September 6, 2017

State Water Resources Control Board
Jeanine Townsend, Clerk to the Board
1001 I Street, 24th Floor
Sacramento, CA 95814

RE: Comment Letter – Cannabis Policy and Staff Report

Dear Ms. Townsend,

Thank you for the opportunity to provide comments on the State Water Resources Control Board Draft Cannabis Cultivation Policy – Principles and Guidelines for Cannabis Cultivation. The Nature Conservancy, Trout Unlimited, and California Trout have jointly prepared the following comments.

Our organizations are very concerned about the significant environmental impacts that have resulted from years of unregulated cannabis cultivation; we are particularly troubled by impacts to sensitive coastal streams and the species that depend on them. In response, we have been deeply involved at the state and regional levels in the push for comprehensive regulation of the cannabis industry. We are also working to secure adequate funding for the enforcement of environmental laws, clean-up of past impacts, and restoration of damaged lands.

We actively supported SB 837 which provided specific new legal authorities for the State Water Resources Control Board (SWRCB) and the Department of Fish and Wildlife (CDFW) to withhold issuance of cannabis cultivation permits unless specific water reporting, monitoring, and measuring of cultivation impacts are built into the permit conditions. SB 837 also directed the SWRCB to establish instream flow standards for cannabis cultivation on an accelerated basis. The new authority breaks through existing barriers to developing flow standards by directing the SWRCB to set interim streamflow standards based on the best available science, with a clear process for public input.

Our organizations believe this authority is an important tool that will strengthen the ability of SWRCB and CDFW to protect fish and wildlife by restricting diversion for cannabis cultivation, particularly during the dry season. At the same time, this authority can provide an important path to compliance by enabling growers to obtain permits to divert water to storage in cases where sufficient water is available during the wet season. We are grateful for the SWRCB leadership to establish streamflow standards and develop tools for working with growers who are interested in complying with the new cannabis cultivation laws.

Below are comments on the SWRCB's Draft Cannabis Cultivation Policy (Cannabis Policy):

Self-Certification

We are concerned that the Cannabis Policy relies on self-certification for compliance with all applicable Requirements in the Cannabis Policy (Section 1 – General requirements and prohibitions, Term 31). Given the extensive breadth and depth of requirements in the Cannabis Policy, and the presumption that most cannabis cultivators will not be familiar or experienced with these concepts and extensive types of regulation in general, it seems risky to rely on self-certification. For example, recent anecdotal reports from law enforcement officers indicate that cannabis cultivators who have previously self-certified compliance with Regional Water Quality Control Boards' Waivers of Waste Discharge requirements are often not in compliance with the requirements upon inspection.

To adequately protect against this possibility, and to reduce the risk that water diversions for cannabis will have unacceptable impacts on instream flows, additional measures to verify compliance are warranted. Ideas to consider include:

- Annual SWRCB inspections of a sub-sample of permittees. These inspections could be prioritized based on density of sites in a watershed, reports of impacts, Tier 2 status, or threat to water quality, quantity, or third party program participation, for example.
- Require third-party certification, at least for higher risk (e.g. Tier 2) farms, on enrollment, and third-party recertification or inspection on a regular basis (every 2-3 years) thereafter.
- Require annual reporting of water diversion data (rates, amounts, timing), rather than allowing reporting of diversion data by request of CDFW or the SWRCB (change Section 1 – General requirements and prohibitions, Term 84).

To validate the efficacy of the new Cannabis Policy, guidelines for implementation monitoring should be drafted and required by the SWRCB as part of the water right application process. Random selection and evaluation of the compliance reports should be conducted annually. Guidelines for this evaluation, as well as actions and/or penalties for noncompliance, also should be in the water right application.

Interim vs. Long-term Requirements

We urge the SWRCB to consider that it may need to make significant revisions to the interim Cannabis Policy requirements prior to the adoption of long-term requirements, to reflect experience gained from implementation. As the Cannabis Policy notes, Water Code section 13149 authorizes the SWRCB to promulgate both interim and long-term requirements to protect instream flows and water quality from the impacts of cannabis cultivation. But the same section also gives the SWRCB clear authority to amend these requirements at *any* time – including prior to the adoption of long-term requirements. This is a point that bears emphasis, particularly considering the sheer size and scope of the task the SWRCB has been charged with undertaking on a tight initial deadline. Not only must the SWRCB develop protective, enforceable state-wide instream flow thresholds that can be applied to a wide variety of stream types across a vast geography, it must also translate these thresholds into new, workable regulatory requirements and apply them to an entirely new industry that has never been regulated – and until recently was illegal. Moreover, these regulations must be applied to many thousands of diversions that are already in operation. This makes it crucial that the SWRCB get the regulatory balance right: if the SWRCB errs on the side of making interim requirements more strict than necessary to protect resources, the result may be that large numbers of existing diverters will find the costs too high and continue to operate illegally, with the unintended consequence that ongoing damage to the environment will continue. Conversely, if

