

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT

In the Matter of Alleged Water Code Violations
Ge Vue

Assessor Parcel Number 011-270-041-000

COUNTY: TRINITY COUNTY

GE VUE (HEREINAFTER, THE DIVERTER) IS HEREBY GIVEN NOTICE THAT:

1. The State Water Resources Control Board's (State Water Board's) Division of Water Rights (Division) alleges that the Diverter committed the violations described below, which relate to the diversion or use of water for cannabis cultivation activities on Trinity County Assessor Parcel Number (APN) 011-270-041-000 (the Property).
2. Based on these allegations, the Division seeks an Administrative Civil Liability Order against the Diverter imposing liability in the total amount of sixteen thousand dollars (\$16,000).
3. The State Water Board or the State Water Board's Administrative Hearings Office may impose civil liability (i.e. monetary fines) for these violations through the administrative process described below.

The Diverter has the right to request a hearing on these alleged violations but must do so in writing within 20 days from the date the Diverter receives this Complaint, or else that right is waived. Please see the specific directions for submitting hearing requests in the "Right to Hearing" section at the end of this Complaint.

SUMMARY OF ALLEGED VIOLATIONS

4. Violation 1: Failure to file a Statement of Water Diversion and Use (Statement) for three points of diversion (PODs) as required by Water Code section 5101.

5. Violations 2-7: Thirty-seven (37) violations of Term requirements in the *Cannabis Cultivation Policy – Principles and Guidelines for Cannabis Cultivation* (Cannabis Cultivation Policy)¹, established by the State Water Board pursuant to Water Code section 13149.
6. Violation 8: Diverting and using water for cannabis cultivation without a license issued by the Department of Cannabis Control (DCC) under Chapter 6 (commencing with Section 26060) of Division 10 of the Business and Professions Code.

BACKGROUND AND FACTUAL BASIS

7. Property Ownership:

According to Trinity County Assessor's Office property records, the Diverter acquired the Property on June 6, 2021. The Diverter has owned the Property at all times relevant to the violations alleged in this Complaint.

8. Watershed Information:

The Property is located in the Pelletreau Creek watershed (HUC 12 #180102120503). Water for the Property was diverted from an unnamed stream that is tributary to Kerlin Creek, a tributary to the South Fork Trinity River. The South Fork Trinity River is both a state and federally designated Wild and Scenic River from Forest Glen to the confluence with the Trinity River. As a Wild and Scenic River, the State Water Board is limited in processing or accepting new applications to appropriate water pursuant to California Code of Regulations, Title 23, Division 3, Chapter 2, Article 8, section 734. In accordance with the California Wild and Scenic Rivers Act (Public Resources Code, Division 5, Chapter 1.4, section 5093 et seq.), "[i]t is the policy of the State of California, that certain rivers which possess extraordinary scenic, recreational, fishery, or wildlife values shall be preserved in their free-flowing state, together with their immediate environments, for the benefit and enjoyment of the people of the state" and "[t]he Legislature declares that such use of these rivers is the highest and most beneficial use and is a reasonable and beneficial use of water within the meaning of section 2 of Article X of the California Constitution."

9. Inspection Basis:

On or around July 19, 2023, the Division was notified by the Trinity County Sheriff's Office of a planned search warrant investigation of the Property based on illegal cannabis cultivation and possible surface water diversion for irrigation of cannabis.

¹ On October 17, 2017, the State Water Board approved Resolution No. 2017-0063 adopting the Cannabis Cultivation Policy. On February 5, 2019, the State Water Board approved resolution 2019-007 updating the Cannabis Cultivation Policy. The Office of Administrative Law approved both versions of the Cannabis Cultivation Policy on December 18, 2017 and April 16, 2019, respectively.

10. Water Rights Records Review:

On or around July 19, 2023, Division staff reviewed available State Water Board water rights records in the electronic Water Rights Information Management System (eWRIMS) and found that the Diverter does not have any Statements on file with the State Water Board. Division staff again reviewed available water rights records in eWRIMS on May 20, 2025, while preparing this Complaint, and similarly found no Statements on file for the Diverter.

11. Well Records Review:

On or around July 19, 2023, Division staff reviewed the Department of Water Resources' database of Well Completion Reports and did not find any record of a well on the Property.

12. Department of Cannabis Control Cannabis Control License Records Review:

On or around July 19, 2023, Division staff reviewed DCC's licensing records for commercial cannabis cultivation to determine if there was a license on file that would legally authorize commercial cannabis cultivation on the Property. Division staff found no DCC license on record for the Property. Division staff again checked DCC license records dated October 4, 2023 and November 14, 2024, and found no active or pending DCC license for the Property.

13. Aerial Imagery Review:

On or around July 19, 2023, prior to the inspection, Division staff reviewed aerial imagery of the Property. Staff again reviewed aerial imagery of the Property on May 15, 2025 while preparing this Complaint. Based on those reviews, Division staff made the following observations:

- a. LightBox Vision aerial imagery of the Property dated July 1, 2021 and June 2, 2022 shows cannabis cultivation greenhouses, outdoor cannabis cultivation areas, and tanks indicative of active cannabis cultivation and water use.
- b. Google Earth Pro aerial imagery of the Property dated July 17, 2022 shows the development of cannabis cultivation in the place of use (POU) described as POU4 in the August 1, 2023 Notice of Violation and Inspection Report (NOV/IR).
- c. LightBox Vision aerial imagery of the Property dated June 6, 2023 shows the same or similar cannabis cultivation infrastructure that staff observed in use during the August 1, 2023 inspection.
- d. September 11, 2023 LightBox Vision aerial imagery of the Property shows that cannabis cultivation continued after the inspection at POU3 and POU5-6.
- e. May 6, 2025 LightBox Vision aerial imagery of the Property shows that the cannabis cultivation infrastructure is still in place but not in use.

