

STATE OF CALIFORNIA  
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY  
STATE WATER RESOURCES CONTROL BOARD

**DIVISION OF WATER RIGHTS**

**ADMINISTRATIVE CIVIL LIABILITY COMPLAINT**

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In the Matter of Alleged Water Code Violations

**Jeremy Hodys & Ryan Shields**

APNs 056-260-03-00, 056-270-18-00, 056-260-05-00, and 056-260-06-00

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COUNTY: MENDOCINO

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**JEREMY HODYS AND RYAN SHIELDS (COLLECTIVELY, RESPONDENTS) ARE  
HEREBY GIVEN NOTICE THAT:**

1. The State Water Resources Control Board (State Water Board or Board), Division of Water Rights (Division) alleges that the Respondents committed the violations described below, relating to the diversion or use of water for cannabis cultivation on Mendocino County Assessor Parcel Numbers (APNs) 056-060-03-00, 056-270-18-00, 056-260-05-00, and 056-260-06-00. The Division proposes liability based on the ownership of each parcel on which the alleged violations were documented. APN 056-060-03-00 and 056-270-18-00 are owned by the Respondents (Shared Property), APN 056-260-06-00 is owned by Jeremy Hodys (Hodys Property), and APN 056-260-05-00 is owned by Ryan Shields (Shields Property).
2. Based on these allegations, the Division seeks joint and several liability against the Respondents in the amount of \$41,000, as well as individual liability against Mr. Hodys in the amount of \$29,000 and individual liability against Mr. Shields in the amount of \$11,500.
3. The State Water Board, or the Board's Administrative Hearings Office, may impose civil liability (i.e. monetary fines) for these violations through the administrative process described below.
4. **The Respondents have the right to request a hearing on these allegations but must do so in writing within 20 days from the date the Respondents receive this Complaint, or else that right is waived.** Please see the specific directions for submitting a hearing request in the "Right to Hearing" section at the end of this Complaint.

### SUMMARY OF ALLEGED VIOLATIONS

5. The Division alleges that the Respondents are jointly and severally liable for the following violations on the Shared Property:
- a. Violation 1: Failure to file a statement of water diversion or use (Statement) before February 1, 2024, for point of diversion (POD) 1/point of storage (POS) 1 (hereinafter POD1/POS1), as required by Water Code section 5101.<sup>1</sup>
  - b. Violation 3: Unauthorized diversion or use of water at POD1/POS1 between 2022 and 2024, to support cannabis cultivation, in violation of Water Code section 1052.
  - c. Violation 6: One violation of Term 77 of Section 2 of the *Cannabis Cultivation Policy – Principles and Guidelines for Cannabis Cultivation* (Cannabis Cultivation Policy).<sup>2</sup>
  - d. Violation 9: Two violations of Term 83 of Section 2 of the Cannabis Cultivation Policy.
  - e. Violation 11: Three violations of Term 92 of Section 2 of the Cannabis Cultivation Policy.
  - f. Violation 13: Two violations of Term 93 of Section 2 of the Cannabis Cultivation Policy.
  - g. Violation 15: Two violations of Term 98 of Section 2 of the Cannabis Cultivation Policy.
  - h. Violation 18: Diverting or using water for cannabis cultivation without the necessary license issued by the Department of Cannabis Control (DCC) under Chapter 6 (commencing with Section 26060) of Division 10 of the Business and Professions Code.
6. The Division alleges that Mr. Hodys is individually liable for the following violations on the Hodys Property:

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<sup>1</sup> Senate Bill 155 became effective on September 23, 2021, and changed the Statement (Water Code section 5101) and Supplemental Statement (Water Code section 5104, and CCR title 23 Section 920) reporting period from January 1 – December 31 to October 1 – September 30 and changed the water rights reporting due dates for 2021 from July 1 to April 1, and for 2022 and all succeeding years to be before February 1.

<sup>2</sup> On October 17, 2017, the State Water Board adopted the Cannabis Cultivation Policy (Order No. WQ-2017-0023-DWQ). This Order became effective December 18, 2017, upon the approval of the Office of Administrative law. On February 5, 2019, the State Water Board adopted Order No. WQ-2019-001-DWQ, amending the Cannabis Policy, effective April 16, 2019.

- a. Violation 2: Failure to file a Statement before February 1, 2024 for POD3/POS10, as required by Water Code section 5101.
  - b. Violation 4: Unauthorized diversion or use of water at POD1/POS1 between 2024 and 2025, to support cannabis cultivation, in violation of Water Code section 1052.
  - c. Violation 5: Unauthorized diversion or use of water at POD3/POS10 between 2022 and 2025, associated with domestic use in violation of Water Code section 1052.
  - d. Violation 7: One violation of Term 77 of Section 2 of the Cannabis Cultivation Policy.
  - e. Violation 10: One violation of Term 83 of Section 2 of the Cannabis Cultivation Policy.
  - f. Violation 17: One violation of Term 98 of Section 2 of the Cannabis Cultivation Policy.
  - g. Violation 20: Diverting or using water for cannabis cultivation without the necessary DCC license.
7. The Division alleges Mr. Shields is individually liable for the following violations on the Shields Property:
- a. Violation 8: One violation of Term 81 of Section 2 of the Cannabis Cultivation Policy
  - b. Violation 12: Eight violations of Term 92 of Section 2 of the Cannabis Cultivation Policy
  - c. Violation 14: Eleven violations of Term 93 of Section 2 of the Cannabis Cultivation Policy
  - d. Violation 16: Two violations of Term 98 of Section 2 of the Cannabis Cultivation Policy
  - e. Violation 19: Diverting or using water for cannabis cultivation without the necessary DCC license.

### **BACKGROUND AND FACTUAL BASIS**

8. Property Ownership:  
According to Mendocino County property records, the Respondents jointly purchased the Shared Property on December 13, 2019, Mr. Shields purchased the Shields Property on September 27, 2017, and Mr. Hodys purchased the Hodys

Property on January 29, 2019. These ownership details remain current as of the date of this Complaint.

9. Watershed Information:

The Shared Property, Shields Property, and Hodys Property are all located in the Blue Rock Creek watershed (HUC 12 #180101050204). Water is diverted from unnamed streams that are tributary to Blue Rock Creek, which is tributary to the Middle Mainstem Eel River. The Middle Mainstem Eel River is designated as a Wild and Scenic River from the confluence with Outlet Creek to the Pacific Ocean. As a Wild and Scenic River, the State Water Board is limited to processing or accepting new applications to appropriate water pursuant to California Code of Regulations, Title 23, Division 3, Article 8, section 734. In accordance with the California Wild and Scenic Rivers Act (Public Resources Code, Division 5, Chapter 1.4, section 5093.50 et seq.), “[i]t is the policy of the State of California that certain rivers which possess extraordinary scenic, recreational, fishery, or wildlife values shall be preserved in their free-flowing state, together with their immediate environments, for the benefit and enjoyment of the people of the state” and “[t]he Legislature declares that such use of these rivers is the highest and most beneficial use and is a reasonable and beneficial use of water within the meaning of section 2 of Article X of the California Constitution.”

10. 2023 Records Review

On or around July 17, 2023, the Division was notified by the California Department of Fish and Wildlife (CDFW) of a search warrant investigation of the Shared Property and Shields Property that was going to be conducted based on illegal cannabis cultivation and possible surface water diversion used for cannabis cultivation. On or around this date, Division staff completed the following as part of a desktop review:

- a. Division staff reviewed available State Water Board water rights records in the electronic Water Rights Management System (eWRIMS) records and did not find any evidence of any Statement, water right permit, license, or registration for the Shared Property or Shields Property.
- b. Division staff reviewed Department of Water Resources records and did not find any record of a well on the Shared Property or Shields Property.
- c. Division staff reviewed DCC commercial cannabis cultivation license records and found no active or pending license on file that would authorize commercial cannabis cultivation on the Shared Property or Shields Property.

11. 2023 Review of Aerial Imagery for the Shared Property:

Division staff reviewed aerial imagery of the Shared Property, prior to and shortly after the 2023 inspection, and made the following observations:

- a. Google Earth Pro imagery dated December 31, 2004 shows the Shared Property vacant.

- b. Google Earth Pro aerial imagery dated May 24, 2009 shows the first appearance of an onstream reservoir, subsequently identified as point of POD1/POS1. Based on this imagery, POD1/POS1 was developed sometime between December 31, 2004 and May 24, 2009.
- c. Google Earth Pro aerial imagery dated July 9, 2012 shows the first appearance of a second onstream reservoir, subsequently identified as POD3/POS10. Based on this imagery, POD3/POS10 was developed sometime between April 24, 2010 and July 9, 2012.
- d. Google Earth Pro aerial imagery dated June 18, 2020, July 13, 2020, and July 1, 2021, and LightBox Vision aerial imagery dated June 8, 2020, May 13, 2021, May 20, 2021, June 9, 2021, June 15, 2021, July 18, 2021, September 26, 2021, October 12, 2021, March 26, 2022, and April 8, 2022 show that after the Respondents' purchased the Shared Property on December 13, 2019, greenhouse structures expanded and appear consistent with the cannabis cultivation that staff observed at place of use 1 (POU1) during the subsequent inspections.
- e. Google Earth Pro aerial imagery dated June 14, 2023 and LightBox Vision aerial imagery dated April 29, 2022, June 15, 2022, August 7, 2022, August 9, 2022, June 11, 2023, and July 10, 2023 all show further development of cultivation activities at POU1, similar to what staff observed during the subsequent inspections.

12. 2023 Review of Aerial Imagery for the Shields Property:

Division staff also reviewed aerial imagery of the Shields Property, prior to and shortly after the 2023 inspection, and made the following observations:

- a. Google Earth Pro aerial imagery dated August 12, 2017, 46 days prior to Mr. Shields's ownership, shows the development of a rainwater catchment pond, later identified as point of storage 9 (POS9), and plant size, color, and spacing indicative of cannabis cultivation.
- b. Google Earth Pro aerial imagery dated April 21, 2019, June 18, 2020, July 13, 2020, July 1, 2021 and LightBox Vision aerial imagery dated May 13, 2019, July 16, 2019, October 22, 2019, June 8, 2020, May 20, 2021, June 9, 2021, June 15, 2021, July 18, 2021, September 26, 2021, October 12, 2021, March 26, 2022, April 8, 2022, April 29, 2022, June 15, 2022, August 7, 2022, and August 9, 2022 all show the development of greenhouse structures indicative of cannabis cultivation in the area later identified as place of use 5 (POU5).
- c. LightBox Vision aerial imagery dated June 11, 2023 and Google Earth Pro aerial imagery dated June 14, 2023 and July 10, 2023 show the development of greenhouse structures indicative of cannabis cultivation in the area later identified as POU3.

