

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL COAST REGION**

**Draft Cleanup and Abatement Order No. R3-2022-0028  
for  
Christian Duarte  
Leodegario Maya Nova, Gladis Maya, and Daniel Maya Noba**

**Assessor's Parcel Number 131-200-034  
Santa Barbara County**

This order is issued to Christian Duarte, Leodegario Maya Nova, Gladis Maya, and Daniel Maya Noba (hereafter collectively referred to as Dischargers) pursuant to Water Code section 13304, which authorizes the Central Coast Regional Water Quality Control Board (Central Coast Water Board) to issue cleanup and abatement orders, and Water Code section 13267, which authorizes the Central Coast Water Board to require the preparation and submittal of technical and monitoring reports.

### **Findings**

The Executive Officer, acting under authority delegated by the Central Coast Water Board, finds, with respect to the Dischargers' acts, or failure to act, the following:

1. **Location and Site Conditions:** The site consists of one parcel totaling 53.78 acres located at 1401 Tepusqueouet Road, Santa Maria, Santa Barbara County, Assessor's Parcel Number (APN) 131-200-034 (hereafter referred to as the Property). An unnamed intermittent stream and an unnamed ephemeral stream that are tributaries of the Cuyama River intersect the Property. The two unnamed streams are waters of the state.<sup>1</sup> The Dischargers have caused or allowed the discharge and threatened discharge of waste to receiving waters through the use of the Property for cannabis cultivation and associated activities without adequate best management practices or measures to ensure water quality protection. Central Coast Water Board staff observed these threats to receiving waters during an April 30, 2021 site inspection and described and documented them in a June 11, 2021 notice of violation and Water Code section 13267 order (Attachment 1) and inspection report (Attachment 2).

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<sup>1</sup> The Central Coast Water Board administers and enforces the federal Clean Water Act (CWA). The CWA regulates "navigable waters" and defines those waters as "waters of the United States." Waters of the United States include all traditionally navigable waters and their tributaries. (Code of Federal Regulations (C.F.R.) title 40 §§ 120.2, 122.2). The Porter-Cologne Water Quality Control Act (Porter-Cologne Act) provides the Central Coast Water Board additional authority to regulate discharges of waste into "waters of the state." (Water Code § 13260.) The term "waters of the state" is defined as "any surface water or groundwater, including saline waters, within the boundaries of the state." (Water Code § 13050 subd. (e)) All waters of the United States that are within the borders of California are also waters of the state for purposes of the Porter-Cologne Act.

2. **Purpose of this Cleanup and Abatement Order:** This order requires the Dischargers to clean up and abate the effects of discharges of cannabis cultivation waste and unstabilized soil to the unnamed ephemeral and intermittent streams and to eliminate the threat of future discharges. Investigation and cleanup actions required under this order must be conducted to comply with the Porter-Cologne Water Quality Control Act (Water Code § 13000 et seq.); the *Water Quality Control Plan for the Central Coastal Basin* (Basin Plan);<sup>2</sup> the Cannabis Cultivation Policy;<sup>3</sup> State Water Resources Control Board (State Water Board) Resolution No. 92-49, *Policies and Procedures for Investigation and Cleanup and Abatement of Discharges under Water Code Section 13304* (Resolution No. 92-49); and other applicable State Water Board and Central Coast Water Board plans, policies, and regulations.
3. **Responsible Parties:** The Dischargers, as owners of the Property or operators of cannabis cultivation and the persons or entities responsible for causing the discharges of waste or creating the threats of discharge and with the legal ability to control the activities on the Property that resulted in the discharges and/or threats of discharge, are responsible parties for purposes of this order. Christian Duarte, Leodegario Maya Nova, Gladis Maya, and Daniel Maya Noba are the responsible parties and are jointly and severally liable for the following reasons:
  - a. Information available from Santa Barbara County accessed by Central Coast Water Board staff via Digital Map Products Land Vision confirms that ownership of Santa Barbara County APN 131-200-034 was transferred to Leodegario Maya Nova, Gladis Maya, and Daniel Maya Noba (Nova, Maya, and Noba) on May 22, 2015, and to Christian Duarte on May 5, 2021. Information obtained from the Dischargers indicates that Christian Duarte leased the property from Nova, Maya, and Noba beginning on December 1, 2020, prior to obtaining title from Nova, Maya, and Noba.
  - b. The Central Coast Water Board reserves the right to amend this order to add additional responsible parties when or if those parties are identified.

