State of California, State Water Resources Control Board
Division of Water Rights
P.O. Box 2000, Sacramento, CA 95812-2000
Info: (916) 341-5300, FAX: (916) 341-5400 Web: http://waterrights.ca.gov

S000388

2005, 2006, 2007

SUPPLEMENTAL STATEMENT OF WATER DIVERSION AND USE FORM

Owner(s) of Record:

COLOMA-LOTUS RANCH DITCH USERS ASSOC

Notifying the Division of Water Rights of ownership or address changes is the responsibility of the claimant

Please Complete and Return This Form by JULY 1, 2008

STATE WATER RESOURCES CONTROL BOARD
2008 JUL -7 PM 2:32
RECEIVED

Primary Contact:
GUY G. GIBSON, JR
PO BOX 550
LOTUS, CA 95651

Phone No. 530 621-2632
Fax No. 916-985-3609
E-mail Address:

Agent:
Address:

Phone No.
Fax No.
E-mail Address:

Source Name: SOUTH FORK AMERICAN RIVER
Tributary To:
County: El Dorado
Diversion within: NE 1/4 of SW 1/4 Section 26, T 11 N, R 10 E, MDB&M

Year of First Use: 1853
Name of Diversion works:
Assessor Parcel Number of the Diversion site:

A. **Water is Used Under:** Riparian claim ___ Pre-1914 claim X Court Decree No.: _____ Other (explain): _____

B. **Year of First Use:** (Please provide if missing in the Division of Rights database (ewrims)) 1853

C. **Rate of Diversion:** The rate of diversion of water for each month used and entered in the table below is shown in units of:
Gallons per minute (gpm) _____ Gallons per day (gpd) _____ Cubic feet per second (cfs) _____

Year	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	Average Rate
2005	0	0	0	X	X	X	X	X	X	X	X	0	
2006	0	0	0	X	X	X	X	X	X	X	X	0	
2007	0	0	0	X	X	X	X	X	X	X	X	0	

D. **Quantity of Water Used:** The quantity of water used each month and entered in the table below is shown in units of:
Gallons _____ Million Gallons (MG) _____ Acre-feet (AF) _____

Year	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	Total Annual
2005	0	0	0	X	X	X	X	X	X	X	X	0	16.5 CSF
2006	0	0	0	X	X	X	X	X	X	X	X	0	16.5 CSF
2007	0	0	0	X	XB	X	X	X	X	X	X	0	16.5 CSF

E. **Purpose of Use** – Specify number of acres irrigated, stock watered, persons served, etc.

Irrigation YES acres; Stockwatering YES; Domestic _____;
Other (specify) IRRIGATION DITCH SERVING APPROX. 25 MEMBERS WHO OWN SMALL FARMS, RANCHES & BUSINESSES
Parcel Number(s) of Place of Use: _____

F. **Changes in Method of Diversion** – Describe any changes in your project since your previous statement was filed.
(New pump, enlarged diversion dam, location of diversion, etc.)
NONE

G. Please answer only those questions below which are applicable to your project.

1. Conservation of water

a. Are you now employing water conservation efforts? YES ___ NO ___
Describe any water conservation efforts you have initiated: _____

b. If you are claiming credit for water conservation under section 1011 of the Water Code for your claimed pre-1914 appropriative right, please show the amount of water conserved:

Reduction in Diversions:
Year _____ _____ (AF/MG) Year _____ _____ (AF/MG) Year _____ _____ (AF/MG)

EWRIMS/cm 7/9/09

Reduction in consumptive use:
Year ____ _____ (AF/MG) Year ____ _____ (AF/MG) Year ____ _____ (AF/MG)

I have data to support the above surface water use reductions due to conservation efforts. YES _____ NO _____

2. Water quality and wastewater reclamation

   a. Are you now or have you been using reclaimed water from a wastewater treatment facility, desalination facility or water polluted by waste to a degree which unreasonably affects such water for other beneficial uses? YES ____ NO ____.

   b. If you are claiming credit due to the substitution of reclaimed water, desalinated water or polluted water in lieu of a claimed pre-1914 appropriative right under section 1010 of the Water Code, please show amounts of reduced diversions and amounts of substitute water supply used:

   Amount of reduced diversion:
   Year ____ _____ (AF/MG) Year ____ _____ (AF/MG) Year ____ _____ (AF/MG)

   State the type of substitute water supply: _____

   Amount of substitute water supply used:
   Year ____ _____ (AF/MG) Year ____ _____ (AF/MG) Year ____ _____ (AF/MG)
   I have data to support the above surface water use reductions due to the use of a substitute water supply. YES _____ NO _____.

3. Conjunctive use of surface water and groundwater

   a. Are you now using groundwater in lieu of surface water? YES _____ NO _____.

   b. If you are claiming credit due to the substitution of groundwater for a claimed pre-1914 appropriative right under section 1011.5 of the Water Code, please show the amounts of groundwater used:
   Year ____ _____ (AF/MG) Year ____ _____ (AF/MG) Year ____ _____ (AF/MG)
   I have data to support the above surface water use reductions due to the use of groundwater. YES _____ NO _____.

I understand that it may be necessary to document the water savings claimed in "F" above if credit under Water Code sections 1010 and 1011 is sought in the future.

I declare that the information in this report is true to the best of my knowledge and belief.

DATE: JULY 1, 2008 at WEST SACRAMENTO, California

SIGNATURE: _____

PRINTED NAME: GUY G. GIBSON JR
(first name) (middle initial) (last name)

COMPANY NAME: _____

If there is insufficient space for your answers, please use the space provided below or add an attachment sheet.

ITEM CONTINUATION

_____ _____

_____ _____

_____ _____

GENERAL INFORMATION PERTAINING TO WATER RIGHTS IN CALIFORNIA

There are two principal types of surface water rights in California. They are riparian and appropriative rights.

