



State Water Resources Control Board
JAN 06 2023

CERTIFIED MAIL

In Reply Refer to:
INV ID: 14712

Tyler Larque

CERTIFIED MAIL NO: 7021 0950 0000 7129 7437

Dear Tyler Larque,

NOTICE OF POTENTIAL UNAUTHORIZED DIVERSION AND FAILURE TO FILE A STATEMENT OF WATER DIVERSION AND USE FOR YOLO COUNTY ASSESSOR PARCEL **NUMBER** 018-330-027-000

The State Water Resources Control Board (State Water Board), Division of Water Rights (Division) identified that you may be diverting surface water for the cultivation of cannabis. The Division is contacting you as part of its investigation to determine whether your diversion is authorized in compliance with the Water Code (WC).

The Division is responsible for the administration of appropriative water rights in California initiated after 1914, commonly referred to as "post-1914 appropriative water rights." In most cases a direct diversion of water requires an appropriative water right issued by the State Water Board.

The purpose of this letter is to gather information in order to determine if the water source(s) you divert water from is subject to the Division's permitting authority and, if so, inform you of your regulatory compliance options.

You are being contacted because you were identified as the responsible party and/or property owner for Yolo County Assessor's Parcel Number (APN) 018-330-027-000 where you are allegedly diverting and using water for cannabis cultivation.

Water Code section 1847 requires cultivators who use surface water for commercial cannabis irrigation to have a valid water right prior to diverting and storing water. Failure to obtain a valid water right or cease diversions within 30 days may lead to an initial monetary liability of \$500 and \$250 each subsequent day until violation is corrected (WC§ 1847).

E. JOAQUIN ESQUIVEL, CHAIR | EILEEN SOBECK, EXECUTIVE DIRECTOR

Cultivators who are diverting under existing water rights which do not comply with a water right's terms and conditions may be subject to violation of Water Code section 1846. Failure to comply with terms and conditions of a water right may lead to an initial monetary liability of \$500 for the first day, and \$250 each subsequent day until a violation is corrected (WC § 1846).

The Cannabis Policy now allows the seasonal storage of water on stream through securing a Cannabis Small Irrigation Use Registration (SIUR). The SIUR is a streamlined option to obtain an appropriative water right (less than 6.6 acre-feet per year) that authorizes water to be diverted and stored to irrigate commercial cannabis cultivation. You can register for a SIUR at the following website below:

<https://public2.waterboards.ca.gov/ego>

You may also submit an appropriative water right application instead of a SIUR. You can find information about the submitting an application for an appropriative water right at the following website:

https://www.waterboards.ca.gov/waterrights/water_issues/programs/applications/

The application for an appropriative water right is available at the following link:

https://www.waterboards.ca.gov/waterrights/publications_forms/forms/docs/app_form.pdf

If you are diverting water subject to the Division's permitting authority without a valid basis of right on file with the Division, you may have an unauthorized diversion or use of water. An unauthorized diversion or use of water constitutes a trespass against the State, and the State Water Board may impose a civil liability in an amount not to exceed \$500 for each day that the unauthorized diversion or use of water occurs **or** \$3,500 for each day in which the unauthorized diversion or use of water for unlicensed cannabis cultivation occurs. (WC§ 1052, et seq.)

In addition, WC section 5101 requires, with minor exceptions, that a person who diverts water from a stream in the absence of a permit, license, or registration must file a Statement with the State Water Board. If you have diverted water since 2009, then you are required to report your diversion and use to the State Water Board by filing a Statement unless that diversion falls within one of the limited exceptions provided for in WC section 5101. If you divert water, then you are required to report your water diversion and use to the State Water Board for October 1 - September 30 prior to February 1 of the succeeding year by filing a Statement pursuant to WC section 5101.

If you have multiple diversion locations (i.e., you directly divert from a stream as well as impound water at a dam), a separate Statement is required for each diversion. If you have any questions about how many diversion points your project covers, please contact the Division at the phone number or email provided below.

The State Water Board may administratively impose a civil liability in the amount of \$1,000 for the failure to file a Statement for each point of diversion that have occurred since 2009, plus \$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 State Water Board has called the violation to the attention of that person. (WC § 5107, subd. (c)(1)). This letter constitutes your notice of the Statement filing requirements and the fact that, as of the date of this letter, the Division has not received Statement(s) for the diversion identified on your property. If your Statement(s) are not received within 30 days from the date of this letter, then you are subject to an additional \$500 per day potential liability for each additional day the violation continues, in accordance with WC section 5107(c)(1).