#### 4. **Property History:**

On April 30, 2021, Central Coast Water Board staff cooperated with staff from the California Department of Fish and Wildlife (CDFW), Santa Barbara County Sheriff's Office, California Department of Food and Agriculture CalCannabis<sup>4</sup>, and County of Santa Barbara Planning and Development to inspect the property. Inspection objectives for Central Coast Water Board staff included observing site

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<sup>2</sup> The Basin Plan can be found online at

[https://www.waterboards.ca.gov/centralcoast/publications\\_forms/publications/basin\\_plan/](https://www.waterboards.ca.gov/centralcoast/publications_forms/publications/basin_plan/)

<sup>3</sup> The State Water Board Cannabis Cultivation Policy can be found online at

[https://www.waterboards.ca.gov/centralcoast/water\\_issues/programs/cannabis\\_cultivation/](https://www.waterboards.ca.gov/centralcoast/water_issues/programs/cannabis_cultivation/)

<sup>4</sup> The California Department of Food and Agriculture's CalCannabis functions have since been transferred to the Department of Cannabis Control.

development activities and identifying and assessing features or conditions that are causing or may cause adverse impacts to the quality and beneficial uses of the waters of the state. Central Coast Water Board staff transmitted the inspection report (Attachment 2) to the Dischargers along with a notice of violation and Water Code section 13267 order (Attachment 1) on June 11, 2021. Dischargers Nova, Maya, and Noba petitioned the State Water Board to review the notice of violation and Water Code section 13267 order on July 9, 2021. The State Water Board has placed that petition into abeyance per those Dischargers' request.

5. **Factual Basis of Order:** The Dischargers' activities and/or the conditions observed at the Property, as documented in the Central Coast Water Board notice of violation and inspection report and as detailed below, have caused or permitted and threaten to cause or permit waste to be discharged or deposited where it is, or probably will be, discharged into unnamed tributaries to the Cuyama River and created and threaten to create a condition of pollution by unreasonably impacting water quality and beneficial uses.
  - a. **Receiving Waters:** An unnamed intermittent stream and an unnamed ephemeral stream are located on the Property that are tributaries to the Cuyama River (upstream of Twitchell Reservoir). The Cuyama River is tributary to the Santa Maria River. The United States Fish and Wildlife Service (USFWS) identified the Santa Maria River as critical habitat for *Oncorhynchus mykiss* (steelhead trout), a federally threatened species. The Cuyama River upstream of Twitchell Reservoir is Clean Water Act 303(d) listed as impaired due to boron, chloride, conductivity, fecal coliform, sodium, and pH. The Santa Maria River is Clean Water Act 303(d) listed as impaired due to chloride, chlorpyrifos, DDT, dieldrin, endrin, *E. coli*, fecal coliform, nitrate, sediment toxicity, sodium, toxaphene, turbidity, and unknown toxicity. The US Environmental Protection Agency approved a total maximum daily load (TMDL) for fecal indicator bacteria in the Santa Maria River watershed on April 24, 2013, and a TMDL for toxicity and pesticides in the Santa Maria River watershed on August 31, 2015.
  - b. **Observations:** On April 30, 2021, Central Coast Water Board staff inspected the subject Property. During this inspection, Central Coast Water Board staff observed cannabis cultivation, land disturbance, cannabis green waste, and exposed soil piles within 100 feet of the bankfull point of an unnamed intermittent stream and within 50 feet of the bankfull point of an unnamed ephemeral stream. These distances are defined by the Cannabis Cultivation Policy as riparian setbacks, which are established to protect water quality.<sup>5</sup> Land disturbance observed within the

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<sup>5</sup> Attachment A, Section 1, Requirement 37 of the Cannabis Cultivation Policy states in part that "cannabis cultivators shall comply with the minimum riparian setbacks...for all land disturbance, cannabis cultivation activities, and facilities...The riparian setbacks shall be measured from the waterbody's bankfull stage

riparian setbacks included steep, bare cut slopes that were showing signs of active erosion. Outside of the riparian setbacks, staff also observed improperly constructed access roads; fertilizers, pesticides, and petroleum products stored outdoors without secondary containment; trash and debris littered on the ground; and domestic sewage piped to a caged Intermediate Bulk Container (IBC) tote located in a hole in the ground. The attached notice of violation and inspection report further document and discuss the water quality violations that Central Coast Water Board staff observed on the Property.

6. **Beneficial Uses, Basin Plan Prohibitions, and Water Quality Objectives:** The Basin Plan designates beneficial uses, establishes water quality objectives, contains implementation programs for achieving objectives, and incorporates by reference plans and policies adopted by the State Water Board.

