

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

JUANA JIMENEZ

APN: **173-020-03-00, 171-240-04-00, 173-020-02-00, 171-260-07-00, 173-090-02-00, & 173-100-03-00**

SOURCE: **Unnamed Springs and Streams Tributary to 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 Juana Jimenez (the Respondent) to cease a threatened violation of 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. Division staff allege that the threatened violations identified herein are occurring on Mendocino County Assessor Parcel Numbers (APNs) 173-020-03-00, 171-240-04-00, 173-020-02-00, 171-260-07-00, 173-090-02-00, and 173-100-03-00 (the Property). The Respondent purchased the Property on July 6, 2018, and remains the owner of record.
2. The Property is located within the Soda Creek - Eel River Watershed. Unnamed springs and streams flow through the Property that are tributary to the Eel River. The Mainstem Eel River is designated a state Wild and Scenic River from 100 yards below the Van Arsdale Dam to the Pacific Ocean. As such, the State Water Board is limited in accepting applications to appropriate water pursuant to California Code of Regulations, Title 23, section 734, and Public Resources Code section 5039.50 et seq.
3. Division staff first inspected the Property on August 31, 2021. During this inspection, staff documented 2,516 cannabis plants were being grown on the Property, and 2,150.8 pounds of process product. Staff observed one groundwater well and multiple surface water diversions that appeared to be dry at the time, including an onstream reservoir.
4. On September 30, 2021, staff mailed the Respondent a notice of inspection of the Property stating that, based on the inspection observations, staff identified groundwater as the source of water used for cannabis irrigation at the time of the inspection. Based on the inactive surface water diversions that staff observed during the inspection, the letter provided the Respondent notice that if water subject to the State Water Board's permitting authority were to be diverted without a valid water right on file with the State Water Board or there are violations of the Cannabis Cultivation Policy, the Respondent may incur administrative civil liability. The report provided instructions to the Respondent for filing for water rights and enrolling in the State Water Board's *General Waste Discharge Requirements and Waiver of Waste Discharge Requirements for Discharges of Waste Associated with Cannabis Cultivation Activities* (Cannabis General Order).
5. Following receipt of the notice, the Respondent's son, Jesus Jimenez, contacted Division staff on October 7, 2021, and stated that the cultivation was run by tenants of the Property. He stated his intent to go to the Property and take photos showing that cultivation had ceased. Division staff received no further communication from him until after the Property was re-inspected in 2025.

6. In July of 2025, staff were contacted by the California Department of Fish and Wildlife (CDFW) regarding a potential search warrant inspection of the Property.
7. Aerial imagery of the Property shows consistent annual cultivation occurring from 2019 through 2025. The following observations detail the expansion of cultivation infrastructure and water storage:
 - a. Aerial imagery from 2019 shows three greenhouses and seven outdoor cultivation locations in use.
 - b. Aerial imagery from 2020 is only available for February, during early-season activity. This imagery shows the same three greenhouses identified in 2019, which appear covered with opaque plastic.
 - c. Aerial imagery from 2021 indicates a significant expansion of cultivation infrastructure:
 - i. Imagery dated June 2, 2021 shows one large greenhouse, four small greenhouses, and an outdoor grow area. An on-stream reservoir, later identified as point of diversion 2/point of storage 2 (POD2/POS2), is visible and appears nearly empty.
 - ii. Aerial imagery dated August 22, 2021 shows the infrastructure increased to fifteen greenhouses across eight cultivation sites, along with three outdoor cultivation sites.
 - iii. Aerial imagery dated September 26, 2021 shows one small greenhouse near the primary residence that is covered, while others appear uncovered. This imagery is dated less than a month after staff's August 31, 2021 inspection. The covered greenhouse suggests a potential restart of cultivation activities.
 - d. Aerial imagery from 2022 shows thirteen covered greenhouses and one outdoor cultivation site.
 - e. Aerial imagery from 2023 shows the thirteen greenhouses remain visible. Additionally, activity increased to five outdoor cultivation sites.
 - f. Aerial imagery dated September 28, 2024 shows at least five of the thirteen greenhouses appear to be in use. A sixth greenhouse shows signs of being covered, though the imagery resolution makes a definitive determination difficult.
 - g. Aerial imagery dated May 24, 2025 shows nine of the thirteen greenhouses covered, indicating they are in use, along with two outdoor cultivation sites. The on-stream reservoir (POD2/POS2) is visible and storing water.

the inspection. Staff observed three water conveyance lines originating in or near the reservoir, one of which extended to POS3, which was connected to convey water to POU2 for cannabis irrigation; and another that appeared to run in the direction of POU4, but staff were unable to follow this water line during the inspection.