A riparian right enables an owner of land bordering a natural lake or stream to take and use water on his riparian land. Riparian land must be in the same watershed as the water source and must never have been severed from the sources of supply by an intervening parcel without reservation of the riparian right to the severed parcel. Generally, a riparian water user must share the water supply with other riparian users. Riparian rights may be used to divert the natural flow of a stream but may not be used to store water for later use or to divert water which originates in a different watershed, water previously stored by others, return flows from use of groundwater, or other "foreign" water to the natural stream system.

An appropriative right is required for use of water on non-riparian land and for storage of water. Generally, appropriative rights may be exercised only when there is a surplus not needed by riparian water users. After the formation of the California Water Commission back on December 19, 1914, new appropriators have been required to obtain a permit and license from the State. Appropriative rights can be granted to waters "foreign" to the natural stream system.

Statements of Water Diversion and Use must be filed by riparian and pre-1914 appropriative water users as set forth in Water Code section 5100 with specific exceptions. The filing of a statement (1) provides a record of water use, (2) enables the State to notify such users if someone proposes a new appropriation upstream from their diversions, and (3) assists the State to determine if additional water is available for future appropriators.

The above discussion is provided for general information. For more specific information concerning water rights, please contact an attorney or write to this office. We have several pamphlets available. They include: (1) Statements of Water Diversion and Use, (2) Information Pertaining to Water Rights in California, and (3) Appropriation of Water in California.

STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS
P.O. BOX 2000, SACRAMENTO, CA 95812-2000
(916) 657-2170

SUPPLEMENTAL STATEMENT OF WATER DIVERSION AND USE

If the information below is inaccurate, please line it out in red and provide current information.
Notify this office if ownership or address changes occur during the coming year.

STATE WATER RESOURCES CONTROL BOARD 98 MAY 18 PM 4:41

PLEASE COMPLETE AND RETURN THIS FORM BY JULY 1, 1999

OWNER OF RECORD: COLOMA-LOTUS RANCH DITCH USERS ASSOC

JAMES E BARNETT
PO BOX 550
LOTUS, CA 95651

STATEMENT NO: [redacted]

SOURCE: SOUTH FORK AMERICAN RIVER
TRIBUTARY TO:
COUNTY: EL DORADO
DIVERSION WITHIN: NE¼ OF SW¼ SECTION 26, T11N, R10E, MB&M.

TELEPHONE NUMBER: (916) 626-9203
YEAR OF FIRST USE: 1853
PARCEL NO:

A. Water is used under: Riparian claim _____ Pre 1914 right X Other (explain); _____

B. Year of first use (Please provide if missing above) 1853

C. Amount of Use – Enter the amount of water used each month. If monthly and annual use are not known, check the months in which water was used.

Amounts below are: Gallons _____ Acre-feet X Other _____

Year	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	Total Annual
1996					1666	1666	1666	1666	1666	1666			
1997													
1998													

D. Purpose of Use - Specify number of acres irrigated, stock watered, persons served, etc.

Irrigation Unknown acres; Stockwatering Unknown ; Domestic None ;
Other (specify) Approx 10 mile stretch of Land in Lotus Coloma Area

E. Changes in Method of Diversion – Describe any changes in your project since your previous statement was filed. (New pump, enlarged diversion dam, location of diversion, etc.)
Due to Spring Flood in 1997, our Diversion was severly damaged
(Continued on Reverse)

F. Please answer only those questions below which are applicable to your project.

1. Conservation of water
   a. Describe any water conservation efforts you may have started: _____
   b. _____
   c. If credit toward beneficial use of water under claimed pre 1914 appropriative water right for water not used due to a conservation effort is claimed under section 1011 of the Water Code, please show the amounts of water conserved:

   19 98 undetermined (af/mg) 19____ _____ (af/mg) 19____ _____ (af/mg)

2. Water quality and wastewater reclamation
   a. Are you now or have you been using reclaimed water from a wastewater treatment facility, desalination facility or water polluted by waste to a degree which unreasonably affects such water for other beneficial uses? YES ____ NO X.

MAR 10 2000

STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS
P.O. BOX 2000, SACRAMENTO, CA 95812-2000
(916) 657-2170

b. If credit toward use under a claimed pre 1914 appropriative water right through substitution of reclaimed water, desalinated water or polluted water in lieu of appropriated water is claimed under section 1010 of the Water Code, please show amounts of reduced diversions and amounts of reclaimed water used:

19____ _____ (af/mg) 19____ _____ (af/mg) 19____ _____ (af/mg)

3. Conjunctive use of surface water and groundwater

a. Are you now using groundwater in lieu of surface water? YES ____ NO _X_.

b. If credit toward use under a claimed pre 1914 appropriative right through substitution of groundwater in lieu of appropriated water is claimed under section 1011.5 of the Water Code, please show the amounts of groundwater used:

19____ _____ (af/mg) 19____ _____ (af/mg) 19____ _____ (af/mg)

I declare that the information in this report is true to the best of my knowledge and belief.

DATE: 5-10, 19 99 at Lotus, California

SIGNATURE: Larry L. Cauthers

PRINTED NAME: Larry (first name) L. (middle init.) Cauthers (last name)

COMPANY NAME: Coloma-Lotus Ranch ditch users Assoc.

If there is insufficient space for your answers, please use the space provided below.

ITEM CONTINUATION

F. We are temporarily using a pump to divert this water until we can Repair our diversion. We are diverting the water at a reduced undetirmend rate until we can repair diversion.

GENERAL INFORMATION PERTAINING TO WATER RIGHTS IN CALIFORNIA

There are two principal types of surface water rights in California. They are riparian and appropriative rights.

