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## State Water Resources Control Board

April 20, 2023

Brent Knapek  
P.O. Box 171  
Honeydew, CA 95558

### **APPROVAL TO USE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE VOLUNTARY AGREEMENT ON KENDALL CREEK TRIBUTARY TO MATTOLE RIVER, HUMBOLDT COUNTY**

Dear Brent Knapek:

The State Water Resources Control Board (State Water Board) Deputy Director of the Division of Water Rights (Deputy Director) received your request to implement the conditions of a voluntary agreement (Agreement) entered into with the California Department of Fish and Wildlife (CDFW) in lieu of certain instream flow requirements in the *Cannabis Cultivation Policy – Principles and Guidelines for Cannabis Cultivation* (Cannabis Policy).

The Agreement is for diversions of water from Kendall Creek, which is a tributary to the Mattole River in Humboldt County. CDFW entered into the Agreement, dated December 18, 2019, with Brent Knapek (Cultivator) to provide protection for aquatic species in Kendall Creek. CDFW has determined that the conditions of the Agreement provide watershed-wide protection for aquatic species that is comparable to or greater than those required in the Cannabis Policy. Under the Cannabis Policy, the Deputy Director may approve the Agreement subject to additional conditions, including reporting requirements, that the Deputy Director deems necessary to prevent injury to other legal users of water or the environment.

Based on the Agreement and water right information available to the State Water Board, it appears that the Agreement meets the requirements of the Cannabis Policy for Local Cooperative Solutions and, if implemented according to the conditions below, will not cause injury to other legal users of water or the environment.

The Cultivator is hereby approved to implement the Agreement as long as the Agreement remains in effect, subject to all of the following conditions:

- The Cultivator shall implement and remain in compliance with the conditions of the Agreement including but not limited to the modified Cannabis Policy requirements that are summarized in Attachment 1.

- The Cultivator shall ensure compliance with all other applicable Cannabis Policy requirements.
- Ongoing operations under the Agreement shall not cause injury to other legal users of water or the environment.

This approval may be re-evaluated and amended by the Deputy Director based on future amendments to the Cannabis Policy or if it is determined that ongoing operations under the Agreement may cause injury to other legal users of water or the environment. Noncompliance with the conditions of the Agreement is subject to enforcement by the State Water Board as a violation of the Cannabis Policy. Other provisions of the Cannabis Policy not modified as part of this approval remain in full force and effect.

If you have questions about this letter, please contact Samuel Warner by email to: [Samuel.Warner@waterboards.ca.gov](mailto:Samuel.Warner@waterboards.ca.gov) or by phone call to: (916) 341-5997.

Sincerely,



Erik Ekdahl  
Deputy Director  
Division of Water Rights

Attachment: Attachment 1: List of Modified Cannabis Policy Conditions

ec: David Manthorne  
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**Attachment 1:  
Summary of Modified Cannabis Policy Requirements**

This Attachment 1 summarizes the modified Cannabis Policy requirements applicable to Brent Knapek's Small Irrigation Use Registration Number H501319 while the agreement remains in effect:

**Modified Surface Water Dry Season Forbearance Period**

Attachment A, Section 3, Requirement 4 is modified to:

- From August 1 to November 1, all natural stream flow from Kendall Creek shall be bypassed, except for emergency fire suppression.

**Modified Surface Water Wet Season Diversion Period**

Attachment A, Section 3, Requirement 5 is modified to:

- Diversion of stream flow from Kendall Creek shall only occur from November 1 of one year to August 1 of the successive year when bypass flows (see Modified Surface Water Flow Bypass section below) are met or exceeded.
- The rate of water diversion from November 1 to August 1 shall not exceed 8.5 gallons per minute or 5 percent of the total surface flow, whichever is less.

**Modified Surface Water Flow Bypass**

Attachment A, Section 3, Requirement 6 is modified to:

- In Kendall Creek, a minimum of 95 percent of all natural streamflow shall be bypassed at all times.

**Modified Instream Flow Requirement and Watershed Compliance Gage Assignment**

Attachment A, Section 3, Requirement 7 and Attachment A, Section 4 are modified to:

- From November 1 to August 1, no water shall be diverted for direct use unless the flow past the United States Geological Service (USGS) gage No. 11468900 at Ettersburg is greater than 38 cubic feet per second (cfs).
- From November 1 to August 1, no water shall be diverted to storage unless the flow past the USGS gage No. 11468900 is greater than 300 cfs.
- No water shall be diverted from June 1 to December 1 during any time period that the Ettersburg gage (USGS gage No. 11468900) is not operational.