13. July 19, 2023 Inspection:

On July 19, 2023, Division staff accompanied CDFW Wardens and scientific staff, Mendocino County Sheriff's officers, and California National Guard staff on a search warrant investigation of the Shared Property and the Shields Property. Law Enforcement staff eradicated approximately 1,870 cannabis plants from the Shared Property and approximately 2,451 cannabis plants from the Shields Property during execution of the search warrant. Neither Respondent was present during the inspection. Division staff observed the following with regard to the water diversion and use:

- a. POD1/POS1 is an onstream reservoir on an unnamed stream located on the Shared Property. POD1/POS1 consists of an earthen dam constructed in the stream channel. A one-foot diameter culvert is placed in the dam to drain any overflow into the unnamed stream channel. The unnamed stream has defined bed and banks upstream and downstream from POD1/POS1 and is tributary to Blue Rock Creek. Water was not flowing upstream or downstream of POD1/POS1 at the time of the inspection. POD1/POS1 was seasonally storing approximately 183,000 gallons of water. Staff observed that water stored at POD1/POS1 was conveyed by gravity for storage and use on the Shields Property. Specifically, water was conveyed by gravity to POS3-4, where it was conveyed to POS5-8 for cannabis irrigation at POU2-5 and to POU6 for domestic use on the Shields Property. Division staff also observed that water stored at POD1/POS1 was conveyed by pump directly for cannabis irrigation at POU1, located on the Shared Property, as well as to POS2 for subsequent irrigation of cannabis at POU1. The Respondents did not install separate storage systems for water diverted for cannabis irrigation and water diverted for other uses, nor did Division staff observe separate measuring devices to quantify the diversion to and from each storage facility.
- b. POD2/POS9 is a rain collection reservoir that is located on the Shields Property. At the time of the inspection, POD2/POS9 was seasonally storing approximately 16,360 gallons of water. Staff observed that water stored at POD2/POS9 was pumped to POS3 and POS4 for cannabis irrigation at POU2-5 and domestic use at POU6, on the Shields Property.

14. Identification of Additional POD:

Based on the Google Earth Pro aerial imagery dated July 9, 2012 that Division staff reviewed after the July 19, 2023 inspection, Division staff identified an additional POD:

- a. POD3/POS10 is an onstream reservoir on an unnamed stream located on the Shared Property. Using remote sensing methods using USGS LiDAR data and ArcGIS Pro measuring tools, Division staff determined the top crest width of the dam is approximately 8 feet, and the length is approximately 120 feet. Division staff constructed a stream delineation model using USGS LiDAR data to better ascertain stream connectivity to POD3/POS10. Based on the stream delineation model, topographic maps, aerial imagery, and USGS

National Hydrography Dataset data, Division staff determined that the unnamed stream has defined bed and banks upstream and downstream from POD3/POS10 and is tributary to Blue Rock Creek. Based on the physical condition of the dry downstream channel that Division staff walked through on their way from the Shared Property to the Shields Property, Division staff determined that water was not flowing downstream of POD3/POS10 at the time of the July 19, 2023 inspection.

15. On September 20, 2023, Division staff called Mr. Hodys to inform him that staff were preparing a Notice of Violation and Inspection Report for the July 19, 2023 inspection (2023 NOV/IR). Mr. Hodys told Division staff that he would likely be the party completing the corrective actions due to Mr. Shields being difficult to contact. Division staff informed Mr. Hodys that he would need to apply for water rights to cover POD1/POS1 and POD3/POS10 and file Statements for any water diversions used on the Shared Property. Division staff also briefly discussed the other alleged violations and Mr. Hodys stated that he would immediately start working towards compliance.
16. On September 20, 2023, Mr. Hodys emailed Division staff in response to an inspection of a separate property<sup>3</sup> in the area that was conducted by Division staff and provided his mailing address in Ukiah (N. State Street).
17. 2023 Notice of Violation and Inspection Report:  
On September 28, 2023, Division staff mailed the Respondents the 2023 NOV/IR via certified mail to the Highway 101 address listed as the mailing address on Lightbox Vision, which is an address for Tonya's Business Services, a bookkeeping and mailbox business services office. United States Postal Service (USPS) records show that the 2023 NOV/IR was signed for and received on October 2, 2023 by Tonya Rowles, owner of Tonya's Business Services. The 2023 NOV/IR described Division staff's observations, the alleged violations, corrective actions needed to resolve the violations, and provided resources for compliance assistance as well as Division staff's contact information. The 2023 NOV/IR noted that the State Water Board retained authority to pursue enforcement for the alleged violations.
18. Communications in Response to the 2023 NOV/IR:
  - a. On March 15, 2024, Mr. Hodys left two voicemail messages with Division staff seeking clarification on what he needed to do to come into compliance. He gave Division staff his phone number in each voicemail message. Mr. Hodys also emailed Division staff, explaining that Mr. Shields had not made any progress on corrective actions and that he would take them on himself. Mr. Hodys requested an electronic copy of the 2023 NOV/IR for his reference to proceed with compliance.

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<sup>3</sup> In 2023 and 2024, Division staff also inspected and documented violations associated with cannabis cultivation activities on Mendocino County APNs 056-060-24-00, 056-25-01, and 056-060-28-00, which Mr. Hodys was leasing at the time.

- b. On March 21, 2024, Division staff called Mr. Hodys, who stated that he had shared Division staff's contact information with Mr. Shields and that Mr. Shields was avoiding responsibility. Mr. Hodys mentioned another property on which he needed to file Statements and apply for water rights. Division staff informed Mr. Hodys that similar requirements applied to the diversions on the Shared Property. Division staff briefly discussed the corrective actions listed in the NOV/IR and Mr. Hodys said he would be able to work toward compliance. Mr. Hodys said that the right to use POD3/POS10 is included in his deed for the Hodys Property and that he uses water for POD3/POS10 for domestic use. Division staff requested a copy of the deed for the Hodys Property; however, Mr. Hodys did not provide staff a copy of the deed.

19. 2024 Records Review:

On or around May 20, 2024, CDFW notified the Division of a second search warrant inspection of the Shared Property and Shields Property that was going to be conducted based on illegal cannabis cultivation and possible surface water diversion used for cannabis cultivation. On or around this date, Division staff completed the following as part of a desktop review:

- a. Division staff reviewed eWRIMS records and found no evidence of a Statement or any water right permit, license, or registration for any of the properties.
- b. Division staff reviewed DCC commercial cannabis cultivation license records and found no active or pending license on file that would authorize commercial cannabis cultivation on any of the properties.

20. 2024 Aerial Imagery Review of the Shared Property:

Division staff reviewed aerial imagery of the Shared Property, prior to and shortly after the 2024 inspection, and made the following observations:

- a. LightBox Vision aerial imagery dated April 8, 2024 shows POU1 not in use and POD1/POS1 full.
- b. LightBox Vision aerial imagery dated August 14, 2024, after the inspection, shows POU1 and POU7 not in use.

21. 2024 Aerial Imagery Review of the Shields Property:

Division staff reviewed aerial imagery of the Shields Property, prior to and shortly after the 2024 inspection, and made the following observations:

- a. LightBox Vision aerial imagery dated April 8, 2024 and August 14, 2024 show the greenhouses at POU2, POU3, and POU5 without plastic coverings.

22. May 23, 2024 Inspection:

On May 23, 2024, Division staff accompanied CDFW Wardens and scientific staff, DCC staff, and North Coast Regional Water Quality Control Board (North Coast Water Board) staff on a criminal search warrant investigation of the Shared Property

and Shields Property. CDFW Wardens estimated a total of 1,386 cannabis plants on the Shared Property and approximately 900 cannabis plants on the Shields Property, which they eradicated during the inspection. Neither Respondent was present for the inspection.<sup>4</sup> During the inspection, Division staff observed the following with regard to the water diversion and use:

- a. Staff again observed POD1/POS1 in the same location as the 2023 inspection. Water was not flowing upstream or downstream of POD1/POS1 at the time of the inspection. Staff determined that approximately 323,600 gallons of water was seasonally stored in POD1/POS1. Water stored in POD1/POS1 was pumped via a 4.8 hp pump to POS11, which irrigated POU1 and POU7. Division staff did not observe any water measuring devices or records at or near POD1/POS1, nor did staff observe the ability to plug, block, cap, or otherwise bypass water downstream of the diversion structure during the forbearance period.
- b. Staff again observed the rain collection reservoir that was identified as POD2/POS9 during the 2023 inspection. Water stored at POD2/POS9 was pumped to POS4 for cannabis irrigation at POU2 and POU4 on the Shields Property.
- c. Staff observed POD3/POS10 in the location identified in aerial imagery following the 2023 inspection. Water was not flowing into or out of POD3/POS10 at the time of the inspection. Staff determined that approximately 227,109 gallons of water was seasonally stored in POD3/POS10. Division staff observed water conveyance infrastructure leading from POD3/POS10 north toward the Hodys Property, consistent with Mr. Hodys's prior statement that he uses POD3/POS10 for domestic use on that property.

23. 2024 Notice of Violation and Inspection Report for Shields Property:

Division staff prepared a Notice of Violation and Inspection Report for the May 23, 2024 inspection (2024 NOV/IR) of the Shields Property that described Division staff's observations, the alleged violations, and corrective actions needed, as well as provided resources for compliance assistance and Division staff's contact information. The 2024 NOV/IR notified Mr. Shields that the observed violations on the Shields Property may be subject to enforcement by the State Water Board. Division staff made the following efforts to deliver the 2024 NOV/IR for the Shields Property:

- a. On July 31, 2024, Division staff mailed the 2024 NOV/IR via certified mail to Mr. Shields at the Highway 101 address for Tonya's Business Services. On August 15, 2024, the 2024 NOV/IR package was returned to the Division.

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<sup>4</sup> Mr. Hodys was present on a nearby property (Mendocino County APNs 056-060-24-00, 056-25-01, and 056-060-28-00) that was also inspected on this day pursuant to a criminal search warrant, where he was arrested by law enforcement.

- b. On September 27, 2024, Division staff remailed the 2024 NOV/IR package for the Shields Property via certified mail to Mr. Shields at the Highway 101 address and three additional addresses potentially associated with Mr. Shields. Online tracking records indicate that the package was delivered to two of the new addresses: a Carpinteria address on October 1, 2024 and a Joseph Street address on October 7, 2024.

24. 2024 Notice of Violation and Inspection Report for Shared Property:

Division staff also prepared a Notice of Violation and Inspection Report for the May 23, 2024 inspection (2024 NOV/IR) for the Shared Property that described Division staff's observations, the alleged violations, and corrective actions needed, as well as provided resources for compliance assistance and Division staff's contact information. The NOV/IR notified the Respondents that the observed violations on the Shared Property may be subject to enforcement by the State Water Board. Division staff made the following efforts to deliver the 2024 NOV/IR to the Respondents:

- a. On August 1, 2024, Division staff mailed the 2024 NOV/IR via certified mail to Mr. Hodys at the N. State Street address he previously provided staff, and to Mr. Shields at the Highway 101 address. On August 3, 2024, the 2024 NOV/IR package addressed to Mr. Hodys was signed for by Joseph Butler. The 2024 NOV/IR package addressed to Mr. Shields was returned to the Division.
- b. On September 27, 2024, Division staff remailed the 2024 NOV/IR package via certified mail to Mr. Hodys at the N. State Street address, Highway 101 address, and two additional addresses potentially associated with Mr. Hodys. Division staff also remailed the 2024 NOV/IR via certified mail to Mr. Shields at the Highway 101 address and three additional addresses potentially associated with Mr. Shields. Of the transmittals to Mr. Hodys, the package mailed to the Highway 101 address was delivered, signed by Tonya Rowles, owner and operator of Tonya's Business Services, on October 1, 2024. Of the transmittals to Mr. Shields, the package sent to Mr. Shields at the Joseph Street address was delivered on October 7, 2024, which was left with an unknown individual.
- c. On November 27, 2024, Division staff mailed another copy of the 2024 NOV/IR package via certified mail to Mr. Shields at a new Santa Rosa address potentially associated with Mr. Shields. On November 29, 2024, the package was signed for, but the name is not legible.

