



Santa Ana Regional Water Quality Control Board

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SANTA ANA REGION

CLEANUP AND ABATEMENT ORDER NO. R8-2025-0023

FOR

RAUL AYALA SILVA AND FELIPE DE JESUS ROSALES HERRERA ASSESSOR
(PARCEL NUMBER 390-290-011), AND RENE AND GAUDENCIA CARDONA
ASSESSOR (PARCEL NUMBER 390-290-012),
RIVERSIDE COUNTY

This Order is issued to Raul Ayala Silva (Raul Ayala) and Felipe de Jesus Rosales Herrera and Rene and Gaudencia Cardona, (hereafter collectively referred to as the Dischargers) based on provisions of Water Code section 13304, which authorizes the Santa Ana Regional Water Quality Control Board (Santa Ana Water Board) to issue an order requiring the cleanup and abatement of wastes, and Water Code section 13267, which authorizes the Santa Ana Water Board to require the preparation and submittal of technical and monitoring reports (hereafter referred to as the Order).

The Executive Officer finds, with respect to the Dischargers' acts, or failures to act, the following:

KRISTINE MURRAY, CHAIR | JAYNE JOY, EXECUTIVE OFFICER

3737 Main Street, Suite 500, Riverside, CA 92501-3348 | www.waterboards.ca.gov/santaana

Purpose of the Order

1. This Order requires the Dischargers to cleanup cannabis cultivation related waste and sediment that is discharging or threatening to discharge to two unnamed ephemeral streams and restore the stream channels and riparian environment to pre-alteration conditions. The discharges and threat of discharges of waste are the result of unauthorized land disturbance activities and alteration of a stream's riparian corridor, use of pesticides and nutrients, litter/domestic waste, and cannabis cultivation irrigation on Riverside County Assessor Parcel Numbers (APN) 390-290-011 and 390-290-012 (collectively known hereon as, the Site) that were conducted within and adjacent to an ephemeral stream for the purpose of cannabis cultivation. These activities have discharged waste, and/or threatened to cause future discharges of waste, to waters of the State of California (State) without authorization from applicable federal, state, or local agencies, including the Santa Ana Water Board. This Order requires investigation, cleanup, and restoration of the Site in compliance with the Water Code, the Water Quality Control Plan for the Santa Ana Basin (Basin Plan), State Water Resources Control Board (State Water Board) Resolution No. 92-49, and other applicable State and Regional Water Boards plans, policies, and regulations.

Site Location and Description

2. The Site encompasses two adjacent, unaddressed parcels, from west to east, 390-290-011 and 390-290-012, located south of Washburn Road in Lake Elsinore, Riverside County.¹ The Site is within the Santa Ana River Hydrologic Unit, Lake Mathews Hydrologic Area, Terra Cotta Hydrologic Subarea (CalWater Hydrologic Unit Basin Number [HU] 4801.35). An unnamed ephemeral stream passes through the Site from the northwest to the southeast, and intersects a second unnamed ephemeral stream, running north to south, in the southern portion of parcel 390-290-012, which exits the Site at the southern boundary. These first and second order streams are waters of the State, and are tributaries to Temescal Creek (National Hydrography Dataset, 2019), which flows west intersecting the Santa Ana River in Corona, California.

¹ Riverside County APN 390-290-010, owned by Ramiro Paez Hernandez and Emily Abigail Sanchez, is located immediately west of APN 390-290-011. This parcel was named in the draft Cleanup and Abatement Order, but has been removed from this final Cleanup and Abatement Order due to minimal disturbance caused by the activities that triggered this Order. To the extent that Parcel 390-290-010 requires cleanup activities, it will be dealt with separately from this Order.

Responsible Parties

3. The Dischargers are responsible parties for purposes of complying with this Order due to their ownership of the parcels. Each landowner is responsible for remediation and restoration of any conditions on their own respective parcel, as follows:
 - a. APN 390-290-011: Raul Ayala Silva and Felipe de Jesus Rosales Herrera
 - b. APN 390-290-012: Rene and Gaudencia Cardona
4. The Dischargers are the current owners of the properties containing the Site and were the landowners during the inspections conducted by South Coast Regional Cannabis Unit (Cannabis Unit) staff, working on behalf of the Santa Ana Water Board. The landowner information is based on LightBox Vision™ (formerly LandVision™) records, which accesses Riverside County Assessor Records.
5. The Santa Ana Water Board reserves the right to amend this Order to include additional responsible parties when/if those parties are identified.

