

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

DIVISION OF WATER RIGHTS

ORDER WR 2026-XXXX-DWR

CEASE AND DESIST ORDER

In the Matter of Threatened Unauthorized Diversion or Use, Threatened Diversion Not in Compliance with the Cannabis Cultivation Policy, and Threatened Water Diversion and Use Without a License

Jeremy Hodys

APNs 056-060-24-00, 056-060-25-01, and 056-060-28-00

SOURCE: Unnamed Stream Tributary to the Eel River

COUNTY: Mendocino

The State Water Resources Control Board (State Water Board or Board) is authorized under California Water Code (Water Code) section 1831 to issue a Cease and Desist Order (CDO or Order) requiring Jeremy Hodys (Respondent) to cease a threatened violation of the prohibition under Water Code section 1052; a threatened diversion not in compliance with an applicable limitation or requirement of the State Water Board's *Cannabis Cultivation Policy Principles and Guidelines for Cannabis Cultivation* (Cannabis Cultivation Policy); and the threatened diversion and use of water for cannabis cultivation without a license from the Department of Cannabis Control (DCC).

Water Code section 1834, subdivision (a), provides that the State Water Board shall give notice informing the party that he or she may request a hearing not later than 20 days from the date on which the notice is received. If the party does not timely request a hearing, section 1834, subdivision (a), authorizes the State Water Board to adopt a cease and desist order based on the statement of facts and information set forth in the notice without a hearing. The State Water Board delegated this authority to the Deputy Director for Water Rights in Resolution 2012-0029. The Deputy Director has redelegated this authority to the Assistant Deputy Director of the Permitting and Enforcement Branch.

BACKGROUND INFORMATION

1. The threatened violations identified herein are occurring on Mendocino County Assessor Parcel Numbers (APNs) 056-060-24-00, 056-060-25-01, and 056-060-28-00 (the Property). The Property is owned by the Brenda R. Kershenbaum Trust, with Brenda Kershenbaum acting as the trustee. Following the 2023 inspection of the Property, Ms. Kershenbaum informed Division staff that the Respondent had been leasing the Property and operating the farm for several years. The Respondent signed the lease agreement on August 1, 2022, and continues to lease the Property to date.
2. The Property is located in the Blue Rock Creek watershed (HUC 12 #180101050204), and 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.”
3. 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 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 conducted 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 a statement of water diversion and use (Statement), water right permit, license, or registration for the Property.
 - b. Division staff reviewed Department of Water Resources records and did not find any record of a well on the 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 Property.
 - d. Division staff reviewed aerial imagery of the Property and made the following observations:

- i. Google Earth Pro aerial imagery dated May 31, 1993 shows an onstream reservoir, subsequently identified as point of diversion 1/point of storage 1 (POD1/POS1), indicating that POD1/POS1 was established prior to May 31, 1993.
 - ii. Google Earth Pro aerial imagery dated June 11, 2005 shows an onstream reservoir subsequently identified as point of diversion 2/point of storage 2 (POD2/POS2), indicating that POD2/POS2 was established sometime between May 31, 1993 and June 11, 2005.
 - iii. Lightbox Vision aerial imagery dated April 8, 2022, April 29, 2022, June 15, 2022, August 7, 2022, and August 9, 2022 show greenhouse structures on the Property.
 - iv. Lightbox Vision aerial imagery dated June 11, 2023 and July 10, 2023, and Google Earth Pro aerial imagery dated June 14, 2023 show the five greenhouse structures that were subsequently documented as places of use 1 and 2 (POU1 and POU2).
- 4. On July 19, 2023, Division staff accompanied wardens and scientific staff from CDFW, North Coast Regional Water Quality Control Board (North Coast Water Board) staff, Mendocino County Sheriff's officers, and California National Guard staff on a search warrant investigation of the Property. Law enforcement officers eradicated approximately 887 cannabis plants during execution of the search warrant. The Respondent was not present during the inspection; however, Division staff left a Field Notice of Violation (Field NOV) at the Property with a copy of the search warrant. The Field NOV described Water Code and Cannabis Cultivation Policy violations observed on the Property and the corrective actions necessary for each violation. During the inspection, Division staff observed the following regarding water diversion and use on the Property:
 - a. POD1/POS1 is an onstream reservoir on an unnamed stream located on the Property, within APN 056-060-24-00. POD1/POS1 consists of an earthen berm constructed in the 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 0.6 acre-feet of water. Staff observed that water stored at POD1/POS1 was pumped through a 1.5-inch water line that tee's off to POS3 for domestic use at POU3 and to POS4, where it was gravity fed to POS5 and used for cannabis irrigation at POU1 and POU2.
 - b. POD2/POS2 is an onstream reservoir on an unnamed stream located on the Property, within APN 056-060-28-00. POD2/POS2 consists of an earthen dam constructed in the stream channel. The unnamed stream has defined bed and banks upstream and downstream from POD2/POS2 and is tributary

