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GOVERNOR



JARED BLUMENFELD
SECRETARY FOR
ENVIRONMENTAL PROTECTION

State Water Resources Control Board

September 20, 2019

Certified Mail Number:

DIRECTIVE NOTICE TO OBTAIN REGULATORY COVERAGE FOR CANNABIS CULTIVATION OR ASSOCIATED ACTIVITIES

Investigation ID Number:

Action Required

Failure to Respond May Result in Progressive Enforcement, Including Fines

You are receiving this Directive Notice because, based on information currently available to the State Water Resources Control Board (State Water Board) and the North Coast Regional Water Quality Control Board (Regional Water Board), you own the following parcel(s) that appear(s) to be used for cannabis cultivation or associated activities. However, there is no record of any person associated with this property having enrolled in the State Water Board’s Cannabis Cultivation Program. Specifically, there is no record of a water right that would allow seasonal storage for cannabis cultivation use on the property and/or no record of any person having obtained coverage under the *General Waste Discharge Requirements and Waiver of Waste Discharge Requirements for Discharges of Waste Associated with Cannabis Cultivation Activities*¹ (Statewide General Order) or having obtained individual waste discharge requirements (individual WDRs) for activities associated with cannabis cultivation on the property.

This Directive Notice provides notice of State Water Board’s cannabis cultivation regulatory requirements. **Please review this Directive Notice carefully and follow the regulatory compliance requirements within 30 days of receipt.**

County: Humboldt			

¹ The Statewide General Order is available at:
https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2019/wqo2019_0001_dwq.pdf

E. JOAQUIN ESQUIVEL, CHAIR | EILEEN SOBECK, EXECUTIVE DIRECTOR



Required Actions

If you use or intend to use the parcel(s) listed above for cannabis cultivation, you must satisfy the following regulatory requirements within 30 days of receiving this Directive Notice:

- (1) Obtain a valid water right that authorizes the seasonal storage of water for cannabis cultivation; and/or**
- (2) Comply with Water Code section 13260 by enrolling under the Statewide General Order or obtaining an individual WDR.**

If you believe you have been contacted in error or are no longer cultivating cannabis on the parcel(s) identified above, you must still provide a response with 30-day from the date of this Directive Notice to close the State Water Board's investigation. Please log in to the State Water Board's Cannabis Cultivation Programs Portal (Portal) available at <https://public2.waterboards.ca.gov/CGO> and select the *Division of Water Rights - Cannabis Compliance Response Portal*. You will need to create a username and password if you do not already have one. Once inside the Portal, you may input your response and upload any documents or photos necessary to resolve this Directive Notice. Please use your Assessor's Parcel Number(s) and the Investigation ID listed above. The State Water Board will confirm the receipt of the information you provide by email or by phone number (please provide both forms of contact).

Complying with the Required Actions

The State Water Board's Cannabis Cultivation Policy² (Policy) establishes principles and guidelines (requirements) pursuant to the Water Code section 13149 for the diversion and use of water, land disturbances, and other activities related to cannabis cultivation to protect water quantity and quality. The Policy is implemented through various regulatory programs, including but not limited to the *Cannabis Small Irrigation Use Registration (Cannabis SIUR)*³ and the Statewide General Order⁴. For more information on the State Water Board and Regional Water Board regulatory programs, see Appendix A of this letter.

You may comply with the Required Actions by applying for a Cannabis SIUR (Required Action No. 1) and/or enrolling under the Statewide General Order (Required Action No. 2) online through the State Water Board's Portal at the link referenced above. Additional options for complying with the Required Actions are provided in Appendix A.

² https://www.waterboards.ca.gov/water_issues/programs/cannabis/cannabis_policy.htm

³ https://www.waterboards.ca.gov/water_issues/programs/cannabis/cannabis_water_rights.html.

⁴ https://www.waterboards.ca.gov/water_issues/programs/cannabis/cannabis_water_quality.html. Any previous regional board orders regarding waste discharge from cannabis cultivation cannot be used after July 1, 2019.

Questions?

For questions about water rights, including the Cannabis SIUR, please provide your questions through the *Portal - Cannabis Compliance Response Portal* described above or contact the State Water Board's Division of Water Rights by email at: cannabisreg@waterboards.ca.gov or by phone at: (916) 319-9427.

For questions about the Statewide General Order or individual WDRs, please contact the North Coast Regional Water Board by email at: NorthCoast.Cannabis@Waterboards.ca.gov or by phone at: (707) 576-2676.

Notification Regarding Potential Enforcement

Failure to obtain any necessary regulatory coverage may subject you to enforcement action by the State Water Board, the Regional Water Board, or both. This Directive Notice constitutes notice that you appear to be in violation of one or more Cannabis Cultivation Policy requirements, and thus may be subject to liability under Water Code section 1847. Furthermore, this Directive Notice constitutes a request on behalf of the Regional Water Board that you enroll under the Statewide General Order or submit a report of waste discharge for your cannabis cultivation activities pursuant to Water Code section 13260. Failure to enroll after receiving this Directive Notice may subject you to liability under Water Code section 13261.

Additional Regulatory Requirements

Please note that other state and local agencies, listed in Appendix B, also have cannabis cultivation regulatory requirements that may apply to your property. **It is your responsibility to comply with all applicable regulatory requirements for cannabis cultivation on your property prior to cultivating cannabis.**

If you are receiving this notice letter and have submitted an application or have an annual or provisional license issued by the California Department of Food and Agriculture (CDFA), you may be required to submit evidence of enrollment with each of the State Water Board's SIUR and/or Statewide General Order to CDFA prior to the processing of your application or your license renewal. Failure to provide this information to CDFA may result in the denial of your CDFA license renewal.

