

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

Eric Karamian

Assessor Parcel Number 700-090-020-00

COUNTY: SHASTA

**Eric Karamian (HEREINAFTER REFERRED TO AS
“DIVERTER”) ARE 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. The violations are related to the diversion or use of water for cannabis cultivation activities on the Diverter’s real property in Shasta County, Assessor Parcel Number (APN) 700-090-020-000, (hereinafter 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 ten thousand five hundred dollars **(\$10,500)**
3. The State Water Board 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 allegations 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 or use (Statement) for one point of diversion (POD) as required by Water Code section 5101.
5. Violation 2: Unauthorized diversion or use of water in violation of Water Code section 1052 subdivisions (c)(2) and (3).

6. Violations 3-9: Ten (10) violations of Term *requirements in the Cannabis Cultivation Policy – Principles and Guidelines for Cannabis Cultivation* (Cannabis Cultivation Policy)¹
7. Violation 10: Diverting and using water for cannabis cultivation without the necessary license issued by the Department of Cannabis Control (DCC) in violation of Water Code section 1847(b)(4).

BACKGROUND AND FACTUAL BASIS

8. Property Ownership:

According to Shasta County Assessor's Office property records, the Diverter acquired Shasta County Assessor Parcel Number (APN) 700-090-020-00 on December 26, 2014, and owned the Property at all times relevant to the violations alleged in this Complaint. The water source and the cannabis cultivation, both operated by the Diverter, were observed on a neighboring parcel, (APN) 700-240-005-000, owned by Sierra Pacific Land and Timber Co. (SPI). The Diverter was not authorized to operate the water source or the cannabis cultivation on the SPI parcel.

9. Watershed Information:

The Property is located within the Millseat Creek-North Fork Battle Creek watershed (Hydrological Unit HUC 12-180201530106). The North Fork Battle Creek is part of the Sacramento-San Joaquin Delta, tributary to Delta above Collinsville.

The Sacramento-San Joaquin Delta, tributary to Delta above Collinsville is a Fully Appropriated Stream System, from which there is no water available for new appropriation from June 15 through August 31 (WR Order 98-08).

10. Inspection Basis:

On August 1, 2024, the Division was notified by the California Department of Fish and Wildlife (CDFW) of a search warrant investigation of the Property and the neighboring parcel (APNs 700-090-020-00 and 700-240-005-000) based on illegal cannabis cultivation and possible surface water diversion used for cannabis irrigation.

11. Water Rights Records Review:

On August 5, 2024, prior to the inspection, on January 22, 2025, and again on March 14, 2025, Division staff examined available State Water Board water rights records in the electronic Water Rights Information Management System (eWRIMS) and found that Eric Karamian does not have a water right to divert non-riparian water from Battle Creek for cannabis irrigation and domestic use. Division staff reviewed Eric Karamian's property deed for APN 700-090-020-00 and reviewed land patent

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.

information and found that APN 700-090-020-00 does not have an easement or a riparian claim of right to divert water from Battle Creek.

12. Well Records Review:

On August 5, 2024, Division staff searched the Department of Water Resources records and did not find any record of a well on the Property.

13. Department of Cannabis Control (DCC) License Records Review:

On August 5, 2024, prior to the inspection, on January 22, 2025, and again on March 14, 2025, Division staff reviewed DCC's licensing records for commercial cannabis cultivation to determine if there was a license on file that would legally authorize the commercial cannabis cultivation on the Property. Division staff did not find a DCC license on record for the Property.

14. Inspection:

On August 6, 2024, Division staff accompanied CDFW, and the Shasta County Sheriff's Office on a search warrant inspection of the Property. The Property owner was not present during the inspection. During the inspection, Division staff observed actively growing cannabis plants on the Property. CDFW law enforcement officers provided the total cannabis plant count of 1,465. The sole source of water for the Property was a point of diversion (POD) located on a neighboring parcel. A field Notice of Violation (NOV) was left on site at the time of the inspection.

15. Point of Diversion:

During the August 6, 2024, inspection, Division staff documented one POD (POD1). POD1 is a diversion to off stream storage and is located on the North Fork Battle Creek which is a tributary to the Sacramento River and the Sacramento-San Joaquin Delta above Collinsville. Battle Creek is a surface water subject to the State Water Board's permitting authority. POD1 is located on APN 700-240-005-000, which is the parcel directly south of the Diverter's Property, and is owned by Sierra Pacific Land and Timber Co. (SPI). The stream has defined bed and banks upstream and downstream from POD1, and water was flowing upstream and downstream of the diversion structure at the time of the inspection. Water from POD1 is pumped with a 6.45 hp gasoline pump through a 2.5-inch polyethylene water supply line for cannabis irrigation at places of use (POUs) 2-6 (located on APN 700-240-005-000 owned by SPI) and domestic water supply at POU1 (a residence located on the Diverter's Property). The diversion intake for POD1 was not rendered incapable of diverting water during the inspection. Division staff did not observe a water measurement device or diversion records at or near POD1. POD1 is not riparian to the Property APN: 700-090-020-000.

Division staff also documented three POS (POS1, 2, 3). POS1 is a 2,500-gallon full polyethylene water tank (Tank 1). The total storage capacity for POS1 was 2,500 gallons and the total active storage volume was full. POS1 receives water from POD1 and did not have an installed overflow prevention system. POS1 had a tank lid installed. Water from POS1 is used at POU1 for domestic use. POS1 is located on APN 700-090-020-000 owned by Eric Karamian.

POS2 is a 350-gallon ¼ full polyethylene water tank (Tank 2). Tank 2 had no lid installed. The total storage capacity for POS2 is 350 gallons and the total active storage volume was approximately 87.5 gallons. POS2 receives water from POD1 and did not have an installed overflow prevention system. POS2 appears to be used for chemical mixing. Water from POS2 is used on POU2 and POU3 for cannabis irrigation. POS2 is located on APN 700-240-005-000 owned by Sierra Pacific Land & Timber Company.

POS3 is a 2,500-gallon full polyethylene water tank (Tank 3). Tank 3 had no lid installed. The total storage capacity for POS3 is 2,500 gallons and the total active storage volume was full. POS3 receives water from POD1 and did not have an installed overflow prevention system. POS3 appears to be used for chemical mixing. Water from POS3 is pumped with a 3.5 hp gasoline pump through a 1-inch polyethylene water supply line for cannabis cultivation irrigation at POU4, POU5 and POU6. POS3 is located on APN 700-240-005-000 owned by Sierra Pacific Land & Timber Company.

16. Aerial Imagery Review:

On August 8, 2024, Division staff reviewed aerial imagery of the Property and made the following observations:

- a. LandVision aerial imagery from September 7, 2021, shows the first cannabis greenhouses appear in the northwest side of the SPI property (APN: 700-240-005-000). The cannabis cultivation areas on SPI property appears to be the same POU 2,3,4 and 6 observed during the August 6, 2024, inspection.
- b. Google Earth Pro aerial imagery from July 8, 2022, shows continued development of outdoor cannabis cultivation growing areas at POU2, POU3, POU5 and POU6.
- c. LandVision aerial imagery from June 8, 2024, shows the greenhouse structures and outdoor cultivation at POU2, POU3, POU4, POU5 and POU6 observed during the inspection.

17. Notice of Violation and Inspection Report:

Subsequent to the inspection, Division staff prepared a Notice of Violation and Inspection Report (NOV/IR) and mailed the NOV/IR to the Diverter via United States Postal Service (USPS) certified mail on September 3, 2024. USPS records indicate that the NOV/IR was received on September 9, 2024. The NOV/IR describes the observations made by Division staff during the inspection, the violations relating to those observations, the recommended corrective actions for the violations, and provides contact information for Division staff for compliance assistance.

18. Sierra Pacific Land & Timber Company (SPI) Information:

On December 11, 2024, and again on January 13, 2025, Division staff emailed SPI staff and asked if the Diverter had permission to access APN 700-240-005-000 to divert water from Battle Creek and to cultivate cannabis. On January 13, 2025, SPI

staff stated via email that the Diverter did not have permission to be on or to divert water from SPI land.

