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## North Coast Regional Water Quality Control Board

October 3, 2023

Evan Kouchalakos  
74 Amherst Road  
Merrimack, NH 03054

Certified Mail No: 7021-0950-0001-6500-1889

Dear Evan Kouchalakos:

**Subject: Notice of Violation, Transmittal of Inspection Report for September 7, 2023, Inspection of Humboldt County Assessor's Parcel Number 107-054-036-000, and Requirement to Respond within 30 days**

**File:** Cannabis Program Inspections, Humboldt County, September 7, 2023, CIWQS Place ID 872701

### **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 Humboldt County Assessor's Parcel Number 107-054-036-000 (the Property):

1. State Water Resources Control Board (State Water Board) *Cannabis Cultivation Policy Principals and Guidelines for Cannabis Cultivation* (Cannabis Policy)
2. California Water Code (Water Code) Section 13260 and 13264(a)

According to our records, the cannabis cultivation operation located on this Property is not enrolled for coverage under the State Water Resources Control Board Order No. WQ 2019-0001-DWQ *General Waste Discharge Requirements and Waiver of Waste Discharge Requirements for Discharges of Waste Associated with Cannabis Cultivation Activities* (Cannabis General Order).

On September 7, 2023, North Coast Regional Water Quality Control Board (Regional Water Board) staff inspected the Property and observed cannabis cultivation in the ground. Within 30 days, please contact Regional Water Board staff to discuss your plan to correct the observed violations.

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HECTOR BEDOLLA, CHAIR | VALERIE QUINTO, EXECUTIVE OFFICER

## **Background**

LandVision records show the Property is owned by Evan Kouchalakos with the last market sale occurring July 12, 2019.

On March 4, 2021, ETA Humboldt LLC submitted information through the State Water Resources Control Board's (State Water Board's) online portal for discharges of waste associated with cannabis cultivation related activities for APN 107-054-036-000 and listed Highpoint Honeydew Farm LLC as the discharger, and Evan Kouchalakos as the contact and landowner of the Property. No application fee was submitted so the application was not processed.

On September 7, 2023, staff from the Regional Water Board, accompanied by staff of the California Department of Fish and Wildlife, and personnel of 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.

Attached is a copy of the water quality inspection report (Attachment B – Inspection Report and Inspection Photo Log). 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 September 7, 2023, inspection report, Regional Water Board staff observed violations of the State Water Board Cannabis Policy, and the California Water Code section 13260 and 13264(a).

## **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 require conformance with the [Cannabis Policy and enrollment](#) under the Cannabis General Order. For more information, please visit our website at:  
([https://www.waterboards.ca.gov/northcoast/water\\_issues/programs/cannabis/](https://www.waterboards.ca.gov/northcoast/water_issues/programs/cannabis/))

The site conditions observed on the Property do not meet the requirements of the Cannabis Policy. Please provide a written response, including photos if relevant, explaining when and how the Property will be restored in compliance with the Policy.

As documented in the inspection report, two culvert stream crossings require replacement. The [application for the water quality certification 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](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 Water Code warrant further enforcement. We encourage you to take steps, to correct the violations as soon as possible, securing any applicable permits from this and other agencies prior to conducting work. Please note that the existing conditions, as observed and documented in the Inspection Report, may represent continuing violations of the Water Code.

Please note that correcting the conditions of non-compliance at the Property does not preclude enforcement for the violations alleged in this notice. As noted above, the

Regional Water Board reserves its right to fully enforce the law against any violation and threatened violation by taking enforcement actions such as a cleanup and abatement order, time schedule order, administrative civil liabilities, and referral to the California Attorney General's office. Administrative civil liabilities may be assessed on a daily basis in the amount up to \$5,000 for each day the violation occurs or up to \$10 per gallon, but not both, pursuant to Water Code section 13350.

### **Inspection Report Recommendations**

As mentioned above, the September 7, 2023, Inspection Report provides recommendations to correct the alleged violations, as well as to address features and conditions that threaten to impact water quality. **Within 30 days of this letter**, please advise Regional Water Board staff Kate Hawken of your intentions, plan, and schedule to implement recommendations in the inspection report. If you have questions about what is required of you to comply with the requirements outlined above, and to advise as to your plan and schedule to correct the alleged violations, please contact Regional Water Board staff Kate Hawken by email at [Katherine.Hawken@waterboards.ca.gov](mailto:Katherine.Hawken@waterboards.ca.gov) or by phone at 707-445-6127.

Future correspondence regarding this matter will be sent to you at this address unless an alternative address is provided to the Regional Water Board. Failure to accept mail from the Regional Water Board is not a valid excuse for non-compliance with any future enforcement orders, and a failure to respond or otherwise appear at a future enforcement proceeding could subject you to a default order and the imposition of administrative civil liability.

