

Coalition Appeal of Central Coast Agriculture LLC Cannabis Cultivation

February 15, 2022

21APL-00000-00028, 19LUP-00000-00480

5645 SANTA ROSA ROAD

Coalition Appeal Summary

Board cannot make required findings for approval

Project Lacks an Adequate Water Supply

SWRCB Policies Prohibit use of Alluvial Well for Cannabis April 1 – October 31

“Backup” Bedrock Well is the only available source, but does not produce enough to replace surface water diversion

Finding of Adequate Water Supply Cannot Be Made

Ongoing Violations Preclude Project Approval Findings

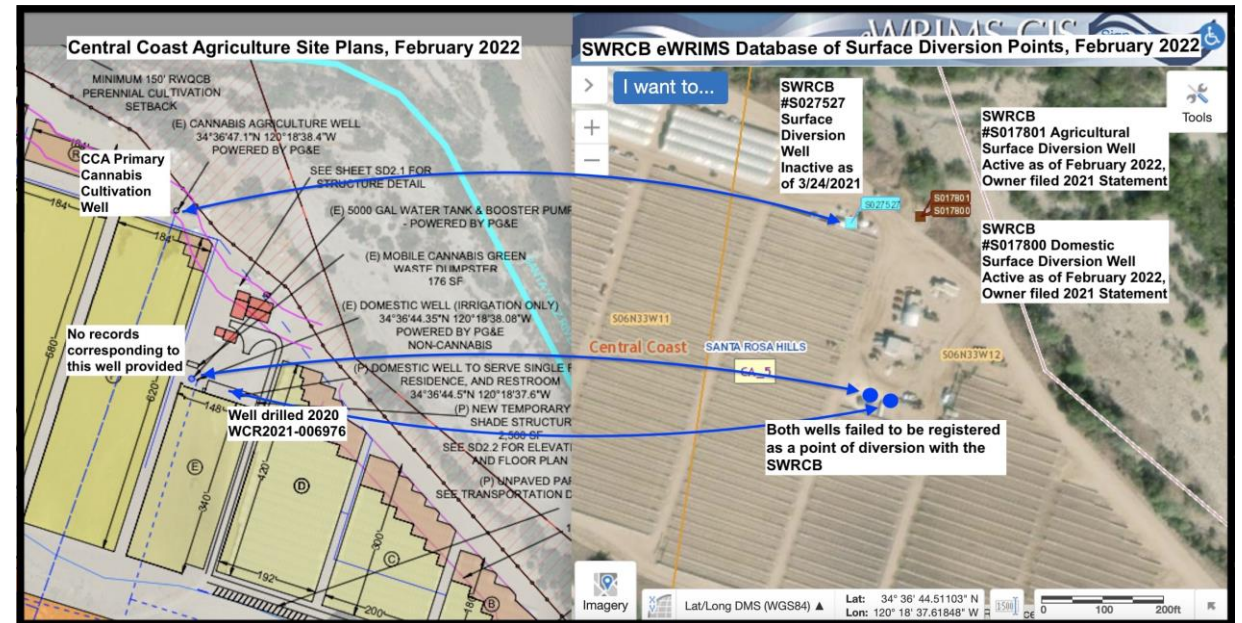
Illegal diesel generator use for cultivation

Illegal expansion of non-conforming use

Significant project-specific and cumulative water supply impacts not analyzed in the Cannabis PEIR

Water Supply

- ▶ Project- and site-specific analysis of State Water Board compliance for the legal right to cannabis irrigation water did not occur
- ▶ Compliance with all State law and policies is required
- ▶ Project's main cannabis well is within the State Water Resources Control Board's jurisdiction and has a history of subsurface water diversion
- ▶ Project cancelled its riparian water rights from its cannabis well on March 24, 2021, prohibiting draw from this well.
- ▶ "Backup" bedrock well does not produce enough water to sustain the project during the forbearance period



[SUMMARY OF FINAL SUBMITTED VERSION]

SUPPLEMENTAL STATEMENT OF WATER DIVERSION AND USE FOR 2017

Primary Owner: CHRIS CADWELL
 Statement Number: S027527
 Date Submitted: 06/28/2018

1. Water is used under	Riparian Claim
2. Year diversion commenced	1986

3. Purpose of Use

Irrigation	
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Irrigated Crops

	Multiple Crops	Area Irrigated (Acres)	Primary Irrigation Method
Cannabis	Yes	5	Low-volume (example: micro-sprinkler, drip)