19. Diverter's Response to NOV/IR:

On February 18, 2025, Division staff contacted the Diverter by phone, and he confirmed that he had received the NOV/IR. The Diverter further stated that he was unaware of cannabis cultivation on the Property prior to the inspection, as he does not live there. He stated the Property had been remediated, and no further water diversion or cultivation was occurring. Due to residing in San Diego, the Diverter stated he will need time to provide documentation of the remediation. He assured Division staff that he would review the NOV/IR to comply with the violations and take all the necessary steps for compliance. CDFW law enforcement staff re-visited the Property on March 2, 2025, and observed that no remediation or cleanup had taken place.

STATE WATER BOARD AUTHORITY

20. Water Code section 1055, subdivision (a) provides that the Executive Director for 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.
21. Water Code section 1112 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 sections 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.
22. Water Code section 1848, subdivision (c), provides that liability cannot be imposed under section 1847 for a violation for which liability is imposed under Water Code section 1052.

ALLEGED VIOLATIONS

Statement of Annual Water Diversion and Use

23. **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 Board a Statement, by February 1 of the succeeding year of their diversion and use as provided in subdivision (b), with certain exceptions that are not relevant here.
24. Water Code section 5102 states that a separate Statement shall be filed for each point of diversion.

25. Water Code section 5107(c)(1) provides that the 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 Board has called the violation to the attention of that person.

- a. POD1 diverts water from a surface water source that is subject to the State Water Board's permitting authority and was identified by Division staff during the August 6, 2024, inspection as the sole source of water used for cannabis irrigation (SPI property) and domestic use on the Karamian property.
- b. Division staff allege one violation for the failure to file a Statement by February 1, 2025, for water diverted and used in 2024 as observed during the inspection. The Diverter received the NOV/IR on September 9, 2024, which notified the Diverter of the requirement to file a Statement of water diversion and use for cannabis irrigation and domestic use in 2024 from POD1 prior to February 1, 2025. As of the date of this Complaint, the Diverter has not submitted any Statement for the diversion and use of water from POD1.

Unauthorized Diversion or Use of Water

26. Violation 2: Unauthorized Diversion or Use of Water:

Water Code section 1052, subdivision (a), provides that any diversion or use of water subject to the State Water Board's authority under Division 2 of the Water Code, without proper Board authorization, is a trespass. Under Water Code section 1052, subdivision (c)(2), each day in which the unauthorized diversion or use occurs, the person or entity committing the trespass may be liable in an amount not to exceed five hundred dollars (\$500) a day. However, subdivision (c)(3) of Water Code section 1052 provides that for each day in which the unauthorized diversion or use for unlicensed cannabis cultivation occurs, the persons or entities committing a trespass under section 1052, subdivision (a) may be liable in an amount not to exceed three thousand five hundred dollars (\$3,500)

27. All water flowing in any natural channel is public water of the State and subject to appropriation in accordance with the Water Code, as provided in Section 1201 of the Water Code. Pursuant to Water Code Section 1225, no right to appropriate or use water subject to appropriation shall be initiated or acquired except in compliance with Division 2 of the Water Code.

- a. POD1 diverts water from North Fork Battle Creek, a tributary to Sacramento River and Sacramento-San Joaquin Delta above Collinsville. POD1 is located on Shasta County APN 700-240-005-000 owned by Sierra Pacific Lands (SPI). Water diverted from POD1 is used for cannabis cultivation on APN 700-240-005-000 and for domestic use on APN 700-090-020-000 (Diverter's Property). According to land patent records, the Diverter's Property does not have any basis for a riparian rights claim to surface water on the SPI Property. Therefore, use of water from POD1 for any use on the Diverter's Property requires an appropriative right issued pursuant to Division 2 of the Water Code, which the Diverter does not have. Diverter's use of water from POD1 for irrigation use on the SPI parcel was not authorized by SPI, and as

such was not a valid exercise of SPI's riparian rights for the parcel. Diverter's diversion and use of water from POD1 is therefore a trespass against the state pursuant to Water Code section 1052.

