Cannabis Water Quality, Wildlife, Water Rights, and Enforcement Programs

Matt St. John – North Coast Regional Board
Griffin Perea & Ashley Worth – Central Valley Regional Board
Yvonne West & Lt. DeWayne Little – State Water Board, Office of Enforcement & Department of Fish and Wildlife
Erin Ragazzi – State Water Board, Division of Water Rights

Siskiyou County Board of Supervisors
Yreka, CA
October 4, 2016
Presentation Overview

- Water quality and flow impacts
- Statewide Cannabis Strategic Initiative
- North Coast & Central Valley Regional Board regulatory programs
- Enforcement
- Division of Water Rights Cannabis Cultivation Related Projects
- Opportunities to assist Siskiyou County
Common issues with Cultivation

• Illegal or poorly designed site development and road and stream crossing construction
• Diversion of streams and groundwater pumping
• Runoff: sediment, nutrients, fertilizers and pesticides
• Household garbage - cultivation wastes
• Fuel storage and containment
• Human wastes
Large-scale grading
Improper site development and maintenance
Road Construction next to a fish bearing stream
Road surface runoff
Runoff delivering to fish-bearing stream
Statewide Cannabis Initiative

Unregulated land development for cannabis cultivation threatens public safety, impacts wildlife, pollutes the land and streams, and destroys habitat.

- Pilot program initiated in July 2014
- Joint Water Boards/Fish and Wildlife Strategic Plan
- Four-pronged strategy:
  - Interagency coordination
  - Regulatory order development and implementation
  - Education and outreach
  - Enforcement
## Strategy

<table>
<thead>
<tr>
<th>Interagency Coordination</th>
<th>Education and Outreach</th>
</tr>
</thead>
</table>
| - Counties
- Cities
- Other Agencies          | - This presentation
- Enrollment workshops
- Pre-Consults             |

<table>
<thead>
<tr>
<th>Regulatory Program</th>
<th>Enforcement</th>
</tr>
</thead>
</table>
| - Order R1-2015-0023
- Order R5-2015-0013    | - Identification of sites
- Watershed prioritization
- Ongoing inspections    |
Interagency Coordination

**Primary Players:** Dept. of Fish and Wildlife, Region 1, Region 5, and State Board Office of Enforcement, and State Board Division of Water Rights

- Formal Management Coordination
- Prioritization and Resource Coordination:
  - Joint Prioritization efforts
  - Joint inspections and enforcement efforts
  - Environmental crimes task force meetings and field efforts
  - Local and state agency coordination: new codes and ordinances, new legislation, new regulations
- Coordination with local governments and Tribes
Waste Discharge Regulatory Programs

- Region 1: Adopted Order No. R1-2015-0023
- Region 5: Adopted Order No. R5-2015-0113
- Orders regulate the discharge of waste from cannabis cultivation and associated activities or operations with similar environmental effects.
- Do not authorize cultivation of cannabis
- Only apply to grows on private property
Regional Water Boards 1 & 5 Boundaries
Waste Discharge Regulatory Programs

- Standard Conditions – water quality and water conservation measures
- Tiered enrollment relative to water quality threats
  - Tier 1 – Low Threat
  - Tier 2 – Water Quality Management Tier
  - Tier 3 – Cleanup Tier
- Facilitate enforcement actions
Enforcement: Authority, Past Successes & Next Steps

Yvonne West
- Water Boards’ Cannabis Regulation and Enforcement Unit

Lt. DeWayne Little
- California Fish & Wildlife Watershed Enforcement Team (WET)
Above: Illegal water diversion at a recent inspection.
Right: Cloudy water & algal bloom due to sediments and elevated nutrients from discharge of fertilizers & potting soils.
Water Board photos ©
CA Fish & Wildlife Enforcement Authority

FGC §1602 – An entity may not: substantially divert or obstruct the natural flow; substantially change or use material from; deposit or dispose debris into any river, stream, or lake without first notifying CDFW in writing. CDFW determines if notification is complete, and the entity pays applicable fees.

