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## San Diego Regional Water Quality Control Board

### CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD SAN DIEGO REGION

#### CLEANUP AND ABATEMENT AND WATER CODE SECTION 13267 INVESTIGATIVE ORDER NO. R9-2022-0013

FOR  
RODNEY AND JANE PIMENTEL  
ASSESSOR PARCEL NUMBER 184-061-05-00  
SAN DIEGO COUNTY

This Order is issued to Rodney and Jane Pimentel (hereafter referred to as the Dischargers) based on provisions of Water Code section 13304, which authorizes the San Diego Regional Water Quality Control Board (San Diego Water Board) to issue an order requiring the cleanup and abatement of wastes, and Water Code section 13267, which authorizes the San Diego Water Board to require the preparation and submittal of technical and monitoring reports (hereafter referred to as the Order).

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

#### **Purpose of the Order**

1. This Order requires the Dischargers to cleanup cannabis cultivation related waste and sediment that is discharging or threatening to discharge to Buena Creek. These discharges and threatened discharges of waste are the result of spilled and/or leaking petroleum products, use of restricted pesticide(s), and cannabis cultivation irrigation on San Diego County Assessor Parcel Number (APN) 184-061-05-00 (Site) that were conducted adjacent to Buena Creek for the purpose of cannabis cultivation activities. These activities have discharged wastes or threaten future discharges of waste to waters of the State of California (State) without authorization from applicable federal, state, or local agencies, including the San Diego Water Board. This Order requires investigation and cleanup in compliance with the Water Code, the Water Quality Control Plan for the San Diego Basin (Basin Plan), State Water Resources Control Board (State Water Board) Resolution No. 92-49, and other applicable State and Regional Water Board plans, policies, and regulations.

### **Site Location and Description**

2. The Site is located at 2015 Buena Creek Road, Vista, California 92084 (33.17581, -117.20461). The Site is located within the Carlsbad Hydrologic Unit, Agua Hedionda Hydrologic Area, Buena Creek Subarea (CalWater Hydrologic Unit Basin Number [HU] 4904.32). Buena Creek, a water of the State, runs along the western boundary of the Site from north to south (National Hydrography Dataset, 2019). Buena Creek is tributary to Agua Hedionda Creek, which eventually flows into Agua Hedionda Lagoon and the Pacific Ocean.

### **Responsible Parties**

3. This Order finds that the Dischargers are responsible parties for purposes of complying with this Order based on the following:
  - a. The Dischargers are the current owners of the Site and were the landowners during the inspection conducted by South Coast Regional Cannabis Unit (Cannabis Unit) staff, working on behalf of the San Diego Water Board. Based on San Diego County Assessor Records, the Dischargers initially purchased the Site on August 24, 2018. According to San Diego County Assessor Records, the Dischargers briefly transferred the Site to the Pimentel Family Trust from October 21, 2021 until November 19, 2021, when the Site transferred back to the Dischargers.
  - b. As the owners at the time of the discharge and/or threatened discharge, including the time period when staff inspected the Site, the Dischargers had or should have had knowledge of the activities that resulted in the discharge and/or threatened discharge and had the legal ability to prevent those activities. Additionally, as the current owners of the Site, and having been informed of staff's observations from the inspection, the Dischargers have knowledge of the discharges and/or threatened discharges that exist at the Site and have the legal ability to remediate those conditions and prevent additional discharges.
4. The San Diego Water Board reserves the right to amend this Order to add additional responsible parties when/if the Board identifies those parties.