The State Water Board has discretion when considering enforcement action and shall take into consideration any corrective actions taken in response to this notice in determining whether and what civil liability is appropriate for any violations. Therefore, this matter requires your immediate attention.

Within 30 days from the date of this notice letter, please respond and notify the Division of your intent to continue diverting water for your cannabis cultivation.

A timely and complete response is important, and the corrective actions taken in response to this letter will be taken into consideration.

You may want to consult with an attorney or consultant familiar with water right laws before selecting a corrective action or providing a response. The State Water Board maintains a list of attorneys and consultants on its website at:

http://www.waterboards.ca.gov/waterrights/board_info/contacts.shtml

Additionally, Statement(s) can be filed using the form available at:

http://www.waterboards.ca.gov/waterrights/water_issues/programs/diversion_use/docs/initial_stmt_form.pdf.

Information relating to the filing of a Statement, a discussion of the various types of water rights that exist in California, and the associated procedures for either obtaining a water right or documenting that a water right already exists is available on our website at:

www.waterboards.ca.gov/waterrights/

Information on the Cannabis SIUR and Cannabis Policy is available here:

https://www.waterboards.ca.gov/water_issues/programs/cannabis/cannabis_water_rights.html#siur

Please note that if your diversion is unauthorized or you failed to file a required Statement, the State Water Board can initiate enforcement action at its discretion and without further notice, so timely responses are important.

Your response to the allegations listed in this NOV are required and should be submitted within a timely manner. To facilitate your response, we are providing you with an Investigation Identification Number (Investigation ID No.), which you can use to respond electronically. In the event you prefer to call or email, these alternative means of contacting our staff are also provided. To use your Investigation ID No. follow the steps provided below.

Investigation ID No. 14712

- Step one:** Go to the State Water Board's Cannabis Cultivation Programs Portal at: <https://public2.waterboards.ca.gov/CGO/>
- Step two:** Register or login to your account
- Step three:** Under survey Click "**New**" for the "Division of Water Rights Cannabis Compliance Response Portal"
- Step four:** When you fill out your response to this NOV use the Assessor Parcel Number listed in this NOV in Part I.
- Step five:** Additionally, in your response use the Investigation ID listed above.

Failure to include information may prevent the State Water Board from processing your response and may lead to progressive enforcement.

Need Help? Contact us at 916-341-5362 or email at

dwr.cannabisenforcement@waterboards.ca.gov

If you have any questions regarding this matter, please contact Anthony Southwood at (916) 323--9388 or via email at Anthony.Southwood@waterboards.ca.gov. Written correspondence or inquiries should be addressed as follows: State Water Resources Control Board, Division of Water Rights, Attn: Anthony Southwood, P.O. Box 2000, Sacramento, CA 95812-2000.

Sincerely,

Anthony Southwood

Anthony Southwood
Environmental Scientist
Cannabis Enforcement Unit 2
Division of Water Rights

Enclosures: Attachment A - Map of Yolo County APN 018-330-027-000
Attachment B - Topographic Map of Yolo County APN 018-330-027-000
Attachment C - Evidence of Cultivation

ec: **Division of Water Rights**

Taro Murano

Taro.Murano@waterboards.ca.gov

Stormer Feiler

Stormer.Feiler@waterboards.ca.gov

Anthony Southwood

Anthony.Southwood@waterboards.ca.gov

Philip Dutton

Philip.Dutton@waterboards.ca.gov

Cannabis Registration Unit

DWR.CannabisReg@waterboards.ca.gov

Department of Fish and Wildlife

Kursten Sheridan

Kursten.Sheridan@wildlife.ca.gov

Central Valley Regional Water Quality Control Board

Jason Schroeder

Jason.Schroeder@waterboards.ca.gov

Brett Stevens

Brett.Stevens@waterboards.ca.gov

Kari Holmes

Kari.Holmes@waterboards.ca.gov

Department of Cannabis Control

Jennifer Ostrowski

Jennifer.Ostrowski@cannabis.ca.gov

investigations@cannabis.ca.gov

Tabatha Chavez

Tabatha.Chavez@cannabis.ca.gov

Lindsay Rains
Lindsay.Rains@cannabis.ca.gov

Yolo County Department of Environmental Health
Environmental.Health@yolocounty.org

Yolo County Cannabis Program
cannabis@yolocounty.org

Yolo County Sheriff's Office
yolocountysheriffs@yolocounty.org