

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

DIVISION OF WATER RIGHTS

ORDER WR 2025-XXXX-DWR

CEASE AND DESIST ORDER

In the Matter of Unauthorized Diversion, Violations of Water Measurement Regulations and Threatened Violations of Scott River and Shasta River Watersheds Drought Emergency Requirements and Order WR 2024-006-DWR

MEAMBER 2000 TRUST

S012445 AND A021238

SOURCE: Shasta River

COUNTY: Siskiyou

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 Meamber 2000 Trust (Respondent) to cease an ongoing, or a threatened, violation of Water Code section 1052, a curtailment order-Order WR 2024-0006-DWR, and section 933, Title 23, of the California Code of Regulations.

The Respondent is alleged to have violated or is threatening to violate Water Code section 1052, Order WR 2024-0006-DWR, and section 933, Title 23, of the California Code of Regulations. 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 Division 2 of the Water Code. State Water Board is also authorized to issue a Cease and Desist Order when it determines that any person is violating or threatening to violate “[a]ny decision or order of the board” issued under Division 2, Part 2 or Section 275 of the Water Code or a regulation adopted by the board.

The State Water Board is also authorized under Water Code section 1831 to issue a Cease and Desist Order for threatened violations of the Scott River and Shasta River

Watersheds Drought Emergency Requirements (Emergency Regulation), which were properly adopted in accordance with Water Code section 1058.5 and approved by the Office of Administrative Law.

On March 7, 2025, 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 the Respondent for the violation or threatened violation of the prohibition against unauthorized diversion and use of water, for the violation or threatened violation of an order of the State Water Board, and for violations of water measurement regulations. 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 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.

BACKGROUND

1. The Respondent's property is in Montague, CA in Siskiyou County. The property is composed of Siskiyou County Assessor Parcel Numbers (APNs) [REDACTED], [REDACTED], and [REDACTED]. The property is owned by the Meamber 2000 Trust, with property records listing Donald L Meamber, Jr. and Sheila L Meamber as trustees. The Meambers raise cattle and irrigate approximately 109 acres of pasture.
2. The Respondent's property consists of about 134.4 total acres within 5 parcels of land, with approximately 109 acres of irrigated pasture. These parcel boundaries extend over land that was originally patented as four (4) separate land patents which consist of: Homestead Certificate 1222, State Volume Patent 1, State Volume Patent 1463, and State Volume Patent 3592.
3. The Respondent diverts water from the Shasta River from one point of diversion under License 8598 (Water Right ID A021238) and a riparian claim of right under Statement of Water Diversion and Use (Statement) S012445. Donald L. Meamber, Jr. (Donald Meamber)
 - a. S012445 was filed on February 15, 1988, by Donald L. Meamber, Jr. (Donald Meamber). In 2019, ownership was changed to the Meamber 2000 Trust. Donald Meamber has submitted the Supplemental Statements since 1988 and has continued to do so.
 - b. The Respondent's Supplemental Statement for October 1, 2022, to September 30, 2023, reports diversions of 220 acre-feet per year to flood irrigate 109 acres of pasture and stockwatering of 40 beef cows. The

Respondent reports using a pump to divert up to a maximum diversion rate of 650 gallons per minute or 1.45 cubic feet per second.

- c. A021238 has a priority of April 11, 1963, and was licensed on June 24, 1968. The license authorized a diversion of 0.5 cubic feet per second (cfs) from April 1 to October 15 for irrigation. In 2019, ownership was changed to the Meamber 2000 Trust. Donald Meamber has submitted the Supplemental Statements since 1988 and has continued to do so. The Respondent reported no use under A021238 “due to Shasta River minimum flow requirements and curtailments”.
4. The Shasta River watershed is habitat to fall-run Chinook salmon and culturally significant steelhead trout and state, in addition to federal Endangered Species Act (ESA) listed threatened Southern Oregon/Northern California Coast (SONCC) coho salmon. In recent years, populations of anadromous salmonids have declined in the watershed due to degradation of the habitat that is necessary for the survival of these cold-water fish. Factors that have contributed to this degradation include physical barriers such as dams and weirs, flow alterations due to water withdrawals, loss of water quality due to elevated water temperatures and low dissolved oxygen levels and loss of riparian vegetation. The high summer water temperatures in the Shasta River and its tributaries are primarily caused by a depletion of streamflow, as found in the water quality modeling conducted during the development of the Shasta River Total Maximum Daily Loads (TMDLs). Pursuant to the California Water Action Plan, the Shasta River watershed was identified by the State Water Resources Control Board and California Department of Fish and Wildlife as a priority stream system to enhance flows to support anadromous fish.