Sincerely,

Taro Murano, Program Manager
Cannabis Enforcement Section
Division of Water Rights
State Water Resources Control Board

APPENDIX A – STATE WATER BOARD AND REGIONAL WATER BOARD REGULATORY PROGRAM INFORMATION

State Water Board’s Cannabis Cultivation Policy

The State Water Board’s Cannabis Cultivation Policy (Policy) establishes principles and guidelines (requirements) pursuant to Water Code section 13149 for the diversion and use of water, land disturbances, and other activities related to cannabis cultivation to protect water quantity and quality. The Policy is implemented through various regulatory programs, including the State Water Board’s Water Rights Permitting and Licensing Program, *Cannabis Small Irrigation Use Registration* (Cannabis SIUR), the Statewide General Order or through individual WDRs.

Water Rights Permitting and Licensing and Small Irrigation Use Registration

All diversions and use of water from surface waters in California requires a valid water right. The Policy prohibits cannabis cultivators from diverting surface water for cannabis cultivation during the dry season forbearance period, from April 1 through October 31 of each calendar year, regardless of your basis of right. This means that any surface water used for cannabis cultivation can only be diverted during the wet season, November 1 through March 31, and must be stored for use during the dry season. **If you do not have an appropriative water right that authorizes the seasonal storage of surface water for cannabis cultivation, you must obtain one.**¹

The Cannabis SIUR is a streamlined option to obtain a small appropriative water right (less than 6.6 acre-feet per year) to divert and store surface water for cannabis cultivation. The Cannabis SIUR requires that you comply with the Policy requirements.

If you do not use surface water for cannabis cultivation, for example because you have a groundwater well or other water source, you must still comply with the rest of the Policy and obtain water quality coverage through the Statewide General Order described below.

Water Quality Statewide General Order

California Water Code section 13260 provides that “any person discharging waste, or proposing to discharge waste, within any region that could affect the quality of the waters of the state” must file a report of waste discharge with the appropriate Regional Water Board and obtain waste discharge requirements (WDR) from the Regional Water Board. **Cannabis cultivation is a source of waste discharge covered under Water Code section 13260.**

¹ Water diverted pursuant to a riparian water right may not be stored for use in a later season. If you have a riparian water right claim, you must obtain another right that authorizes seasonal storage.

The Statewide General Order is a simplified WDR available to cannabis cultivators to comply with Water Code section 13260.² The Statewide General Order incorporates the requirements of the Cannabis Cultivation Policy. Cannabis cultivators may instead choose to comply with Water Code section 13260 by submitting a report of waste discharge to the Regional Water Board and obtaining an individual WDR for their cannabis cultivation. **All cannabis cultivators must comply with Water Code section 13260 by enrolling under the Statewide General Order or obtaining individual WDRs.**

How to Comply with the State and Regional Water Board's Regulatory Program Requirements

To comply with the Required Actions in this Directive Notice, you may apply for a Cannabis SIUR (Required Action No. 1) and/or enroll under the Statewide General Order (Required Action No. 2) online through the State Water Board's Cannabis Cultivation Programs Portal. You will need to create a username and password if you do not already have one. The Portal can be accessed at:

<https://public2.waterboards.ca.gov/CGO>

You must submit all application fees within 30 days of submitting the online application. Instructions on how to pay the fees will be on the Notice of Receipt (invoice) emailed to you immediately after you submit your online application.

Alternatively, you may comply with the water rights requirements in Required Action No. 1 by obtaining an appropriative water right permit. This option may be necessary where the Cannabis SIUR does not apply, for example, if you plan to construct or have constructed an onstream reservoir after October 1, 2016, the SIUR is not an option available for your compliance. To apply for an appropriative water right permit, you must submit an application and pay the necessary application fees.³

You may also comply with the water quality requirements in Required Action No. 2 by submitting a report of waste discharge to the Regional Water Board for an individual WDR rather than enrolling under the Statewide General Order.

² The North Coast Regional Water Board and the Central Valley Regional Water Board have each previously adopted regional orders regarding waste discharge from cannabis cultivation that would satisfy Water Code 13260 requirements. However, those orders cannot be used for cannabis cultivation after July 1, 2019.

³ For information on how to file an application for an appropriative water right permit, and for a copy of the application form, please visit our webpage at:

https://www.waterboards.ca.gov/waterrights/publications_forms/forms/#apptmp.

For more information regarding onstream reservoirs, please visit:

https://www.waterboards.ca.gov/publications_forms/publications/factsheets/docs/onstream_reservoir_fact_sheet.pdf.

APPENDIX B – OTHER STATE OR LOCAL AGENCIES WITH CANNABIS CULTIVATION REQUIREMENTS

The following agencies may also have regulatory requirements for cannabis cultivation on your property. This list is provided for your convenience, and **it is your responsibility to comply with all applicable regulatory requirements for cannabis cultivation on your property.**

Humboldt County- <https://humboldt.gov.org/2159/Commercial-Medical-Marijuana-Permitting> or call (707) 445-7541

California Department of Fish and Wildlife: You can access more information on CDFW's LSAA program and apply for an LSAA at the following website:
<https://www.wildlife.ca.gov/Conservation/Cannabis/Permitting>.

California Department of Food and Agriculture, CalCannabis Cultivation Licensing:
<https://aca6.accela.com/calcannabis/Welcome.aspx> or call 1-833-CALGROW (1-833-225-4769).