



State Water Resources Control Board

SEPT 15 2023
CERTIFIED MAIL

Lance Batistich

CERTIFIED MAIL NO

NOTICE OF VIOLATION: FAILURE TO COMPLY WITH DIVERSION MEASUREMENT AND REPORTING REGULATION FOR WATER RIGHT IDs S025829, S025819, S025820, S025830, S028076

To Lance Batistich:

On February 27, 2023, the State Water Resources Control Board's ("State Water Board" or "Board") Executive Director issued an Order approving settlement agreement – Order WR 2023-0008-EXEC (Settlement Order). The Settlement Order required multiple actions, including your compliance with the California Codes of Regulations.

Section 3.A of the Settlement Order requires that for S025829 and S025830, you must install and maintain a measuring device or employ a measurement method capable of daily measurement, and report the water diverted monthly to the Water Board staff.

Section 3.B of the Settlement Order requires that for S025819, S025820 and S028076, you must install and maintain a measuring device or employ a measurement method capable of telemetry and hourly measurement and provide access to the data or provide a website link where Water Board staff can access the data.

The State Water Board Division of Water Rights ("Division") relies on accurate and timely water use data from you and other diverters to help manage California's water.

By February 1 of each year, water right owners must submit Water Diversion and Use Reports to the Board detailing how much water was diverted and used in the previous water year. These reports include supplemental statements of water diversion and use, progress reports by permittees, reports of licensees, and water use reports of registration holders. These reports must include information on the device or method used to calculate the amount of water diverted, as well as the measurement data collected by such a device.

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

Our records indicate that your Water Diversion and Use Reports lack the required information of your measurement device and the measurement data collected from the device.

Water Measurement and Reporting Regulations

In January 2016, the State Water Board adopted new water use measurement regulations. The regulations require the installation of measuring devices and set standards for monitoring and reporting diversions of water. These monitoring and reporting requirements are designed to improve the Board's water supply awareness, while allowing water diverters the flexibility to determine how best to comply with the new requirements based on their individual circumstances. Water users were given until 2018 to comply with these regulations. The regulations can be found in Title 23 of the California Code of Regulations, sections 931 through 938.

Water users must submit the data collected by their measurement device with their Annual Water Diversion and Use Reports.

Violation

The Division of Water Rights has reviewed your Water Diversion and Use Reports and found that you have failed to submit information regarding your measuring devices, failed to submit the data collected from such devices, or both. In addition, the data submitted must reflect the amount diverted by each specific right and not a total amount of a reservoir or stream. Data must also reflect a volume of water diverted by each right and not simply a rate or reservoir elevation. These failures violate Title 23 of the California Code of Regulations, section 920, subdivision (f)(6) and (f)(12).

Enforcement

Water Code section 1846 grants the Board the authority to impose an administrative civil liability in an amount not to exceed five hundred dollars (\$500) for each day of violation of a regulation adopted by the Board. Furthermore, the Settlement Order, is a Cease-and-Desist Order. Water Code section 1845 authorized the Board to impose administrative civil liability in amounts not exceeding ten-thousand dollars (\$10,000) for each day of violation during drought and one-thousand dollars (\$1,000) for each day of violation at other times.

Corrective Action

- You must demonstrate that you are complying with the Settlement Order and the California Code of Regulations section 920 et seq. within **20 days** of the date of this notice.
- Your amended Diversion and Use Reports must include the required information regarding your diversion measurement device or method used to calculate the amount of water diverted, and the data collected by such a device or method.

Failure to correct this violation may subject you to a Cease-and-Desist Order and an Administrative Civil Liability under Water Code section 1846.

We have developed interim guidance for compliance and measurement device reporting that is enclosed with Exhibits A and B. Digital versions of the guidance documents can be emailed upon request.

If you have any questions regarding compliance with the measurement regulations, you can visit our website:

https://www.waterboards.ca.gov/waterrights/water_issues/programs/diversion_use/water_measurement.html.

Alternatively, you can contact Division staff knowledgeable in the measurement requirements at (916) 341-5307 or by email at sahil.pathak@waterboards.ca.gov.

Sincerely,

ORIGINAL SIGNED BY

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

Enclosures (2): Exhibit A SB-88 Data File Guidance
 Exhibit B SB-88 Data File Template

Ecc:

Erik Ekdahl
Deputy Director
Division of Water Rights
State Water Resources Control Board
Erik.Ekdahl@waterboards.ca.gov

Julé Rizzardo
Assistant Deputy Director
Division of Water Rights
State Water Resources Control Board
Jule.Rizzardo@waterboards.ca.gov

Mayumi Okamoto, Attorney
Office of Enforcement
State Water Resources Control Board
Mayumi.Okamoto@waterboards.ca.gov

Ecc Continued;

Kenneth Petruzzelli, Attorney
Office of Enforcement
State Water Resources Control Board
Kenneth.Petruzzelli@waterboards.ca.gov

Carson Capps, Attorney
Office of Enforcement
State Water Resources Control Board
Carson.Capps@waterboards.ca.gov

Crystal Robinson
Senior Environmental Scientist (Supervisor)
California Department of Fish and Wildlife
Crystal.Robinson@wildlife.ca.gov