- a. **Beneficial Uses:** Existing and potential beneficial uses of the Cuyama River upstream of Twitchell Reservoir include the following: Municipal and Domestic Supply (MUN), Agricultural Supply (AGR), Industrial Process Supply (PROC), Industrial Service Supply (IND), Groundwater Recharge (GWR), Water Contact Recreation (REC-1), Non-contact Water Recreation (REC-2), Wildlife Habitat (WILD), Warm Freshwater Habitat (WARM), Cold Freshwater Habitat (COLD), Spawning, Reproduction, and/or Early Development (SPWN), Rare, Threatened, or Endangered Species (RARE), Fresh Water Replenishment (FRSH), and Commercial and Sport fishing (COMM). Beneficial uses of any specifically identified waterbody generally apply to all of its tributaries.
- b. **Basin Plan Prohibitions:** The Basin Plan contains specific standards and provisions that provide protection to the beneficial uses listed above. The Land Disturbance Prohibition found in Chapter 4.8.5.1 of the Basin Plan (Page 90 of the June 2019 adoption) states:

*The discharge or threatened discharge of soil, silt, bark, slash, sawdust, or other organic and earthen materials into any stream in the basin in violation of best management practices for timber harvesting, construction, and other soil disturbance activities and in quantities deleterious to fish, wildlife, and other beneficial uses is prohibited.*

*The placing or disposal of soil, silt, bark, slash, sawdust, or other organic and earthen materials from timber harvesting, construction, and other soil disturbance activities at locations above the anticipated high water line of any stream in the basin where they may be washed into said waters by rainfall or runoff in quantities deleterious to fish, wildlife, and other*

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(high flow water levels that occur every 1.5 to 2 years) or from the top edge of the waterbody bank in incised channels, whichever is more conservative.”

*beneficial uses is prohibited.*

- c. **Basin Plan Objectives:** Section 3 of the Basin Plan contains water quality objectives not to be exceeded as a result of waste discharges. The water quality objectives that are considered of particular importance in protecting the beneficial uses from unreasonable effects due to waste discharges from land development activities include the following:
- i. Suspended Material: “Waters shall not contain suspended material in concentrations that cause nuisance or adversely affect beneficial uses.”
  - ii. Settleable Material: “Waters shall not contain substances in concentrations that result in deposition of material that causes nuisance or adversely affect beneficial uses.”
  - iii. Sediment: “The suspended sediment load and suspended sediment discharge rate of surface waters shall not be altered in such a manner as to cause nuisance or adversely affect beneficial uses.”
  - iv. Turbidity: “Waters shall be free of changes in turbidity that cause nuisance or adversely affect beneficial uses. Increase in turbidity attributable to controllable water quality factors shall not exceed the following limits:
    1. Where natural turbidity is between 0 and 50 Nephelometric Turbidity Units (NTU), increases shall not exceed 20 percent.
    2. Where natural turbidity is between 50 and 100 NTU, increases shall not exceed 10 NTU.
    3. Where natural turbidity is greater than 100 NTU, increases shall not exceed 10 percent.Allowable zones of dilution within which higher concentrations will be tolerated will be defined for each discharge in discharge permits.”
7. **State Water Board Resolutions:** State Water Board Resolution No. 92-49, sets forth the policies and procedures to be used during an investigation and cleanup of a polluted site and requires that cleanup levels be consistent with State Water Board Resolution No. 68-16, *Statement of Policy with Respect to Maintaining High Quality Waters in California* (Resolution No. 68-16). Resolution No. 92-49 requires the waste to be cleaned up in a manner that promotes attainment of either background water quality or the best water quality that is reasonable if background levels of water quality cannot be restored. Any cleanup level alternative to background must: (1) be consistent with the maximum benefit to the people of the state; (2) not unreasonably affect present and anticipated beneficial use of such water; and (3) not result in water quality less than that prescribed in the Basin Plan and applicable water quality control plans and

policies of the State Water Board. Resolution No. 92-49 directs that investigations and cleanup and abatement proceed in a progressive sequence. To the extent practical, it directs the Central Coast Water Board to require and review for adequacy written work plans for each element and phase and written reports that describe the results of each phase of the investigation and cleanup.

