



EDMUND G. BROWN JR.  
GOVERNOR



MATTHEW RODRIGUEZ  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION

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**State Water Resources Control Board**

**JUL 16 2015**

CERTIFIED MAIL NO. 7003 1680 0000 2965 9510  
Returned Receipt Request

In Reply Refer to:  
SAnderson:

Mark Hodgetts  
385 Hyampon Rd.  
Hayfork CA, 96041

**ENFORCEMENT ACTION - NOTICE OF PROPOSED CEASE AND DESIST ORDER  
REGARDING THE THREAT OF UNAUTHORIZED USE OF WATER FROM HAYFORK CREEK  
TRIBUTARY TO SOUTH FORK TRINITY RIVER IN TRINITY COUNTY**

Enclosed is a draft Cease and Desist Order (CDO). This letter serves as notice to you, Mark Hodgetts, of the intent of the State Water Resources Control Board (State Water Board), Division of Water Rights (Division) to proceed with these enforcement actions. Therefore, this matter requires your immediate attention.

The draft CDO requires you to cease and desist from diverting and transporting water from Hayfork Creek for use on property not riparian to the sources. The corrective actions required include: (1) you must immediately cease and desist diverting water from Hayfork Creek that is not intended for use on Trinity County Assessor Parcel Number 014-370-21-00; and (2) within 30-days from the date the CDO takes effect, you must submit a corrective action plan that identifies the action(s) to be taken to correct the unauthorized use of water, and a time schedule for completion subject to approval by the State Water Board.

If you disagree with the facts or time schedules for the corrective actions set forth in the enclosed draft CDO, you may make a written request for a CDO hearing before the State Water Board. Your request for a hearing must be in writing, signed by you or on your behalf, and mailed or hand-delivered to ensure receipt by the State Water Board within 20 days from the date you receive this notice. If no hearing request is received by the State Water Board within 20 days after you receive this letter, the State Water Board may adopt the CDO as a final order, with the statement of facts and information set forth in the enclosed draft CDO, without a hearing. (Water Code, § 1834.)

If you request a hearing, then a hearing before the State Water Board or a hearing officer will be scheduled. Prior to the hearing, you will be required to submit any written testimony and other evidence you would like the State Water Board to consider. You will be notified of the hearing date and the submittal deadlines as soon as they are scheduled.

CHARLES R. HOPPIN, CHAIRMAN | THOMAS HOWARD, EXECUTIVE DIRECTOR

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1001 I Street, Sacramento, CA 95814 | Mailing Address: P.O. Box 100, Sacramento, CA 95812-0100 | [www.waterboards.ca.gov](http://www.waterboards.ca.gov)

You may mail your written hearing request to:

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

A request for hearing may also be hand delivered to:

State Water Resources Control Board  
Division of Water Rights  
Records Unit  
1001 I Street, 2<sup>nd</sup> Floor  
Sacramento, CA 95814

In addition, this letter and the attached draft CDO and Inspection Report serve as formal notice that you are in violation of California Water Code sections 5101 *et seq.* which require you to file a Statement of Water Diversion and Use (Statement) with the Division. California Water Code section 5101 requires, with minor exceptions, that a person who diverts water since 2009 from a stream in the absence of a permit, license, or registration must file a Statement with the State Water Board. Because you have diverted water since 2008, you are required to report this diversion and use to the State Water Board by filing a Statement unless that diversion falls within one of the limited exceptions provided for in California Water Code section 5101. If you have multiple diversion locations (e.g., directly diverting from a stream as well as impound water at a dam), a separate Statement is required for each diversion.

Water Code section 5107 authorizes the State Water Board to administratively impose an initial \$1,000 civil liability for failure to file a Statement, 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. Accordingly, you must file a Statement within 30 days of receipt of this letter or you could be subject to additional liability.

