
State Water Resources Control Board

TO: Erik Ekdahl
Deputy Director
Division of Water Rights

FROM: Original signed by

Jeffrey Sanchez
Engineering Geologist
Division of Water Rights

DATE: December 16, 2019

SUBJECT: Cannabis Policy Fully Contained Spring – Qualified Professional Classifications

Background

The *Cannabis Cultivation Policy – Principles and Guidelines for Cannabis Cultivation* (Cannabis Policy)¹ allows cannabis cultivators to request an exemption from certain flow requirements² if the spring used for cannabis cultivation meets the specific requirements for a fully contained spring outlined in the Cannabis Policy. Cannabis cultivators requesting an exemption must provide supporting evidence regarding the fully contained spring. The fully contained spring exemption request (exemption request) must include substantial evidence to demonstrate that, in the absence of diversions, the spring or artesian well does not have surface or subsurface hydrologic connectivity to a surface waterbody that flows off the property at any time of the year during all water year types. The substantial evidence must be documented by a Qualified Professional, which is defined in the Cannabis Policy as a California-licensed Professional Geologist or other classifications of professions approved by the Deputy Director for Water Rights (Deputy Director).

¹ The Cannabis Policy is available on the Water Boards' [Cannabis Cultivation website](#), which is available online at:

https://www.waterboards.ca.gov/water_issues/programs/cannabis/

² The cannabis cultivator may be exempted from Attachment A, Section 3 Numeric and Narrative Instream Flow Requirements 4 and 5 of the Cannabis Policy.

Cannabis cultivators and other stakeholders have indicated that a lack of qualified professionals may exist in some areas of the state, and that accessing certain professionals may involve lengthy wait times and act as a barrier to compliance. State Water Board staff have identified additional classes of professionals that possess the knowledge, experience, and training in order to broaden the pool of professionals who can prepare exemption requests.

General Desired Elements of Professional Classifications:

Staff reviewed key elements of the Professional Geologist role in identifying fully contained springs, and used those elements to create a list of desired professional expertise and qualifications. That list is included below:

- Evaluation by a credible third-party group of professionals/subject matter experts (e.g., Professional Board or Organization)
 - Evaluation of underlying education (degree and transcripts)
 - Evaluation of subject matter knowledge (testing)
 - Evaluation of relevant experience (resume and recommendations)
- Requirements to maintain a license/certification with current/active status
- Technical understanding of surface hydrology, geology, and hydrogeology
- Focus on natural environment versus built environment
- Code of conduct/ethics for professionals and system to evaluate complaints against professionals, including potential consequences for violations (i.e., revocation of license/certification)

Recommended Qualified Professional Classifications:

Based on the above desired elements, staff recommends the additional Qualified Professional Classifications listed below be approved to prepare exemption requests.

- California-licensed Civil Engineer with at least three years of technical experience in the fields of surface hydrology, geology, or hydrogeology that is relevant to the investigation of springs and related features in the context of the Cannabis Policy; and
- American Institute of Hydrology certified Professional Hydrologist with at least three years of technical experience in the fields of surface hydrology, geology, or hydrogeology that is relevant to the investigation of springs and related features in the context of the Cannabis Policy.

General Reasoning:

The intent of the Cannabis Policy was to identify qualified professionals who could determine whether a spring is fully contained within a cannabis cultivator's property. At present, only Professional Geologists can make that determination. However, State Water Board staff has identified an additional set of qualified professionals who have the relevant knowledge and experience to make a fully contained spring determination. The recommended knowledge and experience includes professions that focus on the environment and movement of water within the natural landscape, as springs are

natural features primarily influenced by geology and hydrology. The additional professional classifications must also belong to a state or national-level organization that can provide a third-party evaluation of each applicant's education and experience, as evaluated through testing of minimum level subject matter expertise.

Additional elements of the desired professional classifications include periodic renewal of membership status (to ensure individuals are still active in the field) and that the individuals are held to a written code of conduct or ethical standards. A pathway to hold professionals accountable is important to both the cannabis cultivator and the State Water Board.

Recommendations:

Staff recommend two additional Professional Classifications be able to identify fully contained springs for the purposes of the Cannabis Policy, as described below:

Professional Hydrologist (Surface Water, Groundwater, or Water Quality Specialty) – These professionals are certified by the American Institute of Hydrology. The [American Institute of Hydrology](#) describes itself as “the only nationwide organization that offers certification to qualified professionals in all fields of the hydrological sciences.” Unlike the California Engineer or Geology License, which have a basic license and optional sub-specialty certification, Professional Hydrologists must choose one or more of the following specialties: Surface Water, Groundwater, and/or Water Quality. California does not have a statewide specific license or certification specific to hydrology and limits Hydrogeology certifications to Geologists. While many Professional Hydrologists have the education and experience to evaluate natural environmental features, the Professional Hydrologist certification alone does not demonstrate the specific knowledge or qualifications necessary to evaluate springs and related features in the context of the Cannabis Policy.

Therefore, in order for Professional Hydrologists to conduct fully contained spring investigations, they must self-certify that they have a minimum of three years of technical experience in the fields of surface hydrology, geology, or hydrogeology that is relevant to the investigation of springs and related features in the context of the Cannabis Policy. Professional Hydrologists are required to include the following statement in the fully contained spring exemption report and provide the State Water Board with evidence that supports the self-certification, if requested:

As a Professional Hydrologist, I hereby certify that I have at least three years of experience directly relevant to the investigation of springs and related features as described in Attachment A, Section 3, Requirement 3 of the Cannabis Policy.

Professional Civil Engineer – These professionals are licensed by the California Board for Professional Engineers, Land Surveyors, and Geologists. Civil Engineering is defined in the California Professional Engineers Act in section 6731 as the study, investigation, and design of “fixed works” or constructed features within a landscape (i.e., “the built environment”). While many Civil Engineers have the education and experience to evaluate natural environmental features, the Civil Engineer license (or sub-certifications) alone does not demonstrate the specific knowledge or qualifications necessary to evaluate springs and related features in the context of the Cannabis Policy.

Therefore, in order for Civil Engineers to conduct fully contained spring investigations, they must self-certify that they have a minimum of three years of technical experience in the fields of surface hydrology, geology, or hydrogeology that is relevant to the investigation of springs and related features in the context of the Cannabis Policy. Civil Engineers are required to include the following statement in the fully contained spring exemption report and provide the State Water Board with evidence that supports the self-certification, if requested:

As a Civil Engineer, I hereby certify that I have at least three years of experience directly relevant to the investigation of springs and related features as described in Attachment A, Section 3, Requirement 3 of the Cannabis Policy.

Deputy Director Approval

Based on the information provided, I approve the following additional professional classifications as Qualified Professional Classifications to prepare reports for exemption requests:

- California-licensed Civil Engineer with at least three years of technical experience in the fields of surface hydrology, geology, or hydrogeology that is relevant to the investigation of springs and related features in the context of the Cannabis Policy; and
- American Institute of Hydrology certified Professional Hydrologist with at least three years of technical experience in the fields of surface hydrology, geology, or hydrogeology that is relevant to the investigation of springs and related features in the context of the Cannabis Policy.

Original signed by

Erik Ekdahl
Deputy Director
Division of Water Rights

Date: December 17, 2019