

ORDER WR-2022-0094-DWR

ADMINISTRATIVE CIVIL LIABILITY ORDER

In the Matter of: Administrative Civil Liability for Violations of Division 2 of the California Water Code in Lake County Associated with the Diversion and Use of Water for Cannabis Cultivation by

Soda Creek Ranch LLC.

Lake County

APN: 002-012-290-000

The Assistant Deputy Director of the Division of Water Rights (Division), through authority delegated by the State Water Resources Control Board (State Water Board), hereby issues an Order for Administrative Civil Liability to Soda Creek Ranch LLC (Diverter).

THE STATE WATER BOARD, OR ITS DELEGEE, FINDS AS FOLLOWS:

1. On October 17, 2017, the State Water Board adopted the *Cannabis Cultivation Policy – Principles and Guidelines for Cannabis Cultivation* (Cannabis Cultivation Policy) 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 Cultivation Policy went into effect on December 18, 2017, following approval by the Office of Administrative Law. Pursuant to Water Code section 13149, the Cannabis Cultivation Policy established principles and guidelines for the diversion and use of water for cannabis cultivation in areas where cannabis cultivation may have the potential to substantially affect instream flows. The State Water Board subsequently amended the Cannabis Cultivation Policy, effective April 16, 2019.
2. The Diverter is the owner of record for Lake County Assessor Parcel Number (APN) 002-012-290-000 (Property) where Division staff observed and documented commercial cannabis cultivation on June 3, 2021.
3. During the June 3, 2021 inspection, Division staff documented numerous violations of the California Water Code on the Property. On July 15, 2021, the Division mailed an Inspection Report and Notice of Violation to the Diverter that detailed the alleged violations observed on the Property and informed the Diverter of the corrective actions needed to remediate the violations.
4. On December 8, 2021, the Assistant Deputy Director of the Division issued an Administrative Civil Liability Complaint (Complaint) to the Diverter. The Complaint alleges the Diverter violated Water Code section 5101 by failing to file a statement of water diversion and use (Statement), that the Diverter violated Cannabis Cultivation Policy requirements adopted pursuant to Water Code section 13149, and that the Diverter diverted and used water for cannabis cultivation for which a license is required but was not obtained.

5. California Water Code section 1055.3 provides that when determining the appropriate amount of civil liability to be imposed, the State Water Board shall take into consideration all relevant circumstances, including but not limited to the extent of the harm caused by the violation, the nature and persistence of violation, the length of time over which the violation occurs, and the corrective actions, if any, taken by the violator. After consideration of all relevant circumstances, the Complaint proposes a total administrative civil liability amount of **\$5,000** for the alleged violations:
 - a. Violation 1: For the failure to submit a Statement to the State Water Board by July 1, 2021 for the diversion and use of water during 2020, in violation of Water Code section 5101, the Complaint proposed an administrative civil liability amount of \$1,000 pursuant to Water Code section 5107, subdivision (c)(1).
 - b. Violation 2: For the unauthorized diversion and use of water during the surface water dry season forbearance period, in violation of Term 66 of Section 2 of the Cannabis Cultivation Policy, the Complaint proposes an administrative civil liability amount of \$500 pursuant to Water Code section 1847, subdivision (a)(1).
 - c. Violation 3: For the failure to follow diversion intake requirements and render the point of diversion incapable of diverting water during the forbearance period, in violation of Term 77 of Section 2 of the Cannabis Cultivation Policy, the Complaint proposes an administrative civil liability amount of \$500 pursuant to Water Code section 1847, subdivision (a)(1).
 - d. Violation 4: For the failure to install and maintain a measuring device for all water diversions, in violation of Term 82 of Section 2 of the Cannabis Cultivation Policy, the Complaint proposes an administrative civil liability amount of \$500 pursuant to Water Code section 1847, subdivision (a)(1).
 - e. Violation 5: For the failure to use water storage facilities equipped with a device to prevent overflow, in violation of Term 92 of Section 2 of the Cannabis Cultivation Policy, the Complaint proposes an administrative civil liability amount of \$1,000 pursuant to Water Code section 1847, subdivision (a)(1).
 - f. Violation 6: For the failure to secure tank openings to prevent entry or entrapment of wildlife, in violation of Term 93 of Section 2 of the Cannabis Cultivation Policy, the Complaint proposes an administrative civil liability amount of \$500 pursuant to Water Code section 1847, subdivision (a)(1).
 - g. Violation 7: For the failure to maintain daily records of all water used for irrigation of cannabis, in violation of Term 98 of Section 2 of the Cannabis Cultivation Policy, the Complaint proposes an administrative civil liability amount of \$500 pursuant to Water Code section 1847, subdivision (a)(1).
 - h. Violation 8: For the diversion or use of water for cannabis cultivation without the necessary license under Chapter 6 (commencing with Section 26060) of Division 10 of the Business and Professions Code, in violation of Water Code section 1847, subdivision (b)(4), the Complaint proposes an administrative civil liability amount of \$500 pursuant to Water Code section 1847, subdivision (a)(1).
6. The Division sent the Complaint to the Diverter via United States Postal Service certified