Further details about filing a Statement and an initial Statement form can be located on the State Water Board's website at:

[http://www.swrcb.ca.gov/waterrights/water\\_issues/programs/diversion\\_use/](http://www.swrcb.ca.gov/waterrights/water_issues/programs/diversion_use/)

In summary, you should take immediate action to: (1) immediately cease and desist diverting water from Hayfork Creek for use on any parcel other than Trinity County Assessor Parcel Numbers 014-370-21-00 and 014-370-29-00; (2) file a statement of diversion and use as required by California Water Code sections 5100-5107 within 30 days; and (3) begin complying with the other provisions of the draft CDO in accordance with the schedule provided therein; or submit a written request for a hearing with regard to the draft CDO within 20 days of receipt of this letter.

JUL 16 2015

Failure to respond to this letter and the issuance of the enclosed draft CDO in the time period provided will result in the State Water Board issuing a Final CDO. If you fail to comply with the adopted final CDO, the State Water Board may consider additional enforcement of the CDO, subjecting you to up to \$10,000 for each day of non-compliance during an emergency drought period or referral to the Attorney General for further action. (Water Code, § 1845.)

If you have any questions concerning this matter or if there are facts or circumstances that you would like to discuss, then please contact one of the following: Taro Murano, Supervisor, Enforcement Unit 5, at (916) 341-5399 or [TMURANO@waterboards.ca.gov](mailto:TMURANO@waterboards.ca.gov); or Yvonne West, Senior Staff Counsel, Office of Enforcement at (916) 322-3626 or [Yvonne.West@waterboards.ca.gov](mailto:Yvonne.West@waterboards.ca.gov).

Sincerely,



John O'Hagan, Assistant Deputy Director  
Division of Water Rights

Enclosures:

- Draft Cease and Desist Order
- Report of Investigation

ec:

Yvonne West, Senior Staff Counsel  
State Water Resources Control Board  
Office of Enforcement  
[Yvonne.West@waterboards.ca.gov](mailto:Yvonne.West@waterboards.ca.gov)  
(w/ enclosures)

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

DIVISION OF WATER RIGHTS

ORDER WR 2015-0XXX-DWR

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**CEASE AND DESIST ORDER**

In the Matter of Unauthorized Diversion by

**MARK HODGETTS**

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SOURCE: Hayfork Creek

COUNTY: Trinity

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The State Water Resources Control Board (State Water Board or Board) is authorized under California Water Code (Water Code) section 1831 to issue a Cease and Desist Order (CDO) requiring Mark Hodgetts (referred to herein as Hodgetts) to cease and/or abate an ongoing, or a threatened, violation of Water Code section 1052.

Hodgetts is alleged to have violated or is threatening to violate Water Code section 1052. Water Code section 1831, subdivision (d), states in part that the State Water Board is authorized to issue a Cease and Desist Order when it determines that any person is violating or threatening to violate the prohibition set forth in section 1052 against the unauthorized diversion or use of water subject to this division [Water Code division 2, commencing with section 1000].

On July 14, 2015, and in accordance with the provisions of section 1834 of the Water Code, the State Water Board, Division of Water Rights (Division) provided notice of the CDO against Hodgetts for the violation and/or threatened violation of the prohibition against unauthorized diversion and use of water. Pursuant to State Water Board Resolution 2012-0029, the Deputy Director for Water Rights is authorized to issue a notice of cease and desist, and when a hearing has not been timely requested, issue a CDO in accordance with Water Code section 1831, et seq. State Water Board Resolution 2012-0029 also authorizes re-delegation of this authority from the Deputy Director for Water Rights to the Assistant Deputy Director for Water Rights (Assistant Deputy Director). This authority has been re-delegated.

**FACTUAL BASIS FOR ISSUING THE CDO**

The facts and information upon which this CDO is based are as follows:

1. According to Trinity County Assessor Parcel information Hodgetts owns Trinity County Assessor Parcel Numbers (Parcel/s) 014-370-21-00 and 014-370-29-00. Both Parcels are riparian to Hayfork Creek in Trinity County.
2. Parcel 014-370-21-00 includes a surface water diversion facility that Hodgetts uses and/or has the ability to use to fill water trucks for bulk water delivery and sale. On March 21, 2014 Hodgetts stated to Division staff that he purchased the property with the existing diversion piping works and structure in 2007. Hodgetts stated that he has been operating his diversion facility since 2008 which includes filling water trucks for dust control and fire protection for use at various locations in the surrounding area. According to Hodgetts the existing diversion works consisted of a 4-inch pipe that was used to divert water for a saw mill operation which existed years ago. Since purchasing the property,

Hodgetts built a pump house and overhead fill structure for water trucks. This overhead fill structure can draw water from a point of diversion on Hayfork Creek and/or from municipal supply provided by Trinity County Water Works.

