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## State Water Resources Control Board

FEB 04 2025

### CERTIFIED MAIL

David Oleary

CERTIFIED MAIL NO: 9589 0710 5270 1501 9789 49

### NOTICE OF VIOLATION

Investigation ID: 16388

#### **DIVISION OF WATER RIGHTS INVESTIGATION OF MENDOCINO COUNTY ASSESSOR PARCEL NUMBER (APN) 032-224-10-00, 032-224-06-00, 032-225-22-00, and 032-224-21-00**

David Oleary,

On September 19, 2024, staff from the State Water Resources Control Board (State Water Board), Division of Water Rights (Division), in coordination with California Department of Fish and Wildlife (CDFW) conducted a search warrant investigation of the properties referenced above. The purpose of the investigation was to observe the diversion and use of water occurring on the properties and to evaluate potential impacts to the watershed.

You are being contacted because you were identified as the property owner of the Mendocino County APNs 032-224-10-00 and 032-224-06-00 where you were allegedly irrigating cannabis with water diverted from a reservoir located on 032-225-22-00.

During the investigation, Division staff observed California Water Code (WC) and State Water Board, Cannabis Cultivation Policy (Policy) violations. Enclosed is the Division's Inspection Report (Report) for the properties that includes Division staff observations, alleged violations, and the corrective actions necessary for compliance with the WC and the State Water Board's Policy. The enclosed Report constitutes your third notice of the alleged violations, and this matter requires your immediate attention. The first Notice of Violations (NOV) was left with a copy of the search warrant on September 19, 2024, and detailed WC and Policy violations and corresponding corrective actions. The second notice was provided by email on November 6, 2024, which was a photo of the field NOV left at your property. After reviewing the inspection observations, photos, and

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

details of the cultivation operation, additional violations were assessed and included in the attached Inspection Report. The information below is a summary of those alleged violations included in the Report. Please note the report covers the inspection of all APNs listed above, including violations and corrective actions for all property owners.

**Violations and Corrective Actions 12**

Violation: WC section 5101 - Failure to File an Initial Statement of Water Diversion and Use (Statement)..... 12

**Violation: WC section 1052 - Unauthorized Diversion or Use of Water 13**

Violation: Cannabis Cultivation Policy, Section 1, Term 18 – Trespass Prohibited ... **1Error! Bookmark not defined.**

Violation: Cannabis Cultivation Policy, Section 2, Term 69 - Diversion of surface water not in accordance with an existing water right ..... 17

Violation: Cannabis Cultivation Policy, Section 2, Term 79 - Onstream reservoir prohibition ..... **1Error! Bookmark not defined.**

Violation: Cannabis Cultivation Policy, Section 2, Term 82 - Failure to Install Water Measuring Device or Maintain Diversion Records. .... 19

Violation: Cannabis Cultivation Policy, Section 2, Term 83 - Failure to Install Onstream Reservoir Water Measuring Device or Maintain Diversion Records. .... 21

Violation: Cannabis Cultivation Policy, Section 2, Term 92 - Water Storage Facility Without Device to Prevent Water Overflow ..... 22

Violation: Cannabis Cultivation Policy, Section 2, Term 93 - Failure to Secure Tank Openings to Prevent Entry and Entrapment of Wildlife. .... 23

Violation: Section 2, Term 95 – Failure to Inspect and Immediately Repair Leaks in the Water Delivery System ..... 24

Violation: Cannabis Cultivation Policy, Section 2, Term 98 – Failure to Maintain Daily Records of Water Use for Cannabis Irrigation..... 25

Violation: Diversion or Use of Water for Cannabis Cultivation without a Department of Cannabis Control License..... 26

**Compliance Assistance References 28**

The State Water Board retains the authority and discretion to take enforcement action based on the facts and allegations contained herein and you may be subject to further enforcement action before the State Water Board. Therefore, this matter requires your immediate attention. You should follow all staff recommended corrective actions described in the enclosed Report or submit a response indicating any course of action you intend to take or have taken, include an implementation schedule, and/or photo documentation that demonstrates your compliance. You can provide your response, documentation and photos through the Division of Water Rights Cannabis Response Notice Portal detailed in the Report in the Compliance Assistance References section.

If you have questions concerning the Report, please contact me by phone at (916) 341-5410, or by email at [ryan.babb@waterboards.ca.gov](mailto:ryan.babb@waterboards.ca.gov). Written correspondence can be provided and addressed to the following address: State Water Resources Control Board, Division of Water Rights, P.O. Box 100, Sacramento, CA 95812-0100, Attention: Ryan Babb.

Sincerely,

ORIGINAL SIGNED BY:

Ryan Babb  
Water Resources Control Engineer  
Cannabis Enforcement Unit  
Division of Water Rights

**Enclosures:**

**Division of Water Rights Inspection Report dated September 19, 2024**

**ec: Division of Water Rights - Cannabis Enforcement**

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