

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

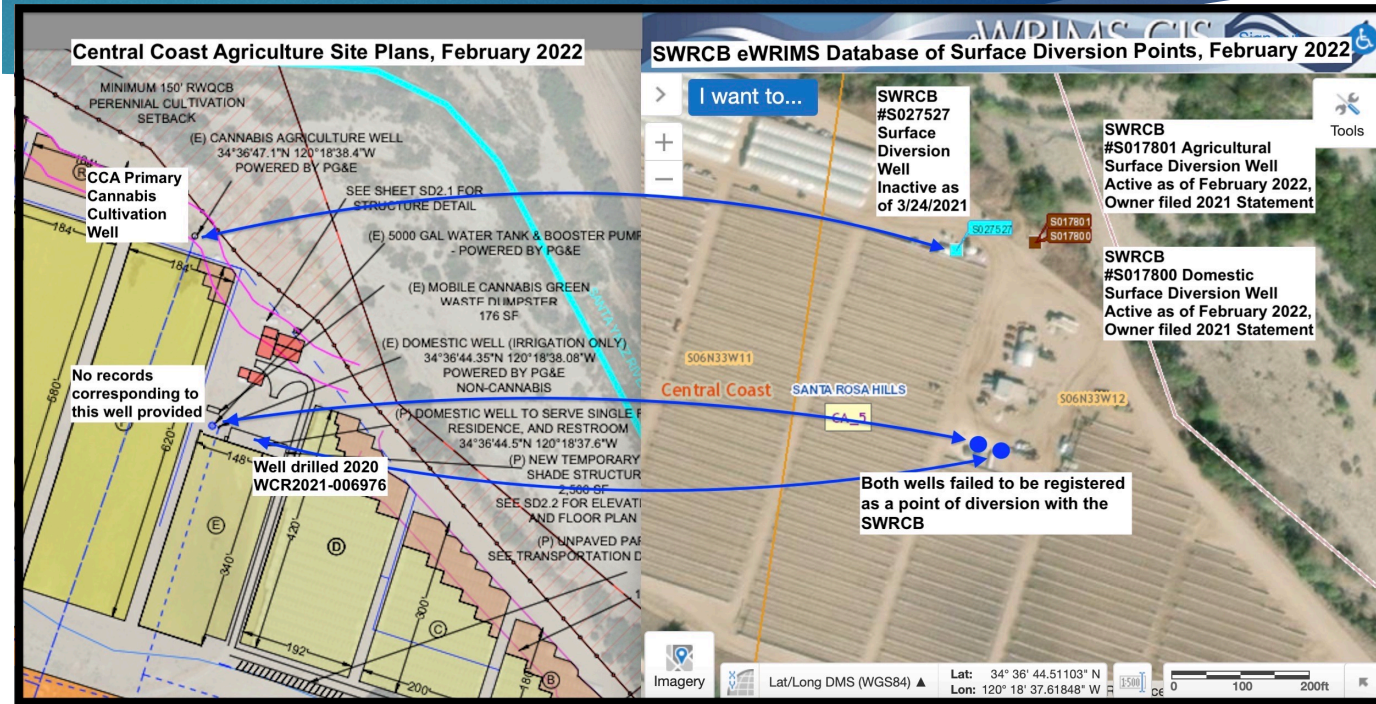
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Illegal expansion of non-conforming use

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 has five wells on the property; four are in the alluvium
- ▶ Project's main cannabis well has a 35-year history of surface water diversion
- ▶ Main cannabis well coordinates correspond exactly to the SWRCB surface diversion well
- ▶ Project cancelled its riparian water rights from its alluvial 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
 - ▶ Backup well registered as a "test well" with the Santa Ynez River Water Conservation District



	Well Coordinates	
CCA 5645 Cannabis Well	34 36' 47.1"N	120 18' 38.4"W
SWRCB #027527 Statement of Diversion	34 36' 47.11"N	120 18' 38.41"W