3. Hodgetts does not have a Statement of Water Diversion and Use (Statement) on file with the Division, nor a permit or license authorizing the diversion of water for use and transport off of Parcel 014-370-21-00. Under a riparian claim of right, water that is diverted under said claim must be put to direct use on the parcel that is riparian to the source.
4. Trinity County Water District (District) diverts and provides water for municipal use within the District's place of use (POU) as identified in License 7756 and/or Permits 15437, 20624 and 20625.
5. On December 2, 2013, the Division received a complaint alleging that Hodgetts is providing water diverted from Hayfork Creek to bulk water haulers by providing access to his Parcel 014-370-21-00.
6. On January 6, 2014, Hodgetts applied for a California Department of Fish and Wildlife (CDFW) Lake and Streambed Alteration Agreement (LSAA) for his point of diversion in Hayfork Creek.
7. On January 31, 2014 CDFW deemed Hodgetts' LSAA application incomplete for missing or insufficient information. The letter informed Hodgetts of the following:

The State Water Resources Control Board's (State Water Board) Electronic Water Rights Information Management System does not indicate that you have a basis of right on file with the State Water Board. You must obtain a water right from the State Water Board to divert water that is transported for use off riparian land. A riparian water right is a right to use the natural flow of water on riparian land. Riparian land is land that touches a lake, river, stream, or creek. Furthermore, we cannot authorize a diversion through the Streambed Alteration Agreement process that may substantially alter the creek by taking a significant amount of water, especially in low flows, without the appropriate water right.

8. Hodgetts claimed on his LSAA application to have a contract with CalFire and U.S. Forest Service for fire protection. On February 24, 2014, however, Andy Reiling, Calfire Battalion Chief communicated via email to Division staff that Hodgetts does not have a water tender agreement with Calfire and that Calfire instead uses a fire hydrant at the Hayfork fairgrounds as a water source to fight fires.
9. On March 21, 2014, Hodgetts contacted the Division to inquire about California Water Code laws and regulations that identify where he can use water that he diverts from Hayfork Creek to Parcel 014-370-21-00. Hodgetts stated to Division staff that he applied for a LSAA with CDFW to divert water from Hayfork Creek for dust control and fire protection, and that he has been operating the water diversion facility since 2008. Division staff informed Hodgetts that he could not divert water from Hayfork Creek under a riparian claim of right to sell, transport and use on property not riparian to the source. Division staff informed Hodgetts that the diversion activities that he described is not allowed under a riparian claim of right and constitutes an unauthorized place of use. Division staff stated to Hodgetts that he would need to submit an application to appropriate water. Division staff provided Hodgetts the contact information for the Division's Permitting and Licensing Section.
10. On April 11, 2014, Hodgetts submitted an Application to Appropriate Water (Application) to the Division. The Application seeks to appropriate 4,000 gallons per day from Hayfork Creek during the months of March 1 to October 31 for dust control, compaction, domestic and fire suppression purposes. The application identifies Hodgetts' Parcel 014-370-21-00 as the place of use, and again claims that he has existing agreements to provide water for U.S. Forest Service and Calfire, which is inconsistent with statements made by Andy Reiling, Calfire Battalion Chief to Division staff via email on February 24, 2014. Hodgetts also identifies that his Hayfork Creek diversion rate capacity is 300 gallons per minute via an electric pump. The designation of the place of use as limited to Parcel 014-370-21-00 is also inconsistent with prior statement by Hodgetts and the LSAA

application, which indicate that water is being transported off the parcel for bulk water sales.