Factual Basis of the Order

6. On June 26, 2023, Cannabis Unit staff inspected the Site under a criminal search warrant served by the Riverside County Sheriff's Department.
7. Observations made by Cannabis Unit staff during the June 26, 2023 inspection included the following:
 - a. Active cannabis cultivation occurring within multiple greenhouse-like structures on the Site. Approximately 1,362 live cannabis plants were seized by law enforcement officials during execution of the warrant.
 - b. A variety of pesticides were observed at the Site, including insecticides with malathion as the active ingredient, a miticide (Kanemite with acequinocyl as the active ingredient) not registered for use in the United States by the federal Environmental Protection Agency (US-EPA), and lawn insect killer (Ortho with bifenthrin as the active ingredient). Multiple opened and partially full containers of these pesticides were observed improperly stored directly on the ground, without containment to prevent discharge, and within and near the cultivation areas and riparian corridor.
 - c. Cannabis cultivation related wastes, including irrigation wastewater and/or runoff, which may contain nutrients and pesticides, used potting containers with soil, green waste, including cannabis plant material, unwashed nutrient and pesticide containers with residue, light bulbs, litter/domestic waste, and other miscellaneous deleterious materials were observed within 150 feet of the stream.

- d. Unauthorized alterations to an unnamed ephemeral stream, a water of the State, that passes through the Site from the northwest to the southeast was observed. Observations include: 1) mass earthmoving, grading and rolling across the stream and riparian corridor for access to the cultivation area, and 2) grading and leveling along the stream banks and across the riparian corridor for installation of multiple greenhouses used for cannabis cultivation. Earthmoving and grading has altered and/or impeded the natural flow of water, has resulted in enhanced erosion and discharges of sediment, and has negatively impacted aquatic and riparian habitat and the water quality of the stream.
- e. At the southern end of the access road, near the cannabis cultivation greenhouses, native vegetation was removed in a large area that was graded flat for vehicle parking or turn-around. This alteration was constructed directly over and across the stream and riparian corridor impeding natural water flow and negatively impacting native habitat.
- f. Discharges of waste, including construction debris, concrete, litter/domestic waste, and other miscellaneous deleterious materials, were observed in a debris pile at the northern portion of parcel 390-290-011, at a hairpin turn of the graded access road. The approximate dimensions of the debris pile were estimated to be 200 feet by 180 feet along the ordinate directions and up to 25 feet thick. From aerial imagery, the estimated surface area is approximately 25,500 square feet. The waste and debris pile is located north and upgradient of the stream. The toe of the waste and debris pile is less than 100 feet from the stream at the base of the canyon. Material from the waste and debris pile has the potential to be discharged to the stream via erosion or slope failure, thereby impacting natural water flow and adversely impacting water quality and aquatic and riparian habitat.
- g. The mass earthmoving, grading and rolling of earth materials to build the access road, extending off Washburn Road north of the Site, continuing southward on to adjacent parcels 390-290-010² and 390-290-012, and across the stream and riparian corridor, for access to the cultivation areas, has resulted in observed erosional features and subsequent sediment discharges that have impacted the stream and riparian corridor.

² Paez parcel. As noted above, any conditions of discharge or nuisance on the Paez parcel will be addressed separately.

8. The Dischargers were notified by Cannabis Unit staff of violations of the Water Code via an Inspection Report and Notice of Violation (IR-NOV) dated August 17, 2023. A hardcopy of the IR-NOV was sent to each Discharger via United States Postal Service (USPS) certified mail and USPS first-class mail. The certified mail package to Rene and Gaudencia Cardona (390-290-012) was returned as unclaimed. USPS tracking shows the certified mail package to Raul Ayala and Felipe de Jesus Rosales Herrera (390-290-011) as 'moving through network' and may have been lost in transit. The USPS first-class mail packages to both parties were not returned to the Santa Ana Water Board office and are assumed delivered. The California Department of Fish and Wildlife (CDFW) also issued and sent via USPS certified mail a Notice of Violation (NOV) dated August 2, 2023 to Raul Ayala (390-290-011), which was confirmed as delivered on August 7, 2023, and on August 3, 2023 to Rene and Gaudencia Cardona (390-290-012), which was returned as not forwardable.
9. Raul Ayala and Felipe de Jesus Rosales Herrera, the landowners of 390-290-011, did not contact Cannabis Unit staff regarding the August 17, 2023 IR-NOV.
10. On August 24, 2023, Aldo Cardona, on behalf of Rene and Gaudencia Cardona, the landowners of parcel 390-290-012, contacted Cannabis Unit staff by telephone. Aldo Cardona provided Cannabis Unit staff with a telephone number for Rene Cardona, however multiple attempts by Cannabis Unit staff to contact Rene and Gaudencia Cardona via telephone have been unsuccessful. On October 2, 2023, Aldo Cardona visited the Santa Ana Water Board office and provided a telephone number and an email address for Rene Cardona. On October 10, 2023, Cannabis Unit staff sent an email to the Rene Cardona explaining that they should expect a letter containing a Cleanup and Abatement Order (CAO) that would detail requirements for cleanup of wastes and debris and restoration of the stream channel and riparian corridor affected by cannabis cultivation activities at the Site, and advised them not to complete any work without prior approval from the Santa Ana Water Board.
11. On October 18, 2023, Cannabis Unit staff were again contacted by the Riverside County Sheriff's Department regarding new cannabis cultivation activities on the Site. On October 26, 2023, Cannabis Unit staff again inspected the Site under a criminal search warrant served by the Riverside County Sheriff's Department.
12. Observations made by Cannabis Unit staff during the October 26, 2023, inspection included the following:

- a. Active cannabis cultivation was occurring within multiple greenhouse-like structures on the Site. Approximately 433 cannabis plants and 1,580 pounds of processed cannabis were reported by law enforcement officials during execution of the warrant. Active cannabis cultivation was observed occurring in two of four greenhouses near the center of APN 390-290-011 and extending on to APN 390-290-012, to the east.
 - b. A variety of pesticides were observed at the Site, including insecticides with malathion, imidacloprid, and cyfluthrin as active ingredients, and Metamidofos, a non-US-EPA registered organophosphate pesticide with O,S-dimethyl acetylphosphoramidothioate (acephate) as the active ingredient. Multiple opened and partially full containers of the pesticides were observed stored directly on the ground, without containment to prevent discharge, and within and near the cultivation areas and the stream's riparian corridor.
 - c. Cannabis cultivation related wastes, including irrigation wastewater and/or runoff, which may contain nutrients and pesticides, used potting containers with soil, green waste, including cannabis plant material, unwashed nutrient and pesticide containers with residue, light bulbs, domestic waste, and other miscellaneous deleterious materials were observed within 150 feet of the stream.
 - d. Unauthorized alterations to an unnamed ephemeral stream, a water of the State, as described in 7.d.
 - e. Unauthorized alteration to an unnamed ephemeral stream and riparian corridor, a water of the State, as described in 7.e.
 - f. The debris pile observed on June 26, 2023 (as described in 7.f.), was still in place on October 26, 2023. Cannabis Unit staff observed numerous new deep tension cracks in the ground along the top of the waste and debris pile that were not present on June 26, 2023.
13. On December 8, 2023, Cannabis Unit staff received an email from Rene and Gaudencia Cardona containing two photographs and a note that parcel 390-290-012 had been cleaned of pesticides and debris and inquired about any other required work prior to putting the property up for sale. On December 13, 2023, Cannabis Unit staff responded with an email requesting additional information about the cleanup progress. The email explained that there was a second search warrant inspection conducted on October 26, 2023, and that they should wait for the NOV and subsequent CAO prior to conducting further work on the site.

14. The Dischargers were notified by Cannabis Unit staff of the Water Code violations observed on October 26, 2023 via an IR-NOV dated December 20, 2023. A hardcopy of the December 20, 2023 IR-NOV was sent to each Discharger via USPS certified mail and USPS first-class mail. The certified mail package to Rene and Gaudencia Cardona (390-290-012) was returned as unclaimed. USPS tracking shows the certified mail package to Raul Ayala (390-290-011) was delivered on December 22, 2023. The USPS first-class mail packages to both parties were not returned. The CDFW also issued and sent via USPS certified mail a NOV dated December 4, 2023, to Rene and Gaudencia Cardona (390-290-012); the NOV was assumed delivered because CDFW staff received an email response from the Cardona's on December 14, 2023.
15. On January 30, 2024, Walter Martinez, representing Raul Ayala, contacted Cannabis Unit staff regarding the December 20, 2023 IR-NOV. Walter Martinez claimed the property was occupied by a tenant and Raul Ayala was unaware of unlicensed cannabis cultivation on the property. Cannabis Unit staff advised Walter Martinez not to do any work at property without prior approval from the Santa Ana Water Board and to wait for a CAO, which would detail the requirements for cleanup and restoration. Walter Martinez said that he would relay the message to Raul Ayala. Cannabis Unit staff further suggested they secure the site with a gate and/or fencing to help deter potential trespass in the interim.
16. The certified mail package sent to Rene and Gaudencia Cardona was returned undelivered. The first-class mail package was not returned and presumed delivered based on subsequent communications from the Cardona's. On March 23, 2024, Cannabis Unit staff received an email from Rene Cardona's email address containing six georeferenced photographs of the site with a timestamp indicating March 23, 2024. The photographs showed select areas of APN 390-290-012. No cannabis cultivation related debris is visible in the photos. However, there is evidence of stormwater runoff and subsequent sediment migration and erosion likely caused by storm events that occurred in early- and mid-March 2024. Cannabis Unit staff responded to the email requesting additional photos.
17. On October 8, 2024, Walter Martinez, who had been representing Raul Ayala, emailed Cannabis Unit staff to say that he was no longer representing Raul Ayala due to lack of communication. Walter Martinez directed Cannabis Unit staff to send all communications to Raul Ayala's address on file. Walter Martinez said that if Raul Ayala did contact him in the future and wanted continued representation, Walter Martinez would contact Cannabis Unit staff.