[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

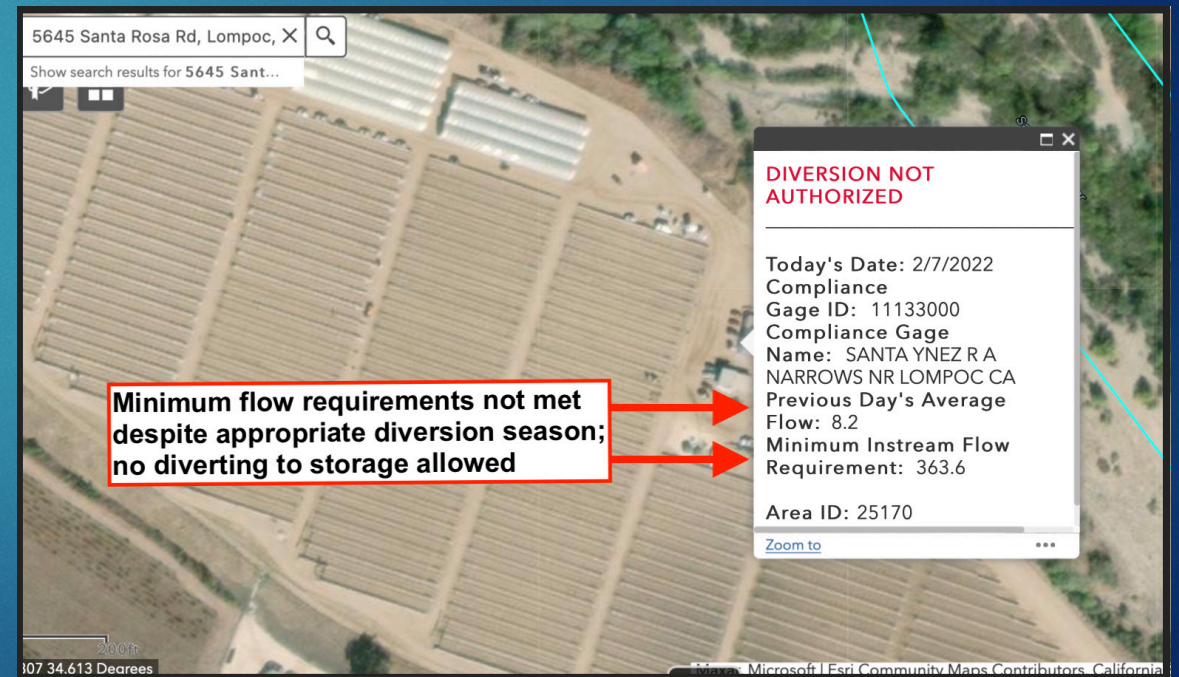
Water Storage and Use Water Supply, Diversion, and Storage

#	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).



Summary of Hydrogeologic 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.

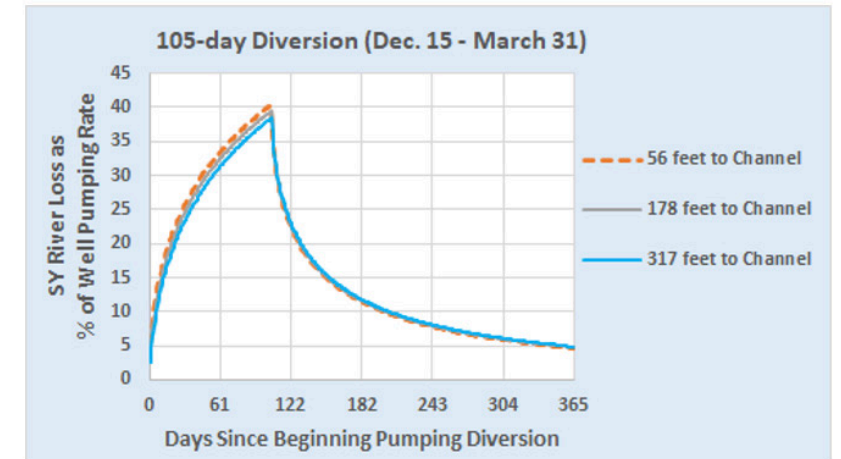


Figure 4. Santa Ynez River streamflow loss rate (as % of well pumping rate) cause by pumping CCA shallow alluvial well