14. Inspection:

On August 1, 2023, Division staff participated in a search warrant investigation of the Property in coordination with the Trinity County Sheriff's Office. The Diverter was onsite during the inspection. Division staff observed cannabis plants growing on the Property with a total cultivation area of 65,525 sq. ft. Trinity County Sheriff's Office law enforcement officers determined the total cannabis plant count to be approximately 2,651 plants. Division staff identified three surface water PODs as the sole sources of water on the Property, as further described below.

15. Points of Diversion:

During the August 1, 2023 inspection, Division staff documented the following PODs:

- a. POD1 is a threat of diversion to off-stream storage located on an unnamed stream that is a tributary to Kerlin Creek. POD1 is located on the Property, which appears to be riparian to the unnamed stream. The unnamed stream had defined bed and banks upstream and downstream from POD1 and water was flowing in the unnamed stream at the time of the inspection. POD1 was diverting water during the inspection by gravity through a $\frac{3}{4}$ -inch polyethylene water supply line that was not connected to a water storage tank or to an irrigation water line. Division staff observed the $\frac{3}{4}$ -inch polyethylene water supply line discharging water into the same unnamed stream approximately 12 feet downstream from POD1's location.
- b. POD2 is a point of diversion to off-stream storage located on an unnamed stream that is a tributary to Kerlin Creek. POD2 is located on the Property, which appears to be riparian to the unnamed stream. The unnamed stream had an impoundment 3 feet wide and 1.5 feet high constructed from hand stacked rocks that allowed water to pool behind the dam and be diverted into off-stream water storage in POS1 and POS2. The unnamed stream has defined bed and banks upstream and downstream from POD2 and water was flowing in the unnamed stream at the time of the inspection. POD2 was diverting water during the inspection by gravity at a rate of 3.6 gallons per minute (GPM) through a 1-inch polyethylene water supply line to POS1 and POS2. The flow rate was determined by measuring the time it took to fill a container of a known volume. Division staff did not observe a water measuring device at or near POD2. Staff observed that water stored at POS1 and POS2 from POD2 was used for domestic use at POU8 and cannabis irrigation at POU1, POU2, and POU3. The Diverter did not install separate storage systems for water diverted for cannabis irrigation and water diverted for other uses, nor did Division staff observe separate measuring devices to quantify diversion to and from each storage facility.
- c. POD3 is a point of diversion to off-stream storage located on an unnamed stream that is a tributary to Kerlin Creek. POD3 is located on the Property and appears to be riparian to the unnamed stream. POD3 diverts water from the same impoundment as POD2, which is then conveyed to off-stream water

- storage in POS2. The unnamed stream has defined bed and banks upstream and downstream from POD3 and water was flowing in the unnamed stream at the time of the inspection. POD3 was diverting water during the inspection by gravity through a ¾-inch polyethylene water supply line to POS2. Division staff did not observe a water measuring device at or near POD3. Staff observed that water stored at POS2 from POD3 was used for domestic use at POU9 and cannabis irrigation at POU3. The Diverter did not install separate storage systems for water diverted for cannabis irrigation and water diverted for other uses, nor did Division staff observe separate measuring devices to quantify diversion to and from each storage facility.
- d. POD4 is a point of diversion to off-stream storage located on an unnamed stream that is a tributary to Kerlin Creek. POD4 is located on the Property and appears to be riparian to the unnamed stream. The unnamed stream had an impoundment of 1.5 feet wide and 1 foot high constructed from hand stacked rocks that allowed water to pool behind the dam and be diverted into off-stream water storage in POS5, POS6, and POS7. The unnamed stream had defined bed and banks upstream and downstream from POD4 and water was flowing in the unnamed stream at the time of the inspection. POD4 was diverting water during the inspection by gravity through a ½-inch polyethylene water supply line to POS5, POS6, and POS7. Division staff did not observe a water measuring device at or near POD4. Staff observed that water stored at POS5-7 from POD4 was used for domestic use at POU7 and cannabis irrigation at POU4, POU5, and POU6. The Diverter did not install separate storage systems for water diverted for cannabis irrigation and water diverted for other uses, nor did Division staff observe separate measuring devices to quantify diversion to and from each storage facility.
 - e. POD5 is a threat of diversion to off-stream storage located on an unnamed stream that is a tributary to Kerlin Creek. POD5 is located on the Property and appears to be riparian to the unnamed stream. The unnamed stream has defined bed and banks upstream and downstream from POD5 and water was flowing in the unnamed stream at the time of the inspection. Staff observed POD5 diverting water from the same impoundment as POD4 by gravity through a 1-inch polyethylene water supply line that was not connected to a water storage tank or to an irrigation water line. Water that was diverted at POD5 discharged into the same unnamed stream approximately 35 feet downstream from POD5's location.
16. Notice of Violation and Inspection Report:
Subsequent to the inspection, Division staff prepared a NOV/IR that was mailed to the Diverter via United States Postal Service (USPS) certified mail on October 31, 2023. On November 7, 2023, the NOV/IR was received and signed for at an address associated with the Diverter in Milwaukee, Wisconsin. The NOV/IR describes the observations made by Division staff during the inspection, the

violations relating to those observations, and the recommended corrective actions for the violations.

17. Diverter's Response to NOV/IR:

- a. On November 8, 2023, the Diverter submitted Division of Water Rights – Cannabis Compliance Response Portal (Portal) entry 452411 in response to the October 31, 2023 NOV/IR, with the assigned eWRIMS Investigation ID No.15083. In the Portal entry, the Diverter selected the option that states he plans to cultivate cannabis and is no longer diverting surface water for cannabis irrigation. The comment left under “Additional Information” stated: *“I was hoping to see if i can do it next year because now that its snowing up in the mountains, I can no longer go up to the property and provide proof. If you give me till next year July 2024 when the snow is melted by than [sic]. That is when i can go back to the property to go remove all water irrigation and provided photo of proof.”* No photos were attached to the Portal entry.
- b. On December 5, 2023, the Diverter submitted Portal entry 452611, which stated that the Diverter has cultivated cannabis in the past but is no longer cultivating cannabis. The comment left under “Additional Information” stated: *“WE did not know that we can't divert water from streams. These diversion [sic] was here when we bought the property.”* A document file with embedded imagery was submitted with the Portal entry. One of the attached images depicts the impoundment associated with POD2-3 and documented that both diversions had been removed. Other images show the dismantling and consolidation of the polyethylene water supply lines associated with the water conveyance system on the Property, as well as the covering of tank openings at POS2 (Tank 6 and Tanks 11-12), POS6 (Tank 17), POS7 (Tanks 18-20).
- c. On March 18, 2024, Division staff emailed the Diverter and asked for an update on filing the Statements to resolve the violations alleged in the NOV/IR. To date, the Diverter has not filed Statements for water diverted and used on the Property from POD2-4.

STATE WATER BOARD AUTHORITY

18. Water Code section 1055, subdivision (a), provides that the Executive Director of the State Water Board may issue a complaint to any person or entity on which administrative civil liability may be imposed pursuant to Water Code sections 1052, 1847, and 5107. The Executive Director delegated this authority to the Deputy Director for Water Rights by memorandum dated May 17, 1999. The Deputy Director redelegated this authority to the Assistant Deputy Director for the Permitting and Enforcement Branch by memorandum dated August 27, 2008.
19. Water Code section 1112 generally provides that the Administrative Hearings Office presides over hearings on complaints issued under Water Code section 1055. Pursuant to Water Code section 1114, for matters seeking administrative liability

under Water Code section 1847 or 5107, the Hearing Officer adopts a final order. For all other matters, the Hearing Officer adopts a proposed order to be considered by the State Water Board.

ALLEGED VIOLATIONS

Statement of Annual Water Diversion and Use

20. **Violation 1:** Failure to file a Statement of Water Diversion and Use:
Water Code section 5101 requires that any person who diverts water shall file with the State Water Board a Statement of their diversion and use as provided in subdivision (b), with certain exceptions that are not relevant here. Water Code section 5102 states that a separate Statement shall be filed for each point of diversion.
21. On September 23, 2021, Senate Bill 155 came into effect and changed the reporting requirements under Water Code section 5101 and section 5104, subdivision (b)(2). For diversions prior to December 31, 2020, the Statement shall be filed before July 1 of the following year. For diversions after December 31, 2020 and before October 1, 2021, the Statement shall be filed before April 1, 2022. For diversions in all subsequent reporting periods of October 1 through September 30, Statements shall be filed before February 1 of the year after the reporting period ends.
22. Water Code section 5107, subdivision (c)(1), provides that the State Water Board may impose liability pursuant to Water Code section 1055 for failure to file a Statement in an amount not to exceed one thousand dollars (\$1,000), plus five hundred dollars (\$500) per day for each additional day on which the violation continues if the person fails to file a Statement within 30 days after the State Water Board has called the violation to the attention of that person.
- a. POD2 diverts surface water from an unnamed stream, a tributary to Kerlin Creek and the South Fork Trinity River, that is subject to the State Water Board's permitting authority. During the August 1, 2023 inspection, Division staff observed that water diverted at POD2 was plumbed to convey water to POS1-4 and POS8 for cannabis irrigation use at POU1-3 and for domestic use at POU8-10.
 - b. POD3 diverts surface water from an unnamed stream, a tributary to Kerlin Creek and the South Fork Trinity River, that is subject to the State Water Board's permitting authority. Division staff observed that water diverted at POD3 was plumbed to convey water to POS2-4 and POS8 for cannabis irrigation use at POU3 and for domestic use at POU8-9.
 - c. POD4 diverts surface water from an unnamed stream, a tributary to Kerlin Creek and the South Fork Trinity River, that is subject to the State Water Board's permitting authority. Division staff observed that water diverted at

POD4 was plumbed to convey water to POS5-7 for cannabis irrigation use at POU4-6 and for domestic use at POU7 and POU9.

- d. On October 31, 2023, Division staff mailed the Diverter a NOV/IR via certified mail. On November 7, 2023, the NOV/IR was received and signed for at the Diverter's address in Milwaukee, Wisconsin. The NOV/IR informed the Diverter that staff observed diversion and use of water at POD2-4 during the August 1, 2023 inspection and that the deadline to file a Statement for water diverted and used between October 1, 2022 and September 30, 2023 would be February 1, 2024. As of the date of this Complaint, the Diverter has not submitted any Statements for POD2-4.
- e. Division staff allege three (3) violations for the Diverter's failure to file a Statement for the diversion and use of water occurring at POD2-4. One violation of Water Code section 5101 is alleged for each POD as a result of the Diverter failing to file Statements by February 1, 2024 for the diversion and use of water occurring at POD2-4 between October 1, 2022 and September 30, 2023, including the diversions and use that were observed by staff during the August 1, 2023 inspection.

