
State Water Resources Control Board

Initial Statement of Reasons – Attachment A, Change of Ownership Challenges Examples, Calendar Years 2017-2020

TO: Michael George, Office of the Delta Watermaster, State Water Resources Control Board

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DATE: February 10, 2022

SUBJECT: CHANGE OF OWNERSHIP CHALLENGES EXAMPLES, CALENDAR YEARS 2017 -2020

Annual reports of water diversion and use have specific due dates. As a result of schedule improvements in SB 155 (2021 trailer bill), both Reports of Licensees and Statements of Water Diversion and Use will now come due on the same date. Following such due dates over the past few years, the Office of the Delta Watermaster (ODWM) and the Division of Water Rights (Division) have monitored the Water Board's Electronic Water Rights Information Management System (eWRIMS) to identify those who have failed to file their reports on time. At the first stage, ODWM compiles a list of delinquent reports and sends it to an email subscription list of attorneys, engineers, water agency representatives, agents and others who may be in position to assist the late water right holders/claimants to submit their reports. After one or two rounds of follow-up, the list of delinquents gets significantly reduced. Nonetheless, my experience is that the residual list of delinquents requires repeated personal outreach with offers of assistance and, ultimately, threats of enforcement or revocation.

A significant subset of those delinquent annual reports requiring extensive research and outreach can be traced to failure to file the required notification of a change of name, address, agent or ownership promptly following the change. By the time the notification failure is tracked down and, ultimately, corrected, the process will have consumed an inordinate amount of staff time.

Numerous examples demonstrate the predictable waste of staff resources caused when changes of ownership or contact information notifications are not submitted in a timely manner as required under the current notification regulation. The current regulation is ambiguous as to responsibility, timing and consequences of failure to provide the required timely notice. That ambiguity, coupled with no penalty, or recourse to the transferor or the transferee results in

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numerous failures to provide the notice of change. The following are representative examples for calendar years 2017–2020.

Although the names and statement numbers have been replaced to protect any purported privacy interests, each example is based on real-world challenges that I have encountered in tracking report requirements since Calendar Year 2017.

Calendar Year 2017

Statement No. S0XXXXX

On September 17, 2018, I ran a water reporting compliance report and found that the water report for this Statement for calendar year (CY) 2017 was delinquent. I looked up the Statement number in eWRIMS and noticed that no water reports had been submitted since September 3, 2013. eWRIMS showed that [first name] was the Agent, and he had previously filled out the water reports for CY2010-2012.

I reached [first name] by phone, and he confirmed that he still farms the parcel irrigated under this water right. He thought the parcel had been sold by a prior owner, [first company name]. I found a phone number online for [first company name] and called. I spoke to [second name]. [Second name] said that the prior owner [first company name] no longer existed and said he would call me back with information about the new owner and the parcel. After a few days, I did not receive any contact from [second name]. I called him and left two voicemail messages, but still did not elicit return contact from him.

On September 20, 2018, I researched the parcel using LandVision (LandVision) software. The Property Detail report showed that in 2013, [second company name] had purchased the parcel. I looked online and found contact information for [third name and fourth name]. I left [third and fourth name] a voicemail asking them to contact me about their property, referencing the overdue water use reports. On September 25, 2018, I left another voicemail message for [third and fourth name]. On September 28, 2018, [third name] called and said there must be some confusion about Statement S0XXXXX [first statement]. He said he completes his water reports under the name of [third company name] and said that he had submitted all his reports and they were up to date. I looked in eWRIMS and saw that that [third name] had been completing his water reports under Statement S0XXXXX [second statement] and I uncovered that Statement [second statement] had been incorrectly plotted (within the Delta) right next to Statement S0XXXXX (first statement). Statement S0XXXXX (second statement) is located in Trinity County, not in the Delta. Evidently when [third name] obtained his water right in 2013, he was assigned the wrong Statement number (S0XXXXX (first statement)), when he should have been assigned S0XXXXX (second statement). I alerted the Water Board's Administrative Reporting and Quality Assurance Unit (ARQAU) about this error and in late October, Statement S0XXXXX (second statement) was correctly plotted in Trinity County. I advised [third name] to re-submit the water reports for years 2013 – 2018 (that he had previously submitted under Statement S0XXXXX (second statement)) and submit them under Statement S0XXXXX (first statement). On October 23, 2018, [third name] submitted a change of ownership form for S0XXXXX (first statement). On January 8, 2019, [third name] contacted me and informed me he had completed all the water reports from 2013-2018 under Statement S0XXXXX (first statement).