18. On November 26, 2024, Walter Martinez contacted Cannabis Unit staff to inform that his client, Raul Ayala, had returned and requested his representation regarding his property in Lake Elsinore, parcel 390-290-011. Walter Martinez said Raul Ayala wanted to follow up and clean up the property as required. Cannabis Unit staff asked about a possible tenant and Walter Martinez said the tenant was evicted and that Raul Ayala would deal with the cleanup himself. Cannabis Unit staff suggested that Raul Ayala could name the tenant as a possible responsible party for the cleanup, if appropriate, as the process moves forward.
19. Review of Riverside County Assessor records obtained from LightBox Vision™ in November 2024 listed parcel owner information as follows:
 - a. 390-290-011 – Raul Ayala Silva
 - b. 390-290-012 – Rene and Gaudencia Cardona
20. Each landowner is responsible for the conditions on their respective parcel. If the operator of the cannabis cultivation is identified, they may also be named as a responsible party for the conditions of the Site. The conditions on the respective parcels are as follows:
 - a. 390-290-011 (Ayala)
 - i. Cultivation associated materials, debris, potting containers, nutrients and containers, fertilizers and containers, domestic waste (trash), and other deleterious materials, including greenhouses and remnants,
 - ii. mass earthmoving, grading, leveling, compacting, and rolling of materials associated with the access road and cultivation areas,
 - iii. large debris and soil pile emplaced (and extending west on to 390-290-010), graded, compacted, and rolled into the hairpin turn of the access road leading to the main cultivation area, and
 - iv. removal of native vegetation and subsequent erosion and sediment displacement impacting the ephemeral stream and riparian corridor.
 - b. 390-290-012 (Cardona)
 - i. Cultivation associated materials, debris, potting containers, nutrient and fertilizer containers, domestic waste (trash) and other deleterious materials,
 - ii. grading, leveling, compacting, and rolling of earth materials associated with the access road and turn-around parking area in the southern portion of 390-290-012, and

- iii. removal of native vegetation and subsequent erosion and sediment displacement impacting the ephemeral streams and riparian corridor.

Beneficial Uses and Water Quality Objectives

21. The Basin Plan designates beneficial uses, establishes water quality objectives, contains implementation programs for achieving objectives, and incorporates by references, plans and policies adopted by the State Water Board.
22. The designated beneficial uses of inland surface streams within Temescal Creek Reach 5 are agricultural supply, ground water recharge, contact water recreation, non-contact water recreation, warm freshwater habitat, wildlife habitat and rare, threatened or endangered species habitat. Beneficial uses of any specifically identified water body generally apply to all of its tributaries.
23. The designated beneficial uses of the adjacent mapped groundwater basin within the Upper Temescal Valley (HU 801.32) Groundwater Management Zone are municipal and domestic supply, agricultural supply, industrial service supply and industrial process supply.
24. The narrative Water Quality Objectives applicable to all inland surface waters, including Temescal Creek Reach 5 (HU 801.35), and that are considered of particular importance in protecting the beneficial uses from unreasonable effects due to the waste discharges and threaten of discharges observed at the Site include the following: excessive growth of algae from added nutrients, floatables, dissolved oxygen, pathogen indicator bacteria, pH, settleable solids, toxic substances and turbidity. Inland surface water communities and populations, including vertebrate, invertebrate, and plant species, shall not be degraded as a result of the discharge of waste. Degradation is damage to an aquatic community or population with the results that a balanced community no longer exists.³
25. The Water Quality Objectives applicable to the adjacent mapped groundwater basin, within the Upper Temescal Valley (HU 801.32) Groundwater Management Zone, that are considered of particular importance in protecting the beneficial uses from unreasonable effects due to the waste discharges and threaten of discharges observed at the Site include the following: 820 mg/l total dissolved solids, 7.9 mg/l nitrate as nitrogen, and toxic substances.

³ A balanced community is one that is (1) diverse, (2) has the ability to sustain itself through cyclic seasonal changes, (3) includes necessary food chain species, and (4) is not dominated by pollution-tolerant species, unless that domination is caused by physical habitat limitations. A balanced community also (5) may include historically introduced non-native species, but (6) does not include species present because best available technology has not been implemented, or (7) because site-specific objectives have been adopted, or (8) because of thermal discharges (Pages 4-6 and 4-7 of the Basin Plan).

Legal Basis of the Order

26. 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 requirement 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 creates, 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 a person to comply with the cleanup and 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.”
27. “Waste” is defined by Water Code section 13050, subdivision (d) to include, “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 the purpose of, disposal.”
- a. Sediment, when discharged to waters of the State, is considered a “waste” as defined in Water Code section 13050, subdivision (d). As a result of the erosion from cannabis cultivation activities and unauthorized land disturbance activities, including alteration of the stream and riparian corridor, sediment was discharged or deposited where it will be, or has the potential to be, mobilized and discharged into waters of the State.
 - b. Domestic waste (litter), green waste, including cannabis plant material, containers of nutrients, fertilizers, banned and/or restricted pesticides, and soil amendments, and other miscellaneous debris were observed discharged within 150 feet of an ephemeral stream, where it will be, or has the potential to be, mobilized and discharged into waters of the State and are considered “waste” as defined in Water Code section 13050, subdivision (d).
28. “Pollution” is defined by Water Code section 13050, subdivision (l)(1) as, “an alteration of the quality of the waters of the state by waste to a degree which unreasonably affects either of the following: (A) The waters for beneficial uses[,] (B) Facilities which serve these beneficial uses.”

