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

DIVISION OF WATER RIGHTS

ORDER WR 2026-0016-DWR

CEASE AND DESIST ORDER

In the Matter of Threatened Diversions in Violation of the Cannabis Cultivation Policy and Threatened Diversion and Use of Water Without a License

Albert and Helen Kaser, as trustees of the Albert and Helen Kaser Revocable Living Trust, David J. Frost, & Brian and Brenda Frost

APNs: 012-670-29-05 & 012-670-32-00

SOURCE: Unnamed Spring Tributaries to Foster Creek

COUNTY: Mendocino

The State Water Resources Control Board (State Water Board or Board) is authorized under California Water Code (Water Code) section 1831 to issue a Cease and Desist Order (CDO or Order) requiring Albert and Helen Kaser, as trustees of the Albert and Helen Kaser Revocable Living Trust, David J. Frost, and Brian and Brenda Frost (Respondents), to cease a threatened diversion and use of water for cannabis cultivation without a license from the Department of Cannabis Control (DCC), and a threatened diversion that is not in compliance with an applicable requirement of the State Water Board's *Cannabis Cultivation Policy Principles and Guidelines for Cannabis Cultivation* (Cannabis Cultivation Policy).

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 request a timely 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 of the Permitting and Enforcement Branch.

The Respondent did not request a hearing on this matter. Accordingly, the Assistant Deputy Director hereby finds:

BACKGROUND INFORMATION

1. The threatened violations identified herein are occurring on Mendocino Assessor Parcel Numbers (APNs) 012-670-29-05 and 012-670-32-00 (the Property). According to the Mendocino County Assessor-Clerk-Recorder's Office, on September 23, 2025, the date of the inspection, and currently, the Albert and Helen Kaser Revocable Living Trust owns a one-third share of interest, Brian and Brenda Frost own a one-third share of interest, and David J. Frost owns a one-third share of interest in the Property.

2. Records from the Mendocino County Assessor-Clerk-Recorder's Office provide the following detailed descriptions of the timeline for transfers of ownership for shares of interest in the Property, starting in 1989:

    a. On March 13, 1989, Jim and Eloise Muscgrave deeded the Property in one-third shares of interest to 1) David and Bonnie Frost, 2) Brian and Brenda Frost, and 3) Albert and Helen Kaser.

    b. In 2002, Bonnie Frost deeded her portion of the shared one-third property interest to David Frost, making David Frost the sole owner of the one-third share of interest in the Property.

    c. On April 23, 2018, Mr. and Ms. Kaser transferred their one-third property share of interest to the Albert and Helen Kaser Revocable Living Trust, with Albert and Helen Kaser operating as trustees.

3. The Property is located within the Rattlesnake Creek Watershed and is part of the sub-watershed Benbow. Two unnamed springs that are tributary to Foster Creek, flow through the Property.

4. On September 19, 2025, prior to the inspection, and again on September 30, 2025, Division staff searched the DCC license database, and the State Water Board water rights records in the California Water Accounting, Tracking, and Reporting System (CalWATRS). On both occasions, Division staff confirmed that the Respondents do not have an active DCC license to cultivate cannabis, or an appropriative water right that would authorize diversion of water to seasonal storage for the use of cannabis cultivation or domestic use.

5. Division staff reviewed aerial imagery recorded in 2009, 2012, 2014, and 2018 through 2026 to examine the conditions of the Property. Division staff made the following observations:

a. Google Earth aerial imagery dated August 2009 shows outdoor cultivation areas containing plants with a size, color, and spacing indicative of cannabis cultivation. This is the earliest aerial imagery with evidence of cannabis cultivation occurring on the Property. At this time, the Property was owned in one-third shares of interest by 1) David Frost, 2) Brian and Brenda Frost, and 3) Albert and Helen Kaser.

b. Google Earth aerial imagery dated August 29, 2012, and May 29, 2014, and imagery captured by HistoricAerials.com in 2018, show outdoor cultivation areas containing plants with a size, color, and spacing indicative of cannabis cultivation, in various stages of growth.