the initial interim requirements are under-protective, the SWRCB will risk permitting operations that have significant negative ecological impacts.

Given the magnitude and complexity of these tasks, it would be difficult to develop an initial set of interim requirements that satisfactorily met these conflicting goals without the need for major revisions. There is likely no way to gauge the effectiveness of the Cannabis Policy requirements until practical experience is gained applying them in the real world.

Although the draft Cannabis Policy and Staff Report generally acknowledge that the requirements may be amended when reasonably necessary, some statements in the discussion of specific provisions suggest the SWRCB may not intend to consider large-scale changes to the Cannabis Policy prior to adoption of long-term requirements. A prominent example is the discussion in the Staff Report of the rationale for adopting the interim instream flow requirements, which are based on the Tessmann and New England Aquatic Base Flow Standard methodologies for surface water and groundwater diversions, respectively. The Staff Report provides a non-exhaustive list of things that may be incorporated into the interim requirements via future amendments:

- Long-term, region-specific instream flow requirements for cannabis cultivation,
- watershed-specific studies that demonstrate more relaxed instream flow requirements or seasons of diversion will be as or more protective, or
- watershed-specific studies that demonstrate more protective instream flow requirements or diversion periods are needed to protect public trust resources.

We urge the SWRCB to acknowledge that, in addition to these types of specific refinements to the existing flow requirements, it may be necessary to revisit the underlying rationale for those requirements. As discussed below in these comments, there are reasons to believe that the proposed thresholds based on the Tessmann and New England methodologies may be under-protective in some aspects – for example, the lack of quantified metrics to protect high flows that inundate winter/spring rearing habitats – and overprotective in others – for example, winter bypass flows that may not allow sufficient diversion to allow growers to fill storage in dry years. Our own 'exceedance' analyses showed that for North Coast sites (Mattole, Navarro, Russian), there appears to be water available to cannabis diverters using the Cannabis Policy bypass thresholds in most years of record, in most months. However, drought years will be tough and may not allow diversion in some or all months in some places, like the Russian and Navarro. Further south in the Central Coast (San Gregorio, Orestimba), there are a lot more years of record where water wouldn't have been available or would have only been minimally available for cannabis diversion. It would be helpful if the Staff Report included such 'exceedance' analyses for at least a subset of streams of different sizes in each region and look at exceedance of the Cannabis Policy bypass thresholds by month across the years in the United States Geological Survey (USGS) gauging records. It would help set expectations for growers in those regions (e.g. Can they expect to be able to divert every year, or are there places where it will be inherently risky?).

Given the deadline for promulgating this initial policy, the Staff Report may be correct that the Tessmann and New England methods are the best available to "meet the timeline, scale, and goals of this effort." But the SWRCB should expressly acknowledge the possibility that when implemented, the resulting interim flow thresholds may lead to widespread unacceptable impacts – either because they are under-protective or because they render compliance uneconomical – and may need to be rejected in favor of thresholds based on some other methodology such as one that limits cumulative diversion to a percentage of the unimpaired hydrograph.

We recommend that the SWRCB add a description in the Cannabis Policy that indicates when and how they will evaluate the performance of these interim requirements, and how they will make modifications. For example, in the SWRCB's Phase 1 Substitute Environmental Document (Appendix K), the SWRCB lays out their Procedures for Implementation of Adaptive Methods, how they will approach development and review of an Annual Adaptive Operations Plan, and how a Working Group will be assembled to help guide the SWRCB in their efforts at adaptive management. Creating something similar for the Cannabis Policy would help clarify the approach the SWRCB envisions for institutionalizing an adaptive process to refining these interim requirements.