11. On May 23, 2014, the Division received a report from a Trinity County employee that Tule Creek Road was wet and the trail of water originated from Hodgetts property and continued to Highway 3.
12. On July 18, 2014, the Division received a complaint from a Hayfork Creek resident who observed a large green water truck leaving the Hodgetts property and dripping water along Tule Creek Road.
13. From December 2, 2013 through July 18, 2014, the Division received three complaints alleging Hodgetts was diverting water from Hayfork Creek to fill water trucks that were trucking water off Parcel 014-370-21-00.
14. On July 29, 2014 CDFW asked Hodgetts to clarify a discrepancy in his place of use (POU) identified in his State Water Board Application. The CDFW letter stated the following:

On June 23, 2014, you provided a copy of your Application from the State Water Board, in the amount of 4,000 gallons/day from March 1-October 30. The place of use is described as Parcel 014-37-21-00 in Hayfork. This differs from information you provided earlier stating that water tenders go throughout Hayfork Creek watershed for dust abatement and soil compaction purposes. Please clarify this discrepancy.

15. On August 21, 2014 Division staff conduct a site inspection on Hodgetts Parcel 014-370-21-00. A copy of the report of investigation from that inspection is attached.
16. On October 8, 2014, the Division issued an acceptance letter for Hodgetts's Application. In the letter Hodgetts was required to take the following steps prior to the Division processing the water right application:
  - a. Pay annual fees;
  - b. Prepare an environmental evaluation and preparation of California Environmental Quality Act documentation;
  - c. Prepare a Water Availability Analysis;
  - d. Immediately submit a Statement to the Division; and
  - e. Restrict the place of use for water diverted from Hayfork Creek solely to Parcel 014-370-21-00.

Bulk water sales from the fill structure located on Parcel 014-37-21-00 have continued since the October 8, 2014 inspection.

17. Hodgetts' is in violation of, or is threatening to violate, Water Code section 1052's prohibition against the unauthorized diversion or use of water by diverting and/or having the ability to divert water from Hayfork Creek for the purpose of bulk water sales for use on property not riparian to the source. Hodgetts' point of diversion located in Hayfork Creek is connected to an overhead fill structure that has continuously been used to fill water truck transporting water to non-riparian parcels and therefore presents a threat of future unauthorized diversion and use of water in violation of Water Code section 1052.

**IT IS HEREBY ORDERED**, pursuant to sections 1831 through 1836 of the California Water Code, that:

1. Hodgetts shall immediately cease and desist any unauthorized diversion and use of water from Hayfork Creek.
2. Hodgetts is prohibited from selling and/or transporting water from Hayfork Creek Parcel 014-370-21-00 for use on non-riparian property. Hodgetts shall immediately disconnect the overhead fill station from the Hayfork Creek diversion works and render it incapable of providing Hayfork Creek water for

bulk water sales. The overhead fill station shall remain disconnected from Hayfork Creek until such time as the necessary appropriative water rights permit is issued by the Division.

3. Within 30 days of the date of this Order, Hodgetts shall file a Statement of Water Diversion and Use for past diversion from Hayfork Creek. California Water Code section 5101 requires, with minor exceptions, that a person who diverts water since 2009 from a stream in the absence of a permit, license, or registration must file a Statement with the State Water Board. Because Hodgetts has diverted water since 2008, Hodgetts is required to report his diversion and use to the State Water Board by filing a Statement unless that diversion falls within one of the limited exceptions provided for in California Water Code section 5101. If Hodgetts has multiple diversion locations (e.g., directly diverting from a stream as well as impound water at a dam), a separate Statement is required for each diversion.
4. Within 60 days of the date of adoption of this CDO, Hodgetts shall install a measuring device (e.g., in-line flow meter) to measure the volume of water diverted from Hayfork Creek. All water diverted from Hayfork Creek must be for direct diversion and use on Parcels 014-370-21-00 and 014-370-29-00 only, unless you obtain necessary appropriative water rights for other uses.
5. Prior to continuing any bulk water sales of municipal water supplied by the District, Hodgetts must obtain and provide to the Division written authorization from the District to conduct bulk water hauling operations within the District's place of use (POU) as identified in License 7756 and/or Permit 15437, 20624 and 20625. Hodgetts shall not transport water purchased from the District outside of the District's place of use and must maintain sufficient records to demonstrate compliance with the POU restrictions.
6. Hodgetts shall maintain, and provide to the Division upon request, records of: (1) all surface water diversion from Hayfork Creek on Parcel 014-370-21-00, (2) the source, quantity, and deliver location of all water sold and delivered from the diversion facilities, and (3) retain copies of monthly billing statements received from the District.
7. Within 60 days of the date of adoption of this CDO, Hodgetts shall submit a summary and photographic evidence of all actions taken to prevent any future unauthorized diversion and use of water.

