



State Water Resources Control Board

MAY 29 2024

CERTIFIED MAIL

Victorino Birrueta Montejano

CERTIFIED MAIL NO: 9589 0710 5270 0916 6006 36

DIVISION OF WATER RIGHTS INSPECTION OF TUOLUMNE COUNTY APN 028-030-016-000

Victorino Birrueta Montejano,

On May 16, 2024, staff from the State Water Resources Control Board (State Water Board), Division of Water Rights (Division), in coordination with state and local partner agencies conducted an inspection of the property referenced above (Property). The purpose of the inspection was to observe the diversion and use of water occurring on the Property and to evaluate potential impacts to the watershed.

You are being contacted because you were identified as the Property owner. Tuolumne County does not allow legal cannabis cultivation and your Property has been documented with illegal cannabis cultivation. This letter provides you notice of the options available to you to legally divert surface water for uses other than for cannabis cultivation. On the date of inspection, Division staff determined that the source of water used on the Property for cannabis cultivation was groundwater. Division staff also observed surface water sources on the Property.

This letter provides you notice of the following California Water Code requirements if you were to establish a surface water diversion for water uses types like domestic use and fire protection:

1. If you divert water subject to the State Water Board's permitting authority without a valid basis of right on file with the State Water Board, your diversion may be 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 civil liability in an amount not to exceed \$3,500 for each day that the unauthorized diversion or use of water occurs. (Water Code § 1052, et seq.)

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

2. Water Code section 5101 requires the following: *“Each, after December 31, 1965, diverts water shall file with board, a statement of his or her diversion and use...”*

If you divert water, then you are required to report to the State Water Board your water diversion and use for each period of October 1 – September 30 prior to February 1 of the succeeding year by filing a Statement pursuant to Water Code section 5101. Each surface water diversion requires a separate Statement.

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 has 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 calls the violation to the attention of that person pursuant to Water Code section 5107(c)(1).

3. If you intend to divert water from a stream on or adjacent to your property, you must file for a water right, such as a Small Domestic Use Registration or submit an application to appropriate water by permit. Failure to file for a water right can be a violation of the State Water Board’s Cannabis Cultivation Policy.

You may be civilly liable for violations of the Water Code in the event you divert water for your uses without a water right or Statement on file depending upon the circumstances of your actions.

You are directed to do the following within 30 days:

1. Cease cannabis cultivation immediately; and
2. Remove your cannabis cultivation infrastructure that includes water conveyance and water storage; and
3. Maintain your water storage closed to the environment to prevent wildlife entrapment.

Please respond as directed below within the 30 days to demonstrate your compliance. To facilitate your response, we are providing you with an Investigation Identification Number (Investigation ID), which you can use to respond electronically. In the event you prefer to call or email, these alternative means of contacting our staff are also provided. To use your Investigation ID, follow the steps provided below.

Investigation ID: **16187**

Step one: Go to the State Water Board’s Cannabis Cultivation Programs Portal at: <https://public2.waterboards.ca.gov/CGO/>.

Step two: Register or login to your account.

Step three: Under “Survey” click “New” for the “Division of Water Rights - Cannabis Compliance Response Portal”.

Step four: When you fill out your response on the Portal, use the Property APN and Investigation ID listed above.

The State Water Board, Division of Water Rights, has continuing authority to investigate the diversion of water and use to protect public trust resources. This letter does not preclude further enforcement action by the State Water Board, if evidence is presented that supports a Water Code violation or impacts to public trust resources as a result of your diversion.

If you have questions concerning the Water Rights Inspection, please contact me by phone at (916) 323-0359, or by email at zachary.gomer@waterboards.ca.gov.

Sincerely,

ORIGINAL SIGNED BY

Zach Gomer
Cannabis Enforcement Unit 1
Division of Water Rights

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