Please contact Kate Hawken by email at [Katherine.Hawken@waterboards.ca.gov](mailto:Katherine.Hawken@waterboards.ca.gov) or by phone at 707-445-6127 within 30 days of the date of this letter. You may also contact me at [Mona.Dougherty@waterboards.ca.gov](mailto:Mona.Dougherty@waterboards.ca.gov). Additionally, we are available to meet with you if you wish to discuss this letter or our waste discharge regulatory programs in further detail.

Sincerely,

Mona Dougherty, P.E.  
Senior Water Resource Control Engineer

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

**cc: North Coast Regional Water Quality Control Board**

[Northcoast.Cannabis@waterboards.ca.gov](mailto:Northcoast.Cannabis@waterboards.ca.gov)

Claudia Villacorta, [Claudia.Villacorta@waterboards.ca.gov](mailto:Claudia.Villacorta@waterboards.ca.gov)

Kason Grady, [Kason.Grady@waterboards.ca.gov](mailto:Kason.Grady@waterboards.ca.gov)

Mona Dougherty, [Mona.Dougherty@waterboards.ca.gov](mailto:Mona.Dougherty@waterboards.ca.gov)

**State Water Board Division of Water Rights**

Stormer Feiler, [stormer.feiler@waterboards.ca.gov](mailto:stormer.feiler@waterboards.ca.gov)

Taro Murano, [taro.murano@waterboards.ca.gov](mailto:taro.murano@waterboards.ca.gov)

**California Department of Fish and Wildlife**

Ryan Bourque, [ryan.bourque@wildlife.ca.gov](mailto:ryan.bourque@wildlife.ca.gov)

Warden Joshua Zulliger, [Joshua.Zulliger@wildlife.ca.gov](mailto:Joshua.Zulliger@wildlife.ca.gov)

### Attachment A – Regulatory Citations

Regulatory Section	Citation
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>
California Water Code Section 13264(a)	<p>“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: (3) 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.”</p>
Cannabis Policy and General Order No. WQ 2019-0001-DWQ	<p><a href="#">State Water Resources Control Board Cannabis Cultivation Policy</a> and <a href="#">General Waste Discharge Requirements Order No. WQ 2019-0001-DWQ</a> for Discharges of Waste Associated with Cannabis Cultivation Activities            (<a href="https://www.waterboards.ca.gov/water_issues/programs/cannabis/docs/policy/final_cannabis_policy_with_attach_a.pdf">https://www.waterboards.ca.gov/water_issues/programs/cannabis/docs/policy/final_cannabis_policy_with_attach_a.pdf</a>)            and            (<a href="https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2019/wqo2019_0001_dwq.pdf">https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2019/wqo2019_0001_dwq.pdf</a>)</p>

**North Coast Regional Water Quality Control Board**  
**Cannabis Water Quality Inspection Report**  
 APN(s): 107-054-036-000

<b>Inspection Date and Time</b>			
Inspection Date		September 7, 2023	
Inspection Start Time:	07:30	Inspection End Time:	10:30
<b>Site Location</b>			
Address/Location		47730 Mattole Road, Honeydew, CA 95545	
County		Humboldt	
Assessor's Parcel Number(s) (APN(s))		107-054-036-000	
Watershed		Upper North Fork Mattole River	
<b>Property Owner Contact Information</b>			
Property Owner		Evan Kouchalakos	
Mailing Address		74 Amherst Road, Merrimack, NH 03054	
<b>Warrant Information</b>			
Agency Responsible for Warrant		CDFW	
Person Responsible for Warrant		Josh Zulliger	
Warrant Date		September 7, 2023	
<b>Lead Inspector, Team Members, Other Agencies and Personnel Onsite</b>			
Lead Inspector Name		Katherine Hawken	
Lead Inspector's Credentials		Water Resource Control Engineer	
Office/Regional Board		North Coast Regional Water Quality Control Board	
Author of Report		Katherine Hawken	
<b>Database Identifier</b>			
CIWQS Place ID		872701	
Permit Status		Not enrolled	

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Cannabis Water Quality Inspection Report

Points (P), line (L), and area (A) of interest are displayed in the map Figure 1 and photographed in the SITE FEATURES table below.

**Observations**

P1: I observed two hoop houses with plastic flooring, and cannabis plants in pots. I observed a pile of potting soil in front of the hoop houses. I left a field notice on the property with the warrant.

P2: I observed a barrel full of suspected used motor oil. The area smelled of petroleum and I observed a discharge to land at the base of the barrel where the ground was blackened.