### **Consequences of Non-Compliance**

In the event Hodgetts fails to comply with the requirements of this Order, he shall be in violation of this CDO and subject to additional enforcement, which may include the imposition of administrative civil liability. Violation of a CDO issued during a period for which the Governor has issued a proclamation of state of emergency based on drought conditions is subject to the imposition of administrative civil liability pursuant to Water Code section 1845, subdivision (b)(1)(A), in the amount not to exceed \$10,000 for each day in which the violations occurs, or referral to the Attorney General to take further injunctive enforcement actions as described in Water Code section 1845, subdivision (a).

**Upon the failure of any person to comply with a cease and desist order issued by the board pursuant to this chapter [California Water Code division 2, part 2, chapter 12] the Attorney General, upon request of the board, shall petition the superior court for the issuance of prohibitory or mandatory injunctive relief as appropriate, including a temporary restraining order, preliminary injunction, or permanent injunction.**

### **Reservation of Enforcement Authority and Discretion**

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 Hodgetts for unauthorized diversion or use of water in violation of Water Code section 1052.

### **Regulatory Changes**

Nothing in this Order shall excuse Hodgetts from meeting any more stringent requirements that may be imposed hereafter by applicable legally binding legislation, regulations or water right permit requirements.

**Compliance with Other Regulatory Requirements**

Nothing in this Order shall excuse Hodgetts from meeting any additional regulatory requirement that may be imposed by other local, state or federal regulatory entities for corrective actions taken by Hodgetts to comply with this Order.

**Exemption from CEQA**

This is an action to enforce the laws and regulations administered by the State Water Board. The State Water Board finds that issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code, sections 21000 et seq.), in accordance with section 15321(a)(2), Title 14, of the California Code of Regulations.

STATE WATER RESOURCES CONTROL BOARD

*John O'Hagan, Assistant Deputy Director  
Division of Water Rights*

Dated:

DRAFT



**DIVISION OF WATER RIGHTS  
REPORT OF INSPECTION**

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**Date of Inspection:** 8-21-2014

**Inspection Performed by:** Skyler Anderson & Sam Cole

**Persons Interviewed:** John Parsons, Employee of Mark Hodgetts

**Telephone:** 530-628-4160

**Ownership:** Mr. Mark and Mrs. Joan Hodgetts  
385 Hyampom Road  
Hayfork, CA 96041

**Water Right(s):** None

**Source(s):** Hayfork Creek, Trinity County Waterworks District 1 and Ground Water Well

**Point of**

**Diversion:** Hayfork Creek, Tributary to South Fork Trinity River  
County: Trinity Assessor Parcel Number 014-370-21-00

**Purpose of Use:** Bulk water hauling and Irrigation

**Amount:** Unknown

**Season of**

**Diversion:** 01/01-12/31

**Place of Use:** Trinity County Parcel (Parcel) 014-370-21-00 and Trinity Pines, Summit Creek and various rural locations

**Method(s) of**

**Diversion:** On stream diversion, ground water well

**Compliance to**

**Terms and Conditions:** NA

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## **HISTORY**

On December 2, 2013 the Division of Water Rights (Division) received a complaint alleging that Mark Hodgetts (Hodgetts) is diverting water from Hayfork Creek from his

## DIVISION OF WATER RIGHTS REPORT OF INSPECTION

property identified as Parcel 014-370-021-00 (Diversion Facility) to bulk water haulers. Division staff determined at the time of the complaint that there was no Statement of Water Diversion and Use (Statement) on file or an appropriative water right filed with the Division.

