



State Water Resources Control Board

December 21, 2022

CERTIFIED MAIL

In Reply, refer to:
HF: CID 6316
(INV 13917)

Julie Sachs
c/o Terence Szewczyk

CERTIFIED MAIL NO: 7021 0950 0000 7129 7574

Dear Mr. Szewczyk:

NOTICE OF VIOLATION - UNAUTHORIZED DIVERSION AND USE OF WATER FROM CALERO CREEK IN SANTA CLARA COUNTY

The State Water Resources Control Board (State Water Board), Division of Water Rights (Division) received a complaint on June 29, 2021, alleging that Julie Sachs (Respondent) is repeatedly diverting water from Calero Creek, tributary to Alamos Creek, without a valid water right for use at property address:

20210 Harry Road,
San Jose, CA 95120

Identified as Santa Clara County Assessor's Parcel Number (APN) 701-32-010. Photos submitted by Santa Clara Valley Water (Complainant), show a hose in Calero Creek (Figure 1) that leads to a water hauling truck (Figure 2) located on the property. The Complainant sent a Water Resources Protection Ordinance Issued to the Respondent on June 10, 2021.

The Division sent two Notices of Complaint to the Respondent on August 5, 2021, and October 6, 2021, respectively. Division staff have reviewed all relevant records and have found no valid basis of right associated with your alleged diversion.

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



Figure 1 - Water line siphoning water from Calero Creek.



Figure 2 - Water truck carrying water from Calero Creek.

Division staff issued a Notice of Potential Violation on January 27, 2022, requesting the Respondent replies to the enclosed questions regarding their alleged water diversions within 30 days of receipt. On February 3, 2022, Terence Szewczyk, an Agent hired by the Respondent, replied to the Notice of Potential Violation letter, stating that the water diversions from Calero Creek were used for onsite irrigation and have ceased. Division staff contacted Mr. Szewczyk on February 16, and informed Mr. Szewczyk of the water rights process. Mr. Szewczyk informed me that he would be contacting staff at a later time to resolve the complaint. Division staff contacted him multiple times after February 16, to no response.

Division of Water Rights Authority

The Division is responsible for the administration of appropriative water rights in California initiated after 1914, commonly referred to as "post-1914 appropriative water rights." The diversion of water from a surface or subterranean stream requires a water right recognized by the State Water Board, such as a riparian water right, pre-1914 water right claim, or a post-1914 water right permit, or license issued by the Division. Riparian rights do not require permits or licenses issued by the State Water Board, however they do apply only to the water which would naturally flow in the stream. They do not authorize diversion of water to storage in a reservoir to later be used in the dry season or to use water on land outside of the watershed. Riparian rights also remain

with the property when it changes hands, although parcels severed from the adjacent water source generally lose their right to the water. For more information on riparian rights, please visit the Division Frequently Asked Questions webpage at:

https://www.waterboards.ca.gov/waterrights/board_info/faqs.html

Required Actions:

Within 30 days of receipt of this letter, report your diversions to the State Water Board by filing an Initial Statement of Diversion and Use (Statement) with the Division in accordance with the California Water Code, Division 2, §5101. A separate Statement form must be submitted for each diversion point. General information regarding the initial Statements of Water Diversion and Use Law and the form can be found at:

https://www.waterboards.ca.gov/waterrights/publications_forms/forms/#stmnt

Failure to Respond Within 30 Days:

The State Water Board may administratively impose a civil liability in the amount of \$1,000 for the failure to file a Statement for each point of diversion 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. (California Water Code, Division 2, § 5107).

This letter constitutes your notice of the Statement filing requirements and the fact that, as of the date of this letter, the Division has not received Statement(s) for the diversion identified on your property. If your Statement(s) are not received within 30 days from the date of this letter, then you are subject to an additional \$500 per day potential liability for each additional day the violation continues, in accordance with administrative civil liabilities (California Water Code, Division 2, § 5107).

Continued diversion and use of water without a basis of right is illegal, and you may be subject to enforcement for unauthorized diversion. Enforcement action may result in the assessment of Administrative Civil Liability (ACL) penalties or the issuance of a Cease and Desist Order (CDO), or both. The maximum fine the State Water Board may assess is \$1,000 per day and \$2,500 per acre-foot of unauthorized water (Water Code section 1052(c)). A person who violates a Cease and Desist Order may be subject to a fine of up to \$10,000 per day (Water Code section 1845).

If you have any questions, please contact Haweya Farah at (916) 323-9405 or by e-mail at Haweya.Farah@waterboards.ca.gov. Written correspondence should be addressed as follows:

State Water Resources Control Board,
Division of Water Rights, Attn: Haweya Farah,
P.O. Box 2000, Sacramento, CA 95812-2000.

Sincerely,

ORIGINAL SIGNED BY

Haweya Farah, EIT
Water Resources Control Engineer
Central Coast & So. Cal Enforcement Unit
Division of Water Rights

Enclosure: Notice of Potential Violation to Julie Sachs (dated January 27, 2022)

cc: Julie Sachs (RESPONDENT)

ec: Roberto Cervantes
Roberto.Cervantes@waterboards.ca.gov