- b. At the time of the inspection the water diversion infrastructure for POD1 was in North Fork Battle Creek with a water pump located a few feet from the stream channel. The irrigation lines from POD1 led to POS1 located on the Diverter's Property. POS1 is a 2,500-gallon polyethylene water tank that was completely full at the time of the inspection and was connected to the residence on the Diverter's Property to supply domestic water.
 - i. Division staff allege one day of violation pursuant to Water Code section 1052, subdivision (c)(2) for the diversion and domestic use observed during the August 6, 2024, inspection.
- c. Division staff documented that water diverted from POD1 was used for cannabis cultivation on SPI's property, APN 700-240-055-000, at POU 2 – 6. Water diverted from POD1 is stored at POS 2 – 3 for later use irrigating cannabis. Post inspection, Division staff contacted SPI (APN 700-240-055-000), to verify that the Diverter was not authorized to access the parcel or to exercise the property owner's riparian right. SPI's representative confirmed that the Diverter was not authorized to access the parcel nor exercise its riparian right to the diversion and use of water from North Fork Battle Creek. As such, the Diverter's diversion and use of water to cultivate cannabis on APN 700-240-055-000 is unauthorized and subject to liability pursuant to Water Code section 1052, subdivision (c)(3). On August 6, 2024, Division staff observed approximately 1,465 cannabis plants at POU 2 – 6 irrigated from water stored at POS 2 – 3. POS2 is a 350-gallon water storage tank that was 25% full at the time of the inspection and was connected to POU 2 and 3. POS3 is a 2,500-gallon polyethylene water tank that was completely full at the time of the inspection and was connected to POU 4 – 6.
 - i. Division staff allege one day of violation pursuant to Water Code section 1052, subdivision (c)(3) for the diversion and cannabis cultivation use observed during the August 6, 2024, inspection.

Cannabis Cultivation Policy Requirements

- 28. 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 subsequently amended the Cannabis Cultivation Policy, effective April 16, 2019.
- 29. 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.

30. 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 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.

36. **Violation 3:** Cannabis Cultivation Policy, Section 1, Term 18, states:
Cannabis cultivators shall not commit trespass. Nothing in this Policy or any program implementing this Policy shall be construed to authorize cannabis cultivation:

(a) on land not owned by the cannabis cultivator without the express written permission of the landowner; ...

- a) As described above, the Diverter was not authorized by SPI for the diversion observed at POD1, nor for the cannabis cultivation observed on the SPI parcel.
 - i. Division staff allege one violation of the Cannabis Cultivation Policy Term 18 for the Diverter's trespass onto SPI property to divert water from North Fork Battle Creek for domestic use and cannabis cultivation.

37. **Violation 4:** 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).

Numeric and Narrative Instream Flow Requirements No. 4

Surface Water Dry Season Forbearance Period: 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 Instream Flow Requirement 4.

- a) Division staff observed POD1 actively diverting water for cannabis cultivation use during the August 6, 2024, inspection. Even if POD1 had not been active during the inspection, the lack of sufficient seasonal water storage for the cultivation use on either parcel makes it more likely than not that the Diverter had diverted throughout the forbearance period prior to the inspection.

- i. Division staff allege one violation of the Cannabis Cultivation Policy Term 66 for the failure to comply with narrative and numeric instream flow requirements No.4. during the surface water dry season.

38. **Violation 5:** 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 inspection on August 6, 2024, Division staff did not observe or document any water measuring devices installed on any POS or water conveyance lines leading to POU1-6. Division staff observed POD1 used to irrigate a total of six POUs, (five POUs used for cannabis irrigation and one POU for domestic use) on the two parcels. Division staff determined that there would need to be at least one water measuring device installed on the water conveyance line to POS1.

- i. Division staff allege one violation of Term 81 of the Cannabis Cultivation Policy for the failure to install separate measuring devices to quantify water use for cannabis irrigation and domestic use.

