



State Water Resources Control Board

OCTOBER 12 2012

In Reply Refer to:
SC:A016734

Mr. Arthur T. Spinella
6108 Hedge Avenue
Sacramento, CA 95829

Dear Mr. Spinella:

DRAFT CEASE AND DESIST ORDER DATED MAY 23, 2012 FOR FAILURE TO FILE 2010 ANNUAL USE REPORT UNDER LICENSE 5896 (APPLICATION A016734), ORDER REVOKING LICENSE 5896 (APPLICATION 16734), MORRISON CREEK IN SACRAMENTO COUNTY

On May 23, 2012, the State Water Resources Control Board (State Water Board), Division of Water Rights (Division) provided legal notice of the intent to proceed with formal enforcement for failure to file the 2010 annual use report under the subject right. You had 20 days from receipt of the draft Cease and Desist Order (CDO) to submit your 2010 annual use records through our online reporting system or request a hearing.

The Division received 2010 and 2011 annual use reports through our online reporting system for the subject right. Since you have complied with the draft CDO's reporting requirement, no further enforcement action will be taken.

Recently, the Division received a request for revocation of License 5896, dated October 10, 2012. By requesting revocation of License 5896, you waive your right to the hearing and notice requirements set forth in California Water Code sections 1675 and 1675.1. Accordingly, enclosed is an Order revoking License 5896.

If you disagree with the enclosed Order, you may file a request with the State Water Board to set aside the revocation and reinstate the license in accordance with California Water Code section 1675.2. Licensee must submit the request within 90 days of the date of this Order. The State Water Board may reinstate the license where good cause is shown.

It is your responsibility to remove or modify diversion works and impoundments to ensure that water subject to this revocation is not diverted and used. Unauthorized diversion and use of water is considered a trespass and subject to enforcement action under California Water Code sections 1052 and 1831. Pursuant to California Water Code section 1052, any diversion of water from the point of diversion identified in this license may be subject to Administrative Civil Liability of up to \$500 per day without further notice. The State Water Board also may issue a Cease and Desist Order in response to an unauthorized diversion or threatened unauthorized diversion, pursuant to California Water Code section 1831.

CHARLES R. HOPPIN, CHAIRMAN | THOMAS HOWARD, EXECUTIVE DIRECTOR

1001 I Street, Sacramento, CA 95814 | Mailing Address: P.O. Box 100, Sacramento, CA 95812-0100 | www.waterboards.ca.gov

Before initiating any work in a stream channel, you should consult with the Department of Fish and Game and the Regional Water Quality Control Board to ensure that removal of project facilities does not adversely affect a fishery or result in unregulated sediment discharge to a waterway. These agencies may require a permit or other approval prior to any construction activity. Some diverters claim rights to divert independent of a permit, license, registration, or certification issued by the State Water Board, such as diversions under riparian or pre-1914 rights. With limited exceptions, California Water Code section 5101 requires that a Statement of Water Diversion and Use (Statement) be filed for these diversions. California Water Code section 5107 (c)(1) provides that the State Water Board may impose a civil liability of \$1,000 plus \$500 per day for each additional day on which the violation continues, if the person fails to file a Statement within 30 days after the State Water Board has called the violation to the attention of that person. These penalties are in addition to any penalties that may be imposed if the diverter does not hold a valid right or diverts in excess of what is authorized under that right. This letter serves as your notice of the Statement requirement and potential penalty.

If you have any questions, please contact Mr. Samuel Cole, who is currently assigned to process your revocation, at (916) 341-5345 or by e-mail at Samuel.Cole@waterboards.ca.gov. Written requests for reinstatement should be mailed to:

State Water Resources Control Board
Division of Water Rights
P.O. Box 2000
Sacramento, CA 95812-2000

Sincerely,

ORIGINAL SIGNED BY:

John O'Hagan, Manager
Enforcement Section
Division of Water Rights

Enclosure: Order Revoking License

cc: County Recorder
County of Sacramento
600 Eighth Street
Sacramento, CA 95814

California Department of Fish and Game
North Central Region
1701 Nimbus Road
Rancho Cordova, CA 95670

Central Valley Water Quality Control Board
Sacramento Office
11020 Sun Center Drive, Suite 200
Rancho Cordova, CA 95670-6114

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

In the Matter of License 5896 (Application 16734)

Arthur T. Spinella

ORDER REVOKING LICENSE

SOURCE: Morrison Creek

COUNTY: Sacramento County

WHEREAS:

1. License 5896 was issued to Loren L. Knight and Dorothy M. Knight on December 7, 1959, pursuant to Application 16734, and was recorded with the County Recorder of Sacramento County on December 8, 1959, in book 3952, page 78.
2. License 5896 was subsequently assigned to Arthur T. Spinella on May 21, 1990.
3. Arthur T. Spinella has requested on October 10, 2012 that the license be revoked by the State Water Resources Control Board (State Water Board), Division of Water Rights (Division).
4. The Division interprets the licensee's request for revocation as a waiver of the notice and hearing requirements set forth in California Water Code sections 1675 through 1675.1.

Therefore, it is ordered that License 5896 is hereby revoked by the State Water Board, and the water is declared to be subject to appropriation. This revocation may not result in additional water being available for new appropriations if there are applicable restrictions due to past State Water Board decisions regarding water availability.

STATE WATER RESOURCES CONTROL BOARD



*Barbara Evoy, Deputy Director
Division of Water Rights*

Dated: **OCT 12 2012**