



State Water Resources Control Board

April 20, 2023

Galen Doherty
P. O. Box 18
Whitethorn, CA 95589

APPROVAL TO USE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE VOLUNTARY AGREEMENT ON UNNAMED TRIBUTARY TO BUCK CREEK AND BUCK CREEK TRIBUTARY TO MATTOLE RIVER, HUMBOLDT COUNTY

Dear Galen Doherty:

The State Water Resources Control Board (State Water Board) Deputy Director of the Division of Water Rights (Deputy Director) received your request to implement the conditions of a voluntary agreement (Agreement) entered into with the California Department of Fish and Wildlife (CDFW) in lieu of certain instream flow requirements in the *Cannabis Cultivation Policy – Principles and Guidelines for Cannabis Cultivation* (Cannabis Policy).

The Agreement is for diversions of water from an unnamed tributary to Buck Creek and Buck Creek, which is a tributary to the Mattole River in Humboldt County. CDFW entered into the Agreement, dated November 21, 2018, with Galen Doherty (Cultivator) to provide protection for aquatic species in Buck Creek. CDFW has determined that the conditions of the Agreement provide watershed-wide protection for aquatic species that is comparable to or greater than those required in the Cannabis Policy. Under the Cannabis Policy, the Deputy Director may approve the Agreement subject to additional conditions, including reporting requirements, that the Deputy Director deems necessary to prevent injury to other legal users of water or the environment.

Based on the Agreement and water right information available to the State Water Board, it appears that the Agreement meets the requirements of the Cannabis Policy for Local Cooperative Solutions and, if implemented according to the conditions below, will not cause injury to other legal users of water or the environment.

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

The Cultivator is hereby approved to implement the Agreement as long as the Agreement remains in effect, subject to all of the following conditions:

- The Cultivator shall implement and remain in compliance with the conditions of the Agreement, including but not limited to the modified Cannabis Policy requirements that are summarized in Attachment 1.
- The Cultivator shall ensure compliance with all other applicable Cannabis Policy requirements.
- Ongoing operations under the Agreement shall not cause injury to other legal users of water or the environment.

This approval may be re-evaluated and amended by the Deputy Director based on future amendments to the Cannabis Policy or if it is determined that ongoing operations under the Agreement may cause injury to other legal users of water or the environment. Noncompliance with the conditions of the Agreement is subject to enforcement by the State Water Board as a violation of the Cannabis Policy. Other provisions of the Cannabis Policy not modified as part of this approval remain in full force and effect.

If you have questions about this letter, please contact Samuel Warner by email to: Samuel.Warner@waterboards.ca.gov or by phone at: (916) 341-5997.

Sincerely,



Erik Ekdahl
Deputy Director
Division of Water Rights

Attachment: Attachment 1: List of Modified Cannabis Policy Conditions

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Galen Doherty
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**Attachment 1:
Summary of Modified Cannabis Policy Requirements**

This Attachment 1 summarizes the modified Cannabis Policy requirements applicable to Galen Doherty's Small Irrigation Use Registration Number H032993 while the Agreement remains in effect:

Modified Surface Water Dry Season Forbearance Period

Attachment A, Section 3, Requirement 4 is modified to:

- From August 1 to October 31, all stream flow from the unnamed tributary and Buck Creek shall be bypassed, except for emergency fire suppression.

Modified Surface Water Wet Season Diversion Period

Attachment A, Section 3, Requirement 5 is modified to:

- Diversion of stream flow from the unnamed tributary and Buck Creek shall only occur from November 1 of one year to July 31 of the successive year, when bypass flows (see Modified Surface Water Flow Bypass section below) are met or exceeded.
- The rate of water diversion from the unnamed tributary between December 1 to April 30 shall not exceed 5 gallons per minute (gpm) or 15 percent of the total surface flow, whichever is less.
- The rate of water diversion from Buck Creek between December 1 to April 30 shall not exceed 5 gpm or 95 percent of total surface flow, whichever is less.
- The rate of water diversion for the months of May, June, July, and November shall not exceed 3 gpm or 5 percent of the total surface flow at each point of diversion, whichever is less.
- For the months of November and June, no more than 5,200 gallons per day shall be diverted from the unnamed tributary and Buck Creek combined, except for emergency fire suppression.

Modified Surface Water Flow Bypass

Attachment A, Section 3, Requirement 6 is modified to:

- Cultivator shall bypass a minimum of 85 percent of the streamflow in the unnamed tributary, and a minimum of 95 percent of the streamflow in Buck Creek at all times during the season of diversion.

Modified Instream Flow Requirement and Watershed Compliance Gage Assignment

Attachment A, Section 3, Requirement 7 and Attachment A, Section 4 are modified to:

- From November 1 to July 31, no water shall be diverted for direct use or diversion to storage unless the flow past the United State Geological Survey (USGS) gage. No. 11468900 at Ettersburg is greater than 38 cubic feet per second (cfs).
- No water shall be diverted from June 1 to October 31 during any time period that the Ettersburg gage (USGS gage No. 11468900) is not operational and data are not available at the reference gage MS-6 operated by Sanctuary Forest.