- to Blue Rock Creek. Water was not flowing upstream or downstream of POD2/POS2 at the time of the inspection. POD2/POS2 was seasonally storing approximately 0.7 acre-feet of water, but no water conveyance lines connected POD2/POS2 to any of POS or POU on the Property.
5. Between August and September 2023, Division staff exchanged communications with the Respondent and Ms. Kershenbaum, including the following:
- a. On August 3, 2023, Ms. Kershenbaum called Division staff in response to the Field NOV left at the Property. That same day, Division staff emailed Ms. Kershenbaum a summary of the phone conversation.
 - b. On August 4, 2023, Ms. Kershenbaum replied to staff's email to provide her mailing address for transmittal of the inspection report.
 - c. On August 14, 2023, Division staff emailed Ms. Kershenbaum requesting contact information for the tenant leasing the Property. Ms. Kershenbaum copied staff on an email to the Respondent on August 17, 2023, which asked that the Respondent provide a mailing address at which Division staff could contact him. The Respondent replied to the email and asked to be included in the discussions to help ensure the requirements are completed, but did not provide a mailing address.
 - d. On August 18, 2023, Division staff replied to request the Respondent's mailing address, full name, and confirmation of his association with the Property. The Respondent replied on August 22, 2023, and provided his first name, mailing address on North State Street in Ukiah CA, and confirmation that he is responsible for the Property.
 - e. On August 29, 2023, Ms. Kershenbaum emailed CDFW staff, North Coast Water Board staff, and Division staff with background information on the Property. She stated that she was 84 years old, lives in Los Angeles, had not been to the Property since 2012, and that the Respondent had overseen the Property for the past couple of years as a tenant. Ms. Kershenbaum claimed that she was not aware of the extent of the cannabis cultivation on the Property until a neighbor shared photos of the greenhouses with her.
 - f. Division staff responded to Ms. Kershenbaum on August 31, 2023, reiterating the requirement to obtain water rights for POD1/POS1 and POD2/POS2 and provided hyperlinks to assist in doing so.
6. On September 15, 2023, Division staff sent Ms. Kershenbaum the Inspection Report and Notice of Violation (2023 NOV/IR) for the July 19, 2023 inspection, via certified mail. United States Postal Service (USPS) records show that the 2023 NOV/IR was signed for and delivered at Ms. Kershenbaum's address on September 19, 2023. 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.