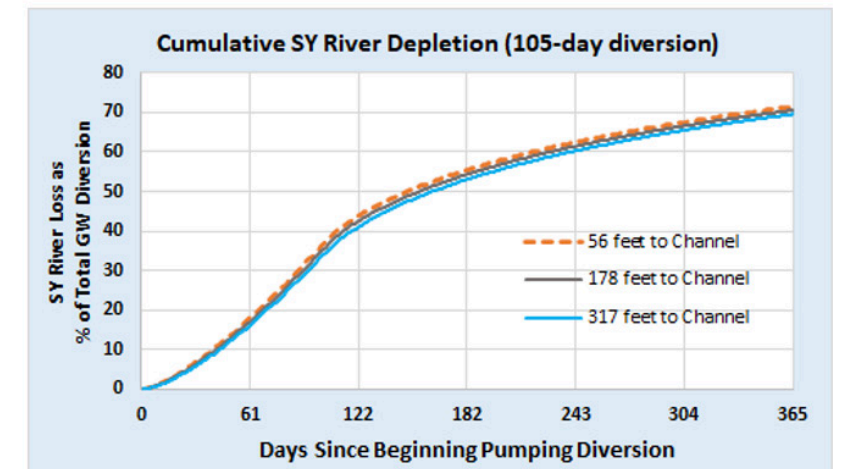


Figure 5. Cumulative streamflow depletion (as fraction of total volume pumped during 105-day diversion season)