P3: I observed a 16-inch diameter plastic culvert stream crossing with ponding at its inlet. I observed a clogged metal culvert left in the road prism, and evidence of the stream overtopping the road. I observed a road ditch discharging to the stream at the culvert inlet.

P4: I observed a spring with an approximately 50-foot wet area below it. I observed electrical conduit in the spring channel.

P5: I observed inactive water storage bladders, and water storage tanks on a flat.

P6: I observed a groundwater well in an upland area. The well did not appear to be connected to the cultivation area.

P8: I observed a plastic culvert stream crossing with ponding at its inlet. I observed a disconnected submersible pump in the ponded area. I observed a road ditch discharging to the stream at the culvert inlet. I observed trash at the culvert outlet, and the road prism eroding into the stream.

L1: I observed a watercourse channel with portions of cobble substrate, and dirt substrate. I observed cultivation related waste in the stream. I observed the stream discharges to a pond/ wetland feature.

A1: I observed a pond/ wetland feature with hydrophytic plants including rushes, willows, penny royal, and grasses. I observed cultivation related waste in the pond/ wetland. I observed a metal culvert connecting the wetland/ pond at high flows to an adjacent watercourse running along the northwest parcel boundary. I observed the wetland/ pond feature was approximately 20 feet from the cultivation area P1 at the closest edge.

**Recommendations**

1. If you and/or your tenant(s) plan to continue commercial cannabis cultivation, enroll for coverage under the State Water Board's Order WQ 2019-0023-DWQ, General Waste Discharge Requirements and Waiver of Waste Discharge Requirements for Discharges of Waste Associated with Cannabis Cultivation Activities.
2. Relocate all cannabis cultivation activities, supplies, and trash outside of the riparian setbacks (50 feet from Class III, 100 feet from Class II, 150 feet from Class I).
3. Regularly contain and dispose of all waste/ trash, including used motor oil, at a licensed transfer site. Remove cultivation related waste from surface waters.

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4. Retain a qualified professional to assess the culvert stream crossings for capacity to convey a 100-year flow event and associated debris, disconnect road ditches from watercourses, and recontour roads to prevent discharge to receiving waters.
5. Apply for a 401 water quality certification prior to work instream to replace culverts.
6. Work with the State Water Board Division of Water Rights and the California Department of Fish and Wildlife to obtain necessary permits to divert and store water.
7. Do not use water storage bladders unless the bladder is safely contained within a secondary containment system with sufficient capacity to capture 110 percent of a bladder's maximum possible contents in the event of bladder failure.

**Figure 1: Site Map** with dashed parcel boundaries and points (P), line (L), and area (A) of interest. P7 was determined to be off parcel and is not included in this map or report.



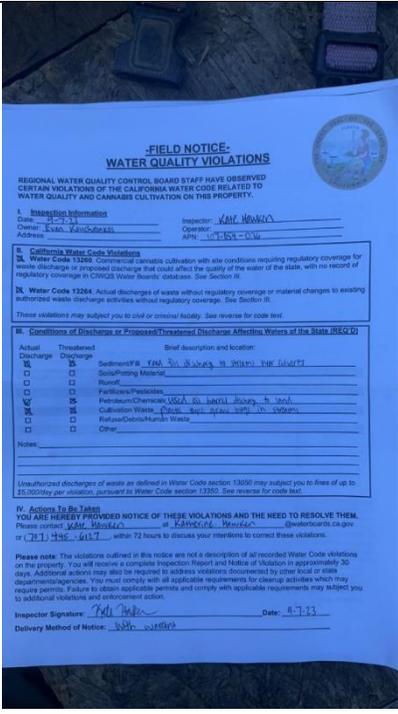
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**SITE FEATURES:**

**Point Features**

<b>P1</b>	
<b>Category:</b> Cultivation Area (CA)	
<b>Description:</b> Two hoop houses with plastic tarp floors and cannabis plants in pots.	
	<b>Photo Number:</b> 1
	<b>Photo Description:</b> Front of hoop house with cannabis plants and pile of potting soil.
	Facing North
	<b>Photo Number:</b> 2
	<b>Photo Description:</b> Inside view of second hoop house.
	Facing Northeast

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	<p><b>Photo Number: 3</b></p>
	<p><b>Photo Description:</b> I left a field notice with the warrant.</p>
	<p>Facing Southwest</p>

**P2**

**Category:** Trash (T)

**Description:** Spilled used oil.

	<p><b>Photo Number: 1</b></p>
	<p><b>Photo Description:</b> Barrel of suspected used motor oil with evidence of spilling, and discharge to land.</p>
	<p>Facing Southeast</p>