### **Factual Basis of the Order**

5. On July 13, 2021, Cannabis Unit staff inspected the Site as part of a criminal search warrant served by the California Department of Cannabis Control (DCC).
6. Observations made by Cannabis Unit staff during the inspection included the following:

- a. Active cannabis cultivation occurring within multiple greenhouse-like structures on the Site. Some of the greenhouses and associated land disturbance, related to cannabis cultivation activities, were observed within 100-feet of Buena Creek, which is within the minimum riparian setback distance, as defined in the *Cannabis Cultivation Policy – Principles and Guidelines for Cannabis Cultivation*<sup>1</sup> (Cannabis Cultivation Policy), Section 1, Requirement 37. Law enforcement officials seized approximately 1,125 live cannabis plants during execution of a criminal search warrant.
- b. Active surface water diversion from Buena Creek. Staff observed an electric submersible pump within Buena Creek, adjacent to a bridge at the Site's entrance off Buena Creek Road.
- c. Discharges of petroleum products to the land within approximately 30- to 100-feet of Buena Creek, which could discharge into Buena Creek as a result of impacted stormwater runoff and impacted soil runoff. Observations included stained soil beneath and adjacent to uncontained drums, containers, tanks, and generators; oil dripping from generators and fuel filters uncontained and onto the ground; and discarded oil filters and rags stored without containment.
- d. Evidence of discharges of cannabis cultivation-related waste streams to land within 100-feet of Buena Creek, including wet and stained soil exiting the greenhouses and evidence of soil erosion.
- e. Storage and potential use of banned and restricted pesticides. The pesticides observed included full and partially full 1-liter bottles of abamectin and methamidophos, branded Arysta Biomec and Quimical Metaldane 600, respectively. The Dischargers stored the pesticides in an open lean-to structure within the cultivation area between the greenhouses, along with other nutrients and chemicals. The bottles were labelled for use in Mexico.
- f. Large quantities of various nutrients, fertilizers, and soil amendments in solid and liquid form were outdoors without containment throughout the Site.
- g. Deleterious materials, including domestic waste, cannabis cultivation waste, and litter impacted by petroleum products, within 100-feet of Buena Creek.

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<sup>1</sup> The *Cannabis Cultivation Policy Principles and Guidelines for Cannabis Cultivation* (Cannabis Cultivation Policy) establishes requirements to ensure that the diversion of water and discharge of waste associated with cannabis cultivation does not have a negative impact on water quality, aquatic habitat, riparian habitat, wetlands, and springs. The Cannabis Policy is included as Attachment A to the State Water Board *General Waste Discharge Requirements and Waiver of Waste Discharge Requirements for Discharges of Waste Associated with Cannabis Cultivation Activities*, Order No. WQ-2017-0023-DWQ (General Order), as amended by Order No. WQ-2019-0001-DWQ.

7. Cannabis Unit staff notified the Dischargers of the Water Code and Basin Plan violations via an *Inspection Report and Notice of Violation* dated July 23, 2021, which was signed and received on July 26, 2021.
8. The Dischargers were also notified by the State Water Board Division of Water Rights of violations of the Water Code via a *Notice of Violation for Unauthorized Diversion and Failure to File A Statement of Water Diversion and Use*, dated September 23, 2021.

### **Beneficial Uses and Water Quality Objectives**

9. The Basin Plan designates beneficial uses, establishes water quality objectives, contains implementation programs for achieving objectives, and incorporates by references, plans and policies adopted by the State Water Board.
10. The designated beneficial uses of inland surface water for Buena Creek water body are municipal and domestic supply, agricultural supply, industrial service supply, contact water recreation, non-contact water recreation, warm freshwater habitat, and wildlife habitat. Beneficial uses of any specifically identified water body generally apply to all its tributaries.
11. The designated beneficial uses of the underlying ground waters for the Buena Subarea (HSA 4.32) include municipal and domestic supply, agricultural supply, and industrial service supply.
12. Water Quality Objectives applicable to the Agua Hedionda Hydrologic Area (HA 4.30) include total dissolved solids, chlorides, sulfate, percent sodium, nitrogen and phosphorus, iron, manganese, methylene blue activated substances (MBAS), boron, turbidity, color, and fluoride.

### **Legal Basis of the Order**

13. 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 requirement 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 creates, or threatens to create, a condition of pollution or nuisance, take other necessary remedial action, including, but not limited to, overseeing cleanup and abatement efforts... Upon failure of any person to comply with the cleanup and abatement order, the Attorney General, at the request of the board, shall petition the superior court for that county for the issuance of an injunction requiring the person to comply with the order. In the suit, the court shall have jurisdiction to grant a prohibitory or mandatory injunction, either preliminary or permanent, as the facts may warrant.”