A riparian right enables an owner of land bordering a natural lake or stream to take and use water on his riparian land. Riparian land must be in the same watershed as the water source and must never have been severed from the sources of supply by an intervening parcel without reservation of the riparian right to the severed parcel. Generally, a riparian water user must share the water supply with other riparian users. Riparian rights may be used to divert the natural flow of a stream but may not be used to store water for later use or divert water which originates in a different watershed, or return flows from use of groundwater.

An appropriative right is required for use of water on nonriparian land and for storage of water. Generally, appropriative rights may be exercised only when there is a surplus not needed by riparian water users. Since 1914, new appropriators have been required to obtain a permit and license from the State.

Statements of Water Diversion and Use must be filed by riparian and per 1914 appropriative water users. The filing of a statement (1) provides a record of water use, (2) enables the State to notify such users if someone proposes a new appropriation upstream from their diversions, and (3) assists the State to determine if additional water is available for future appropriators.

The above discussion is provided for general information. For more specific information concerning water rights, please contact an attorney or write to this office. We have several pamphlets available. They include: (1) Statements of Water Diversion and Use, (2) Information Pertaining to Water Rights in California, and (3) Appropriation of Water in California.

Orig.

State Water Resources Control Board

Winston H. Hickox
Secretary for Environmental Protection

Division of Water Rights
901 P Street • Sacramento, California 95814 • (916) 657-1945
Mailing Address: P.O. Box 2000 • Sacramento, California • 95812-2000
FAX (916) 657-1485 • Web Site Address: http://www.swrcb.ca.gov

Gray Davis
Governor

In Reply Refer
to:363:CAR:262.0(09-05)

JUN 0 4 1999

Coloma-Lotus Ditch Association
c/o Mr. James Barnett
P.O. Box 550
Lotus, CA 95651

Dear Mr. Barnett:

WATER RIGHTS COMPLAINT FROM THE CALIFORNIA SPORTFISHING PROTECTION ALLIANCE REGARDING DIVERSION FROM THE SOUTH FORK AMERICAN RIVER IN EL DORADO COUNTY

The State Water Resources Control Board's (SWRCB) Division of Water Rights has received a complaint from the California Sportfishing Protection Alliance (CSPA). The complaint alleges that the Coloma-Lotus Ditch Association (Association) may be diverting water without a valid basis of right. A copy of the complaint is enclosed for your review.

I am aware that Statement of Water Diversion and Use No. S000388 is on file with this office under the Association's name. While this document is not by itself a basis of right, the information contained therein indicates that the initial diversion of water into the Coloma-Lotus Ditch began prior to 1853. Therefore, a valid claim to a pre-1914 appropriative right may very well have been initiated. CSPA representatives have indicated to me that they believe a sufficient period of nonuse occurred after 1914 so that any claim of a pre-1914 appropriative right for the Coloma-Lotus Ditch that may have been initiated would no longer be valid.

According to a letter contained in the file for S000388 dated June 17, 1987, from Brian E. Maloney, counsel for the Association, to the Board Members of the Association, the El Dorado Irrigation District contracted with the Coloma-Lotus Ditch Company from 1966 through 1986 to operate and maintain the ditch as well as supply the Company's customers with water. This letter also contains the following discussion of pre-1914 rights:

> ***"... with regards to the maintenance and disposition of pre-1914 water rights, I wish to bring the following to the Board's attention. I should also note that this is merely general information and it is necessary for me to complete my research before the following should be acted upon.***

JUN 0 4 1999

Prior to 1872, appropriative water rights could be acquired by simply taking and beneficially using water. Thereafter, in 1872, the legislature enacted certain laws which were included in the Civil Code and which established a permissive procedure for perfecting an appropriation of water. Basically speaking, these provisions, including posting the notice of appropriation at the proposed point of diversion and recording a copy thereof with the County Recorder. Under such sections, if the statutory procedures were followed and the appropriation was completed with due diligence, the appropriative right related back to the date of posting.

Where a water right was acquired under these early laws, it could only be maintained by continuous beneficial use of the water. Thus, regardless of the amount claimed in the original notice of appropriation, or at the time of diversion and use first began, the amount which can now be rightfully claimed under a pre-1914 appropriative right is the amount fixed by actual beneficial use both as to the amount and season of diversion. Such a right can be lost either by abandonment (where there is the intent to abandon) or merely by nonuse.

If a claim to water based upon a pre-1914 appropriative right is disputed, the law will require evidence of both the original appropriation and the subsequent maintenance of the right by continuous and diligent application of water to beneficial use. Moreover, a record of such water use under a pre-1914 appropriative right should be established by the filing of a statement of water diversion and use. The law requires that such a statement be completed for diversions during the calendar year and should be filed before July 1 of the following year.

With respect to the transfer of a pre-1914 water right, much has been written with respect to the problem of uncertainty as to the amount of water which can be transferred. This is mainly due to the absence of quantity restrictions and centralized recording which renders it difficult to determine with any degree of precision exactly what amount of water an appropriator may claim under any particular pre-1914 right.

In addition, it has long been settled in California that an appropriator may change the point of diversion, place of use, or character of the use of water in the exercise of his appropriative right without affecting his right to divert and use the water, provided that the rights of others are not thereby impaired. The Water Code provides that where a person is entitled to the use of water by virtue of an appropriation made prior to the effective date of the Water Commission Act, he may 'change the point of diversion, place of use, or purpose of use if others are not injured by such change, and may extend the ditch, flume, pipe or

> ***aqueduct by which the diversion is made to places beyond that where the first use was made'. Section 1706 California Water Code. It should be noted that this is a general rule only and that a subsequent appropriator is free to claim that a change in the point of diversion has resulted to his or her injury."***
> (double underlining mine)

Did Mr. Maloney ever complete his research? If not, do you have evidence of both the original appropriation and the subsequent maintenance of the right by continuous and diligent application of water to beneficial use from 1914 until today? The file for S000388 only contains limited information regarding diversions made during 1966 and the period between 1989 and 1995. Submittal of documentation regarding the full record of diversion from 1914 to today would significantly aid our analysis of this complaint.