mail. On December 13, 2021, the certified delivery was accepted at the Diverter's address. The Complaint, as well as the cover letter to the Complaint, provided the Diverter with notice of its ability to contest the allegations in the Complaint by requesting a formal hearing no later than 20 days from the date of receipt of the Complaint.

7. The Diverter did not submit a hearing request to contest the allegations in the Complaint and the deadline specified in the Complaint and cover letter has passed.
8. Pursuant to California Water Code section 1055, subdivision (c), the State Water Board, after any necessary hearing, may adopt an order setting administrative civil liability.
9. The State Water Board is authorized to delegate authority to the Deputy Director of Water Rights under Water Code section 7. State Water Board Resolution No. 2012-0029 (Resolution) delegates some of the State Water Board's authority to the Deputy Director of Water Rights. Section 4.9.2 of the Resolution authorizes the Deputy Director to issue an order imposing Administrative Civil Liability when a Complaint has been issued and no hearing has been requested in the period provided by California Water Code section 1055. Section 4.9.2 of the Resolution allows this authority to be redelegated to the Assistant Deputy Director of Water Rights. This authority has been redelegated to the Assistant Deputy Director of Water Rights.
10. The Assistant Deputy Director is therefore authorized under Water Code section 1055, subdivision (c) to issue an administrative civil liability order to the Diverter imposing the liability amount proposed in the December 8, 2021 Complaint.

IT IS HEREBY ORDERED THAT:

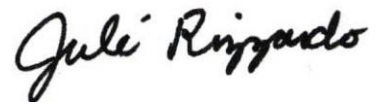
1. The attached Complaint is fully incorporated herein and made part of this Order.
2. In adopting this Order, the State Water Board, or its delegee, has considered all relevant circumstances, including but not limited to those specifically identified in the Complaint, as required by California Water Code section 1055.3 in determining that the Diverter shall be assessed an administrative civil liability amount of **\$5,000**.
3. The Diverter shall remit, within 30 days of the date of this Order, a check or money order payment of the full liability amount of **\$5,000** to:

State Water Resources Control Board
Division of Water Rights
Enforcement Section
P.O. Box 2000
Sacramento, CA 95812-2000

5. Fulfillment of the Diverter's obligations under this Order constitutes full and final satisfaction of its liability for the alleged violations specifically identified in the Complaint. The State Water Board reserves the right to take further enforcement action for any additional or future violations.
6. The Assistant Deputy Director of the Division of Water Rights is authorized to seek recovery of the liability imposed, as authorized by California Water Code section 1055.4, or refer this matter to the Office of Attorney General for further enforcement action if the Diverter fails to

comply with remitting payment of the full liability amount within 30 days of the date of this Order.

STATE WATER RESOURCES CONTROL BOARD

A handwritten signature in black ink that reads "Julé Rizzardo". The signature is written in a cursive, slightly slanted style.

Julé Rizzardo, Assistant Deputy Director

Division of Water Rights

Dated: FEB 1 1 2022