39. **Violation 6:** 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) POD1 is a water diversion that is used to irrigate cannabis. During the August 6, 2024, inspection, no water measuring device was observed installed on or near POD1.
- i. Division staff allege one violation of Term 82 for the failure to install and maintain a measuring device at POD1.

40. **Violation 7:** 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 August 6, 2024, inspection, Division staff documented POS1, POS2 and POS3 without a float valve or similar device installed to prevent the overflow and waste of water.

i. Division staff allege three violations of Term 92 for failure to have float valves or similar devices installed at POS1, POS2, and POS3.

41. **Violation 8:** 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 6, 2024, inspection, Division staff observed storage tanks in use at the Property located at POS2 (Tank 2) and POS3 (Tank 3) without tank lids installed to prevent wildlife entrapment.

i. Division staff allege two violations of Term 93 for the failure to secure tank openings to prevent entry and entrapment of wildlife at two tanks.

42. **Violation 9:** 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) POU2-6 are documented cannabis irrigation areas. At the time of August 6, 2024, inspection, Division staff did not observe any cannabis irrigation records nor any water measuring devices at any POU.

i. Division staff allege one violation of Term 98 for the failure to measure water use for cannabis irrigation and make irrigation records available.

Diversion or Use of Water for Cannabis Cultivation Requires DCC License

43. **Violation 10:** 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 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.

44. DCC established a commercial cannabis cultivation licensing program pursuant to Chapter 6 (commencing with section 26060) of Division 10 of the Business and Professions Code and began issuing licenses on January 1, 2018. 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 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.

- a) During the August 6, 2024, inspection, Division staff observed and documented the diversion of water at POD1 used for the cultivation of approximately 1,465 cannabis plants on 12,814 sq. ft. of cultivation area at POU2, POU3, POU4, POU5, and POU6. The cultivation activities require a Department of Cannabis Control Annual (DCC) License (License) pursuant to Business and Professions code section 26060. Division staff found no record of a DCC license covering the observed cultivation.
 - i. Division staff allege one violation of Water Code section 1847, subdivision (b)(4), for diverting and using water for cannabis irrigation without having obtained the necessary DCC license.

Statutory Maximum Liability

45. The statutory maximum liability for Violations 1-10 is the sum of each Violation's statutory maximum liability: Violations 1-10: 1 (\$1,000) + 2 (\$4,000) + 3 (\$500) + 4 (\$500) + 5 (\$500) + 6 (\$500) + 7 (\$1,500) + 8 (\$1,000) + 9 (\$500) + 10 (\$500) = \$10,500.

WATER CODE SECTION 1055.3 CONSIDERATION OF FACTORS

46. Water Code section 1055.3 requires that the 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. This requirement is applied to all penalty proposals relative to this administrative civil liability complaint.

Relevant Circumstances Applicable to All Violations

47. Division staff reviewed aerial imagery of the SPI Property taken from 2021 through 2024 and observed what appears to be cannabis cultivation activities. The earlier imagery shows initial development of the cultivation site, while the later imagery

shows cultivation activities consistent with that observed during the inspection. This suggests that the Diverter has developed and operated the unauthorized cannabis cultivation and related water diversion (POD1) for a number of years.

48. The Division found no evidence that the Diverter obtained any of the necessary state or local regulatory approvals for the cultivation. The cost of compliance for legal commercial cannabis cultivation can be significant, and unlicensed and unpermitted cultivators obtain an unfair advantage over those cultivators who participate in the regulated market. Liabilities should consider the need for deterrence to similarly situated cultivators who operate without State or local authorization.
49. The Division recommends that the State Water Board take each opportunity to deter illegal cannabis cultivation activities and demonstrate the need to comply by imposing administrative civil liability sufficient to ensure the cost of noncompliance is an incentive to comply. The Diverter engaged in the unauthorized diversion and use of water for illegal cannabis cultivation activities. The proposed penalty is adequate to penalize the violations and deter noncompliance by similarly situated parties.

