

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD**

**SAN DIEGO REGION**

**IN THE MATTER OF OLIVIA YUTANG LIU  
ASSESSOR PARCEL NUMBER 197-100-02-00**

**COMPLAINT NO. R9-2024-0090 FOR ADMINISTRATIVE CIVIL LIABILITY**

**FAILURE TO COMPLY WITH CLEANUP AND ABATEMENT AND WATER CODE  
SECTION 13267 ORDER NO. R9-2021-0165**

This Administrative Civil liability Complaint (Complaint) is issued by the Assistant Executive Officer of the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) to Olivia Yutang Liu (Discharger) for: (1) failure to submit an adequate proposed Restoration and Monitoring Plan (RMP), as required under Required Action A of Cleanup and Abatement Order and Water Code Section 13267 Investigative Order No. R9-2021-0165 (Cleanup Order), in violation of Water Code section 13267; and (2) failure to complete implementation of the corrective actions pursuant to an approved RMP, as required under Required Action C of the Cleanup Order, in violation of Water Code section 13304. These violations are subject to administrative civil liability pursuant to Water Code sections 13268 and 13350, respectively. This Complaint is issued pursuant to Water Code section 13323, which authorizes the Executive Officer to issue this Complaint, and Water Code section 7, which authorizes the delegation of the Executive Officer's issuing authority to a deputy, in this case, the Assistant Executive Officer.

**The Assistant Executive Officer of the San Diego Water Board, on behalf of the Prosecution Team, hereby alleges that:**

**BACKGROUND**

1. The Discharger's property (Site) is an approximately 38-acre parcel located at 3001 Chimney Rock Road, Ranchita, California 92066 (33.22164, -116.50130), San Diego County Assessor Parcel Number 197-100-02-00. The Site is located within the San Luis Rey Hydrologic Unit, Warner Valley Hydrologic Area, Warner Hydrologic Subarea (CalWater Hydrologic Unit Basin Number [HU] 903.31) – Buena Vista Creek. An ephemeral stream, a water of the state, crosses the Site from the east-northeast through the southwestern parcel boundary (National Hydrography Dataset, 2019). The stream is a tributary to Buena Vista Creek. As designated in the Water Quality Control Plan for the San Diego Basin (Basin Plan), the inland surface water for Buena Vista Creek water body supports many beneficial uses, namely municipal and domestic supply (MUN), agricultural supply (AGR), industrial process supply (PROC), freshwater replenishment (FRSH), hydropower generation (POW), contact water recreation (REC-1), non-contact water recreation (REC-2), warm freshwater

habitat (WARM), cold freshwater habitat (COLD), and wildlife habitat (WILD). Beneficial uses of any specifically identified water body generally apply to all of its tributaries. The designated beneficial uses of the underlying ground waters for the Warner Hydrologic Subarea (HSA 3.31) include municipal and domestic supply (MUN), agricultural supply (AGR), industrial process supply (PROC), and freshwater replenishment (FRSH).

2. The Discharger is the current owner of the Site and was the landowner during all inspections conducted by South Coast Regional Cannabis Program (Cannabis Program) staff, working on behalf of the San Diego Water Board. Based on San Diego County Assessor Records, Olivia Yutang Liu purchased the Site on August 12, 2019, which is prior to the first inspection by Cannabis Program staff on November 4, 2019.
3. On November 4, 2019, July 16, 2020, December 10, 2020, and May 19, 2021, Cannabis Program staff inspected the Site as part of a multi-agency inspection authorized by criminal search warrants obtained and served by the San Diego County Sheriff's Department.
4. Observations made by Cannabis Program staff during the four inspections and a review of photographs provided by the San Diego County Sheriff's Department, included the following:
  - a. Active cannabis cultivation occurring outdoors on November 4, 2019, active cannabis cultivation in 11 greenhouses on July 16, 2020 and December 10, 2020, and active cannabis cultivation in five greenhouses on May 19, 2021. The approximate number of live cannabis plants seized by law enforcement officials during each warrant is as follows: 3,034 on November 4, 2019; 4,700 on July 16, 2020; 6,067 on December 10, 2020; 5,771 on May 19, 2021. In addition, law enforcement officials estimated 5,729 cannabis plants were seized during a search conducted pursuant to a May 12, 2020 criminal search warrant. Cannabis Program staff were not present for the May 12, 2020 inspection. In total, approximately 25,301 cannabis plants were seized by law enforcement officials during the execution of the five warrants between November 2019 and May 2021.
  - b. Unauthorized grading and land disturbance for cannabis cultivation activities (cultivation area) occurred within the course of the ephemeral stream, a water of the state. The land disturbances included construction of earthen berms, excavated areas to bury discarded waste, and trench and channel excavations for the purpose of diverting cannabis irrigation runoff. The combined disturbed areas measured greater than 65,000 square feet. Earthen berms surrounded the perimeter of the cannabis cultivation area as early as April 2020, as seen in photographs provided by the San Diego County Sheriff's Department. The berms around the cannabis cultivation area were constructed within the stream's natural course, substantially altering and obstructing natural flow.