c. Following the transfer of Mr. and Ms. Kaser's one-third share of interest in the Property to the Albert and Helen Kaser Revocable Living Trust, LightBox aerial imagery dated May 13, 2019, and Google Earth aerial imagery dated October 30, 2019, show an expansion of cultivation infrastructure. The imagery from 2019 is the first to depict the use of greenhouses on the Property.

d. Google Earth aerial imagery, dated July 29, 2020, shows an increase of greenhouses and cultivation-related infrastructure on the Property, including a total of eight greenhouses, the same amount recorded during the inspection.

e. LightBox aerial imagery from 2021, 2022, 2023, 2024, and 2025 show greenhouse structures and infrastructure in various configurations.

f. LightBox aerial imagery dated November 23, 2025, depicts the Property without the greenhouses that were visible in the previous aerial imagery. Although the Respondents have not provided pictures or information to indicate that they removed the eight greenhouses discovered during the inspection, none of the greenhouses are visible in the imagery, and they appear to have been removed.

g. The most up-to-date LightBox aerial imagery, dated April 18, 2026, depicts the Property without greenhouses or visible outdoor cannabis cultivation.

6. On September 23, 2025, Division staff accompanied law enforcement officers and environmental scientists from the California Department of Fish and Wildlife (CDFW), along with staff from DCC, on a search warrant inspection of the Property to assess water diversions and cannabis cultivation activities, for compliance with the Water Code and the Cannabis Cultivation Policy. During the inspection, Division staff observed eight greenhouse structures with unauthorized cannabis cultivation activities, consisting of approximately 2,001 cannabis plants on the Property, which were eradicated by law enforcement during the

inspection. Staff documented two points of diversion (PODs), that convey water to three points of storage (POSs) that supply water for irrigation of cannabis at one place of use (POU) and for domestic use at two POUs, which include an outdoor shower, and a residential dwelling with a toilet and sink.

a. POD1 is a gravity-fed diversion, which was actively diverting water for cannabis irrigation from a spring tributary to Foster Creek during the inspection. The unnamed spring flows into a channel with defined bed and banks and continues off the Property. POD1 consists of a shallow pool of 10 feet wide, and 10 inches deep, conveying water for cannabis irrigation at POS3 and POS4. POS3 includes a 2,600-gallon polyethylene water tank, and POS4 includes three polyethylene water tanks with the capacity to hold 7,500 gallons. POS3 and POS4 convey water to POS2, a 2,500-gallon polyethylene water tank. POS2 then conveys water to POU1, which consists of eight greenhouses used for cannabis cultivation. Seven greenhouses are measured at approximately 25 feet by 100 feet each, and one greenhouse is approximately 20 feet by 50 feet.

b. POD2 is also a gravity-fed diversion, which was actively diverting water for cannabis irrigation from a spring tributary to Foster Creek during the inspection. POD2 is located within Mendocino County APN 012-670-01-00, adjacent to the Respondents' Property, owned by an unrelated party. The unnamed spring flows into a channel with defined bed and banks downstream from POD2, which flows downstream onto the Respondents' Property. Staff observed that the spring channel was dry on the Respondents' Property. POD2 consists of a shallow pool 3 feet wide and 3 feet deep, encapsulated by concrete blocks that allow water to pool behind the blocks. POD2 was conveying water to POS4 and POS3, for cannabis irrigation at POU1.

7. Division staff left a field Notice of Violation (field NOV) on the Property at the end of the September 23, 2025, inspection which documented Staff's observations and alleged violations.