50. 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 appropriative 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 effects of cannabis-related water diversion and use that is not reported to the State Water Board remains a concern as the state continues to experience severe drought conditions. The need for timely water diversion and use records is particularly important after three years of critical drought conditions that have 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:

The Diverter was notified of the need to file Statements by February 1, 2025, for POD1 for the water diversion and use observed during the August 6, 2024, inspection. The NOV/IR was sent via certified mail on September 3, 2024, and was signed by the Diverter upon receipt. USPS

records indicate that the document was delivered and received on September 9, 2024. On February 18, 2025, the Diverter also acknowledged receipt of the NOV/IR during a phone call. To date, the Diverter has not filed a Statement for POD1 despite being notified of the violation.

c. Corrective Action:

As of the date of this complaint, the Diverter has not filed a Statement for POD1.

d. Length of Time:

The violation commenced following the February 1, 2025, statement deadline, and remains ongoing.

- e. Taking into consideration relevant circumstances and the factors listed in a-d above, the Division proposes administrative liability in the full statutory amount of \$1,000.

51. Violation 2: Unauthorized Diversion or Use of Water for Cannabis Cultivation (Water Code 1052)

a. Extent of Harm Caused:

The unauthorized diversion and use of water creates a cumulative and direct impact to downstream beneficial uses and downstream water right holders that are operating in compliance with the laws. A reduction in stream flow causes a loss of available aquatic habitat area for fish and macroinvertebrates, and the water resources available for senior appropriative or riparian right diverters. Harm can also be characterized as a disruption to the State Water Board's orderly and efficient administration of water resources of the State from the failure to report water diversion and use. The diversion of water from a non-riparian source off the Property without an appropriative water right and reporting for annual water diversion and use can cause injury to downstream water users and public trust resources.

b. Nature and Persistence:

Since the Diverter purchased the Property in 2014, no application to appropriate water has been filed to authorize the non-riparian diversion and appropriation of water to off stream storage and use from POD1 at POU1. The Diverter's unauthorized diversion and use of water for cannabis cultivation and domestic use requires an appropriative water right to comply with Division 2 of the Water Code. The Diverter received notice of this violation in the Division's NOV/IR, which was delivered on September 9, 2024. The Division does not have any record of an application to appropriate water having been filed by the Diverter. The Diverter is aware of the violation and trespass against the state for the unauthorized diversion and use of water. Division staff believe that the Diverter has continuously diverted water to support illegal cannabis cultivation based on past aerial imagery of the Property and observations made during the inspection.

c. Corrective Action:

Division staff spoke with the Diverter after the NOV/IR was delivered and the Division was assured that the Diverter would take corrective actions for the violation. The Diverter has made no attempt to file for an appropriative water right. The Diverter has not taken any corrective actions since the August 6, 2024, inspection.

d. Length of Time:

Based on the aerial imagery dating to 2021, the Diverter has operated the cultivation, and likely POD1, for multiple years, even though Division staff here allege only two violations under Water Code section 1052, based on the observations made during the August 6, 2024, inspection. The first violation is for the documented active diversion and use of water from POD1 for domestic use at the Diverter's residence (POU1), and Division staff propose penalties under Water Code section 1052 subdivision (c)(2). The second violation is for the documented diversion and use of water from POD1 for cannabis cultivation on the SPI parcel, and Division staff propose penalties under Water Code Section 1052, subdivision (c)(3). As of the date of this Complaint, the Diverter has no appropriative water right on file that would authorize the diversion of water at POD1 to storage in POS1 for domestic use at POU1, or to POS2 and POS3 for cannabis irrigation at POU2-6.

- e. Considering relevant circumstances and factors listed in a-d above, Division staff propose an administrative civil liability of \$4,000 for the unauthorized diversion for cannabis irrigation and domestic use.