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

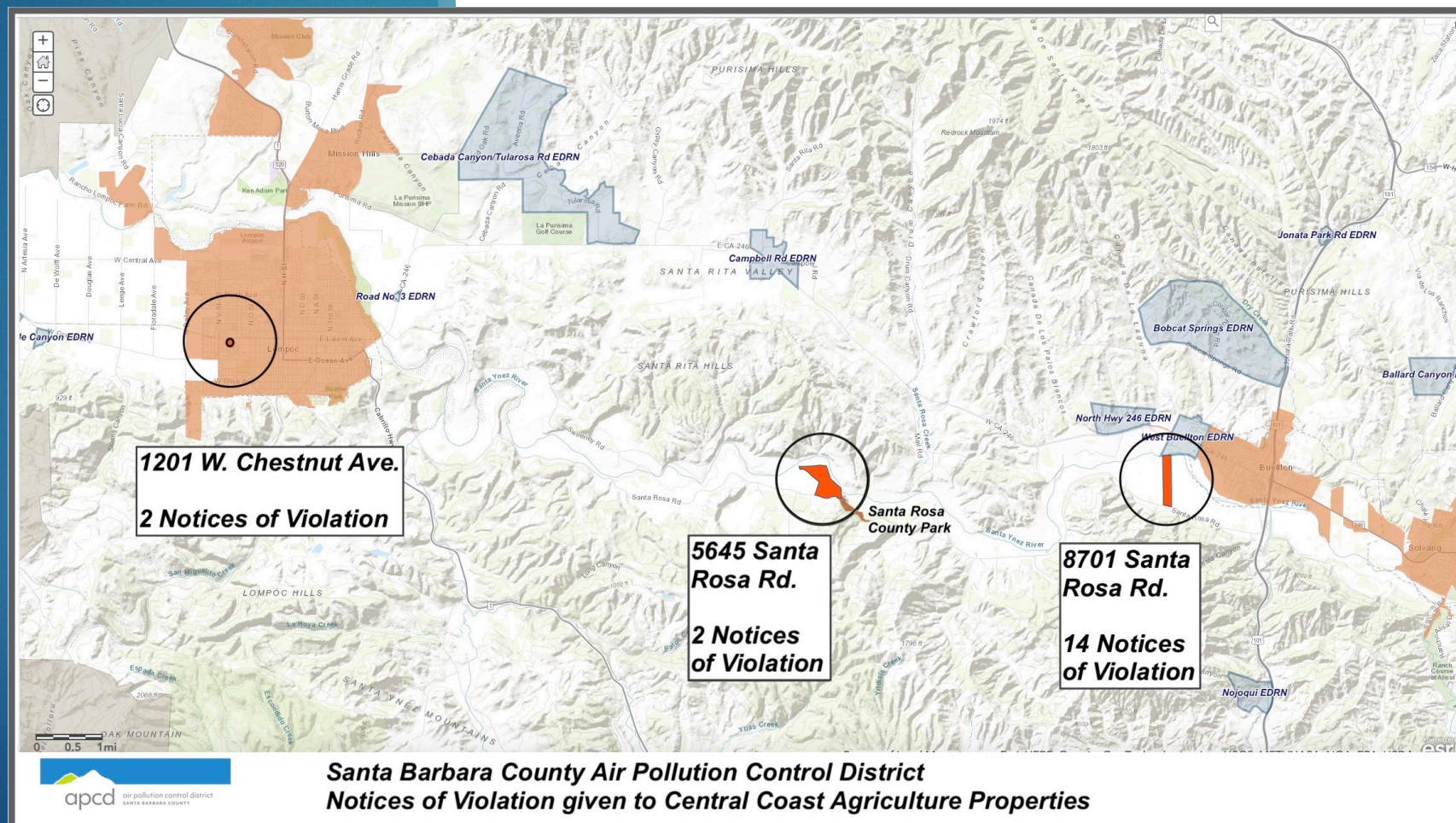
Illegal Expansion

- ▶ 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



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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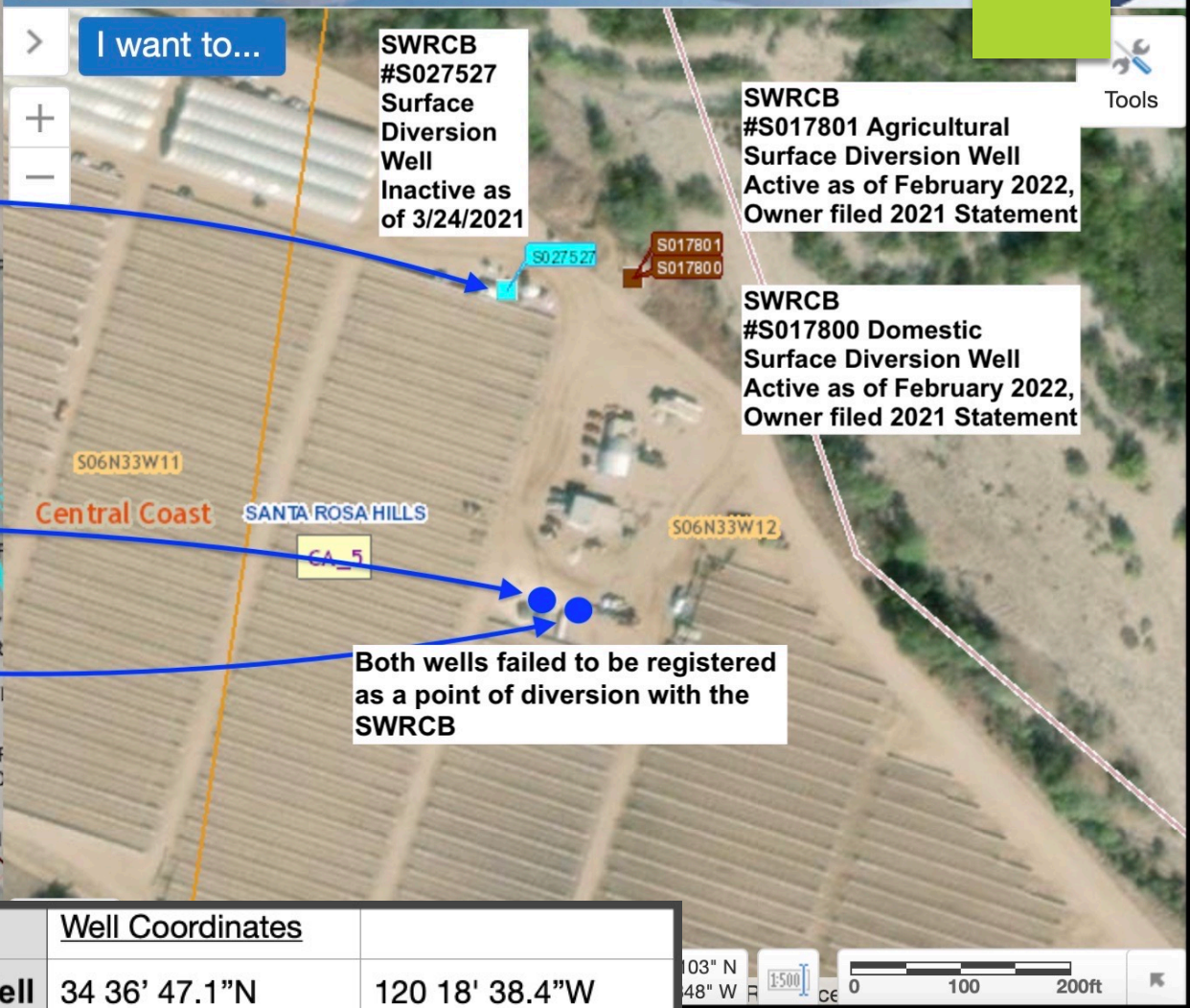
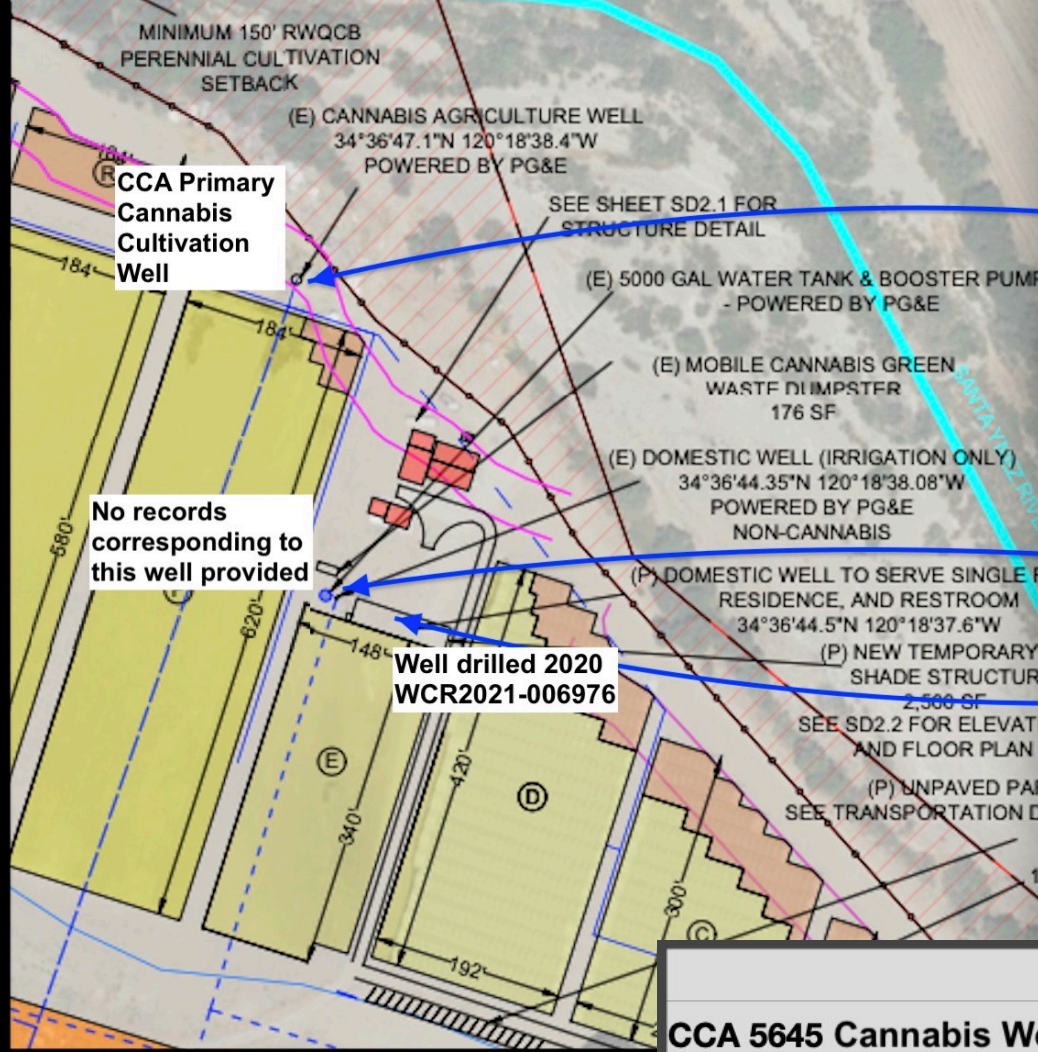
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Central Coast Agriculture Site Plans, February 2022

SWRCB eWRIMS Database of Surface Diversion Points, February 2022



CCA Primary Cannabis Cultivation Well

No records corresponding to this well provided

Well drilled 2020 WCR2021-006976

SWRCB #S027527 Surface Diversion Well Inactive as of 3/24/2021

SWRCB #S017801 Agricultural Surface Diversion Well Active as of February 2022, Owner filed 2021 Statement

SWRCB #S017800 Domestic Surface Diversion Well Active as of February 2022, Owner filed 2021 Statement

Both wells failed to be registered as a point of diversion with the SWRCB

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DIRECTORS:

DIVISION 1
CYNTHIA ALLEN, President
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Santa Ynez River

WATER CONSERVATION DISTRICT

P.O. Box 719 - 3669 Sagunto Street, Suite 101
Santa Ynez, California 93460

Telephone: (805) 693-1156
FAX: (805) 693-4607
www.SYRWCD.com

February 11, 2022

D-R-A-F-T Subject to Revision

GENERAL MANAGER:

KEVIN D. WALSH

SECRETARY:

AMBER M. THOMPSON

TREASURER:

WILLIAM J. BUELOW, PG

CONSULTANTS:

STEVE TORIGIANI
General Counsel

STETSON ENGINEERS
Engineer

5645 Santa Rosa Road, Lompoc, CA Reported Water Use

Year	REPORTED TO SANTA YNEZ RIVER WATER CONSERVATION DISTRICT		REPRESENTED TO COUNTY OF SANTA BARBARA	
	Annual Water Use (acre-feet)	For	Annual Water Use (acre-feet)	For
2016	18.2	Vegetable; Domestic	6.75 *1, *3	Cannabis
2017	37.1	Vegetable; Domestic	6.75 *1	Cannabis
2018	12.75	Cut Flower; Domestic	6.75 *1	Cannabis
2019	67.0	Cut Flower; Domestic	7.316	Cannabis
2020	38.8	Cut Flower; Domestic; Cannabis	6.75 *1	Cannabis
2021	7.8 *2	Cannabis	6.75 *1	Cannabis

*1: reported as a six-year average (2016-2021)

*2: only reported January-June 2021

*3: apparently reported as 2.7 acre-feet to State Water Board

KW/amt