7. Between September 2023 and February 2024, Division staff exchanged communications with the Respondent and Ms. Kershenbaum, including the following:
 - a. On September 20, 2023, the Respondent emailed Division staff in response to the 2023 NOV/IR received by Ms. Kershenbaum. The Respondent stated that he had submitted the "first step of paperwork" and that he believed his next step was to file a Statement. Division staff reviewed eWRIMS and confirmed that the Respondent filed a Statement (S028984) on September 20, 2023, which was digitally signed on September 16, 2023. The Respondent reported the water diverted and used from POD1/POS¹ for cannabis cultivation between April and September 2022.
 - b. Division staff also spoke with the Respondent on the phone on September 20, 2023, regarding the corrective actions needed on the Property. Division staff subsequently emailed the Respondent a summary of the phone conversation, highlighting, among other things, the need to apply for a water right. Staff also included a copy of the 2023 NOV/IR as an attachment to the email.
 - c. In September 2023 and January 2024, Division staff exchanged additional emails with Ms. Kershenbaum and the Respondent in January 2024, regarding the status of the corrective actions outlined in the 2023 NOV/IR.
 - d. On February 6, 2024, Division staff emailed Ms. Kershenbaum and the Respondent with a reminder to submit their water right applications. The Respondent replied that same day, apologizing for the delay in compliance, citing weather constraints and limited internet on the Property. He asked if the Statement he had submitted was sufficient. Division staff responded that same day to clarify that water right applications were still needed for the reservoirs and that they would forward prior emails containing helpful information, which Division staff provided in a subsequent email.
8. On or around May 20, 2024, CDFW notified the Division of a second search warrant inspection of the Property that was going to be conducted based on illegal cannabis

¹ The APN identified in the Statement is the parcel on which POD1/POS1 is located; however, the coordinates provided in the Statement are associated with the road leading onto the Property and the upstream channel of POD1/POS1, not the coordinates for the precise location of POD1/POS1. Nevertheless, based on the information contained therein, Division staff interpret the Statement to apply to POD1/POS1.

cultivation and possible surface water diversion used for cannabis cultivation. On or around this date, Division staff conducted the following as part of a desktop review:

- a. Division staff reviewed eWRIMS records and only found Statement S028984 that was signed by the Respondent on September 16, 2023. Division staff did not find a second Statement in eWRIMS² or any water right permit, license, or registration for the Property.
 - 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 Property.
 - c. Division staff also reviewed aerial imagery of the Property and made the following observation:
 - i. Lightbox Vision aerial imagery dated April 8, 2024 shows the greenhouse structures located at POU1 and POU2 without plastic coverings.
9. On May 23, 2024, Division staff accompanied CDFW wardens and scientific staff, DCC staff, and North Coast Water Board staff on a criminal search warrant investigation of the Property. CDFW Wardens estimated a total of 1,413 cannabis plants were on the Property, which they eradicated during execution of the warrant. The Respondent was present on the Property and signed the Field NOV. The Respondent was subsequently arrested by CDFW wardens. During the inspection, Division staff observed the following regarding the diversion and use on the Property:
- 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 0.6 acre-feet of water was being stored in POD1/POS1. Water stored in POD1/POS1 was then pumped via a 6.5 hp gasoline powered water pump to POS4, which is then conveyed to POU3 for domestic use and to POU1-2 for cannabis irrigation.
 - b. Staff similarly observed POD2/POS2 in the same location as the 2023 inspection. Water was not flowing into or out of POD2/POS2 at the time of the inspection. Staff determined that approximately 0.7 acre-feet of water as

² Division staff found a second copy of a Statement in their file that is not reflected in eWRIMS. The Statement was signed by the Respondent on September 19, 2023 but it is unclear when or how the Statement was submitted. The coordinates provided in the Statement are the same as those listed in Statement S028984; however, the description provided in the Statement is an “old pond on a creek” that is listed as “unused, emergency water.”

being stored in POD2/POS2, but no water conveyance lines connected POD2/POS2 to any of POS or POU on the Property.