Cannabis Cultivation Policy Requirements

23. The State Water Board's 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 contains principles, guidelines, and requirements (referred to here as "requirements") for the diversion or use of water for cannabis cultivation in areas where cannabis cultivation may have the potential to substantially affect instream flow. The State Water Board later amended the Cannabis Cultivation Policy, effective April 16, 2019.

24. The Cannabis Cultivation Policy defines cannabis cultivation as:

Any activity involving or necessary for the planting, growing, pruning, harvesting, drying, curing, or trimming of cannabis. This term includes but is not limited to: (1) water diversions for cannabis cultivation, and (2) activities that prepare or develop a cannabis cultivation site or otherwise support cannabis cultivation and which discharge or threaten to discharge waste to waters of the state.

25. Water Code section 1847, subdivisions (a) and (b)(1), provide that any person or entity violating any requirement adopted pursuant to Water Code section 13149 may be liable in an amount not to exceed the sum of five hundred dollars (\$500) per violation, plus two hundred fifty dollars (\$250) for each additional day on which each violation continues if the person fails to correct the violation within 30 days after the State Water Board has called the violation to the attention of that person or entity, plus two thousand five hundred dollars (\$2,500) for each acre-foot of water diverted or used in violation of the applicable requirement.

26. Violation 2: Cannabis Cultivation Policy, Attachment A, Section 2, Term 66, states:

All water diversions for cannabis cultivation from a surface stream, subterranean stream flowing through a known and definite channel (e.g., groundwater well diversions from subsurface stream flows), or other surface waterbody are subject to the surface water Numeric and Narrative Instream Flow Requirements. This includes lakes, ponds, and springs (unless the spring is deemed exempt by the Deputy Director). See Section 3, Numeric and Narrative Instream Flow Requirements of this Attachment A for more information. The Surface Water Dry Season Forbearance Period requirement stipulates the following: Cannabis cultivators shall not divert surface water for cannabis cultivation activities at any time from April 1 through October 31 of each calendar year, unless the water diverted is delivered from storage in compliance with Narrative Flow Requirement 4...

- a. At the time of the August 1, 2023 inspection, which occurred during the Surface Water Dry Season Forbearance Period, Division staff observed POD2-4 diverting surface water to storage for cannabis irrigation use.
 - i. Division staff observed water diverted at POD2 being conveyed by gravity to POS1-2 and then to POU1-3 to irrigate cannabis.
 - ii. Division staff observed water diverted at POD3 being conveyed by gravity to POS2, and then to POS3 and POU3 to irrigate cannabis.
 - iii. Division staff observed water diverted at POD4 being conveyed by gravity to POS6-7 and then to POU4-6 to irrigate cannabis.
- b. Division staff allege three (3) violations of the Cannabis Cultivation Policy, Section 2, Term 66 for the surface water diversions observed at POD2-4 during the August 1, 2023 inspection.

27. Violation 3: Cannabis Cultivation Policy, Attachment A, Section 2, Term 81, states:

Cannabis cultivators are encouraged to install separate storage systems for water diverted for cannabis irrigation and water diverted for any other beneficial uses, or otherwise shall install separate measuring devices to quantify diversion to and from each storage facility, including the quantity of water diverted and the quantity, place, and purpose of use (e.g., cannabis irrigation, other crop irrigation, domestic, etc.) for the stored water.

- a. During the August 1, 2023 inspection, Division staff observed that water diverted to storage from POD2-4 was used to irrigate cannabis and for domestic purposes. There were no water measuring devices observed or documented on POD2-4, at any of the POS receiving water from POD2-4, or any of the water conveyance lines conveying water for domestic use and cannabis cultivation.

- i. Division staff observed commingled water storage from POD2 at POS2 (Tanks 6 and 10-12). Water stored at POS2 is conveyed to POS4 and POS8, which supply water for domestic use, as well as being conveyed to POU3 for cannabis irrigation.
 - ii. Division staff also observed commingled water storage from POD3 at POS2 (Tanks 6 and 10-12).
 - iii. Division staff observed commingled water storage from POD4 at POS7 (tanks 18-20). Water stored at POS7 is conveyed to POU5 and POU6 to irrigate cannabis, as well as being conveyed to POU7 for domestic use.
- b. Based on the water diversion and conveyance system observed during the inspection, Division staff determined that the installation of five (5) water measuring devices would be necessary to measure and record the water use for cannabis irrigation and domestic purposes. Specifically, water measuring devices would need to be installed between (1) POD2 and POS1, (2) POS2 and POS4, (3) POS2 and POS8, (4) POD4 and POS5, and (5) POS7 and POU7 to measure and record the water use for domestic purposes. Since a plumbing reconfiguration could isolate water diverted for domestic use from water diverted for cannabis irrigation, the Division recognizes the need for a single measuring device along with a plumbing adjustment.
- c. One (1) violation of Term 81 of Section 2 of the Cannabis Cultivation Policy is alleged for the failure to install separate storage systems for water diverted for cannabis irrigation and domestic purposes or otherwise install separate measuring devices to quantify water diverted to and from the storage tanks for each use (i.e., quantify the water stored and used for domestic use separately from the water stored and used for cannabis irrigation).