8. On October 7, 2025, Ms. Kaser left a voicemail for Division staff, inquiring about the field NOV. Division staff returned her call the same day. During the call, Ms. Kaser confirmed that she is an owner of the Property, and explained that her brothers, David and Brian Frost, are also owners of the Property. Ms. Kaser asserted that she and the other Respondents are absentee owners, and she said that they had not been on the Property for some time. She explained that the Respondents were unaware of the cultivation occurring on the Property until she received a letter on October 2, 2025, from DCC. According to Ms. Kaser, the Respondents used the Property as a retreat. Ms. Kaser acknowledged that, as the owners, the Respondents are responsible for the cleanup, but she wanted

the Division's guidance before taking corrective action on the Property so that she could ensure that the work complied with the NOV. Ms. Kaser also informed Division staff that the Respondents are on fixed incomes, and were concerned about the cost of fines associated with the unlicensed cannabis cultivation. After concluding the call, Division staff emailed Ms. Kaser to provide her the contact information for other agency staff and to request mailing addresses for her brothers. Ms. Kaser responded via email that same day and provided the requested addresses.

9. On October 8, 2025, Division staff emailed Ms. Kaser to clarify whether she or her brothers were leasing the Property to anyone. Ms. Kaser responded that same day to confirm that the Respondents had not leased the Property to anyone.

10. On October 15, 2025, Division staff issued an Inspection Report and Notice of Violation (NOV/IR). The NOV/IR informed the Respondents that Division staff observed diversion and use of water for cannabis cultivation without a DCC license, and a diversion not in compliance with an applicable requirement of the State Water Board's Cannabis Cultivation Policy. The Division requested that the Respondents take corrective action within 30 days of the date of the NOV/IR. Division staff mailed three copies of the NOV/IR to the Respondents' addresses via United States Postal Service (USPS) certified mail, which were each delivered on October 22, 2025, signed by Helen Kaser, David Frost, and Misty Frost.

11. On October 15, 2025, Division staff emailed Ms. Kaser an electronic copy of the NOV/IR and informed her a physical copy should be delivered soon. Ms. Kaser confirmed receipt of the electronic copy that same day, and requested clarification on whether the water tanks and PODs need to be removed. Division staff informed Ms. Kaser that the water tanks could be removed or closed to the environment with fitting lids. Division staff informed her that POD1 could remain on the Property for domestic use, but that the Respondents need to file an initial statement of water diversion and use with the Division. Additionally, Division staff told Ms. Kaser that POD2 would need to be removed unless the Respondents could provide proof of an easement or deeded access to their neighbor's parcel, APN 012-670-01-00, where POD2 was located. The following day, Ms. Kaser stated the Respondents do not want to use water from POD2 and asked whether they would need to remove the concrete blocks from diversion structure. After conferring with CDFW, Division staff informed Ms. Kaser that the concrete blocks, including any cement, plastic, treated lumber, and poly lines should be removed. Staff clarified that removal by hand would not require additional permitting, but that a Lake and Streambed Alteration Agreement (LSAA) would be needed if equipment was required.

12. On October 24, 2025, Ms. Kaser emailed Division staff with photos of the corrective actions performed by the Respondents. The photos show that the storage tank at POS3 was removed. They also show that fitted lids were fastened to the tank at POS1, the tank at POS2, and to three tanks at POS4. Ms. Kaser also provided photos showing that the diversion infrastructure was removed from POD1 on the Respondents' Property and that POD2 was disabled on the neighbor's property. POD2 was filled with rocks and dirt, and the blocks had been removed. Additionally, all the poly lines at POD1, POD2, POS2, POS3, and POS4 had been severed and removed, and each conveyance method had been disabled.

13. On January 27, 2026, Division staff contacted CDFW staff to determine if they had located any tenants or responsible parties associated with the unlicensed cannabis cultivation during execution of the search warrant. CDFW staff confirmed that they were not aware of any tenants or suspects associated with the alleged trespass.

14. On January 29, 2026, in an email communication, the Division confirmed with Ms. Kaser that neither she nor the other Respondents had filed a police report for the alleged trespass associated with the cultivation activities on the Property. Ms. Kaser also stated that Respondents intend to list the Property for sale as soon as they have everything taken care of.