25. Communications in Response to the 2024 NOV/IR:

- a. On October 18, 2024, Mr. Hodys called Division staff to discuss violations associated with an inspection of a separate property with which he is associated. During the call about that property, Division staff reminded Mr. Hodys that he stated he would handle the corrective actions for the Shared

- Property and Shields Property following the 2023 NOV/IR. Mr. Hodys said he thought Mr. Shields would handle the corrective actions. During the call, Mr. Hodys repeated that POD3/POS10 supplies water to the Hodys Property, emphasizing it is only for domestic use. Mr. Hodys said he was looking to sell his share of the Shared Property and that he was not involved in any of the cannabis cultivation that occurred. Mr. Hodys claimed it was the cartel that was cultivating on all the properties that staff inspected in 2024. Division staff asked him for evidence supporting his claim regarding the cartel, stating that without evidence of a trespass, the liability would fall onto the Respondents. Division staff encouraged Mr. Hodys to contact local law enforcement if he believed this was a trespass, but Mr. Hodys said that local law enforcement officers have classified him as an environmental terrorist and that they cannot be trusted. Mr. Hodys said he would do it himself if he had a firearm.
- b. On November 12, 2024, Mr. Hodys called Division staff to say that he planned to go to the Shared Property on November 14, 2024 to address and document corrective actions. Mr. Hodys informed Division staff that his Mendocino County public defender is Melanie McNeely and that he provided Ms. McNeely Division staff's contact information.
  - c. On December 4, 2024, Mr. Shields emailed Division staff asking for a call back and provided his phone number. In his email, Mr. Shields acknowledged that he received the 2024 NOV/IR that was mailed on November 27, 2024, and that he would like to discuss the violations alleged therein. Mr. Shields also called Division staff twice and left two voice messages. In the first voice message, Mr. Shields said he had received the 2024 NOV/IR, that he would like to address the violations alleged, and that he lives approximately three hours away from these properties. Mr. Shields said that the property is vacant and that he was trying to sell it. The second voice message reaffirmed that Mr. Shields was eager to work with the Division to come into compliance. Mr. Shields again left his contact information.
  - d. On December 11, 2024, Mr. Shields called Division staff to discuss the 2024 NOV/IR. Mr. Shields said that he leased the Shields Property to a cultivator. Division staff informed him that presenting a lease to the Division documenting that arrangement would be helpful. Mr. Shields said that the lessee left the Shields Property without cleaning up the trash. When asked if he knew who was renting any of the properties that he is associated with in the Spyrock area, Mr. Shields said that he did not. Mr. Shields said he would have to rent a vehicle to drive out there, and that he thought Mr. Hodys was managing compliance on the Shared Property. Division staff informed Mr. Shields of the corrective actions necessary to come into compliance, the deliverables necessary to complete the corrective actions, and directed Mr. Shields to the violations and corrective actions portion of the 2024 NOV/IR. Mr. Shields stated to Division staff that he would attempt to go to the property between December 13, 2024 and December 15, 2024 to document corrective actions.

- e. On January 6, 2025, Mr. Shields emailed Division staff and said that he had contracted COVID-19 and then the holidays came. Mr. Shields said that he will be driving to the property sometime during the week of January 6, 2025 to finish the corrective actions and take pictures. Mr. Shields asked Division staff to call him and said he would have pictures by the evening of January 6, 2025. Mr. Shields also called Division staff on January 6, 2025 and left a voice message restating the details about the delay in going to the property. Later that same day, Mr. Shields emailed Division staff photographs, stating that the greenhouses were empty, that some photos showed water tank lids installed, and that he moved some garbage off the property. The images he supplied document a creek, several landscape photos, a manzanita shrub, partially dismantled greenhouse structures on the Shields Property located at POU2, POU4, and POU5, tank lids installed on two unknown water storage tanks, a rock, and the base of an oak tree. No grow bags were removed, the greenhouse infrastructure remained in place, and the tanks shown in the photos were not the same tanks observed during the inspection. Division staff determined that the photos did not include evidence of any compliance actions, other than depicting what remained after the eradication that occurred on the day of inspection.
- f. On January 13, 2025, Mr. Shields called Division staff to ask what images he needed to supply to obtain compliance and explained that his January 6, 2025 email was intended for North Coast Water Board staff. Division staff informed Mr. Shields that he had to apply for water rights for POD1/POS1 and POD3/POS10 and briefly discussed the documentation required.
- g. On January 28, 2025, Division staff emailed the Respondents asking if they had additional pictures to support the corrective actions taken. Division staff asked that the Respondents to identify what each picture shows and provide the geolocation of where the pictures were taken. Division staff explained that many of the POS on the Shields Property had been removed since the 2023 inspection, but that pictures of the remaining POS were needed. Division staff reminded the Respondents that they still needed to obtain appropriate water rights for POD1/POS1 and POD3/POS10. Division staff attached copies of the 2023 NOV/IR and the 2024 NOV/IR to the email for reference.
- h. On January 29, 2025, Mr. Hodys emailed Division staff, stating he planned to go to the Property that weekend and take pictures. He also expressed interest in filing an application for the onstream reservoir he uses for the Hodys Property and requested a call to discuss. Division staff responded later that day to confirm a time for a call on January 31, 2025. Mr. Hodys responded on January 31, 2025 to provide his availability for a call that day or the following Monday. Division staff attempted to reach Mr. Hodys, but were unable to schedule a call.

## 26. 2025 Records Review:

On or around August 18, 2025, the Division was notified by CDFW of a search warrant investigation of the Hodys Property that was going to be conducted based on illegal cannabis cultivation and possible surface water diversion used for cannabis cultivation. On or around this date, Division staff complete the following as part of a desktop review:

- a. Division staff reviewed available eWRIMS records and did not find any evidence of any Statement, water right permit, license, or registration.
- b. Division staff reviewed DCC commercial cannabis cultivation license records and found no active or pending license on file that would authorize commercial cannabis cultivation on the Hodys Property.

27. 2025 Aerial imagery of the Shared Property:

On July 3, 2025, Division staff reviewed aerial imagery of the Shared Property, and made the following observation:

- a. LightBox Vision aerial imagery dated May 31, 2025 shows POU1 and POU7 not in use. Division staff reviewed aerial imagery of the Shields Property, and made the following observation:
- b. LightBox Vision aerial imagery dated May 31, 2025 shows the greenhouses at POU2, POU3, and POU5 without plastic coverings.

28. 2025 Aerial Imagery Review of the Hodys Property:

Division staff reviewed aerial imagery of the Hodys Property, prior to the 2025 inspection, and made the following observations:

- a. Google Earth Pro aerial imagery dated April 21, 2019 and LightBox Vision aerial imagery dated May 13, 2019, July 16, 2019, and October 22, 2019 show graded areas and two greenhouse structures indicative of cannabis cultivation.
- b. LightBox Vision aerial imagery dated June 8, 2020 and Google Earth Pro aerial imagery dated June 18, 2020 and July 13, 2020 show graded areas and four greenhouse structures indicative of cannabis cultivation.
- c. Google Earth Pro aerial imagery dated July 1, 2021 shows graded areas, approximately three greenhouse structures, and several outdoor areas with plant size, color, and spacing indicative of cannabis cultivation.
- d. LightBox Vision aerial imagery dated August 7, 2022 shows uncovered greenhouse structures and fallowed outdoor cultivation areas indicating that cannabis cultivation may not have occurred during the 2022 growing season.
- e. LightBox Vision aerial imagery dated June 11, 2023 and Google Earth Pro aerial imagery dated June 14, 2023 show graded areas and a single covered greenhouse structure indicative of cannabis cultivation.

- f. LightBox Vision aerial imagery dated April 8, 2024 and August 14, 2024 show uncovered greenhouse structures and fallowed outdoor cultivation areas indicating that cannabis cultivation may not have occurred during the 2024 growing season.
- g. LightBox Vision aerial imagery dated May 31, 2025 shows graded areas and approximately one covered greenhouse structure indicative of cannabis cultivation.

29. August 20, 2025 Inspection:

On August 20, 2025, Division staff accompanied CDFW Wardens and scientific staff, DCC staff, and Mendocino County Sheriff's officers on a criminal search warrant investigation of the Hodys Property. CDFW Wardens estimated a total of 338 cannabis plants were growing on the property, which they eradicated during the inspection. Mr. Hodys was not present during the warrant execution. During the inspection, Division staff observed the following with regard to water diversion and use:

- a. Staff again observed POD1/POS1 on the Shared Property in the same location as the 2023 and 2024 inspections. Water was not flowing upstream or downstream of POD1/POS1 at the time of the inspection. POD1/POS1 was seasonally storing approximately 182,470 gallons of water. Staff observed that water stored in POD1/POS1 was conveyed by gravity to POS12 for irrigation of cannabis at POU8 and POU10, located on the Hodys Property. Division staff did not observe a water measuring device or records at or near POD1/POS1, nor did staff observe the ability to plug, block, cap, or otherwise bypass water flows into the diversion structure during the forbearance period.
- b. Staff observed POD3/POS10 on the Shared Property in the same location as the 2024 inspection. During the inspection, POD3/POS10 was storing approximately 114,500 gallons of water. Division staff observed water conveyance infrastructure leading from POD3/POS10 to POU9 for domestic use on the Hodys Property.

30. 2025 Notice of Violation and Inspection Report:

On September 17, 2025, Division staff mailed Mr. Hodys the Notice of Violation and Inspection Report for the August 20, 2025 inspection (2025 NOV/IR) via certified mail to the N. State Street address. This transmittal of the 2025 NOV/IR was not delivered. Division staff subsequently retransmitted the 2025 NOV/IR via certified mail to Mr. Hodys at the Highway 101 address on December 11, 2025. USPS records show that the retransmitted copy was signed for and delivered on December 16, 2025. The 2025 NOV/IR described Division staff's observations, the alleged violations, corrective actions needed to resolve the violations and provided resources for compliance assistance as well as Division staff's contact information. The 2025 NOV/IR informed Mr. Hodys that the State Water Board retained authority to pursue enforcement for the alleged violations.

31. Following transmittal of the 2025 NOV/IR, Division staff have received no communication from Mr. Hodys.
32. 2026 Aerial Imagery Review of the Hodys Property:  
Division staff reviewed aerial imagery of the Hodys Property after the 2025 inspection and made the following observations:
- a. LightBox Vision aerial imagery dated November 22, 2025, March 21, 2026, and June 16, 2026 show uncovered greenhouse structures and fallowed outdoor cultivation areas indicating that cannabis cultivation has not occurred since the August 20, 2025 inspection.

### **STATE WATER BOARD AUTHORITY**

33. Water Code section 1055, subdivision (a), provides that the Executive Director for the State Water Board may issue a complaint to any person or entity on which administrative civil liability may be imposed pursuant to Water Code sections 1052, 1847, and 5107. The Executive Director delegated this authority to the Deputy Director for Water Rights by memorandum dated May 17, 1999. The Deputy Director redelegated this authority to the Assistant Deputy Director for the Permitting and Enforcement Branch by memorandum dated August 27, 2008.
34. Water Code section 1112 generally provides that the Administrative Hearings Office presides over hearings on complaints issued under Water Code section 1055. Pursuant to Water Code section 1114, for matters seeking administrative liability under Water Code section 1847 or 5107, the Hearing Officer adopts a final order. For all other matters, the Hearing Officer adopts a proposed order to be considered by the State Water Board.
35. Water Code Section 1848, subdivision (c), provides, in part, that liability cannot be imposed under section 1847 for a violation for which liability is imposed under Water Code section 1052.