14. "Waste" is defined by Water Code section 13050, subdivision (d) as, "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."
- a. The domestic waste (trash); petroleum product containers and wastes; containers of nutrients, fertilizers, banned and/or restricted pesticides, and soil amendments; and other miscellaneous debris that were observed at the Site are "waste" as defined in Water Code section 13050, subdivision (d). As a result of the cannabis cultivation activities at the Site, the Dischargers have caused or permitted this waste to be discharged or deposited where it will be, or has the potential to be, discharged to Buena Creek, a water of the State, in a manner that has created or threatens to create a condition of pollution.
15. "Pollution" is defined by Water Code section 13050, subdivision (l)(1) as, "an alteration of the quality of the waters of the state by waste to a degree which unreasonably affects either of the following: (A) the waters for beneficial uses, or (B) facilities which serve these beneficial uses."
- a. Sediment, petroleum products, irrigation runoff, cultivation related chemicals, and miscellaneous debris each have the potential to unreasonably affect the beneficial uses of waters of the State.
  - b. 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 impacting the following beneficial uses: warm freshwater habitat and wildlife habitat. Increased sedimentation and turbidity can result in increased treatment and/or maintenance costs for downstream agricultural and municipal users impacting the following beneficial uses: municipal and domestic supply, agricultural supply, and industrial process supply. Sediment-laden storm water discharges to surface water and the resulting turbidity can also affect the recreational and aesthetic enjoyment of the surface waters impacting the following beneficial uses: contact water recreation and non-contact water recreation.

- c. Sediment and soils impacted by petroleum products, nutrients, fertilizers, pesticides, including banned and restricted pesticides, and other soil amendments have the potential to alter the chemistry and water quality of surface and ground waters. Such changes may lead to increased treatment and/or maintenance costs for users of the surface and ground waters impacting the following beneficial uses: municipal and domestic supply, agricultural supply, industrial process supply, contact water recreation, non-contact water recreation, warm freshwater habitat, and wildlife habitat.
  - d. Irrigation runoff containing nutrients, fertilizers, pesticides, including banned and restricted pesticides, and other water chemistry amendments also has the potential to alter the chemistry and water quality of surface and ground waters. Such changes may similarly lead to increased treatment and/or maintenance costs for users of the surface and ground waters impacting the following beneficial uses: municipal and domestic supply, agricultural supply, industrial process supply, contact water recreation, non-contact water recreation, warm freshwater habitat, and wildlife habitat.
  - e. The dumping and discard of trash, chemical containers, and other miscellaneous debris has the potential to alter the hydrologic regimes of surface waters, threaten wildlife habitat and aquatic species, and impact sediments and soils which may affect surface and ground water quality. As such, the beneficial uses that may be impacted by the observed dumping and discarding of trash are as follows: municipal and domestic supply, agricultural supply, industrial process supply, contact water recreation, non-contact water recreation, warm freshwater habitat, and wildlife habitat.
16. Cleanup and abatement is necessary to ensure that the condition of pollution is remediated, to prevent unauthorized discharges to waters of the State from the Site, and to mitigate potential impacts to beneficial uses. The issuance of a cleanup and abatement order pursuant to Water Code section 13304 is appropriate and consistent with policies of the San Diego Water Board and State Water Board.

17. 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 No. 68-16, *Statement of Policy with Respect to Maintaining High Quality Waters in California* (Antidegradation Policy). Resolution 92-49 requires the Dischargers to clean up the waste in a manner that promotes attainment of either background water quality, or the best water quality which 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 proceed in a progressive sequence. To the extent practical, it directs the San Diego 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.