**52. Violations 3 – 4: Cannabis Cultivation Policy, Section 1: Term 18;
Section 2:
Term 66.**

Violations of terms and conditions of the Cannabis Cultivation Policy Terms 18 and 66 are jointly analyzed in accordance with Water Code section 1055.3. Compliance with State Water Board's Cannabis Cultivation Policy terms, conditions, and requirements are necessary to ensure individual or cumulative water diversions associated with cannabis cultivation do not have a negative impact on water availability, aquatic and riparian habitat, public trust resources, or the environment, and noncompliance with all state and local laws. The Diverter diverted water during the forbearance period for cultivation activities on the SPI parcel, without SPI's authorization. These violations of the State Water Board's Cannabis Cultivation Policy contribute to the impacts that the state seeks to deter.

a. Extent of Harm Caused:

State Water Board established a surface water diversion forbearance period to ensure adequate flows are maintained throughout the dry season to protect aquatic species, aquatic habitat, and water quality. Compliance with this requirement is mandatory to ensure that the diversion of water associated with cannabis cultivation does not have a negative impact on water quality, aquatic habitat, riparian habitat, wetlands, or springs. Diverting water during the forbearance period impacts downstream priority of water right diverter's ability to use water beneficially and impacts instream and terrestrial public trust resources

and habitat. Additionally, the Diverter unlawfully trespassed on a neighboring parcel in violation of local laws in order to undertake cannabis cultivation activities harming the neighbor's right to restrict access to and the private enjoyment of their property.

Nature and Persistence:

During the inspection, Division staff observed active water diversion at POD1 during the surface water dry season forbearance period (April 1 – October 31) in use for cannabis cultivation. The Diverter trespassed on the neighboring parcel during the cultivation season in order to facilitate water diversion from POD1 and to maintain cannabis cultivation at POU 2 – 6.

c. Corrective Action:

As of the date of this Complaint, the Diverter has not implemented the corrective actions or provided the requested information.

d. Length of Time:

Although it is likely the Diverter continually diverted water from POD1 during the forbearance period based on the consumptive water demands of cannabis, the Division alleges one violation of Term 66 and one violation of Term 18 for Diverter's trespass onto the neighboring parcel to establish POD1 and maintain cannabis cultivation at POU 2 – 6.

e. Considering the factors listed in a-d above, the Division proposes an administrative civil liability in the amount of \$500 for Violation 3 and \$500 for Violation 4.

53. Violations 5, 6, and 9: Cannabis Cultivation Policy, Section 2, Term 81, 82, and 98.

Violations of Term 81, 82, and 98 of the State Water Board's Cannabis Cultivation Policy are analyzed jointly with respect to Water Code, section 1055.3, because the requirements of these Cannabis Cultivation Policy terms establish best management practices associated with the diversion and use of water for cannabis cultivation. The Cannabis Cultivation Policy terms and conditions are required to ensure individual or cumulative water diversions and associated cannabis cultivation activities do not have a negative impact on water availability, aquatic and riparian habitat, public trust resources, or the environment.

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 monitoring devices, maintain diversion and use records, and implement best management practices deprives the Division of critical data required for resource planning, forecast water demand, protection of public trust resources, to ensure water diverters are not diverting more water than authorized, to 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:

Division staff observed no water measuring device nor water diversion records on or near POD1, which diverts water by pump for cannabis irrigation and domestic use. On September 9, 2024, the Diverter signed for and received the NOV/IR providing notice of the Cannabis Cultivation Policy violations observed during the inspection.

c. Corrective Action:

As of the date of this Complaint, the Diverter has not implemented the corrective actions or provided the requested information.

d. Length of Time:

During the inspection, Division staff documented the Diverter's failure to install water diversion measuring devices for POD1 and the failure to keep and maintain records of water diversion and consumption for cannabis irrigation and domestic use. Although these violations likely persisted prior to the inspection Division staff allege as single violation for each Cannabis Cultivation Policy term requirements.

e. Considering all the relevant circumstances and the factors listed in a-d above, the Division proposes the following administrative civil liability for these violations: Violation 5: \$500; Violation 6: \$500; Violation 9: \$500.

