



# Enforcement News

## **Stanislaus County Property Owners Issued Enforcement Actions with Penalty for Alleged Unauthorized Water Diversion**

**FOR IMMEDIATE RELEASE**  
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**SACRAMENTO** – The State Water Resources Control Board (State Water Board) issued a draft Cease and Desist Order and Administrative Civil Liability Complaint against two Stanislaus County property owners for alleged unauthorized diversions from the Tuolumne River, and for alleged failure to provide information required in a State Water Board information order -- both violations of the State Water Code.

Mike Passalaqua and Peder Hoy are alleged to have diverted an estimated 522 acre-feet of water in 2014-15 after being notified there was no water available under their post-1914 water rights; and allegedly failed to respond to an informational order mailed to them in May of this year.

During an inspection of Passalaqua and Hoy's properties in June 2014 to check for compliance with the notice of water unavailability, State Water Board staff allegedly witnessed water being diverted from the point of diversion listed on the property owners' water right. When asked why water was still being diverted, the property owners allegedly stated they were drawing water under a riparian right.

State Water Board staff allegedly informed Passalaqua and Hoy that their properties, located seven miles southwest of Modesto, did not meet the criteria for a riparian right, which normally requires the land served to be contiguous with the water body, in this case the Tuolumne River. Passalaqua and Hoy allegedly do not own the land where the Tuolumne River is diverted. Water Board staff also determined that a portion of the 172 acres serviced by the diverted water were allegedly covered by a separate land patent not contiguous to the Tuolumne River, so any claim to a riparian right would not exist.

In addition to the alleged unauthorized diversion, Passalaqua and Hoy did not submit the information required by [Order WR 2015-0022-DWR](#) dated May 5, 2015. The order required, within 30 days, submittal of diversion records and evidence supporting any basis of right authorizing the continued diversion and use of water. Failure to timely respond to an informational order is subject to enforcement. The State Water Board allegedly did not receive a response to the information order; as a result, enforcement actions are being pursued.



The Complaint against Passalaqua and Hoy imposes a civil liability penalty of \$332,500 for the alleged violations. Under the terms of the draft Cease and Desist Order, the property owners must stop diverting water under all basis of right – both their licensed right and claimed riparian rights – until the State Water Board finds that there is sufficient water to divert under the licensed right or they document that they have a valid riparian right. If they do not comply with the requirements of the Cease and Desist Order, the property owners can face additional penalties of up to \$10,000 for each day the violation occurs, and can be referred to the Office of the Attorney General.

Passalaqua and Hoy may request a hearing before the State Water Board to contest the allegations within 20 days of receiving the complaints. To see the draft Cease and Desist Order and Administrative Civil Liability Complaint, see the [Water Rights Enforcement webpage](#).

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