FGC §12025(a)(1)(A) – Up to $10,000 for each violation of §1602 in connection with cannabis cultivation while trespassing on public or private land;

FGC §12025(b)(1)(A) – Up to $8,000 for each violation of §1602 in connection with cannabis cultivation on land not subject to trespass;

FGC §12025(b)(2) Each day violation occurs or continues to occur is a separate violation.
Violations Observed During 2015 Field Inspections and Observations

Cannabis Program Enforcement/Task Force Inspections in 2015:

- ~50% had one or more moderate violations (e.g., undersized crossings, small controllable sediment sites, housekeeping issues)
- ~25% had significant violations (e.g., fill in surface waters, poorly sited and constructed roads, widespread poor housekeeping practices)
- ~25% had no violations or very minor concerns
- ~95% of sites using surface water had water rights violations;
Task Forces Accomplishments

- CDFW & Water Boards participated in over 220 inspections in Northern CA Counties, including: Shasta, Tehama, Butte, Humboldt, Trinity, & Mendocino;
- Documented many water right, water quality & Fish and Game Code violations including unauthorized diversion & use violations;
- Served property owner with detailed Water Rights & Water Quality inspection reports to property owners detailing violations, potential violations, & provided compliance recommendations and NOV from CDFW;
- Substantial increase in Water Rights reporting and applications, & LSA;  
- Issued formal enforcement orders requiring site clean up and seeking in liability.
The Central Valley Regional Water Board imposed $297,400 liability against property owner & contractor (June 2015)

- 1st penalty action with multiagency Cannabis Pilot Project;
- Large-scale grading activities resulting in actual and potential harm to surface waters in the Ono area of Shasta County;
- Grading resulted in unlawful discharges of sediment to pristine surface waters that provide habitat to aquatic organisms which are an important food source for fish, amphibians, birds & other wildlife.
- The contractor conducted the grading operations on part of the property without permits & was held jointly liable for up to $139,700 of the penalty.
State Water Board Enforcement against Bulk Water Hauler results in $35,000 Settlement (October 2015)
- ACL Complaint issued for Water Rights Violations against Trinity County property owner for unauthorized diversion from Hayfork Creek;
- Settlement for full amount of proposed liability;
  - Made possible by remote surveillance with DFW’s assistance;
  - Some water deliveries were allegedly as far away as Humboldt County.
State Water Resources Control Board, Division of Water Rights Implementation of Senate Bill (SB) 837

Cannabis Interim
Principles and Guidelines

October 4, 2016 - Yreka
State Water Resources Control Board
Division of Water Rights
Erin Ragazzi
State Water Board Responsibilities

• Ensure individual and cumulative effects of water diversion and discharge associated with cannabis cultivation do not affect instream flows needed for fish spawning, migration, and rearing, and flows needed to maintain natural flow variability
Principles and Guidelines

- Developed by State Water Board in consultation with California Department of Fish and Wildlife
- For diversion and use of water for cannabis cultivation in areas where cultivation may have potential to substantially affect instream flows
Principles and Guidelines (cont.)

• Principles and guidelines shall include measures to protect springs, wetlands, and aquatic habitat from negative impacts of cannabis cultivation
• May include requirements that apply to groundwater extractions
Interim Principles and Guidelines - Concept

- Surface water diversion forbearance period
  - Dry period – will vary by location depending on climate and hydrology
- Flow requirements for diversion period (wet season)
  - Maintain first flush flows, spring recession flows, and portions of other high flow events
- Fish screens and removal of passage barriers
- Conservation measures (drip, micro-spray irrigation)
- Riparian buffers
Implementation and Enforcement

- **Goal**: Develop interim principles and guidelines that are easily understood and enforceable
- State Water Board has primary enforcement responsibility for any principles and guidelines implemented as a result of SB 837
- Must notify California Department of Food and Agriculture of any enforcement action taken
- SB 837 does not limit the regulatory authority of the State Water Board under other provisions of law
Projected Timeline

• Conduct initial outreach meetings in key regions: August - October 2016
  – Last meeting today, October 4, in Rancho Cordova from 2:00-4:00 pm (webcast available)

• Release draft policy, with principles and guidelines, for public review (60 days): March- May 2017

• State Water Board meeting for consideration of proposed principles and guidelines: August 2017
Public Participation

• How can you participate?
  – Submit written comments (tell us what you like and/or provide recommendations)
    • Deadline to submit comments is **October 7, 2016**
      – Email: cannabisWR@waterboards.ca.gov
      – Written Correspondence:
        State Water Resources Control Board - Division of Water Rights
        Cannabis Interim Flow Unit
        P.O. Box 2000
        Sacramento, CA 95812-2000
  – Submit comments on Draft Interim Principles and Guidelines
  – Attend State Water Board meeting, and provide comments
    » Projected to be held in August 2017
Registrations