### **ALLEGED VIOLATIONS**

#### **Failure to File a Statement of Annual Water Diversion and Use**

36. Water Code section 5101 requires that any person who diverts water shall file with the Board a Statement of their diversion and use as provided in subdivision (b), with certain exceptions that are not relevant here.
37. Water Code section 5102 states that a separate Statement shall be filed for each point of diversion.
38. Water Code section 5107, subdivision (c)(1), provides that the Board may impose liability pursuant to Water Code section 1055 for failure to file a Statement in an amount not to exceed one thousand dollars (\$1,000), plus five hundred dollars (\$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 Board has called the violation to the attention of that person.

39. **Violation 1:** Based on the following facts, Division staff allege one violation jointly and severally against the Respondents for failure to file a Statement for water diversion and use at POD1/POS1, with 572 days of continued violation.

- a. POD1/POS1 is an onstream reservoir that diverts water from an unnamed stream, tributary to Blue Rock Creek, located on the Shared Property. The unnamed stream has defined bed and bank upstream and downstream of POD1/POS1 and is subject to the State Water Board's permitting authority. Based on Division staff's observations during the July 19, 2023 inspection, POD1/POS1 supplied water for cannabis cultivation on the Shared Property.
- b. Aerial imagery demonstrates the POD1/POS1 was constructed on the Shared Property prior to the Respondent's ownership. Aerial imagery further indicates that cannabis cultivation activities have been occurring on the Shared Property since 2019. Although it is possible the Respondents have been diverting and using water from POD1/POS1 for cannabis irrigation since that time, at a minimum, they would have needed to file a Statement before February 1, 2024, for the water diversion and use that staff observed during the July 19, 2023 inspection. The 2023 NOV/IR notified the Respondents of this deadline.
- c. On July 17, 2024, Division staff checked eWRIMS and found no Statement for POD1/POS1.
- d. Following the May 23, 2024 inspection, Division staff transmitted the 2024 NOV/IR for the Shared Property, which informed the Respondents that, having failed to file Statements after receipt of the 2023 NOV/IR, they were in violation of Water Code section 5101. USPS online tracking records indicate that Mr. Hodys and Mr. Shields received the 2024 NOV/IR on August 3, 2024 and October 7, 2024, respectively.
- e. Because the Division asserts the Respondents are jointly and severally liable for the failure to file a Statement for POD1/POS1 due to the use of the water on the Shared Property, staff used the October 7, 2024 delivery date to calculate the 30-day compliance period for purposes of assessing continuing days of violation. Accordingly, the Respondents had until November 6, 2024 to file the Statement after the violation was called to their attention before continuing days of violation would begin to accrue on November 7, 2024. To date, the Respondents have not filed a Statement for POD1/POS1. As of June 1, 2026, the Respondents have accrued 572 days of continued violation.

40. **Violation 2:** Based on the following facts, Division staff allege one violation against Mr. Hodys for failure to file a Statement for the water diversion and use at POD3/POS10, with 637 days of continued violation.

- a. POD3/POS10 is an onstream reservoir that diverts from an unnamed stream, tributary to Blue Rock Creek, located on the Shared Property. The unnamed stream has defined bed and banks upstream and downstream of POD3/POS10 and is subject to the State Water Board's permitting authority. Following the July 19, 2023 inspection, Division staff identified POD3/POS10 as an onstream reservoir in aerial imagery, and subsequently confirmed this determination when staff observed POD3/POS10 during the May 23, 2024 inspection. Based on statements made by Mr. Hodys, POD3/POS10 provides water for domestic use on the Hodys Property. Staff observed water conveyance lines leading north towards the Hodys Property during the May 23, 2024 inspection. Because POD3/POS10 appears to be used solely by Mr. Hodys on the Hodys Property, the Division proposes individual liability against Mr. Hodys for the failure to file a Statement for POD3/POS10.
- b. On July 17, 2024, Division staff checked eWRIMS and found no Statement for POD3/POS10.
- c. Aerial imagery demonstrates the POD3/POS10 was constructed on the Shared Property prior to the Respondent's ownership. Mr. Hodys acknowledged that he diverted water from POD3/POS10 for domestic use on the Hodys Property, and staff did not observe any other source of water connected to the residence during the May 23, 2024 or August 20, 2025 inspections. Although it is possible Mr. Hodys has been diverting and using water from POD3/POS10 for domestic use since his purchase of the Shared Property on December 13, 2019, at a minimum, he acknowledged use of POD3/POS10 in communications with staff following the July 19, 2023 inspection. Division staff also observed two individuals on the Hodys Property during the July 19, 2023 inspection, indicating the residence was in use at that time. Therefore, he would have needed to file a Statement before February 1, 2024 for water diverted and used between October 1, 2022 and September 30, 2023. The 2023 NOV/IR notified Mr. Hodys of this deadline.
- d. Following the May 23, 2024 inspection, Division staff transmitted the 2024 NOV/IR for the Shared Property, which informed Mr. Hodys that, having failed to file a Statement after receipt of the 2023 NOV/IR, he was in violation of Water Code section 5101. As mentioned above, Mr. Hodys received the 2024 NOV/IR on August 3, 2024.
- e. Based on the August 3, 2024 delivery of the NOV/IR to Mr. Hodys, he had until September 2, 2024 to resolve the violation before being subject to continuing days of liability beginning on September 3, 2024. To date, Mr. Hodys has not filed a Statement for POD3/POS10. As of June 1, 2026, Mr. Hodys has accrued 637 days of continued violation.

### **Unauthorized Diversion of Use of Water**

41. Water Code section 1052, subdivision (a), provides that any diversion or use of water subject to the State Water Board's authority under Division 2 of the Water Code, without proper Board authorization, is a trespass.
42. Under Water Code section 1201, "[a]ll water flowing in any natural channel, excepting so far as it has been or is being applied to useful and beneficial purposes upon, or in so far as it is or may be reasonably needed for useful and beneficial purposes upon land riparian thereto, or otherwise appropriated, is hereby declared to be public water of the State and subject to appropriation with the provision of this code."
43. For any diversion or use of water other than those exempted in Water Code section 1201, compliance with the provisions of Division 2 of the Water Code is the exclusive method to divert or use water subject to appropriation. (Wat. Code, § 1225; see also *People v. Shirokow* (1980) 26 Cal.3d 301, 309.) Additionally, "appropriation must be for some useful or beneficial purpose..." (Wat. Code, § 1240.) Notably, "the seasonal storage of water for later beneficial use is not a valid exercise of a riparian right." (State Water Board Order WR 2018-0088 (Stornetta), p. 9; see also *Moore v. California Oregon Power Co.* (1943) 22 Cal.2d 725, 731 (*Moore v. COPCO*) ("the seasonal storage of water in a reservoir—that is, the storage of water during the wet season to be used during the dry season of the year—is not a proper exercise of riparian rights").) Additionally, the determination of impermissible storage of water under a riparian right is not limited to circumstances where water is diverted to storage during the wet season for use in the dry season. (See *Seneca Consolidated Gold Mines Ltd. v. Great Western Power Co.* (1930) 209 Cal. 206, 217 (quoting *Still v. Palouse Irr. & Power Co.* (1911) 64 Wash. 606, 609) ("Water may not thus be gathered into reservoirs for future use, when it may best suit the convenience and use of one riparian owner, and thus deprive other riparian owners of their use and service of the stream in its natural condition, unless such right is exercised under a valid prior appropriation"); see also *Moore v. COPCO*, supra, 22 Cal.2d at 734-735.)
44. Water Code section 1052 provides that liability may be imposed in the following amounts:
  - a. Pursuant to subdivision (c)(1), if the unauthorized diversion or use occurs in a critically dry year immediately preceded by two or more consecutive below normal, dry, or critically dry years or during a period for which the Governor has issued a proclamation of a state of emergency under the California Emergency Services Act, Chapter 7 (commencing with section 8550) of Division 1 of Title 2 of the Government Code based on drought conditions, the sum of one thousand dollars (\$1,000) for each day in which the trespass

occurs as well as two thousand five hundred dollars (\$2,500) for each acre-foot of water diverted or used in excess of that diverter's water rights.<sup>5</sup>

- b. Pursuant to subdivision (c)(2), in years with conditions other than those described in subdivision (c)(1), persons or entities committing a trespass under section 1052, subdivision (a), may be liable in an amount not to exceed five hundred dollars (\$500) per day for each day in which the unauthorized diversion or use occurs.
- c. Pursuant to subdivision (c)(3), notwithstanding subdivisions (c)(1) and (c)(2), persons or entities may be liable up to three thousand five hundred dollars (\$3,500) for each day in which the unauthorized diversion or use for unlicensed cannabis cultivation occurs.

**45. Violation 3:** the Division alleges that the Respondents are jointly and severally liable pursuant to Water Code section 1052, subdivision (c)(3), for 28 days of unauthorized diversion and 101 days of unauthorized use of water at POD1/POS1 based on the following:

- a. During the July 19, 2023 inspection, Division staff observed that water diverted and seasonally stored in POD1/POS1 was used for cannabis irrigation on the Shared Property. During the subsequent inspection on May 23, 2024, Division staff again observed that water diverted and seasonally stored in POD1/POS1 was used for cannabis irrigation on the Shared Property.
- b. The Division proposes assessment for days of unauthorized diversion during the 2022 and 2023 wet season against the Respondents jointly and severally, as well as for the days of unauthorized use associated with cannabis irrigation on the Shared Property in 2023 and 2024, as further detailed below.
  - i. Days of Unauthorized Diversion: Division staff evaluated and modeled precipitation data from three nearby National Oceanic and Atmospheric Administration (NOAA) rain gages (Laytonville 9.8 NNW, Laytonville 1.1 SW, Laytonville 13.1 N), California Irrigation Management Information System (CIMIS) evapotranspiration data, stream flow data from the USGS stream gage on the Eel River at Fort Seward (USGS-11475000), and scaled relative watershed size to calculate the days on which POD1/POS1 diverted water to fill the reservoir in support of the cultivation activities that were observed in 2023 and 2024. If the surface runoff measured at Fort Seward,

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<sup>5</sup> As applicable to this matter, drought conditions applied in Mendocino County when Governor Newsom issued a state of emergency proclamation on April 21, 2021 for drought in Mendocino County and Sonoma County, which was extended on March 28, 2022 (Executive Order N-7-22). The State of Emergency for drought was terminated on March 24, 2023 (Executive Order N-5-23).

scaled to the drainage basin size of POD1/POS1, is greater than 0.001 acre-feet (325 gallons) and the local rain gauges measured precipitation, a day of diversion is counted.

- ii. Based on the above analysis, staff determined that POD1/POS1 would have diverted water into the reservoir in 2022 on December 5-6, 9-12, 24-25, and 27-30 (12 days)<sup>6</sup>; in 2023 on December 4, 7-8, 18-20, 24, and 28-31 (11 days); and in 2024 on January 3, 6-7, 11, and 13 (5 days).
- iii. Days of Unauthorized Use: Division staff used information on cannabis cultivation in published articles to assess the unauthorized days of use. The articles reviewed by staff indicate that cannabis is watered daily, and that the average growing season length for outdoor plants is 27.1 weeks and for greenhouse cultivation is 22.6 weeks, typically extending from June-October.<sup>7</sup>
- iv. During the inspection on July 19, 2023, Division staff found approximately 1,400 cannabis plants on the Shared Property growing that were 4 feet tall and 3 feet wide consistent with a May planting cycle. Lightbox Vision aerial imagery dated June 11, 2023 and Google Earth Pro aerial imagery dated June 14, 2023 show cultivation activities at POU1, similar to what staff observed during the July 19, 2023 inspection of the Shared Property. Staff, therefore, used a start date of May 1, 2023 for calculating the daily unauthorized use of water stored in POD1/POS1, which continued leading up to the July 19, 2023 inspection and eradication of the Respondents' cannabis. This results in 79 days of unauthorized use on the Shared Property in 2023.<sup>8</sup>
- v. During the inspection on May 23, 2024, Division staff found approximately 1,386 cannabis plants growing that were 4 feet tall

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<sup>6</sup> Although this Complaint alleges liability pursuant to Water Code section 1052, subdivision (c)(3), these days of unauthorized use also occurred during a period for which the Governor has issued a state of emergency drought proclamation for purposes of subdivision (c)(1).