Emergency Regulations

5. On December 19, 2023, the State Water Board adopted the Scott River and Shasta River Watersheds Drought Emergency Requirements (Emergency Regulation) which went into effect February 1, 2024. The Emergency Regulation provides curtailment authority in the Scott and Shasta watersheds, establishes minimum instream flow requirements, and provides information order authority in the Scott River and Shasta River watersheds. The minimum instream flow requirements were established to protect fall-run Chinook salmon, threatened Southern Oregon/Northern California Coast coho salmon, and culturally significant steelhead. Resolution No. 2023-0047 adopted the Emergency Regulation and describes the need for the Emergency Regulation and its intent.
6. Section 875 of the Emergency Regulation grants the Deputy Director for the Division of Water Rights (Division) the authority to issue curtailment orders requiring diverters to cease or limit their diversions.
7. On June 7, 2024, the Deputy Director issued Order Imposing Conditional Water

Right Curtailment and Requiring Reporting in the Shasta River Watershed (Order WR 2024-0006-DWR). This Conditionally Curtailed water rights down to a Priority Date of November 25, 1912. The Respondent's license for A021238, has a priority date of April 11, 1963. The Conditional Curtailment Order directed Respondent to submit a curtailment certification form, coordinate their diversions with the State Water Board or the Scott valley and Shasta Valley Watermaster District (SSWD), when flows were at or less than 5 cfs above the minimum flows to check their curtailment status online or by email, and cease their diversions when coordination does not allow for the minimum flow to be met.

8. On June 21, 2024, the Division issued a notice via email update directing diverters with Water Rights junior to January 1, 1958, to cease diversions immediately.
9. On June 30, 2024, Donald Meamber submitted 2024 Shasta Curtailment Certification Form for A021238. Mr. Meamber certified that diversions had ceased under the water right subject to the curtailment order.
10. On July 3, 2024, the Division issued Addendum 1 to Order WR 2024-0006-DWR which reinstated conditional curtailment for diversions of and junior to January 1, 1958.
11. On October 25, 2024, the Division issued Addendum 2 to Order WR 2024-0006-DWR, suspending curtailments until October 31, 2024.

Investigation

12. On June 26, 2024, Division staff contacted Don & Sheila Meamber by telephone to request consent for a curtailment inspection for their appropriative water rights in accordance with the Shasta Watershed Curtailment Order. Mrs. Meamber said that they are diverting under their riparian claim and believe riparian rights are not subject to Curtailment. Staff responded that the inspection is for their appropriative rights, which are subject to Curtailment. The Meambers then gave consent to Division staff to conduct an inspection, and the parties agreed to meet on July 1, 2024, at 12PM.
13. On July 1, 2024, Division staff met with Mr. Meamber to inspect the property for A021238's compliance with Order WR 2024-0006-DWR. When at the property, Meamber denied staff access to the property to inspect compliance. Mr. Meamber stated that they were irrigating the entirety of the property under their riparian claim of right filed under S012445.
14. The Respondent's chain of title originates with State Volume Patent 1, State Volume Patent 1463, Homestead Certificate 1222 and State Volume Patent 3592. Patents are conveyance documents created on the initial transfer of land

titles from the Federal government to individuals. Riparian rights only attach land that was contiguous to a watercourse and within the watershed of the watercourse when the patent was issued. Division staff created maps analyzing the Respondent's property's patents. The maps distinguished which portions of the patents were and were not contiguous to the Shasta River. Homestead Certificate 1222 and State Volume Patent 3592 are not and were not contiguous to the Shasta River. Therefore, no claim of riparian right extends to those lands. State Volume Patent 1 and State Volume Patent 1463 are and were contiguous to the Shasta River so riparian rights may exist in these lands.

