



State Water Resources Control Board

September 30, 2022

CERTIFIED MAIL

Mr. Lance Batistich

INSPECTION REPORT, DRAFT CEASE AND DESIST ORDER, INFORMATION ORDER WR 2022-0171-DWR – SCOTT RIVER WATERSHED – SISKIYOU COUNTY

Enclosed is an Inspection Report, draft Cease and Desist Order (CDO), and Information Order WR-2022-0171-DWR.

DRAFT CEASE AND DESIST ORDER

The enclosed draft CDO is related to threatened unauthorized diversions during imposed curtailment as described in the Scott and Shasta River watersheds Emergency Regulation (Cal. Code Regs., tit. 23, §§ 875-875.9)

This letter and draft CDO serve as notice of the intent of the State Water Resources Control Board (State Water Board) Division of Water Rights (Division) to proceed with formal enforcement against you. Specifically, the Division intends to issue a Final CDO as recommended in the draft CDO.

**YOU HAVE 20 DAYS FROM RECEIPT OF THIS NOTICE TO ACT.
THIS MATTER REQUIRES YOUR IMMEDIATE ATTENTION.**

SUMMARY OF OPTIONS

1. Do nothing, and receive the Final CDO issued by the State Water Board based on the statement of facts and information set forth in these enforcement documents; or
2. Submit a written request for hearing within 20 days of receiving the enclosed draft CDO.

RIGHT TO A HEARING

You may contest the allegations in the draft CDO by requesting and attending a formal hearing before the State Water Resources Control Board's Administrative Hearings

Office. If you choose to contest these allegations, must request a hearing. Your hearing request must be received no later than 20 days from receipt of this letter. If you request a hearing, a hearing will be scheduled before a designated hearing officer. Prior to the hearing, you will be required to submit written testimony and other evidence for the hearing officer to consider. You will be notified of the hearing date and the submittal deadlines as soon as they are scheduled. See the enclosed Hearing Request Form for additional information.

INFORMATION ORDER WR 2022-0171-DWR

The enclosed Information Order requires submittal of information regarding water use in the Scott River watershed, specifically for surface water and groundwater diversion and use on the parcel(s) APNs 024-050-100, 024-050-120, 024-050-130, 024-050-140, 024-050-150, 024-050-160, 024-050-170, 024-040-380, 024-061-090, and 024-061-150 associated with Water Right IDs S025819, S025820, S025829, S025830, and S028076, that are owned by LANCE BATISTICH (or his successor in interest). Addendum 35 to Order No. WR 2021-0083-DWR and Order No. WR 2021-0084-DWR curtailed all surface water rights and groundwater extraction (with limited exceptions) on July 14, 2022. It remains in effect until further notice. You hold water right ID(s) S025819, S025820, S025829, S025830, and S028076 which are curtailed in accordance with these orders.

You are receiving this letter as the owner of record for the land parcel(s) listed in Attachment A.

This letter:

- Describes information requirements necessary for compliance with the attached Order.
- Describes the timeline to submit the required information.

Even if you are currently not diverting surface water or groundwater, you must respond to this Order.

Emergency Regulation

On August 17, 2021, the State Water Board adopted an emergency regulation establishing drought emergency minimum flows in the Scott River and Shasta River watersheds (hereinafter "Regulation" or "Emergency Regulation"). (Cal. Code Regs., tit. 23, §§ 875-875.9.) The Regulation was reviewed and approved by the Office of Administrative Law and went into effect upon filing with the Secretary of State on August 30, 2021. The State Water Board readopted the Regulation with amendments on June 21, 2022, with Resolution No. 2022-0025. The Regulation was reviewed and approved by the Office of Administrative Law and went into effect upon filing with the Secretary of State on July 20, 2021. The current [regulation](#) is available online.

Information Order

The primary purpose of this Order is to provide the State Water Board with water use information. Data collected under information orders is used to assess compliance with the emergency regulations.

Under the Regulation (specifically Section 875.8), the Deputy Director may issue information orders to landowners, diverters, or other water right holders in the Scott River and Shasta River watersheds, requiring them to provide additional information related to water use as relevant to implementing the Regulation.