4. Changes in Method of Diversion

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Special Use Categories

C1. Are you using any water diverted under this right for the cultivation of cannabis?	Yes
C2. Total amount of water used under this water right for cannabis cultivation	2.101351 acre-feet
C3. Total irrigated acreage of cannabis cultivated	217800 square feet
C4. Amount of cannabis cultivated by lighting condition type	
Outdoor Cultivated Canopy Size	217800 square feet
Outdoor Total Number of Plants Harvested	20000
Outdoor Number of Harvests	2
Indoor Cultivated Canopy Size	
Indoor Total Number of Plants Harvested	
Indoor Number of Harvests	
Mixed Light Cultivated Canopy Size	
Mixed Light Total Number of Plants Harvested	
Mixed Light Number of Harvests	
C5. Irrigation methods that are used to cultivate cannabis	Drip/micro spray irrigation
C6. Is your cultivation of cannabis a commercial cannabis activity?	Yes

Applicant's SWRCB Statement of Diversion and Use for 2017, S027527

- ▶ Documented history of surface water cannabis irrigation from Applicant's primary shallow alluvial well

Applicant Deactivation of Its Cannabis Water Well

- ▶ State Water Resources Control Board – 3/24/2021
- ▶ Prohibits well use

From: Lindsay Cokeley <lindsay@ccagriculture.com>
Sent: Wednesday, March 24, 2021 8:51 AM
To: WB-DWR-Statements <DWR-Statements@waterboards.ca.gov>
Subject: Inactivation Request

EXTERNAL:

Hello,

I would like to request inactivation of the following Statement IDs: APN 083-150-013 = ID # S027527 and APN 083-180-007 = ID # S027524

These statements are being inactivated because the point of diversion is not located within a delineated subterranean stream per the Instream Flows Policy Development. https://www.waterboards.ca.gov/waterrights/water_issues/programs/instream_flows/subterranean_streams.html

Thank you,

Lindsay Cokeley
Compliance Manager | CCA
(818) 317-8414
ccagriculture.com

SWRCB Cannabis Policy Applicability

- ▶ Cannabis General Policy #66

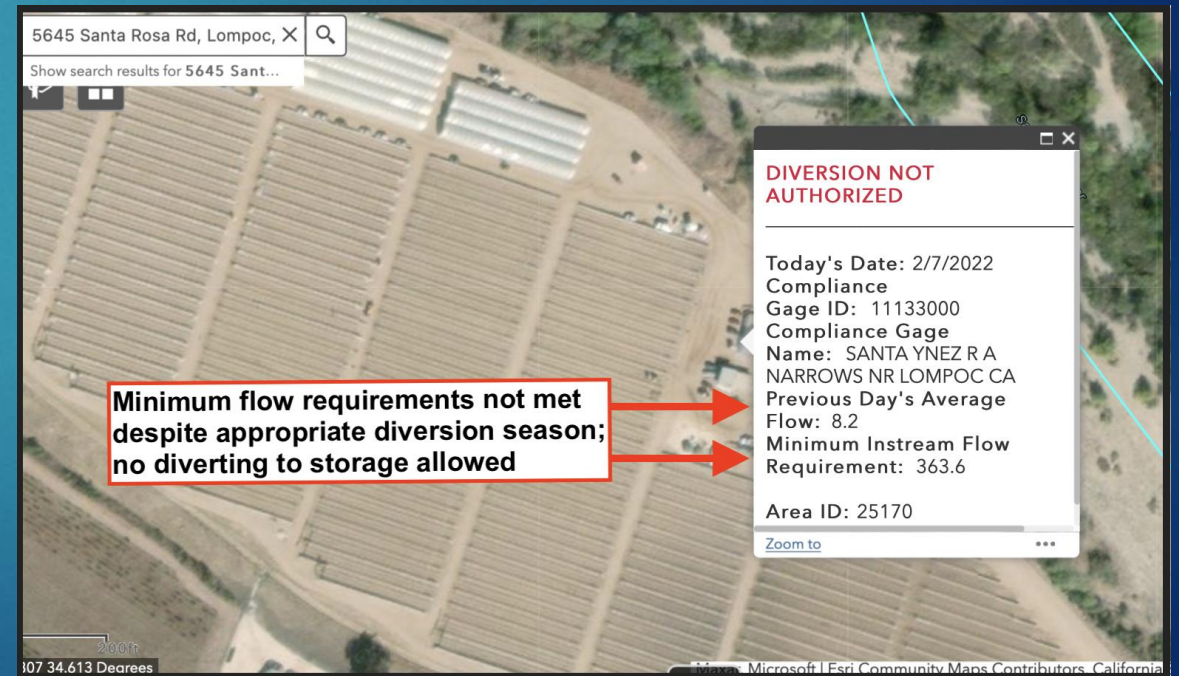
Water Storage and Use Water Supply, Diversion, and Storage

#	TERM
65.	Cannabis cultivators shall only install, maintain, and destroy wells in compliance with county, city, and local ordinances and with California Well Standards as stipulated in California Department of Water Resources Bulletins 74-90 and 74-81 ¹⁵ .
66.	All water diversions for cannabis cultivation from a surface stream, subterranean stream flowing through a known and definite channel (e.g., groundwater well diversions from subsurface stream flows), or other surface waterbody are subject to the surface water Numeric and Narrative Instream Flow Requirements. This includes lakes, ponds, and springs (unless the spring is deemed exempt by the Deputy Director). See Section 3, Numeric and Narrative Instream Flow Requirements of this Attachment A for more information.
67.	Groundwater diversions may be subject to additional requirements, such as a forbearance period, if the State Water Board determines those requirements are reasonably necessary to implement the purposes of this Policy.
68.	Cannabis cultivators are encouraged to use appropriate rainwater catchment systems to collect from impermeable surfaces (e.g., roof tops, etc.) during the wet season and store storm water in tanks, bladders, or off-stream engineered reservoirs to reduce the need for surface water or groundwater diversions.
69.	Cannabis cultivators shall not divert surface water unless it is diverted in accordance with an existing water right that specifies, as appropriate, the source, location of the point of diversion, purpose of use, place of use, and quantity and season of diversion. Cannabis cultivators shall maintain documentation of the water right at the cannabis cultivation site. Documentation of the water right shall be available for review and inspection by the Water Boards, CDFW, and any other authorized representatives of the Water Boards or CDFW.

SWRCB Cannabis Diversion Policy

Both Seasonal and Flow-Dependent

- ▶ The diversion season is from December 15 of each year to March 31 of the succeeding year, **providing the prior day's daily average flow is greater than the applicable minimum instream flow requirement.**
 - ▶ For the period of November 1 through December 15 of each year, diversion may be authorized under certain circumstances. (Attachment A, Section 3, Requirement 5).
- ▶ **Cannabis cultivators shall not divert surface water for cannabis cultivation activities at any time from April 1 through October 31 of each calendar year.**
 - ▶ During the 2018 surface water forbearance period, certain exceptions may apply to those who are diverting under a water right that does not include storage. (Attachment A Section 3, Requirement 4).



Hydrogeological Analysis of Water Supply

Dr. Jim McCord, PE



- ▶ Applicant's hydrogeology reports present insufficient and unreliable information to support its respective conclusions.
- ▶ The shallow alluvial well will be drawing groundwater from the subterranean stream underlying the Santa Ynez River
- ▶ Bedrock 'backup' well has inadequate production to support sustained pumping during peak demand
- ▶ The project's shallow alluvial well will lead to large streamflow losses in the adjacent Santa Ynez River
- ▶ If further investigation indicates no draw from a subterranean stream, SGMA criteria for depletion of interconnected surface waters would apply.
- ▶ Lacking a reliable productive well for "percolating groundwater," CCA will be unable to support 24.6 acres of cannabis cultivation during summer forbearance and will require additional and supplemental water sources or water storage capacity that have not been identified yet.

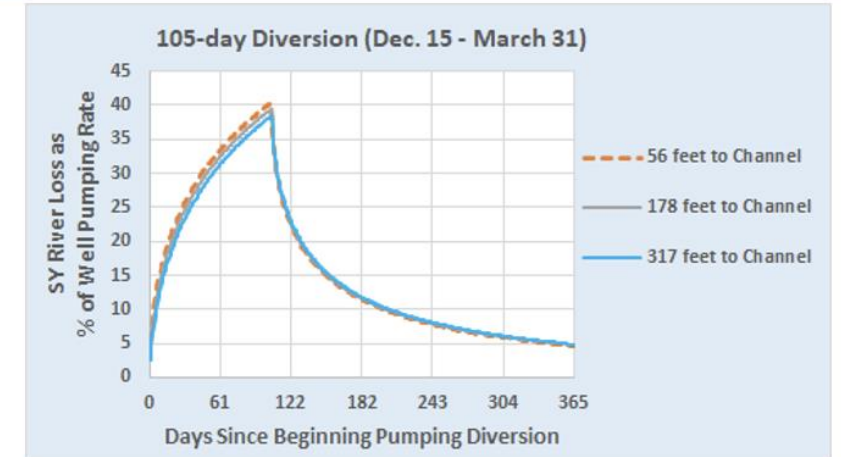


Figure 4. Santa Ynez River streamflow loss rate (as % of well pumping rate) cause by pumping CCA shallow alluvial well

