



State Water Resources Control Board

January 3, 2024

CERTIFIED MAIL

Javier Soto

CERTIFIED MAIL NO: 7022 1670 0001 3767 4380

NOTICE OF VIOLATION

Investigation ID: 15451

DIVISION OF WATER RIGHTS INSPECTION OF LAKE COUNTY ASSESSOR PARCEL NUMBER (APN) 012-010-690-000

Javier Soto,

On September 27, 2023, staff from the State Water Resources Control Board (State Water Board), Division of Water Rights (Division), in coordination with state and local partner agencies conducted an inspection of the property referenced above (Property). The purpose of the inspection was to observe the diversion and use of water occurring on the Property and to evaluate potential impacts to the watershed.

The purpose of this letter is to gather information, provide you notice regarding the requirements to divert surface waters for cannabis cultivation or other uses. At the time of inspection, Division staff were not able to identify the source of water used on your property. To facilitate a complete assessment of your cultivation and water use, the following information is requested:

- Please provide the location(s) of the water source(s) you use for cannabis irrigation and domestic purposes.
 - Specifically identify the water sources used for cannabis cultivation and domestic purposes by providing the latitude and longitude, or similar coordinates, of each point of diversion.
 - Identify what each water source diversion point source is, for example: surface water, spring, reservoir, groundwater well, municipal water, or hauled water.
 - Additionally, provide location coordinates, and supporting photographic evidence of corrective actions taken and the water sources you identify:

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

1001 | Street, Sacramento, CA 95814 | Mailing Address: P.O. Box 100, Sacramento, CA 95812-0100 | www.waterboards.ca.gov

Based upon the scope of our investigation to date we have identified violations of the Water Code (WC) in the Violations section below on page 3. You may have additional violations depending upon the information you provide in response to the information requested above.

You are identified as the property owner for County Assessor's Parcel Number (APN) 012-010-690-000. The Division is contacting you to provide you notice that you are required to comply with the Cannabis Cultivation Policy (Cannabis Policy) terms and conditions as identified below. The Divisions is also putting you on notice regarding the requirements to operate a surface water diversion if you are currently doing so or should you do so in the future. This letter is your notice that you are in violation of the WC. You must take immediate action to provide the requested information, complete the corrective actions identified or risk civil liability as described below and as may arise based upon your response for the violations described and those violations that you may be subject to depending upon your water source.

WC section 1052:

A diversion of water subject to the State Water Board's permitting authority without a basis of right is 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 or \$1,000 during a critically dry year (drought), and up to \$3500 per day for each day that the unauthorized diversion or use of water occurs when used for cannabis irrigation, plus \$2,500 for each acre-foot of water (drought). (WC § 1052, et seq.)

Water Code section 5101:

Water Code sections 5101 requires each person who diverts water to file with the State Water Board a statement of his or her diversion and use (Statement) according to the following deadlines:

Where the diversion of water takes place after September 30, 2021, the Statement shall include records of diversions during the period from October 1 of each year through September 30, inclusive of the following year. Statements of diversion and use shall be filed before February 1 of the year after the one-year period (Oct. 1 – Sept. 30).

If you begin to divert water from any stream, a Statement must be filed prior to February 1 of the succeeding year. 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 has 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 calls the violation to the attention of that person pursuant to Water Code section 5107(c)(1).

If you have multiple diversion locations (i.e., you divert water from a stream from multiple locations or divert water by use of a dam), a separate Statement is required to

be filed for each diversion location (WC section 5102). If you have any questions about how many diversion points your water infrastructure uses, please contact the Division at the phone number or email provided below.

WC Section 13149: Violations of a Principle, Guideline, or Requirement established in the State Water Board's Cannabis Policy, Attachment A., pursuant to WC section 13149:

WC section 1847, subdivision (a), provides that any person or entity committing a violation of the above referenced requirement may be liable in an amount not to exceed the sum of five hundred dollars (\$500), plus two hundred fifty dollars (\$250) for each additional day on which the violation continues if the person fails to correct the violation within 30 days after the board has called the violation to the attention of that person, plus two thousand five hundred dollars (\$2,500) for each acre-foot of water diverted or used in violation of the applicable requirement.

1. Cannabis Cultivation Policy, Section 2, Term 92 - Water Storage Facility Without Device to Prevent Water Overflow.

Violation Description:

At the time of the September 27, 2023, inspection, Division staff POS2 and POS3 without a float valve or similar device installed to prevent the overflow and waste of water. The failure to have float valves or similar device installed at these POS constitutes two violations of Term 92 of Section 2 of the Cannabis Policy.