On January 6, 2014 Hodgetts applied for a California Department of Fish and Wildlife (CDFW) Lake and Streambed Alteration Agreement (LSAA). In the application Wet Pup Trucking is identified as Hodgetts business. Staff did not find "Wet Pup Trucking" listed in the California Secretary of State Business Search portal.

On January 31, 2014 CDFW determined Hodgetts' LSAA application was incomplete due to missing or insufficient information. The CDFW letter informed Hodgetts of the following:

*"The State Water Resources Control Board's (State Water Board) Electronic Water Rights Information Management System does not indicate that you have a basis of right on file with the State Water Board. You must obtain a water right from the State Water Board to divert water that is transported for use off riparian land. A riparian water right is a right to use the natural flow of water on riparian land. Riparian land is land that touches a lake, river, stream, or creek. Furthermore, we cannot authorize a diversion through the Streambed Alteration Agreement process that may substantially alter the creek by taking a significant amount of water, especially in low flows, without the appropriate water right."*

On March 21, 2014 Hodgetts contacted the Division to inquire about California Water Code laws and regulations that specify where he can use water that he diverts from Hayfork Creek to Parcel 014-370-021-00. Hodgetts stated to Division staff that he applied for a LSAA with CDFW to divert water from Hayfork Creek for dust control and fire protection and has been operating the Diversion Facility since 2008. Division staff informed Hodgetts that he could not divert water from Hayfork Creek under a riparian claim of right to sell, transport and use on property not riparian to the source and that his actions to transport and sell water to non-riparian property constitutes an unauthorized diversion and use of water. Division staff informed Hodgetts that he is required to submit an Application to Appropriate Water. Division staff provided Hodgetts the contact information for the Division's Permitting and Licensing Section.

On April 11, 2014, Hodgetts submitted an Application to Appropriate Water (Application) to the Division. The Application seeks to appropriate 4,000 gallons per day from Hayfork Creek during the months of March 1 to October 31 for dust control, compaction, domestic and fire suppression purposes. The application identifies Hodgetts' parcel 014-370-21-00 as the place of use. Hodgetts stated in his application that the diversion rate capacity is 300 gallons per minute.

On October 8, 2014 the Division issued an Acceptance Letter for Hodgetts's

## DIVISION OF WATER RIGHTS REPORT OF INSPECTION

Appropriative Water Right Application. In the letter Hodgetts was informed to immediately do the following;

- a. Pay annual fees;
- b. Prepare an environmental evaluation and preparation of California Environmental Quality Act documentation;
- c. Prepare a Water Availability Analysis;
- d. Immediately submit a Statement to the Division; and
- e. Restrict the place of use for water diverted from Hayfork Creek solely to Parcel 014-370-21-00.

### INSPECTION

On August 21, 2014 Division staff inspected Hodgetts' Diversion Facility. Division staff observed a bulk water hauling truck actively being filled at an overhead water filling station (Photo 1). The overhead filling station is an L-shape structure with a four-inch water line fixed approximately 10-feet off of the ground. Division staff approached the driver of the water truck and informed him that Division staff was there to inspect Hodgetts Diversion Facility. John Parson (Parsons), driver of the water truck stated to Division staff that he works for Hodgetts and that he makes water deliveries for Hodgetts. Division staff observed Parson's filling a 3,800 gallon water truck (Photo 2). Parsons stated that the source of water filling his truck is water purchased from Trinity County Waterworks District 1. According to Parsons, Hodgetts owns three water trucks with an approximate volume of 3,800 gallons (Photos 3, 4 & 5). The water truck that Parsons was driving was owned by Hodgetts. Parsons stated that he will normally do 4 to 5 water delivers per day and are delivered to various locations in the communities of Trinity Pines and Summit Creek and other rural locations. Parsons disclosed to Division staff, that normally only one water truck will make delivers in a day and on some days two water trucks will be in operation. The Trinity Pines community and Summit Creek community is not within the Hayfork Creek watershed. Parson's explained that he did not know what the water he delivered was used for.