- c. Staff documented a groundwater well, identified as POD3, approximately 170 feet away from an unnamed stream that is tributary to Blue Rock Creek. Water from POD3 was pumped through a ¾-inch polyethylene water supply line to POS3, which was not connected to an outlet water line at the time of the inspection.
10. Between May and June 2024, Division staff exchanged communications with the Respondent, Ms. Kershenbaum, as well as a consultant and representatives of Ms. Kershenbaum, including the following:
- a. On May 28, 2024, Division staff received a voicemail from David Salomon and Peter Kershenbaum calling on behalf of Ms. Kershenbaum, regarding the 2023 NOV/IR.
 - b. On May 29, 2024, Division staff called Ms. Kershenbaum and explained the need to obtain water rights for POD1/POS1 and POD2/POS2. Ms. Kershenbaum told Division staff that she believed the Respondent would not be cultivating cannabis again without the proper licenses and that she was disappointed that he was caught cultivating again.
 - c. On May 30, 2024, Peter Kershenbaum emailed Division staff a copy of the lease agreement between Ms. Kershenbaum and the Respondent. The lease agreement, signed August 1, 2022, specifically forbids the Respondent, as tenant, from cultivating cannabis on the Property.
 - d. On June 3, 2024, Ms. Kershenbaum emailed Division staff, informing them that she was hiring a consultant, Heidi Wordhouse from Ethos Environmental, because the Respondent had been unable to complete the compliance actions.
 - e. On June 18, 2024, Ms. Wordhouse emailed Division staff to inform them that she had been hired by Ms. Kershenbaum to bring the Property into compliance. She was informed that another search warrant investigation had been executed on May 23, 2024, and she wanted to confirm that the alleged violations listed in the 2023 NOV/IR were a complete list of the violations alleged by the Division. Division staff responded that same day and provided the name of the staff that participated in the May 23, 2024 inspection.
11. On August 5, 2024, Division staff transmitted a Notice of Violation and Inspection Report for the May 23, 2024 inspection (2024 NOV/IR) to Ms. Kershenbaum and the Respondent, via certified mail. The 2024 NOV/IR was signed and delivered to Ms. Kershenbaum's address on August 9, 2024. The 2024 NOV/IR sent to the Respondent's North State Street address was not delivered and was returned to the Division on August 23, 2024. Division staff retransmitted the 2024 NOV/IR to the

Respondent's North State Street address on September 27, 2024, as well as three additional addresses that were identified for the Respondent. The copy sent to the Respondent's North State Street address was delivered on September 30, 2024. The copy sent to the Respondent's Highway 101 address was signed for on October 1, 2024 by Tonya Rowles, owner of Tonya's Business Services (a bookkeeping and P.O. box office). The other two copies were not delivered. The 2024 NOV/IR described Division staff's inspection observations, the alleged violations relating to those observations, the recommended corrective actions for the violations, and provided staff's contact information for compliance assistance. The 2024 NOV/IR further noted that the State Water Board retained authority to pursue enforcement for the violations alleged therein.

12. Between September and December 2024, Division staff exchanged communications with the Respondent, Ms. Kershenbaum, and Ms. Kershenbaum's consultant, including the following:

- a. On September 18, 2024, Division staff called Ms. Wordhouse to discuss the corrective actions needed for the Property. Division staff confirmed that Ms. Wordhouse had a copy of the 2024 NOV/IR.
- b. On October 7, 2024, Ms. Wordhouse filed Statements for POD1/POS1 (S029181) and POD2/POS2 (S029182) on behalf of Ms. Kershenbaum for the 2020 water diversion and use reporting period, which Ms. Kershenbaum explained was based on when the Respondent began using the Property.
- c. On October 8, 2024, Ms. Kershenbaum emailed Division staff asking for a comprehensive list of the violations on the Property and the actions required to bring the Property into compliance with the Water Board's regulations.
- d. On October 9, 2024, Division staff called Ms. Kershenbaum to discuss the corrective actions taken on the Property to date. Division staff informed Ms. Kershenbaum that there was an outstanding requirement to obtain an appropriative water right for POD1/POS1 and POD2/POS2. Staff also briefly discussed the application process.
- e. On October 18, 2024, Ms. Kershenbaum called Division staff, who helped walk her through the SDUR application.
- f. The Respondent also called Division staff on October 18, 2024 to discuss the 2024 NOV/IR. The Respondent claimed that he was not involved in any of the cannabis cultivation that occurred on the Property or any of the other properties he was involved with in the area.³ The Respondent claimed it was "the cartel" that was cultivating on these properties. Division staff reminded

³ Between 2023 and 2025, Division staff also inspected Mendocino County APNs 056-260-03-00, 056-270-18-00, and 056-260-06-00 that the Respondent owns or co-owns and on which illegal cannabis cultivation was occurring.

