

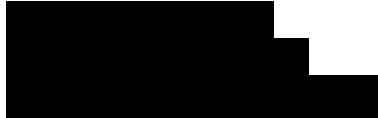


State Water Resources Control Board

September 17, 2024

GLS DELIVERY

Meamber 2000 Trust



GLS CONFIRMATION NO: 

NOTICE OF VIOLATION - UNAUTHORIZED DIVERSION AND USE OF WATER FROM SHASTA RIVER, SISKIYOU COUNTY

Dear Meamber 2000 Trust,

The State Water Board adopted an emergency regulation establishing emergency minimum flows in the Scott River and Shasta River watersheds on December 19, 2023. (Cal. Code Regs., tit. 23, §§ 875-875.9.) The regulation went into effect on February 1, 2024, and will remain in effect for one year.

On June 7, 2024, the Deputy Director for the State Water Board Division of Water Rights (Division) issued the Order Imposing Water Right Curtailment and Requiring Reporting for Water Rights in the Shasta River Watershed. United States Postal Service (USPS) records indicate that you received the Order on June 12, 2024

Violation

Division staff reviewed Meamber 2000 Trust's (Trust) Statement of Water Diversion and Use (Statement S012445), annual water use reports, and the original land patents for that land to determine the riparian extent of your property. According to the Statement and our interview with you on July 1, 2024 (Attached), the Trust claims a riparian right to the entire property to divert water from the Shasta River for irrigation of approximately 109 acres of pasture for cattle, using approximately 220 acre-feet of water per year. You indicated that you were irrigating the entire property under the Trust's riparian claim and that the Trust is using this riparian claim as an alternative basis of right to continue diverting and using water while Water Right ID A021238 is curtailed.

Riparian rights become vested in land contiguous to a watercourse when the land is transferred from public to private ownership.

E. JOAQUIN ESQUIVEL, CHAIR | ERIC OPPENHEIMER, EXECUTIVE DIRECTOR

If land was not contiguous to a watercourse at the time that it was originally patented, then riparian rights do not attach to land within that land patent. Attachment B provides information regarding riparian rights and land patents.

Division staff analyzed the original land patents and compared them to the parcel maps associated with the Trust. Large portions of your property were not riparian to the Shasta River when it was originally patented. This analysis is presented in Attachment A. The findings are:

- Homestead Certificate 1222 and State Volume Patent 3592 are not contiguous with the Shasta River and land within the patents is irrigated;
- If land is irrigated from the Shasta River within a patent that is not contiguous to the Shasta River, an alternative basis of right must be obtained; and
- Water Right IDs A021238 is an appropriate alternative sources of water to irrigate the non-riparian land
- Water Right ID A021141 and A021180 is an appropriate source of water to irrigate some of the non-riparian land

Any claim of riparian right to divert and use water does not extend to those lands identified as non-riparian in Attachment A-2. Any diversion and use of water from the Shasta River onto non-riparian lands must be supported by a valid basis of right. It appears that License A021238, may cover the portion of your Place of Use that is not riparian. However, water use under License A021238 may be a violation of curtailment order WR 2024-006-DWR. Use of water without a valid basis of right is a violation of the Water Code.

Enforcement

This Notice is to inform you of unauthorized diversions on your property and requires your immediate attention. Continued diversion and use of water without a valid alternative basis of right is unauthorized, and you may be subject to enforcement action for unauthorized diversion. (Water Code section 1052.) The Division may assess an Administrative Civil Liability (ACL) penalty, issue a Cease-and-Desist Order (CDO), or both. The maximum fine the State Water Board may assess is \$1,000 per day and \$2,500 per acre-foot of unauthorized water. (Water Code section 1052(c)). A person who violates a CDO may be subject to a fine of up to \$10,000 per day. (Water Code section 1845.)

Corrective Action

You must immediately cease diversion to non-riparian lands identified under Attachment A-2 immediately. Diversion under Water Right ID A021238 maybe allowed; subject to the terms of the most recent addendum to Order WR 2024-006-DWR. Currently, Order

WR 2024-006-DWR, Addendum 1

(https://www.waterboards.ca.gov/drought/scott_shasta_rivers/docs/2024/2024-final-shasta_curtailment-addendum-1.pdf), is the most recent update to your curtailment order for A021238. If you believe there is an error in the analysis presented, you must provide documentation to support your riparian claims, or any other basis of right to divert water from the Shasta River within 30 days.

If you have any questions, please contact me at (916) 319-0724 or via e-mail at: alexander.sweat@waterboards.ca.gov. Written correspondence should be addressed as follows: State Water Resources Control Board, Division of Water Rights Attn: Alexander Sweat, P.O. Box 2000 Sacramento, CA 95812-2000.

Respectfully,

Alex Sweat

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