<sup>7</sup> Impacts of Surface Water Diversions for Marijuana Cultivation on Aquatic Habitat in Four Northwestern California Watersheds -Bauer S. et al. (2015)  
<https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0120016>

<sup>8</sup> During the July 19, 2023 inspection, Division staff also observed that POD1/POS1 supplied water to the Shields Property for cannabis irrigation and domestic use. These uses were likely occurring on the same days as the cultivation activities on the Shared Property. Because the Division already proposes joint and several liability for the days of unauthorized use of POD1/POS1 on the Shared Property, the Division does not propose additional, individual liability against Mr. Shields for the unauthorized use of POD1/POS1 on the Shields Property during this time.

and 2 feet wide that would be consistent with a May planting cycle. Lightbox Vision aerial imagery dated April 8, 2024 shows POU1 not yet in use. Staff, therefore, used a start date of May 1, 2024 for calculating the daily unauthorized use of water stored in POD1/POS1, which continued leading up to the May 23, 2024 inspection and eradication of the Respondents' cannabis. This results in 22 days of unauthorized use in 2024.

46. **Violation 4:** the Division alleges that Mr. Hodys is individually liable for three days of unauthorized diversion and 80 days of unauthorized use of water at POD1/POS1, based on the following:

- a. Division staff observed that Mr. Hodys was using water diverted and stored at POD1/POS1 for cannabis irrigation on the Hodys Property during the August 20, 2025 inspection.
- b. Because staff only observed POD1/POS1 in use at this time for cannabis cultivation activities occurring on the Hodys Property, the Division proposes assessment for days of unauthorized diversion and use of POD1/POS1 against Mr. Hodys individually, as further detailed below.
  - i. Days of unauthorized Diversion: As previously explained, Division staff evaluated and modeled precipitation data, evaporation data, seepage, stream flow data, and scaled relative watershed size to calculate the days on which POD1/POS1 diverted water to fill the reservoir in support of the cultivation activities that were observed in 2025.
  - ii. Based on the above analysis, Division staff determined that POD1/POS1 would have diverted water into the reservoir in 2024 on November 20-22 (3 days).
  - iii. Days of Unauthorized Use: Division staff again used information on cannabis cultivation in published articles to assess the unauthorized days of use.

47. During the inspection on August 20, 2025, Division staff found cannabis plants growing at a height of approximately 4 feet that would be consistent with a June planting cycle. Lightbox Vision aerial imagery dated May 31, 2025 shows the greenhouse at POU8 is covered, but the outdoor cultivation POU were not yet in use. Staff, therefore, used a start date of June 1 for calculating the daily unauthorized use of water stored in POD1/POS1, which continued leading up to the August 20, 2025 inspection and eradication of Mr. Hodys's cannabis. This results in 80 days of unauthorized use.

**48. Violation 5:** the Division alleges that Mr. Hodys is individually liable for 14 days of unauthorized diversion and two days of unauthorized use of water at POD3/POS10 based on the following:

- a. POD3/POS10 is an onstream reservoir located on the Shared Property. Following the July 19, 2023 inspection, Mr. Hodys acknowledged use of POD3/POS10 for his domestic water supply on the Hodys Property. During the August 20, 2025 inspection of the Hodys Property, staff confirmed that POD3/POS10 supplied water to the residence on the Hodys Property.
- b. Because diversions at POD3/POS10 have only been associated with use on the Hodys Property, the Division proposes assessment for the days of unauthorized diversion and use of POD3/POS10 against Mr. Hodys individually, as further detailed below.
  - i. Days of Unauthorized Diversion: As previously explained, Division staff evaluated and modeled precipitation data, evaporation data, seepage, stream flow data, and scaled relative watershed size to calculate the days on which POD3/POS10 diverted water to fill the reservoir in support of the domestic use that is alleged to have occurred on the Hodys Property during the July 19, 2023 and August 20, 2025 inspection days.
  - ii. Based on the above analysis, staff determined that POD3/POS10 would have diverted water into the reservoir in 2022 on November 8-9 and December 2, 4-6, and 8-12 (11 days), which occurred during a period for which the Governor had issued a state of emergency proclamation, and in 2024 on November 15 and November 20-21 (3 days). This results in 11 days of unauthorized diversion subject to liability under Water Code section 1052, subdivision (c)(1) and three days subject to Water Code section 1052, subdivision (c)(2).
  - iii. Days of Unauthorized Use: It is likely that Mr. Hodys has, at least periodically, used water from POD3/POS10 for domestic purposes on the Hodys Property since his purchase in 2019 of the Shared Property, on which POD3/POS10 is located. However, Division staff are aware that Mr. Hodys leases another property in the area that he may split his time between properties. Based on the information available, the Division proposes liability for days of unauthorized use associated with staff's observations during the 2023 and 2025 inspections.
  - iv. During the July 19, 2023 inspection of the Shared Property, Division staff observed two individuals on the Hodys Property, thereby indicating the residence was in use that day. The Division alleges one day of unauthorized use of POD3/POS10, subject to

liability under Water Code section 1052, subdivision (c)(2), associated with the July 19, 2023 inspection.

- v. During the August 20, 2025 inspection, Division staff observed that POD3/POS10 was connected to convey water to the residence and that cannabis cultivation activities were occurring on the Hodys Property. The Division alleges that someone would have needed to be on the Hodys Property to tend to the cannabis plants and would have needed water for domestic purposes. The Division alleges one day of unauthorized use of POD3/POS10, subject to liability under Water Code section 1052, subdivision (c)(2), in connection with the August 20, 2025 inspection.

### **Cannabis Cultivation Policy Requirements**

49. The State Water Board's Cannabis Cultivation Policy went into effect on December 18, 2017, following approval by the Office of Administrative Law. Pursuant to Water Code section 13149, the Policy contains principles, guidelines, and requirements (referred to here as requirements) for the diversion or use of water for cannabis cultivation in areas where cannabis cultivation may have the potential to substantially affect instream flow. The State Water Board subsequently amended the Cannabis Cultivation Policy, effective April 16, 2019.

50. Cannabis Cultivation Policy, Attachment A, Section 1, Definition 9, defines cannabis cultivation as:

*Any activity involving or necessary for the planting, growing, pruning, harvesting, drying, curing, or trimming of cannabis. This term includes but is not limited to: (1) water diversions for cannabis cultivation, and (2) activities that prepare or develop a cannabis cultivation site or otherwise support cannabis cultivation and which discharge or threaten to discharge waste to waters of the state.*

51. Water Code section 1847, subdivisions (a) and (b)(1), provide that any person or entity violating any requirement adopted pursuant to Water Code section 13149 may be liable in an amount not to exceed the sum of five hundred dollars (\$500) per violation, plus two hundred fifty dollars (\$250) for each additional day on which each violation continues if the person fails to correct the violation within 30 days after the State Water Board has called the violation to the attention of that person or entity, plus two thousand five hundred dollars (\$2,500) for each acre-foot of water diverted or used in violation of the applicable Requirement.

52. The Cannabis Cultivation Policy Attachment A, Section 2, Term 77 states:

*Cannabis cultivators shall plug, block, cap, disconnect, or remove the diversion intake or otherwise bypass flow or render the diversion intake incapable of diverting water for cannabis cultivation activities during the surface water forbearance period,*

*unless the diversion intake is used for other beneficial uses, to ensure no water is diverted during that time.*

53. **Violation 6:** The Division alleges one violation of Term 77 of Section 2 of the Cannabis Cultivation Policy against the Respondents jointly and severally based on the following:

- a. During the May 23, 2024 inspection, Division staff observed that POD1/POS1 supplied water for cannabis irrigation at POU1 and POU7 on the Shared Property. Division staff determined that the diversion intake at POD1/POS1 had not been plugged, blocked, capped, bypassed, disconnected, or otherwise capable of bypassing or rendering diversions for cannabis incapable during the surface water dry season forbearance period (April 1 – October 31).

54. **Violation 7:** The Division alleges one violation of Term 77 of Section 2 of the Cannabis Cultivation Policy against Mr. Hodys individually based on the following:

- a. During the August 20, 2025 inspection, Division staff observed that POD1/POS1 supplied water for cannabis irrigation at POU8 and POU10 on the Hodys Property. Division staff determined that the diversion intake at POD1/POS1 had not been plugged, blocked, capped, bypassed, disconnected, or otherwise capable of bypassing or rendering diversions for cannabis incapable during the surface water dry season forbearance period (April 1 – October 31).

55. The Cannabis Cultivation Policy Attachment A, Section 2, Term 81 states:

*Cannabis cultivators are encouraged to install separate storage systems for water diverted for cannabis irrigation and water diverted for any other beneficial uses, or otherwise shall install separate measuring devices to quantify diversion to and from each storage facility, including the quantity of water diverted and the quantity, place, and purpose of use (e.g., cannabis irrigation, other crop irrigation, domestic, etc.) for the stored water.*

56. **Violation 8:** The Division alleges one violation of Term 81 of Section 2 of the Cannabis Cultivation Policy against Mr. Shields individually based on the following:

- a. During the inspection on July 19, 2023, Division staff observed that water diverted and stored at POD1/POS1 was conveyed to POS4 on the Shields Property, which was then used on the Shields Property to irrigate cannabis at POU3-5 and for domestic purposes at POU6. Mr. Shields had not installed separate storage systems for each use, nor had he installed water measuring devices on POS4 or on any of the water conveyance lines that would enable him to quantify diversions to and from POS4 for each use. Based on the water diversion and conveyance system, Division staff determined Mr. Shields would have needed to install at least one water measuring device to

measure and record the water use for cannabis irrigation and domestic purposes.

57. The Cannabis Cultivation Policy Attachment A, Section 2, Term 83 states:

*Cannabis cultivators with onstream reservoirs shall install and maintain a measuring device capable of meeting the requirements below to monitor and record the rate of diversion, the rate of collection to storage, the rate of withdrawal or release from storage, and the total volume of water collected in the onstream reservoir.*

*A. The measurement device (e.g., water level sensor and area-capacity curve) shall be certified to measure the total volume of water diverted or stored accurate to within  $\pm 10$  percent by volume based on periodic testing of the installed device.*

*B. The measurement device shall be capable of recording the date, time, and volume of water diverted at an hourly or more frequent basis, year-round.*

*C. The measurement device shall be installed and calibrated by a Qualified Professional. This includes the development of any area-capacity curve used to convert water elevation to volume. Cannabis cultivators shall submit a description of the type of measurement device, evidence of proper installation and operation of the device, and the area-capacity curve to the Deputy Director (or designee) for review and approval within two years of the date the Cannabis SIUR is issued.*

*D. To assess continued accuracy of depth readings recorded by the measurement device, a staff gage shall also be installed in the same pond or reservoir as the measurement device and manual depth readings from the staff gage and the date and time of the depth readings shall be recorded monthly, at a minimum. The area-capacity curve shall be reassessed if requested by the Deputy Director (or designee).*

*E. Cannabis cultivators shall maintain hourly depth and volume records from the measurement device and area-capacity curves at the cultivation site and shall make the records available for review upon request by staff from the Water Boards or CDFW.*

*F. Depth and volume records and area-capacity curves shall be retained for a minimum of five years.*

58. **Violation 9:** The Division alleges two violations of Term 83 of Section 2 of the Cannabis Cultivation Policy against the Respondents jointly and severally based on the following:

- a. POD1/POS1 is an onstream reservoir that Division staff observed was used for cannabis irrigation on the Shared Property during the July 19, 2023 and May 23, 2024 inspections. During the inspections, Division staff did not observe any measuring devices installed at POD1/POS1 that would be

capable of meeting the requirements above to monitor and record the rate of diversion, the rate of collection to storage, the rate of withdrawal or release from storage, and the total volume of water collected in the onstream reservoir. In addition, Division staff did not observe any records associated with these requirements for POD1/POS1 on the Shared Property. The Division alleges one violation for each day of inspection.

