



State Water Resources Control Board

SEP 13 2024

CERTIFIED MAIL

Rocky Montes

CERTIFIED MAIL NO: 7022 1670 0001 3677 5149

NOTICE OF VIOLATION

Investigation ID: 16189

**DIVISION OF WATER RIGHTS INVESTIGATION OF TRINITY COUNTY
ASSESSOR PARCEL NUMBER (APN) 020-270-012-000, 020-270-011-000, and
020-270-013-000**

Rocky Montes,

On May 30, 2024, staff from the State Water Resources Control Board (State Water Board), Division of Water Rights (Division), in coordination with state and local partner agencies conducted a search warrant inspection (inspection) of your property referenced above (Property). The purpose of the inspection was to observe the diversion and use of water occurring on the Property and to evaluate potential impacts to the watershed. At the time of inspection, Division staff identified that you are using ground water for cannabis cultivation and are required to comply with the Cannabis Cultivation Policy (Cannabis Policy) terms and conditions as identified below. You must take immediate action to come into compliance or risk civil liability.

Cannabis Policy Violations and Corrective Actions

WC Section 13149: Violations of a Principle, Guideline, or Requirement established in the State Water Board's Cannabis Policy, Attachment A., pursuant to WC section 13149:

WC section 1847, subdivision (a), provides that any person or entity committing a violation of the above referenced requirement may be liable in an amount not to exceed the sum of five hundred dollars (\$500), plus two hundred fifty dollars (\$250) for each additional day on which the 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, plus two thousand five hundred dollars (\$2,500) for each acre-foot of water diverted or used in violation of the applicable requirement.

This letter constitutes your notice of the above-mentioned WC and Policy requirements and violations identified below. Your response to the allegations listed in this notice is required and should be submitted in 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.

1. Cannabis Cultivation Policy, Section 2, Term 92 - Water Storage Facility Without Device to Prevent Water Overflow.

Violation Description:

At the time of the May 30, 2024, inspection, Division staff documented POS1 (Tank 1 and Pool 1) without a float valve or similar device installed to prevent the overflow and waste of water. The failure to have float valves or similar device installed at this POS constitutes two violations of Term 92 of Section 2 of the Cannabis Policy.

Corrective Action:

You should immediately take either corrective actions 1 or 2 to comply with the Cannabis Policy's storage overflow requirements for, but not limited to POS1 (Tank 1 and Pool 1):

- 1) You must install float valves or other equivalent device to shut off a diversion when the storage system is full, OR
- 2) You must cease diverting water to POS1 (Tank 1 and Pool 1) for cannabis cultivation.

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

2. Cannabis Cultivation Policy, Section 2, Term 93 - Failure to Secure Tank Openings to Prevent Entry and Entrapment of Wildlife.

Violation Description:

During the May 30, 2024, inspection, Division staff observed storage tanks in use at the Property located at POS1 (Tank 1 and Pool 1) without tank lids installed to prevent wildlife entrapment. The failure to ensure coverage of the water storage tanks to prevent wildlife entrapment at 2 tanks constitutes two violations of Term 93 of Section 2 of the Cannabis Policy.

Corrective Action:

As of the date of this Inspection Notice this alleged violation continues to be ongoing. You should immediately take corrective actions listed below:

- 1) You must install and maintain tank covers on all your water tanks. OR

- 2) You must cease diverting water to POS1 (Tank 1 and Pool 1) for cannabis cultivation, and maintain your tank closed to the environment which includes maintaining the top cover of your tanks if they will no longer be in use.

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

3. Cannabis Cultivation Policy Section 2, Term 98 – Failure to Maintain Daily Records of Water Use for Cannabis Irrigation.

Violation Description:

POU1 was a documented cannabis cultivation area. At the time of inspection, Division staff did not observe any cannabis irrigation records nor any water measuring devices at the POU. This is your notice that the State Water Board is requesting your daily records of water use for cannabis irrigation. The failure to measure water use for cannabis irrigation and make cannabis irrigation records available constitutes one violation of Term 98 of Section 2 the Cannabis Policy.

Corrective Action:

As of the date of this inspection report, this alleged violation continues to be ongoing. You should within 30 days from the date of this report take either corrective actions 1 or 2 to comply with the Cannabis Policy's cannabis irrigation record requirements for POU1 to quantify all water use on the Property:

- 1) You must send the Division all records required to support that you are in compliance with Term 98, OR
- 2) You must cease your water diversions for cannabis cultivation.

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

Instructions for Demonstrating and Achieving Compliance

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. 16189

- 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

Requirements of Operating a Surface Water Diversion

At the time of inspection, Division staff also identified springs, on your property and is putting you on notice regarding the requirements of operating a surface water diversion should you do so in the future.

WC section 1052:

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 trespass against the State, and the State Water Board may impose a civil liability in an amount not to exceed \$500 and up to \$3500 per day for each day that the unauthorized diversion or use of water occurs when used for cannabis irrigation, plus \$2,500 for each acre-foot of water (drought). (WC § 1052, et seq.)

Water Code section 5101:

Water Code sections 5101 requires each person who diverts water to file with the State Water Board a statement of his or her diversion and use (Statement) according to the following deadlines:

Where the diversion of water takes place after September 30, 2021, the Statement shall include records of diversions during the period from October 1 of each year through September 30, inclusive of the following year. Statements of diversion and use shall be filed before February 1 of the year after the one-year period (Oct. 1 – Sept. 30).

If you begin to divert water from any stream, a Statement must be filed prior to February 1 of the succeeding year. 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 that has occurred since 2009, 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 calls the violation to the attention of that person pursuant to Water Code section 5107(c)(1).

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.

If you have any questions regarding this matter, please contact Tina Wickeraad at (916) 341-5304 or via e-mail at Tina.Wickeraad@waterboards.ca.gov. Written correspondence or inquiries should be addressed as follows: State Water Resources Control Board, Division of Water Rights, Attn: Tina Wickeraad, P.O. Box 2000, Sacramento, CA 95812-2000.

Sincerely,

ORIGINAL SIGNED BY

Tina Wickeraad
Environmental Scientist
Cannabis Enforcement Unit #2
Division of Water Rights

cc: Division of Water Rights
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