28. Violation 4: Cannabis Cultivation Policy, Attachment A, Section 2, Term 82 states:

The cannabis cultivator shall install and maintain a measuring device(s) for surface water or subterranean stream diversions. The measuring device shall be, at a minimum equivalent to the requirements for direct diversions greater than 10 acre-feet per year in California Code of Regulations, Title 23, Division 3, Chapter 2.7 and Chapter 2.8. The measuring device(s) shall be located as close to the point of diversion as reasonable. Cannabis cultivators shall maintain daily diversion records for water diverted for cannabis cultivation. Cannabis cultivators shall maintain separate records that document the amount of water used for cannabis cultivation separated out from the amount of water used for other irrigation purposes and other beneficial uses of water (e.g., domestic, fire protection, etc.). Cannabis cultivators shall maintain daily diversion records at the cultivation site and shall make the records available for review or by request by the Water Boards, CDFW, or any other authorized representatives of the Water Boards or CDFW. Daily diversion records shall be retained for a minimum of five years. Compliance with this term is required

for any surface water diversion for cannabis cultivation, even those under 10 acre-feet per year.

- a. On August 1, 2023, Division staff observed POD2-4 diverting surface water for cannabis irrigation. None of the three PODs had a measuring device installed, and no daily diversion records were found during the inspection.
- b. Three (3) violations of Term 82 of Section 2 of the Cannabis Cultivation Policy are alleged for the failure to install and maintain measuring devices to record daily diversions used for cannabis cultivation and for the absence of diversion records noted during the August 1, 2023 inspection.

29. Violation 5: Cannabis Cultivation Policy, Attachment A, Section 2, Term 92, states:

To prevent rupture or overflow and runoff, cannabis cultivators shall only use water storage tanks and bladders equipped with a float valve, or equivalent device, to shut off diversion when storage systems are full. Cannabis cultivators shall install any other measures necessary to prevent overflow of storage systems to prevent runoff and the diversion of more water than can be used and/or stored.

- a. During the site inspection, Division staff documented 16 water storage tanks located at POS1 (Tanks 1-3), POS2 (Tanks 6-12), POS3 (Tanks 13-14), POS6 (Tank 17), POS7 (Tanks 18-20) in use for cannabis cultivation without float valves or similar devices installed to prevent the overflow and waste of water.
- b. Sixteen (16) violations of Term 92 of Section 2 of the Cannabis Cultivation Policy are alleged for the failure to only use water storage tanks equipped with a float valve, or equivalent device, to shut off the diversion when water storage tanks are full.

30. Violation 6: Cannabis Cultivation Policy, Attachment A, Section 2, Term 93, states:

Cannabis cultivators shall ensure that all vents and other openings on water storage tanks are designed to prevent the entry and/or entrapment of wildlife.

- a. During the August 1, 2023, inspection, Division staff observed 13 water storage tanks in use for cannabis cultivation without tank lids or other means to prevent the entry and/or entrapment of wildlife at the following locations: POS1 (Tank 2), POS2 (Tanks 6-8 and Tanks 10-12), POS3 (Tanks 13-14), POS6 (Tank 17), and POS7 (Tanks 18-20).
- b. Thirteen (13) violations of Term 93 of Section 2 of the Cannabis Cultivation Policy are alleged for the failure to ensure that all vents and other openings on water storage tanks are designed to prevent entry and/or entrapment of wildlife.

31. Violation 7: Cannabis Cultivation Policy, Attachment A, Section 2, Term 98, states:

Cannabis cultivators shall maintain daily records of all water used for irrigation of cannabis. Daily records may be calculated by the use of a measuring device or, if known, by calculating the irrigation system rates and duration of time watered (e.g., irrigating for one hour twice per day using 50 half-gallon irrigation emitters equates to 50 gallons per day (1 hour x 2 times per day x 50 irrigation emitters x 0.5 gallons per irrigation emitter per hour) of water used for irrigation). Cannabis cultivators shall retain, for a minimum of five years, irrigation records at the cannabis cultivation site and shall make all irrigation records available for review by the Water Boards, CDFW, and any other authorized representatives of the Water Boards or CDFW.

- a. During the August 1, 2023, inspection, Division staff did not observe any water measuring devices nor any records of water use for cannabis cultivation on site or at any of the PODs, POSs, or POU.
- b. One (1) violation of Term 98 of Section 2 of the Cannabis Cultivation Policy is alleged for failing to measure water use for cannabis cultivation and to maintain daily records of water used for cannabis irrigation.

Diversion or Use of Water for Cannabis Cultivation for Which a DCC License is Required

32. Violation 8: Water Code section 1847, subdivisions (a) and (b)(4), provide that any person or entity who diverts or uses water for cannabis cultivation for which a license is required, but which has not been obtained, under Chapter 6 (commencing with 26060) or Chapter 7 (commencing with 26070) of Division 10 of the Business and Professions Code may be liable in an amount not to exceed the sum of five hundred dollars (\$500) per violation, plus two hundred fifty dollars (\$250) for each additional day on which each violation continues if the person fails to correct the violation within 30 days after the State Water Board has called the violation to the attention of that person or entity, plus two thousand five hundred dollars (\$2,500) for each acre-foot of water diverted or used in violation of the applicable requirement.

- a. A commercial cannabis cultivation licensing program was established pursuant to Chapter 6 (commencing with section 26060) of Division 10 of the Business and Professions Code, which began issuing licenses on January 1, 2018.² Based on the review of aerial images and Division staff's observations during the site inspection, the cannabis cultivation occurring on the Property is of a scale sufficient to require a commercial cannabis

² Three state programs merged to form the Department of Cannabis Control (DCC). Those programs were the Bureau of Cannabis Control in the Department of Consumer Affairs, the Manufactured Cannabis Safety Branch in the Department of Public Health, and CalCannabis Cultivation Licensing in the Department of Food and Agriculture. Effective July 12, 2021, DCC is the state program tasked with licensing, inspecting, and regulating cannabis activities in California.

cultivation license under Chapter 6 (commencing with section 26060) of Division 10 of the California Business and Professions Code as more than six living cannabis cultivation plants were observed.