- c. A barrier made of wood and other miscellaneous debris was built to impound cannabis irrigation runoff that is diverted via a series of trenches surrounding the cultivation area, and trash disposed of in the trenches at the south-western corner of the cannabis cultivation area. The barrier was approximately 10-feet tall. Evidence of irrigation runoff moving through the barrier was observed during the July 16, 2020, December 10, 2020, and May 19, 2021 inspections and included sediment erosion rills and channels downstream of the barrier that continued toward the south and off the Site.
  - d. Two areas excavated to bury trash, chemical containers, and other miscellaneous debris were observed during the July 16, 2020, December 10, 2020, and May 19, 2021 inspections adjacent to the cannabis cultivation area and stream. One excavated area was located in the northeast corner of the cultivation area adjacent to the stream; the second excavated area was located in the southeast corner of the cultivation area.
  - e. During the inspections on November 4, 2019, July 16, 2020, December 10, 2020, and May 19, 2021, large quantities of various nutrients, fertilizers, and soil amendments, in solid and liquid form, were observed outdoors and without containment throughout the Site, including in the cannabis cultivation area within the course of the ephemeral stream. These materials were also found inside the greenhouses during the July 16, 2020, December 10, 2020, and May 19, 2021 inspections. Chemical containers were observed discarded in both excavated areas in the northeast and southeast corners of the cultivation area and in the excavated trenches surrounding the cultivation area. Chemical containers were also observed south of the barrier and cultivation area.
5. On February 26, 2021, Cannabis Program staff mailed the Discharger a Notice of Violation (NOV), which included an Inspection Report, dated January 22, 2021, that documented staff's observations from the July 16, 2020 and December 10, 2020 inspections. The January 22, 2021 Inspection Memo also included an Inspection Report for the November 4, 2019 inspection as an attachment. Additionally, a memorandum was attached to the NOV that provided staff's review and assessment of photographs provided by the San Diego County Marijuana Environmental Task Force (METF), which were taken during execution of the May 12, 2020 search warrant inspection of the Site. The delivery of the February 26, 2021 NOV was signed as received by "O. Liu" on March 1, 2021.
6. On June 15, 2021, Cannabis Program staff emailed an NOV to the Discharger based on observations made during the May 19, 2021 inspection of the Site. The NOV directed the Discharger to contact staff by June 30, 2021, to discuss the Site. Cannabis Program staff received no communication from the Discharger in response to the NOV.
7. On July 6, 2021, San Diego Water Board staff mailed a draft cleanup and abatement order to the Discharger to the Temple City address identified as the Discharger's mailing address in San Diego County Tax Assessor records. The transmittal letter for the draft order informed the Discharger that any comments or evidence needed

to be submitted for the San Diego Water Board's consideration within 30 days from the date of the letter. This delivery was signed for by "V.Tsang" on July 8, 2021. Nevertheless, on July 23, 2021, staff mailed a second copy of the draft order to the Discharger at the Arcadia address associated with the Discharger. This delivery was signed for by "D.Liu" on July 27, 2021.