### **Technical Reports Required**

18. Water Code section 13267, subdivision (a) provides that the San Diego Water Board may investigate the quality of any water of the State within its region in connection with any action relating to the Basin Plan. Water Code section 13267, subdivision (b) provides that the San Diego Water Board, through an investigation, may require dischargers 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 obtained from the reports. Staff estimate the total cost of technical or monitoring reports required by this Order to be approximately \$6,560 - \$19,720.<sup>2</sup> 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:

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<sup>2</sup> 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 Cannabis Cultivation Policy and General Order. The State Water Board's 2017 Direct Cost Analysis for the Proposed Cannabis Cultivation Policy (2017 Direct Cost Analysis) provides cost estimates for technical reports required under the General Order. ([waterboards.ca.gov/water\\_issues/programs/cannabis/docs/policy/20171017\\_cannabis\\_cultivation\\_policy\\_cost\\_analysis.pdf](http://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 18, subparagraphs a-b.

- a. The Restoration and Monitoring Plan (RMP) is a technical report that is necessary to assess impacts to waters of the State resulting from the discharges of waste associated with cannabis cultivation activities and to determine the appropriate restoration and abatement work to correct those impacts. By requiring the Dischargers to submit an RMP, the San Diego Water Board or its delegated officer has the opportunity to review and approve the scope of the proposed restoration and corrective actions to confirm the proposed work will adequately remediate site conditions and prevent unauthorized discharges from further impacting beneficial uses. The plan requirements and associated costs to prepare an RMP (i.e. field inspection and report preparation) are comparable to that of preparing a combined Site Management Plan and Disturbed Area Stabilization Plan as presented in the 2017 Direct Cost Analysis, which is estimated to cost between \$3,660 and \$11,720. After consideration of these factors, staff has determined that the burden, including costs, of submitting the RMP bears a reasonable relationship to the need for the report and the benefits obtained from the report.
  
- b. The RMP Completion Report demonstrates to the San Diego Water Board or its delegated officer that the restoration and corrective actions contained in the approved RMP have been fully implemented. By requiring the Dischargers to submit documentation of the corrective actions, including pre- and post-remediation photographs and relevant maps and schematic diagrams, staff can confirm the RMP has been fully implemented and that best management practices are adequate to prevent future discharges of wastes into waters of the State. The cost to prepare an RMP Completion Report is comparable to the report preparation component of a combined Site Management Plan and Disturbed Area Stabilization Plan as presented in the 2017 Direct Cost Analysis, which is estimated to cost between \$2,900 and \$8,000. After consideration of these factors, staff determined that the burden, including costs, of submitting the RMP Completion Report bears a reasonable relationship to the need for the report and the benefits obtained from the report.

The Dischargers named in this Order currently own and/or operate the Site from which waste was discharged and have owned and/or operated the Site during all relevant inspections, and thus are appropriately named as parties responsible for providing the reports.



## California Environmental Quality Act

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

### Required Actions

**IT IS HEREBY ORDERED** that, pursuant to Water Code sections 13267 and 13304, the Dischargers shall cleanup and abate or take other necessary remedial action with respect to the discharge and threatened discharge of waste to waters of the State and submit technical and/or monitoring reports as follows:

20. **Within 60-days of the effective date of this Order**, the Dischargers shall submit a proposed RMP for approval by the San Diego Water Board or its delegated officer. The RMP shall detail the actions taken to investigate the soil impacts from unauthorized discharges of waste on the Site that threaten Buena Creek, and propose next steps, as necessary, to restore all impacted areas and prevent future discharges at the Site. The RMP shall include, at a minimum, the following items:
- a. A description of the steps taken to investigate soil impacted by petroleum products discharged to the land. The investigation shall include soil samples collected from the areas identified by Cannabis Unit staff where petroleum products were observed spilled onto the ground and stained the soil, laboratory analysis, and comparison to applicable regulatory screening levels.