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<b>P3</b>	
<b>Category:</b> Watercourse Crossings (WC)	
<b>Description:</b> Plastic culvert stream crossing.	
	<b>Photo Number:</b> 1
	<b>Photo Description:</b> Culvert outlet perched 4 feet above stream channel.
	Facing Southeast
	<b>Photo Number:</b> 2
	<b>Photo Description:</b> Ponding at undersized culvert inlet.
	Facing East

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	<p><b>Photo Number: 3</b></p> <p><b>Photo Description:</b> View from uphill of culvert inlet.</p> <p>Facing Northwest</p>
	<p><b>Photo Number: 4</b></p> <p><b>Photo Description:</b> Road ditch discharging into inlet of culvert.</p> <p>Facing North</p>

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		<b>Photo Number: 5</b>
		<b>Photo Description:</b> Old metal culvert and evidence of stream overtopping road prism.
		Facing Northwest

**P4**

**Category:** Riparian Areas (RA)

**Description:** Spring with wet area extending 50 feet below.

		<b>Photo Number: 1</b>
		<b>Photo Description:</b> Surface water spring.
		Facing West

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		<b>Photo Number: 2</b>
		<b>Photo Description:</b> Electrical conduit in spring channel.
		Facing West

**P5**

**Category:** Water Storage (WS)

**Description:** Water storage bladders and tanks.

		<b>Photo Number: 1</b>
		<b>Photo Description:</b> Water bladders and tanks on flat.
		Facing Southwest

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<b>P6</b>	
<b>Category:</b> Irrigation Well (IW)	
<b>Description:</b> Groundwater well in upland area.	
	<b>Photo Number:</b> 1 <b>Photo Description:</b> Groundwater well. Facing South

<b>P8</b>	
<b>Category:</b> Surface Water Diversion (WD)	
<b>Description:</b> Culvert stream crossing and diversion point.	
	<b>Photo Number:</b> 1 <b>Photo Description:</b> Culvert inlet with ponding, and submersible pump. Facing Northeast

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			<p><b>Photo Number: 2</b></p> <p><b>Photo Description:</b> Dirt road prism eroding into stream at culvert outlet. Trash in stream.</p> <p>Facing West</p>
			<p><b>Photo Number: 3</b></p> <p><b>Photo Description:</b> Trash at culvert outlet.</p> <p>Facing North</p>

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**Photo Number: 4**  
**Photo Description:** Eroding dirt road prism.  
Facing West



**Photo Number: 5**  
**Photo Description:** Road ditch with trash leading to culvert inlet.  
Facing North

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**Line Features**

<b>L1</b>	
<b>Category:</b> Riparian Areas (RA)	
<b>Description:</b> Watercourse discharging into wetland/ pond feature.	
	<b>Photo Number:</b> 1
	<b>Photo Description:</b> View of watercourse channel with cobble.
	Facing East
	<b>Photo Number:</b> 2
	<b>Photo Description:</b> View of watercourse channel with reduced slope approaching wetland/ pond area.
	Facing West

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	<b>Photo Number: 3</b>
	<b>Photo Description:</b> Trash in wetland/ pond.
	Facing Southwest
	<b>Photo Number: 4</b>
	<b>Photo Description:</b> Trash in watercourse.
	Facing Southwest

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**Polygon Features**

<b>A1</b>	
<b>Category:</b> Riparian Areas (RA)	
<b>Description:</b> Wetland/ pond feature with hydrophytic plants adjacent cultivation area.	
	<b>Photo Number:</b> 1
	<b>Photo Description:</b> Wetland feature with rushes, willows, penny royal, and grasses.
	Facing East
	<b>Photo Number:</b> 2
	<b>Photo Description:</b> View of cultivation area proximity to wetland/ pond.
	Facing South

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	<b>Photo Number: 3</b>
	<b>Photo Description:</b> Metal culvert on wetland/ pond side. Plastic tarps and grow bag in wetland/ pond.
	Facing Southwest
	<b>Photo Number: 4</b>
	<b>Photo Description:</b> View of metal culvert inlet from wetland/ pond side and 20 foot berm to adjacent watercourse on parcel boundary.
	Facing North

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	<b>Photo Number: 5</b>
	<b>Photo Description:</b> Culvert on watercourse side. Metal plant cages, metal stakes, and slash in stream.
	Facing East
	<b>Photo Number: 6</b>
	<b>Photo Description:</b> Watercourse coming into wetland/ pond feature.
	Facing East

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	<b>Photo Number:</b> 7
	<b>Photo Description:</b> Watercourse channel approximately 20 feet from cultivation area.
	Facing East

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<sup>i</sup> GPS data and photos taken by Kate Hawken using an Apple iPad.