Local Cooperative Solutions

We are pleased to see that in addition to state-wide requirements to preserve instream flows, the draft Cannabis Policy also provides a means for groups of cannabis cultivators, with the approval of CDFW, to propose alternative instream flow requirements that would apply within an individual watershed in place of the state-wide requirements. We are also glad to see that such local alternatives can extend to all aspects of the instream flow requirements – numeric thresholds, narrative criteria, and calendar forbearance periods. Given that the state-wide requirements are (1) formulated to apply across a very broad range of stream types, habitats, and climatic conditions, and (2) based on a methodology (Tessmann) that can at best give a rough approximation of allowable streamflow thresholds for diversion, local cooperative solutions can provide an important "safety valve" to provide more appropriate diversion better suited to local watershed conditions. If supported by sufficient local information and analysis, such criteria could do a better job of both protecting instream resources and providing growers with a reliable water supply to fill storage during the wet season. With that goal in mind, however, we believe several points could benefit from further clarification.

First, the draft Cannabis Policy provides the Deputy Director may approve proposed local cooperative solutions if local cannabis diverters and CDFW enter an agreement that provides "watershed-wide protection for the fishery" that is at least equal to that provided by the regular requirements. Does this mean that the local agreement must contain diversion terms (e.g., numeric, narrative, forbearance) that, *if applied to all cannabis diversions in the watershed*, would provide a comparable level of protection? Or does it mean that the terms, if applied to *all diverters who are parties to the agreement* will provide a comparable level of protection? The former interpretation could be substantially more difficult to achieve, since it could require that essentially all cannabis diverters in the watershed be parties to the agreement. But assuming the terms in the agreement were based on solid science and local data, such unanimous agreement should not be a prerequisite to implementing local requirements that are demonstrably more appropriate than the statewide ones.

Second, the draft Cannabis Policy goes on to state:

> Other local cooperative solutions may also be proposed to the Deputy Director as an alternative means of reducing water use to preserve the required instream flows. Local cooperative solutions may include proposals to coordinate diversions or share water.

We have several questions regarding this language. Does the phrase "other local cooperative solutions" refer to solutions other than proposed changes to diversion requirements (numeric, narrative, forbearance)? Or does it mean local cooperative solutions that are not based on agreements between CDFW and local diverters? In other words, does this language provide that diverters may propose local solutions directly to the Deputy Director without first entering an agreement with CDFW? And if so, can such solutions include proposed alternative criteria for numeric/ narrative/ forbearance requirements?

Finally, the Cannabis Policy should specify how the interested public will be provided notice of proposed local cooperative solutions that are submitted to the Deputy Director for approval. Such solutions have the potential to affect other right holders and public trust resources, and interested parties should have the opportunity to comment on them.

Cumulative Impacts

While we support the SWRCB's attempt to set regional flow criteria throughout California, and acknowledge the Cannabis Policy is proposed for interim application, there has nevertheless been scant analysis of how the Cannabis Policy will be applied to the different hydrologic regions in California at different spatial scales. The Cannabis Policy may be protective of instream flows in some geographic locations, may perform poorly in others, and may lead to environmental effects. Before implementing a broad-scale policy, more detailed analysis of its site-specific performance and risks, coupled with strong enforcement, monitoring, and adaptive management components, is essential.

In summary, three key elements underscore our current concerns:

- The Cannabis Policy does not provide a ceiling, or methodology for determining a ceiling, that establishes a total acceptable withdrawal for a given watershed or basin. Without such a ceiling the SWRCB cannot assess cumulative watershed effects;
- the Cannabis Policy does not adequately address the volume and timing of water presently being diverted (legally or illegally) within a given basin;
- the Cannabis Policy does not address differences in spatial scale between mainstem tributaries and smaller tributaries, particularly in relation to salmonid life history and habitat requirements such as spawning ecology and fish passage.

Unless the SWRCB explicitly addresses these issues, there seems no way to assess potential cumulative impacts of pending water right applications, especially for small watersheds supporting salmonid populations. More fundamentally, the SWRCB is unlikely to accomplish its statutory mandate of prescribing protective instream flows.

We are generally concerned about the use of a bypass flow approach to set flow criteria. Bypass flows are typically prescribed for regulated rivers where a storage reservoir can meet the bypass flow targets at specific compliance points (Grantham & Moyle, 2014; Souchon et al., 2008). As such, bypass flows are poorly suited to regional-scale management in unregulated river/stream systems where multiple points of diversion (on the order of tens to hundreds) exist along long stretches of stream channels. Bypass flows often fail to protect the hydrologic variability and resultant ecological processes essential to protecting aquatic habitat beneficial uses and recovering sensitive species (King, Tharme, & Villiers, 2008; Richter, Baumgartner, Wigington, & Braun, 1997; Studley, Balridge, & Railsback, 1996). Moreover, bypass flows are inherently difficult to manage and enforce across large and remote geographic regions. Many of these criticisms of bypass flows have been raised in the scientific literature on environmental flows, and have not been adequately addressed in the draft Cannabis Policy.