59. **Violation 10:** The Division alleges one violation of Term 83 of Section 2 of the Cannabis Cultivation Policy against Mr. Hodys individually based on the following:

- a. During the August 20, 2025 inspection, Division staff observed that POD1/POS1 was used for cannabis irrigation on the Hodys Property. Division staff did not observe any measuring devices installed at POD1/POS1 that would be capable of meeting the requirements above to monitor and record the rate of diversion, the rate of collection to storage, the rate of withdrawal or release from storage, and the total volume of water collected in the onstream reservoir. In addition, Division staff did not observe any records associated with these requirements for POD1/POS1 on the Hodys Property.

60. The Cannabis Cultivation Policy Attachment A, Section 2, Term 92 states:

*To prevent rupture or overflow and runoff, cannabis cultivators shall only use water storage tanks and bladders equipped with a float valve, or equivalent device, to shut off diversion when storage systems are full. Cannabis cultivators shall install any other measures necessary to prevent overflow of storage systems to prevent runoff and the diversion of more water than can be used and/or stored.*

61. **Violation 11:** The Division alleges three violations of Term 92 of Section 2 of the Cannabis Cultivation Policy against the Respondents jointly and severally based on the following:

- a. During the inspection on July 19, 2023, Division staff documented Tank 1 at POS2 on the Shared Property that was missing an overflow prevention device. During the inspection on May 23, 2024, Division staff documented Tanks 11 and 12 at POS11 on the Shared Property that were missing overflow prevention devices. Division staff allege one violation for each tank without the requisite device during each inspection.

62. **Violation 12:** The Division alleges eight violations of Term 92 of Section 2 of the Cannabis Cultivation Policy against Mr. Shields individually based on the following:

- a. During the inspection on July 19, 2023, Division staff documented that Tank 2 at POS3, Tanks 3 and 5 at POS4, Tank 6 at POS5, Tank 7 at POS6, Tanks 8 and 9 at POS7, and Tank 10 at POS8, all located on the Shields Property, were missing overflow prevention devices. Division staff allege one violation for each tank without the requisite device during each inspection.

63. The Cannabis Cultivation Policy, Attachment A, Section 2, Term 93 states:

*Cannabis cultivators shall ensure that all vents and other openings on water storage tanks are designed to prevent the entry and/or entrapment of wildlife.*

64. **Violation 13:** The Division alleges two violations of Term 93 of Section 2 of the Cannabis Cultivation Policy against the Respondents jointly and severally based on the following:

- a. During the inspection on July 19, 2023, Division staff observed that Tank 1 at POS2 on the Shared Property did not have a lid to prevent the entry of entrapment of wildlife. During the May 23, 2024 inspection, Division staff observed that Tank 11 at POS11 on the Shared Property did not have a lid. Division staff allege one violation for each tank without a lid during each inspection.

65. **Violation 14:** The Division alleges 11 violations of Term 93 of Section 2 of the Cannabis Cultivation Policy against Mr. Shields individually based on the following.

- a. During the inspection on July 19, 2023, Division staff observed that Tank 2 at POS3, Tanks 3-5 at POS4, Tank 6 at POS5, Tank 7 at POS6, Tanks 8 and 9 at POS7, and Tank 10 at POS8, all located on the Shields Property, did not have lids to prevent the entry of entrapment of wildlife. During the May 23, 2024 inspection, Division staff again observed that Tank 3 at POS4 and Tank 6 at POS5 did not have lids. Division staff allege one violation for each tank without a lid during each inspection.

66. The Cannabis Cultivation Policy Attachment A, Section 2, Term 98 states:

*Cannabis cultivators shall maintain daily records of all water used for irrigation of cannabis. Daily records may be calculated by the use of a measuring device or, if known, by calculating the irrigation system rates and duration of time watered (e.g., irrigating for one hour twice per day using 50 half-gallon irrigation emitters equates to 50 gallons per day (1 hour x 2 times per day x 50 irrigation emitters x 0.5 gallons per irrigation emitter per hour) of water used for irrigation). Cannabis cultivators shall retain, for a minimum of five years, irrigation records at the cannabis cultivation site and shall make all irrigation records available for review by the Water Boards, CDFW, and any other authorized representatives of the Water Boards or CDFW.*

67. **Violation 15:** The Division alleges two violations of Term 98 of Section 2 of the Cannabis Cultivation Policy against the Respondents jointly and severally based on the following:

- a. During the July 19, 2023 and May 23, 2024 inspections, Division staff did not observe any water measuring devices nor any records of water used for cannabis irrigation at any of the POS or POU on the Shared Property. The Division alleges one violation for each day of inspection.

68. **Violation 16:** The Division alleges two violations of Term 98 of Section 2 of the Cannabis Cultivation Policy against Mr. Shields individually based on the following:

- a. During the July 19, 2023 and May 23, 2024 inspections, Division staff did not observe any water measuring devices nor any records of water used for cannabis irrigation at any of the POS or POU on the Shields Property. The Division alleges one violation for each day of inspection.

69. **Violation 17:** The Division alleges one violation of Term 98 of Section 2 of the Cannabis Cultivation Policy against Mr. Hodys individually based on the following:

- a. During the August 20, 2025 inspection, Division staff did not observe any water measuring devices nor any records of water used for cannabis irrigation at any of the POS or POU on the Hodys Property.

### **Diversion or Use of Water for Cannabis Cultivation Without DCC License**

70. Water Code section 1847, subdivisions (a) and (b)(4), provide that any person or entity who diverts or uses water for cannabis cultivation for which a license is required, but which has not been obtained, under Chapter 6 (commencing with 26060) or Chapter 7 (commencing with 26070) of Division 10 of the Business and Professions Code may be liable in an amount not to exceed the sum of five hundred dollars (\$500) per violation, plus two hundred fifty dollars (\$250) for each additional day on which each violation continues if the person fails to correct the violation within 30 days after the State Water Board has called the violation to the attention of that person or entity, plus two thousand five hundred dollars (\$2,500) for each acre-foot of water diverted or used in violation of the applicable requirement.
71. A commercial cannabis cultivation licensing program was established pursuant to Chapter 6 (commencing with section 26060) of Division 10 of the Business and Professions Code, which began issuing licenses on January 1, 2018. Any person engaged in commercial cannabis activity must obtain a state license from DCC. (Bus. & Prof. Code § 26037.5, subd. (a); 4 Cal. Code Regs. §15000.1, subd. (a).) "Commercial cannabis activity" includes cultivation. (Bus. & Prof. Code § 26001, subd. (j); 4 Cal. Code Regs. § 15000, subd. (o).) The only exceptions to the cultivation licensing requirement are for persons cultivating not more than six living cannabis plants, or certain nonprofit entities in limited circumstances not applicable here. (Bus. & Prof. Code § 26037.5, subd. (b).)
72. **Violation 18:** The Division alleges two violations for the diversion or use of water for cannabis cultivation without a DCC license against the Respondents jointly and severally based on the following:
- a. Division staff determined that the observed scale of cannabis cultivation occurring on the Shared Property during the 2023 and 2024 inspections required a DCC commercial cannabis license under Chapter 6 (commencing with Section 26060) of Division 10 of the Business and Professions Code. On July 19, 2023, there were approximately 1,870 cannabis plants growing on the Shared Property, with an approximate total area of 15,160 sq ft., irrigated from surface water diverted at POD1/POS1. On May 23, 2024, there were

approximately 1,386 cannabis plants growing on the Shared Property, with an approximate total area of 13,204 sq ft., irrigated from surface water diverted at POD1/POS1. Division staff examined available records dated July 19, 2023, May 15, 2024, and April 2, 2025, and did not find any record that DCC had issued a cultivation license, active or pending, for the activities observed on the Shared Property. The Division alleges one violation for each day of inspection.

**73. Violation 19:** The Division alleges one violation for the diversion or use of water for cannabis cultivation without a DCC license against Mr. Shields individually based on the following:

- a. Division staff similarly determined that the observed scale of cannabis cultivation occurring on the Shields Property during the 2023 inspection required a DCC commercial cannabis license. On July 19, 2023, there were approximately 2,451 cannabis plants growing on the Shields Property, with an approximate total area of 18,632 sq ft., irrigated from surface water diverted at POD1/POS1. Division staff similarly examined available records dated July 19, 2023, May 15, 2024, and April 2, 2025, and did not find any record that DCC had issued a cultivation license, active or pending, for the activities observed on the Shields Property.

**74. Violation 20:** The Division alleges one violation for the diversion or use of water for cannabis cultivation without a DCC license against Mr. Hodys individually based on the following:

- a. Division staff further determined that the observed scale of cannabis cultivation occurring on the Hodys Property during the 2025 inspection required a DCC commercial cannabis license. On August 20, 2025, there were approximately 338 cannabis plants growing on the Hodys Property, with an approximate total area of 4,100 sq ft., irrigated from surface water diverted at POD1/POS1. Division staff examined available records dated August 13, 2025 and September 17, 2025, and did not find any record that DCC had issued a cultivation license, active or pending, for the activities observed on the Hodys Property.

### **Statutory Maximum Liability**

**75.** The statutory maximum liability is the sum of each Violation's statutory maximum liability amount.

- a. The statutory maximum liability that can be assessed jointly and severally against the Respondents is \$744,500:

Violation 1 (\$287,000) + Violation 3 (\$451,500) + Violation 6 (\$500) + Violation 9 (\$1,000) + Violation 11 (\$1,500) + Violation 13 (\$1,000) + Violation 15 (\$1,000) + Violation 18 (\$1,000)

- b. The statutory maximum liability that can be assessed individually against Mr. Hodys is \$625,500:

Violation 2 (\$319,500) + Violation 4 (\$290,500) + Violation 5 (\$13,500) + Violation 7 (\$500) + Violation 10 (\$500) + Violation 17 (\$500) + Violation 20 (\$500)

- c. The statutory maximum liability that can be assessed individually against Mr. Shields is \$11,500:

Violation 8 (\$500) + Violation 12 (\$4,000) + Violation 14 (\$5,500) + Violation 16 (\$1,000) + Violation 19 (\$500)

### **CONSIDERATION OF WATER CODE SECTION 1055.3 FACTORS**

76. Water Code section 1055.3 requires that the State Water Board, in determining the amount of civil liability, shall take into consideration all relevant circumstances, including, but not limited to, 1) the extent of harm caused by the violations, 2) the nature and persistence of the violation, 3) the length of time over which the violation occurs, and 4) the corrective action, if any taken by the violator. This requirement is applied to all penalty proposals relative to this administrative civil liability complaint.