Division staff observed a ground water well and pump house located on Hodgetts property (Photo 6). Parsons stated to Division staff that the ground water well has not been used in a long time.

Division staff observed a point of diversion (POD) in Hayfork Creek. The diversion consisted of a 4-inch diameter, white plastic pipe with a stainless steel fish screen attached (Photo 7). Parsons estimated that the rate of diversion was 400 gallons per minute. The rate of diversion was stated as 300 gallons per minute in the appropriative water right application submitted to the Division by Hodgetts. This POD was located in a shallow pool with minimal flow coming from upstream (Photo 8). Parsons stated to

## **DIVISION OF WATER RIGHTS REPORT OF INSPECTION**

Division staff that the POD has not been used for over a month; this is possibly due to the low flow conditions in Hayfork Creek during that period of time. .

Parson explained to staff that the overflow station can use both Hayfork Creek water and Trinity County Waterworks District 1 water to fill water trucks.

### **FINDINGS**

1. Hodgetts does not have a Statement on file with the Division, nor a permit or license authorizing the diversion of water for use. Hodgetts property, Trinity County parcel 017-370-21-00 is riparian to Hayfork Creek. Under a riparian claim of right, water that is diverted under a riparian claim must be put to use on the parcel that is riparian to the source.
2. Hodgetts has violated or is threatening to violate Water Code section 1052 by diverting and using water from Hayfork Creek without a valid basis of right. Hodgetts routinely sells and transports water from the Diversion Facility to property not riparian to Hayfork Creek. The Diversion Facility from which these bulk water trucks are filled has the capacity to be drawing water from a point of diversion in Hayfork Creek.
3. Hodgetts purchases water from the Trinity County Water District (District) and sells and transport that water to other parties. The use of Districts' water is limited to the Place of Use identified in License 7756 and/or Permit 15437, 20624 and 20625.

### **CORRECTIVE ACTIONS:**

The Division should consider issuing a Cease And Desist Order to Hodgetts prohibiting the unauthorized diversion and sale of water from Hayfork Creek and requiring Hodgetts to maintain and provided sufficient records to demonstrate the right to sell bulk water from the District and that all future sales are within the District's POU as identified in License 7756 and/or Permit 15437, 20624 and 20625.

**DIVISION OF WATER RIGHTS  
REPORT OF INSPECTION**



Photo 1 – Overhead water fill structure.



Photo 2 – 3,800 gallon water truck filling up.

**DIVISION OF WATER RIGHTS  
REPORT OF INSPECTION**



Photo 3 – According to the Department of Fish and Wildlife the Dark Green water truck license plate SE 364150 and the Turquoise water truck license plate SE510512 are owned by Hodgetts.

