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## State Water Resources Control Board

FEB 06 2023  
CERTIFIED MAIL

In reply, refer to:  
AB: INV 14687

Knights Valley California LLC  
Attention: Nick Bonsignore

CERTIFIED MAIL NO:

### **REPORT OF INSPECTION AND NOTICE OF VIOLATION – UNAUTHORIZED DIVERSION AND FAILURE TO FILE A STATEMENT OF DIVERSION AND USE, SONOMA COUNTY**

To Whom It May Concern:

On July 26, 2022, staff from the State Water Resources Control Board (State Water Board), Division of Water Rights (Division), conducted an inspection of the property at Sonoma County Assessor's Parcel Number (APN) 120-030-015 and 120-040-017 (Property), which is served by water rights application numbers A013695 and A018138 owned by Knights Valley California LLC (Knights Valley). The purpose of the inspection was to observe the diversion and use of water occurring on the Property and to evaluate potential violations of the curtailment order issued in the Russian River Watershed.

Enclosed are the Inspection Reports (Reports) for the Property that include Division staff observations, alleged violations, and the corrective actions necessary for compliance with the California Water Code. The enclosed Reports and this cover letter constitute your notice of the alleged violations. The information below is a summary of the alleged violation included in the Reports.

#### **Staff Observations**

On June 14, 2022, the Division issued the Order Regarding Curtailment Status (Curtailment Order) to all water right holders in the Russian River watershed. The Curtailment Order implemented the revised Emergency Curtailment Regulation to Protect Water Supplies in the Russian River Watershed (California Code of Regulations, Title 23, sections 877 through 879.3). Curtailment of water right application numbers A013695 and A018138 was imposed on July 5, 2022.

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

On July 26, 2022, Division staff conducted a Drought Emergency Curtailment Inspection (curtailment inspection) at the Property. No violation of the Curtailment Order was observed as no water was being diverted pursuant to the subject water rights at the time of inspection. However, during curtailment inspections and subsequent investigations of other water rights on other properties, Division staff discovered that Knights Valley may be diverting or using water other than as prescribed under the Water Code.

On the same day, July 26, 2022, Division staff conducted a curtailment inspection of Peter Michael Winery water rights on property adjacent to the Foote Ranch (Knights Valley Property). Upon further investigation, Division staff discovered that Knights Valley operates a diversion from Kellogg Creek, on the Peter Michael property, for use on the Foote Ranch. This point of diversion is referred to as Weir #3. Division records do not indicate a registered or permitted point of diversion at the location of Weir #3 on Kellogg Creek. Division staff contacted Knights Valley's Agent for further explanation and Division staff was told that Knights Valley would likely file an Initial Statement of Water Diversion and Use for this diversion. As of the date of this letter, no action has been taken by Knight's Valley or their Agent to report the diversion and use of water from Kellogg Creek or to claim a valid basis of right for such diversion and use.

### **Summary of Threatened Violations**

#### **1. Unauthorized Diversion**

Knights Valley diverts water from Kellogg Creek at a weir located on the Peter Michael property, for use on the Foote Ranch (Knights Valley Property). Division records do not indicate a registered point of diversion for the weir on Kellogg Creek. No appropriative rights have been issued for such diversion and it does not appear that an Initial Statement of Water Diversion and Use (Statement) has been filed.

The diversion and use of surface water without a valid basis of right is considered an unauthorized diversion for which the State of California can impose civil liabilities (fines) for each day that the trespass occurs (Water Code § 1052, et seq).

#### **2. Failure to File a Statement of Water Diversion and Use**

Knights Valley's Agent indicated the diverter would likely file an Initial Statement of Water Diversion and Use but none was received. Water Code § 5101 requires, with minor exceptions, that a person who diverts water from a surface stream, spring or subterranean stream must report such diversion by filing an Initial Statement with the State Water Board, followed thereafter by annual Supplemental Statements, unless the diversion is covered by a permit, license or registration issued by the Division or the diversion is included in other approved reporting documents submitted to the State Water Board.

The State Water Board may administratively impose a civil liability in the amount of \$1,000 for the failure to file a Statement for diversions that have occurred since

2009, plus \$500 per day for each additional day on which the violation continues if the person fails to file a Statement within 30 days after the State Water Board has called the violation to the attention of that person. (Water Code § 5107, subd. (c) (1)). Therefore, you should immediately file an Initial Statement of Water Diversion and Use with the Division.

### **Corrective Actions**

The Division has discretion on whether to pursue formal enforcement actions and encourages you to act promptly to voluntarily correct the apparent unauthorized diversion of water from Kellogg Creek. **Within 30 days from the date of this letter**, please perform the following actions:

1. Respond to the Division with an explanation and documentation of your basis of right for the diversion and use of water from Kellogg Creek at Weir #3.
2. If you believe that a riparian right or a pre-1914 appropriative right exists for diversions from Kellogg Creek at Weir #3, submit an Initial Statement of Water Diversion and Use form to the Division and copy Antonio Barrales at [Antonio.Barrales@waterboards.ca.gov](mailto:Antonio.Barrales@waterboards.ca.gov). Information regarding the Statement program and a link to obtaining the necessary form can be found at: [http://www.waterboards.ca.gov/waterrights/water\\_issues/programs/diversion\\_use/](http://www.waterboards.ca.gov/waterrights/water_issues/programs/diversion_use/)

The State Water Board retains the authority and discretion to take enforcement action based on the facts and allegations contained herein and you may be subject to further enforcement action before the State Water Board; therefore, this matter requires your immediate attention.

If you have questions concerning the reports or violations, please contact me by phone at (916) 341-5398, or by email at [antonio.barrales@waterboards.ca.gov](mailto:antonio.barrales@waterboards.ca.gov). Written correspondence can be provided and addressed to the following address: State Water Resources Control Board, Division of Water Rights, Attention: Antonio Barrales, P.O. Box 100, Sacramento, CA 95812-0100.

Sincerely,

*Antonio Barrales*

Antonio Barrales  
Water Resource Control Engineer  
Central Coast/Southern California Enforcement Unit

Enclosures:

1. Division of Water Rights Inspection Report dated July 26, 2022, for water right application number A013695.

Knights Valley California LLC

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2. Division of Water Rights Inspection Report dated July 26, 2022, for water right application number A018138.

cc: Knights Valley California LLC

ecc: Nick Bonsignore  
Wagner and Bonsignore CCE

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