#### **Relevant Circumstances Applicable to All Violations**

77. Aerial imagery suggests that illegal cannabis cultivation activities likely pre-dated the initial July 19, 2023 inspection. Division staff found no evidence that the Respondent has taken steps to comply with the regulatory requirements applicable to commercial cannabis cultivation. Permit and licensing fees and other regulatory costs for commercial cannabis cultivation can be significant, such that unlicensed and unpermitted cultivators obtain an unfair advantage over those cultivators who participate in the regulated market.
78. To deter illegal cannabis cultivation activities and support the legal market and enterprises, it is necessary to impose administrative civil liability in sufficient amounts to make the costs of noncompliance higher than the cost of compliance. Accordingly, the liability amount proposed in the Complaint is appropriate to serve as a deterrent to the Respondent, as well as to illegal cannabis cultivators generally, and to encourage compliance with the state's regulatory program for commercial cannabis cultivation.

#### **Violations 1 & 2 Failure to File Initial Statements (Water Code section 5101)**

79. Violations 1 and 2 both relate to statement filings required under Division 2 of the Water Code. These violations are both analyzed below with respect to Water Code section 1055.3, with distinctions noted where applicable.

- a. Extent of Harm:

The failure to timely file a Statement impacts the State Water Board's administration of the state's water resources and the priority of right to divert and use water. The State Water Board's Statement Program is a central repository for records that report each point of diversion, diversion amount and use of water by all water diverters that are not required to have an appropriative water right on file with the State Water Board. The failure to submit Statements of water diversion and use impacts the water rights regulatory program and harms other priority of right diverters, the environment, and public trust resources. The effects of cannabis-related water diversion and use that is not reported to the State Water Board remains a concern as the state continues to experience climate change. The need for timely water diversion and use records is critical when accounting for water use and for determining water availability. Failure to comply with reporting requirements adds an administrative burden to state and local regulators that can alter projected water resources and lead to over allocated watersheds based on unreported diversion and use information. Therefore, by the Respondent's jointly failing to file a Statement for POD1/POS1 and Mr. Hodys's failure to file a Statement for POD3/POS10, they have compromised the State Water Board's orderly and efficient administration of the state's water resources.

b. Nature and Persistence:

It is likely that POD1/POS1 and POD3/POS10 have been in use since the Respondents purchased the Shared Property on December 13, 2019. Staff confirmed POD1/POS1 supplied water for cannabis cultivation on the Shared Property during the July 19, 2023 inspection. Following that inspection, Mr. Hodys acknowledged use of POD3/POS10 for his domestic needs on the Hodys Property. Staff subsequently observed water conveyance lines from POD3/POS10 extended to the Hodys Property during the May 23, 2024 inspection. Furthermore, staff confirmed POD3/POS10 supplied water to the residence on the Hodys Property during the August 20, 2025 inspection. Based on staff's observations, the Respondents should have filed an initial Statement for water diverted and used at POD1/POS1 between October 1, 2022 and September 30, 2023, which encompasses the use observed during the 2023 inspection, before February 1, 2024. Additionally, Mr. Hodys should have filed an initial statement for water diverted and used at POD3/POS10 between October 1, 2022 and September 30, 2023 before February 1, 2024. The 2023 NOV/IR provided notice of this deadline, and the 2024 NOV/IR informed the Respondents of their ongoing violations. The 2024 NOV/IR was delivered to Mr. Hodys and Mr. Shields on August 3, 2024 and October 7, 2024, respectively.

c. Corrective Action:

To date, the Respondents have not filed an initial Statement for POD1/POS1 nor has Mr. Hodys filed an initial Statement for POD3/POS10.

d. Length of Time:

The Respondents did not file an initial Statement for POD1/POS1 within 30 days of the October 7, 2024 delivery of the 2024 NOV/IR. As of June 1, 2026, they have accrued 572 days of continued violation. Similarly, Mr. Hodys did not file an initial Statement for POD3/POS10 within 30 days of the August 3, 2024 delivery of the NOV/IR to Mr. Hodys. As of June 1, 2026, Mr. Hodys has accrued 637 days of continued violation.

- e. Taking into consideration all relevant circumstances and factors listed in subparagraphs a-d above, the Division proposes joint and several liability against the Respondents in the amount of \$6,000 for Violation 1, and individual liability against Mr. Hodys in the amount of \$6,500 for Violation 2. The Division considers these amounts appropriate to achieve deterrence while also reflecting the nature and extent of harm associated with these violations.

**Violations 3, 4, & 5: Unauthorized Diversion or Use of Water (Water Code section 1052)**

80. Violations 3, 4, and 5 all allege unauthorized diversion or use of water in connection with POD1/POS1 and POD3/POS10. These violations are all analyzed below with respect to Water Code section 1055.3, with distinctions noted where applicable.

a. Extent of Harm:

The unauthorized diversion and use of water creates a cumulative and direct impact to downstream beneficial uses and downstream water right holders that are operating in compliance with the laws. A reduction in stream flow causes a loss of available aquatic habitat area for fish and macroinvertebrates, and the water resources available for senior appropriative or riparian right diverters. Harm can also be characterized as a disruption to the State Water Board's orderly and efficient administration of water resources of the state from the failure to report water diversion and use. The diversion of water to seasonal storage on the Property without an appropriative water right can cause injury to downstream water users and public trust resources. On April 21, 2021, Governor Newsom issued a state of emergency proclamation for drought in Mendocino County and Sonoma County, which remained in effect until March 24, 2023. The need for adequate instream flows is particularly important after three years of critical drought conditions. The recovery of instream beneficial uses following drought conditions requires adequate instream flows. Additionally, the Blue Rock Creek watershed in the Middle Main Eel River watershed provides flows to habitat harboring Chinook salmon, Coho salmon, and Steelhead trout all of which are listed species. Illegal and unauthorized diversions increase the probability of harm and slow recovery of threatened and endangered species.

b. Nature and Persistence:

During the inspection on July 19, 2023, Division staff observed that water seasonally stored at POD1/POS1 provided water for cannabis irrigation on the Shared Property. Staff also observed that Mr. Shields used water stored at POD1/POS1 for cannabis irrigation and domestic use on the Shields Property. Based on statements made by Mr. Hodys after the July 19, 2023 inspection, Mr. Hodys used seasonally stored water at POD3/POS10 for domestic use on the Hodys Property. Following this inspection, Division staff transmitted the 2023 NOV/IR that informed the Respondents of the requirement to obtain appropriative water rights for POD1/POS1 and POD3/POS10. Nevertheless, during the inspection on May 23, 2024, staff again observed POD1/POS1 providing water to irrigate cannabis on the Shared Property. Staff also observed conveyance lines leading from POD3/POS10 to the Hodys Property. Staff subsequently transmitted the 2024 NOV/IR to the Respondents, again informing them of the need to obtain appropriative water rights. When staff inspected the Hodys Property in 2025, staff observed that POD1/POS1 supplied water for cannabis irrigation and that POD3/POS10 supplied water for domestic use.

c. Corrective Action:

To date, neither of the Respondents have obtained an appropriative water right for POD1/POS1 nor has Mr. Hodys obtained an appropriative water right for POD3/POS10.

d. Length of Time:

Aerial imagery of the Property in 2022 indicates that cannabis cultivation activities were likely occurring prior to the July 19, 2023 inspection. Additionally, it is likely that domestic water use occurred prior to that time. Nevertheless, for purposes of assessing liability, the Division has calculated the days of diversion to fill the reservoirs leading up to each inspection and the days of use associated with the cultivation period during each of those years. The Division alleges the Respondents are jointly liable for 28 days of unauthorized diversion and 101 days of unauthorized use for POD1/POS1 in connection with the cultivation activities on the Shared Property in 2023 and 2024. The Division alleges that Mr. Hodys is individually liable for three days of unauthorized diversion and 80 days of unauthorized use of POD1/POS1 in connection with the cultivation activities occurring on the Hodys Property in 2025. The Division further alleges that Mr. Hodys is individually liable for 14 days of unauthorized diversion, 11 days of which occurred during a period for which the Governor had issued a state of emergency proclamation, and two days of unauthorized domestic use of POD3/POS10 on the Hodys Property in connection with the July 19, 2023 and August 20, 2025 inspections.

e. Considering all the relevant circumstances and the factors listed in subparagraphs a-d above, the Division proposes joint and several liability against the Respondents in the amount of \$29,000 for Violation 3, and individual liability against Mr. Hodys in the amounts of \$19,000 and \$1,500 for

Violations 4 and 5, respectively. The Division asserts that these amounts are appropriate to deter the Respondents from future use of POD1/POS1, and Mr. Hodys's use of POD3/POS10, without an appropriate water right, and in consideration of the nature and extent of harm associated with these violations.

### **Violations 6 & 7: Cannabis Cultivation Policy Section 2, Term 77**

81. Violations 6 and 7 allege noncompliance with Term 77, for failure to follow diversion intake requirements, and are both analyzed below with respect to Water Code section 1055.3, with distinctions noted where applicable.

a. Extent of Harm Caused:

Compliance with this requirement is mandatory to ensure that the diversion of water associated with cannabis cultivation does not harm instream flows during the forbearance period. A reduction in stream flow causes a loss of available aquatic habitat area for fish and macroinvertebrates, and the water resources available for senior appropriative or riparian right diverters. The inability to render a point of diversion incapable of diverting water can result in the continued water diversion; thus, impacting downstream beneficial uses and depriving downstream priority of right diverters. These violations may also injure other water right holders by improperly shifting the burden of offsetting public trust impacts to senior rights. Impacts are compounded when the violation persists throughout the forbearance period in dry and critically dry years.

b. Nature and Persistence:

During the inspection on May 23, 2024, Division staff observed that POD1/POS1 was supplying water for cannabis irrigation on the Shared Property and had not been disconnected or rendered incapable of diverting water during the surface water forbearance period. During the inspection on August 20, 2025, Division staff observed that POD1/POS1 was again supplying water for cannabis irrigation, this time on the Hodys Property, and had not been disconnected or rendered incapable of diverting water during the forbearance period.

c. Corrective Action:

Law enforcement officers eradicated the cannabis plants during each inspection. The Respondents did not voluntarily take any corrective action following the May 23, 2024 inspection nor did Mr. Hodys take corrective action following the August 20, 2025 inspection.

d. Length of Time:

The Division alleges a single day of violation against the Respondents based on staff's observations during the May 23, 2024 inspection, and a single day of violation against Mr. Hodys based on staff's observations during the August 20, 2025 inspection.

- e. Considering all the relevant circumstances and factors listed in subparagraphs a-d above, the Division proposes joint and several liability against the Respondents in the amount of \$500 for Violation 6 and individual liability against Mr. Hodys in the amount of \$500 for Violation 7.

