

Eggers, Tomas@Waterboards

From: Brandt, Jeff@Wildlife
Sent: Friday, February 09, 2018 3:24 PM
To: Vasquez, Victor@Waterboards
Cc: Windell, Sean@Wildlife; Gibson, Joanna@Wildlife; Brandt, Jeff@Wildlife; Petruzzelli, Kenneth@Waterboards
Subject: CDFW comment on SWRCB ROI, INV 8218, Nestlé Waters North America, Arrowhead Facility, San Bernardino National Forest
Attachments: ROI INV 8218 Nestle Waters Arrowhead Facility.pdf

Good Afternoon Victor.

Attached is the CDFW comment on the SWRCB' Report of Investigation, INV 8218, for Nestlé Waters North America, Arrowhead Facility, San Bernardino National Forest. I appreciate the opportunity to work on resolving this issue, and look forward to our meeting.

Thank you,

Jeff Brandt
Habitat Conservation
California Department of Fish and Wildlife
3602 Inland Empire Blvd, Suite C-220
Ontario, CA 91764
Phone (909) 987-7161
Fax (909) 481-2945
Email jeff.brandt@wildlife.ca.gov

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State of California - Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Inland Deserts Region
3602 Inland Empire Blvd., Suite C-220
Ontario, CA 91764
(909) 484-0459
www.wildlife.ca.gov

EDMUND G. BROWN, Jr., Governor
CHARLTON H. BONHAM, Director



February 9, 2018
Sent via email

Mr. Victor Vasquez
Senior Water Resource Control Engineer
Enforcement Unit 3
Division of Water Rights
State Water Resources Control Board
vvasquez@waterboards.ca.gov

Subject: Report of Investigation, INV 8218, Nestlé Waters North America
Arrowhead Facility, San Bernardino National Forest

Dear Mr. Vasquez:

The California Department of Fish and Wildlife (Department) appreciates the opportunity to comment on the State Water Resources Control Board's (SWRCB) Report of Investigation, INV 8218, Nestlé Waters North America, Arrowhead Facility, San Bernardino National Forest (ROI). The Department is providing comments on the ROI based on its capacity as a trustee agency for the state's fish and wildlife resources under the Fish and Game Code (Fish & G. Code, § 1802) and the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21070; Cal. Code Regs., Tit. 14, § 15386), and in its potential capacity as a responsible agency under CEQA (which will be triggered if the project requires a streambed alteration agreement under Fish and Game Code Section 1600 *et seq.* and/or take authorization under the California Endangered Species Act [CESA] [Fish & G. Code, § 2050 *et seq.*]).

The ROI outlines the SWRCB, Division of Water Rights staff's analysis, conclusions, and recommendations as they pertain to Nestlé's diversion and use of water from springs at the headwaters of Strawberry Creek in the San Bernardino National Forest (SBNF), in San Bernardino County. The Department is submitting this letter to bring to the SWRCB's attention potential impacts to CESA-listed, federal endangered species act (ESA) listed species, and California state-listed species of special concern, and the habitats they rely, resulting from Nestlé's diversion activities. Due to lack of information, the Department is unclear if Nestlé has a long-term monitoring program in place to monitor the potential impacts of the diversions on fish and wildlife resources, and we are unclear if Nestlé obtained relevant permitting from the Department to operate and maintain facilities associated with the diversions. The Department would like to work

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with the SWRCB to develop specific measures to protect fish and wildlife resources, and identify relevant permitting needs.

Further Coordination

The Department requests a meeting with the SWRCB, Division of Water Rights staff, to coordinate on the history of the diversions with the goal of assessing the reasonably foreseeable direct, indirect, and cumulative impacts on biological resources associated with the diversions. The Department is also available to assist in the development of appropriate biological surveys and monitoring to identify potential effects to biological resources. Results from biological surveys will be required to facilitate future permitting actions, where necessary, for the diversion by Nestlé Waters North America.

The Department also requests a separate meeting with SWRCB and the San Bernardino Valley Municipal Water District (SBVMWD) to discuss and clarify the terms of the *Western Municipal Water District v. East San Bernardino County Water District* Superior Court of Riverside County, Case No. 78426 (the Western Judgement). As noted in their January 17, 2018 letter, SBVMWD serves as the Watermaster for the Western Judgement.

The Department appreciates the opportunity to comment on the ROI, and looks forward to meeting with the SWRBC. If you should have any questions pertaining to the comments provided in this letter, or to schedule a meeting, please contact Joanna Gibson at (909) 987-7449 or at Joanna.Gibson@wildlife.ca.gov.

Sincerely,



Jeff Brandt
Senior Environmental Scientist, Supervisor

cc: California Department of Fish and Wildlife

Sean Windell, Environmental Scientist
Water Right Coordinator, Water Branch
Sean.Windell@wildlife.ca.gov