Statement S0XXXXX

On July 15, 2018, I ran a compliance report and identified that the water report for CY2017 for this Statement was delinquent. On August 28, 2018, I reached [first name], who was listed as Agent in eWRIMS. [First name] said he would complete the required report for CY2017. In mid-September, eWRIMS still indicated that no report had been submitted. Through October 2018, I made repeated attempts to contact [first name] and remind him to complete the report. On November 2, 2018, I contacted [second name], listed as primary owner in eWRIMS. [Second name] told me she had sold the property in August 2018. I explained that the water reporting for CY2017 still needed to be submitted and it was also necessary to submit a change of ownership form. I emailed her the link to the Report Management System (RMS), log-in information, and the change of ownership form and copied [first name]. On November 3, 2018, [second name] faxed the change of ownership form to the Water Board. On November 4, 2018, [first name] submitted the water diversion and use report for CY2017 under Statement S0XXXXX.

On January 17, 2019, the Water Board mailed a water right ownership confirmation letter (for Statement S0XXXXX) to [third name], the new owner. The notice letter contains information about the transferred water right, the July 1 water reporting due date, a link to the RMS system and log-in information. On July 5, 2019, I identified that the water reporting for CY2018 under this Statement was delinquent. On July 17, 2019, I called [third name], and explained that his water reporting for CY2018 was due July 1. [Third name] said he was not aware of the July 1 water reporting deadline. After the conversation, I emailed him a copy of the January confirmation letter and the RMS link and log-in information. On July 29, 2019, [third name] submitted the water diversion and use report of CY2018.

Statement S0XXXXX

On July 11, 2018, I identified that the water report for CY2017 for this Statement was delinquent. On July 20, 2018, I looked up this Statement in eWRIMS and identified the primary owner was [first name]. I sent [first name] an email and left him a voicemail message. I received no reply to my voicemail message or email. On September 11, 2018, I checked the eWRIMS system and no report had been filed. On September 20, 2018, I left another voice message for [first name]. Thereafter, I found contact information for [second name], (who, it turns out, is [first name's] relative) and called her. She said she would call [first name] and ask him to contact me. She believed this Statement may be associated with a parcel he had recently purchased.

I looked in eWRIMS at the GIS map associated with Statement S0XXXXX and saw that another Statement was nearby (Statement No. S0XXXXX) that was claimed by [second name.] I wondered if there was some confusion between the two Statements.

On October 9, 2018, I sent an email to [first name] that contained several questions about Statement No. XXXXX [first statement]. On October 12, 2021, I spoke with [first name] and asked if he received the emails I sent him on July 20, 2021, and October 9, 2021. He explained that he did not use a computer, so he could not check for email. I explained that he needed to complete the water report and it could only be completed online. I encouraged him to find a family member or a friend who could help him complete the water reporting. [First name] asked me to mail him a copy of the October 9 email, which I mailed on October 15, 2018.

On November 6, 2018, I spoke to [first name], and he believed there was confusion over who claims/owns this Statement. He said the Statement is located on [second name's] property.

During the call with [first name], I asked some of the questions from my October 9 email and discussed some issues concerning his Statement. He told me that he works occasionally with attorney [third name] on his land and water issues. I told [first name] that I also work with [third name] and asked for his approval to contact [third name] to request assistance to resolve the confusion between his and [second name's] Statements; [first name] agreed. [First name] mentioned that he also needed help on a new point of diversion (POD) for his parcel on [address]. [First name] said he would complete the water reporting (which will be zero) the following week.