The draft Cannabis Policy, modeled on the *Policy for Maintaining Instream Flows in Northern California Coastal Streams* (the "North Coast Policy") fails to adequately protect against adverse impacts of cumulative diversion. The draft Cannabis Policy relies on (1) an allowable season of diversion, and (2) a minimum bypass flow. But unlike the North Coast Policy, the draft Cannabis Policy does not provide a maximum cumulative diversion rate, only a maximum individual diversion rate of 10 gallons per minute (gpm). This low diversion rate minimizes potential impacts of an individual grower to streamflow, and

probably in practice will reduce potential for significant cumulative impacts in many places. If we take an example of a watershed that has 50 cannabis diverters operating simultaneously at 10 gpm, in many streams it seems like that cumulative 1 cubic feet per second (cfs) diverted wouldn't make much of a difference in December-March. But in a small watershed, especially in a drought year, 1 cfs could be significant, and put a big dent in spring rearing flows (before the beginning of the April-October forbearance period). Without an explicit limit on the number of diverters, or a cumulative maximum allowable diversion rate from a watershed, the Cannabis Policy may not adequately prevent cumulative impacts in such cases. Without such limits, all streamflow above the minimum bypass flow could potentially be extracted, resulting in adverse cumulative impacts. The fact that many of the points of diversion will be far from compliance gauges increases the risk of significant cumulative impacts, particularly in small watersheds with high densities of growers. We believe an explicit cumulative maximum rate and/or a total allowable diversion volume (per unit area of watershed) should be part of the interim Cannabis Policy.

With an explicit total diversion capacity identified (either a cumulative rate or total volume per unit area), the SWRCB can then consider all existing and proposed water diversions in assessing potential cumulative effects. The SWRCB appears to have the authority to do this. The SWRCB has stated:

> No person can acquire a vested right to appropriate water in a manner harmful to interests protected by the public trust. …When it applies the public trust doctrine, the SWRCB has the power to reconsider past water allocations, and it has a duty of continuing supervision over the taking and use of appropriated water (National Audubon Society, 189 Cal. Rptr. at 363-366).

The Business and Professions Code section 26060.1(b)(1) requires the SWRCB and CDFW "to ensure that the individual and cumulative effects of water diversions and discharges associated with cannabis cultivation do not affect instream flows needed for fish spawning, migration, and rearing, and the flows needed to maintain natural flow variability." This requirement to consider cumulative effects is a bedrock feature of environmental laws including the California Environmental Quality Act, various provisions of the Water Code, and the public trust doctrine – all which demand consideration of the incremental effects of the proposed project viewed together with the effects of past, current, and probable future projects (Pub. Resources Code § 21083(b); CEQA Guidelines § 15130(a)-(b)).

The ability to prevent cumulative impacts is further complicated by the very large numbers of undocumented riparian surface water diversions in the North Coast region, and the potential that there are already significant permitted allocations made in areas where cannabis growers may be diverting water. Several independent assessments produced in the past several years (Friends of the Eel River; North Coast Regional Water Quality Control Board; SWRCB; Butsic & Brenner, 2016) have concluded that thousands of cannabis operations exist throughout North Coast watersheds, with the majority relying on surface diversions and little or no storage for their irrigation needs. The draft Cannabis Policy does not provide a mechanism for addressing situations in which new water rights issued to cannabis diverters will compete with ongoing undocumented or documented surface water diversions and domestic water users. If all existing cannabis operations seek to obtain a water right under the new Cannabis Policy, do all watersheds have the capacity to sustain this in all water years?