8. **Failure to Obtain Necessary Permits:** Central Coast Water Board staff has reviewed available records and determined that cannabis cultivation, grading, clearing, road construction, and dredge and/or fill within waters of the state have occurred at the Property, and the Central Coast Water Board has not identified any evidence that permit coverage under the Cannabis General Order<sup>6</sup> or Water Code section 13263 has been obtained from the Central Coast Water Board or State Water Board. The Central Coast Water Board has not received a report of waste discharge from the Dischargers to obtain coverage under waste discharge requirements as required by the Cannabis Cultivation Policy.
9. **Legal Authority to Require Cleanup or Abatement:** Water Code section 13304, subdivision (a) states, in relevant part:

*A person who has discharged or discharges waste into waters of this state in violation of any waste discharge requirements or other order or prohibition issued by a regional board or the state board, or who has caused or permitted, causes or permits, or threatens to cause or permit any waste to be discharged or deposited where it is, or probably will be, discharged into the waters of the state and causes, or threatens to create, a condition of pollution or nuisance, shall upon order of the regional board clean up the waste or abate the effects of the waste, or, in the case of threatened pollution or nuisance, take other necessary remedial action, including, but not limited to, overseeing cleanup and abatement efforts.... Upon failure of any person to comply with the cleanup or abatement order, the Attorney General, at the request of the board, shall petition the superior court for that county for the issuance of an injunction requiring the person to comply with the order. In the suit, the court shall have jurisdiction to grant a prohibitory or mandatory injunction, either preliminary or permanent, as the facts may warrant.*

- a. **Waste:** Water Code section 13050, subdivision (d), defines “waste” as sewage and any and all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing, or processing operation, including waste placed within containers of whatever nature prior to, and for purposes of, disposal.

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<sup>6</sup> State Water Board Order WQ 2019-0001-DWQ, *General Waste Discharge Requirements and Waiver of Waste Discharge Requirements for Discharges of Waste Associated with Cannabis Cultivation Activities* (Cannabis General Order) can be found online: [https://www.waterboards.ca.gov/centralcoast/water\\_issues/programs/cannabis\\_cultivation/index.html](https://www.waterboards.ca.gov/centralcoast/water_issues/programs/cannabis_cultivation/index.html)

- i. **Sediment:** Both sediment and added nutrients, when discharged to waters of the state, are “wastes” as defined in Water Code section 13050. By placing piles of loose soils and engaging in land disturbing activities within the 100 foot riparian setback of an intermittent stream and the 50 foot riparian setback of an ephemeral stream, the Dischargers caused or permitted waste to be discharged or deposited where it is, will be, or has the potential to be, discharged to the unnamed streams, tributaries of the Cuyama River, which are considered waters of the state.
  - ii. **Fertilizers, pesticides, and petroleum products:** fertilizers, pesticides, and petroleum products, when discharged to waters of the state, are “wastes” as defined in Water Code section 13050. By improperly storing these products outdoors, without protection from weather or wildlife, and without appropriate secondary containment structures to protect water quality, the Dischargers caused or permitted waste to be discharged or deposited where it is, will be, or has the potential to be, discharged to the unnamed tributaries of the Cuyama River.
  - iii. **Trash:** trash and debris associated with cannabis cultivation activities are “wastes” as defined in Water Code section 13050. Trash and debris were observed on the Property, stored improperly and littered on the ground where they had the potential to be discharged to the unnamed tributaries of the Cuyama River.
  - iv. **Domestic Sewage:** domestic sewage is “waste” as defined in Water Code section 13050.
- b. **Pollution:** Water Code section 13050, subdivision (l)(1), defines “pollution” as an alteration of the quality of the waters of the state by waste to a degree which unreasonably affects either waters of the state for beneficial use or facilities which serve these beneficial uses.
- i. Sediment, imported potting soils, and other wastes from cannabis cultivation were discharged and threaten to be discharged into unnamed tributaries of the Cuyama River, creating or threatening to create a condition of pollution subject to this order in accordance with Water Code section 13304.
  - ii. Discharges of sediment and other inert material alter the hydrologic and sediment transport regimes of surface waters. Such changes may lead to adverse conditions such as flooding, increases in suspended sediment and turbidity, accelerated erosion of the watercourse bed or banks, and localized accumulation of deleterious materials. Additionally, such discharges directly threaten wildlife habitat and aquatic species (beneficial uses impacted: COLD, WARM, SPWN, WILD, RARE). Increased sedimentation and turbidity can result in increased treatment and/or maintenance costs for downstream municipal users that withdraw and treat the water (beneficial use impacted: MUN). Sediment-

laden stormwater discharges to surface water and the resulting turbidity can also affect the recreational and aesthetic enjoyment of the surface waters (beneficial uses impacted: REC-1 and REC-2).