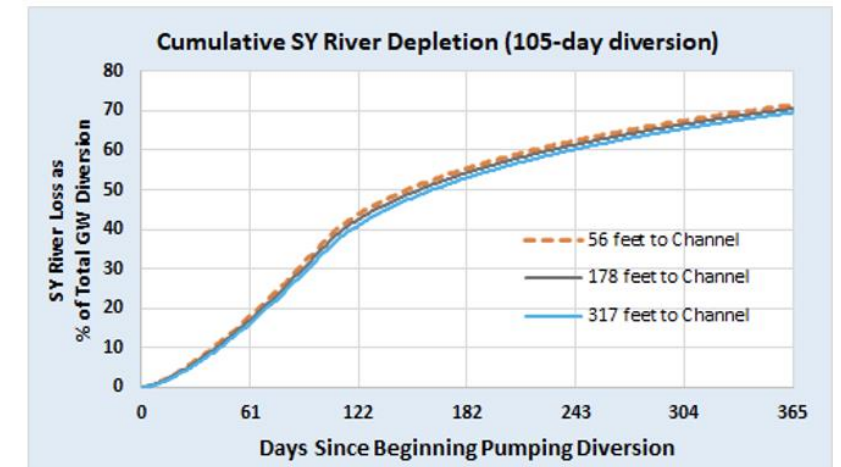


Figure 5. Cumulative streamflow depletion (as fraction of total volume pumped during 105-day diversion season)

Water Duty and Irrigation Requirements

- ▶ Project's calculations inadequate and unreliable
- ▶ Project does not have adequate storage to irrigate cannabis during the forbearance period, possibly up to 50 AF/year
- ▶ Project has not adequately demonstrated compliance with the SWRCB Cannabis SIUR requirements
 - ▶ No identification of property, project, or entities
 - ▶ No documentation for the basis of SIUR determination despite hydrologist's admission of subterranean surface water diversion

Illegal Expansion

- ▶ Article X § 35-1003 provides that operators of non-conforming cultivation sites “may continue to operate their same existing nonconforming medical marijuana cultivation site while their permit application is being processed, **as long as the operator continues to manage the cultivation location in compliance with the requirements of article X, state law, and . . . LUDC § 35.101.020.**”
- ▶ LUDC § 35.101.020.B.3 states: “No existing nonconforming use of land outside structures, or not involving structures, **shall be enlarged, extended, or increased to occupy a greater area of land than was occupied at the time that the use became nonconforming**, or moved to any portion of the lot not currently occupied by the nonconforming use.”



Multiple APCD Violations

- ▶ Project's Generators do not comply with APCD regulations



NOTICE OF VIOLATION

12645
VIOLATION NUMBER

12/15/2020
DATE OF DISCOVERY

9/23/2020-02/03/2021
DATE OF VIOLATION

NAME Central Coast Agriculture PHONE (818) 317-8414

ADDRESS 85 West Highway 246, Suite 233, Buellton, CA

LOCATION OF VIOLATION 8701 Santa Rosa Road, Buellton, CA

FID # N/A PERMIT / REG / NOTIF # N/A

YOU ARE HEREBY NOTIFIED THAT PURSUANT TO SECTION 41514 and 41755
OF THE HEALTH AND SAFETY CODE OF THE STATE OF CALIFORNIA A VIOLATION(S)
HAS BEEN COMMITTED THROUGH THE FOLLOWING ACT: VIOLATION(S) OF
THE CALIFORNIA CODE OF REGULATIONS: **Title 17, Division 3, Chapter 1, Subchapter
8, Article 3, § 94203 (b)**

AND: Title 13, Chapter 9, Article 5, §2454 (c)(1)

BY: *Operating a subject Distributed Generation Unit fueled by fossil fuels without certification by the California Air Resources Board ; and operating an engine registered in the Portable Equipment Registration Program as a generator to provide primary or supplemental power to a building, facility, stationary source, or stationary equipment without obtaining prior District authorization, in violation of Operating Conditions 6 and 15 of Portable Equipment Registration Program (PERP) registration 183909.*

Served to: Ms. Lindsay Cokeley By: Marina E. Lupini

Title: Compliance Supervisor Title: Air Quality Specialist II

Sent Via Electronic Mail # lindsay@ccagriculture.com Date: March 2, 2021

ENF-75 (09/21/2011)

Aeron Arlin Genet, Air Pollution Control Officer

805.961.8800 260 N. San Antonio Rd., Ste. A Santa Barbara, CA 93110 ourair.org @OurAirSBC

Required Findings Cannot Be Made

- ▶ Santa Barbara County LUDC findings for a Land Use Permit requires that the:
- ▶ 1. *The proposed development conforms:*
 - ▶ *To the applicable provisions of the Comprehensive Plan, including any applicable community or area plan.*
 - ▶ *With the applicable provisions of this Development Code or falls within the limited exception allowed in compliance with Chapter 35.101 (Nonconforming Uses, Structures, and Lots).*
- ▶ 3. *The subject property is in compliance with all laws, regulations, and rules pertaining to uses, subdivisions, setbacks and any other applicable provisions of this Development Code, and any applicable zoning violation enforcement fees and processing fees have been paid.*

Basis for Project Denial

Board cannot make required findings for approval

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