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YANA GARCIA
SECRETARY FOR
ENVIRONMENTAL PROTECTION

State Water Resources Control Board

February 14, 2024
CERTIFIED MAIL

In Reply Refer to:
INV ID 15023

TOM WARNE

CERTIFIED MAIL NO: 7022 1670 0001 3767 0948

Dear Tom Warne:

NOTICE OF VIOLATION FOR UNAUTHORIZED DIVERSION AND FAILURE TO FILE A STATEMENT OF WATER DIVERSION AND USE FOR TRINITY COUNTY ASSESSOR PARCEL NUMBER 022-350-013-000 AND 022-350-023-000.

The State Water Resources Control Board (State Water Board), Division of Water Rights (Division) observed through aerial imagery an unauthorized diversion of surface water on APN 022-350-013-000 and 022-350-023-000. Through aerial imagery, Division staff found an on-stream reservoir which acts as the point of diversion to on-stream storage. You cannot divert water during the Cannabis Cultivation Policy's forbearance period of April 1 – October 31, nor can you divert water to storage without an appropriate water right issued by the State Water Board

You are identified as the property owner for Trinity County Assessor's Parcel Number 022-350-013-000 and 022-350-023-000. The Division is contacting you to provide you notice that you are in violation of the California Water Code (WC) and the State Water Board's Cannabis Cultivation Policy (Policy) requirements. The purpose of this letter is to gather information, provide you notice that your diversion of water is subject to the State Water Board's permitting authority, and to inform you of your regulatory compliance options, or you risk administrative civil liability. This letter is your notice that you are in violation of the WC and Policy. You must take immediate action to come into compliance or risk civil liability on a per day, per violation.

The information obtained by the State Water Board identifies that you are diverting water subject to the State Water Board's permitting authority without an appropriate water right that authorizes your water diversion and use. A diversion of water subject to the State Water Board's permitting authority without a basis of right is an unauthorized diversion or use of water. An unauthorized diversion or use of water constitutes a

E. JOAQUIN ESQUIVEL, CHAIR | ERIC OPPENHEIMER, EXECUTIVE DIRECTOR

trespass against the State, and the State Water Board may impose a civil liability in an amount not to exceed \$500 or \$1,000 during a critically dry year (drought), for each day that the unauthorized diversion or use of water occurs, plus \$2,500 for each acre-foot of water (drought). If an unauthorized diversion or use of water occurs for unlicensed cannabis cultivation, the State Water Board may impose a civil liability in an amount not to exceed \$3,500 for each day that the unauthorized diversion or use of water occurs. (WC § 1052, et seq.) (WC § 1052, et seq.)

The Policy requires cannabis cultivators who divert and use surface water for cannabis cultivation must obtain an appropriate water right (ex: Cannabis Small Irrigation Use Registration) prior to diverting and storing water for use. Failure to obtain an appropriate water right and failure to cease your water diversion constitute ongoing violations. The State Water Board can impose civil liability in the amount of \$500 for each Policy violation and \$250 for each day the violation continues after notice of the violation is provided by the State Water Board. (WC § 1847).

In addition, WC section 5101 requires, with minor exceptions, that a person who diverts water from a stream in the absence of a permit, license, or registration must file a Statement with the State Water Board. If you divert water, then you are required to report your water diversion and use to the State Water Board for October 1 – September 30 prior to February 1 of the succeeding year by filing a Statement pursuant to WC section 5101.

If you have multiple diversion locations (i.e., you divert water from a stream from multiple locations or divert water by use of a dam), a separate Statement is required to be filed for each diversion location. If you have any questions about how many diversion points your water infrastructure uses, please contact the Division at the phone number or email provided below.

The State Water Board may administratively impose a civil liability in the amount of \$1,000 for the failure to file a Statement for each point of diversion, plus \$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. (WC § 5107, subd. (c)(1)).

This letter constitutes your notice of the abovementioned WC and Policy requirements. Your response to the allegations listed in this notice is required and should be submitted within a timely manner. The State Water Board has discretion when considering an enforcement action and shall consider your corrective actions taken in response to this notice in determining whether and what civil liability is appropriate for violations. Therefore, this matter requires your immediate attention.

Within 30 days from the date of this notice letter you should take the following corrective actions:

1. You must cease your diversion of water and use until you obtain an appropriate water right or a Registration like a Cannabis Small Irrigation Use Registration (SIUR, for cannabis water use only); and
2. You must obtain an appropriate water right like a SIUR or file an application to appropriate water by permit; and
3. You must file a Statement for each diversion location on your property whether you use water diverted for cannabis or other uses.

You must also submit photographic proof and/or other documentation that supports your corrective actions taken whether you choose compliance option 1, 2 and 3. You can submit your documents through the State Water Board's Cannabis Compliance Response Portal referenced below.

To facilitate your response, we are providing you with an Investigation Identification Number (Investigation ID No. listed below), which you can use to respond electronically. You can also contact Division staff by phone or by email provided at the bottom of this notice letter. To use your Investigation ID No. follow the steps provided below.

Investigation ID No. 15023

- Step one:** Go to the State Water Board's Cannabis Cultivation Programs Portal at: <https://public2.waterboards.ca.gov/CGO/>
- Step two:** Register or login to your account
- Step three:** Under survey Click "New" for the "Division of Water Rights Cannabis Compliance Response Portal"
- Step four:** When you fill out your response to this NOV use the Assessor Parcel Number listed in this NOV in Part I.
- Step five:** Additionally, in your response use the Investigation ID listed above.

You can submit an appropriate water right SIUR application at: <https://public2.waterboards.ca.gov/cgo> Need Help? Contact us at 916-341-5362 or email at dwr.cannabisenforcement@waterboards.ca.gov

If you would like to file an application to appropriate water by permit you can find information and file your application at the weblink listed at:

Application: <https://public2.waterboards.ca.gov/mt/Home/Index>

Appropriate water by permit information:

https://www.waterboards.ca.gov/waterrights/water_issues/programs/applications/

Information relating to the filing of a Statement can be found at:

http://www.waterboards.ca.gov/waterrights/water_issues/programs/diversion_use/docs/intl_stmnt_form.pdf

Information on the Cannabis SIUR and Cannabis Policy is available here:
https://www.waterboards.ca.gov/water_issues/programs/cannabis/cannabis_water_rights.html#siur

If you have any questions regarding this matter, please contact Zyruss Edjan at (916) 917-3867 or via e-mail at zyruss.edjan@waterboards.ca.gov. Written correspondence or inquiries should be addressed as follows: State Water Resources Control Board, Division of Water Rights, Attn: Zyruss Edjan, P.O. Box 2000, Sacramento, CA 95812-2000.

Sincerely,

ORIGINAL SIGNED BY:

Zyruss Edjan
Water Resource Control Engineer
Cannabis Enforcement Unit 2
Division of Water Rights

ec: Division of Water Rights

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