- iii. Suspended sediment in surface waters can harm aquatic organisms by abrading surface membranes and interfering with respiration and sensory perception. Suspended sediment can reduce photosynthesis in and survival of aquatic life by limiting the transmittance of light. The Basin Plan contains a water quality objective for sediment, which requires that the suspended sediment load and suspended sediment discharge rate of surface waters must not be altered in such a manner as to cause nuisance or adversely affect beneficial uses. As stated above, sediment is a pollutant that can have substantial biological, chemical, and physical effects on receiving waters.

These effects include (1) increased turbidity (loss of clarity) and resulting decreased light transmittance, biological productivity, and aesthetic value and (2) physical suffocation through burial of bottom dwelling (benthic) organisms, salmonid eggs, and alevin (newly spawned salmon or trout still carrying its yolk). Sediment can also physically damage gills, causing fish mortality and increased physiological stress; reduce fish reproduction; impair normal fish feeding and predator avoidance behaviors, resulting in impacts to commercial and recreational fishing resources; increase water temperature; and fill in lagoons and wetlands, converting them from aquatic to terrestrial habitat.

It should be noted that these water quality impacts occur both during sediment transport and sediment deposition. In addition to the problems associated with suspended sediment, sediment is also an excellent transport mechanism for toxic pollutants (e.g., metals and synthetic organics), which bind to sediment particles (beneficial uses impacted: REC-1, REC-2, COLD, WARM, SPWN, RARE, and MUN).

- iv. Discharge of excess nutrients, especially nitrate and phosphorus, can lead to eutrophication and algal blooms. Algal blooms can block light, clog fish gills, and cause an increase in biological oxygen demand as they die, severely lowering dissolved oxygen levels available to sustain aquatic ecosystems. Lowered dissolved oxygen concentrations can also provide favorable conditions for proliferation of pathogenic bacteria. In addition, excess nutrients can contribute to toxic algal blooms, which create bioaccumulative toxins that can be deleterious to aquatic ecosystems and wildlife that may consume aquatic fauna (beneficial uses impacted: COLD, WARM, SPWN, WILD, RARE). Eutrophication and algal blooms can also affect human recreational and aesthetic enjoyment of

surface waters. Direct exposure to toxic algae can lead to rashes, respiratory problems, and neurological effects in humans and can raise costs for water treatment plants and contribute to harmful byproducts when treated (beneficial uses impacted: REC-1, REC-2, and MUN).

- 10. Cleanup and Abatement Action Necessary:** Cleanup and abatement is necessary to ensure that the existing condition of pollution is cleaned up, that threats of unauthorized discharges to waters of the state from the Property are prevented, background water quality conditions are restored, and that any impacts to beneficial uses are mitigated. The current condition of pollution is a high-priority violation and the issuance of a cleanup and abatement order pursuant to Water Code section 13304 is appropriate and consistent with the policies of the Central Coast Water Board.
- 11. Technical or Monitoring Reports Required:** Water Code section 13267, subdivision (a) provides that the Central Coast Water Board may investigate the quality of any water of the state within its region in connection with any action relating to the Basin Plan. Water Code section 13267, subdivision (b) provides that the Central Coast Water Board, in conducting an investigation, may require entities, such as the Dischargers, that have discharged, discharge, or are suspected of having discharged or discharging waste to furnish, under penalty of perjury, technical or monitoring program reports. The burden, including costs, of preparing these reports must bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports. This order requires Dischargers to submit a site remediation plan that describes how the violations described in the June 11, 2021 notice of violation and Water Code section 13267 order (Attachment 1) will be corrected and the site restored according to Cannabis Cultivation Policy requirements. In addition, this order requires Dischargers to submit pre-project monitoring reports, weekly project monitoring reports, a notice of completion, and at least five years of post-project monitoring reports.

The Central Coast Water Board needs the technical and monitoring reports required by this order because they are necessary to ensure compliance with this order and to protect the waters of the state. The technical and monitoring reports are further necessary to demonstrate that appropriate methods will be used to clean up waste discharged to waters of the state and to ensure that cleanup complies with Basin Plan requirements, the Cannabis Cultivation Policy, and State Water Board Resolution No. 92-49.

- a. The total cost of preparing the technical and monitoring reports required by this order is estimated to be between \$10,140 and \$40,280:
  - i. The site remediation plan requirements (i.e., field inspection and report preparation) are comparable to those of a disturbed area stabilization plan as presented in the State Water Board's October 2017 *Direct Cost Analysis for the Proposed Cannabis Cultivation*

*Policy* (2017 Direct Cost Analysis),<sup>7</sup> which estimated the cost to be between \$2,100 and \$4,200.

