

LaBrie, Dave@Waterboards

From: LaBrie, Dave@Waterboards
Sent: Friday, June 12, 2015 2:02 PM
To: 'springwater@cableone.net'
Cc: Lavallee, Laura@Waterboards
Subject: Water Rights A029977 and A031491

Scott,

Thank you again for returning my call this morning.

I found your letter in the stack of emails and it was marked to be considered as a certification response. Most Certification Forms were filed online and the emails have to be hand processed.

I have read your letter and your permit terms. I understand that you have a term that requires you to provide replacement water to the City and County of San Francisco and the Turlock and Modesto Irrigation Districts for water diverted under your permits that adversely affect San Francisco and the Districts. This term was included in your permits to resolve the protests by San Francisco and the Districts that your diversions would cause harm to their prior rights. I also understand that you have purchased 82 acre-feet of water that is stored in New Don Pedro Reservoir as replacement water.

Question: Have you diminished the quantity of water in storage by the amount of water that you diverted last year and this during the time that the water rights have been curtailed. If not, it would seem that any water diverted from the springs would be in violation of the curtailment notice. If you have diminished the quantity of water in storage by the amount of water that you diverted during the curtailment period, it could be argued that you have offset your diversions by releasing the purchased water placed into storage. The problem is, while the water stored in Don Pedro may satisfy San Francisco and the Districts, it does nothing for the prior right holders between your points of diversion and Don Pedro who may be adversely affected by your diversions.

Term 17 in Permit 20784 and Term 9 in Permit 21289 clearly state that the permits are subject to prior rights and that in some years, water will not be available for diversion during parts or all of the authorized season. Remember, the Water Exchange Agreement with the Districts and the letter of understanding with San Francisco only apply to the settlements with those parties as they resolved the protests filed by those parties. The Curtailment Notices were designed to protect all prior right holders.

I look forward to any explanation that you may have that would demonstrate why the curtailment notice does not apply to your water rights.

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