Corrective Action:

You should immediately take either corrective actions 1 or 2 to comply with the Cannabis Policy's storage overflow requirements for, but not limited to POS2 and POS3:

- 1) You must install float valves or other equivalent device to shut off a diversion when the storage system is full, OR
- 2) You must cease diverting water to POS2 and POS3 for cannabis cultivation.

You must also submit photographic proof and/or other documentation that supports your corrective actions taken whether you choose compliance option 1 or 2. You can submit your documents through the State Water Board's Cannabis Compliance Response Portal referenced at the end of this report.

2. Cannabis Cultivation Policy, Section 2, Term 93 - Failure to Secure Tank Openings to Prevent Entry and Entrapment of Wildlife.

Violation Description:

During the September 27, 2023, inspection, Division staff observed storage tanks in use at the Property located at POS1 (Tank 1 and Tank 2), POS2 (Tank 3) without tank lids installed to prevent wildlife entrapment. The failure to ensure coverage of

the water storage tanks to prevent wildlife entrapment at 4 tanks constitutes three violations of Term 93 of Section 2 of the Cannabis Policy.

Corrective Action:

As of the date of this Inspection Notice this alleged violation continues to be ongoing. You should immediately take corrective actions listed below:

- 1) You must install and maintain tank covers on all your water tanks. OR
- 2) You must cease diverting water to POS1 (Tank 1 and Tank 2), POS2 (Tank 3) for cannabis cultivation, and maintain your tank closed to the environment which includes maintaining the top cover of your tanks if they will no longer be in use.

You must also submit photographic proof and/or other documentation that supports your corrective actions taken whether you choose compliance option 1 or 2. You can submit your documents through the State Water Board's Cannabis Compliance Response Portal referenced at the end of this report.

3. Cannabis Cultivation Policy Section 2, Term 98 – Failure to Maintain Daily Records of Water Use for Cannabis Irrigation.

Violation Description:

POU1 is a documented a cannabis cultivation area. At the time of inspection, Division staff did not observe any cannabis irrigation records nor any water measuring devices at the POU. This is your notice that the State Water Board is requesting your daily records of water use for cannabis irrigation. The failure to measure water use for cannabis irrigation and make cannabis irrigation records available constitutes one violations of Term 98 of Section 2 the Cannabis Policy.

Corrective Action:

As of the date of this inspection report, this alleged violation continues to be ongoing. You should within 30 days from the date of this report take either corrective actions 1 or 2 to comply with the Cannabis Policy's cannabis irrigation record requirements for POU1 to quantify all water use on the Property:

- 1) You must send the Division all records required to support that you are in compliance with Term 98, OR
- 2) You must cease your water diversions for cannabis cultivation.

You must also submit photographic proof and/or other documentation that supports your corrective actions taken whether you choose compliance option 1 or 2. You can submit your documents through the State Water Board's Cannabis Compliance

To facilitate your response, we are providing you with an Investigation Identification Number (Investigation ID No. listed below), which you can use to respond electronically.

You can also contact Division staff by phone or by email provided at the bottom of this notice letter. To use your Investigation ID No. and follow the steps provided below.

Investigation ID No. 15451

- 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.

You can submit an appropriate water right SIUR application at: <https://public2.waterboards.ca.gov/cgo> Need Help? Contact us at 916-341-5362 or email at dwr.cannabisenforcement@waterboards.ca.gov

If you would like to file an application to appropriate water by permit you can find information and file your application at the weblink listed at:

Application: <https://public2.waterboards.ca.gov/mt/Home/Index>

Appropriate water by permit information:

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

Information relating to the filing of a Statement can be found at:

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

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

If you have any questions regarding this matter, please contact (916) 341-5391, or by email at christopher.vandewyngard@waterboards.ca.gov. Written correspondence or inquiries should be addressed as follows: State Water Resources Control Board, Division of Water Rights, Attn: Christopher Van de Wyngard, P.O. Box 2000, Sacramento, CA 95812-2000.

This letter constitutes your notice of the WC violations described above. Your response to the allegations listed in this notice is required and should be submitted in a timely manner. The State Water Board has discretion when considering an enforcement action and will consider your corrective actions taken in response to this notice in determining whether and what civil liability is appropriate for violations. Therefore, this matter requires your immediate attention.

Sincerely,

ORIGINAL SIGNED BY:

Christopher Van de Wyngard
Water Resource Control Engineer
Cannabis Enforcement Unit
Division of Water Rights

ec: **Division of Water Rights - Enforcement**

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