8. On August 16, 2021, after receiving no comments or evidence from the Discharger, the Executive Officer of the San Diego Water Board issued the Cleanup Order, which directed the Discharger to comply with the required actions contained therein. Among the required actions is the directive to submit a proposed RMP within 60 days of the effective date of the Cleanup Order, pursuant to Water Code section 13267. The Cleanup Order further directed the Discharger to complete implementation of the approved RMP no later than October 1, 2022, pursuant to Water Code section 13304. The Cleanup Order included all previous Inspection Memos, Inspection Reports, and NOVs as attachments. The Cleanup Order was signed as received by "O. Yutang" on August 19, 2021.
9. On September 10, 2021, the Discharger contacted Cannabis Program staff via email, which included a response to the Cleanup Order as an attachment. The attached response referenced an August 23, 2021 email and informed staff that the Discharger intended to file a petition with the State Water Resources Control Board (State Water Board) unless the Cleanup Order was modified prior to the deadline to file a petition. The attachment also included the petition documents that the Discharger intended to file. Cannabis Program staff do not have any record of the referenced August 23, 2021 email and are unaware of the information conveyed in that correspondence.
10. On September 14, 2021, the Discharger filed a petition of the Cleanup Order via email to the State Water Resources Control Board (State Water Board). The Discharger submitted a second copy of the petition on September 16, 2021, which corrected the date of the signature on the petition. The Discharger's petition did not include a request to stay the deadlines in the Cleanup Order. Staff from the State Water Board's Office of Chief Counsel emailed the Discharger and Cannabis Program staff on October 7, 2021, to acknowledge receipt of the Discharger's petition<sup>1</sup>.
11. On September 22, 2021, Cannabis Program staff emailed the Discharger, stating that correspondence relating to the petition will come from the State Water Board and informed the Discharger that, because a request to stay the deadlines was not filed with the petition, the Discharger was still responsible for complying with the deadlines in the Cleanup Order while the petition was under review.
12. On October 14, 2021, the Discharger submitted a proposed RMP to Cannabis Program staff for review. The Discharger's submittal stated that some corrective

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<sup>1</sup> Cannabis Program staff did not receive any subsequent communications from the State Water Board regarding the Discharger's petition. It is the Prosecution Team's understanding that the petition was dismissed by operation of law after the 90-day statutory period expired without action by the State Water Board.

actions had already been implemented and that there were plans for further work. The Discharger stated that large dumpsters from a garbage disposal company had been rented and that garbage was removed from the Site. The submittal included a receipt demonstrating that Ramona Disposal Services had delivered containers to the Site, but there was no documentation of waste collected or removed from the Site. The submittal also stated that plastic film had been removed from the greenhouses, with a photograph submitted to document the film removed. The greenhouse structures remained in place. The Discharger also stated that the wooden fence was removed from the channel at the southwest corner of the greenhouses, with a photograph included. Regarding future work planned at the Site, the submittal stated that the channel would be deepened and widened, and that wild vegetation would be restored within 100 feet on both sides of the channel. Several arguments and statements claiming the Discharger should not be liable were also included in the submittal.

13. On December 3, 2021, Cannabis Program staff responded to the Discharger via certified mail and email, informing the Discharger that the proposed RMP was not approved as it did not sufficiently address all requirements of the RMP outlined in the Cleanup Order. The proposed RMP was not prepared by or under the direction of a qualified professional registered to practice in California. The letter contained Cannabis Program staff comments and directed the Discharger to submit an RMP for approval that sufficiently addressed all the requirements of the RMP outlined in the Cleanup Order.
14. On January 31, 2022, Cannabis Program staff received an email from the Discharger in response to the December 3, 2021 letter. The Discharger's response claimed a qualified professional was not needed and that it was unclear what type of qualified professional was required. The response also expressed the Discharger's belief that several requirements of the Cleanup Order were not necessary based on the Discharger's characterization of the Site. The email did not sufficiently address the requirements of the RMP, or the comments made by Cannabis Program staff in the December 3, 2021 letter.
15. On April 18, 2022, Cannabis Program staff mailed and emailed the Discharger an NOV, dated April 15, 2022, for failure to submit a proposed RMP acceptable to the San Diego Water Board or its delegated officer. The NOV provided responses to the comments made by the Discharger in the January 31, 2022 email, outlined the actions needed to comply with the Cleanup Order, and urged the Discharger to contact Cannabis Program staff to discuss any perceived misunderstandings about the Site conditions.
16. On May 13, 2022, the Discharger emailed Cannabis Program staff requesting to schedule a conference call. The call took place on May 26, 2022, during which staff discussed the ongoing violation and the next steps required to comply with the Cleanup Order.
17. On May 26, 2022, Cannabis Program staff emailed the Discharger to provide additional information to assist the Discharger's efforts to locate a qualified