- c. POD 3-6 were points of diversion located on several unnamed springs and streams that are tributary to the Eel River. Each of these diversions were located on the Respondent's Property, with the exception of POD5, which appeared to be located on Mendocino County APN 173-070-02-00, not owned by the Respondent. POD 3-6 were actively diverting water during the inspection and were connected to convey water for cannabis irrigation.
10. On August 22, 2025, Division staff issued an Inspection Report and Notice of Violation (NOV/IR). The NOV/IR informed the Respondent, in part, that Division staff observed unauthorized diversion and use of waters of the state, violation of Cannabis Cultivation Policy Term 66, and diversion and use of water for cannabis cultivation without a DCC license. The NOV/IR requested that the Respondent take corrective action within 30 days of the date of the NOV/IR. Division staff mailed the NOV/IR to the Respondent's address via United States Postal Service (USPS) certified mail, which was delivered on August 25, 2025.
 11. Following receipt of the NOV/IR, the Respondent gave the NOV/IR to her son, Jesus, who contacted Division staff as the representative on several occasions regarding the corrective actions needed to resolve the alleged violations.
 - a. On September 2, 2025, Jesus called Division staff and again claimed that the cultivation was done by tenants on the Property. Jesus expressed his intent to remove conveyance pipes from PODs to off-stream storage and look into registering the reservoir (POD2/POS2). Although he stated they would remove the surface water PODs, he stated that they might subsequently identify which ones that they want to keep for domestic use at the residence. Jesus mentioned that he would contact the County Code Enforcement to see if they can keep the residence or whether they will be required to remove it.
 - b. On September 10, 2025, Jesus called staff to tell them that he was planning to work on the Property the next day and had recently picked up deconstruction permits from the Mendocino County Building Division.
 - c. On October 1, 2025, Jesus told staff that, because he did not think the Property could be licensed for cannabis cultivation, he planned to apply for a Small Domestic Use Registration (SDUR) rather than a Small Irrigation Use Registration (SIUR). He stated that he planned to file for the SDUR when he had available funds the following weekend. He also told staff that

he worked on removing some diversions and cleaned up trash related to cultivation.

- d. On October 9, 2025, Jesus emailed photos confirming that he had removed or disconnected POD 3-6. He also called staff to discuss POD2/POS2, including the benefits of keeping the reservoir or, alternatively, the ways to remove the reservoir. With regard to keeping the reservoir, Jesus identified the current and/or future benefits as fire protection, wildlife enhancement, and possible recreational/aesthetic uses. For potential removal of the reservoir, staff told Jesus that would require consultation with the Regional Water Quality Control Board (Regional Water Board) and CDFW. Jesus said that he would begin filling out the Initial Statement of Diversion and Use (Statement) required for the reservoir and call the next day if he had questions.
- e. On October 28, 2025, Jesus called staff to let them know that he had not finished the Statement or SDUR form. He mentioned that he had been in contact with Regional Water Board staff, CDFW staff, the Rural Resilience Project, and had completed all paperwork required by the County, but did not have decommissioning permits for removing the greenhouses. Jesus told staff that he would call back on October 30th for assistance in completing the Statement paperwork, if needed, which would help him complete the SDUR. Jesus did not contact Division staff for additional help, and staff emailed Jesus on October 30, 2025 to acknowledge that they were not contacted and that filings were still needed for the Initial Statement and SDUR.
- f. On November 19, 2025, Jesus emailed Division staff to say that he was confused about where to submit his Statement online. Staff called the Respondent's son on November 21, 2025, to confirm that he had the correct form for the Statement and to assist him in filling it out. Staff emphasized the need for him to complete the SDUR application to avoid the Division issuing a CDO for non-compliance.
- g. On January 19, 2026, Jesus emailed Division staff to say that he was going to send payment for the SDUR in the next two days and would send staff the confirmation. Staff did not receive confirmation of payment for the SDUR.
- h. On January 30, 2026, Jesus participated in a conference call with staff from the Division, Regional Water Board, and CDFW. He stated that he had hired a consultant, Clifton Environmental, and was currently waiting to remove the greenhouses. He also said that his family is now planning to sell the Property once the cleanup is complete.