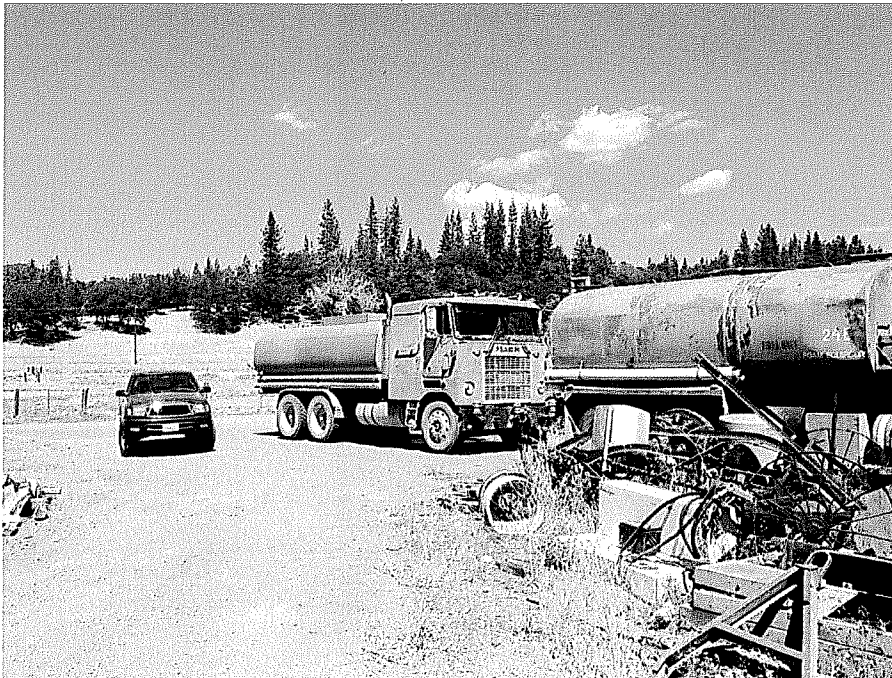


Photo 4 – Turquoise water truck owned by Hodgetts

**DIVISION OF WATER RIGHTS  
REPORT OF INSPECTION**



Photo 5 – Turquoise Wet Pup Trucking water truck owned by Hodgetts. In Hodgetts Lake and Streambed Alteration Agreement application Wet Pup Trucking is the name of Hodgetts business.

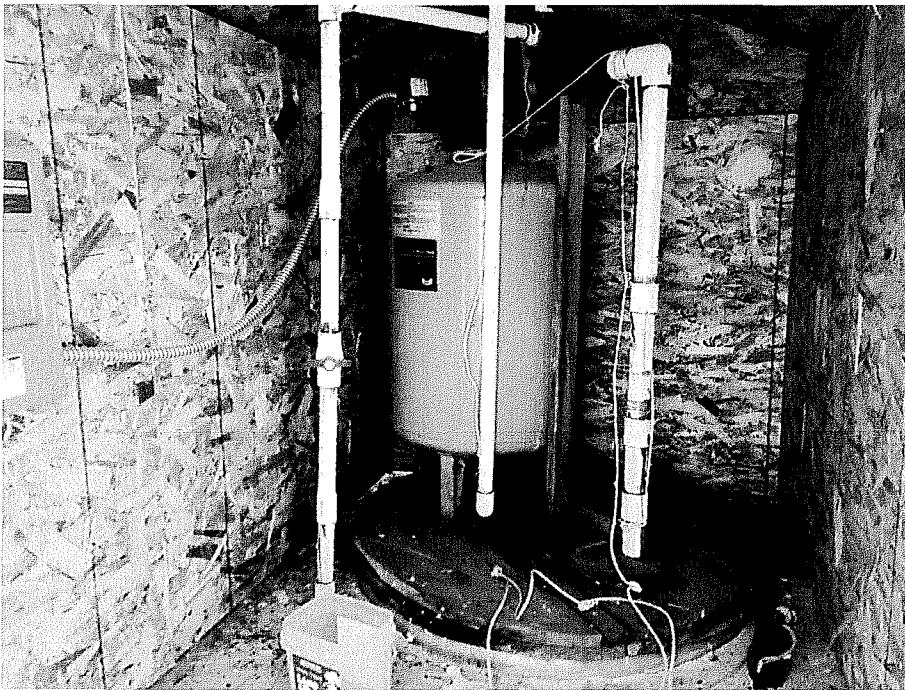


Photo 6 – Pump house and ground water well.



DIVISION OF WATER RIGHTS  
REPORT OF INSPECTION



Photo 7 – POD located in Hayfork Creek.



DIVISION OF WATER RIGHTS  
REPORT OF INSPECTION



Photo 8 – Upstream view from POD.

**DIVISION OF WATER RIGHTS  
REPORT OF INSPECTION**



Photo 9 – View downstream of POD.

DIVISION OF WATER RIGHTS  
REPORT OF INSPECTION



Location of POD in Hayfork Creek.

Location of water truck overhead fill station.

Location of ground water well and pump house.

Photo 10 – Aerial View of Hodgetts Property.