

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

ORDER WR 2022-0174-DWR

ADMINISTRATIVE CIVIL LIABILITY ORDER

In the Matter of: Administrative Civil Liability for Violations of Division 2 of the California Water Code in Humboldt County Associated with the Diversion and Use of Water for Cannabis Cultivation by

Nicolas Baker

Trinity County

APN: 018-220-021-00, 018-220-022-00

The Assistant Deputy Director of the Division of Water Rights (Division), acting under authority delegated by the State Water Resources Control Board (State Water Board), hereby issues an Administrative Civil Liability Order (Order) to Nicolas Baker (Diverter) pursuant to California Water Code section 1055, subdivision (c), based on the allegations made in an Administrative Civil Liability Complaint dated August 26, 2022.

THE STATE WATER BOARD, OR ITS DELEEGEE, FINDS AS FOLLOWS:

1. The Diverter is the owner of record for Trinity County Assessor Parcel Numbers (APN) 018-220-021-00 and 018-220-022-00 (hereinafter the Property) and has been the owner of record at all times relevant here.
2. On August 26, 2022, the Assistant Deputy Director, acting under authority delegated by the Executive Officer of the State Water Board, issued an Administrative Civil Liability Complaint (Complaint) to the Diverter pursuant to Water Code section 1055.
3. A copy of the Complaint is attached to this Order and incorporated by reference as if fully set forth herein.

4. The Complaint alleges that the Diverter failed to submit a Statement of Water Diversion or Use (Statement) as required under Water Code section 5101, violated certain Cannabis Cultivation Policy requirements adopted pursuant to Water Code section 13149, and diverted and used water for commercial cannabis cultivation for which a license was required but not obtained. After considering all relevant circumstances pursuant to Water Code section 1055.3 and 5107, subdivision (e), the Complaint proposes an administrative civil liability in the full statutory maximum amount of **\$17,500**.
5. The Division served the Complaint to the Diverter via process server on September 9, 2022. Along with the Complaint, the Division served a copy of a Notice of Violation/Inspection Report (NOV/IR) documenting violations of the California Water Code observed by Division staff during an inspection of the Property on May 12, 2021, which are the subject of the Complaint.
6. Pursuant to Water Code section 1055, subdivision (b), the Complaint notifies the Diverter of the ability to contest the allegations in the Complaint by submitting a written request for a hearing not later than 20 days from the date of service of the Complaint, and that the State Water Board may adopt an order setting administrative civil liability based on the allegations set forth in the Complaint without a hearing if the Diverter does not submit a timely hearing request.
7. The Diverter did not submit a timely hearing request, and to date has not submitted any hearing request. Therefore, pursuant to Water Code section 1055, subdivision (c), the State Water Board may adopt an order setting administrative liability based on the allegations set forth in the Complaint without a hearing.
8. The State Water Board has delegated the authority to issue an order imposing administrative civil liability when a complaint has been issued and no hearing has been requested to the Deputy Director of Water Rights. (State Water Board Resolution No. 2012-0029, Section 4.9.2.) The State Water Board has authorized the Deputy Director to redelegate this authority. The Deputy Director has redelegated this authority to the Assistant Deputy Director.
9. As of the date of this Order, the Diverter has not responded to the NOV/IR or the Complaint. There is no evidence to suggest any of the corrective actions necessary to remediate the violations have been taken by the Diverter. In consideration of these circumstances and all relevant circumstances described in the Complaint pursuant to Water Code sections 1055.3 and 5107, subdivision (e), the Assistant Deputy Director has determined that the appropriate penalty is **\$17,500**.
10. Pursuant to Water Code section 1055, subdivision (d), orders setting administrative civil liability shall be effective upon issuance.

IT IS HEREBY ORDERED THAT:

1. The allegations contained in the attached Administrative Civil Liability Complaint are incorporated as findings in this Order as if fully set forth herein.

ORDER WR 2022-0174 DWR

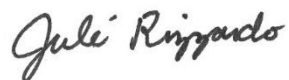
Nicolas Baker

2. Diverter shall remit, within 30 days of the date of this Order, a check or money order payment of the full penalty of **\$17,500** to:

State Water Resources Control Board
Division of Water Rights
Enforcement Section
P.O. Box 2000
Sacramento, CA 95812-2000

3. Fulfillment of Diverter's obligations under this Order constitutes the full and final satisfaction of the liability for the alleged violations specifically identified in the Complaint. The State Water Board reserves the right to take further enforcement action for any future violations.
4. The Assistant Deputy Director is authorized to seek recovery of the liability imposed, as authorized by California Water Code section 1055.4, or refer this matter to the Office of Attorney General for further enforcement action if Diverter fails to comply with remitting payment of the full penalty within 30 days of the date of this Order.

STATE WATER RESOURCES CONTROL BOARD



*Julé Rizzardo, Assistant Deputy Director
Division of Water Rights*

Dated: