

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

DIVISION OF WATER RIGHTS

ORDER WR 2025-XXXX-DWR

DRAFT CEASE AND DESIST ORDER

In the Matter of Diversion or Use of Water for Cannabis

Cultivation

Rick Jones and Ryan Miller

APNs: 069-070-001-000, 106-220-007-000, and 069-080-005-000

COUNTY: SONOMA

The Acting Assistant Deputy Director of the State Water Resources Control Board
(State Water Board) Division of Water Rights (Division) hereby finds:

SUMMARY OF DETERMINATIONS

1. Based on the facts and information contained herein, Rick Jones and Ryan Miller (hereinafter the Diverters) are violating or threatening to violate requirements set forth in Water Code Section 1831, subdivision (d)(6)(A):
 - a. Division staff observed the Diverters using surface water to cultivate approximately 1,389 cannabis plants on August 29, 2023, without a license issued by Department of Cannabis Control (DCC) as required by Chapter 6 of Division 10 of the Business and Professions Code. (Bus. & Prof. Code, section 26060 et. seq.).
 - b. Division staff observed and documented diversions of water for cannabis cultivation in violation of an applicable requirement established by the State Water Board in the *Cannabis Cultivation Policy – Principles and Guidelines for Cannabis Cultivation* (Cannabis Cultivation Policy) pursuant to Water Code, section 13149.
2. This Order directs the Diverters to cease and desist the activities causing the violation(s) and to take the corrective actions described below.

CEASE AND DESIST AUTHORITY

3. Water Code section 1831, subdivision (a), provides that the State Water Board may issue an order to cease and desist from violation(s) or threatened violations(s) of the requirements described in section 1831, subdivision (d). Specifically, Water Code section 1831, subdivision (d) (6)(A)-(B) provides:

(6) Any diversion or use of water for cannabis cultivation if any of... paragraphs (1) to (5), inclusive, or any of the following applies:

(A) A license is required, but has not been obtained, under Chapter 6 (commencing with Section 26060) or Chapter 7 (commencing with Section 26070) of Division 10 of the Business and Professions Code.

(B) The diversion is not in compliance with an applicable limitation or requirement established by the board or the Department of Fish and Wildlife under Section 13149.

4. Water Code section 1834, subdivision (a), provides that the State Water Board shall give notice informing the party that he or she may request a hearing not later than 20 days from the date on which the notice is received. If the party does not timely request a hearing, section 1834, subdivision (a), authorizes the State Water Board to adopt a cease-and-desist order based on the statement of facts and information set forth in the notice without a hearing. The State Water Board delegated this authority to the Deputy Director for Water Rights in Resolution 2012-0029. The Deputy Director has redelegated this authority to the Assistant Deputy Director for Water Rights.

STATEMENT OF FACTS AND INFORMATION

5. Property Ownership: Sonoma County records indicate that the Diverters acquired Sonoma County Assessor's Parcel Number (APN) 069-070-001-000, 106-220-007-000, & 069-080-005-000 (the Property) on May 19, 2016, and have owned the Property at all times relevant here. Mr. Ryan Miller is named as the sole responsible party for the violations of the California Water Code alleged in the Administrative Civil Liability Complaint arising from the same facts and evidence supporting this Order. While Mr. Rick Jones is not named as a responsible party in the Complaint, he is named in this Order because as an owner of the Property he has the authority and duty to prevent future unauthorized diversion and use of surface water from occurring on the Property.
6. Watershed Information: The Property is located in the Russian River Watershed, specifically in the Hydrologic Unit Code 12 (HUC 12: 180101100903) watershed designated as Dutch Bill Creek-Russian River. Cannabis Cultivation activities occurred in the Hulbert Creek Watershed, which is a tributary of the HUC 12 Dutch Bill Creek-Russian River watershed. Water for cannabis cultivation was diverted from an unnamed stream that is tributary to Hulbert Creek. Hulbert Creek

is a tributary of the Russian River.

7. Water Rights Records Review:
On August 23, 2023, on January 11, 2024, on March 21, 2024, and again on January 24, 2025, Division staff searched for available State Water Board records in the Division of Water Rights Electronic Water Rights Management System (eWRIMS) and found no existing Statement, water right permit, license, or registration on file for the Property.
8. Well Records Review:
On August 23, 2023, on January 11, 2024, and again on March 21, 2024, Division staff searched the available Department of Water Resource records in the online Well Completion Report database and found no existing records of a groundwater well on the Property.
9. Investigation:
On August 17, 2023, the Division was notified and invited by California State Parks of a search warrant investigation based on the suspected surface water diversion used for illegal cannabis cultivation on the Property.
10. Aerial Imagery Review:
On August 23, 2023, the Division reviewed aerial imagery of the Property and made the following observations:
 - a. On August 23, 2023, Division staff reviewed LandVision aerial imagery dated February 22, 2022, showing an outdoor cultivation area observed by Division staff at POU1 during the August 29, 2023 inspection. This is the earliest aerial image with evidence of cannabis cultivation occurring on the Property.
 - b. On January 11, 2024, Division staff reviewed Google Earth aerial imagery dated May 11, 2023, and confirmed graded areas throughout the Property indicating potential commercial cannabis cultivation. The image shows outdoor cultivation present at POU1, consistent with observations during the August 29, 2023, inspection.
11. Department of Cannabis Control License Records Review:
On August 23, 2023, Division staff reviewed the California Department of Cannabis Control's (DCC's) August 16, 2023, commercial cannabis cultivation license records to determine if there was an active or pending license on file that would authorize the commercial cannabis cultivation observed on the Property. Division staff found no DCC license on record for the Property. On January 11, 2024, Division searched DCC's cultivation license records, current to December 27, 2023, and again found no such license on record.
12. Augst 29, 2023 Inspection:
On August 29, 2023, Division staff, accompanied the California State Parks,

California Department of Fish and Wildlife (CDFW) Game Wardens and scientific staff, and Mendocino County Sheriff's Office to conducted an inspection of the Property. Ryan Miller was present during the inspection and was interviewed by both California State Parks law enforcement officers and by Division staff. Division staff observed approximately 1,389 cannabis plants, two surface water diversions, and related irrigation infrastructure on the Property.

13. Points of Diversion:

On the August 29, 2023 inspection, Division staff observed and documented two Points of Diversion (POD) on the Property that have been used for cannabis cultivation since 2021 according to statements made by the Diverter, Ryan Miller.

- a. POD1 is a point of diversion to off-stream storage located on an unnamed stream that is a tributary to Hulbert Creek. The unnamed stream has defined bed and banks upstream and downstream from POD1. Water was flowing in the unnamed stream, however, POD1 was not actively diverting water during the inspection. POD1 is a 1.5 horsepower electric well pump plumbed to a 1-inch diversion line that supplies water for cannabis cultivation at Place of use (POU) 2. If the pump was on, water could be diverted from the unnamed stream. POD1 is located on the Property and appears to be riparian to the unnamed stream.
- b. POD2 is a point of diversion to off-stream storage located on an unnamed stream that is a tributary to Hulbert Creek. The unnamed stream has defined bed and banks upstream and downstream from POD2. Water was flowing in the unnamed stream, however, POD2 was not actively diverting water during the inspection. Water diverted from POD2 is diverted using a 1.5 horsepower well pump (powered by a 9.7 horsepower Predator gasoline generator) through a 1-inch polyethylene water supply line to POS6. Water diverted from POD2 is used for cannabis cultivation at POU 1. POD2 is located on the Property and appears to be riparian to the unnamed stream.

14. Inspection Report and Notice of Violation:

On August 29, 2023, at the conclusion of the inspection, Division staff left a Notice of Violation (Field NOV) summarizing Water Code violations observed during the inspection. The Field NOV was left with a copy of the search warrant with Ryan Miller. On October 25, 2023, Division staff sent a Notice of Violation and Inspection Report (NOV/IR) to Rick Jones and Ryan Miller. The Inspection Report describes the observations made by Division staff during the inspection, the violations relating to those observations, the recommended corrective actions for each of the alleged violations, and a Division staff contact for assistance with compliance and reporting. Division staff mailed the Inspection Report to the Diversers via certified mail on October 25, 2023. Based on the United States Postal Service (USPS) tracking on November 15, 2023, Ryan Miller received the NOV/IR at 712 Morgan St, Apt D, Santa Rosa, CA 95407. On January 19, 2024, Rick Jones received the NOV/IR at 7590 Starr Road, Windsor, CA 95492.

15. Landowner Diverter Response:

- a. On September 6, 2023, the Diverter, Ryan Miller, contacted Division staff by phone. He stated that compliance is his goal and he wanted to discuss the field NOV. He was advised to take photos of the deconstruction of the pools, removal of the PODs, show that the POU's have been retired, as well as install lids on all tanks. He was advised that a formal report would follow.
- b. On September 11, 2023, the Diverter, Ryan Miller sent by email photos of both PODs removed and all three of the pools used to store water (POS 3-5) were removed.
- c. On January 10, 2024, Division staff emailed Ryan Miller to discuss the outstanding corrective actions to include filing statements for POD1 and POD2 and to verify that all three pools (POS 3-5) were removed. He has not responded to date.
- d. On January 19, 2024, Rick Jones wrote a letter to the State Water Board stating he was not involved in the cannabis cultivation activities on the Property, nor could he have been capable due to a skiing accident the year prior. Enclosed with the letter from Rick Jones was a signed statement from the Diverter that he was solely responsible for the cannabis cultivation on the Property.
- e. On January 24, 2024, Rick Jones contacted Division staff via phone. Mr. Jones stated to have nothing to do with the cannabis cultivation due to his health. Mr. Jones said he had osteoporosis, a broken back, and over the past two years has broken multiple other bones. Mr. Jones said he has not been to the property for over two years.
- f. On February 28, 2024, Division staff reached out to Rick Jones via phone to follow up on outstanding corrective actions, specifically filing the Initial Statements for POD1 and POD2. He did not answer and a voicemail was left. Ryan Miller was also emailed about corrective actions and no response has been received to date.
- g. On March 1, 2024, Rick Jones called about the outstanding corrective actions. Mr. Jones said he could not file an Initial Statement for POD1 and POD2 because he was not there and did not know the water usage. Division staff explained that he is still liable and encouraged him to get in touch with Ryan Miller.
- h. On March 4, 2024, Rick Jones called Division staff to say he asked Ryan Miller to call Division staff. Mr. Jones said that Ryan Miller removed all three pools (POS 3-5). On the same day, Division staff called Ryan Miller and left a voicemail to confirm that all three pools were removed and to request information regarding compliance with remaining requirements.

- i. On March 8, 2024, Rick Jones called to ask if Ryan Miller had contacted Division staff yet. Division staff told him Ryan Miller was nonresponsive to inquiries.
16. Confirmation of the Need for DCC License:
DCC established a commercial cannabis cultivation licensing program pursuant to Chapter 6 (commencing with section 26060) of Division 10 of the Business and Professions Code and began issuing licenses on January 1, 2018. The only exceptions to the cultivation licensing requirement are for persons cultivating not more than six living cannabis plants, or certain nonprofit entities in limited circumstances not applicable here. (Bus. & Prof. Code § 26037.5, subd. (b).) Based on the review of aerial images and Division staff's observations during the April 29, 2022 inspection, the cannabis cultivation occurring on the Property is of a scale sufficient to require a commercial cannabis cultivation license under Chapter 6 (commencing with Section 26060) of Division 10 of the California Business and Professions Code.

ALLEGED VIOLATIONS AND THREATENED VIOLATIONS

17. Based on observations made during the inspection, the Diversifiers violated and threaten to violate the following requirements described in Water Code Section 1831, subdivision (d)(6)(A) and (B):
 - a. Subdivision (d)(6)(A): Any person engaged in commercial cannabis activity must obtain a state license from DCC. (Bus. & Prof. Code § 26037.5, subd. (a); 4 Cal. Code Regs. §15000.1, subd. (a).) "Commercial cannabis activity" includes cultivation. (Bus. & Prof. Code § 26001, subd. (j); 4 Cal. Code Regs. §15000, subd. (o).) The only exceptions to the cultivation licensing requirement are for persons cultivating not more than six living cannabis plants, or certain nonprofit entities in limited circumstances not applicable here. (Bus. & Prof. Code § 26037.5, subd. (b).) Cultivation licensing requirements are set forth in Chapter 6 of Division 10 of the Business and Professions Code, commencing at section 26060.
 - i. Based on Division staff's observations during the August 29, 2023, inspection, staff determined that the observed scale of cannabis cultivation occurring on the Property required a DCC commercial cannabis license under Chapter 6 (commencing with Section 26060) of Division 10 of the Business and Professions Code. Division staff observed approximately 1,389 cannabis plants growing with an approximate total area of 21,294 sq. ft., irrigated from surface water diversions at POD 1 and 2. Division staff found no record that Diverter obtained the required license from DCC for the observed cannabis cultivation on the Property, nor any record of or application for a cannabis SIUR.

- b. Threatened Violation Subdivision (d)(6)(B): The diversion is not in compliance with an applicable limitation or requirement established by the board or the Department of Fish and Wildlife under Section 13149.
 - i. During the August 29, 2023 inspection, Division staff documented that the Diverter failed to comply with an applicable requirement established by the State Water Board in the Cannabis Cultivation Policy pursuant to Water Code section 13149. Division staff documented surface water diversion from POD1 and POD2 used for cannabis irrigation during the forbearance period in violation of the Cannabis Cultivation Policy, Attachment A, Section 2, Term 66. Term 66 requires that all surface water diversions for cannabis cultivation comply with the surface water Numeric and Narrative Instream Flow Requirements found in the Cannabis Cultivation Policy. Numeric and Narrative Instream Flow Requirements No. 4 prohibits surface water diversions for cannabis cultivation activities between April 1 through October 31 of each calendar year
 - ii. The Diverters remain as the owners of record for the Property. Aerial imagery shows that the Property was used for cannabis cultivation beginning in 2021. Statements the Diverter (Ryan Miller) made to Division staff confirm the diversion and use of surface water for cannabis cultivation began in 2021 and continued until the date of the inspection. Due to the Diverters' continued ownership of the Property, past practice of cannabis cultivation, and the relative ease by which a cannabis cultivation irrigation system can be re-established there exists a threat the Diverters will continue to divert and use water for commercial cannabis cultivation on the Property without a state license(s).

SECTION 1834 NOTICE REQUIREMENTS

- 18. On Date October 8, 2025, in accordance with Water Code section 1834, subdivision (a), the Division provided the Diverter with notice of the State Water Board's intent to issue an order determining that the Diverter is violating or threatening to violate requirements described in Water Code section 1831, subdivision (d)(6)(A).
- 19. The notice included the facts and information stated above, which describe the basis for the violations and threatened violations, and informed the Diverter that unless a written request for a hearing signed by or on behalf of the notified party is delivered to or received by mail by the State Water Board within 20 days after receipt of the notice, the State Water Board may adopt a cease and desist order based on the statement of facts and information set forth in the notice, without a hearing.

IT IS HEREBY ORDERED, pursuant to Sections 1831 through 1836 of the California Water Code, that:

1. The Diversers shall immediately cease and desist any diversion or use of water from the unnamed stream for cannabis cultivation until a DCC commercial cannabis license under Chapter 6 (commencing with Section 26060) of Division 10 of the Business and Professions Code is obtained. The requirement to obtain a cultivation license also incorporates the requirement to obtain a water right pursuant to Business and Professions Code section 26060.1(a)(2)(A).

ADDITIONAL INFORMATION

Consequences of Non-Compliance

Failure to comply with the requirements of this Order may result in additional enforcement, which may include the imposition of administrative civil liability or referral to the Attorney General to take further injunctive enforcement actions or seek civil liability, pursuant to Water Code section 1845. Civil liability, whether administrative or judicial, may be up to \$1,000 for each day in which the violation occurs, or up to \$10,000 for each day in which the violation occurs during drought.

Reservation of Enforcement Authority and Discretion

Nothing in this Order is intended to or shall be construed to limit or preclude the State Water Board from exercising its authority under any statute, regulation, ordinance, or other law.

Regulatory Changes

Nothing in this Order shall excuse the Diverter from meeting any more stringent requirements that may be imposed hereafter by applicable legally binding legislation, regulations or water right permit requirements.

Compliance with Other Regulatory Requirements

Nothing in this Order shall excuse the Diverter from meeting any additional regulatory requirements that may be imposed by other local, state or federal regulatory entities for corrective actions taken to comply with this Order.

Exemption from CEQA

This is an action to enforce the laws and regulations administered by the State Water Board. The State Water Board finds that issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code, Sections 21000 et seq.), in accordance with Section 15321(a)(2), Title 14, of the California Code of Regulations. 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).

Effective Date

This Order is effective upon issuance, pursuant to Water Code Section 1832.

Petition for Reconsideration

Any interested person or entity may petition the State Water Board for reconsideration of this Order pursuant to Water Code Section 1122. Such petition shall be filed not later than 30 days from the date the board adopts this Order.

STATE WATER RESOURCES CONTROL BOARD

Dated: October 8, 2025

DRAFT