After the call, I sent [third name] an email and explained that [first name] had given me permission to contact him to seek assistance to sort out some water rights issues. I explained that there appeared to be confusion regarding S0XXXXX [first statement] and Statement No. S0XXXXX [second statement]. I explained that I looked at a map of [second name's] property in LandVision, and that both Statements were located on [second name's] property. I also mentioned [first name's] request for assistance to help him with the new POD on a different parcel. [Third name] replied that he would work with [first name] on all these matters.

On November 26, 2018, [first name] contacted me and informed me on November 21, 2018, he submitted his water report for CY2017.

[Note: The research regarding this change of ownership matter for Statement No. S0XXXXX continued into 2019.]

On July 17, 2019, I emailed [third name] and asked if he had communicated with [first name] and asked for an update regarding Statement S0XXXXX [first statement]. [Third name] replied that he had spoken to [first name] who told him that Statement S0XXXXX [first statement] was [second name's] responsibility. [Third name] explained that [second name] owns the property, however, Statement S0XXXXX [first statement] was still in [first name's] name and needed to be transferred to [second name's] name. [Third name] said that [first name] had asked him to refrain from completing the water reporting for CY 2018 because [second name] owns the property where the S0XXXXX [first statement] POD is located.

On July 26, 2019, at [first name's] request, [third name] completed the water report for CY2018 for S0XXXXX [first statement].

On October 2, 2019, [first name] called me and said he had spoken with [second name] the previous day. He said that [second name] agreed that she should take ownership of Statement No. S0XXXXX [first statement]. He said that the POD for Statement S0XXXXX [first statement] is located on [second name's] property at [address]. That same day, I emailed [second name] a change of ownership form and a GIS map that shows the two POD diversion on her property. It was my understanding (through past conversations with [first name] and [second name]), that Statement S0XXXXX [second statement] is a well and Statement S0XXXXX [first statement] directly diverts from the Sacramento River. I copied [third name] on the email.

On November 26, 2019, I called [second name] about two additional Statements that she claims (S0XXXXX [third statement] and S0XXXXX [fourth statement]) to request that she complete the delinquent water reporting for CY2018. During the conversation, [second name] asked me if I had sent her a change of ownership form for Statement No. S0XXXXX [first statement]. I told her that on October 2, 2019, I had sent her an email with background information about Statement No. S0XXXXX [first statement] that included an attached change of ownership form. After the call, I re-sent the October 2 email to [second name].

On February 10, 2020, [second name] submitted a change of ownership form for Statement S0XXXXX [first statement]. On July 10, 2020, confirmation of the change of ownership was mailed to [second name] which included a link to the Report Management System and log-in information.

On April 26, 2021, [second name] submitted the water report for S0XXXXX [second statement] for CY2019.

Calendar Year 2018

Statement No. S0

On July 8, 2019, I sent a compliance report derived that morning from eWRIMS to our list of Delta stakeholders who assist their clients with water use reporting. On July 22, 2019, I ran a new delinquent list which included Statement S018237. [First name] was listed as the primary owner in eWRIMS; however, I found that her phone number in eWRIMS had been disconnected and no email address was included in her eWRIMS profile. Through an online search, I found another phone number for [first name]. I called the number, which did not provide a voicemail option. On July 26, 2019, I called the number again, and there was no answer. Returning to eWRIMS, I found that [second name] had submitted the CY2017 Supplemental Statement on behalf of [first name]. His relationship to the water right claim was listed as the "Authorized Official;" however, there was no contact information for [second name] either in eWRIMS or on the CY2017 Supplemental Statement.

On August 1, 2019, I searched online and found a phone number for [second name] and reached [third name], who turned out to be [second name's] mother. [Third name] said that she thought that [first name's] property had been sold. [Third name] gave me two phone numbers to contact [second name]. I called one of the numbers and spoke with [second name] who explained that [first name] had passed away but had sold the property to [fourth name], owner of a business in the [city name] area. [Second name] had no contact information for [fourth name].