15. On July 8, 2026, the Division mailed draft CDOs, and hearing request forms (draft CDO Package), to the Respondents via certified mail. The draft CDO Package included instructions on how the Respondents could request a hearing, also stating that if the Respondents wanted to request a hearing they were required to submit their hearing request forms within 20 days of the receipt of the draft CDO Package. The draft CDO Packages were mailed to Helen and Albert Kaser at P.O. Box 883, David J. Frost at P.O. Box 1105, and Brian and Brenda Frost at P.O. Box 258, in Laytonville, California. The Draft CDO Package mailed to Brian and Brenda Frost was delivered to the Laytonville post office, and signed for by Misty Frost, on July 15, 2026, at 1:35 P.M. The Draft CDO Packages mailed to Helen and Albert Kaser, and David J Frost were returned as undeliverable to the Division on July 28, 2026.

16. On August 19, 2026, the Division made a second mailing attempt for delivery of the draft CDO Packages to Helen and Albert Kaser, and David J. Frost at their PO Boxes, and to two additional physical addresses, located at 781 Branscomb Road, and 4000 Spyrock Road, in Laytonville, California. The draft CDO Packages were mailed to the PO Boxes using a USPS mail delivery service with tracking and no signature requirement, and the draft CDO Packages mailed to the physical addresses were sent via certified mail. The draft CDO Packages mailed to the PO Boxes were delivered to the Laytonville post office on

August 24, 2026. The draft CDO Package addressed to David J. Frost was picked up on August 24, 2026, at 10:34 A.M, and the draft CDO Package addressed to Helen and Albert Kaser was picked up on August 24, 2026, at 12:00 P.M. Both draft CDO Packages mailed to the physical addresses in Laytonville were returned as undeliverable to the Division on August 22, 2026.

17. As of October 15, 2026, the Respondents have not contacted the Division to discuss the draft CDO Package, nor have they requested a hearing. The Respondents were required to request a hearing within 20 days of their receipt of the draft CDO Package delivery. Therefore, the deadline has passed for the Respondents to request a hearing, and this order may be issued based on the statement of facts and information set forth in the draft CDO Package without a hearing.

APPLICABLE LAW AND ALLEGATIONS

18. The State Water Board is authorized to issue a CDO pursuant to Water Code section 1831 when it determines that any person is violating or threatening to violate one of the applicable requirements for diversion or use of water for cannabis cultivation identified in subdivision (d)(6)(A)-(C). Specifically, the State Water Board is authorized to issue a CDO when there is any diversion or use, or threatened diversion or use, of water for cannabis cultivation for which a license is required, but has not been obtained, under Chapter 6 (commencing with Section 26060) of, or Chapter 7 (commencing with Section 26070) of, Division 10 of the Business and Professions Code; as well as for any diversion or threatened diversion not in compliance with an applicable limitation or requirement established by the State Water Board under Water Code section 13149.

19. Chapter 6 of Division 10 of the Business and Professions Code establishes a commercial cannabis licensing program. The only exceptions to the cultivation licensing requirements 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).) Division staff documented water diversion and use for cannabis cultivation on the Property during the inspection and verified that the Respondents had not obtained a cannabis license from DCC as required. Based on staff's review of aerial imagery, outdoor cultivation is likely to have started on the Property in 2009, and continued on dates consistent with aerial imagery recorded in 2012, 2014, and 2018. In 2019, greenhouses, similar to those observed by staff on the Property during the 2025 inspection, appear to have been installed, indicating a general pattern of unauthorized cannabis cultivation. The Property remains ready and conditioned for cannabis cultivation, such that greenhouses, water storage, and water conveyance lines could be reinstalled easily, and cannabis cultivation could resume at any time, without the required DCC license. Accordingly, despite

the fact that the cannabis plants were eradicated by law enforcement during the inspection, there is a continued threat of unlicensed cannabis cultivation on the Property.

a. The various configurations in which the greenhouses have been assembled over time as depicted in the aerial imagery demonstrate how easy it is to reinstall and reconfigure cultivation infrastructure on the Property. Additionally, although the Respondents removed the water conveyance lines and storage tanks/barrels, these items are fungible and would not be difficult to remobilize or reinstall. Furthermore, while the Respondents voluntarily disabled the diversions at POD1 and POD2, these actions are easily reversable. This claim is supported by the fact that the Respondents disabled POD1 and POD2 by hand, which suggests the PODs could easily be reassembled by hand and used for cannabis cultivation at any time.