I have also enclosed "Answer to Complaint" forms and an information pamphlet regarding our complaint process. Please respond to the allegations in the complaint within 15 days from the date of this letter. Upon receipt of your response, all items submitted by each party will be evaluated to determine whether further action is required by the SWRCB.

If there are any questions, I can be reached at (916) 657-1945.

Sincerely,

ORIGINAL SIGNED BY:

Charles A. Rich, Chief
Complaint Unit

Enclosures

cc: Mr. James Crenshaw, President
California Sportfishing Protection Alliance
1248 East Oak Avenue, Unit D
Woodland, CA 95776

Mr. Robert J. Baiocchi, Consultant
California Sportfishing Protection Alliance
P.O. Box 357
Quincy, CA 95971

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Control Tag No. 15855

S-388

STATE WATER RESOURCES CONTROL BOARD, DIVISION OF WATER RIGHTS
P.O. BOX 2000 SACRAMENTO, CA 95812-2000
(916) 657-2170

SUPPLEMENTAL STATEMENT OF WATER DIVERSION AND USE

If the information below is inaccurate, please line it out in red and provide current information.
Notify this office if ownership or address changes occur during the coming year.

PLEASE COMPLETE AND RETURN THIS FORM BY JULY 1, 1996.

OWNER OF RECORD: COLOMA-LOTUS RANCH DITCH USERS ASSOC

JAMES E BARNETT
P O BOX 550
LOTUS, CA 95651

STATEMENT NO: S000388

SOURCE: SOUTH FORK AMERICAN RIVER
TRIBUTARY TO:
COUNTY: EL DORADO
DIVERSION WITHIN: NE¼ OF SW¼ SECTION 26, T11N, R10E, MB&M

TELEPHONE NUMBER: (916) 626-9203
YEAR OF FIRST USE: 1853
PARCEL NO:

A. Water is used under: Riparian claim _____; Pre 1914 right ✓; Other (explain) _____

B. Year of first use (Please provide if missing above) _____.

C. Amount of Use - Enter the amount of water used each month. If monthly and annual use are not known, check the months in which water was used.

Amounts below are: ☐ Gallons ☑ Acre-feet ☐ (other) _____

1666 per month — 9996 annual

YEAR	JAN.	FEB.	MAR.	APR.	MAY	JUNE	JULY	AUG.	SEPT	OCT.	NOV.	DEC	TOTAL ANNUAL
1993					✓	✓	✓	✓	✓	✓			
1994					✓	✓	✓	✓	✓	✓			
1995					✓	✓	✓	✓	✓	✓			

D. Purpose of Use - Specify number of acres irrigated, stock watered, persons served, etc.
Irrigation 2 acres; Stockwatering 2; Domestic _____
Other (specify) _____

E. Changes in Method of Diversion - Describe any changes in your project since your previous statement was filed. (New pump, enlarged diversion dam, location of diversion, etc.) NONE

F. If part of the water listed in Part C consists of reclaimed or polluted water, please indicate the annual amounts of reclaimed or polluted water in the space below.
NONE

STATE WATER RESOURCES CONTROL BOARD
DIV. OF WATER RIGHTS
SACRAMENTO
96 JUL 30 PM 12:06

I declare under penalty of perjury that the information in this report is true to the best of my knowledge and belief.

DATED: July 4, 19 96, at Lotos, California

SIGNATURE: John Gleun

PRINTED NAME: John Gleun
(FIRST NAME) (M. NAME) (LAST NAME)

COMPANY NAME: Coloma Lotos Ditch Users Asso.

See back of page for General Information. If there is insufficient space for your answers, please number them in the space provided on the back of this form.

WR40-1 (4/96)

ITEM	CONTINUATION

GENERAL INFORMATION PERTAINING TO WATER RIGHTS IN CALIFORNIA

There are two principal types of surface water rights in California, riparian and appropriative rights.

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Statements of Water Diversion and Use must be filed by riparian and pre-1914 appropriative water users. The filing of a statement (1) provides a record of water use, (2) enables the State to notify such users if someone proposes a new appropriation upstream from their diversion, and (3) assists the State to determine if additional water is available for future appropriators.

The above discussion is provided for general information. For more specific information concerning water rights, please contact an attorney or write to this office. We have several pamphlets available, including the following:

"Statements of Water Diversion and Use"
"Information Pertaining to Water Rights in California"
"Water Rights for Stockponds Constructed Prior to 1969"
"Appropriation of Water in California"

S-388

** PLEASE COMPLETE, SUBMIT THE ORIGINAL AND MAKE A COPY FOR YOUR RECORDS ***

STATE WATER RESOURCES CONTROL BOARD 12-11-95
DIVISION OF WATER RIGHTS
P.O. BOX 2000 SACRAMENTO, CA 95812-2000

SUPPLEMENTAL STATEMENT OF WATER DIVERSION AND USE

STATEMENT NO: S000388
OWNER OF RECORD: COLOMA-LOTUS RANCH DITCH USERS ASSOC

JAMES E BARNETT
P O BOX 699
LOTUS, CA 95651

Env - ret.
P.O. Box 550

SOURCE: SOUTH FORK AMERICAN RIVER
TRIBUTARY TO:
COUNTY: EL DORADO
DIVERSION WITHIN: NE¼ OF SW¼ SECTION 26, T11N, R10E, MDB&M.

TELEPHONE NUMBER: (916) 626-9203
YEAR OF FIRST USE: 1853
PARCEL NO:

(If any of the above information is inaccurate or missing, please correct. Notify this office if ownership or address changes occur during the coming year.)

COMPLETE AND RETURN THIS FORM BY JULY 1, 1995.

A. Water is used under: Riparian claim _____; Pre 1914 right X; Other (explain) _____

B. Year of first use (Please provide if missing above) 1853.

C. Amount of Use - Enter the amount of water used each month. If monthly and annual use are not known, check the months in which water was used.