professional, to assist in complying with the Cleanup Order. The email also provided a reminder of the October 1, 2022, deadline to complete implementation of an approved RMP. The Discharger responded to the email on May 26, 2022, thanking staff for the additional information.

18. On September 6, 2022, Cannabis Program staff sent a follow-up email to the Discharger, reminding the Discharger of the need to submit an acceptable RMP and requesting an update on the Discharger's progress towards compliance. Staff also provided another reminder of the upcoming October 1, 2022, deadline to complete implementation of the corrective measures in an approved RMP. Staff did not receive a response from the Discharger.
19. On October 14, 2022, Cannabis Program staff issued another NOV, via email and certified mail, to the Discharger for noncompliance with the Cleanup Order for failure to complete implementation of an approved RMP, in addition to the ongoing failure to submit a proposed RMP acceptable to the San Diego Water Board.
20. On October 20, 2022, the Discharger responded to the October 14, 2022 NOV via email. The email described a site visit conducted by an engineer but did not provide any report or documentation that would address the elements required in an RMP. The email included several photographs as attachments, but the date and location of the photographs was not discernable. Statements as to why the Discharger believes certain aspects of the Cleanup Order are not required were also included in that email.
21. On November 3, 2022, Cannabis Program staff sent an email explaining that the October 20, 2022, response to the NOV, including the information and photographs submitted, was insufficient to satisfy the requirements of the Cleanup Order. Cannabis Program staff also reiterated that, as the current landowner and landowner during all inspections, the Discharger was appropriately named a responsible party for purposes of submitting the reports and conducting the cleanup required under the Cleanup Order.
22. On October 13, 2023, after having received no update from the Discharger, the San Diego Water Board staff issued the Discharger a notice of intent to proceed with an administrative civil liability complaint for failure to comply with the Cleanup Order unless the Discharger contacted staff to discuss the steps the Discharger is taking to achieve compliance. The delivery of the notice was signed for by "Chao Hong Wu" on October 18, 2023.
23. On November 10, 2023, the Discharger responded to the October 13, 2023, notice via email, claiming that an attempt to find an appropriate engineer was unsuccessful and did not meet the San Diego Water Board's criteria, that there was no waste or excavated areas to bury waste at the Site, and that there was no need to hire a professional engineer or submit an RMP. Additionally, the Discharger provided a signed lease agreement for the Site between the Discharger's father, Yinquan Liu, and a tenant, Jin Lian Zhou. The agreement specified the leasing term as September 28, 2019, to September 30, 2024. The Discharger's response did not

demonstrate that the Discharger was taking adequate steps to come into compliance with the Cleanup Order.