- a. Sediment from the unauthorized land disturbance activities, including alteration of the stream and riparian corridor, and mobilized sediment from cannabis irrigation runoff has the potential to discharge into the unnamed ephemeral stream, creating or threatening to create a condition of pollution by unreasonably affecting the beneficial uses of waters of the State.
- b. Discharges of sediment and other inert material alter the hydrologic and sediment transport regimes of surface waters by affecting the flow of water and establishment of vegetation. 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 impacting the following Beneficial Uses: warm freshwater habitat, wildlife habitat, and rare, threatened or endangered species habitats. Increased sedimentation and turbidity can result in increased treatment and/or maintenance costs for downstream agricultural users impacting the following Beneficial Uses: agricultural supply. Sediment laden storm water discharges to surface water and the resulting turbidity can also affect the recreational and aesthetic enjoyment of the surface waters impacting the following Beneficial Uses: contact water recreation and non-contact water recreation.
- c. Sediment and soils that have been impacted by nutrients, fertilizers, pesticides, including unregistered and restricted pesticides, and other soil amendments throughout the cultivation areas and Site, including within 150-feet of unnamed ephemeral stream, have the potential to alter the chemistry and water quality of surface and ground waters. Such changes may lead to increased treatment and/or maintenance costs for users of the surface and ground waters impacting the following Beneficial Uses: agricultural supply, contact water recreation, non-contact water recreation, warm freshwater habitat, wildlife habitat, and rare, threatened or endangered species.
- d. Irrigation runoff containing nutrients, fertilizers, pesticides, including unregistered and restricted pesticides, and other water chemistry amendments also has the potential to alter the chemistry and water quality of surface and ground waters. Such changes may lead to increased treatment and/or maintenance costs for users of the surface and ground waters impacting the following Beneficial Uses: agricultural supply, contact water recreation, non-contact water recreation, warm freshwater habitat, wildlife habitat, and rare, threatened or endangered species.

- e. The dumping and discarding of trash, chemical containers, and other miscellaneous debris has the potential to alter the hydrologic regimes of surface waters, threaten wildlife habitat, aquatic species, and impact sediments and soils which may affect surface and ground water quality. As such, the Beneficial Uses impacted by the observed dumping and discarding of trash are as follows: agricultural supply, contact water recreation, non-contact water recreation, warm freshwater habitat, wildlife habitat, and rare, threatened or endangered species.
29. As a result of the cannabis cultivation activities at the Site, the Dischargers have caused or permitted waste, including irrigation runoff, cultivation related chemicals, sediment, and other miscellaneous deleterious materials, to be discharged or deposited where it has been, or has the potential to be, discharged to an unnamed ephemeral stream, a water of the State. These discharges and/or threat of discharges of waste occurred without authorization under the Water Code. This unauthorized discharge and/or threat of discharge of waste also creates or threatens to create a condition of pollution.
30. Cleanup and abatement are necessary to ensure that the existing condition of pollution is cleaned up, that threat of unauthorized discharges to waters of the State from the Site are prevented, and that any further impacts to beneficial uses are mitigated.
31. The issuance of a cleanup and abatement order pursuant to Water Code section 13304 is appropriate and consistent with policies of the Santa Ana Water Board and State Water Board.
32. Resolution 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, the Statement of Policy with Respect to Maintaining High Quality Waters in California (Antidegradation Policy). Resolution 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 which is reasonable if background levels of water quality cannot be restored. Any alternative cleanup level 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 92-49 directs that investigations proceed in a progressive sequence. To the extent practical, it directs the Santa Ana Water Board to require and review for adequacy written work plans for each element and phase, and the written reports that describe the results of each phase of the investigation and cleanup.

Technical Reports Required

33. Water Code section 13267, subdivision (a) provides that the Santa Ana 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 Santa Ana Water Board, in conducting an investigation, may require dischargers to furnish, under penalty of perjury, technical or monitoring program reports. The burden, including costs, of these technical reports shall bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports. Staff estimate the total cost of technical reports required by this Order to be approximately \$6,560 - \$19,720.⁴ The costs of the technical or monitoring reports required by this Order bear a reasonable relationship to the need for these reports and the benefit to be gained by these reports, as discussed below:

- a. The Restoration and Monitoring Plan (RMP) is a technical report that is necessary to assess impacts to waters of the State resulting from the discharges of waste from cannabis cultivation activities and to determine the appropriate restoration and abatement work to correct those impacts. By requiring the Dischargers to submit an RMP, the Santa Ana Water Board or its delegated officer has the opportunity to review and approve the scope of the proposed restoration and corrective actions to confirm the proposed work will adequately remediate site conditions and prevent unauthorized discharges from further impacting beneficial uses. The plan requirements and associated costs to prepare an RMP (i.e., field inspection and report preparation) are comparable to that of preparing a combined Site Management Plan and Disturbed Area Stabilization Plan as presented in the 2017 Direct Cost Analysis, which is estimated to cost between \$3,660 and \$11,720. After consideration of these factors, staff has determined that the burden, including costs, of submitting the RMP bears a reasonable relationship to the need for the report and the benefits to be obtained from the report.