- ii. The requirements of preparing pre-project monitoring and weekly project monitoring reports are comparable to those of a site management plan, which the 2017 Direct Cost Analysis estimated to cost between \$1,560 and \$7,520.
- iii. Notice of completion requirements are comparable to those of a site closure report, which the 2017 Direct Cost Analysis estimated to cost between \$1,080 and \$4,760.
- iv. The post-project monitoring report requirements are comparable to those of a site closure report, which the 2017 Direct Cost Analysis estimated to cost between \$1,080 and \$4,760. A minimum of five years of post-project monitoring reports are required by this order, so the total estimated cost of post-project monitoring reports is between \$5,400 and \$23,800.

- b. The burden, including costs, of the site remediation plan bears a reasonable relationship to its need and the benefits to be obtained.
- c. In accordance with Water Code section 13267, subdivision (b), the findings in this order provide the Dischargers with a written explanation with regard to the need for remedial action and reports and identify the evidence that supports the requirement to implement cleanup and abatement activities and submit the reports. The Dischargers named in this order owned and/or operated the Property at the time the conditions described in this order were created or have been present or currently own and operate the property, and thus are appropriately responsible for providing the reports.

12. **California Environmental Quality Act:** Issuance of this order is being taken for the protection of the environment and to enforce the laws and regulations administered by the Central Coast Water Board and, as such, is exempt from provisions of the California Environmental Quality Act (CEQA) (Public Resources Code section 21000 et seq.) in accordance with California Code of Regulations, title 14, sections 15061, subdivision (b)(3), 15306, 15307, 15308, and 15321. This order generally requires the Dischargers to submit monitoring results and plans for approval prior to implementation of cleanup, abatement, and restoration activities at the Property. Mere submittal of plans is exempt from CEQA as submittal will not cause a direct or indirect physical change in the environment and/or is an activity that cannot possibly have a significant effect on the environment. CEQA review at this time would be premature and speculative, as there is simply not enough information concerning the Dischargers' proposed remedial activities and possible associated environmental impacts. To the extent that the order requires earth-disturbing and re-vegetation activities not to exceed five acres in size and to ensure restoration of stream habitat and prevent erosion,

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<sup>7</sup>[https://www.waterboards.ca.gov/water\\_issues/programs/cannabis/docs/policy/20171017\\_cannabis\\_cultivation\\_policy\\_cost\\_analysis.pdf](https://www.waterboards.ca.gov/water_issues/programs/cannabis/docs/policy/20171017_cannabis_cultivation_policy_cost_analysis.pdf)

this order is exempt from provisions of CEQA pursuant to California Code of Regulations, title 14, section 15333. If the Central Coast Water Board determines that implementation of any plan required by this order will have a significant effect on the environment that is not otherwise exempt from CEQA, the Central Coast Water Board will conduct the necessary and appropriate environmental review prior to implementation of the applicable plan. The Dischargers will bear the costs, including the Central Coast Water Board's costs, of determining whether implementation of any plan required by this order will have a significant effect on the environment and, if so, in preparing and handing any documents necessary for environmental review. If necessary, the Dischargers and a consultant acceptable to the Central Coast Water Board must enter into a memorandum of understanding with the Central Coast Water Board regarding such costs prior to undertaking any environmental review.

### REQUIRED ACTIONS

**IT IS HEREBY ORDERED** that, pursuant to Water Code sections 13267 and 13304, the Dischargers must submit technical and monitoring reports described below and clean up the wastes and abate the impacts to water quality in accordance with the scope and schedule set forth below. The site remediation plan must be approved by the Central Coast Water Board Executive Officer prior to implementation. The Dischargers must obtain all necessary permits for the activities required in this order.

1. **Submit a site remediation plan within 90 days of the effective date of this order** that describes how the violations in Table 1 of the June 11, 2021 notice of violation (Attachment 1) will be corrected and the site restored according to Cannabis Cultivation Policy requirements. The site remediation plan must be prepared by a qualified professional as described in this order and Attachment A to the Cannabis Cultivation Policy and include, at a minimum, the following:
  - a. A scope of work and time schedule for completing the work. The scope of work must include performance standards that describe how all disturbed areas will be stabilized and revegetated and how 85 percent vegetation survival and growth will be achieved within a five-year period.
2. **Implement the site remediation plan:** Once the site remediation plan is approved by the Central Coast Water Board Executive Officer, implement the site remediation plan according to the approved time schedule of the site remediation plan.
3. **Modifications to the approved site remediation plan:** The Dischargers must propose and provide rationale to the Central Coast Water Board Executive Officer any modifications to the approved site remediation plan. Modifications to the site remediation plan must be approved by the Central Coast Water Board Executive Officer prior to implementation.
4. **Submit a notice of completion:** no more than **30 days** after fully completing implementation of the scope of work included in the approved site remediation