- i. As of the date of this Order, the Respondent has not submitted an Initial Statement or an application for an appropriative right that would authorize the diversion to seasonal storage or use of water in POD2/POS2. Additionally, based on information available to Division staff, the residence and greenhouses remain on the Property. Aerial imagery from January 24, 2026 shows greenhouses located next to POD2/POS2 still covered on the Property.

APPLICABLE LAW AND ALLEGATIONS

12. 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.

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.”

13. 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.)

14. Pursuant to Water Code section 1052, 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; *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, 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 ("to hold that storage which results on occasions when the bed of the river is dry during the daytime and prevents lower riparian owners of any use of the waters during the nighttime and on Sundays and holidays 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").)

15. The Respondent was diverting surface water into an onstream reservoir (POD2/POS2) for seasonal storage, which appeared to have been used to irrigate cannabis plants. At the time of the July 23, 2025 inspection, staff observed POD2/POS2 empty with saturated soil at the bottom of the reservoir, which indicates that it was recently storing water. In aerial imagery dated May 24, 2025, POD2/POS2 is visible and appears to be storing water. Based on the water conveyance lines that staff observed during the July 23, 2025 inspection, POD2/POS2 was likely emptied, at least in part, from supplying water for irrigation of cannabis. The Respondent does not qualify for an appropriative water right exemption under Water Code section 1201, nor does the Respondent have an appropriative water right that would authorize seasonal storage of water in the reservoir for cannabis irrigation, or any other beneficial use. Jesus has indicated that they want to keep the onstream reservoir (POD2/POS2), for recreation, fire protection, wildlife enhancement, and/or aesthetic uses. The greenhouses and residence observed during the inspection currently remain on the Property, for which POD2/POS2 has been used for in the past for the irrigation of cannabis, including which occurred in 2025 as the evidence observed by Division staff during the July 23, 2025 inspection suggested. With the existence of the greenhouses, POD2/POS2 can potentially be used again for cannabis cultivation moving forward. Based on Jesus's October 9, 2025 statements, water seasonally stored at POD2/POS2 is currently being put to beneficial use; therefore, diversion of surface water at POD2/POS2 constitutes a threat of unauthorized diversion or use of water.
16. 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 there is any 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.

17. 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 23, 2025 inspection and verified that the Respondent had not obtained a cannabis license from DCC as required. Based on staff's review of aerial imagery, the Respondent appears to have cultivated on the Property from 2018-2025, indicating a general pattern of unauthorized cannabis cultivation, annually. While the cannabis plants on the Property were eradicated by law enforcement officers during the 2025 inspection, the Property remains primed for cannabis cultivation such that the Respondent could re-establish such activities at any time. Greenhouses are still present on the Property and POD2/POS2 remains a potential source of water for cannabis irrigation. Additionally, the diversion infrastructure that the Respondent removed from POD 3-6 consisted of simple materials that could easily be reconstructed. In fact, the Respondent's son acknowledged that they might subsequently decide to keep some of the surface water diversions. Further, although the Respondent's son indicated that he does not think the Property could get licensed for cultivation, thereby suggesting cultivation could not resume (legally), he had previously told staff that he intended to stop tenants from continuing to cultivate after the 2021 inspection, yet unlicensed cannabis cultivation continued to occur. Therefore, the diversion and use of water for cannabis cultivation on the Property, without a DCC license, remains a threat.
18. 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 23, 2025 inspection, Division staff documented diversions not in compliance with limitations and requirements established in the Cannabis Cultivation Policy. Staff observed surface water diversions for cannabis irrigation during the inspection. 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. 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 and the current conditions and features on the Property establish a threat of future cannabis cultivation activities. Based on the water storage capacity available on the Property, and the surface water diversions that were observed during the July 23, 2025 inspection, it is likely that surface water diversions during the dry season forbearance period would be needed if cannabis cultivation resumes on the Property. 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. Immediately cease and desist any diversion to storage at POD2/POS2 or use of water from POD2/POS2 until the Respondent has obtained an applicable appropriative water right for POD2/POS2.
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 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).

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 \$2,500 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 \$10,000 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 such as 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 section 15321(a)(2), Title 14, of the California Code of Regulations.

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

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

Dated: June 4, 2026