15. On August 23, 2024, the Division of Water Rights Enforcement staff issued a Notice of Violation (NOV). The NOV informed the Respondent that large portions of the Respondent property cannot be riparian to the Shasta River and any diversion and use of water from the Shasta River onto those lands must be supported by an alternative basis of right. The NOV also states that A021238 could be an alternative basis of right; however, this right is subject to curtailment. The NOV requested further information to support riparian claims or other bases of right to the Shasta River within 30 days. The United States Postal Service (USPS) attempted to deliver the NOV twice, but it was returned to the Division as "Unclaimed" on September 10, 2024.
16. Division staff re-issued the NOV using Global Logistics Systems (GLS). GLS shipment tracking indicated that the Respondent received the NOV on September 18, 2024.
17. As of March 7, 2025 the Respondent has not responded to the NOV.
18. Division staff reviewed the Supplemental Statement of Water Diversion and Use for S012445 and the Report of Licensee for A021238 (Water Diversion and Use Reports) for reporting years 2018-2024. In the reporting year 2018 and 2019 Water Diversion and Use Reports the Respondent stated they installed a Seametrics AG3000 electromagnetic flowmeter on December 15, 2017; however, a data file was not submitted, and the respondent did not provide any information on how the measurement device's accuracy was certified. In subsequent reports, including the most recent report, the 2024 reporting year Water Diversion and Use Report for S012445, the Respondent states that the diversion is measured, but provides no further information on the type of device, does not provide any information on if the diversion was certified by a Qualified Individual, and has not submitted a data file of the measured diversions at a daily or more frequent basis.

Applicable Law and Findings

19. 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 Division 2 of the Water Code. State Water Board is also authorized to issue a Cease and Desist Order when it determines that any person is violating or threatening to violate “[a]ny decision or order of the board” issued under Division 2, Part 2 or Section 275 of the Water Code.

20. Under Water Code section 1201, “All water flowing in any natural channel is public water of the state and subject to appropriation in accordance with [the Water Code].”
 - a. Under Division 2 of the Water Code, all water flowing in any natural channel is public water of the State and subject to appropriation in accordance with the Water Code. (Water Code §1201.) There are three exceptions: (1) water applied to useful and beneficial purposes on any natural channel; (2) water that is or may be reasonably necessary for useful and beneficial purposes on riparian land; and (3) water otherwise appropriated.
 - b. For a parcel to have riparian rights to a stream: (a) the land in question must be contiguous to or abut on the stream, and (b) the land must be within the watershed of the stream. (*Rancho Santa Margarita v. Vail* (1938) 11 Cal.2d 501, 528-529.) For such lands, “[t]he riparian right extends only to the smallest tract held under one title in the chain of title leading to the present owner.” (*Id.*, p. 529.)
 - c. Any diversion or use of water other than those exempted in Water Code section 1201 is conditioned upon compliance with the appropriation procedures in Division 2. (*People v. Shirokow* (1980) 26 Cal.3d 301, 309.) A trespass occurs if a person diverts or uses water subject to Division 2 of the Water Code and not authorized under Division 2, whether under a riparian right, appropriation before 1914, or appropriation after 1914 under a permit or license issued by the State Water Board. (*Id.* at 304; *State v. Hansen* (1961) 189 Cal.App.2d 604, 610.)
21. Riparian rights are afforded to a parcel only where “(1) the land is contiguous to or abuts the stream; (2) *the parcel is the smallest parcel held under one title in the chain of title leading to the current owner*, and (3) the parcel is within the watershed of the stream.” (*Phelps v. State Water Res. Control Bd.* (2007) 157 Cal. App. 4th 89, 116 (citing *Rancho Santa Margarita v. Vail* (1938) 11 Cal.2d 501, 528–529.) (emphasis added).
22. The Respondent’s erroneous and unretracted claim of riparian right to lands that are not on a patent contiguous to the Shasta River presents a threatened unauthorized diversion or use of water — a threatened violation of Water Code, section 1052.