Amounts below are: ❑ Gallons ☒ Acre-feet ❑ (other) _____

	JAN.	FEB.	MAR.	APR.	MAY	JUNE	JULY	AUG.	SEPT.	OCT.	NOV.	DEC	TOTAL ANNUAL
1992					✓	✓	✓	✓	✓	✓			10,000
1993					✓	✓	✓	✓	✓	✓			10,000
1994					✓	✓	✓	✓	✓	✓			10,000

D. Purpose of Use - Specify number of acres irrigated, stock watered, persons served, etc.
Irrigation 2 acres; Stockwatering 2; Domestic _____
Other (specify) _____

1995 JUL 19 PM 4:52 DIV. OF WATER RIGHTS

*** CONTINUE ON BACK PAGE ***

WR40-1 (1/95)

***** PLEASE COMPLETE, SUBMIT THE ORIGINAL AND MAKE A COPY FOR YOUR RECORDS *****

E. Changes in Method of Diversion - Describe any changes in your project since your previous statement was filed. (New pump, enlarged diversion dam, location of diversion, etc.)

N/A

F. If part of the water listed in Part C consists of reclaimed or polluted water, please indicate the annual amounts of reclaimed or polluted water in the space below.

0

I declare under penalty of perjury that the information in this report is true to the best of my knowledge and belief.

DATED: June 16, 1995, at Lotus, California

SIGNATURE: Jack Glenn

PRINTED NAME: JACK GLENN
(FIRST NAME) (M. NAME) (LAST NAME)

COMPANY NAME: Colonia - Lotus Ditch Association

GENERAL INFORMATION PERTAINING TO WATER RIGHTS IN CALIFORNIA

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An appropriate right is required for use of water on nonriparian land and for storage of water. Generally, appropriative rights may be exercised only when there is a surplus not needed by riparian water users. Since 1914 new appropriators have been required to obtain a permit and license from the State.

Statements of Water Diversion and Use must be filed by riparian and pre-1914 appropriative water users. The filing of a statement (1) provides a record of water use, (2) enables the State to notify such users if someone proposes a new appropriation upstream from their diversion, and (3) assists the State to determine if additional water is available for future appropriators.

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"Statements of Water Diversion and Use"
"Information Pertaining to Water Rights in California"
"Water Rights for Stockponds Constructed Prior to 1969"
"Appropriation of Water in California"

SURNAME
S 388

(916) 657-2046
FAX: (916) 657-1485

JAN 12 1995

In Reply Refer
to:341:RMD:1692

Mr. Frederick C. McKain
Engineering Department
El Dorado Irrigation District
Placerville, CA 95667

Dear Mr. McKain:

REPORTING REQUIREMENTS/STATUS FOR EL DORADO IRRIGATION DISTRICT (EID) WATER RIGHTS; APPLICATION NOS. A1692, A7478, A11675, A13794, A14426, & A15140; STATEMENT OF WATER DIVERSION AND USE NOS. S388, S9304, S9528, S10717, S13501, & S13502

This letter is to follow up several phone conversations since January 5, 1995 concerning the status of reports required for the different water rights held by EID. The information provided below is based on our automated database, the "Water Rights Information Management System," rather than a comprehensive review of the files. Please let us know of any discrepancies.

APPROPRIATIVE RIGHTS

Our records indicate that EID, as sole owner, had filed sixteen applications for appropriative rights. Ten of these are no longer active, with seven cancelled before being permitted and three being revoked. Of the six that are active, five have been licensed while one is still under permit. Our records do not show any active permits or licenses with EID listed as a co-owner.

For a project under a permit, an annual "Progress Report by Permittee" is required until the project is licensed. Our records indicate that EID has one project under permit, specifically Permit 4071 (Application 7478) on the Middle Fork Cosumnes River. No annual progress report has been submitted since 1989 for this permit. As requested, enclosed for your completion are duplicate pre-printed copies of the 1991, 1992, and 1993 Progress Report forms for Permit 4071. I was unable to locate a pre-printed duplicate Progress Report form for 1990.

For projects that have been issued licenses, pre-printed "Report of Licensee" forms are distributed for completion on three-year intervals. The Licensee Reports for three of your licenses were last submitted for the three-year interval ending in 1988.

SURNAME
DWR 540 REV. 1/86

86 3910E

These three licenses are: (1) License 2184 (Application 1692), North Fork Weber Creek; (2) License 11400 (Application 11675), South Fork American River; and (3) License 11401 (Application 15140), South Fork American River. Enclosed for your completion are the duplicate pre-printed copies of Licensee Report forms for 1989, 1990, and 1991 for these rights.

The Licensee Reports for the remaining two licenses were last submitted for the three-year interval ending in 1984. These licenses are: (1) License 8176 (Application 13794), Deer Creek; and (2) License 8177 (Application 14426), also on Deer Creek. Enclosed for your completion are duplicate pre-printed copies of Licensee Report forms for 1988, 1989, and 1990 and for 1991, 1992, and 1993 for these rights. (I was unable to locate duplicate copies of the Licensee Report forms for 1985, 1986, and 1987.) In one of our conversations, you indicated you were going to research whether there had been a change of ownership on these two rights. Enclosed for your convenience are copies of Form WR 29a, Notice of Assignment, which can be used to inform us of any ownership changes.

We are currently changing over to a new database and also have switched to a new mailing schedule for the pre-printed Licensee Report forms. All Licensee Report forms will be sent out alphabetically, with the first third being sent out at the end of this month and subsequent thirds sent out over the following two years. Therefore, it appears that the Licensee Report forms covering the three-year interval of 1992, 1993, and 1994 for all your licenses will be sent to you this month. Because of this new schedule, there will be duplicate reporting for some years.

