



State Water Resources Control Board

March 18, 2024

G. Scott Fahey
Sugar Pine Spring Water LP
c/o Bart Barringer
Law Offices of Mayol and Barringer



NOTICE OF VIOLATION - 2023 ANNUAL WATER USE REPORT – PERMIT NUMBERS 20784 and 21289

Mr. Fahey:

The State Water Resources Control Board (State Water Board), Division of Water Rights (Division) has reviewed your 2023 annual use reports for Permits 20784 and 21289 submitted on January 31, 2024, and noted reported carry-over storage of 80.23 acre-feet in 2022 and 83.31 acre-feet in 2023.

On December 12, 1992, you signed a Water Storage Agreement (WSA) between you, Turlock Irrigation District, and Modesto Irrigation District. The WSA does not allow for carry-over storage credits of make-up water for future years for the fully appropriated stream period. Specifically, Item 4 of the WSA states, "Fahey may provide make-up water at any time of the year between January 1 and December 31. Fahey may pump more water than is required under this agreement and build a surplus prior to the period of unavailability; **however, no carryover will be allowed to subsequent years.**"

Item 6 of the WSA states, "This agreement shall be incorporated into and made a part of any permit or license granted by the SWRCB." This includes Permits 20784 and 21289.

In Order WR 2019-0149, the State Water Board interpreted these permit terms as prohibiting carryover to subsequent years. (State Water Board, Order WR 2019-0149, pp. 4, 5–6, 61–62, 73.). We acknowledge pending litigation over Order 2019-0149 and are issuing you this Notice of Violation in accordance with your permits, and by reference, Item 6 of the WSA.

Within 15 days, amend your annual use reports for Permits 20784 and 21289 to reflect the above carry-over restriction of make-up water.

E. JOAQUIN ESQUIVEL, CHAIR | ERIC OPPENHEIMER, EXECUTIVE DIRECTOR

Sincerely,

A handwritten signature in blue ink, appearing to be "Robert P. Cervantes", written over a horizontal line.

Robert P. Cervantes, PE
Program Manager – Enforcement
Division of Water Rights

cc: Julé Rizzardo
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