Through online research, I found a company associated with [fourth name], and a phone number. On August 2, 2019, I called [fourth name] who confirmed that on August 5, 2018, he had bought the parcel associated with Statement S0XXXXX. He told me that since his purchase of the property, he had not used any water. I explained that as the water right holder, he was required to file annual Supplemental Statements, even if no water was used.

During our call, [fourth name] agreed to file the CY2018 report. I explained that he would be unable to file the report until the change of ownership form was submitted to and processed by the Water Board. After the call, I sent an email to [fourth name] with the change of ownership form and a link to the Water Board webpage that explained the water reporting process. On August 20, 2019, I sent an email to the Water Board's ARQAU asking if a change of ownership form had been submitted for Statement S0XXXXX. On August 21, 2019, ARQAU staff responded that no change of ownership form had been received.

On August 22, 2019, I spoke with [fifth name], the office manager, at the company. She took a message that asked [fourth name] to check his email and to submit the change of ownership form to the Water Board as soon as possible. After the call, I re-sent [fourth name] the email that I had sent on August 2, 2019. On September 20, 2019, [fourth name's] assistant, [sixth

name], sent the change of ownership form to our Office. I promptly forwarded the form to the ARQAU. On October 8, 2019, ARQAU mailed a change of ownership confirmation letter to [fourth name]. On December 12, 2019, the water report for CY2018 was submitted.

Calendar year 2019:**License ID: 00XXXX (Application ID. A0XXXX):**

On April 30, 2020, I noted the Report of Licensee for License 00XXXX, due April 1, was delinquent. [First name] was listed as the primary owner in eWRIMS. During the week of May 1, 2020, I contacted [first name], who explained that the parcel associated with License 00XXXX had been sold. On May 22, 2020, I contacted the new owner, [second name] of [company name]. [Second name] said he would complete the water reporting once the escrow was finalized on June 28, 2020.

On June 29, 2020, I sent [second name] a change of ownership form. On August 21, 2020, I checked the eWRIMS system to see if the change of ownership form had been processed; however, the change of ownership was not yet reflected in the system. On October 20, 2020, I sent [second name] an email reminder to submit the change of ownership form. On November 12, 2020, [second name] replied to my email asking for clarification about whether to use the License number or Application ID when filling out the change of ownership form. On November 13, 2020, [second name] submitted the change of ownership form to the Water Board, with a courtesy copy to me. On February 16, 2021, the ARQAU sent an email to [second name] to confirm that the ownership change had been processed and reflected in eWRIMS. On April 14, 2021, [second name] filed the CY2019 water use report for License 00XXXX.

Statement S0XXXXX

On August 5, 2020, I noted that the report of water use for CY2019 under this Statement was delinquent. During that week, I contacted [first name], the contact person listed in eWRIMS for the primary owner, [first company name]. [First name] said that in 2019, the [first company name] had already sold the parcel associated with Statement S0XXXXX.

During the week of August 10, 2020, [second name] of [second company name], acting on behalf of [first company name], emailed me a change of ownership form; I immediately forwarded the form to the ARQAU.

On August 18, 2020, I contacted the new owner identified in the change of ownership form, [third name]. I explained to [third name] that once the change of ownership form was processed (in about six weeks), he would receive a new password and RMS access information for Statement S0XXXXX. [Third name] told me that [fourth name], an attorney, had recently completed a water report for him on another Statement. After the call, I sent a confirming email to [third name] and copied [fourth name]. On August 19, 2020, [fourth name] left me a voice message requesting the password and login credentials for Statement S0XXXXX because he planned to complete the CY2019 report prior to the change of ownership being processed. I responded and provided the requested login information. On August 21, 2020, [fourth name] submitted the CY2019 water use report for Statement S0XXXXX on behalf of [third name]. On February 2, 2021, the ARQAU emailed [third name] to confirm that the change of ownership form had been processed and that he was now listed as primary owner in eWRIMS.

Statement S0XXXXX

On August 6, 2020, after observing that this Statement was delinquent in completing its CY2019 water use report, I attempted to reach the [first company name], listed as primary owner in eWRIMS. However, the phone number listed in eWRIMS had been disconnected.