- b. During the August 1, 2023 site inspection, Division staff observed approximately 2,651 cannabis plants growing outdoors and in greenhouses, with an approximate total area of 65,525 sq. ft., irrigated from surface water diversions at POD2-4. Division staff examined available records on July 19, 2023, prior to the inspection, and again on October 4, 2023, November 14, 2024, and May 14, 2025, and did not find any record that DCC issued a cultivation license for the activities observed on the Property.
- c. One (1) violation is alleged for diverting and using water for cannabis cultivation without having obtained a DCC commercial cannabis license as required.

Statutory Maximum Liability

33. The statutory maximum liability for Violations 1-8 is the sum of each Violation's statutory maximum liability: Violation 1 (\$3,000) + Violation 2 (\$1,500) + Violation 3 (\$500) + Violation 4 (\$1,500) + Violation 5 (\$8,000) + Violation 6 (\$6,500) + Violation 7 (\$500) + Violation 8 (\$500) = \$22,000.

WATER CODE SECTION 1055.3 CONSIDERATION OF FACTORS

34. Water Code section 1055.3 requires that the State Water Board, in determining the amount of civil liability, shall take into consideration all relevant circumstances, including, but not limited to, 1) the extent of harm caused by the violations, 2) the nature and persistence of the violation, 3) the length of time over which the violation occurs, and 4) the corrective action, if any taken by the violator. The penalty amounts proposed in this Complaint were determined consistent with this requirement.

Relevant Circumstances Applicable to All Violations

35. Division staff reviewed aerial imagery of the Property dated July 1, 2021 and observed evidence of active cultivation. Division staff also reviewed aerial imagery dated July 17, 2022 that showed an additional cultivation area was developed after the Diverter's purchase of the Property. As cannabis cultivation increased at the Property, the consumptive water demand would similarly increase and lead to a decreased amount of surface water available. Division staff observed during the inspection on August 1, 2023, that the diversions from surface water streams are the sole source of water on the Property. As such, it is likely that at least one of the PODs observed during the inspection has been used since 2021 when the Diverter purchased the Property. These diversions were likely used for domestic purposes and to irrigate cannabis up to the date of the inspection when the Diverter's plants

were eradicated by law enforcement. Additionally, aerial imagery dated September 11, 2023, shortly after the inspection, indicates that cultivation activities resumed on the Property after eradication. Accordingly, there have likely been cumulative impacts from water diversion violations over a period of approximately three years. Aerial imagery from 2024 and 2025 shows cannabis cultivation infrastructure remains on the Property, which could be used for future cannabis cultivation.

36. Division staff found no evidence that the Diverter has taken steps to comply with the regulatory requirements applicable to commercial cannabis cultivation. Permit and licensing fees and other regulatory costs for commercial cannabis cultivation can be significant, such that unlicensed and unpermitted cultivators obtain an unfair advantage over those cultivators who participate in the regulated market. The Division recommends that the State Water Board take each opportunity to deter illegal cannabis cultivation activities and demonstrate the need to comply with the State Water Board's Cannabis Cultivation Policy and the laws regarding the diversion and use of water by imposing administrative civil liability for violations associated with illegal cannabis cultivation. The Division recommends that the State Water Board impose the proposed penalties to serve as a deterrent to the Diverter, as well as to illegal cannabis cultivators generally, and to encourage compliance with the state's regulatory program for commercial cannabis cultivation.

37. Violation 1: Failure to File Statements of Water Diversion and Use (Water Code section 5101)

a. Extent of Harm Caused:

The failure to file a Statement impacts the State Water Board's administration of the state's water resources and the priority of right to divert and use water. The State Water Board's Statement Program is a central repository for records that report each point of diversion, diversion amount, and use of water by all water diverters that are not required to have an appropriate water right on file with the State Water Board. The failure to submit Statements of water diversion and use impacts the water rights regulatory program and harms other priority of right diverters, the environment, and public trust resources. The need for timely water diversion and use records is particularly important after three years of critical drought conditions that led to curtailments of legal users based on reported water use and projected water availability data. Failure to comply with reporting requirements adds administrative burden to state and local regulators that can alter or reduce water use by legal water users when there is insufficient supply relative to demand. When legal users are curtailed, the water that becomes available unfairly benefits illegal diverters or those who do not report their diversion or use of water. Therefore, by failing to file a Statement, the Diverter compromises the State Water Board's orderly and efficient administration of the state's water resources.

b. Nature and Persistence:

Division staff determined that surface water was the sole source of water on the Property during the August 1, 2023 inspection. Specifically, Division staff observed POD2-4 diverting surface water for irrigation of cannabis and for domestic use. Division staff further identified that after the August 1, 2023 inspection that led to the eradication of illegal cannabis cultivation, the Diverter continued to divert water for illegal cannabis cultivation based on LightBox Vision imagery dated September 11, 2023, which shows active cannabis cultivation resuming on the Property. The Diverter would have needed to file Statements for water diverted and used from POD2-4 by February 1, 2024.

c. Corrective Action:

The NOV/IR that was delivered to the Diverter on November 7, 2023 informed him of the diversion and use of water that staff observed at POD2-4, and further informed him that a Statement for each POD would need to be filed by February 1 for water diverted and used between October 1, 2022 and September 30, 2023. The Diverter appears to have continued to divert and use water after the inspection based on the LightBox Vision aerial imagery of the Property dated September 11, 2023 that shows evidence of cannabis cultivation activities. Division staff emailed the Diverter on March 18, 2024 and asked for an update on the submittal of Statements for POD2-4. The Diverter did not respond to staff's inquiry. As of the date of this Complaint, the Diverter has not come into compliance by filing Statements for POD2-4.

d. Length of Time:

A Statement has been required to report the annual diversion and use of water from POD2-4 since February 1, 2024. As of the date of this Complaint, a search of eWRIMS shows no Statements on file for POD2-4. The violations for failing to file Statements are ongoing.

e. Proposed Administrative Civil Liability:

Taking into consideration the relevant circumstances and factors listed in a-d above, the Division proposes administrative liability in the amount of \$1,000 per Statement, for a total liability amount of \$3,000.

38. Violations 2 and 5: Cannabis Cultivation Policy, Section 2, Terms 66 and 92.

Violations 2 and 5 have been analyzed jointly with respect to Water Code section 1055.3. The Cannabis Cultivation Policy Terms associated with these violations, Terms 66 and 92, are requirements necessary to prevent unauthorized diversions and impacts to water availability.

a. Extent of Harm:

Compliance with Term 66, including the surface water dry season forbearance period, is intended to ensure adequate flows are maintained throughout the dry season to protect aquatic species, aquatic habitat, and

water quality. Absent restrictions on water diversion, the individual and cumulative effects of water diversions for cannabis cultivation during the dry season are likely to significantly decrease instream flow and, in some instances, reduce hydrologic connectivity or completely dewater a stream. These reductions to instream flow would impact downstream beneficial uses and deprive downstream priority of right diverters. Additionally, compliance with Term 92 is necessary to prevent waste from water diversions to full storage facilities. By using tanks without the required overflow prevention device, the Diverter further risks impacting beneficial uses and downstream priority of right diverters.

b. Nature and Persistence:

During the August 1, 2023 inspection, Division staff observed three violations of Term 66, one for each surface water diversion for cannabis irrigation that was occurring at POD2-4 during the forbearance period, and sixteen violations of Term 92, one for each tank in use without an overflow prevention device. September 11, 2023 LightBox Vision aerial imagery of the Property indicates that diversion and use of surface water to support cannabis cultivation continued after the inspection.

c. Corrective Action:

The Diverter received the NOV/IR on November 7, 2023, which directed the Diverter to take certain corrective actions within 30 days. On December 5, 2023, the Diverter submitted a Portal entry in which he selected the option stating he has cultivated cannabis in the past but is no longer cultivating, and provided photos of actions taken on the Property. The photos demonstrated that the diversion infrastructure at POD2-3 had been removed and that the water supply lines on the Property had been dismantled and/or consolidated.

d. Length of Time:

These violations were observed during the August 1, 2023 inspection. Division staff allege a single day of violation for each Policy term violation observed during the inspection.

e. Proposed Administrative Civil Liability:

Considering all the relevant circumstances and factors listed in a-d above, the Division proposes an administrative civil liability amount of \$1,500 for Violation 2 (Term 66) and \$4,000 for Violation 5 (Term 92), for a combined liability amount of \$5,500 for these violations. Based on the Diverter's corrective actions to eliminate the need for overflow prevention by ceasing cannabis cultivation, the liability proposed for Term 92 was reduced to \$250 per tank. The liability proposed for Term 66 was not reduced due to the impacts and threatened impacts to public trust resources presented by diversions of surface water to irrigate cannabis during the forbearance period.

39. Violations 3, 4, and 7: Cannabis Cultivation Policy, Section 2, Terms 81, 82, and 98.

Violations 3, 4, and 7 have been analyzed jointly with respect to Water Code section 1055.3. The Cannabis Cultivation Policy terms associated with these violations, Terms 81, 82, and 98, relate to recordkeeping that is intended to assist the State Water Board in obtaining accurate water diversion and use data.

a. Extent of Harm:

Accurate data on water diversion and use is required from all users of water in the state so that the Division can plan for drought and effectively manage the state's limited water resources. The failure to install measuring devices and maintain diversion and use records, as required under Terms 81, 82, and 98, deprives the Division of critical data required for resource planning, forecast water demand, protect public trust resources, ensure water diverters are not diverting more water than authorized, ensure water diverted is put to beneficial use without the waste and unreasonable use of water, and protects the priority of right to divert and use water beneficially.

b. Nature and Persistence:

During the inspection, Division staff documented one violation of Term 81, three violations of Term 82, and one violation of Term 98.

c. Corrective Action:

The Diverter received the NOV/IR on November 7, 2023, which directed the Diverter to take certain corrective actions within 30 days. On December 5, 2023, the Diverter submitted a Portal response in which the Diverter selected the option that states he is no longer cultivating cannabis on the Property. He also provided photos showing POD2-3 had been removed. The Diverter did not provide documentation of any records of past diversion and use for cannabis cultivation.

d. Length of Time:

These violations were observed during the August 1, 2023 inspection. Division staff allege a single day of violation for each Policy term violation observed during the inspection.

e. Proposed Administrative Civil Liability:

Considering the relevant circumstances and factors listed in a-d above, the Division proposes an administrative civil liability amount of \$250 for Violation 3 (Term 81), \$1,500 for Violation 4 (Term 82), and \$500 for Violation 7 (Term 98), for a combined liability amount of \$2,250 for these violations. Based on the Diverter's corrective actions to eliminate diversions for cannabis irrigation at POD2-4, Violation 3 (Term 81) was reduced to \$250. Violations 4 and 7, for Terms 82 and 98, were not reduced because no diversion records or water use reporting were provided.