RIPARIAN AND PRE-1914 APPROPRIATIVE RIGHTS

Persons diverting water under claim of riparian rights or pre-1914 appropriative rights, with certain exceptions, are required to file a "Statement of Water Diversion and Use" (Statement) with our office. The Statements are completed for diversions during a calendar year and should be filed before July 1 of the succeeding year. Thereafter, pre-printed Supplemental Statement forms are distributed for completion at three-year intervals. For additional information, please refer to the enclosed pamphlet titled "Statements of Water Diversions and Use," July 1977.

Our records show that EID has filed six Statements. One of these, S388, South Fork American River, was subsequently transferred to the Coloma-Lotus Ranch Ditch Users Association in 1991.

A summary of the remaining five Statements, including the last year we have records of water use, is provided below:

No.	Source	Year
S09304	Bass Lake Reservoir	1988
S09528	Clear Creek	1977
S10717	South Fork American River	1989
S13501	North Fork Cosumnes River	1990
S13502	Clear Creek	1990

I was unable to locate any duplicate pre-printed Supplemental Statement forms distributed on three-year intervals for these diversions. As a result, enclosed are blank Supplemental Statement forms for your use.

Similar to the Licensee Report forms, the mailing of the Supplemental Statement forms will be switched to alphabetical, with the first third mailed this month. Therefore, you should receive all of your pre-printed Supplemental Statement forms for 1992, 1993, and 1994 by the end of this month.

Thank you for your cooperation and if you have any questions, please write or telephone me at the above number.

Sincerely,

ORIGINAL SIGNED BY

Ronald M. Duff
Associate WRC Engineer
Permit and License Unit

Enclosures

RMDuff\lbitnoff 1/12/95 a:\rmd\1692

El Dorado Irrigation District

2890 MOSQUITO ROAD • PLACERVILLE • CALIFORNIA 95667 • PHONE (916) 622-4534

File - S-388

In reply refer to: E0290-170

February 8, 1990

State Water Resources Control Board
Division of Water Rights
P.O. Box 2000
Sacramento, CA 95810

Subject: Supplemental Statement of Water Diversion and Use
South Fork American River, Coloma/Lotus Area

To Whom It May Concern:

Attached you will find the Supplemental Statement of Water Diversion and Use for El Dorado Irrigation District, Statement No. 000388. This Statement is for years 1986, 1987 and 1988 on the South Fork of the American River near Coloma.

Very truly yours,

Frederick C. McKain

Frederick C. McKain
Director, Resource Planning
and Development

FCMc/SF:alc

Attachment

cc: Water Rights File - Supplemental Statements

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
Division of Water Rights

P.O. BOX 2000 SACRAMENTO, CA 95810
901 P ST. SACRAMENTO, CA
(916) 322-4503

(916) 324-5676

SUPPLEMENTAL STATEMENT OF WATER DIVERSION AND USE

DIVERTER OF RECORD:

STATEMENT NO: 000388

EL DORADO IRRIGATION DIST
2890 MOSQUITO ROAD
PLACERVILLE, CA 95667

TELEPHONE NUMBER:
(916) 622-4513

IF NAME/ADDRESS/PHONE NO. IS WRONG OR MISSING, PLEASE CORRECT.

SOURCE: SOUTH FORK AMERICAN RIVER

TRIBUTARY TO:

COUNTY: EL DORADO

DIVERSION
WITHIN: NE1/4 OF SW1/4 SECTION 26, T11N, R10E, MDB&M.

INSTRUCTIONS: Please complete Items A. B and C. Item D should be completed if you replaced all or part of your regular water supply with reclaimed or polluted water. RETURN THIS FORM BY JULY 1, 1989. (Additional information on reverse side of this form.)

A. Amount of Use - Fill in the amount of water used each month. If monthly and annual use are not known, check the months in which water was used.

Amounts below are: ☐ Gallons ☐ Acre-feet ☐ _____ (other)

	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.	Total Annual
1986													None
1987													None
1988													None

B. Purpose of Use - Specify number of acres irrigated, stock watered, persons served, etc.

Irrigation _____

Stockwatering _____

Domestic _____

Other (specify) _____

C. Changes in Method of Diversion - Describe any changes in your project since your previous statement was filed. (New pump, enlarged diversion dam, location of diversion, etc.)

The District no longer diverts water into the Coloma-Lotus Ditch from this point on the So. Fork American River. In 1985 the operation of this ditch was returned to the land/ditch owners. Diversion of water and operation of the ditch has since been the responsibility of the Coloma-Lotus Ranch Ditch Company.

D. If part of the water listed in Part A consists of reclaimed or polluted water, please indicate the annual amounts of reclaimed or polluted water in the space below.

_____

_____

_____

I declare under penalty of perjury that the information in this report is true to the best of my knowledge and belief.

DATED: 2/9/90, 19 ____, at 2890 Mosquito Rd., Placerville, California

Signature: Frederick C. McKain

Frederick C. McKain, Director
Resource Planning & Development

1988

STATE WATER RESOURCES CONTROL BOARD
1990 FEB -9 PM 12:42
DIV. OF WATER RIGHTS SACRAMENTO

2-20-90

WR 40-I (11/85)
1418

GENERAL INFORMATION PERTAINING TO WATER RIGHTS IN CALIFORNIA

There are two principal types of surface water rights in California. They are riparian and appropriative rights.

A riparian right enables an owner of land bordering a natural lake or stream to take and use water on his riparian land. Riparian land must be in the same watershed as the water source and must never have been severed from the source of supply by an intervening parcel without reservation of the riparian right to the severed parcel. Generally, a riparian water user must share the water supply with other riparian users. Riparian rights may be used to divert the natural flow of a stream but may not be used to store water for later use or to divert water which originates in a different watershed, or return flows from use of groundwater.