- i. A **minimum of two soil samples** shall be collected from between 0- and 6-inches below the ground surface. The soil samples shall be submitted for analysis to an Environmental Laboratory Accreditation Program (ELAP) -certified laboratory under chain of custody for Total Petroleum Hydrocarbons (TPH)-gasoline, TPH-diesel, TPH-motor oil, and volatile organic compounds. The results of this laboratory analysis shall be included in the RMP.
  - ii. The soil samples shall be compared to Environmental Screening Levels (San Francisco Bay Regional Water Quality Control Board<sup>3</sup>) and United States Environmental Protection Agency (USEPA) Region 9 Residential Soil Screening Levels, whichever is most protective of surface water quality and human health.
  - iii. Based on the results, an assessment of the threat to Buena Creek and, as necessary, removal or mitigation of all impacted soil shall be included in the RMP.
- b. A description of the steps taken to investigate soil impacted by cannabis cultivation activities. The investigation shall include soil samples collected from the cannabis cultivation areas (current and former greenhouses) and from locations on the Site not affected by cannabis cultivation to establish background and make a comparison to background samples collected and/or applicable regulatory screening levels.
  - i. For each of the four greenhouses, a minimum of five individual grab soil samples shall be collected in a grid pattern from between 0- and 6-inches below the ground surface. These five soil samples shall be combined to form one five-point areal composite soil sample for each greenhouse, resulting in a **total of four composite samples** from the cannabis cultivation areas. The soil samples shall be submitted for analysis to an ELAP-certified laboratory capable of analyzing the required compounds under chain of custody for analysis. The results of this analysis shall be included in the RMP.

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<sup>3</sup> [https://www.waterboards.ca.gov/sanfranciscobay/water\\_issues/programs/esl.html](https://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/esl.html)

- ii. A **minimum of two** individual grab soil samples shall be collected from the Site in areas that have not been impacted by cannabis cultivation activities, taken at a depth between 0- and 6-inches below the ground surface, to be used for representation of background. The soil samples shall be submitted for analysis to an ELAP-certified laboratory capable of analyzing the required compounds under chain of custody for analysis. The results of this analysis shall be included in the RMP.
  - iii. The composite soil samples collected from the cannabis cultivation areas and the individual grab soil samples collected from the background areas shall be analyzed for the following compounds, at a minimum: nitrate (as nitrogen), total phosphorus, total dissolved solids, calcium, magnesium, potassium, organochlorine pesticides, organophosphorus pesticides, and methamidophos.
  - iv. The composite soil samples from the cannabis cultivation areas shall be compared to the background soil samples for the following compounds: nitrate (as nitrogen), total phosphorus, total dissolved solids, calcium, magnesium, and potassium.
  - v. The composite soil samples from the cannabis cultivation areas shall be compared to Environmental Screening Levels (San Francisco Bay Regional Water Quality Control Board<sup>4</sup>) and United States Environmental Protection Agency (USEPA) Region 9 Residential Soil Screening Levels, whichever is most protective of surface water quality and human health, for organochlorine pesticides and organophosphorus pesticides.
  - vi. Based on the results, an assessment of the threat to Buena Creek and, as necessary, removal or mitigation of all impacted soil shall be included in the RMP. All detections, above laboratory reporting limits, of the pesticide methamidophos will require removal or mitigation.
- c. As necessary based on the results of the soil sampling described in Items 20.a-b., a proposed implementation schedule for removal or mitigation of all impacted soil that includes a time schedule for submitting permit applications to all applicable local, state, and federal agencies, and detailed project milestones to fulfill the requirements of this Order.

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<sup>4</sup> [https://www.waterboards.ca.gov/sanfranciscobay/water\\_issues/programs/esl.html](https://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/esl.html)

21. **No later than 30-days after approval of the RMP** by the San Diego Water Board or its delegated officer, the Dischargers shall begin implementation of any removal or mitigation measures required for impacted soil in accordance with the implementation schedule contained in the RMP.
22. By **February 28, 2023**, the Dischargers shall complete implementation of any removal or mitigation measures required for impacted soil pursuant to the RMP.
23. **No more than 60-days after full completion of the RMP**, in the event that removal or mitigation measures are required, the Dischargers shall submit an RMP Completion Report for approval by the San Diego Water Board or its delegated officer. The RMP Completion Report shall include accurate depictions, documentation, and as-built designs of all completed restoration construction and/or abatement measures included in the approved RMP to demonstrate the Dischargers fully implemented the RMP. The RMP Completion Report shall also include pre- and post-remediation photographs taken at each photo point, as depicted on site maps/figures.