plan, the Dischargers must submit a notice of completion (NOC) for approval by the Central Coast Water Board or its delegated officer. The complete NOC must demonstrate that the scope of work has been carried out in accordance with the approved site remediation plan and must include, at a minimum: photographs with a descriptive title that demonstrate successful implementation of the scope of work described in the approved site remediation plan, the date each photograph was taken, the name and location of the photographed site, and a written description demonstrating how the violations in Table 1 of Attachment 1 have been successfully corrected.

5. **Submit required monitoring and reporting:** monitoring of physical stream parameters (e.g., vegetation, signs of erosion or sedimentation, and bank stability) must be conducted both before and after implementation of the approved scope of work. Additionally, if flow is observed in the unnamed tributaries to the Cuyama River during implementation of the approved site remediation plan, turbidity monitoring must be conducted in the flowing streams as described in the Implementation Monitoring section below.

#### Pre-Implementation Monitoring

A pre-implementation monitoring report must be submitted to the Central Coast Water Board **two weeks** prior to the start date of implementation of the scope of work included in the approved site remediation plan. The pre-implementation monitoring report must document findings from the monitoring activities prior to implementing the scope of work as described in the bullets below. Findings must indicate current conditions of the site and any changes observed from initial conditions documented in the inspection report from the April 30, 2021 site visit. The pre-implementation monitoring report must, at a minimum, include the following information:

- Photo documentation of all work locations described in the approved scope of work with associated explanations and details on quantitative measurements of absolute vegetation coverage as a percentage of total land area, signs of erosion of upland areas, and signs of bank erosion;
- Summary of findings, including changes observed in all work locations compared to April 30, 2021 conditions;
- Additional proposed corrective measures not already documented in the approved site remediation plan, if needed. Central Coast Water Board approval is required prior to implementation of any such proposed corrective measures.

#### Implementation Monitoring

Monitoring reports must be submitted to the Central Coast Water Board weekly, in accordance with the schedule below, once implementation of the scope of work commences until it is completed. Implementation monitoring reports must include:

- Weekly photos and status updates of stabilization and restoration work taking place in all work locations

- Daily turbidity readings for all days in which flow is present in the stream channels. Reading must be in NTU, in triplicate, and taken upstream and downstream of the proposed work locations.

#### Post-Implementation Monitoring

At least five years of annual post-implementation monitoring and reporting must be performed, and a minimum of 85 percent vegetation survival and growth must be achieved before monitoring is no longer required, consistent with Cannabis Cultivation Policy, Attachment A, Section 2, Requirement 35. Post-implementation monitoring reports must be submitted annually to the Central Coast Water Board by March 1. These annual reports must include findings from project monitoring conducted between January 1 and December 31 of the year prior to the report date. Findings must indicate the achievement of performance standards and include the following information:

- Photo documentation and summary of findings of all areas where remedial activities were performed. The photos must include details on quantitative measurements of absolute vegetation coverage, if there are additional signs of erosion of upland areas, and if there are additional signs of bank erosion.
- Identification and discussion of any areas where performance standards are not achieved or met.
- Proposed corrective measures as needed to achieve performance standards as outlined in the approved site remediation plan.

### **GENERAL REQUIREMENTS AND NOTICES**

1. **Duty to Use Qualified Professionals:** The Dischargers must provide documentation that plans and reports required under this order are prepared under the direction of appropriately qualified professionals.
2. As required by the California Business and Professions Code sections 6735, 7835, and 7835.1, engineering and geologic evaluations and judgments must be performed by or under the direction of registered professionals competent and proficient in the fields pertinent to the required activities. The Dischargers must include a statement of qualification and registration numbers of the responsible lead professionals in all plans and reports required under this order. The lead professional must sign and affix their registration stamp to the report, plan, or document. The required activities must be implemented by the appropriately qualified/licensed professional as otherwise required by law.
3. **Signatory Requirements:** All technical reports submitted by the Dischargers must include a cover letter signed by the Dischargers, or a duly authorized representative, certifying under penalty of law that the signer has examined and is familiar with the report and that to his/her knowledge, the report is true, complete, and accurate. The Dischargers must also state in the cover letter whether they will implement the recommendations/proposals provided in the

report. Any person signing a document submitted under this order must make the following certification:

*“I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my knowledge and on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.”*