Methodology

The Cannabis Policy staff report proposes the Tessmann Method as the basis for computing minimum instream flow requirements for all of California. This method was developed in 1979 for reconnaissance-

level water supply-and-demand studies in Western South Dakota. One objective of the original Tessmann (1979) study was to "determine what minimum stream flows are needed to sustain a healthy semblance of the ecosystem in rivers and major tributaries of each basin." However, the South Dakota study report was unpublished and presumably not peer-reviewed. The Tessmann study area included "prairie streams" with shallow gradients, slow currents, and containing "gravel and mud bars [as] common features." Hydrologic conditions include bi-modal spring floods resulting from early-spring snowmelt and late-spring rains. We are concerned that the approach was developed for a very different hydrologic region, hasn't been peer-reviewed, and has no published monitoring or scientific assessment substantiating its eventual efficacy. The authors note (pg. 19):

> Minimum flow determination, done properly, is a highly complex process which requires much time, money, and effort. Our study was limited in these terms and, being a reconnaissance level endeavor, was confined to existing data. … The most practical approach for our time and budget constraints was the Montana Method. This procedure, however, was intended for use in mountain streams. Prairie rivers of Western South Dakota differ considerably in hydrology.

Tessmann expresses concern with applying desktop instream flow methods developed for specific objectives in one region to an entirely different region. We agree and have concerns about its appropriateness for the diverse hydrological conditions across California. The Tessmann Method is likely not appropriate for California's highly variable inter-annual and intra-annual hydrology. California has the greatest inter-annual variation in hydrology of anywhere in the United States; calculating a minimum flow based on a long-term mean will often result in an all-or-nothing type outcome, where high flows in wet years allow for diversions and low flows in dry years never reach minimum flow thresholds In addition, we have no information on how 40% of the mean monthly flow (MMF) or 40% of the mean annual flow (MAF), the foundation of the minimum bypass flow requirements from the Tessmann Method, protects the ecological, salmonid habitat, or water quality conditions across the many types of streams in California.

Putting aside questions about the derivation of the method, its performance in implementation must demonstrate protectiveness. As with all instream flow methods, an assessment of its performance should consider the ecological risks in the worst-case scenarios.

Adaptive Management

Given the high degree of uncertainty inherent in rolling out extensive regulations to a previously unregulated community on a very tight timeline, we urge the SWRCB to implement an adaptive management framework to assess impacts of the Cannabis Policy, and identify needed changes and amendments. As discussed, there are reasons to believe that the proposed thresholds based on the Tessmann and New England methodologies may be under-protective in some aspects – for example, the lack of quantified metrics to protect high flows that inundate winter/spring rearing habitats – and overprotective in others – for example, winter bypass flows that may not allow sufficient diversion to allow growers to fill storage in dry years. We recommend that the SWRCB add a description in the Cannabis Policy that indicates when and how they will evaluate the performance of these interim requirements, and how they will make modifications. For example, in the SWRCB's Phase 1 Substitute Environmental Document (Appendix K), the SWRCB lays out their Procedures for Implementation of Adaptive Methods, how they will approach development and review of an Annual Adaptive Operations Plan, and how a Working Group will be assembled to help guide the SWRCB in their efforts at adaptive management. Creating something similar for the Cannabis Policy would help clarify the approach the

SWRCB envisions for institutionalizing an adaptive process to refining these interim requirements, and ensure their protectiveness.

Effectiveness monitoring is critical, but should not be the direct responsibility of the water users. The SWRCB (jointly with other agencies) should devise and implement an effectiveness monitoring program as part of an ongoing adaptive management plan. Provisions in this plan must show a demonstrable feedback loop from future monitoring results to potential Cannabis Policy changes.

Groundwater Management Under the Cannabis Policy

We appreciate that the guidelines in the Cannabis Policy underscore the interconnection between groundwater and surface water. Although the groundwater requirements on page 11 lack specificity, they are an important additional regulatory tool to prevent declines in groundwater levels and Groundwater Dependent Ecosystems as well as to prevent harm to species dependent on adequate instream flows. However, the groundwater provisions are very general and provide only broad guidance for cannabis-related permitting. There will be a big and critical jump from this general Cannabis Policy to setting specific requirements for actual permits that will require detailed knowledge of a given groundwater basin. This will require substantial resources, including additional staffing, expertise and funding, and the draft Cannabis Policy doesn't clearly outline if those resources will be available and how they will be deployed and managed.

We assume that the intent of this Cannabis Policy is that any restrictions placed on groundwater diversions for cannabis under this Cannabis Policy would be in addition to any requirements developed under the Sustainable Groundwater Management Act (SGMA) (i.e., the most restrictive rules would apply, and no special rights or exemptions would be created for cannabis cultivators). We suggest that this be more clearly stated in the Cannabis Policy, and if our interpretation is incorrect, that the relationship between the guidelines governing water use in this Cannabis Policy and under SGMA be clarified.