54. Violations 7 and 8: Cannabis Cultivation Policy, Section 2, Terms 92 and 93

These violations are analyzed jointly because the requirements of these Cannabis Cultivation Policy terms establish best management practices for the diversion and storage of water for cannabis irrigation that seek to prevent waste of water resources and harm to the surrounding riparian and aquatic habitats.

a. Extent of Harm:

The Cannabis Cultivation Policy Terms associated with these violations are requirements necessary to prevent impacts to water availability and aquatic habitats. Water storage facilities without overflow prevention devices and lids have the potential to waste water depleting instream flows. Additionally, it may cause direct harm by entrapping wildlife. The potential for harm to instream flows and wildlife increases significantly when there are multiple water storage tanks that fail to comply with the Cannabis Cultivation Policy requirements.

b. Nature and Persistence:

During the August 6, 2024, inspection, Division staff documented POS1, POS2 and POS3 without a float valve or similar device installed to prevent the overflow and waste of water. Additionally, Division staff observed storage tanks in use at the Property located at POS2 (Tank 2) and POS3 (Tank 3) without tank lids installed to prevent wildlife entrapment.

c. Corrective Action:

As of the date of this Complaint, the Diverter has not implemented the corrective actions or provided the requested information.

d. Length of Time:

During the inspection Division staff documented the Diverters' failure to implement the water diversion and storage facilities best management practices required by the Cannabis Cultivation Policy. It is likely these violations persisted during the duration of cannabis cultivation activities at the Property.

- e. Considering all the relevant circumstances and the factors listed in a-d above, the Division proposes the following administrative civil liability for these violations: Violation 7: \$1,500 and Violation 8: \$1,000.

55. Violation 10: Water Code Section 1847(b)(4) - Diversion or Use of Water for Cannabis Cultivation without a Department of Cannabis Control License

a. Extent of Harm:

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 in its infancy and the degree of illegal cannabis cultivation continues to directly harm 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 negatively impact water availability, terrestrial and aquatic habitats, wetlands, and springs and the health and safety of the consumer. As such, the Diverter's cannabis cultivation activities significantly harm legal cultivators, priority of right Diverter, beneficial use of water, the Cannabis Cultivation Regulatory Program, and consumer safety.

b. Nature and Persistence:

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. DCC began accepting applications for commercial cannabis cultivation licenses on January 1, 2018. It was observed that the scale of cannabis cultivation occurring on the Property during the inspection required a commercial cannabis cultivation license. During the August 6, 2024, inspection, Division staff observed approximately 1,465 cannabis plants irrigated with surface water diverted at POD1. This violation was documented in the NOV/IR received by the Diverters on September 3, 2024, and on September 9, 2024. On February 18, 2025, the Diverter also acknowledged receipt of the NOV/IR during a phone call with Division staff.

c. Corrective Action:

Division staff searched DCC license database on March 14, 2025, and found no DCC License for the Property. As of the date of this complaint, the Diverter

have not provided evidence that a DCC license has been successfully acquired, therefore, no corrective action has been taken to remediate this violation.

d. Length of Time:

Water diversion and use for cannabis irrigation was documented on the Property during the inspection. Division staff observations and evidence collected suggest the water diversion and use for cannabis irrigation was at a commercial cultivation scale that requires a DCC license. Although Division staff believe the amount of cultivation observed during the inspection of the Property has been occurring prior to the inspection, liability for a single violation of Water Code section 1847, subdivision (b)(4) is alleged.

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

PROPOSED CIVIL LIABILITY

56. Having taken into consideration the factors described above and the need for deterrence the Assistant Deputy Director for Water Rights recommends an ACL in the amount of \$10,500.

57. Total Proposed Liability: Adding the proposed fines for Violation 1-10: 1 (\$1,000) +2 (\$4,000) + 3 (\$500) +4 (\$500) +5 (\$500) +6 (\$500) +7 (\$1,500) +8 (\$1,000) +9 (\$500) +10 (\$500) = \$10,500.

RIGHT TO HEARING

58. The Diverter may request a hearing on this matter before the State Water Board Administrative Hearings Office. Any such request for a 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).

59. 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.

60. 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.

61. After any hearing, the Administrative Hearings Office will issue a proposed order or final order setting administrative civil liability or determining that a 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:

*Robert P. Cervantes, Acting Assistant Deputy Director
Division of Water Rights*

Dated: August 15, 2025