40. Violation 6: Cannabis Cultivation Policy, Section 2, Term 93.**a. Extent of Harm:**

Cannabis cultivators are required to ensure that tank openings are closed as open storage tanks may potentially cause direct harm by entrapping wildlife. The potential harm to wildlife increases significantly when there are multiple water storage tanks with accessible openings.

b. Nature and Persistence:

Division staff observed thirteen tanks during the site inspection that lacked lids to cover tank openings, in violation of Term 93.

c. Corrective Action:

The NOV/IR that the Diverter received on November 7, 2023 identified corrective actions that the Diverter needed to complete within 30 days. On December 5, 2023, the Diverter submitted a Portal response that included photos of several storage tanks on the Property. Based on those photos, Division staff determined that the Diverter had properly covered 7 of the 13 tanks that were the basis of the Term 93 violation. Specifically, the photos demonstrated that the Diverter had covered the tank openings of Tank 6 and Tanks 11-12 at POS2, Tank 17 at POS6, and Tanks 18-20 at POS7.

d. Length of Time:

These violations were observed during the August 1, 2023 inspection. Division staff allege a single day of violation for each tank that failed to comply with the requirement of Term 93.

e. Proposed Administrative Civil Liability:

Considering the relevant circumstances and factors listed in a-d above, the Division proposes an administrative civil liability amount of \$4,750 for Violation 6. The proposed liability was reduced to \$250 for the tanks Division staff identified in the corrective action photos submitted by the Diverter. No reduction was proposed for the tanks not shown in corrective action images.

41. Violation 8: Water Code Section 1847, subdivision (b)(4) - Diversion or Use of Water for Cannabis Cultivation without a DCC license**a. Extent of Harm:**

Unlicensed commercial cannabis cultivation is in violation of the laws and regulations enacted pursuant to the Medical and Adult-Use Cannabis Regulation and Safety Act. Applications for commercial cannabis cultivation licenses began January 1, 2018. Operating a commercial cannabis cultivation site without a license causes negative economic impact on the legal cannabis industry and harm to the regulatory program. The state's cannabis cultivation regulatory program is relatively new, and the degree of illegal cannabis cultivation exceeds legal cultivators by orders of magnitude in all aspects of the cannabis industry across the state. Illegal cultivation directly harms the

legal market by supporting and supplying an unregulated market where illegal cultivators do not incur the compliance costs to cultivate cannabis in a manner that does not have a negative impact on water availability, terrestrial and aquatic habitats, wetlands, and springs. As such, the Diverter's cannabis cultivation activities harm legal cultivators, downstream priority of right Diverters, beneficial uses of water, and the cannabis cultivation regulatory program.

b. Nature and Persistence:

During the site inspection, Division staff observed approximately 2,651 cannabis plants growing in greenhouses, with approximately 65,525 sq. ft. of irrigated cannabis from surface water diversions at POD2-4. The scale of cannabis cultivation on the Property requires a cannabis cultivation license from DCC.

c. Corrective Action:

The Diverter received the NOV/IR on November 7, 2023, which directed the Diverter to take certain corrective actions within 30 days. On December 5, 2023, the Diverter submitted a Portal entry that stated he was no longer cultivating cannabis on the Property.

d. Length of Time:

Water diversion and use for commercial cannabis cultivation was documented on the Property during the inspection, without a DCC license. Although Division staff believe cannabis cultivation, of a scale similar to what staff observed during the inspection, had been occurring prior to the August 1, 2023 inspection, Division staff allege a single day of violation under Water Code section 1847, subdivision (b)(4).

e. Proposed Administrative Civil Liability:

Considering the factors listed in a-d above, the Division proposes administrative civil liability in the amount of \$500 for this violation.

PROPOSED CIVIL LIABILITY

42. Having taken into consideration the factors described above and the need for deterrence, the Assistant Deputy Director for Water Rights recommends an administrative civil liability amount of \$16,000.

RIGHT TO HEARING

43. The Diverter may request a hearing on this matter before the State Water Board Administrative Hearings Office. Any such request for hearing must be delivered to or received by mail by the Administrative Hearings Office within 20 days after the date the Diverter receives this Complaint as required by Water Code section 1055, subdivision (b).

44. If the Diverter does not request a hearing within 20 days, then the right to a hearing on the matter is waived. The Deputy Director for Water Rights, under authority delegated by the State Water Board, may then issue a final Administrative Civil Liability Order assessing the proposed liability amount.
45. If the Diverter requests a hearing, an opportunity to contest the allegations in this Complaint and the imposition of liability before a hearing officer from the Administrative Hearings Office will be provided. The Administrative Hearings Office will issue a notice setting the specific time and place for the hearing, and describing the hearing process, not less than 10 days before the hearing date.
46. After any hearing, the Administrative Hearings Office will issue a proposed order or final order imposing administrative civil liability or determining that administrative civil liability shall not be imposed. If the Administrative Hearings Office issues a proposed order, the State Water Board will consider adopting the order at a subsequent public meeting.

STATE WATER RESOURCES CONTROL BOARD

ORIGINAL SIGNED BY:

*Julé Rizzardo, Assistant Deputy Director
Division of Water Rights*

Dated: May 29, 2025