Success in protecting groundwater and connected surface waters will be dependent upon the nature of the groundwater/surface water interaction in a given place. For example, the concept of the "groundwater forbearance period" in the Cannabis Policy might be very relevant to a typical small mountain groundwater basin, but it might not be as relevant to a large groundwater basin in an alluvial valley where the impacts of excessive groundwater withdrawal may not be felt for weeks, months, years or longer. If the SWRCB's goal is to protect minimum flows across a diversity of settings, in some locations such as those where time lags are likely and where heavy cumulative groundwater diversions are anticipated, the SWRCB may want to consider a forbearance period that begins before flows are expected to hit the minimum flow level, since negative impacts on streamflow in some places could continue to occur even after pumping stops.

In the case of many wells located close to surface streams, it will not be clear whether a diversion is drawing from groundwater, or instead from either surface water or groundwater within the Board's subterranean stream jurisdiction. The distinction is an important one, as the policy restrictions on each type of diversion (e.g. forbearance periods, bypass flows) are quite different. The Policy should set forth clear guidance for determining whether a diversion is considered a surface water or groundwater diversion.

We appreciate the modifications that the SWRCB has made so that the New England Aquatic Base Flow Standard (ABF) method can be applied in California. We found the modifications to be generally appropriate, but are unclear how the default minimum flow in small watersheds (<50 mi^2) will be

determined where long-term gage data is not available. We suggest clarifying if and how default flow will be determined (e.g. unimpaired flow database, New England-derived values, or other). A bigger question, which none of us likely has the answer to, is the degree to which the ABF method will be protective of groundwater and connected surface water in California. Extending the use of the ABF method from the Northeast to California, and the uncertainty that results, argues for both adaptive management and metrics with associated triggers for refining the approach, discussion of which is currently missing from the draft Cannabis Policy.

Finally, we are concerned that the enforcement scheme described in Section 4 on page 45 related to groundwater use is unrealistic. It is unclear that the SWRCB and the Regional Boards have the budget or staff to enforce what is described in the groundwater section. Relying on self-policing is risky, as noted above.

Thank you again for the opportunity to provide comments on the Draft Cannabis Cultivation Policy. We look forward to working with the State Water Resources Control Board as the program develops.

Sincerely,

Curtis Knight
Executive Director
California Trout

Brian Johnson
California Director
Trout Unlimited

Jay Ziegler
Director, External Affairs & Policy
The Nature Conservancy

Appendix: Technical Comments

Appendix A, p. 26 – Term #38 – need to add take permits (federal and state) to the list; especially if heavy equipment may be in the creek. In Term #40 specifically, we would recommend that the SWRCB call out the need for take permits if permittees are in a watershed with listed species and will have heavy equipment in the creek. Term #41 would also likely require take permits, and need to be authorized by CDFW and probably the Army Corps. Would be helpful to point that out.

Appendix A, p. 30 – Term #64 – "Cannabis cultivators shall not disturb aquatic or riparian habitat, such as pools, spawning sites, large wood, or shading vegetation unless authorized under a CWA section 404 permit, CWA section 401 certification, Regional Water Board WDRs (when applicable), or a CDFW LSA Agreement" Also needs to include take permits (state and federal).

Appendix A, p. 31 – Term #78, also need to include take permits (state and federal).

Appendix A, p. 32 – Would be helpful to add to Term #84 as follows: "The cannabis cultivator shall install and maintain a measuring device(s) that meets the requirements for direct diversions greater than 10 acre-feet per year in California Code of Regulations, Title 23, Division 3, Chapter 2.720. The measuring device(s) shall be located at or near the point of diversion. Cannabis cultivators shall maintain records of daily diversion with separate records that document the amount of water used for cannabis cultivation separate 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 SWRCBs CDFW, or any other authorized representatives of the SWRCBs or CDFW. Compliance with this term is required for any surface water diversion for cannabis cultivation, even those under 10 acre-feet per year."

Appendix A, p. 33 – We advise editing Term #86 as follows: "Cannabis cultivators shall not use off-stream storage reservoirs to store water for cannabis cultivation unless the reservoir is properly sited, permitted, and has been designed and constructed by a qualified professional. Cannabis cultivators shall plant native vegetation along the perimeter of the off-stream storage reservoir."