## **General Requirements and Notices**

### Use of Qualified Professionals

1. All technical reports required by this Order that involve planning, investigation, evaluation, or design, or other work requiring interpretation and proper application of engineering or geological sciences, shall be prepared by or under the direction of persons registered to practice in California pursuant to California Business and Professions Code sections 6735, 7835, and 7835.1. As required by these laws, completed technical reports must bear the signature(s) and seal(s) of the registered professional(s) in a manner such that all work can be clearly attributed to the professional responsible for the work.

### Signatory Requirements

2. 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 their knowledge, the report is true, complete, and accurate. The Dischargers shall also state if they agree with any recommendations/proposals and whether they approve implementation of said proposals. 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.”

#### Notice of Change in Ownership or Occupancy

3. The Dischargers shall file a written report on any changes in the Site’s ownership or occupancy. The Dischargers shall file this report with the San Diego Water Board no later than 30 days prior to a planned change and shall reference the number of this Order.

#### Compliance with Other Regulatory Requirements

4. The Dischargers shall obtain all applicable local, state, and federal permits necessary to fulfill the requirements of this Order prior to beginning work.

#### Cost Recovery

5. Pursuant to Water Code section 13304, the Water Board staff is entitled to, and may seek reimbursement for, all reasonable costs it actually incurs investigating and abating the effects of the unauthorized discharges of waste and to oversee/supervise the cleanup of such waste, or other remedial action, required by this Order. If requested by the San Diego 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 San Diego Water Board.

#### Submissions

6. All reports, plans, and documents required by this Order shall be submitted electronically as a Portable Document File (PDF) file to: [sandiego.cannabis@waterboards.ca.gov](mailto:sandiego.cannabis@waterboards.ca.gov), with the following in the subject heading “**CAO:R9-2022-0013:BCovellone**” unless otherwise stated. If the Dischargers cannot send the reports, plans, and documents required by this Order by email, they shall be submitted electronically on a Universal Serial Bus (USB) flash drive or Compact Disc (CD) to the following address:

Dr. Brian Covellone  
Attn: CAO:R9-2022-0013:BCovellone  
California Regional Water Quality Control Board, San Diego Region  
2375 Northside Drive, Suite 100  
San Diego, CA 92108

### Delayed Compliance

7. If for any reason, the Dischargers are unable to perform any activity or submit any document in compliance with the Required Actions, or in compliance with any work schedule submitted pursuant to this Order and approved by the San Diego 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. The Dischargers shall submit any extension request to the San Diego Water Board as soon as a delay is recognized by the Dischargers and prior to the compliance date. The San Diego Water Board or its delegated officer may grant an extension by revising this Order or by a letter from the San Diego Water Board or its delegated officer. The San Diego 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 grant an extension request.

### Modification of Order

8. Any modification to this Order shall be in writing and approved by the San Diego Water Board or its delegated officer, including any potential extension requests.

### Enforcement Authority

9. If the Dischargers fail to comply with the requirements of this Order, the San Diego Water Board, or its delegated officer, may refer this matter to the Attorney General for judicial enforcement, may issue a complaint for administrative civil liability, or may take other enforcement actions. Failure to comply with this Order may result in the assessment of Administrative Civil Liability of up to \$5,000 per violation, per day, depending on the violation, pursuant to the Water Code, including sections 13268 and 13350. The San Diego Water Board reserves its right to take any enforcement actions authorized by law.

Any person aggrieved by this action of the San Diego 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, sections 2050 et seq. The State Water Board must receive the petition by 5:00 p.m., 30 days after 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 by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at: [http://www.waterboards.ca.gov/public\\_notices/petitions/water\\_quality](http://www.waterboards.ca.gov/public_notices/petitions/water_quality) or will be provided upon request.

This Order is issued under authority delegated to the Executive Officer by the San Diego Water Board pursuant to Resolution No. R9-2005-0271 and is effective upon signature.

David W. Gibson  
Executive Officer

Attachments:

*July 23, 2021, Property Inspection Report and Notice of Violation*

*September 23, 2021, Notice of Violation for Unauthorized Diversion and Failure to File A Statement of Water Diversion and Use*