- him that he claimed responsibility for the Property in response to the 2023 NOV/IR and asked him for evidence supporting his claim that it was “the cartel.” Division staff encouraged the Respondent to contact local law enforcement if he believed there was trespass and illegal activity occurring on the Property; however, the Respondent said that local law enforcement officers had classified him as an “environmental terrorist” and that they could not be trusted. The Respondent said he would confront the cultivators himself if he had a firearm, but that he felt powerless.
- g. On November 1, 2024, the Division received the SDUR application (D033471) for POD1/POS1 and POD2/POS2, which identifies uses for domestic, aesthetic, wildlife enhancement, and fire protection purposes.
 - h. On November 6, 2024, Division staff emailed Ms. Wordhouse and asked for documentation of the corrective actions taken on the Property. Ms. Wordhouse replied and said she thought she had sent those pictures in July of 2024 but realized she had not. Ms. Wordhouse said she would put the images into an appropriate format and send them the following week. Ms. Wordhouse summarized the corrective actions, which included removal of POS5, removal of a water pump, and dismantling of the greenhouses.
 - i. Division staff subsequently received an email from Ms. Wordhouse on November 12, 2024 that contained photographs of the corrective actions. The attached photographs, in part, showed the pump at POD1/POS1 removed, POS5 removed, and the greenhouses at POU1-2 dismantled without cannabis present. Ms. Wordhouse also provided a copy of a November 12, 2024 Division of Water Rights - Cannabis Compliance Response Portal entry in a separate email.
 - j. The Respondent also contacted staff on November 12, 2024 to inform them that he planned to go to the Property on November 14, 2024 to address and document corrective actions.
 - k. On November 13, 2024, Division staff emailed Ms. Wordhouse a copy of the SDUR application package (D033471) and informed her that the application had not yet been processed.
13. While developing this Order, Division staff conducted the following as part of a desktop review to ascertain the current status of the Property:
- a. Division staff reviewed aerial imagery of the Property and made the following observations:
 - i. Lightbox Vision aerial imagery dated August 14, 2024 shows the greenhouse structures located at POU1 and POU2 without plastic coverings.

- ii. Lightbox Vision aerial imagery dated May 31, 2025, November 22, 2025, and December 13, 2025 show that the greenhouse structures at POU1 and POU2 were no longer present.
 - iii. Lightbox Vision aerial imagery dated March 21, 2026 shows a single greenhouse structure located in the area of POU1 and a single greenhouse structure in the area of POU2.
- b. On June 3, 2026, Division staff emailed Ms. Kershenbaum to inquire about the rental status of the Property and if the Respondent still resides there. Ms. Kershenbaum promptly replied via email and stated that the Respondent does still live on the Property and that he has not paid rent.

APPLICABLE LAW AND ALLEGATIONS

14. Water Code section 1831, subdivision (d), states, in part, that the State Water Board is authorized to issue a CDO when it determines that any person is violating or threatening to violate the prohibition set forth in section 1052 against the unauthorized diversion or use of water subject to Division 2 of the Water Code.
15. 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.”
16. 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.)
17. A trespass occurs if a person diverts or uses water subject to Division 2 of the Water Code without authorization under Division 2, whether under a riparian right, appropriation before 1914, or appropriation after 1914 under a permit or license issued by the State Water Board. (*People v. Shirokow, supra*, 26 Cal.3d at p. 304; see also *State v. Hansen* (1961) 189 Cal.App.2d 604, 610.) 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 (determining that water may not be stored for future use at the convenience of one riparian owner where such storage deprives other riparian owners of their use of the stream in its natural condition, unless authorized under an appropriative right); see also *Moore v. COPCO*, *supra*, 22 Cal.2d 725, 734-735 (“to hold that storage which results on occasions... and deprives lower riparian owners of use of the waters... is a proper riparian use of the stream, while seasonal storage is not, seems both illogical and unreasonable, and contrary to long established principles of law governing respective rights of owners of water upon a stream”).)