### **Violations 8-10, & 15-17 Cannabis Cultivation Policy Section 2, Terms 81, 83, & 98**

82. Violation 8 alleges noncompliance with Term 81, for failure to install separate storage systems or otherwise quantify the water for each use separately; Violations 9 and 10 allege noncompliance with Term 83, for failure to install measuring devices for onstream reservoirs; and Violations 15-17 allege noncompliance with Term 98, for failure to measure and maintain irrigation records. Because these Policy term requirements relate to recordkeeping that is intended to assist the State Water Board in obtaining accurate water diversion and use data, these violations are all analyzed below with respect to Water Code section 1055.3, with distinctions noted where applicable.

a. Extent of Harm Caused:

Accurate data on water diversion and use is required from all users of water in the state so that the Division can plan for drought and effectively manage the state's limited water resources. The failure to install measuring devices and maintain diversion and use records, as required under Terms 81, 83, and 98, deprives the Division of critical data required for resource planning, forecast water demand, protect public trust resources, ensure water diverters are not diverting more water than authorized, ensure water diverted is put to beneficial use without the waste and unreasonable use of water, and protects the priority of right to divert and use water beneficially.

b. Nature and Persistence:

During the July 19, 2023 inspection, Division staff documented a violation of Term 81 because Mr. Shields failed to install separate storage systems for water used to irrigate cannabis, or otherwise install a water measuring device on or near POS4 that would enable him to quantify diversion to and from POS4 for each use. During this inspection, Division staff also documented a violation of 83 and 98 because the Respondents failed to install the required measuring device at POD1/POS1 and the places of use where cannabis was being irrigated on the Shared Property and further failed to retain appropriate records. Staff documented an additional violation of Term 98 during this inspection because Mr. Shields failed to install the required measuring devices and retain records for water used to irrigate cannabis on the Shields Property. Staff again documented a violation of Terms 83 and 98 during the May 23, 2024 inspection because the Respondents failed to install the required measuring devices or retain records in connection with the cannabis activities occurring on the Shared Property. During the August 20, 2025 inspection, Division staff documented an additional violation of Terms 83 and 98 because Mr. Hodys failed to install the required measuring devices or retain records associated with cannabis cultivation on the Hodys Property.

c. Corrective Action:

Following the July 19, 2024 inspection and receipt of the 2023 NOV/IR, Mr. Shields ceased use of POD1/POS1 for cannabis irrigation on the Shields Property and instead used rainwater collected at POD2/POS9. Additionally, during the May 23, 2024 inspection, Division staff did not observe water storage commingled for cannabis irrigation and domestic use on the Shields Property. However, the Respondents continued to use POD1/POS1 for cannabis irrigation on the Shared Property without installation of a measuring device at POD1/POS1 or at the places of use where cannabis was cultivated, and without maintaining the required records. Additionally, following the 2024 NOV/IR, Mr. Hodys used POD1/POS1 for cannabis irrigation on the Hodys Property without installing the required devices or maintaining records.

d. Length of Time:

These violations were observed during staff's inspections that occurred between 2023 and 2025. The Division alleges a single day of violation for each Policy term violation observed during the inspections.

e. Administrative Civil Liability:

Considering all the relevant circumstances and factors listed in subparagraphs a-d above, the Division proposes individual liability against Mr. Shields in the amount of \$500 for Violation 8 (Term 81) and \$1,000 (\$500 per inspection) for Violation 16 (Term 98) observed on the Shields Property; joint and several liability against the Respondents in the amount of \$1,000 (\$500 per inspection) for Violation 9 (Term 83) and \$1,000 (\$500 per inspection) for Violation 15 (Term 98) observed on the Shared Property; and individual liability against Mr. Hodys in the amount of \$500 for Violation 10 (Term 83) and \$500 for Violation 17 (Term 98) observed on the Hodys Property.

**Violations 11 & 12: Cannabis Cultivation Policy, Section 2, Term 92**

83. Violations 11 and 12 allege noncompliance with Term 92, which is intended to prevent excessive diversions to storage. These violations are both analyzed below with respect to Water Code section 1055.3, with distinctions noted where applicable.

b. Extent of Harm:

Compliance with Term 92 is necessary to prevent waste from water diversions to full storage facilities. By using tanks without the required overflow prevention device, the Respondents risk wasting water and impacting beneficial uses and downstream priority of right diverters.

c. Nature and Persistence:

During the July 19, 2023 inspection, Division staff observed that POD1/POS1 supplied water for cannabis irrigation on the Shared Property and Shields Property. Division staff observed one water storage tank on the Shared Property and eight tanks on the Shields Property that were missing overflow prevention devices. During the May 23, 2024 inspection, Division staff

documented two tanks on the Shared Property that were missing overflow prevention devices.

d. Corrective Action:

Neither of the Respondents took corrective action to install devices between the 2023 and 2024 inspection. During the August 20, 2025 inspection, staff confirmed that an overflow prevention device had been installed on the tank at POS12, the only tank connected to supply water for cannabis irrigation on the Hodys Property.

e. Length of Time:

These violations were observed during the July 19, 2023 and May 23, 2024 inspections. The Division alleges one day of violation for each violation observed during the inspections.

f. Considering all relevant circumstances and the factors listed in subparagraphs a-d above, the Division proposes joint and several liability against the Respondents in the amount of \$1,500 (\$500 per tank) for Violation 11 observed on the Shared Property, and individual liability against Mr. Shields in the amount of \$4,000 (\$500 per tank) for Violation 12 observed on the Shields Property.

**Violations 14 & 15: Cannabis Cultivation Policy, Section 2, Term 93**

84. Violations 13 and 14 allege noncompliance with Term 93, which relates to water storage requirements intended to protect wildlife. These violations are both analyzed below with respect to Water Code section 1055.3, with distinctions noted where applicable.

a. Extent of Harm:

Cannabis cultivators are required to ensure that tanks openings are closed as open storage tanks may potentially cause direct harm by entrapping wildlife. The potential harm to wildlife increases significantly when there are multiple water storage tanks with accessible openings.

b. Nature and Persistence:

During the July 19, 2023 inspection, Division staff observed one tank on the Shared Property and nine tanks on the Shields Property did not have a lid to prevent the entry of entrapment of wildlife. During the May 23, 2024 inspection, Division staff again documented one tank on the Shared Property that did not have a lid, as well as two tanks on the Shields Property without lids installed.

c. Corrective Action:

Neither of the Respondents took corrective action to install lids between the 2023 and 2024 inspection. During the August 20, 2025 inspection, staff

confirmed there was a lid on the tank at POS12, the only tank connected to supply water for cannabis irrigation on the Hodys Property.

d. Length of Time:

These violations were observed during the July 19, 2023 and May 23, 2024 inspections. The Division alleges one day of violation for each tank without a lid during each inspection.

- e. Considering the relevant circumstances and factors listed in subparagraphs a-d above, the Division proposes joint and several liability against the Respondents in the amount of \$1,000 (\$500 per tank) for Violation 13 observed on the Shared Property, and individual liability against Mr. Shields in the amount of \$5,500 (\$500 per tank) for Violation 14 observed on the Shields Property.

**Violations 18-20: Diversion or Use of Water for Cannabis Cultivation Without the Requisite License**

85. Violations 18, 19, and 20 allege noncompliance with the requirement to obtain a DCC license prior to diverting or using water for cannabis cultivation. These violations are all analyzed below with respect to Water Code section 1055.3, with distinctions noted where applicable.

a. Extent of Harm:

Unlicensed cannabis cultivation is in violation of the laws and regulations enacted pursuant to the Medical and Adult-Use Cannabis Regulation and Safety Act. Applications for commercial cannabis cultivation licenses began on January 1, 2018. Operating a commercial cannabis cultivation site without a license causes negative economic impact on the legal cannabis industry and general harm to the regulatory program. Despite the length of time the state's cannabis cultivation regulatory program has been in effect, the degree of illegal cannabis cultivation exceeds legal cultivators by orders of magnitude in all aspects of the cannabis industry across the state. Illegal cultivation directly harms the legal market by supporting and supplying an unregulated market where illegal cultivators do not incur the compliance costs to cultivate cannabis in a manner that does not have a negative impact on water quality, aquatic habitats, riparian habitats, wetlands, and springs. As such, the Respondents' cannabis cultivation activities harm legal cultivators, downstream priority of right diverters, beneficial uses of water, and the cannabis cultivation regulatory program.

b. Nature and Persistence:

During the July 19, 2023 inspection, the Respondents were growing approximately 1,870 cannabis plants on the Shared Property, irrigated with surface water diverted from POD1/POS1. Mr. Shields was also growing approximately 2,451 cannabis plants on the Shields Property, irrigated with surface water diverted from POD1/POS1. During the May 23, 2024

inspection, the Respondents were growing approximately 1,386 cannabis plants on the Shared Property, again irrigated with surface water diverted from POD1/POS1. During the August 20, 2025 inspection, Mr. Hodys was growing approximately 338 cannabis plants on the Hodys Property, irrigated with surface water diverted from POD1/POS1. Division staff determined that the scale of cannabis cultivation occurring on the Property during these inspections required a commercial cannabis license from DCC, which had not been obtained.

c. Corrective Action:

During each inspection, law enforcement officers eradicated the cannabis plants. To date, the Division is not aware of any actions taken by the Respondents to obtain a DCC license for any of the properties.

d. Length of Time:

Water diversion and use for commercial cannabis cultivation was documented on the Shared Property during the 2023 and 2024 inspections, the Shields Property in 2023, and the Hodys Property in 2025. Although Division staff believe commercial cannabis cultivation has been occurring prior to the July 19, 2023 inspection, based on review of aerial imagery, the Division alleges one violation per property for each day of inspection.

- e. Considering the relevant circumstances and factors listed in subparagraphs a-d above, the Division proposes joint and several liability against the Respondents in the amount of \$1,000 for Violation 18 (\$500 per inspection) observed on the Shared Property, individual liability against Mr. Shields in the amount of \$500 for Violation 19 observed on the Shields Property, and individual liability against Mr. Hodys in the amount of \$500 for Violation 20 observed on the Hodys Property.

### **PROPOSED LIABILITY AMOUNT**

86. Having taken into consideration the factors described above and the need for deterrence, the Assistant Deputy Director for the Permitting and Enforcement Branch recommends the imposition of the following liability amounts:

- a. Joint and several liability against the Respondents in the amount of \$41,000, based on the following:

Violation 1 (\$6,000) + Violation 3 (\$29,000) + Violation 6 (\$500) + Violation 9 (\$1,000) + Violation 11 (\$1,500) + Violation 13 (\$1,000) + Violation 15 (\$1,000) + Violation 18 (\$1,000)

- b. Individual liability against Mr. Hodys in the amount of \$29,000, based on the following:

Violation 2 (\$6,500) + Violation 4 (\$19,000) + Violation 5 (\$1,500) + Violation 7 (\$500) + Violation 10 (\$500) + Violation 17 (\$500) + Violation 20 (\$500)

- c. Individual liability against Mr. Shields in the amount of \$11,500, based on the following:

Violation 8 (\$500) + Violation 12 (\$4,000) + Violation 14 (\$5,500) + Violation 16 (\$1,000) + Violation 19 (\$500)

### **RIGHT TO HEARING**

87. The Respondents may request a hearing on this matter before the State Water Board Administrative Hearings Office. Any such request for hearing must be delivered to or received by mail by the Administrative Hearings Office within 20 days after the date the Respondents receive this Complaint as required by Water Code section 1055, subdivision (b). Each Respondent should submit a separate hearing request.
88. If the Respondents do not request a hearing within 20 days, then the right to a hearing on the matter is waived. The Deputy Director for Water Rights, under authority delegated by the State Water Board, may then issue a final Administrative Civil Liability Order assessing the proposed liability amounts.
89. If the Respondents request a hearing, an opportunity to contest the allegations in this Complaint and the imposition of liability before a hearing officer from the Administrative Hearings Office will be provided. The Administrative Hearings Office will issue a notice setting the specific time and place for the hearing, and describing the hearing process, not less than 10 days before the hearing date.
90. After any hearing, the Administrative Hearings Office will issue a proposed order or final order setting administrative civil liability or determining that liability shall not be imposed. If the Administrative Hearings Office issues a proposed order, the State Water Board will consider adopting the order at a subsequent public meeting.

### **STATE WATER RESOURCES CONTROL BOARD**



*Robert P. Cervantes, Assistant Deputy Director  
Division of Water Rights*

Dated: August 5, 2026