⁴ The State Water Board considered the estimated costs associated with various technical reports regarding site characterization, stabilization, and restoration during the adoption and amendment of the Cannabis Cultivation Policy and General Order. Estimated costs for technical reports were presented in the State Water Board's 2017 Direct Cost Analysis for the Proposed Cannabis Cultivation Policy (2017 Direct Cost Analysis) (waterboards.ca.gov/water_issues/programs/cannabis/docs/policy/20171017_cannabis_cultivation_policy_cost_analysis.pdf).

The costs to develop the technical reports required in this Order are anticipated to be comparable to the preparation of reports presented in the 2017 Direct Cost Analysis, as detailed in Paragraph 16, subparagraphs a-c.

- b. The RMP Completion Report is a report that demonstrates to the Santa Ana Water Board or its delegated officer that the restoration and corrective actions contained in the approved RMP have been fully implemented. By requiring the Dischargers to submit documentation of the corrective actions, including pre- and post-remediation photographs and relevant maps and schematic diagrams, staff can confirm the RMP has been fully implemented and that best management practices are adequate to prevent future discharges of wastes into waters of the State. The cost to prepare an RMP Completion Report is comparable to the report preparation component of a combined Site Management Plan and Disturbed Area Stabilization Plan as presented in the 2017 Direct Cost Analysis, which is estimated to cost between \$2,900 and \$8,000. After consideration of these factors, staff has determined that the burden, including costs, of submitting the RMP Completion Report bears a reasonable relationship to the need for the report and the benefits to be obtained from the report.
 - c. Annual Monitoring Reports are necessary to document the long-term stability of restored areas, to identify any areas where restoration is failing or needs improvement, and to demonstrate the effectiveness of erosion control measures in preventing sediment discharges to waters of the State. Given the condition of the Site as a result of the unauthorized land disturbance activities, a yearly report for a minimum of two years will enable staff to confirm that the completed restoration and corrective actions documented in the RMP Completion Report continue to be effective over the wet and dry seasons. The cost to prepare an Annual Monitoring Report is comparable to producing a Site Closure Report as presented in the 2017 Direct Cost Analysis, which is estimated to cost between \$1,080 and \$4,760 per report, for a total of \$2,160 to \$9,520 for two annual reports. After consideration of these factors, staff has determined that the burden, including costs, of submitting the Annual Monitoring Reports bears a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.
34. The Dischargers named in this Order currently own and/or operate the Site from which waste was discharged and have owned and/or operated during all relevant inspections, and thus are appropriately named a party responsible for providing the reports. Note that each landowner(s) is responsible for the conditions on their respective parcel. Each Discharger may either submit individual technical reports for their respective parcel or if the Dischargers are collaborating and contract the same qualified professional to address the Required Actions of the Order, then it is acceptable for the Dischargers to submit technical reports covering both parcels. If the cannabis cultivation operator is identified, they may also be named as a responsible party for the conditions of the Site.

California Environmental Quality Act

35. Issuance of this Order is an enforcement action taken by a regulatory agency to enforce the regulatory provision of the Basin Plan, and is exempt from provisions of the California Environmental Quality Act (CEQA) (Public Resources Code, § 21000 et seq.) in accordance with California Code of Regulations, title 14, § 15321. This action may also be considered exempt because it is an action by a regulatory agency for the protection of natural resources (Cal. Code Regs., tit. 14, § 15307) and an action by a regulatory agency for the protection of the environment (Cal. Code Regs., tit. 14, § 15308). To the extent that the Order requires earth disturbing and revegetation activities not to exceed five acres in size and to ensure restoration of stream habitat and prevent erosion, such actions are considered exempt from the provisions of CEQA pursuant to California Code of Regulations, title 14, § 15333. Should additional environmental review be required in connection with future discretionary regulatory actions at this site, the Board may recover the costs associated with preparing and processing environmental documents from the Dischargers (Public Resources Code, § 21089).