18. During the July 19, 2023 and May 23, 2024 inspections, Division staff observed that POD1/POS1 is an onstream reservoir that diverts surface water for seasonal storage, which was used for domestic purposes and to irrigate cannabis. Following the 2024 inspection, the Division received an SDUR application (D033471) for POD1/POS1 and POD2/POS2, which identified their associated uses for domestic, aesthetic, wildlife enhancement, and fire protection purposes. This water right does not authorize diversion of water to seasonal storage at POD1/POS1 for cannabis irrigation. Accordingly, there remains a threat of unauthorized diversion or use of water from POD1/POS1.
 - a. Aerial imagery of the Property indicates that cannabis cultivation was likely occurring on the Property prior to the July 19, 2023 inspection, following the Respondent's leasing of the Property. Based on staff's observations during the July 19, 2023 and May 23, 2024 inspections, and review of aerial imagery, there is a general pattern of unauthorized cannabis cultivation. Although aerial imagery from 2025 demonstrated that the greenhouse structures at POU1-2 had been removed, aerial imagery from March 21, 2026 depicts POU1 and POU2 each with a greenhouse structure. Additionally, although Ms. Wordhouse provided photographs on November 12, 2024 that showed the pump at POD1/POS1 removed and POS5 removed, these items are fungible and would not be difficult to reassemble or install. In the absence of an appropriative water right to authorize diversions to seasonal storage and use of water for cannabis cultivation for POD1/POS1, there remains a threat of unauthorized diversion and use.
19. The State Water Board is also authorized to issue a CDO pursuant to Water Code section 1831 when it determines that any person is violating or threatening to violate one of the applicable requirements for diversion or use of water for cannabis cultivation identified in subdivision (d)(6)(A-C). Specifically, the State Water Board is authorized to issue a CDO when it finds a diversion or use, or threatened diversion or use, of water for cannabis cultivation for which a license is required, but has not been obtained, under Chapter 6 (commencing with Section 26060) of, or Chapter 7 (commencing with Section 26070) of, Division 10 of the Business and Professions Code; as well as for any diversion or threatened diversion not in compliance with an applicable limitation or requirement established by the State Water Board under Water Code section 13149.

20. Chapter 6 of Division 10 of the Business and Professions Code establishes a commercial cannabis licensing program. The only exceptions to the cultivation licensing requirements 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).) Division staff documented water diversion and use for cannabis cultivation on the Property during the July 19, 2023 and May 23, 2024 inspections and verified that the Respondent has not obtained a cannabis license from DCC as required. As mentioned above, aerial imagery and staff's observations indicate that the Respondent has a general pattern of unauthorized cannabis cultivation on the Property. While the cannabis plants were eradicated by law enforcement during each inspection, the Property remains primed for cannabis cultivation such that the Respondent could re-establish such activities at any time. The pump that had been removed from POD1/POS1 and the storage tank that had been removed at POS5 could easily be replaced or reinstalled, and 2026 aerial imagery indicates the Respondent has already reconstructed two greenhouse structures on the Property. Therefore, there remains a threat that the Respondent will divert and use water for cannabis cultivation on the Property without a valid DCC license.
21. The State Water Board's Cannabis Cultivation Policy went into effect on December 18, 2017, which the State Water Board subsequently amended, effective April 16, 2019. Pursuant to Water Code section 13149, the Cannabis Cultivation Policy establishes principles, guidelines, and requirements for the diversion or use of water for cannabis cultivation to ensure that the diversion of water and discharge of waste associated with cannabis cultivation does not have a negative impact on water quality or instream flows. During the July 19, 2023 and May 23, 2024 inspections, Division staff documented diversions not in compliance with a requirement established in the Cannabis Cultivation Policy. The Cannabis Cultivation Policy, Attachment A, Section 2, Term 69, requires that cannabis cultivators not divert surface water unless it is diverted in accordance with an existing water right that specifies, as appropriate, the source, location of the point of diversion, purpose of use, place of use, and quantity and season of diversion. Term 69 further requires cannabis cultivators to maintain documentation of the water right at the cannabis cultivation site, which shall be available for review and inspection by staff or authorized representatives. Staff observed that POD1/POS1 is an onstream reservoir that diverts surface water from an unnamed stream, which was previously plumbed to convey water for irrigation of cannabis at POU1-2 on the Property, which consisted of five greenhouse structures. The Respondent does not have a valid water right for the diversion of water into seasonal storage at POD1/POS1 for cannabis irrigation. As noted in relation to the threatened violations above, the historical use of the Property for cultivation and the current conditions and features on the Property establish a threat of future cultivation activities, for which POD1/POS1 would likely supply water. Therefore, in the absence of an appropriate water right for the seasonal storage of water at POD1/POS1 for cannabis irrigation, there remains a threat of diversion not in compliance with Cannabis Cultivation Policy, Attachment A, Section 2, Term 69.