An appropriative right is required for use of water on nonriparian land and for storage of water. Generally, appropriative rights may be exercised only when there is a surplus not needed by riparian water users. Since 1914 new appropriators have been required to obtain a permit and license from the State.

Statements of Water Diversion and Use must be filed by riparian and pre-1914 appropriative water users. The filing of a statement (1) provides a record of water use, (2) enables the State to notify such users if someone proposes a new appropriation upstream from their diversion, and (3) assists the State to determine if additional water is available for future appropriators.

The above discussion is provided for general information. For more specific information concerning water rights, please contact an attorney or write to this office. We have several pamphlets available. They include:

"Statements of Water Diversion and Use"
"Information Pertaining to Water Rights in California"
"Water Rights for Stockponds Constructed Prior to 1969"
"Appropriation of Water in California"

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
Division of Water Rights

P.O. BOX 2000 SACRAMENTO, CA 95810
901 P ST. SACRAMENTO, CA
(916) 322-4503

SUPPLEMENTAL STATEMENT OF WATER DIVERSION AND USE

DIVERTER OF RECORD
Coloma Lotus Ditch Assoc
c/o James E. Barnett
PO Box 550
Lotus, Ca. 95651

STATEMENT NO: S 388

TELEPHONE NO: (916) 626-9203

IF NAME/ADDRESS/PHONE NO. IS WRONG OR MISSING, PLEASE CORRECT.

SOURCE: South Fork American River

TRIBUTARY TO: American River + Folsom Res.

COUNTY: El Dorado Co. Calif.

DIVERSION WITHIN: NE¼ of SW¼ Section 26, T11N, R10E, MDB&M
on ~~South~~ fork American River near Chili Bar Dam El Dorado Co.

INSTRUCTIONS: Please complete Items A. B and C. Item D should be completed if you replaced all or part of your regular water supply with reclaimed or polluted water. RETURN THIS FORM BY JULY 1, (Additional information on reverse side of this form.)

A. Amount of Use - Fill in the amount of water used each month. If monthly and annual use are not known, check the months in which water was used.

Amounts below are: ☐ Gallons ☐ Acre-feet ☒ ~~CSF~~ C.F.S. (other)

	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.	Total Annual
1989				X	X	X	X	X	X	X			16.5 ~~CSF~~ CFS
1990				X	X	X	X	X	X	X			16.5 ~~CSF~~ CFS
1991				X	X	X	X	X	X	X			16.5 ~~CSF~~ CFS

B. Purpose of Use - Specify number of acres irrigated, stock watered, persons served, etc.

Irrigation 75%

Stockwatering 25%

Domestic None

Other (specify) Irrigation ditch serving approx 35 members of an association who own small farms + ranches + businesses

C. Changes in Method of Diversion - Describe any changes in your project since your previous statement was filed. (New pump, enlarged diversion dam, location of diversion, etc.)

No change

D. If part of the water listed in Part A consists of reclaimed or polluted water, please indicate the annual amounts of reclaimed or polluted water in the space below.

None

I declare under penalty of perjury that the information in this report is true to the best of my knowledge and belief.

DATED: Dec. 10, 1991, at Coloma, California

Signature: James E. Barnett

WR 40-I (11/85)

LAW OFFICES OF
HEFNER, STARK & MAROIS
2710 GATEWAY OAKS DRIVE
SUITE 300 SOUTH
SACRAMENTO, CALIFORNIA 95833
(916) 925-6620

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S.W. CROSS (1881-1956)

EL DORADO COUNTY OFFICE
3330 CAMERON PARK DRIVE
CAMERON PARK, CALIFORNIA 95682
(916) 677-0245
TOLL FREE - PLACERVILLE AREA
(916) 621-0659

BAY AREA OFFICE
39650 LIBERTY ST. #300
FREMONT, CALIFORNIA 94538
(415) 659-9297

X PLEASE REPLY TO EL DORADO OFFICE IF THIS BOX IS CHECKED
☐ PLEASE REPLY TO BAY AREA OFFICE IF THIS BOX IS CHECKED

FACSIMILE PHONE NO.
(916) 925-1127

June 17, 1987

388

Board of Directors
Coloma-Lotus Ditch Users Assn.
~~c/o Mr. Rod Seiler~~
P.O. Box 693
Lotus, CA 95651

Re: Issues Pertaining to Coloma-Lotus Ditch

Dear Members of the Board:

As we have discussed in the past, I have researched several important issues involved in the above matter and wish to report to the Board on what I have found.

First of all, with respect to the status of the Coloma-Lotus Ditch Company as a public utility, it appears to me that such company may be found to be a public utility and subject to the jurisdiction of the Commissioner of the Public Utilities Commission.

As you are aware, the Coloma-Lotus Ditch Company is a very loosely organized group of individuals who own or claim to own undivided interests or shares in the Coloma-Lotus ditch and water appropriated into such ditch. In 1966, the Coloma-Lotus Ditch Company contracted with the El Dorado Irrigation District ("EID") whereby the District agreed to operate and maintain the ditch, and, in addition, supply the Company's customers with water. Moreover, as everyone is now aware, EID supplied water under such agreement until January 1, 1987, when it elected not to renew the contract.

Section 2701 of the Public Utilities Act provides as follows:

> "Any person, firm or corporation, their lessees, trustees, receivers of trustees appointed by any court whatsoever, owning, controlling, operating, or managing any water system within this State, who sells, leases, rents,

> or delivers water to any person, firm, corporation, municipality, or any other political subdivision of the State, whether under contract or otherwise, is a public utility, and is subject to the provisions of Part 1 of Division 1 and to the jurisdiction, control and regulation of the commission, except as otherwise provided in this chapter."

Thus, it does appear that the Coloma-Lotus Ditch Company would fall under the class of individual or entity described by this section and would be found to be a public utility.

The Code does expressly exempt, however, mutual water companies which are organized solely for the purpose of delivering water to its members at cost and to no one else except as permitted by statute. Section 2705, Public Utilities Code.