Required Actions

IT IS HEREBY ORDERED that, pursuant to Water Code sections 13267 and 13304, the Dischargers shall, on their respective parcels, clean up and abate or take other necessary remedial action with respect to the discharge and threat of discharge of waste to waters of the State and submit technical and/or monitoring reports as follows:

36. **Within 60 days of the effective date of this Order**, the Dischargers shall each submit, for their respective parcel, a proposed Restoration and Monitoring Plan (RMP) for approval by the Santa Ana Water Board or its delegated officer. If the Dischargers are collaborating and contract the same qualified professional to address the Required Actions of the Order, then it is acceptable for Dischargers to submit a single RMP covering both parcels. The RMPs shall detail the actions proposed to clean up the unauthorized discharges of waste on each landowner's respective parcel that threaten the unnamed ephemeral streams and propose next steps to restore impacted areas and prevent future discharges at the Site. An RMP should include, at a minimum, the following items for each parcel:

a. 390-290-011 (Ayala):

- i. A plan to restore the stream channel and riparian environment that has been altered by the land disturbance activities. The plan should include the following elements:
 1. Stabilization and/or removal and disposal of the main debris pile emplaced for the hairpin turn of the access road to the cultivation area.

2. Stabilization and/or decommissioning of the access road graded from the northern boundary of the parcel.
 3. Removal and/or decommissioning of the areas graded and leveled along the stream channel and riparian corridor emplaced for the cultivation areas and greenhouses.
 4. Stabilization of the eroded stream banks and riparian corridors, using native material to the extent possible. If applicable, any fill material should be sampled, tested, and confirmed clean before use.
 5. Installation and maintenance of sediment erosion controls to maintain the restored stream channels and prevent excess sediment discharge into the streams' system, including from the road crossing.
 6. Revegetation of the riparian corridor (100-foot buffer adjacent to the stream channel), as necessary, with regional native vegetation of similar native species.
- ii. A plan to investigate soil impacted by cannabis cultivation activities. The investigation shall include soil samples collected from the cannabis cultivation areas (greenhouse locations) and from locations on the Site not affected by cannabis cultivation to establish background conditions and make a comparison to background samples collected and/or applicable regulatory screening levels.
 - iii. A sediment assessment phase shall be included to determine if the sediment eroded and transported into the stream channel from the stream bank and road surface can remain in place without impacting water quality, or, if necessary, require disposal to protect water quality.
 - iv. Removal of all infrastructure related to the cannabis cultivation, including the greenhouses, any cannabis green waste, potting soils, and miscellaneous debris, from within the stream channel, riparian corridor, or other areas of the parcel where it may be transported into the stream or infiltrate into the vadose zone.
 - v. Removal of all waste and litter from the parcel that has the potential to be transported into the stream or infiltrate into the vadose zone, including transport due to restoration activities, earthmoving, precipitation runoff or stormwater, and natural stream flow.

- vi. A proposed implementation schedule that includes a proposed time schedule for submitting permit applications to all applicable local, state, and federal agencies, and detailed project milestones to fulfill the requirements of this Order. The implementation schedule and time schedule shall be subject to the approval of the Santa Ana Water Board or its delegated officer.
- vii. Best management practices shall be applied during implementation of all planned work associated with restoration and maintenance.

b. 390-290-012 (Cardona):

- i. A plan to restore the stream channel and riparian environment that has been altered by the land disturbance activities including:
 - 1. Stabilization and/or decommissioning of the access road graded across the stream and riparian corridor.
 - 2. Decommissioning of the area graded and leveled south of the stream channel and riparian corridor, possibly used for parking or vehicle turnaround.
 - 3. Stabilization of the eroded stream banks and riparian corridors, using native material to the extent possible. If applicable, any fill material should be sampled, tested, and confirmed clean before use.
 - 4. Installation and maintenance of sediment erosion controls to maintain the restored stream channels and prevent excess sediment discharge into the streams' system, including from the road crossing.
 - 5. Revegetation of the riparian corridor (100-foot buffer adjacent to the stream channel), as necessary, with regional native vegetation of similar native species.
- ii. A sediment assessment phase shall be included to determine if the sediment eroded and transported into the stream channel from the stream bank and road surface can remain in place without impacting water quality, or, if necessary, require disposal to protect water quality.
- iii. Removal of all waste and litter from the parcel that has the potential to be transported into the stream or infiltrate into the vadose zone, including transport due to restoration activities, earthmoving, precipitation runoff or stormwater, and natural stream flow.