IT IS HEREBY ORDERED, pursuant to Water Code section 1831, that the Respondent must:

1. Immediately cease and desist any diversion or use of water from POD1/POS1 for cannabis irrigation until the Respondent has obtained an appropriate water right for POD1/POS1 that authorizes use for cannabis irrigation.
2. Ensure that no water diversion or use for cannabis cultivation occurs on the Property without first obtaining a DCC license.
3. Ensure that any future diversions for cannabis cultivation on the Property comply with Term 69 of the Cannabis Cultivation Policy.

Consequences of Non-Compliance

Failure to comply with this Order may subject the Respondent to additional enforcement, including referral to the Attorney General to take further injunctive enforcement actions as described in Water Code section 1845, subdivision (a).

Failure to comply with this Order may also subject the Respondent to liability pursuant to Water Code section 1845, subdivision (b)(1)(B), in the amount not to exceed \$3,000 for each day in which the violations occur during a non-drought year. In a period for which the Governor has issued a proclamation of state of emergency based on drought conditions, the Respondent may be subject to liability pursuant to Water Code section 1845, subdivision (b)(1)(A), in the amount not to exceed \$15,000 for each day in which the violations occur. Liability may be imposed administratively by the State Water Board or civilly by the superior court.

Reservation of Enforcement Authority and Discretion

Nothing in this Order is intended to or shall be construed to limit or preclude the State Water Board from exercising its authority under any statute, regulation, ordinance, or other law. The State Water Board retains the authority to bring enforcement against the Respondent for any alleged violations, including unauthorized diversion or use of water in violation of Water Code section 1052 or for violations subject to liability pursuant to Water Code section 1847, subdivision (a)(1).

Regulatory Changes

Nothing in this Order shall excuse the Respondent from meeting any more stringent requirements that may be imposed hereafter by applicable legally binding legislation, regulations, or water right permit requirements.

Compliance with Other Regulatory Requirements

Nothing in this Order shall excuse the Respondent from meeting any additional regulatory requirement that may be imposed by other local, state or federal regulatory entities for corrective actions taken by the Respondent to comply with this Order.

Exemption from CEQA

This is an action to enforce the laws and regulations administered by the State Water Board. The State Water Board finds that issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code, sections 21000 et seq.), in accordance with California Code of Regulations, Title 14, section 15321, subdivision (a)(2).

Petition for Reconsideration

No later than 30 days after the date this Order is adopted, the Respondent or any interested person may file a petition with the State Water Board for reconsideration of the Order pursuant to Water Code section 1122 and California Code of Regulations, Title 23, section 768.

STATE WATER RESOURCES CONTROL BOARD

*Roberto Cervantes, Assistant Deputy Director
Division of Water Rights*

Dated: August 5, 2026