4. **Notice of Onsite Work:** The Dischargers, or a duly authorized agent, must notify Central Coast Water Board staff at least 48 hours prior to implementing the approved site remediation plan. The Dischargers may contact the Central Coast Water Board using the general phone line at (805) 594-6194 or by email at [CentralCoast.Cannabis@waterboards.ca.gov](mailto:CentralCoast.Cannabis@waterboards.ca.gov).
5. **Notice of Change in Ownership or Occupancy:** The Dischargers must file a written report on any changes in the Property’s ownership or occupancy. This report must be filed with the Central Coast Water Board no later than 30 days prior to a planned change in ownership or occupancy.
6. **Submissions:** All monitoring reports, technical reports, or notices required under this order must be submitted:
  - a. By email (preferred) to: [CentralCoast.Cannabis@waterboards.ca.gov](mailto:CentralCoast.Cannabis@waterboards.ca.gov)
  - b. Or by mail to:  
  
Central Coast Water Board  
Cannabis Regulatory Program  
895 Aerovista Place, Suite 101  
San Luis Obispo, CA 93401
7. **Other Regulatory Requirements:** The Dischargers must obtain all applicable local, state, and federal permits necessary to fulfill the requirements of this order prior to beginning the corrective action work. For example, Fish and Game Code (FGC) section 1602 requires a person or entity to notify the California Department of Fish and Wildlife (CDFW) before: (1) substantially diverting or obstructing the natural flow of a river, stream, or lake; (2) substantially changing the bed, channel, or bank of a river, stream, or lake; (3) using any material from the bed, channel, or bank of a river, stream, or lake; or (4) depositing or disposing of debris, waste, material containing crumbled, flaked, or ground pavement where it may pass into a river, stream, or lake. The failure to notify CDFW constitutes a violation of FGC section 1602.
8. **Delayed Compliance:** If, for any reason, the Dischargers are unable to perform any activity or submit any document in compliance with the schedule set forth herein, or in compliance with any work schedule submitted pursuant to this order

and approved by the Central Coast Water Board or its delegated officer, the Dischargers may request, in writing, an extension of the time specified. The extension request must include justification for the delay. Any extension request must be submitted as soon as a delay is recognized and prior to the compliance date. An extension may only be granted by modification of this order or by a letter from the Executive Officer. The Central Coast Water Board acknowledges that local, state, and federal permits may cause a delay beyond the control of the Dischargers and will take all the available relevant facts into consideration when considering whether to exercise its enforcement authority.

9. **Potential Liability:** If the Dischargers fail to comply with the requirements of this order, this matter may be referred to the Attorney General for judicial enforcement or the Central Coast Water Board Assistant Executive Officer may issue a complaint for administrative civil liability. Failure to comply with the cleanup and abatement requirements of this order may result in the assessment of administrative civil liability up to \$5,000 per day of violation pursuant to Water Code section 13350. Failure to submit the technical or monitoring reports required in this order may result in administrative civil liability up to \$1,000 per day of violation, pursuant to Water Code section 13268. Additionally, any unauthorized discharges of waste into waters of the United States may result in administrative civil liability up to \$10,000 per day of violation and \$10 per gallon, pursuant to Water Code section 13385. The Central Coast Water Board reserves its right to take any enforcement actions authorized by law, including, but not limited to, violation of the terms and conditions of this order.
10. **No Limitation of Water Board Authority:** This order in no way limits the authority of the Central Coast Water Board to institute additional enforcement actions or to require additional investigation and cleanup of the Property consistent with the Water Code. This order may be revised as additional information becomes available.
11. **Modifications:** Any modification to this order must be in writing and approved by the Central Coast Water Board, or delegated official, including any potential extension requests.
12. **Revocation of Prior Orders:** The Central Coast Water Board hereby revokes any orders previously issued to any of the Dischargers pursuant to Water Code section 13267 relating to the findings recited above.
13. **Requesting Review by the State Water Board:** Any person aggrieved by this or any final action of the Central Coast Board may petition the State Water Board to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, section 2050 et al. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of this order, except that if the thirtieth day following the date of this order falls on a Saturday, Sunday, or state holiday, the petition must be received on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet

at [http://www.waterboards.ca.gov/public\\_notices/petitions/water\\_quality](http://www.waterboards.ca.gov/public_notices/petitions/water_quality) or will be provided upon request.

This order is effective upon the date of signature.

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Matthew T. Keeling  
Executive Officer

Attachments:

1. Notice of violation issued June 11, 2021
2. April 30, 2021 Site Inspection Report