24. On November 15, 2023, Cannabis Program staff acknowledged receipt of the Discharger's November 10, 2023 response and stated a more detailed response would follow.
25. On December 4, 2023, Cannabis Program staff responded via email, stating that the comments provided in the Discharger's November 10, 2023 email had been addressed by staff in prior emails, letters, and meetings. Regarding the rental agreement, staff again explained that the Discharger, as the landowner, is responsible for the condition of the property and ensuring that any condition or threatened condition of pollution is remediated and is, therefore, an appropriate responsible party under the Cleanup Order. The response further informed the Discharger of staff's intention to proceed with an administrative civil liability complaint for failure to comply with the requirements of the Cleanup Order.
26. On December 20, 2023, the Discharger responded via email to the December 4, 2023 response, reiterating the claim that the Discharger should not be held responsible for the Site. The response included an attached letter from the County of San Diego Department of Agriculture, Weights, and Measures, providing proof of registration for industrial hemp cultivation. The registration was issued to USASD INC., at 9087 Las Tunas Drive, Temple City, CA 91780, which is the same address on record for the Discharger. The letter specified that the registration for industrial hemp cultivation was valid from May 27, 2021, through May 26, 2022, which post-dates the four inspections of the Site. In addition, the hemp cultivation would require enrollment in the San Diego Water Board's irrigated lands program, which neither the Discharger nor USASD INC. is enrolled under.
27. On December 21, 2023, Cannabis Program staff responded via email to acknowledge receipt of the Discharger's email.

### **ALLEGED VIOLATIONS**

28. Violation 1: The Prosecution Team alleges that the Discharger violated Water Code section 13267 by failing to submit an adequate proposed RMP for approval by the San Diego Water Board or its delegated officer by October 15, 2021, as specified under Required Actions A of the Cleanup Order.
29. Violation 2: The Prosecution Team alleges that the Discharger violated Water Code section 13304 by failing to complete implementation of an approved RMP by October 1, 2022, as specified under Required Actions C of the Cleanup Order.

### **WATER CODE AUTHORITY FOR IMPOSING ADMINISTRATIVE CIVIL LIABILITY**

30. Water Code section 13268 provides that the San Diego Water Board may administratively impose civil liability to any person who fails to submit technical or

monitoring reports, as required under Water Code section 13267, in an amount not to exceed one thousand dollars (\$1,000) for each day in which the violation occurs.

31. Water Code section 13350, subdivision (a), states, in relevant part:

A person who violates a cleanup and abatement order issued, reissued, or amended by a regional board or the State Water Board may be liable civilly, and remedies may be proposed, in accordance with subdivision (e).

32. Water Code section 13350, subdivision (e)(1), states:

The Regional Water Board may administratively impose civil liability in an amount not to exceed five thousand dollars (\$5,000) for each day the violation occurs.

33. Water Code section 13350, subdivision (e)(1)(B), states:

When there is no discharge, but an order issued by the Regional Water Board is violated, except as provided in subdivision (f), the civil liability shall not be less than one hundred dollars (\$100) for each day in which the violation occurs.

34. Water Code section 13350, subdivision (f), states that the San Diego Water Board shall not administratively impose civil liability in accordance with paragraph (1) of subdivision (e) in an amount less than the minimum amount specified, unless the San Diego Water Board makes express findings setting forth the reasons for its action based upon the specific factors required to be considered pursuant to Water Code section 13327.

35. Pursuant to Water Code section 13327, in determining the amount of any civil liability imposed, a regional board is required to take into account the nature, circumstances, extent, and gravity of the violations, whether the discharges are susceptible to cleanup or abatement, the degree of toxicity of the discharges, and, with respect to the violator, the ability to pay, the effect on its ability to continue its business, any voluntary cleanup efforts undertaken, any prior history of violations, the degree of culpability, economic benefit or savings, if any, resulting from the violations, and other matters that justice may require.

### **WATER QUALITY ENFORCEMENT POLICY**

36. On April 4, 2017, the State Water Board adopted Resolution No. 2017-0020, which adopted the 2017 Water Quality Enforcement Policy (Enforcement Policy). The Enforcement Policy was approved by the Office of Administrative Law and became effective on October 5, 2017. The Enforcement Policy establishes a methodology for assessing administrative civil liability that addresses the factors required to be considered when imposing civil liability as outlined in Water Code sections 13327 and 13385, subdivision (e).

37. The violations alleged in this Complaint are subject to liability in accordance with Water Code sections 13268 and 13350, respectively. Administrative civil liabilities under each of these sections are subject to the factors set forth in Water Code section 13327. The Prosecution Team has considered the required factors for the alleged violations using the methodology in the Enforcement Policy, as detailed in Attachment A to this Complaint.