b. Although Ms. Kaser stated that the Respondents were unaware of the cultivation on the Property, it appears that outdoor cannabis cultivation started in 2009, and continued in 2012, 2014, and 2018. Additionally, aerial imagery recorded in 2019, and on other various dates up to 2025, show that more extensive infrastructure for cultivation activities similar to what staff observed during the inspection was added and consistently used. Given the length of time that cultivation occurred, and the Respondents' ability to identify cultivation activities through publicly available records, or by visiting the Property, it is likely that the Respondents knew or should have known that unlicensed cannabis cultivation was taking place on the Property, and either allowed it, or consistently failed to prevent it.

20. The State Water Board's Cannabis Cultivation Policy went into effect on December 18, 2017, which the State Water Board subsequently amended, effective April 16, 2019. Pursuant to Water Code section 13149, the Cannabis Cultivation Policy establishes principles, guidelines, and requirements for the diversion or use of water for cannabis cultivation to ensure that the diversion of water and discharge of waste associated with cannabis cultivation does not have a negative impact on water quality or instream flows. During the September 23, 2025, inspection, Division staff documented diversions that were not in compliance with limitations and requirements established in the Cannabis Cultivation Policy. Staff observed surface water diversions at POD1, the diversion occurring on the Property, used for cannabis irrigation during the inspection. The Cannabis Cultivation Policy, Attachment A, Section 2, Term 66, requires that all surface water diversions for cannabis cultivation must 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, which encompasses the date on which staff inspected the Property and observed active surface water diversions for cannabis cultivation. As noted in relation to the threatened diversion or use of water for cannabis cultivation without a DCC license, the pattern of use of the Property for cultivation, the current conditions of the Property, and the ease by which the infrastructure and points of diversion could be reinstalled establish a threat of future cultivation activities. Based on the water storage supply observed on the Property, diversions during the surface water dry season forbearance period would likely be necessary to support any future cultivation activities. Therefore, there remains a threat of diversion not in compliance with Cannabis Cultivation Policy, Attachment A, Term 66.

IT IS HEREBY ORDERED, pursuant to Water Code section 1831, that the Respondents must:

1. Ensure that no water diversion or use for cannabis cultivation occurs on the Property without first obtaining a DCC license.
2. Ensure that any future diversions for cannabis cultivation on the Property comply with Term 66 of the Cannabis Cultivation Policy.

Consequences of Non-Compliance

Failure to comply with a cease and desist order may subject the Respondents to additional enforcement, including a referral to the Attorney General to take further injunctive enforcement actions as described in Water Code section 1845, subdivision (a).

Failure to comply with this Order may also subject the Respondents to liability pursuant to Water Code section 1845, subdivision (b)(1)(B), in the amount not to exceed $3,000 for each day in which the violations occur during a non-drought year.[1] In a period for which the Governor has issued a proclamation of state of emergency based on drought conditions, the Respondent may be subject to liability pursuant to Water Code section 1845, subdivision (b)(1)(A), in the amount not to exceed $15,000 for each day in which the violations occur. Liability may be imposed administratively by the State Water Board or civilly by the superior court.

Reservation of Enforcement Authority and Discretion

[1] Pursuant to California Code of Regulations, Title 23, section 1100, subdivisions (b)(4-5), the potential liability amounts under Water Code section 1845, subdivisions (b)(1)(A-B), have been updated in response to Assembly Bill 460, which mandates annual inflation-based adjustments to water right civil penalties starting January 1, 2026.

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

Regulatory Changes

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

Petition for Reconsideration

No later than 30 days after the date this Order is adopted, the Respondents or any interested person may file a petition with the State Water Board for reconsideration of the Order pursuant to Water Code section 1122 and California Code of Regulations, Title 23, section 768.

STATE WATER RESOURCES CONTROL BOARD

ORIGINAL SIGNED BY:

Robert P. Cervantes, Assistant Deputy Director
Division of Water Rights

Dated: November 25, 2026