



State Water Resources Control Board

December 8, 2023

CERTIFIED MAIL

MARK NAVONE
C/O DAVID WEISS, BELLA VISTA FARMING COMPANY LLC

CERTIFIED MAIL NO: [REDACTED]

NOTICE OF VIOLATION FOR UNAUTHORIZED DIVERSION AND USE FOR LAKE COUNTY ASSESSOR PARCEL NUMBERS [REDACTED]

[REDACTED], WATER RIGHT IDS
S000007, S0000008, AND S023273

Mark Navone:

State Water Resources Control Board (State Water Board), Division of Water Rights (Division) staff reviewed historic parcel maps and aerial imagery associated with three (3) riparian water right claims on properties under your ownership. Staff review of historical data and imagery indicates you are diverting surface water for non-riparian use. You are identified as the property owner for Lake County Assessor's Parcel Numbers (APN) [REDACTED] and water right IDs S000007, S0000008 and S023273. The Division is contacting you to provide notice that you are in violation of the California Water Code.

The purpose of this letter is to provide you notice that your diversion of water is subject to the State Water Board's permitting authority, and to inform you of your regulatory compliance options, in addition to your risk of administrative civil liability. This letter is your notice that you are in violation of the Water Code. You must take immediate action to come into compliance or risk civil liability on a per day, per violation basis.

Violations

You cannot divert natural flow under a riparian claim to parcels that were not riparian without an appropriate water right issued by the State Water Board. Attachment 1 identifies parcels in green ([REDACTED] and [REDACTED]) that are legally riparian to Clear Lake that may be served natural flow under a riparian claim of right. Parcels identified in red are not riparian. Riparian parcels that were contiguous to the

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

water source when patented, in the watershed, and that remain contiguous are riparian. Other parcels are not. Diversion and use of water on these properties is not authorized under a riparian right. Only water permitted with an appropriative water right may serve a non-riparian parcel.

Penalties

The information obtained by the State Water Board indicates you are diverting water subject to the State Water Board's permitting authority without an appropriative water right that authorizes your water diversion and use. A diversion of water subject to the State Water Board's permitting authority without a basis of right is an unauthorized diversion or use of water. An unauthorized diversion or use of water constitutes a trespass against the State, and the State Water Board may impose a civil liability in an amount not to exceed \$1,000 for each day that the unauthorized diversion or use of water occurs, plus \$2,500 for each acre-foot of water, during a critically dry year preceded by two or more consecutive below normal, dry, or critically dry years, or during a period for which the Governor has declared a state of emergency due to drought. (Cal. Water Code, § 1052, subd. (c)(1).) In any other time, the Board may impose a civil liability in an amount not to exceed \$500 for each day the unauthorized diversion or use of water occurs.

This letter constitutes your notice of the above-mentioned Water Code requirements. Your response to the allegations listed in this notice is required and should be submitted in a timely manner. The State Water Board has discretion when considering an enforcement action and shall consider your corrective actions taken in response to this notice in determining whether and what civil liability is appropriate for violations. Therefore, this matter requires your immediate attention.

Corrective Actions

Within 30 days from the date of this notice letter you must take the following corrective actions:

1. You must provide evidence and justification validating your riparian water right claim; or
2. If you cannot provide sufficient evidence to justify a riparian water right claim, you must cease your non-riparian diversions and uses of water until you obtain a water right for non-riparian use. In addition, submit evidence demonstrating that your non-riparian use has ceased and will not resume. If you cannot complete this within the time limit, you must contact the Division and develop a work plan defining when and how you will non-riparian water use; or
3. If you continue non-riparian water use, you must obtain water under an alternative basis of right. Examples include, but are not limited to, water purchased under a contract or diverted and used under a permit the State Water Board has issued.

If you have any questions regarding this matter, please contact Nick Kehrlein directly at (916) 322-8469 or by email at Nicholas.Kehrlein@waterboards.ca.gov. Written correspondence or inquiries should be addressed as follows: State Water Resources Control Board, Division of Water Rights, Attn: Nicholas Kehrlein, P.O. Box 2000, Sacramento, CA 95812-2000.

Sincerely,

A handwritten signature in black ink, appearing to read "Karen Kramer". The signature is fluid and cursive, with a long horizontal stroke at the end.

Karen Kramer, PG
Environmental Program Manager – Enforcement Special Projects Section
Division of Water Rights

Enclosure: Attachment A: *Aerial Map of Parcels*
Attachment B: *Plat map*

cc: Mark Navone

ec: Mark Navone

David Weiss

Will Weiss