### **CALIFORNIA ENVIRONMENTAL QUALITY ACT**

38. Issuance of this Complaint is an enforcement action and is therefore exempt from the provisions of the California Environmental Quality Act (Pub. Res. Code § 21000 et seq.), in accordance with the California Code of Regulations, title 14, sections 15307, 15308, and 15321, subdivision (a)(2).

### **MAXIMUM STATUTORY LIABILITY**

39. Violation 1: Pursuant to Water Code section 13268, subdivision (b)(1), civil liability may be administratively imposed by the San Diego Water Board on a daily basis in an amount that shall not exceed one thousand dollars (\$1,000) for each day in which the violation occurs. The Discharger has failed to submit an adequate proposed RMP for 944 days, from October 15, 2021 to May 16, 2024. The statutory maximum liability amount for Violation 1 is \$944,000 (\$1,000/day x 944 days). This violation is ongoing until resolved. However, the assessed liability is calculated to end on May 16, 2024.

40. Violation 2: Pursuant to Water Code section 13350, subdivision (e)(1), civil liability may be administratively imposed by the San Diego Water Board on a daily basis in an amount that shall not exceed five thousand dollars (\$5,000) for each day the violation occurs. The Discharger has failed to complete implementation of an approved RMP for 593 days, from October 1, 2022 to May 16, 2024. The statutory maximum liability amount for Violation 2 is \$2,965,000 (\$5,000/day x 593 days). This violation is ongoing until resolved. However, the assessed liability is calculated to end on May 16, 2024.

### **MINIMUM LIABILITY**

41. Violation 1: The Enforcement Policy requires the San Diego water Board to recover, at a minimum, at least ten percent higher than the economic benefit realized from the violation, such that liabilities are not construed as the cost of doing business and provide a meaningful deterrent to future violators. The economic benefit for Violation 1 is estimated to be \$796. The minimum liability that may be imposed is, therefore, \$875.60.

42. Violation 2: Pursuant to the Enforcement Policy, the San Diego Water Board must recover, at a minimum \$304.70, which reflects the estimated economic benefit plus

ten percent. However, Violation 2 is also subject to a statutory minimum liability amount. Pursuant to Water Code section 13350, subdivision (e)(1)(B), the statutory minimum liability amount is one hundred dollars (\$100) for each day in which the violation occurs. The statutory minimum liability amount for Violation 2 is \$59,300 (\$100/day x 593 days).

### **PROPOSED LIABILITY**

43. Violation 1: The Prosecution Team proposes an administrative civil liability amount of \$75,075, as detailed in Attachment A to this Complaint. The proposed liability amount for Violation 2 is within the applicable minimum and maximum liability amounts.
44. Violation 2: The Prosecution Team proposes an administrative civil liability amount of \$306,075 for Violation 2, as detailed in Attachment A to this Complaint. The proposed liability amount for Violation 2 is within the statutory minimum and maximum liability amounts.
45. Based on consideration of the above facts, the applicable law, and after applying the penalty calculation methodology in the Enforcement Policy, the Prosecution Team recommends that the San Diego Water Board impose civil liability against the Discharger in the total amount of **\$409,534** for Violations 1 and 2 alleged herein and set forth in full in Attachment A.

#### **The Discharger is hereby given notice that:**

46. The Prosecution Team proposes a total administrative civil liability amount of **\$409,534** for Violations 1 and 2.
47. Notwithstanding the issuance of this Complaint, the San Diego Water Board retains the authority to assess additional administrative civil liability for violations that have not yet been assessed or for violations that may subsequently occur.
48. The Prosecution Team reserves the right to amend the proposed administrative civil liability amount to conform to evidence presented at the hearing on this matter before the San Diego Water Board.

KELLY DORSEY, P.G.  
Assistant Executive Officer

Signed pursuant to the authority delegated by the Executive Officer to the Assistant Executive Officer.

Enclosures:

Attachment A, Liability Methodology

Copies to:

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