- Develop general terms and conditions for the Small Irrigation Use registration program that can be applied statewide to support cannabis cultivation
Webpages

• State and Regional Water Board cannabis cultivation information available at: waterboards.ca.gov/cannabis - portal to all Water Boards cannabis programs
Email Subscriptions

Sign up for to receive emails about the State Water Board commercial cannabis cultivation:

- State Water Board:
  [http://www.waterboards.ca.gov/resources/email_subscriptions/](http://www.waterboards.ca.gov/resources/email_subscriptions/)
  - Select “Water Rights” and “Cannabis Cultivators”

- North Coast Regional Board:
  [http://www.waterboards.ca.gov/resources/email_subscriptions/reg1_subscribe.shtml](http://www.waterboards.ca.gov/resources/email_subscriptions/reg1_subscribe.shtml)
  - Select “Cannabis Discharge Regulatory Program”

- Central Valley Regional Board:
  [http://www.waterboards.ca.gov/resources/email_subscriptions/reg5_subscribe.shtml](http://www.waterboards.ca.gov/resources/email_subscriptions/reg5_subscribe.shtml)
  - Select “Cannabis Cultivation Waste Discharge Regulatory Program”
# Contacts

<table>
<thead>
<tr>
<th>Name</th>
<th>Position and Contact Information</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Matt St. John</strong></td>
<td>Executive Officer, North Coast Regional Water Quality Control Board</td>
</tr>
<tr>
<td></td>
<td>707.570.3762</td>
</tr>
<tr>
<td></td>
<td><a href="mailto:Matt.St.John@waterboards.ca.gov">Matt.St.John@waterboards.ca.gov</a></td>
</tr>
<tr>
<td><strong>Lt. DeWayne Little</strong></td>
<td>Supervising Warden, California Department of Fish and Wildlife</td>
</tr>
<tr>
<td></td>
<td>530.604.9789</td>
</tr>
<tr>
<td></td>
<td><a href="mailto:DeWayne.Little@wildlife.ca.gov">DeWayne.Little@wildlife.ca.gov</a></td>
</tr>
<tr>
<td><strong>Yvonne West</strong></td>
<td>Senior Staff Counsel, State Water Board’s Office of Enforcement</td>
</tr>
<tr>
<td></td>
<td>916.322.3626</td>
</tr>
<tr>
<td></td>
<td><a href="mailto:Yvonne.West@waterboards.ca.gov">Yvonne.West@waterboards.ca.gov</a></td>
</tr>
<tr>
<td><strong>Ashley Worth</strong></td>
<td>Environmental Scientist, Central Valley Regional Water Quality Control Board</td>
</tr>
<tr>
<td></td>
<td>530.224.6130</td>
</tr>
<tr>
<td></td>
<td><a href="mailto:Ashley.Worth@waterboards.ca.gov">Ashley.Worth@waterboards.ca.gov</a></td>
</tr>
<tr>
<td><strong>Erin Ragazzi</strong></td>
<td>Environmental Program Manager, State Water Board’s Division of Water Rights</td>
</tr>
<tr>
<td></td>
<td>916.322.9634</td>
</tr>
<tr>
<td></td>
<td><a href="mailto:Erin.Ragazzi@waterboards.ca.gov">Erin.Ragazzi@waterboards.ca.gov</a></td>
</tr>
<tr>
<td><strong>Daniel Schultz</strong></td>
<td>Senior Environmental Scientist, State Water Board’s Division of Water Rights</td>
</tr>
<tr>
<td></td>
<td>916.323.9392</td>
</tr>
<tr>
<td></td>
<td><a href="mailto:Daniel.Schultz@waterboards.ca.gov">Daniel.Schultz@waterboards.ca.gov</a></td>
</tr>
</tbody>
</table>
Extra Slides
Water Board Enforcement

- Administrative
- Civil
- Criminal
- Regulatory Tools
  - Prohibitions
  - Waste Discharge Requirements or Waivers thereof
  - NPDES Permits
North Coast Regulatory Program

• August 13, 2015: Adopted Order No. R1-2015-0023
  – Does not authorize cultivation of cannabis
  – Regulates the discharge of waste from cannabis cultivation and associated activities or operations with similar environmental effects.
  – As of February 15, 2016: cultivators with 2000 square feet or more of cannabis were required to enroll for coverage under the Order.
North Coast Regulatory Program