- iv. A proposed implementation schedule that includes a proposed time schedule for submitting permit applications to all applicable local, state, and federal agencies, and detailed project milestones to fulfill the requirements of this Order. The implementation schedule and time schedule shall be subject to the approval of the Santa Ana Water Board or its delegated officer.
 - v. Best management practices shall be applied during implementation of all planned work associated with restoration and maintenance.
37. **No later than 30 days after approval of the RMP** by the Santa Ana Water Board or its delegated officer, the Dischargers shall begin implementation of the RMP in accordance with the implementation schedule.
38. By **May 31, 2026**, the Dischargers shall complete implementation of the RMP.
39. **No more than 60 days after full completion of the RMP**, the Dischargers shall submit an RMP Completion Report for approval by the Santa Ana Water Board or its delegated officer. The Completion Report shall include accurate depictions, documentation, and as-built designs of all completed restoration construction and/or abatement measures included in the approved RMP to demonstrate the RMP has been fully implemented. This report shall also include pre- and post-remediation photographs taken at each photo point, as depicted on site maps/figures.
40. Upon completion of the restoration and mitigation measures contained in the RMP, the Dischargers shall submit Annual Monitoring Reports by May 1 of each year for at least 2 years or until the Santa Ana Water Board or its delegated officer approves a request to discontinue monitoring. Such a request may be submitted when the approved success criteria in the RMP are met with supporting documentation. Each Annual Monitoring Report shall include, at a minimum, a completed inspection checklist, photographs of areas restored, a description of any location where restoration is failing and/or needs to be corrected to achieve the success criteria.

General Requirements and Notices

41. **Use of Qualified Professionals:** All technical reports required by this Order that involve planning, investigation, evaluation, or design, or other work requiring interpretation and proper application of engineering or geological sciences, shall be prepared by or under the direction of persons registered to practice in California pursuant to California Business and Professions Code sections 6735, 7835, and 7835.1. As required by these laws, completed technical reports must bear the signature(s) and seal(s) of the registered professional(s) in a manner such that all work can be clearly attributed to the professional responsible for the work.

42. **Signatory Requirements:** All technical reports submitted by the Dischargers shall 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 their knowledge, the report is true, complete, and accurate. The Dischargers shall also state if they agree with any recommendations/proposals and whether they approve implementation of said proposals. Any person signing a document submitted under this Order shall 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.”

43. **Notice of Change in Ownership or Occupancy:** The Dischargers shall file a written report on any changes in the Site’s ownership or occupancy, including documentation that the new owner or occupant is aware of this Order. This report shall be filed with the Santa Ana Water Board no later than 30 days prior to a planned change and shall reference the number of this Order.

44. **Compliance with Other Regulatory Requirements:** The Dischargers shall obtain all applicable local, state, and federal permits necessary to fulfill the requirements of this Order prior to beginning work.

45. **Cost Recovery:** Pursuant to Water code section 13304, the Water Board staff is entitled to, and may seek reimbursement for, all reasonable costs it actually incurs investigating and abating the effects of the unauthorized discharges of waste and to oversee/supervise the cleanup of such waste, or other remedial action, required by this Order. The Dischargers shall enroll in the State Water Board’s Cost Recovery Program and shall reimburse the State of California for all reasonable costs actually incurred by the Santa Ana Water Board.

46. **Submissions:** All reports, plans, and documents required by this Order shall be submitted electronically as a Portable Document File (PDF) file to: santaana.cannabis@waterboards.ca.gov, with the following in the subject heading “**CAO:R8-2025-0023:VGonzalez**” unless otherwise stated. If the report cannot be sent by email, it shall be submitted electronically on a Universal Serial Bus (USB) flash drive or Compact Disc (CD) to the following address:

Victor Gonzalez
Attn: CAO:R8-2025-0023:VGonzalez
California Regional Water Quality Control Board, Santa Ana Region
3737 Main Street, Suite 500

Riverside, CA 92501

47. **Delayed Compliance:** If for any reason, the Dischargers are unable to perform any activity or submit any document in compliance with the Required Actions, or in compliance with any work schedule submitted pursuant to this Order and approved by the Santa Ana Water Board or its delegated officer, the Dischargers may request, in writing, an extension of the time specified. The extension request shall include justification for the delay. Any extension request shall be submitted as soon as a delay is recognized and prior to the compliance date. An extension may be granted by revision of this Order or by a letter from the Santa Ana Water Board or its delegated officer. The Santa Ana 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 or not to grant an extension request.
48. **Modification of Order:** Any modification to this Order shall be in writing and approved by the Santa Ana Water Board or its delegated officer, including any potential extension requests.
49. **Enforcement Authority:** If a Discharger fails to comply with the requirements of this Order, the Santa Ana Water Board, or its delegated officer, may refer this matter to the Attorney General for judicial enforcement, may issue a complaint for administrative civil liability, or may take other enforcement actions. Failure to comply with this Order may result in the assessment of Administrative Civil Liability of up to \$5,000 per violation, per day, depending on the violation, pursuant to the Water Code, including sections 13268 and 13350. The Santa Ana Water Board reserves its right to take any enforcement actions authorized by law.
50. **Requesting Review by the State Water Board:** Any person aggrieved by this action of the Santa Ana Water 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, sections 2050 and following. 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 by the State Water Board by 5:00 p.m. 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 or will be provided upon request.
51. This Order is issued under authority delegated to the Executive Officer by the Regional Water Board pursuant to R8-2019-0056 and is effective upon signature.

Jayne Joy, P.E.

Executive Officer

Attachments:

August 17, 2023 Property Inspection Report and Notice of Violation

December 20, 2023 Property Inspection Report and Notice of Violation