Searching online, I found a phone number for [first name] of the [first company name]. I called and left a voicemail message. Looking in eWRIMS, I saw that [second name] of [second company name] had previously completed water use reports for Statement S0XXXXX, so I emailed her to ask for assistance to find the water right holder. On August 6, 2020, [second name] replied to my email stating that she thought a change of ownership form had been previously submitted to the Water Board at the time of the sale of the property associated with the Statement. Following several exchanged voice messages, on August 12, 2020, [first name] emailed me, and attached a change of ownership form dated February 28, 2020. Evidently, this change of ownership form had been submitted to the Water Board around that date. However, the change of ownership had not been processed in eWRIMS, so, on August 18, 2020, I forwarded the change of ownership form to the ARQAU. The change of ownership listed [third name] as the new owner. I called [third name] at the number listed in the form and left a voicemail message. I sent him an email alerting him that he would receive the password and log-in information when the change of ownership was processed into eWRIMS and copied [second name]. The change of ownership form was processed on September 29, 2020. On June 28, 2021, the water use reports for CY2019 and CY2020 under Statement S0XXXXX were submitted by [second company name].

Calendar year 2020

Permit 0XXXXX (Application ID. A0XXXXX)

On April 28, 2021, I identified the water report for Permit 0XXXXX (Application ID A0XXXXX) was delinquent. I looked in eWRIMS and [first company name] was listed as the primary owner. Apart from a mailing address, there was no other contact information.

I conducted research and found that a real estate investment firm, [second company name], apparently manages the property on behalf of the owner. I contacted [second company name] and spoke with [first name]. I explained to [first name] about the delinquent water reporting, and she told me she would find out the name of the person who would be responsible for the water reporting. On April 30, 2021, I received an email from [second name], of [third company name], that explains that she is the property manager for the property associated with this water right. The email further states that she would comply with the water reporting requirement and requested my assistance to complete the water report. Her email also explains there had been no water used for CY2020. On May 3, 2021, I spoke to [third name] by phone and walked her through completing the water report. During the phone call, I suggested that [third name] review the Permit (Order) which notes this permit allocates 28,000 acre-feet of water and I pointed out that the water right fee is \$3,000 per year. [Third name] said that there no water diverted in CY2020 and believed there were no future plans to divert water on the property. I explained that the owner could file either a petition for change (in order to make a change to the permit), or the owner could request a voluntary revocation of the permit. [Third name] asked me to send her a Request for Revocation form and she would discuss the matter with the property owner. On June 15, 2021, I sent [third name] an email asking if she had spoken with the owner and what was their preferred course of action. [Third name] replied to my email and explained that her co-worker, [fourth name], would be my new point of contact. On June 21, 2021, I met with [fourth name] and [fifth name], who was a contact person for second company name, to discuss

their questions pertaining to a voluntary revocation. I explained that on February 21, 1985, [fourth company name] applied for the permit to develop a project on that property. Since that time, there were two new owners of the property and no water had been diverted since 2009. I explained that since the predecessor-in-interest was not diligent in pursuing the project and that a failure to show due diligence creates grounds to forfeit the permit. I also explained that given that the current property owner had no plans to develop a project or divert water, I suggested the owner should consider voluntarily revoking the permit. I explained that the property most likely had a riparian water right and the owner could use water through that right. I also explained that water for the property is probably obtained through the [city name]. [Fourth name] and [fifth name] said they would consult with the property owners.

I also informed them that if the voluntary revocation form was submitted to the Water Board by June 30, 2021, the owner would not have to pay the FY 21-22 water right fee. On June 29, 2021, [fourth name] submitted the voluntary revocation form to the Water Board. The Water Board processed the revocation and on August 5, 2021, mailed an Order Revoking Permit 0XXXXX to [fifth name], which confirmed the revocation was completed.