Required Response – Information Order Form

Within 14 calendar days of issuance of this Order, you or your agent is required to complete the enclosed Information Order Form providing information on your water use. **Timely and accurate completion of the required form can help you avoid enforcement proceedings. Staff are available to answer questions or otherwise assist with completing the form by email at WB-DWR-SiskiyouEnforcement@waterboards.ca.gov or by phone at (916) 327-3114.**

Potential Enforcement

The enclosed Order includes enforceable requirements regarding information for a water right or claim of right that require your immediate attention. Diverting water in violation of the enclosed Order or the Regulation risks administrative fines, or prosecution in court. The State Water Board has enforcement discretion and decisions related to enforcement and associated penalties are based on the specific circumstances of the violation. Fines may be up to \$500 per day of violation. (Section 875.9.)

Request for Reconsideration

You may submit a petition within 30 days to request that the State Water Board reconsider the enclosed Order. The process and grounds for reconsideration are provided by California Code of Regulations, title 23, sections 768 through 771. Any petition requesting reconsideration must be filed with the State Water Board no later than **October 30, 2022**. To ensure timely consideration, any petition for reconsideration should be emailed to: **WB-DWR-SiskiyouEnforcement@waterboards.ca.gov**.

Questions, Resources, and How to Stay Informed

Please review resources on the **[Scott River and Shasta River Watersheds Drought Response webpage](https://www.waterboards.ca.gov/drought/scott_shasta_rivers/)** (https://www.waterboards.ca.gov/drought/scott_shasta_rivers/) if you have questions. You may also contact staff by email at WB-DWR-SiskiyouEnforcement@waterboards.ca.gov or by leaving a message at (916) 327-3114.

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We encourage you to sign up for the “[Scott-Shasta Drought](#)” [Email Subscription List under “Water Rights”](#).¹ This is the best way to stay informed about changes to the curtailments and other important information related to the regulation.

If you have any questions concerning this matter, please contact either Robert Cervantes, Water Rights Enforcement Program Manager at roberto.cervantes@waterboards.ca.gov or Debi Ores, Office of Enforcement Attorney, at debi.ores@waterboards.ca.gov.

Sincerely,



Robert P. Cervantes, PE
Program Manager – Enforcement
Division of Water Rights

Enclosures: 1) Inspection Report
2) Draft Cease and Desist Order
3) Information Order (including Information Order response form)
4) Hearing Request Form

ec (with enclosures):

Eric Oppenheimer
Eric.Oppenheimer@waterboards.ca.gov

Eileen Sobeck
Eileen.Sobeck@waterboards.ca.gov

Erik Ekdahl
Erik.Ekdahl@waterboards.ca.gov

Erin Ragazzi
Erin.Ragazzi@waterboards.ca.gov

Diane Riddle
Diane.Riddle@waterboards.ca.gov

¹ https://www.waterboards.ca.gov/resources/email_subscriptions/swrcb_subscribe.html

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Jule Rizzardo

Jule.Rizzardo@waterboards.ca.gov

Yvonne West

Yvonne.west@waterboards.ca.gov

Mayumi Okamoto

Mayumi.okamoto@waterboards.ca.gov

Kenneth Petruzzelli

Kenneth.petruzzelli@waterboards.ca.gov

Debi Ores

Debi.Ores@waterboards.ca.gov

John Prager

John.Prager@waterboards.ca.gov

Samantha Olson

Samantha.Olson@waterboards.ca.gov

Joe Croteau

Joe.Croteau@wildlife.ca.gov

Jim Simondet

Jim.simondet@noaa.gov

Administrative Hearings Office

EXEC-AdminHrgOffice@waterboards.ca.gov

Karuk Tribe

gjohnson@karuk.us;

craig@suitsandsigns.com

Yurok Tribe

mbelchik@yuroktribe.nsn.us

Steven McDonald, CDFW

steven.mcdonald@wildlife.ca.gov

David Webb, Friends of the Shasta River

Dave.webb@shastariver.org

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

ORDER WR 2022-0171-DWR

**IN THE MATTER OF WATER USE ON THE PROPERTIES OF
LANCE BATISTICH¹**

INFORMATION ORDER FOR WATER USE IN THE SCOTT RIVER WATERSHED

ISSUED SEPTEMBER 30, 2022

FINDINGS:

1. On August 30, 2021, an emergency regulation, titled Establishment of Minimum Instream Flow Requirements, Curtailment Authority, and Information Order Authority in the Klamath River Watershed (hereinafter “Regulation” or “Emergency Regulation”) went into effect. The State Water Board readopted the Regulation with amendments on June 21, 2022, with Resolution No. 2022-0025, which are now in effect after review and approval by the Office of Administrative Law. The Regulation provides curtailment authority throughout the Klamath River Watershed and establishes minimum instream flow requirements and information order authority in the Scott River and Shasta River watersheds.
2. Under the Emergency Regulation, the Deputy Director for the Division of Water Rights may issue an information order to some or all landowners in the Scott River and Shasta River watersheds, requiring them to provide information related to diversion and use of water relevant to implementing the regulation. (Cal. Code Regs., tit. 23, sec. 875.8.)
3. The primary purpose of this Order is to collect information regarding water use in the Scott River watershed to assess compliance with the emergency regulations.
4. This information is otherwise not readily obtainable because it depends on knowledge of water use on various land parcels.
5. The Division of Water Rights has created the Scott River Watershed Water Use Information Form which is attached to this Order. The form shall be completed and returned by post to the address or email below:

¹ You are receiving this Order as the owner of land parcel(s) listed in Attachment A. This Order applies to you and all agents, successors in interest, grantees, and assigns thereto.

State Water Resources Control Board
Division of Water Rights ATTN: Enforcement Section
P.O. Box 2000
Sacramento, CA 95812-2000
WB-DWR-SiskiyouEnforcement@waterboards.ca.gov

6. Submittal of the Form is required within fourteen (14) days from the effective date of this Order. Timely reporting will allow the State Water Board to process the information efficiently during this drought emergency. The Deputy Director may grant additional time for the submission of information regarding water use upon a showing of good cause. Each recipient of this Order is responsible for immediately providing notice of any information order(s) to any or all agents, successors in interest, grantees, and assigns thereto required to provide complete information.

IT IS HEREBY ORDERED:

1. This Information Order shall be effective on September 30, 2022.
2. By October 14, 2022, each recipient of this Order who diverts water for use on their land parcel(s) shall submit, under penalty of perjury, the information described in this paragraph. Each recipient of this Order must provide the following information on each water source serving their parcel(s) or used to provide water supply from **July 2, 2022 through the date of receiving this Information Order:**
 - I. Information on all Surface Water Points of Diversion
 - a. For each surface water point of diversion:
 - i. Date(s) water was diverted;
 - ii. Quantity of water diverted;
 - iii. Quantity of water used for (1) irrigation, (2) livestock watering, (3) human health and safety, (4) diverted to storage;
 - iv. Diversion maximum flow rate; and
 - v. Capacity of reservoir in acre feet.
 - II. Information on all Groundwater Points of Diversion
 - a. Coordinates identifying the location of each groundwater well for which you have not already filed an Initial Statement of Diversion and Use;
 - b. The current maximum flow rate of each well;
 - c. For each date the wells operated:
 - i. Quantity of water diverted;
 - ii. Quantity of water used for (1) irrigation, (2) livestock watering, (3) human health and safety, (4) diverted to storage; and
 - iii. Diversion maximum flow rate.
 - d. For irrigated acres from July 2, 2022, through date of receiving this Information Order:

- i. The parcel(s) where irrigation has occurred;
 - ii. Date(s) of irrigation on each field;
 - iii. Source(s) of water for irrigation;
 - iv. Number of irrigated acres per crop type; and,
 - v. Amount of water used for irrigation on each field.
3. The Division may follow-up with additional information requests pursuant to this Order if necessary to clarify or complete the initial information request and response as necessary.
4. Violation of this Order shall be subject to enforcement and any applicable penalties pursuant to Water Code section 1846.
5. 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, including but not limited to, the authority to bring enforcement against diverters for unauthorized diversion or use in violation of Water Code section 1052.
6. Nothing in this Order shall excuse individual water right holders from meeting any more stringent requirements that may be imposed by applicable legally binding legislation, regulations, or a water right permit requirement. This Order does not authorize any act which results in the taking of a threatened, endangered, or candidate species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A sections 1531 to 1544).

STATE WATER RESOURCES CONTROL BOARD

A handwritten signature in black ink, appearing to read "Erik Ekdahl", with a long, sweeping horizontal stroke extending to the right.

Erik Ekdahl, Deputy Director
Division of Water Rights

Dated: SEPTEMBER 30, 2022

Attachment A

| APN | APN |
|-------------|-------------|
| 024-050-100 | 024-040-380 |
| 024-050-120 | 024-061-090 |
| 024-050-130 | 024-061-150 |
| 024-050-140 | |
| 024-050-150 | |
| 024-050-160 | |
| 024-050-170 | |