapped blueline stream out of view to the right of the image.



Figure 25—Reservoir outlet drain at WQ9 directed toward USGS mapped blueline stream out of view to the right of the image. The outlet pipe is 20-inches in diameter and lacks armor which has resulted in erosion and downstream transport of the earthen fill.



Figure 26—Slash, cut by a saw, and placed into the watercourse downstream from WQ9.



Figure 27—Used potting soil, identifiable by white speckles of perlite, damming watercourse at WQ10.



Figure 28—Plastic sheet covering dredged wetlands at WQ11.



North Coast Regional Water Quality Control Board

April 2, 2024

Certified Mail No. 7018 1130 0000 5963 8051

Laurence Istas
PO Box 576
Covelo CA 95428

Dear Mr. Istas:

Subject: Notice of Violation, Transmittal of Report for May 9, 2023 Inspection of Mendocino County Assessor's Parcel Number 032-293-15-00

File: Cannabis Program Inspections, Mendocino County, 2023, Yesenia and Raul Carrillo, CIWQS Place ID 889632

THIS LETTER RECOMMENDS THAT YOU ACT WITHIN 15 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 032-293-15-00 (the Property):

1. Water Quality Control Plan for the North Coast Region (Basin Plan) Section 4.2.1, Prohibitions 1 and 2;
2. California Water Code (Water Code) Sections 13260 and 13264

Background

Land Vision records show that you reacquired ownership of the Property from Yesenia and Raul Carrillo on February 22, 2024.

On May 9, 2023, during the execution of a criminal search warrant served by the California Department of Fish and Wildlife (CDFW), Regional Water Board staff (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 features on the Property impacting waters of the state of California.

Enclosed is a copy of the water quality inspection report (Enclosure A – 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.

Land Vision records show that you sold the Property to Yesenia and Raul Carrillo on August 27, 2019. Aerial imagery presented in the Enclosed Inspection Report shows that some of the unauthorized impacts to waters of the state of California occurred during a time that you owned the Property.

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 May 9, 2023 inspection, Staff observed: violations of the of the Basin Plan Section 4.2.1 Prohibition 2 at locations WQ2 through WQ8 for threatened discharge of organic and earthen material to the Black Butte River; violations of the Basin Plan Section 4.2.1 Prohibition 1 at locations WQ9 and WQ10 for discharges of slash and waste potting soils into tributaries to the Black Butte River; and violations of the California Water Code sections 13260 and 13264 for unauthorized dredge of and fill into waters of the state of California at locations WQ4, WQ6, WQ9, WQ10 and WQ11

Legal Requirements

As documented in the inspection report, there is an onstream reservoir, impacted wetlands and several stream crossings that must be corrected to comply with the Basin Plan. The work to correct these violations will require a water quality certification/waste discharge requirement prior to conducting instream work¹.

Additional Potential Liabilities

The Regional Water Board is in the process of considering whether the violations of the Basin Plan 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

¹ 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

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.

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 15 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,

Original signed by Jeremiah Puget on April 2, 2024

Jeremiah Puget
Senior Environmental Scientist
Enforcement Unit

Attachment:

Attachment A – Regulatory Citations

Enclosure:

Enclosure A – Inspection Report

cc: North Coast Regional Water Quality Control Board

Northcoast.Cannabis@waterboards.ca.gov

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Department of Fish and Wildlife

Daniel Harrington, Daniel.Harrington@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

Mendocino County Sheriff's Office

Sergeant Clinton Wyant, WyantC@mendocinocounty.org

Mendocino County

cannabisprogram@mendocinocounty.org

Megan Dukett, dukettm@mendocinocounty.org

Brian Webb, webbb@mendocinocounty.gov

Department of Cannabis Control

Travis White, Travis.White@cannabis.ca.gov

Jaime Masuda, Jaime.Masuda@cannabis.ca.gov

Attachment A – Regulatory Citations

Regulatory Section	Citation
Basin Plan Section 4.2.1, Prohibition 1	<p>Prohibits “[t]he discharge of soil, silt, bark, slash, sawdust, or other organic and earthen material from any logging, construction, or associated activity of whatever nature into any stream or watercourse in the basin in quantities deleterious to fish, wildlife, or other beneficial uses.”</p> <p>Available at: (https://www.waterboards.ca.gov/northcoast/water_issues/programs/basin_plan/)</p>
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.”