- Property-wide coverage
- Standard Conditions – water quality and water conservation
- Tiered enrollment relative to water quality threats
  - Tier 1 – Low Threat
  - Tier 2 – Water Quality Management Tier
  - Tier 3 – Cleanup Tier
- Framework for third party programs
- Program compliance does not preclude the need to comply with all applicable laws and regulations
Central Valley Regulatory Program
Current Enrollments (30 September 2016)

Ashley Worth
Enforcement, Central Valley Regional Water Quality Control Board
Central Valley Water Board’s Regulatory Program

- The General Order regulates the discharge of wastes from outdoor or mixed indoor/outdoor cannabis cultivation operations that occupy and/or disturb more than 1,000 square feet.
- The General Order does not authorize, endorse, sanction, permit, or approve the cultivation, use, or sale of cannabis.
- Provides primacy to local jurisdictions
Central Valley Water Board’s Regulatory Program (cont.)

- Uses Discharge Prohibitions, Discharge Specifications, and Best Management Practices to Reduce and Eliminate Waste Discharges from Medicinal Cannabis Cultivation Activities

- Discharge Prohibition: Hazardous Waste
- Discharge Specification: 100’ from surface water
Tiers

**De minimus**: < 1,000 square feet

<table>
<thead>
<tr>
<th>Tier I (Low Threat)</th>
<th>&lt;30% Slopes, &lt;1/4 Acre, AND &gt;200 feet from aquatic life bearing water body</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tier II (Moderate Threat)</td>
<td>&lt;30% Slopes, &lt; 1 Acre, AND &gt;200 feet from aquatic life bearing water body</td>
</tr>
<tr>
<td>Tier III (Elevated Threat)</td>
<td>&gt;30% Slopes, &gt; 1 Acre, OR &lt;200 feet from aquatic life bearing water body</td>
</tr>
</tbody>
</table>
Tier 1 Operation

Gentle Slopes

< 1/4 acre
Tier 2 Operation

>1/4 acre, <1 acre

Gentle Slopes
Tier 3 Operation

- Combined Area >1 acre
- Steeper Slopes
- Distance to Watercourse
- Combined Area >1 acre
# North Coast Regulatory Program

## Current Enrollments (01-Sept-16)

<table>
<thead>
<tr>
<th>Tier</th>
<th>Hum</th>
<th>Mendo</th>
<th>Sis</th>
<th>Son</th>
<th>Tri</th>
<th>All</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>46</td>
<td>25</td>
<td>0</td>
<td>2</td>
<td>10</td>
<td>83</td>
</tr>
<tr>
<td>2</td>
<td>268</td>
<td>41</td>
<td>2</td>
<td>6</td>
<td>59</td>
<td>376</td>
</tr>
<tr>
<td>3</td>
<td>2</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>2</td>
</tr>
<tr>
<td>Total</td>
<td>316</td>
<td>66</td>
<td>2</td>
<td>8</td>
<td>69</td>
<td>461</td>
</tr>
</tbody>
</table>

**In process:**

<table>
<thead>
<tr>
<th></th>
<th>Grand Total</th>
<th>734</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td>273</td>
</tr>
<tr>
<td><strong>Grand Total</strong></td>
<td></td>
<td>734</td>
</tr>
</tbody>
</table>
## Central Valley Regulatory Program
### Current Enrollments (30 September 2016)

<table>
<thead>
<tr>
<th>Tier</th>
<th>Calaveras</th>
<th>Lake</th>
<th>Mariposa</th>
<th>Nevada</th>
<th>Plumas</th>
<th>Sierra</th>
<th>Yolo</th>
<th>All</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>173</td>
<td>4</td>
<td>1</td>
<td>2</td>
<td>4</td>
<td>2</td>
<td>20</td>
<td>206</td>
</tr>
<tr>
<td>2</td>
<td>153</td>
<td>3</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>21</td>
<td>178</td>
</tr>
<tr>
<td>3</td>
<td>14</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>15</td>
</tr>
<tr>
<td>Total:</td>
<td>340</td>
<td>7</td>
<td>1</td>
<td>2</td>
<td>4</td>
<td>3</td>
<td>42</td>
<td>399</td>
</tr>
<tr>
<td>In Process:</td>
<td>263</td>
<td>2</td>
<td>0</td>
<td>2</td>
<td>0</td>
<td>0</td>
<td>11</td>
<td>278</td>
</tr>
</tbody>
</table>

**Grand Total: 677**