Additionally, the Code further provides a procedure for obtaining a determination that a given person or firm is in fact a public utility and is subject to the Commissioner's jurisdiction. Section 2707 of the Code provides that:

> "For the purpose of determining the status of any person, firm, or corporation, their lessees, trustees, receivers or trustees appointed by any court..., owning, controlling, operating or managing any water system or water supply within this state, the commission may hold hearings and issue process and orders in the manner and to the same extent provided in Part 1...(commencing with Section 201), and the finding and conclusions of the commission on questions of fact arising under this chapter are final and not subject to review, except as provided in Part 1... (commencing with Section 201).

The effect of finding a person or firm to be a public utility and subject to the Commissioner's jurisdiction is that such person or firm must first petition the Public Utilities Commission ("PUC") for approval of certain proposed action before so acting. Thus, for example, it has been held that if improvements in the service offered are required, and adequate financing is available, the utility should be ordered to make such improvements even if the utility has in the past relied primarily on internally generated funds. Petition of Park Water Co. (1968) 68 Cal. P.U.C. 672.

Also, it has been held that authorization to discontinue the furnishing of water must also be first obtained. Rancho Green Valley Water Co. (1953) 53 Cal. P.U.C. 83.

Secondly, with regards to the maintenance and disposition of pre-1914 water rights, I wish to bring the following to the Board's attention. I should also note that this is merely general information and it is necessary for me to complete my research before the following should be acted upon.

Prior to 1872, appropriative water rights could be acquired by simply taking and beneficially using water. Thereafter, in 1872, the legislature enacted certain laws which were included in the Civil Code and which established a permissive procedure for perfecting an appropriation of water. Basically speaking, these provisions, including posting the notice of appropriation at the proposed point of diversion and recording a copy thereof with the County Recorder. Under such sections, if the statutory procedures were followed and the appropriation was completed with due diligence, the appropriative right related back to the date of posting.

Where a water right was acquired under these early laws, it could only be maintained by continuous beneficial use of the water. Thus, regardless of the amount claimed in the original notice of appropriation, or at the time of diversion and use first began, the amount which can now be rightfully claimed under a pre-1914 appropriative right is the amount fixed by actual beneficial use both as to the amount and season of diversion. Such a right can be lost either by abandonment (where there is the intent to abandon) or merely by nonuse.

If a claim to water based upon a pre-1914 appropriative right is disputed, the law will require evidence of both the original appropriation and the subsequent maintenance of the right by continuous and diligent application of water to beneficial use. Moreover, a record of such water use under a pre-1914 appropriative right should be established by the filing of a statement of water diversion and use. The law requires that such a statement be completed for diversions during the calendar year and should be filed before July 1 of the following year.

With respect to the transfer of a pre-1914 water right, much has been written with respect to the problem of uncertainty as to the amount of water which can be transferred. This is mainly due to the absence of quantity restrictions and centralized recording which renders it difficult to determine with any degree of precision exactly what amount of water an appropriator may claim under any particular pre-1914 right.

In addition, it has long been settled in California that an appropriator may change the point of diversion, place of use, or character of the use of water in the exercise of his appropriative right without affecting his right to divert and use the water, provided that the rights of others are not thereby impaired. The Water Code provides that where a person is entitled to the use of water by virtue of an appropriation made prior to the effective date of the Water Commission Act, he may "change the point of diversion, place of use, or purpose of use if others are not injured by such change, and may extend the ditch, flume, pipe or aqueduct by which the diversion is made to places beyond that where the first use was made". Section 1706, California Water Code. It should be noted that this is a general rule only and that a subsequent appropriator is free to claim that a change in the point of diversion has resulted to his or her injury.

As you all are aware, the issues which are presented in this matter are quite complex and should be researched thoroughly. However, the above information should provide you with a sufficient guidance so that you can make an informed decision with respect to how to proceed at this point.

Please call if you have any questions or comments.

Very truly yours,

HEFNER, STARK & MAROIS

By
BRIAN E. MALONEY

BEM:jth

S 388

STATE WATER RIGHTS BOARD
Room 1140, Resources Building
1416 - 9th Street
Sacramento, California 95814

2701

Statement of Water Diversion and Use

A. Name of person diverting water Coloma Lotus Ranch Detach
Address Box 676 Lotus Calif.

B. Name of body of water at point of diversion South Fork of the American River
Tributary to

C. Place of diversion ___ 1/4 ___ 1/4, Section 26, Township 11N, Range 10E, ___ B&M, El Dorado County, or locate it on sketch of section grid on reverse side with regard to section lines or prominent local landmarks.

D. Capacity of diversion works is 16½ cubic feet per second

Capacity of storage reservoir None gallons acre-feet

State quantity of water used each month in gallons or acre-feet.

Year	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.	Total Annual
1966:	:	:	:	:	:	:	:	:	:	:	:	:	

If monthly and annual use are not known, check months in which water was used. State extent of use in units, such as acres of each crop irrigated, average number of persons served, number of stock watered, etc. Water used for lawns, gardens, Pears, Pastures Est. record of each mo. not kept

Maximum annual water use in recent years has been Could the same each year gallons acre-feet

Minimum annual water use in recent years has been — gallons acre-feet

Type of diversion facility: Gravity X, Pump ___
Method of measurement: weir ___, flume ___, electric power meter ___, water meter ___, estimate ___.

E. Purpose of use (what water is being used for) Irrigation

F. General description or location of place of use (use sketch of section grid on reverse side if you desire)

G. Year of first use as nearly as known Prior to 1853

H. Name of person filing statement L D Stodick
Position Manager Organization Lotus Land Co.
Address Box 676 Lotus

I certify that the foregoing statements are true and correct to the best of my knowledge and belief.

Date signed Dec 17 1965 Signature L D Stodick

See Instructions on Reverse Side