- a. The Respondent diverts under A021238, which was subject to curtailment under Order WR 2024-0006-DWR.
 - b. The Respondent has claimed a riparian right to divert water from the Shasta River. However, land within Homestead Certificate 1222 and State Volume Patent 3592 was not contiguous to the Shasta River when patented. Therefore, the Respondent lacks a riparian right to those lands.
 - c. The Respondent claims no other basis of right that would have authorized diversion during curtailment under Order WR 2024-0006-DWR.
 - d. During a curtailment compliance inspection on July 1, 2024, Mr. Member stated that they were irrigating the entirety of the property under their riparian claim of right filed under S012445. Since the Respondent lacks a riparian right to portions of their place of use, the Respondent diverted and used water other than as authorized by Division 2 of the Water Code — a violation of Water Code, section 1052.
 - e. Mr. Member denied staff access to the property to inspect compliance. The Respondent is therefore likely to resist future curtailment orders, presenting a greater threat of violating Water Code, section 1052.
23. Pursuant to the Emergency Regulation, the State Water Board issued a curtailment order, Order WR 2024-006-DWR, on June 7, 2024. The Respondent received the Curtailment Order on June 12, 2024. The Respondent has no water right that would have authorized the diversion and use of water from the Shasta River to non-contiguous land during curtailments imposed under Order WR 2024-006-DWR.
24. The State Water Board may issue a CDO under Water Code section 1831.
- a. The Respondent 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 from the Shasta River to property not riparian to the source under a riparian claim of right. This is a current and threatened future unauthorized diversion and use of water in violation of Water Code section 1052; and
 - b. The Respondent diverted water in violation of Order WR 2024-006-DWR. Their attempts to avoid curtailment by diverting water without a basis of right is a further threat to violating Order WR 2024-006-DWR. Financial incentives to violate Curtailment Orders threaten further violations.
25. The Respondent was required to install and receive certification of a measurement device from a qualified individual by July 1, 2017, pursuant to 932(c)(1)(B), Title 23, of the California Code of Regulations. The measurement

device must be capable of measuring and recording diversion data at 10% accuracy at a daily or more frequent basis pursuant to 933(d)(2)(B) and 933(b)(1)(A)(ii), Title 23, of the California Code of Regulations. The Respondent is required to submit a data file with their Water Diversion and Use Report on an annual basis pursuant to section 933(b)(2)(A), Title 23, of the California Code of Regulations.

- a. While it appears that the Respondent has a measurement device, the Respondent is in violation of section 933(b)(2)(A) Title 23, of the California Code of Regulations for failing to submit a data file with their annual Water Diversion and Use Report.
- b. There is a threatened violation of section 933(d)(2)(B) and 933(b)(1)(A)(ii), Title 23, of the California Code of Regulations because the respondent has never submitted any information on the accuracy and certification of the measurement device by a qualified individual.

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

1. Immediately cease and desist any diversion and use of water from the Shasta River to lands within Homestead Certificate 1222 and State Volume Patent 3592 under a riparian claim of right.
2. Immediately cease and desist all diversions subject to any curtailment order(s) adopted by the State Water Board, when curtailments are in effect.
3. Maintain and provide to the Division upon request, records of all surface water diversions under each right and claim of right from the Shasta River.
4. Maintain and provide to the Division upon request, water use records for land within each land patent boundary.
5. No less than 90 days after issuance of this order, provide evidence demonstrating installation and operation of a working measurement device for all diversions in accordance with Title 23, Chapter 2.7, Article 2, Section 932 through 938 of the California Code of Regulations.
6. Grant the staff of the State Water Board, with 30 days of a request via mail, email or telephone: 1) entry upon the property where water is being diverted, stored, conveyed, or used, 2) access to inspect, the equipment (including monitoring and control equipment), practices, or operations related to the exercise of its water rights, and 3) access to photograph, sample, measure, and monitor at reasonable times for the purpose of ensuring compliance with Water Code.

Consequences of Non-Compliance

In the event the Respondent fails to comply with the requirements of this Order, the Respondent 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 may be referred 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.

Failure to comply with this Order may subject the Respondent to the imposition of an administrative civil liability pursuant to Water Code section 1845, subdivision (b)(1)(B), in the amount not to exceed \$2,500 for each day in which the violations occurs during a non-drought year. In a period for which the Governor has issued a proclamation of state of emergency based on drought conditions, the Respondent 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.

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

Regulatory Changes

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

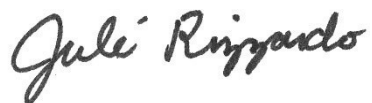
Compliance with Other Regulatory Requirements

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



*Julé Rizzardo, Assistant Deputy Director
Division of Water Rights*

Dated: March 7, 2025

DRAFT