

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 Diversions in Violation of the Cannabis Cultivation Policy
and Threatened Diversion and Use of Water Without a License

James Couk, as trustee of the James Clifton Couk Living Trust

APN: 053-480-10-00

SOURCE: Unnamed springs tributary to Rattlesnake Creek

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 James Couk (Respondent) to cease 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 a 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. Division staff allege that the threatened violations identified herein are occurring on Mendocino County Assessor Parcel Number (APN) 053-480-10-00 (the Property). The Property is owned by the Respondent, as trustee for the James Clifton Couk Living Trust. The Respondent purchased a share of the Property, in his individual capacity, on June 21, 1996. On April 8, 2005, Michael Posey purchased a share of the Property, making them each equal co-owners of the Property. The Respondent subsequently transferred his share of the Property to the James Clifton Couk Living Trust, for which he acts as the trustee, on August 6, 2019. On March 11, 2026, Mr. Posey deeded his share of the Property to the Respondent as trustee of the James Clifton Couk Living Trust, making the Respondent, in his capacity as trustee, the full owner of the Property at present.
2. The Property is located within the Rattlesnake Creek Watershed and is part of the Subwatershed Benbow (HUC12 # 111132). Two unnamed springs tributary to Rattlesnake Creek are located on the Property.
3. On June 29, 2026, Division staff reviewed aerial imagery of the Property and made the following observations:
 - a. August 23, 2012, Google Earth Pro aerial imagery shows a graded area with plants having size, color, and spacing indicative of outdoor cannabis cultivation at POU1. POU1 was the only area on the Property at this time that appears to have cannabis cultivation.
 - b. August 5, 2014, Google Earth Pro aerial imagery shows graded areas with plants having size and spacing indicative of outdoor cannabis cultivation at POU1, POU2, and POU3.
 - c. April 21, 2019, Google Earth Pro aerial imagery shows empty pots/sacks with spacing indicative of outdoor cannabis cultivation at POU1, POU2, and POU3. The aerial imagery also shows one greenhouse at POU2 and one at POU3.
 - d. September 3, 2019, Google Earth Pro aerial imagery shows graded areas, greenhouse structures, and plant size, color, and spacing indicative of cannabis cultivation at POU1, POU2, and POU3. In comparison to aerial imagery from April 21, 2019, POU2 doubled in size to two greenhouses. Northwest of POU3, there are plants with size, color, and spacing indicative of outdoor cannabis cultivation.
 - e. July 13, 2020, Google Earth Pro aerial imagery shows outdoor cannabis cultivation and one greenhouse at POU1. At POU2, there is outdoor cannabis cultivation and three greenhouses. At POU3, there is outdoor

cannabis cultivation and one greenhouse. Northwest of POU3, there is outdoor cannabis cultivation.

- f. June 9, 2021, Lightbox Vision aerial imagery shows that the area at POU1 was cleared and graded. At POU2, a large greenhouse appears to have replaced the outdoor cannabis cultivation that was there before; therefore, POU2 had a total of four greenhouses. At POU3, empty pots/sacks with spacing indicative of outdoor cannabis cultivation are visible. Northwest of POU3 is a new greenhouse next to the existing outdoor grow.
 - g. July 18, 2021, Lightbox Vision aerial imagery shows outdoor cannabis cultivation at POU1 again after the area had been cleared and graded.
 - h. July 19, 2022, Lightbox Vision aerial imagery shows outdoor cannabis cultivation at POU1, four greenhouses at POU2, and outdoor cannabis cultivation and one greenhouse at POU3. Northwest of POU3, two greenhouses appear to have replaced the outdoor cannabis cultivation that was there before; therefore, that area had a total of three greenhouses.
 - i. May 19, 2023, Google Earth Pro aerial imagery shows similar cannabis cultivation infrastructure to the aerial imagery from July 19, 2022.
 - j. August 14, 2024, Lightbox Vision aerial imagery shows two greenhouses that appear to have replaced the outdoor cannabis cultivation at POU1. At POU2 there are four greenhouses. At POU3 there is outdoor cannabis cultivation and one greenhouse. Northwest of POU3 has an additional greenhouse, totaling four greenhouses.
- 4. On September 17, 2025, and again on October 6, 2025, Division staff reviewed available State Water Board water rights records in the electronic Water Rights Information Management System (eWRIMS) and found that the Respondent has no water right for cannabis cultivation or domestic use. Staff also reviewed available DCC license records for commercial cannabis cultivation and found no license registered to the Respondent or the Property.
 - 5. On September 23, 2025, Division staff accompanied staff from California Department of Fish and Wildlife (CDFW) and DCC on a search warrant inspection of the Property to assess water diversions and cannabis cultivation activities for compliance with the Water Code and the Cannabis Cultivation Policy. The Respondent and Cecil Couk were present during the inspection.
 - 6. During the inspection, Division staff observed illegal cannabis cultivation activities occurring on the Property. Staff documented approximately 2,890 cannabis plants on the Property, which were eradicated by law enforcement during the

inspection. Staff documented the following regarding how water was diverted and used on the Property:

- a. Point of diversion 1 (POD1) is located on an unnamed spring that flows off the Property. The unnamed spring flows into an unnamed stream and is tributary to Rattlesnake Creek. POD1 diverts water by channelizing it into a polyethylene water supply line and conveying it to off-stream storage at place of storage 5 (POS5). Division staff observed Tank 8 at POS5 spilling water onto the ground, which indicated that POD1 was actively diverting water during the inspection. Water diverted from POD1 was used to irrigate cannabis at places of use 1-3 (POU1-3), and for domestic use at POU4.
 - b. POD2 is an unpermitted groundwater well without a groundwater well completion report filed that appeared to no longer be in use. The well was capped during the inspection and the electrical wire for the pump and water supply line had been cut.
 - c. Division staff also documented a third potential point of diversion (POD3). Staff observed a water conveyance line near POS5 that extended through a culvert at the location staff labeled at POD3 and continued along an unnamed stream. However, staff were unable to trace the water supply line to its endpoint and could not determine its source. When CDFW staff asked the Respondent and Cecil Couk where the water supply line of POD3 leads to, they stated that POD1 was their only source of water.
7. On December 4, 2025, Division staff issued an Inspection Report and Notice of Violation (NOV/IR) to the Respondent. At that time, Division staff were not aware of Mr. Posey's co-ownership of the Property. The NOV/IR informed the Respondent that Division staff observed violations of the Cannabis Cultivation Policy and diversion or use of water for cannabis cultivation without a DCC license and requested that he take corrective action within 30 days of the date of the NOV/IR. Division staff mailed the NOV/IR to the Respondent via United States Postal Service (USPS) certified mail, which was delivered on December 12, 2025.
 8. On January 29, 2026, the Respondent called Division staff in response to receiving the NOV/IR and expressed interest in bringing the spring diversions on the Property into compliance and obtaining the required permits. The Respondent explained that he and Mr. Posey were joint owners of the Property and informally split occupation of the Property along Foster Creek Road, with Mr. Posey generally occupying the majority of the north side and the Respondent generally occupying the majority of the south side of the Property. Based on the

observations made by Division staff, POD 1 and 3, POS 5-6, and POU 3-4 were located on the south side of the Property, while POS 1-4 and POU 1-2 were located on the north side.

- a. The Respondent told Division staff that he is the only user of POD1 even though it is located north of Foster Creek Road. He explained that POD1 is a seasonal spring, which diverts water to storage (POS5) and is for domestic use at POU4. He currently uses a 2,500-gallon tank at POS5 for domestic use and keeps the other tanks full for fire suppression. The Respondent stated that he was only growing 28 plants at the time of the inspection at POU3, and that POD1 and POS5 are not used for cannabis cultivation on Mr. Posey's side of the Property at POU1-2. He also stated that there is no water conveyance line between POS5 and Mr. Posey's storage (POS1-4). The Respondent stated that he previously grew more cannabis in greenhouses on his side of the Property but stopped using the greenhouses in 2024 and only grew outdoor cannabis plants and intends for 2025 to be his last year of cannabis cultivation. The Respondent stated that Mr. Posey moved off of the Property 4-5 years ago and Mr. Posey claims that cannabis cultivation at POU1-2 was by squatters. The Respondent stated he was unaware of cultivation occurring on Mr. Posey's side of the property (POU1-2) and only recently gained access to that side of the Property.
 - b. The Respondent also clarified that the PVC pipe with a 2-inch black poly line, which Division staff noted during the September 23, 2025 inspection, was used years ago to haul water during a drought and has not been used since. The Respondent also informed Division staff that CDFW visited the Property on December 9, 2025. The Respondent told Division staff that during this visit, CDFW staff inspected the Property and the Respondent showed CDFW staff Mr. Posey's spring diversion on the southern side of the Property (POD4).
9. Division staff emailed CDFW staff to obtain more detailed information about CDFW's visit to the Property. CDFW staff stated that on December 9, 2025, CDFW staff visited the Property with the consent of the Respondent to discuss the violations noted during the September 23, 2025 inspection. During this visit, CDFW staff observed an unnamed spring diversion (POD4) and two points of storage (POS7-8) on the southern side of Foster Creek Road, which is the side of the Property occupied by the Respondent. Neither POD4 nor POS7-8 were observed by Division staff on the September 23, 2025 inspection. POD4 was actively diverting water, which was conveyed via polyethylene water supply lines to a cistern next to the springs and to POS7-8. Water diverted from POD4 was

used for cannabis cultivation and domestic use at POU1-2 on the northern side of Foster Creek Road, which was occupied by Mr. Posey during the inspection, but is now solely owned and occupied by the Respondent.