Statement S0XXXXX

On July 29, 2021, I left a voice message for [first name], Agent for Statement S0XXXXX, alerting him that the CY2020 water use report was delinquent. [First name] called our Office and explained the parcel associated with S0XXXXX had been sold and that [second name], (listed as the primary owner in eWRIMS), had passed away earlier in July 2021.

Using LandVision, I learned that the parcel APN: XXXX-XXX-XXX-XX associated with Statement S0XXXXX had been acquired on [date], by [third name]. The address for the subject parcel (listed on the LandVision Property Detail Report) is [address]. I searched online and was unable to find any contact information for [third name].

On August 3, 2021, I mailed a letter to [third name] informing her that there is a water right associated with APN: XXXX-XXX-XXX-XX and there is a corresponding water use reporting requirement. The parcel is located within the boundaries of the North Delta Water Agency (NDWA), so on August 5, 2021, I contacted NDWA but learned that NDWA staff did not have contact information for Ms. Williams. Unable to find any other means of contacting [third name], I mailed another letter to the address. To date, I have received no response from [third name].

On September 27, 2021 I called [first name] and asked if he would fill out the change of ownership form and submit it to the Water Board. He agreed and after the call, I emailed him the change of ownership form. Given the lack of response from [third name], I plan to prepare a Failure to File letter to explain her responsibility as a water right holder to file the water use reports for CY2019 and 2020 as well as the potential fine associated with not submitting timely reports.

Statement No S0XXXXX

On July 12, 2021, I noticed that Statement S0XXXXX was delinquent in completing its CY2020 water use report. [First name] was listed as the primary owner in eWRIMS. On July 21, 2021, [second name], an attorney for the [Location name] Delta Water Agency, sent me an email explaining that the [city name] acquired the parcel associated with Statement S0XXXXX in June 2019.

[Second name] provided contact information for [third name] of the [city name]. On July 21, 2021, I emailed [third name] explaining that there was a water right associated with APN: XXX-XXX-XXX. I attached a change of ownership form with instructions for filing it with the Water Board. I received no reply from [third name] and on August 10, 2021, I left him a voicemail message and re-sent the July 21, 2021 email.

Next, I called the [city name] office and was directed to contact [fourth name]. I called [fourth name] who confirmed that she could assist with water use reporting under Statement S0XXXXX. After the call, I forwarded the email that I had previously sent to [third name]; [fourth name] confirmed receipt and said she would submit the change of ownership form.

On September 27, 2021, I called [fourth name] who told me she had been out of the office for several weeks and was getting caught up. After the phone call, I re-sent the email but, to date, I am not aware that [third name] submitted the change of ownership form. On November 9, 2021, I check eWRIMS to see if a change of ownership form had been received and it had not. I called [fourth name] and left a message asking her if I could assist her to submit the change of ownership form. I became aware that the ARQAU had a backlog of change ownership forms, so I decided to hold off on re-sending [fourth name] the September 27, 2021 email because she may have sent it in, and it just was not cited as received in eWRIMS. On February 7, 2022, I checked eWRIMS to see if a change of ownership form had been received and it had not. So, I re-sent [fourth name] the September 27, 2021 email and offered my help to fill out the water reporting for 2020 and 2021 once the change of ownership form is processed.

Estimated Staff Time Working on Water Rights Change of Ownership Notification

I estimate the annual amount of time spent researching the lack of water rights change of ownership notification to be **600 Water Board staff hours each year**. Based on experience over the last four years, I estimate that I spend roughly 100 hours per year tracking down new water right owners who are delinquent in filing required water use reports. Water use reports have due dates set by the Legislature. Following the due dates, I track delinquents as anecdotally described in the narrative above. The most common cause of delinquency—and the one most time-consuming to track down—is failure to notify the State Water Board of the transfer of the property underlying the water right.

Although the process of tracking delinquencies has been streamlined, the lack of proper filing notice of the change of ownership, which would be addressed by clarification of the existing reporting requirements, would save 100 hours of my time. Five staff from our Division of Water Rights work on similar water rights change of ownership matters outside of the Legal Delta but report similar experience. Thus, I estimate the clarification of the existing regulatory requirement could save 600 hours of staff time annually.