10. CDFW staff received a copy of the Grant Deed for the Property from the Respondent, which confirmed that Mr. Posey was a joint owner of the Property along with the Respondent at that time of the inspection. By email, the Respondent informed CDFW staff that he had contacted Rau and Associates to retain them as his contractor for remediating the violations on the Property, and Mr. Posey also confirmed with CDFW staff that he and the Respondent had retained a consultant. On February 25, 2026, Rau and Associates contacted CDFW staff requesting information to assist the Respondent in understanding the violations and remediation work that the Respondent is responsible for, stating that they would prepare a timeline and cost estimate. To date, Rau and Associates have not contacted Division staff.
11. On June 29, 2026, Division staff made the following observations from aerial images taken after the date of inspection.
 - a. March 18, 2026, Google Earth Pro aerial imagery and April 18, 2026, Lightbox Vision aerial imagery shows POU1 cleaned up, with no visible greenhouse infrastructure and no water storage near it. Only remnants of plastic sheeting remain at POU1.
 - i. At POU2, the three greenhouses (GH3-5) documented during the September 23, 2025, inspection no longer have plastic covers, but their structures are still present. The three greenhouses do not appear to have any plants growing in them.
 - ii. At POU3, the outdoor cannabis cultivation does not appear to be active; however, water storage at POS5 that was used for cannabis cultivation and domestic use still remains.

APPLICABLE LAW AND ALLEGATIONS

12. The State Water Board is 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 there is 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.

13. 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 and CDFW staff documented water diversion and use for cannabis cultivation on the Property during the inspection and verified that the Respondent had not obtained a cannabis license from DCC as required. Based on staff's review of aerial imagery and statements made by the Respondent and Mr. Posey, they appear to have cultivated on the Property from 2012-2025, indicating a general pattern of unauthorized cannabis cultivation. Although the cannabis plants were eradicated by law enforcement during the inspection, and the Respondent has stated that he no longer intends to cultivate, the Property remains equipped for cannabis cultivation such that the Respondent could re-establish such activities at any time. Cannabis cultivation infrastructure, including greenhouses, and water storage remain on the Property. The Respondent told Division staff that he diverted water for domestic use and fire suppression on the Property in January 2026. Given the presence of cannabis infrastructure and history of unauthorized cultivation, there is a threat that water from POD1 and POD4 will also be used to irrigate cannabis, without the required DCC license.
14. 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 September 23, 2025 inspection, Division staff documented a diversion not in compliance with limitations and requirements established in the Cannabis Cultivation Policy. The Cannabis Cultivation Policy, Attachment A, Section 2, Term 66, requires that all surface water diversions for cannabis cultivation comply with the surface water Numeric and Narrative Instream Flow Requirements found in the Cannabis Cultivation Policy. Numeric and Narrative Instream Flow Requirements No. 3 provides that the surface water instream flow requirements apply to anyone diverting water for cannabis cultivation from a waterbody, which is defined as "significant accumulation of water, such as: lakes,

ponds, rivers, streams, creeks, springs¹, artesian wells, wetlands, and canals.” Division staff observed POD1 diverting from an unnamed spring for cannabis irrigation during the inspection. Numeric and Narrative Instream Flow Requirements No. 4 prohibits surface water diversions for cannabis cultivation activities between April 1 through October 31 of each calendar year, which encompasses the date on which staff inspected the Property and observed surface water diversions for cannabis cultivation. As noted in relation to the threatened diversion or use of water for cannabis cultivation without a DCC license, the historical use of the Property for cultivation by the Respondent and the current conditions and features of the Property establish a threat of future cultivation activities. Because the springs conveying water to relatively small storage capacity were the only source of water for irrigation observed on the Property, diversions during the surface water dry season forbearance period would likely be necessary to support any future cultivation activities. Therefore, there remains a threat of diversion not in compliance with Cannabis Cultivation Policy, Attachment A, Term 66.

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

1. Ensure that no water diversion or use for cannabis cultivation occurs on the Property without first obtaining a DCC license.
2. Ensure that any future diversions for cannabis cultivation on the Property comply with Term 66 of the Cannabis Cultivation Policy.

Consequences of Non-Compliance

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

¹ The definition of waterbody in the Numeric and Narrative Instream Flow Requirement No. 3 includes a footnote for springs. The footnote states, “A spring is an area where there is concentrated discharge of groundwater that flows at the ground surface. A spring may flow any part of the year. For the purpose of this Policy, a spring does not have a defined bed and banks. Surface water instream flow Requirements apply to both natural springs and springs that are modified to improve production such as, installing piping and spring boxes/wells.”

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 \$3,000² during a non-drought year.~~[(b)]~~ 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, including but not limited to, the authority to bring enforcement against the Respondent for any underlying alleged violations, including 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 section 15321(a)(2), Title 14, of the California Code of Regulations.

Petition for Reconsideration

² Pursuant to California Code of Regulations, Title 23, section 1100, subdivisions (b)(4-5), the potential liability amounts under Water Code section 1845, subdivisions (b)(1)(A-B), have been updated in response to Assembly Bill 460, which mandates annual inflation-based adjustments to water right civil penalties starting January 1, 2026.

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

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

Dated: September 16, 2026